

VOLUME I of II

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Union County

Honorable Thomas A. Russo, Circuit Court Judge

STEPHEN DOUGLAS BERRY,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2019-001092

APPENDIX

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State of South Carolina.,) In the General Sessions
) Court of Union
)
) Case No.: 2011-GS-44-00413
)
County of Union.)

State of South Carolina.,)
)
Plaintiff.,)
)
vs.) Transcript of Record
)
Stephen Douglas Berry.,)
)
Defendant.)

February 5-8, 2013
Union, South Carolina

B E F O R E:

The Honorable John C. Hayes, III, Judge, and a jury.

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1 (GENERAL SESSIONS COURT FOR UNION COUNTY IN SESSION ON
2 TUESDAY, FEBRUARY 5, 2013 AT 09:58 A.M..)

3 (JURY ROLL CALL AT 09:58 A.M..)

4 (ON THE RECORD AT 10:44 A.M..)

5 THE COURT: Thank you. Take your seats.

6 Members of the jury panel, I'm John Hayes from Rock
7 Hill. I am one of the two judges who are assigned to York
8 and Union Counties which is the Sixteenth Circuit of this
9 state. We do travel all over the state but mainly we are
10 here in York and Union. I've been holding court here many
11 times, several times a year, for over twenty years now so I
12 always feel comfortable when I get the opportunity to come
13 over here.

14 I was not here for the roll call but we are going to
15 go now into certain qualifications, disqualifications and
16 exemptions that apply to service as a juror in this
17 particular type of court. What I will do is I will go
18 through this list. If one of these applies to you, that
19 is, if I say you need to have a driver's license to serve
20 and you don't have a driver's license, actually it's just a
21 little broader than that, let me use another example.

22 If I say that you don't have to serve if you are
23 sixty-five or older but if you can serve and if you are
24 sixty-five or older and want to be excused don't pop up and
25 tell me that when I ask that question. What I will do is I

(1 will go through all of the questions, some are not really
2 questions, they're more like statements, and when I get to
3 the end I will invite any of you that need to discuss this
4 with me, any of these items with me, to form a line there
5 at the break in the bar and one of the bailiffs or a
6 constable will stand there. I will step down where that
7 podium is and one by one any of you that need to discuss
8 any of these with me you will come up and we'll do it. You
9 won't have to stand up in front of everyone, but the
10 attorneys do have a right, the attorneys that have a trial
11 this week, to come up and hear what we have to say.

(12 Now, in order to serve as a juror in this particular
13 court you need to fall into one of the following
14 categories. You need not fall into all three but you must
15 fall into at least one. You must either be a qualified
16 elector, that is a registered voter; hold a valid South
17 Carolina driver's license, or hold a valid South Carolina
18 Department of Public Safety Identification Card. If you do
19 not fall into one of those categories and then when I
20 invite you to come forward, please do so.

21 If any of you reside in a county other than Union
22 County, South Carolina, or, if you are not a United States
23 citizen, please come forward in just a moment.

(24 If any of you hold any elected office in Union County
25 or work in the courthouse, please come forward in just a

1 moment.

2 If any of you have a constable license, that is you
3 are a licensed constable whether you get paid or not,
4 please come forward in just a moment.

5 If any of you have pled or been convicted in state or
6 federal court for a crime with punishment exceeded the
7 possibility of one year imprisonment, please come forward
8 in just a moment.

9 I called your attention that this has to do with
10 offenses that carry a penalty that exceeded one year. It
11 is not tied to any sentence one may have received.

12 If any of you have any mental or physical health
13 problems that would prevent you from serving with us as a
14 juror, please come forward in just a moment.

15 If any of you have less than a sixth grade education
16 or its equivalent, or if you are unable to read, write,
17 speak or understand the English language, please come
18 forward in just a moment.

19 If any of you are involved in education, that is a
20 student or a teacher or a professor and serving with us
21 this week would interfere with that, please come forward in
22 just a moment.

23 If any of you have a child under the age of seven, or
24 if you are the - and you are the primary care giver for
25 that child and do not work outside the home; that is, if

1 you stay home and take care of a child under the age of
2 seven. Or if you are the primary care giver for someone of
3 any age who is disabled and cannot take care of themselves
4 and what you do on a daily basis is care for that
5 individual other than if its in a capacity as a nursing
6 home or something like that, please come forward in just a
7 moment.

8 If any of you have served on a jury such as this
9 within the last three calendar years, or if you have served
10 on a Circuit Court or a state wide grand jury within the
11 last five calendar years, please come forward in just a
12 moment. That does not include service on Federal,
13 Magistrate or Municipal Court.

14 Now those of you who are sixty-five or older have an
15 exemption. You can serve if you wish or if you are sixty-
16 five or older you have an automatic right to be excused.

17 Finally, if any of you have any compelling reason why
18 you cannot serve as a juror this particular week, please
19 come forward and we'll discuss that.

20 Now before you come up, I'm going to ask you all to
21 stand and the Clerk's gonna administer the oath and that
22 basically means that when you come up to discuss with me
23 what you intend to discuss with me that you will be telling
24 me the truth, the whole truth and nothing but the truth.

25 THE CLERK: Will you all please stand raise your right

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1 hand.

2 (WHEREUPON: JURY SWORN AT
3 10:49 A. M..)

4 THE COURT: You may be seated.

5 Now if any of you need to -- If any of you need to
6 discuss any of those matters with me, please come forward.
7 I'm going to step down where the podium is and Mr. Bogan
8 will stand there. I'm sorry, somebody will stand there at
9 the break in the bar and Mr. Fowler, Bogan Fowler, Bogan.

10 Anyway, please come forward if you need to discuss any
11 of those matters with me.

12 (COURT LEFT THE BENCH.)

13 THE BAILIFF: Juror 271.

14 (BLACK MALE COMING FORWARD.)

15 THE COURT: Yes, sir, your name. 271 is your number.

16 Your name.

17 A. Roosevelt Tucker. I'm disabled and I have to be on
18 oxygen twenty-four seven.

19 THE COURT: All right. I'm gonna excuse you.

20 He'll be excused.

21 Appreciate you coming this morning.

22 THE BAILIFF: Juror 189.

23 ((WHITE MALE COMING FORWARD.))

24 THE COURT: Good morning. Your name.

25 A. Robert Morris.

1 THE COURT: Morris.

2 MR. MORRIS: Under the assumption is this the Stephen
3 Berry case?

4 THE COURT: Yeah.

5 MR. MORRIS: I'm a member of New Life Baptist.

6 THE COURT: I'm gonna ask questions about that later.

7 MR. MORRIS: Okay.

8 THE COURT: We will cover all that but at a different
9 time but thank you for coming up.

10 MR. MORRIS: All right.

11 THE BAILIFF: Juror 47.

12 (WHITE MALE COMING FORWARD.)

13 THE COURT: Good morning.

14 A. Good morning.

15 THE COURT: And your name.

16 A. Ben Cram. In Iowa in 2002 and 2003 I was convicted of
17 a felony.

18 SOLICITOR SPRINGS: That's right.

19 THE COURT: Okay. You'll be excused. Thank you for
20 coming.

21 THE BAILIFF: Juror 159.

22 THE COURT: Good morning.

23 A. I'm seventy-one years old and I live alone.

24 THE COURT: You can be excused if you want to. You
25 have a right to be excused or serve.

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1 A. Thank you, sir.

2 THE COURT: I appreciate you coming. Thank you for
3 coming.

4 He's excused.

5 SOLICITOR SPRINGS: He was 151. 159. Okay.

6 THE BAILIFF: Juror 288.

7 THE COURT: Hey, good morning. Your name.

8 A. I have a hearing disability. I can't hardly hear
9 anything he's saying.

10 THE COURT: You don't wear a hearing aid or anything
11 for it?

12 A. No.

13 THE COURT: All right. Well I'll excuse you then.

14 He'll be excused.

15 A. Thank you.

16 THE BAILIFF: Juror 2-0-2.

17 THE COURT: 2-0-2. All right, good morning.

18 A. Good morning.

19 THE COURT: Your name.

20 A. Chelsey Parks. I have a six month old and a three
21 year old.

22 THE COURT: You don't work anywhere?

23 A. No, sir.

24 THE COURT: Okay. You'll be excused.

25 A. Appreciate it.

1 THE COURT: She'll be excused.

2 Thank you for coming.

3 THE BAILIFF: Juror 140.

4 THE COURT: Good morning. Your name.

5 A. Brandon Jeter.

6 THE COURT: Jeter?

7 A. Yes, sir. I'm gonna have surgery Friday on my little
8 finger. I'm supposed to go see my doctor tomorrow at 9:30
9 plus I'm a diabetic.

10 THE COURT: Well we can take care of the diabetic but
11 I want you to see your doctor. You want to just change to
12 another time?

13 A. I can do that.

14 THE COURT: Okay. He'll be transferred.

15 Did you get that?

16 MADAME COURT REPORTER: Yes, sir.

17 THE COURT: Okay. He'll be transferred.

18 You can leave but you'll be notified about when to
19 return. Thank you.

20 He's transferred.

21 THE BAILIFF: Juror 14.

22 THE COURT: Good morning. Your name?

23 A. Bruce Blackwell. Your Honor, I'll be glad to do
24 anything the court desires. I wear two hearing aids and
25 I'm having difficulty hearing you in the courtroom. Do you

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1 have any assistance to improve my hearing so that I don't
2 miss anything?

3 THE COURT: Well I don't think - I don't have any aids
4 but when - if you serve on the jury and you can't hear if
5 you'll let me know I'll make whoever it is speak louder.

6 A. I loose the vowel sounds and I'm watching and trying
7 to catch on anything you all -

8 THE COURT: I'll excuse you then. I'll excuse -

9 A. Anything you all - -

10 THE COURT: No we don't have any way to like I know
11 our church has something as earphones and stuff but I don't
12 really have anything like that here.

13 A. If the court would go with a hearing loop I got
14 another setting on my hearing aid.

15 THE COURT: I don't know what that is.

16 A. It's just - it ties your microphone straight into my
17 hearing aid like Blue tooth.

18 THE COURT: Do we have one?

19 A. I don't think so. I've not seen it.

20 THE COURT: Okay. You'll be excused.

21 A. Thank you very much, sir.

22 THE COURT: Thank you.

23 A. Juror 44.

24 MADAME COURT REPORTER: I'm sorry.

25 THE COURT: 44.

1 THE COURT: All right. Your name?

2 A. Qudaviah Clowney. The reason why I think I'm hearing
3 impaired real bad.

4 THE COURT: Do you wear a hearing aid?

5 A. Uh-huh.

6 THE COURT: Okay. I'll excuse you.

7 She'll be excused.

8 THE BAILIFF: Juror 241.

9 THE COURT: Your name?

10 A. My name is Ashley Smith.

11 THE COURT: Okay. And your situation?

12 A. I'm enrolled in school, Palmetto Beauty School, and I
13 have my schedule here. You have to have twenty hours
14 or we'll get dropped.

15 THE COURT: Okay. Well we don't want that to happen.
16 We'll transfer you to a time - Do you know when you'll be
17 through with beauty school?

18 A. November.

19 THE COURT: Okay. We'll transfer you to another time.
20 She'll be transferred. Thank you.

21 A. Do I need to call?

22 THE COURT: No. They'll get in touch with you.

23 They've got your address so they'll be in touch with you.

24 Thank you. Good luck in school.

25 A. Thank you so much.

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1 THE BAILIFF: Juror 143.

2 THE COURT: Hey, what's your name?

3 A. My name is Marvin Jeter and I have kids and my spouse
4 works. We have no one to watch the kids.

5 THE COURT: How old are the kids?

6 A. One, two, three and four.

7 THE COURT: All right, I'll excuse you.

8 He'll be excused.

9 Thank you for coming.

10 THE BAILIFF: Juror 285.

11 THE COURT: Good morning.

12 A. How are you?

13 THE COURT: I'm good.

14 A. I'm the sole child giver of a child less than seven
15 and the care giver for a elderly seventy-seven with
16 dementia.

17 THE COURT: Okay. I'll excuse you.

18 She'll be excused. Thank you for coming.

19 THE BAILIFF: 165.

20 THE COURT: Good morning.

21 A. How are you doing?

22 THE COURT: Your name?

23 A. My name is Katherine Lanier. I have a daughter she's
24 got two appointments in Greenville. One's for tomorrow and
25 one's for Friday and I didn't know if - -

1 THE COURT: Are these medical appointments?

2 A. Yes. Yes.

3 THE COURT: Okay. I can transfer you to another time
4 if that would be better.

5 A. That would be better.

6 THE COURT: All right. She'll be transferred.

7 Thank you for coming.

8 THE BAILIFF: Juror 151.

9 THE COURT: Good morning. Your name?

10 A. Sally Jones, and I was convicted for a felony for
11 making moonshine and...

12 THE COURT: Let's see.

13 SOLICITOR SPRINGS: Yes, sir, we do have her
14 distribution of illegal whiskey.

15 THE COURT: You'll be excused. Thank you.

16 THE BAILIFF: Juror 79.

17 THE COURT: Good morning. Your name?

18 A. Ann Fowler. I teach school.

19 THE COURT: Okay. We'll transfer you to a time when
20 school is not in session.

21 A. Oh, shoot.

22 THE COURT: Well you can stay if you want but -

23 She will be transferred.

24 THE BAILIFF: Juror 78.

25 THE COURT: Good morning. Your name?

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1 A. Shane Foster, I pleaded guilty to assault and
2 battery, disorderly conduct and a CDV and I got a load that
3 needs to be delivered today sitting in front of my house.

4 THE COURT: A what?

5 A. A load for Target in the truck.

6 THE COURT: Well I can transfer you but - just one
7 minute. Those offenses don't carry over a year so even
8 though you hadn't behaved all the time -

9 A. But -

10 THE COURT: Well I'm gonna let you go and transfer you
11 to another time. The next time when they tell you to be
12 here make sure you don't have a load sitting at home
13 because the next judge will probably make you stay.

14 He'll be transferred.

15 CLERK OF COURT: What was his number again? I'm
16 sorry.

17 THE COURT: Foster. Thank you.

18 THE BAILIFF: Juror 282.

19 THE COURT: Good morning.

20 A. How are you?

21 THE COURT: I'm fine. Your name?

22 A. Chatiffany Washington, and I'm in nursing school at
23 Spartanburg Tech.

24 THE COURT: Okay. So you want to be transferred to
25 another time?

1 A. Yeah..

2 THE COURT: All right. She'll be transferred. A
3 student.

4 A. Thank you.

5 THE COURT: Yes, ma'am, thank you. Good luck.

6 A. All right. Thank you.

7 THE BAILIFF: Juror 31.

8 THE COURT: Good morning. Your name?

9 A. Rashandella Burris.

10 THE COURT: Burris?

11 A. Rashandella Burris. I ain't got no transportation
12 to come up here and I stay all the way in Whitmire. Every
13 body around me they work.

14 THE COURT: Do you live in Whitmire?

15 A. Uh-huh.

16 THE COURT: What county is Whitmire in?

17 We can make arrangements to get your transported here.
18 Do you work or go to school or anything?

19 A. I'm trying to go to school.

20 THE COURT: When you say trying to go to school, are
21 you enrolled in school right now?

22 A. I'm supposed to have an assignment...

23 THE COURT: You got to speak up.

24 A. I supposed to have an assignment to get my GED so
25 I can go to school. It was today.

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1 THE COURT: Well I'm gonna let you stay and if you
2 serve on this jury we'll make arrangements through the
3 sheriff's office.

4 We can do that?

5 CLERK OF COURT: Yes, sir.

6 THE COURT: To make sure you get here when you're
7 supposed to, so you'll stay with us.

8 All right, she'll stay with us.

9 THE BAILIFF: Juror 177.

10 THE COURT: Good morning.

11 A. William Mayes. What I got going on is my son is
12 signing a letter of intent to play ball tomorrow at school
13 so as I dad I don't want to miss that.

14 THE COURT: Where is he gonna sign? That may make a
15 difference in whether I let you go.

16 A. Yeah. USC Sumter. He goes to Dorman High.

17 THE COURT: Okay. What does he - what position does
18 he play?

19 A. Third and pitch.

20 THE COURT: Oh, pitch. Baseball. We can use him at
21 South Carolina. Okay. Well I'll transfer you to another
22 time because that is an important time in both of your
23 lives.

24 He'll be transferred.

25 Good luck to him. And you.

1 THE BAILIFF: Juror 192.

2 THE COURT: Good morning. Your name?

3 A. Willie Nash.

4 THE COURT: Nash?

5 A. Yes. I don't have no car, no license, not voting.

6 THE COURT: You don't vote?

7 A. No, sir.

8 THE COURT: You got a driver's license?

9 A. No, sir.

10 THE COURT: You don't have an ID Card?

11 A. No, sir.

12 CLERK OF COURT: I don't know how his name got on
13 there. Have you ever had an ID Card from the highway
14 department?

15 A. Yes, but I lost it...

16 CLERK OF COURT: They don't expire though.

17 THE COURT: Okay. You can stay with us. Even though
18 you don't have it one is issued to you so you can stay with
19 us.

20 THE BAILIFF: Juror 87.

21 THE COURT: Good morning. Your name?

22 A. Michael Gaffney.

23 THE COURT: Gaffney?

24 A. I'm currently going to Spartanburg Community College
25 and carrying classes.

-21-

1 THE COURT: All right. We'll transfer you to another
2 time then. You'll be given another notice to come
3 hopefully a time that won't interfere with school.

4 A. Okay.

5 THE COURT: Thank you.

6 SOLICITOR SPRINGS: There's one more. Do you still
7 have 131 as being - We've got -

8 THE COURT: What's the name?

9 SOLICITOR SPRINGS: Mr. Hewitt.

10 THE COURT: All right. Mr. Hewitt?

11 (JUROR APPROACHES.)

12 THE COURT: Do you have an assault and battery of a
13 high and aggravated nature?

14 A. Yes, sir.

15 THE COURT: Okay. Well that carries over a year so
16 I'll - -

17 A. I did probation on that.

18 THE COURT: Yeah. But that's still since you plead
19 and convicted of it I'll have to excuse you. But I
20 appreciate you coming.

21 He'll be excused.

22 Thank you for coming, Hr. Hewitt.

23 (COURT RETURNS TO THE BENCH.)

24 THE COURT: The panel is qualified. We have one case
25 scheduled to try and what we're gonna do now, I know you

1 had a little bit of a little break but you didn't leave the
2 courtroom so we're gonna take a break 'till 11:20. Please
3 back seated and we'll be ready to draw our first jury,
4 probably the only jury we'll draw this week based on what
5 I've been told. I can't guarantee that but we will draw
6 the first jury starting at 11:20, so please be back and
7 seated and ready to go at that time.

8 (COURT IN RECESS AT 11:03 A. M..)

9 (COURT BACK IN SESSION AT 11:28 A. M.)

10 THE COURT: Thank you. Take your seats.

11 We're gonna start now the first trial for the week and
12 that is the *State of South Carolina versus Stephen Berry*.

13 Is Mr. Berry present?

14 Would you please stand and let the jury see who you
15 are?

16 (DEFENDANT STOOD.)

17 THE COURT: This is Mr. Berry.

18 (DEFENDANT SEATED HIMSELF.)

19 THE COURT: He is charged with second degree criminal
20 sexual conduct with a minor. It allegedly occurred in the
21 year 2010 between May 1st and [REDACTED] here in Union
22 County, primarily on [REDACTED] and [REDACTED]
23 [REDACTED], [REDACTED], Union; [REDACTED],
24 Jonesville, [REDACTED], Jonesville and New Life
25 Baptist Church in Union.

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1 I'm going to ask you questions similar to what I did
2 earlier but this time what I'm gonna do is if I ask a
3 question and you need to discuss it with me, I'm going to
4 ask you to come forward at that time. I'm gonna stand down
5 by the podium and if I ask a question by way of example do
6 you go to New Life Church. I understand there is at least
7 one person that does. Rather than waiting until I go
8 through everything that person and any others can come
9 forward and stand there at the bar and I will have you come
10 up and I and the attorneys will talk to you about whatever
11 we need to talk to you about. So instead of being up here
12 I'm going to be at this podium and if you have to respond
13 to any of these questions just come forward and I'll ask
14 somebody to be there at the bar like we did before.

15 (COURT LEFT THE BENCH.)

16 THE COURT: My first question is, Are any of you
17 related by blood or marriage to Mr. Stephen Berry; if so,
18 please stand?

19 No one stands.

20 Were any of you members of the Grand Jury which passed
21 on this indictment at an earlier time; if so, please stand?

22 No one stands.

23 Are any of you or a member of your immediate family
24 involved in law enforcement or in the prosecution of
25 criminal cases at any level? Anything from sheriff to a

1 policeman to MP, Judge Advocate General, solicitor,
2 attorney general, anything like that, please come forward?

3 I'll let the lawyers, at least one from -

4 (ATTORNEY APPROACHED THE COURT AT PODIUM.)

5 THE COURT: All right. Please come forward. Just
6 tell me your name and your number and then why you are
7 coming. That is, Uncle Joe is a sheriff or something like
8 that.

9 Yes, ma'am, your name and number?

10 A. Ashley Campbell. I work for the Department of
11 Juvenile Justice as a probation officer for this
12 county.

13 THE COURT: Okay. But would that affect your ability
14 to be fair and impartial in this trial?

15 A. I don't know who the victim is.

16 THE COURT: Well I'll tell you and I'm gonna tell
17 everybody in a little bit.

18 Actually who is the victim?

19 SOLICITOR SPRINGS: Minor

20 THE COURT: Minor

21 A. That does not sound familiar.

22 THE COURT: Okay. She'll remain with us.

23 Thank you.

24 THE COURT: Your name and number?

25 A. 72, Harold Eubanks. My son is a public safety officer

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1 with the city of Union. I guess you would call him a
2 victim of whatever.

3 THE COURT: He works with the victim, mother or
4 father?

5 A. Father.

6 THE COURT: All right. Would that affect your ability
7 to be fair and impartial?

8 A. I'll be honest, at the first trial after it was over
9 me and him talked.

10 THE COURT: All right. I'll excuse you. Okay, just
11 have a seat.

12 He'll be excused. But just have a seat.

13 And when I excuse people that doesn't mean they've
14 done anything wrong. It's just that I've made an
15 assessment of what their situation is and that that's what
16 we need to do.

17 All right, your name and number?

18 A. My number is 256, Lamarcus Stewart.

19 THE COURT: All right.

20 A. And I'm kin to Officer Jerome Beatty and Officer
21 Michelle Beatty.

22 THE COURT: And they are with who?

23 A. Union County.

24 SOLICITOR SPRINGS: Did you say Jerome Beatty?

25 He's with the City. He's with public safety.

1 THE COURT: All right. Would that affect your ability
2 to be fair and impartial in the trial of this case?

3 Beatty, and what was the other one?

4 A. Michelle Brady.

5 THE COURT: All right. Neither one of them are listed
6 as witnesses.

7 A. Okay.

8 THE COURT: Would that affect your ability to be fair
9 and impartial since you're just related to them?

10 A. No.

11 THE COURT: Okay. Thank you. You may be seated.

12 All right, your name?

13 A. Melvin Gardin, Number 88. I work with him and I'm
14 kin to the Williams.

15 THE COURT: All right.

16 A. To be honest I'd like to be excused.

17 THE COURT: You don't think you can be fair because of
18 that relationship?

19 A. I just don't want to be no conflict.

20 THE COURT: All right. I'll excuse you. Don't leave,
21 but you will be excused.

22 And if any of you are excused and you hear another
23 question that you would respond to otherwise, you don't
24 need to come up again once you've been excused.

25 Yes, ma'am.

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1 A. My husband's a retired police officer, Union County
2 Sheriff's Office. I didn't know.

3 THE COURT: Well, your name?

4 A. Anita Hicks, 132.

5 THE COURT: Would you be able to be fair and impartial
6 in this trial?

7 A. Yes.

8 THE COURT: Okay. Thank you. You will remain with
9 us.

10 A. Thank you.

11 We only have one door. You have to come in and out
12 the same door.

13 Are any of you or a member of your immediate family
14 members of or contributors to organizations such as
15 Mother's Against Drunk Drivers; Students Against Drunk
16 Drivers; Citizens Against Violence, Trooper's Association,
17 Sheriff's Association or Fraternal Order of Police; if so,
18 please stand?

19 All right. At this time I'm just gonna ask you to
20 stand instead of coming up and tell me which organization.

21 A. I contribute to the State Trooper's Association.

22 THE COURT: All right. Would that affect your ability
23 to be fair and impartial in this trial?

24 A. No.

25 THE COURT: Okay. Thank you. I'm going to ask the

1 attorneys to introduce themselves. First the Solicitor who
2 will be handling this case and I'm going to ask him
3 although I'm going to read some witnesses out later just so
4 you'll know who's up here, I'm gonna ask the Solicitor to
5 introduce himself and tell us who he has up here on his
6 side of the bar.

7 SOLICITOR SPRINGS: Yes, sir. My name is John
8 Anthony, I'm the Deputy Solicitor here in Union.

9 This is Lieutenant Terry Humphries from the Sheriff's
10 office.

11 If you would stand up please.

12 This is Investigator Roxie Belue with the sheriff's
13 office. This is Eddie Williams and this is Minor

14
15 (ALL CALLED PERSONS STOOD.)

16 SOLICITOR ANTHONY: Also this lady in the middle the
17 victim advocate, Michelle Shugart.

18 (VICTIM ADVOCATE STOOD.)

19 (ALL PARTIES STANDING RETURNS TO THEIR SEATS.)

20 THE COURT: All right. And I'm going to ask the
21 defense attorneys to introduce themselves and I've already
22 introduced Mr. Berry but there is another individual seated
23 at their table and they will introduce him also.

24 MR. DELANEY: I am Erik Delaney with the Union County
25 Public Defender's Office.

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1 This is Melissa Inzerillo co-counsel on this case.

2 And Barton O'Kelly investigator who is sitting at our
3 table.

4 (ALL PARTIES NAMED STOOD AND RESEATED THEMSELVES.)

5 THE COURT: All right. Now that we know that, have
6 any of you been represented by any of these attorneys, you
7 or a member of your family; or have any of you on the jury
8 panel worked with either the Public Defender's Office or
9 the Solicitor's Office for Union County. That is, have you
10 been a witness for them, have you done volunteer work for
11 them, done investigation for them or anything like that; if
12 so, please stand?

13 All right, no one stands.

14 Do any of you know any of these individuals on a
15 personal basis? That is, any of the individuals I've
16 introduced so far do you know any of them, go to church
17 with them, belong to a lodge or sorority or anything like
18 that with them; if so, please stand?

19 All right, I'm just gonna - Some of these questions
20 I'm just gonna ask you - You stand, but rather than you
21 come up I think I can handle these at a distance as opposed
22 to some of the other ones we'll get to in a moment.

23 We will start over here and just go across and tell me
24 your name and number and why you are standing?

25 Yes, ma'am.

1 A. I'm Number 59 I know this gentleman. I don't know
2 him, I just know he lives two houses from mine.

3 THE COURT: All right. Would that affect your ability
4 to be fair and impartial in this trial?

5 A. No, sir.

6 THE COURT: Okay. You can go ahead and be seated.

7 A. 245. I'm acquainted with Stephen through the
8 ministry.

9 THE COURT: And your name?

10 A. Randy Smith. Christian Fellowship Baptist - -

11 THE COURT: All right. Would that affect your ability
12 to be fair and impartial in the trial of this case?

13 A. I'm afraid not.

14 THE COURT: Thank you. You may be seated.

15 All right, yes, ma'am.

16 A. Roxie Belue and my husband are cousins.

17 THE COURT: All right.

18 A. And we know each other personally in the school and I
19 work with Stephen and his family.

20 THE COURT: All right. Would that affect your
21 ability to be fair and impartial in this trial?

22 A. I'm afraid not.

23 THE COURT: You say not?

24 A. No.

25 THE COURT: It would not affect your ability?

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1 SOLICITOR SPRINGS: What is her number?

2 THE COURT: Your number again?

3 A. 13. Sorry.

4 THE COURT: All right.

5 A. Number 93, John Gibson. I went to school with Mr.
6 Berry and also I know his family also.

7 THE COURT: All right. Would that affect your ability
8 to be fair and impartial in this trial?

9 A. I would say not.

10 THE COURT: Okay. Thank you. You may be seated.

11 A. Walter Holcombe, 134. I work with the defendant's
12 mother and father. I don't know him personally but I have
13 worked with them.

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

16 A. No, sir.

17 THE COURT: Okay. You can be seated.

18 Yes, ma'am.

19 MADAME COURT REPORTER: Judge, I can't hear her.

20 THE COURT: The benches kind of creek, start over.

21 A. Mr. Berry and I attended church. His step mother and
22 her husband -

23 THE COURT: I still didn't get your name and number.

24 A. Carol Gault, 91.

25 THE COURT: Would you still be able to be fair and

1 impartial in this trial if you were a juror?

2 A. Yes.

3 THE COURT: Okay. Thank you.

4 All right, yes, ma'am, you stood up.

5 A. Angela Lewis, 168. I'm friends with Mr. Berry's
6 sister.

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

9 A. No.

10 THE COURT: Okay. Thank you.

11 All right, yes, ma'am, your name and number?

12 A. Jennifer Price, 213.

13 (LOUD NOISE.)

14 THE COURT: I'm sorry, we had that creaking bench
15 again. Start over.

16 A. My name is Jennifer Price, I'm 213. I attended New
17 Life and I'm friends with his sister.

18 THE COURT: Would you be able in spite of that to be
19 fair and impartial in this trial?

20 A. I do.

21 THE COURT: Thank you.

22 Yes, ma'am, your name and number?

23 A. I'm Ashley Gough, 102. Friends with the defendant and
24 family as well.

25 THE COURT: Would you still be able to be fair and

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1 impartial in this trial in spite of that friendship?

2 A. Yes, sir.

3 THE COURT: Okay. Thank you. You can be seated.

4 Yes, ma'am, your name and number?

5 A. I'm Debbie Youngblood, Juror Number 298. I know Mr.
6 Berry.

7 THE COURT: All right. Would you still even though
8 you know Mr. Berry be able to be fair and impartial in this
9 trial?

10 A. Yes, sir.

11 THE COURT: Okay. Thank you.

12 Yes, sir, your name and number?

13 A. Joey Allison, Juror Number 4. I know the defendant
14 personally and his family.

15 THE COURT: All right. Would that affect your ability
16 to be, in spite of that, would you be able to be fair and
17 impartial?

18 A. (NEGATIVE RESPONSE.)

19 THE COURT: Okay. Thank you.

20 All right, yes, sir.

21 A. My name is Randy Cannon, my wife knows the defendant
22 very well and I know him from different ministries from
23 church. I'm sorry, I ain't sure about my number.

24 THE COURT: All right. 35. Start over again.

25 A. My name is Randy Cannon, my number is 35. My wife

1 knows the defendant very well. I know him through
2 different ministries.

3 THE COURT: In spite of that would you be able to be
4 fair and impartial?

5 A. I would - I don't know, sir.

6 THE COURT: I'll excuse you. I want honesty. Both
7 sides are entitled to a fair trial with fair and impartial
8 jurors. That's why we do this, so don't any of you be
9 sheepish about being - and you've sworn to answer
10 truthfully.

11 Yes, ma'am, in the pink.

12 A. Juror 29, Jennifer Burgess. I know the defendant
13 through church.

14 THE COURT: Would you in spite of that be able to be
15 fair and impartial in his trial?

16 A. Yes.

17 THE COURT: Okay. Thank you.

18 Yes, ma'am, your name and number?

19 A. Julie Crocker, Juror Number 48. I know the
20 defendant's sister.

21 THE COURT: All right. In spite of that would you be
22 able to be fair and impartial in this trial?

23 A. No, sir.

24 THE COURT: You wouldn't? Okay. Well you'll be
25 excused then. Thank you. Did you say you would not be

-35-

1 able to be fair?

2 A. No I could be fair.

3 THE COURT: Okay. All right, I misunderstood you.
4 Okay, thank you.

5 Yes, sir.

6 A. Juror Number 189, Roger Morris. I'm a member of New
7 Life Baptist Church and a friend.

8 THE COURT: Would that - In spite of that would you be
9 able to be fair and impartial?

10 A. It could possibly yeah.

11 THE COURT: You could possibly be fair and impartial?

12 A. Possibly not.

13 THE COURT: Okay. Well I'll excuse you then.

14 A. I'd rather not be on the spot.

15 THE COURT: All right. Well I understand that and
16 I'll excuse you. Again don't leave but you can have a
17 seat. You won't be included.

18 That wasn't the response I intended but we'll see
19 where we go from here.

20 All right, you've already given me this information;
21 don't stand and give it to me again, but I did not ask you,
22 I ask you about people up here. I'm going to go through
23 witnesses in a few minutes and ask you about whether you
24 know them or not. But in addition to Mr. Berry, do any of
25 you other than the one's that have already told us who you

1 know, know his father Gene Berry or his sister Chrystal
2 Earls. Anybody that hasn't already told us that?

3 All right, yes, sir. Your name?

4 A. Chuck Parrish, 203. Work with Gene.

5 THE COURT: Would you still be able to be fair and
6 impartial in this trial?

7 A. Yeah. Yes, sir.

8 THE COURT: Okay. Thank you.

9 Yes, ma'am, near the aisle. Your name and number?

10 A. Melanie, Melanie Elliott, Juror Number 68. Sorry.

11 I know the family and I know Gene and his wife and I
12 know Stephen very well.

13 THE COURT: Would you in spite - Even with that would
14 you be able to be fair and impartial in this trial?

15 A. Yes, sir.

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

17 Yes, ma'am.

18 A. 218, Heather Randall. I'm actually friends with
19 Crystal's sister.

20 THE COURT: All right. In spite of that would you be
21 able to be fair and impartial in the trial of Mr. Berry?

22 A. Yes, sir.

23 THE COURT: All right. Thank you.

24 Yes, sir, your name and number?

25 A. Phillip Gregory, 113. And I know his father Gene and

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1 his step mother Susan.

2 THE COURT: All right. In spite of that - Even
3 knowing that would you be able to be fair and impartial in
4 this trial?

5 A. Yes, sir.

6 THE COURT: Okay. Thank you.

7 A. My name is John Davis, I'm Juror 58. I know his
8 sister.

9 THE COURT: All right. Would - Even though you know
10 his sister would you be able to be fair and impartial in
11 this trial?

12 A. Yes, sir.

13 THE COURT: Okay. Thank you.

14 All right, the next question will be one of those
15 where I'm gonna ask you if you need to respond please come
16 up and we'll discuss it up here because it is very personal
17 in nature. Have any of you or a member of your family,
18 immediate family, been either the victim of what you
19 consider a sexual offense or if you've been the victim of
20 or have you been - you or a member of your family been
21 accused of having committed a sexual offense; if so, please
22 come forward and stand there and we will discuss it?

23 We have to get your name and number each time because
24 we have to make a record.

25 All right, your name and number again?

1 A. Ashley Campbell, Juror Number 82. I myself am a
2 victim.

3 THE COURT: In spite of that would you be able to be
4 fair and impartial?

5 A. No, sir. No, sir.

6 THE COURT: You would not be able to be fair and
7 impartial?

8 A. No, sir.

9 THE COURT: Okay. She'll be excused.

10 She will be excused.

11 Have a seat. Thank you.

12 THE COURT: All right.

13 A. John Gibson, Number 93. My wife was the victim of
14 sexual abuse by her father.

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

17 A. No, sir.

18 THE COURT: Okay. Thank you.

19 All right, yes, ma'am, your name?

20 A. Melinda Snyder.

21 THE COURT: Snow?

22 A. Melinda Snyder.

23 THE COURT: Okay.

24 A. I was a victim of rape as a child.

25 THE COURT: Would you - Could you put that aside and

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1 be fair and impartial in this trial or would that affect
2 you?

3 A. No I can't put it aside.

4 THE COURT: Okay. Well I'll excuse you then. All
5 right then you can be seated. Thank you.

6 She'll be excused.

7 THE COURT: Yes, ma'am, your name?

8 A. Candy Arnett.

9 THE COURT: And your number?

10 A. Juror 6.

11 THE COURT: Okay.

12 A. I'm sorry, I can't hardly talk. I was molested as a
13 child.

14 THE COURT: Would that affect your ability to be fair
15 and --

16 A. I think so.

17 THE COURT: You think you would be unable --

18 A. Yes.

19 THE COURT: Okay. I'll excuse you too. All right,
20 thank you. You may be seated.

21 All right, the next question I'm going to ask you to
22 form a line if you would on this question also.

23 Wait just a second.

24 (PAUSE.)

25 THE COURT: Actually I'll just let you stand on this

1 one. Have any of you or a member of your immediate family
2 been involved with any organization that has as it's
3 purpose assisting males and females or females and males
4 who claim to have had some sort of sexual trauma in their
5 life; if so, please stand?

6 No one stands.

7 As to the next question I will ask you if you need to
8 discuss this with me please come forward. Are any of you
9 or a member of your immediate family now or have you and
10 they or you in the past been a member of or had close
11 friends that attended New Life Baptist Church here in Union
12 County; if so, please stand?

13 All right, if you will come and form a line.

14 All right. When you come up just give me your name
15 and number and then...

16 A. Walter Holcombe, 134. I'm a member of New Life
17 Baptist.

18 THE COURT: Okay. Would that affect your ability to
19 be fair and impartial in the trial of this case?

20 A. No, sir.

21 THE COURT: Okay. You may be seated.

22 Yes, ma'am, your name and number?

23 A. Debbie Youngblood, Number 298. My son is in New Life.

24 THE COURT: All right. Would that affect your ability
25 to be fair and impartial in this trial?

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1 A. It would not.

2 THE COURT: Okay. Thank you.

3 A. 133, Louanne Hickson. My son and his family go to
4 New Life Baptist Church.

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

7 A. No, sir.

8 THE COURT: Okay. Thank you.

9 SOLICITOR SPRINGS: Can I get her number?

10 THE COURT: Hickson.

11 CLERK OF COURT: 133.

12 THE COURT: Good morning. Your name and number?

13 A. Brenda Burgess, Number 27. My grandson dated a girl
14 that was involved in the youth group. She was a member at
15 church and he went to different functions with the group.

16 THE COURT: All right. Would that affect your ability
17 to be fair and impartial in this trial?

18 A. No.

19 THE COURT: All right. You will remain with us.

20 Thank you.

21 All right, your name and number?

22 A. Melanie Elliott, 68. Both of my parents are members
23 of New Life. I attended on a few occasions but I'm not a
24 member.

25 THE COURT: Would that affect your ability to be fair

1 and impartial?

2 A. No, sir.

3 THE COURT: Thank you.

4 A. Thank you.

5 A. Number 13. My husband attends New Life.

6 THE COURT: Would that --

7 A. It's not gonna affect my --

8 THE COURT: Okay. Your name and number?

9 A. Jennifer Belue, 13.

10 THE COURT: Okay. Thank you.

11 Yes, ma'am, your name and number?

12 A. Ashley Gough, I'm juror Number 102. I attended church
13 at New Life when I was about fifteen years old and I have
14 some family and friends that still attend there.

15 THE COURT: Would you be able in spite of that to be
16 fair and impartial in this trial?

17 A. Yes.

18 THE COURT: Okay. Thank you.

19 All right, your name and number?

20 A. Number 4.

21 THE COURT: Your name?

22 A. Joey Allison. I am a co-worker that went to that
23 church and a good friend with Stephen. I got a lot of
24 ideas that are in my head.

25 THE COURT: Would that affect your ability to be fair

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1 and impartial?

2 A. I don't I'd be starting off at square one.

3 THE COURT: Okay. Well I'll excuse you. Thank you.

4 He's excused.

5 All right, your name and number?

6 A. 245. I'm a good acquaintance with the pastor that was
7 in the church at the time and shared details of the
8 situation with me.

9 THE COURT: Would that affect your ability to be fair
10 and impartial? Could you put that out of your mind and
11 base your verdict solely on the law and the evidence that
12 come in through the trial?

13 A. I believe I could yes, sir.

14 THE COURT: You think you could?

15 A. I think I could yes.

16 THE COURT: Okay. I'll let you stay with us. Thank
17 you.

18 All right, have any of you that have not indicated
19 this in some other fashion, have any of you heard about
20 this case from any source whatsoever? Read anything,
21 watched anything, listened to anything, heard anybody talk
22 about it around the office. Any of you heard anything at
23 all about this case or have any of you already formed or
24 expressed an opinion about this case; if so, please come
25 forward and we'll talk about that?

1 SHERIFF TAYLOR: Order in the court.

2 THE COURT: Yeah, let's --

3 SHERIFF TAYLOR: Order in the court. We're still in
4 court.

5 A. My number is 249, Brenda Snyder. 249. Well when this
6 happened I visited that church that I heard about it.

7 THE COURT: All right. Would you be able to in spite
8 of that be fair and impartial in the trial of this case?

9 A. Yes.

10 THE COURT: Okay. Thank you for coming forward.

11 All right.

12 SOLICITOR ANTHONY: She said she visited the church?

13 THE COURT: She visited the church when this happened.

14 Your name and number?

15 A. I'm Janice Kirby, 157. I read it in the newspaper.

16 THE COURT: All right. Would you be able to put that
17 aside and base ---

18 A. Yes.

19 THE COURT: --- and base your verdict on the law and
20 the evidence in the trial?

21 A. Yes.

22 THE COURT: Okay. You will remain with us then.

23 Thank you.

24 All right, your name and number?

25 A. Chad Cannon, Number 34.

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1 THE COURT: All right.

2 A. I seen something about it in the newspaper.

3 THE COURT: All right. Could you put that aside and
4 base your verdicts solely on the law and the evidence that
5 comes out in the trial?

6 A. Yes, sir.

7 THE COURT: Okay. Thank you.

8 We have to get your name and number every time.

9 A. John Gibson, Number 93. I read about it in the
10 newspaper and also his sister, I heard it from his sister.

11 THE COURT: Would you be able to put that out of your
12 mind and base your verdict solely on the law and the
13 evidence as it's developed in the trial?

14 A. Yes, sir.

15 THE COURT: Okay. Thank you.

16 SOLICITOR ANTHONY: I'm trying to hear, but he said
17 his children...

18 A. Angela Lewis.

19 THE COURT: Wait just a second. I'm sorry.

20 A. It was discussed at a birthday party I was at.

21 THE COURT: I'm sorry.

22 A. It was discussed at a birthday party I was at.

23 THE COURT: Could you put that out of your mind and
24 base your verdict solely on the law and the evidence that's
25 developed in the trial?

1 A. Okay.

2 THE COURT: Your name and number?

3 A. 168, Angela Lewis.

4 THE COURT: Okay. Thank you.

5 A. Thank you.

6 THE COURT: All right, your name again and number?

7 A. Carol Gault, 91. Mr. Berry came to our church -- for
8 several months and they requested prayer for him because he
9 was having problems.

10 THE COURT: Could you put that out of your mind and
11 base your verdicts solely on what's developed in the trial?

12 A. Yes.

13 THE COURT: Okay. Thank you.

14 A. All right.

15 A. Walter Holcombe, 134. I just heard about it and talk
16 around the company and the paper and stuff like that,
17 that's all.

18 THE COURT: Could you put that out of your mind and
19 base your verdict solely what's developed during the trial?

20 A. Yes, sir.

21 THE COURT: Okay. Thank you.

22 I keep saying good morning. It's almost afternoon.
23 Your name and number?

24 A. Stacy Fleming, Number 76. I heard it on the news and
25 read it in the paper and my husband has a mutual friend of

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1 Mr. Berry.

2 THE COURT: All right. Could you put all of that out
3 of your mind and base your verdict in this case solely on
4 the law and the evidence developed in the trial?

5 A. I believe so.

6 THE COURT: Okay. Thank you.

7 Let me get your name and number again.

8 A. Debbie Youngblood, 298, and I just heard it on the
9 news when he was arrested.

10 THE COURT: All right. Could you put that out of your
11 mind and base your verdict solely on what's developed in
12 the trial?

13 A. Yes. I sure could.

14 THE COURT: Okay. Thank you.

15 Your name?

16 A. Gary Proctor, 215. I saw it on the news when it
17 happened.

18 THE COURT: Could you put that out of your mind and
19 base your verdict solely on the law and evidence that's
20 developed in the trial?

21 A. Yes, sir.

22 THE COURT: Okay. Thank you.

23 He will remain with us.

24 Hey, your name and number?

25 A. Kevin Carswell, Number 38. I wasn't sure at what

1 point I should come up. I had a ex-wife that was sexually
2 abused by her father and I think it would cloud my
3 judgement.

4 THE COURT: It would? It would affect your ability?

5 A. . Because I've seen what - -

6 THE COURT: Okay. All right, I'll excuse you and I
7 appreciate you coming up.

8 He'll be excused.

9 Good morning again.

10 A. Jennifer Belue, Number 13. It all went viral of
11 course the newspapers, friends with both of them on
12 Facebook and I seen the postings and so forth. I don't
13 remember a whole lot of details because it's been a while
14 but I knew.

15 THE COURT: Okay. Would you be able to put that out
16 of your mind and base your verdicts solely on what's
17 developed in the trial?

18 A. Absolutely.

19 THE COURT: Okay. Thank you. You will remain with
20 us.

21 A. 133, Louanne Hickson.

22 THE COURT: Yes, ma'am.

23 A. Yes I read it in the paper.

24 THE COURT: Okay.

25 A. You know and I knew.

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1 THE COURT: Could you put that out of your mind and
2 base your whatever you've already heard could you put that
3 out of your mind and base your verdict in this case solely
4 on what's developed in the trial?

5 A. Yes, sir.

6 THE COURT: Okay. Thank you. You will remain with
7 us.

8 A. I'm Juror Number 102.

9 MADAME COURT REPORTER: I'm sorry.

10 THE COURT: Say again? 102?

11 A. Juror Number 102.

12 THE COURT: 102. All right.

13 A. I told you earlier I can be impartial. I'm not sure
14 that's true. I think I'm too close.

15 THE COURT: I'll excuse you. Appreciate you coming
16 back up.

17 All right, she'll be excused.

18 All right, the five are possible witnesses in this
19 trial and I'll ask if any of you are related or a close
20 personal friend or acquaintance of any of these
21 individuals. This time I'm just going to ask you to stand.
22 What I will do is I will go through the entire list. If
23 you hear a name that you know either through work or social
24 or relations please stand and then I'll go back and ask
25 those of you who you know, that is, why you are standing, I

1 know so and so, and then I'll ask about your ability to put
2 that aside and be fair and impartial.

3 Minor Eddie Williams, Sherrie Tucker,
4 A.W. M.P. P.W. J.S.

5 K.K. I guess that's the way you
6 pronounce it. K.K.

7 SOLICITOR ANTHONY: K.K.

8 THE COURT: K.K. J.B. Julia Krasinski,
9 Roxie Belue who you've already met, Terry Humphries who
10 you've already met, Al Black, Kim Roseborough, Bart Cave
11 from the State Law Enforcement Division, Betsy Hudson,
12 Jennifer McGee, Michelle Shugart, Chris Cochran, C.B.

13 and Doctor Nancy Henderson.

14 If any of you know any of those please stand?

15 All right, again --

16 A. Walter Holcombe, 134. I know Al Black.

17 THE COURT: All right. Would that affect your ability
18 to be fair and impartial? He's a witness, would that be -

19 A. It wouldn't affect my ability.

20 THE COURT: Okay. Thank you. You may be seated.

21 Yes, ma'am, your name and number again?

22 A. Marlene Davis, 159 and I know Mr. Black.

23 THE COURT: You know Mr. Black?

24 A. Yes.

25 THE COURT: All right. He's a witness. Would that

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1 affect your ability to be fair and impartial?

2 A. No.

3 THE COURT: Okay. Thank you.

4 Do any of you have any moral, philosophical, or
5 religious views that would prevent you from being fair and
6 impartial in the trial of this case? You've heard what
7 it's about, you've heard who's involved, do you have any
8 religious, moral, or philosophical views in your life that
9 would prevent you from being a fair and impartial juror in
10 this trial; if so, please stand?

11 No one stands.

12 Anything further from the State?

13 SOLICITOR ANTHONY: May we approach please?

14 (SIDE BAR OFF THE RECORD AT 12:00 P.M..)

15 THE COURT: All right, I did miss while I was talking
16 about the relations or knowledge of Mr. Berry's father and
17 sister. I did not ask because I did not see it on this
18 list, David Berry. Do any of you related by blood or
19 marriage, or a close personal friend or acquaintance of Mr.
20 Stephen Berry's brother David Berry, if so, please stand?

21 No one stands.

22 Anything further?

23 SOLICITOR ANTHONY: (INDICATED.)

24 THE COURT: Say it up. Anything further from the
25 State?

1 SOLICITOR ANTHONY: No, sir.

2 THE COURT: Anything further?

3 MR. DELANEY: No, Your Honor.

4 THE COURT: Finally, do any of you know of any reason
5 whatsoever why you could not or should not serve as a fair
6 and impartial juror in the trial of this particular case;
7 if so, please stand?

8 No one stands.

9 Now I'm going to go back up on the bench and I'll tell
10 you how we draw the jury. The strikes are five and ten and
11 we'll draw two alternates. And the strikes on that will be
12 one and two.

13 (COURT RETURNED TO THE BENCH.)

14 THE COURT: Members of the jury panel, the way we draw
15 juries in this type of court is as follows. If you hear
16 your name called please come forward and stand right in
17 front of where the clerk's are seated. Bring with you a
18 pocketbook, jacket, anything you may have so if you're
19 seated as a juror you do not have to go back and fetch it.
20 When you get up here turn around and face the table where
21 the solicitor is seated first. He will say either excuse
22 the juror and if you hear those words you may return to
23 your seat. Or he will say swear the juror, I mean present
24 the juror. If he says present the juror simply return -
25 I'm getting myself confused. If you hear the word present

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1 the juror turn and face the table where Mr. Berry and his
2 counsel are seated. One of his attorneys will say either
3 excuse the juror, if you hear that again return to your
4 seat, or he or she will say swear the juror. If you hear
5 the words swear the juror, I will probably get the podium
6 moved a little bit out of the way before we do this, if you
7 hear the words swear the juror, come over here and the
8 bailiff will tell you where to sit in the jury box. Now
9 these seats are springy, for a lack of a better way to say
10 it. We haven't lost anybody yet. When you sit down it may
11 go back real quick so just be aware of that. When I say we
12 hadn't lost anybody yet but I do want you to be aware of
13 that.

14 It will take us a couple of minutes to get the jury
15 box - We do this by computer. If any of you served several
16 years ago you recall we had a tumbler and we put little
17 capsules in there that looked like little pill - very small
18 pill vials and in those were little pieces of paper like
19 you found in a fortune cookie that had various names on it
20 and we would have it to draw one at a time and we would do
21 it that way. Now we do it by a computer. The years that
22 I've been coming over here for many years we had Bob Brown,
23 Oogie, who is kind of a name familiar around here as our
24 jury boy. He took it very very seriously and did us a good
25 job. So we don't do that any more. If Oogie was still

1 alive we'd let him do it if he wanted to but now we do it
2 by computer.

3 (JURY STRUCK AT 12:05 P.M..)

4 THE CLERK: Juror Number 97, Jermaine Gist.

5 (BLACK MALE COMING FORWARD.)

6 THE CLERK: Turn around right there.

7 So say the State?

8 SOLICITOR ANTHONY: Please present the juror.

9 THE CLERK: So say the Defense?

10 MR. DELANEY: Please swear the juror.

11 THE CLERK: You can have a seat in the jury box, sir.

12 Juror Number 48, Julie Crocker.

13 (WHITE FEMALE COMING FORWARD.)

14 THE CLERK: So say the State?

15 SOLICITOR ANTHONY: Please present the juror.

16 THE CLERK: So say the Defense?

17 MR. DELANEY: Please swear the juror.

18 THE CLERK: You can have a seat in the jury box,

19 ma'am.

20 Juror Number 190, Lauren Morrison.

21 (WHITE FEMALE COMING FORWARD.)

22 THE CLERK: So say the State?

23 SOLICITOR ANTHONY: Please present the juror.

24 THE CLERK: So say the Defense?

25 MR. DELANEY: Please swear the juror.

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1 THE CLERK: You can a seat in the jury box, ma'am.

2 Juror Number 134, Walter Holcombe.

3 (WHITE MALE COMING FORWARD.)

4 THE CLERK: So say the State?

5 SOLICITOR ANTHONY: Please excuse the juror.

6 THE CLERK: You can return to your seat, sir.

7 Juror Number 298, Debbie Youngblood.

8 (WHITE FEMALE COMING FORWARD.)

9 THE CLERK: So say the State?

10 SOLICITOR ANTHONY: Please excuse the juror.

11 THE CLERK: You can return to your seat, ma'am.

12 Juror Number 213, Jennifer Price.

13 (WHITE FEMALE COMING FORWARD.)

14 THE CLERK: So say the State?

15 SOLICITOR ANTHONY: Please present the juror.

16 THE CLERK: So say the Defense?

17 MR. DELANEY: Please swear the juror.

18 THE CLERK: Have a seat in the jury box, ma'am.

19 Juror Number 243, Claude Smith.

20 (WHITE MALE COMING FORWARD.)

21 THE CLERK: So say the State?

22 SOLICITOR ANTHONY: Please present the juror.

23 THE CLERK: So say the Defense?

24 MR. DELANEY: Please swear the juror.

25 THE CLERK: Have a seat in the jury box, sir.

1 Juror Number 92, Joshua Gault.

2 (WHITE MALE COMING FORWARD.)

3 THE CLERK: So say the State?

4 SOLICITOR ANTHONY: Please excuse the juror.

5 THE CLERK: You can return to you seat, sir.

6 Juror Number 236, William Seay.

7 (WHITE MALE COMING FORWARD.)

8 THE CLERK: So say the State?

9 SOLICITOR ANTHONY: Please present the juror.

10 THE CLERK: So say the Defense?

11 MR. DELANEY: Please swear the juror.

12 THE CLERK: Have a seat in the jury box, sir.

13 Juror Number 156, Tenesha Kershaw.

14 (BLACK FEMALE COMING FORWARD.)

15 THE CLERK: So say the State?

16 SOLICITOR ANTHONY: Please present the juror.

17 THE CLERK: So say the Defense?

18 MR. DELANEY: Please swear the juror.

19 Have a seat in the jury box, ma'am.

20 Juror Number 5, Shirley Anderson.

21 (BLACK FEMALE COMING FORWARD.)

22 THE CLERK: So say the State?

23 SOLICITOR ANTHONY: Please present the juror.

24 THE CLERK: So say the Defense?

25 MR. DELANEY: Please swear the juror.

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1 THE CLERK: Have a seat in the jury box, ma'am.
2 Juror Number 185, Torrence McSwain.
3 (WHITE MALE COMING FORWARD.)
4 THE CLERK: So say the State?
5 SOLICITOR ANTHONY: Please present the juror.
6 THE CLERK: So say the Defense?
7 MR. DELANEY: Please swear the juror.
8 THE CLERK: Have a seat in the jury box, sir.
9 Juror Number 89, Claude Garner.
10 (WHITE MALE COMING FORWARD.)
11 THE CLERK: So say the State?
12 SOLICITOR ANTHONY: Please present the juror.
13 THE CLERK: So say the Defense?
14 MR. DELANEY: Please swear the juror.
15 THE CLERK: Have a seat in the jury box, sir.
16 Juror Number 53, Leah Cudd.
17 (WHITE FEMALE COMING FORWARD.)
18 THE CLERK: So say the State?
19 SOLICITOR ANTHONY: Please present the juror.
20 THE CLERK: So say the Defense?
21 MR. DELANEY: Please excuse the juror.
22 THE CLERK: You can return to your seat, ma'am.
23 Juror Number 232, Christopher Russell.
24 (WHITE MALE COMING FORWARD.)
25 THE CLERK: So say the State?

1 SOLICITOR ANTHONY: Please excuse the juror.

2 THE CLERK: You can return to your seat, sir.

3 Juror Number 64, Albert Dill.

4 (WHITE MALE COMING FORWARD.)

5 THE CLERK: So say the State?

6 SOLICITOR ANTHONY: Please present the juror.

7 THE CLERK: So say the Defense?

8 MR. DELANEY: Please excuse the juror.

9 THE CLERK: You can return to your seat, sir.

10 Juror Number 237, Gail Sexton.

11 (WHITE FEMALE COMING FORWARD.)

12 THE CLERK: So say the State?

13 SOLICITOR ANTHONY: Please present the juror.

14 THE CLERK: So say the Defense?

15 MR. DELANEY: Please swear the juror.

16 THE CLERK: Have a seat in the jury box, ma'am.

17 Juror Number 153, Walter Keppel.

18 (WHITE MALE COMING FORWARD.)

19 THE CLERK: So say the State?

20 SOLICITOR ANTHONY: Please present the juror.

21 THE CLERK: So say the Defense?

22 MR. DELANEY: Please swear the juror.

23 THE CLERK: Have a seat in the jury box, sir.

24 THE COURT: First alternates strikes will be one and

25 two.

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1 THE CLERK: Juror Number 130, Jimmy Hendricks.

2 (WHITE MALE COMING FORWARD.)

3 THE CLERK: So say the State?

4 SOLICITOR ANTHONY: Please present the juror.

5 THE CLERK: So say the Defense?

6 MR. DELANEY: Please swear the juror.

7 THE CLERK: Have a seat in the jury box, sir.

8 Juror Number 56, James Davis.

9 (WHITE MALE COMING FORWARD.)

10 THE CLERK: So say the State?

11 SOLICITOR ANTHONY: Just so I'm clear, is this 56?

12 James Davis was 57 down stairs.

13 THE CLERK: 56.

14 SOLICITOR ANTHONY: 56. Okay.

15 THE CLERK: James L.

16 SOLICITOR ANTHONY: All right. Please excuse the
17 juror.

18 THE CLERK: You can return to your seat, sir.

19 Juror Number 46, Joel Conard.

20 (WHITE MALE COMING FORWARD.)

21 THE CLERK: So say the State?

22 SOLICITOR ANTHONY: Please present the juror.

23 THE CLERK: So say the Defense?

24 MR. DELANEY: Please excuse the juror.

25 THE CLERK: You can return to your seat, sir.

1 Juror Number 26, Sharon Bullock.

2 (WHITE FEMALE COMING FORWARD.)

3 THE CLERK: So say the State?

4 SOLICITOR ANTHONY: Please present the juror.

5 THE CLERK: So say the Defense?

6 MR. DELANEY: Please swear the juror.

7 THE CLERK: Have a seat in the jury box, ma'am.

8 THE COURT: Anything from the State involving the
9 striking of the panel?

10 SOLICITOR ANTHONY: No, sir.

11 THE COURT: Anything from the Defense involving the
12 striking of the panel?

13 MR. DELANEY: No, Your Honor.

14 THE COURT: All right. Those of you who were not
15 chosen I'm going to allow you to leave. Please call back
16 tonight after six. Call back tonight after six and you
17 will receive instructions. It may be to call back, it may
18 be to report. Just follow whatever instructions that you
19 receive. If you are not here and you are supposed to be, I
20 have to ask the sheriff to find you and I don't say that as
21 a threat. That's just the way our system works. So just
22 follow those instructions. I'm going to ask you to leave
23 quietly so I can start talking to the individuals who are
24 on this panel. Thank you.

25 (JURY POOL DISMISSED AT 12:27 P.M.)

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1 THE COURT: Those of you who were chosen if you will
2 stand the Clerk will administer the oath.

3 THE CLERK: You all raise your right hand.

4 (WHEREUPON: PETIT JURY SWORN

5 AT 12:28 P.M..)

6 THE COURT: You may be seated. Thank you.

7 Members of the jury panel, I'm going to chat with you
8 for a few minutes then I'm gonna let you go to lunch and
9 then when you come back I'll have some other things to talk
10 to you about and then I will allow the attorneys to make
11 what are called opening statements. They are not arguing
12 their case, they are not presenting any evidence because
13 they are not witnesses. When you come back, after I make a
14 few more remarks the attorneys will have a right to kind of
15 outline, give you a blue print of the trial.

16 Mr. Berry has entered a plea of not guilty to this
17 charge and that places on the State the burden of proving
18 Mr. Berry's guilt beyond a reasonable doubt. Mr. Berry is
19 presumed innocent, our law in this state is an important
20 legal right that everyone that is charged with any offense
21 in our system is presumed innocent, they need not prove
22 their innocence, the State has to prove their guilt beyond
23 a reasonable doubt before they could convict him.

24 I said we'll break for lunch and I'm just going to
25 give you some things that - I'm going to tell you a few

1 things that will carry out not just through this lunch
2 period but throughout the trial. I think this case will
3 take a couple of days, you heard the list of witnesses so
4 it will be a trial into Thursday maybe Friday. While you
5 are on the jury do not discuss the case among yourselves or
6 try to make up your own mind until I instruct you to
7 jointly deliberate and return a unanimous verdict. Prior
8 to that time you are not equipped with all the tools you
9 need to make a fair and reasonable decision. So don't try
10 to make up your own mind, don't discuss the case among
11 yourselves until I tell you to jointly deliberate and
12 determine whether or not the State has proven or not proven
13 Mr. Berry's guilt beyond a reasonable doubt. Again you
14 won't be equipped with what you need to do that process
15 until we reach the point when I tell you to do it.

16 Do not let anyone discuss this case with you outside
17 the courtroom. If anyone tries to discuss this case with
18 you, tell them you cannot as you are serving as a juror and
19 report back to me if anyone tries to discuss this case with
20 you; hopefully giving me that person's identity because I
21 will have to take action against any individual who tries
22 to talk to a seated juror. This case has I understand
23 received some news coverage in this area so do not let
24 yourself be exposed to any news coverage. Don't listen to
25 anything, watch anything, or read anything that could

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1 remotely deal with this trial. You must base your verdict
2 solely on the law and the evidence in the trial and so you
3 are not to receive any information about the case outside
4 of the courtroom so don't read about it, watch anything or
5 listen to anything. If anything catches your eye or ear
6 that could remotely deal with this trial, don't let
7 yourself be exposed to it.

8 In this modern day I must tell you that you are not to
9 use any electronic means or any other means to obtain any
10 information about this case or anything involved with this
11 case. I know we now have access to Google or go to Cloud
12 and find just about anything we want to about any subject.
13 You have to base your verdict as I've already said on the
14 law and evidence that's presented in this trial. So you
15 are not to do any Googling or any research or Tweeting or
16 whatever about this case with anyone.

17 And while the next thing may sound a little
18 unnecessary it's really not. Do not go on line and do any
19 Facebook or My Space, if that still exist, or anything like
20 that. That is don't be putting anything out on Facebook
21 that I served on a jury or I'm serving this jury. And you
22 think that might not be any need for that but if you do
23 that someone may email back and say well I know what's
24 going on about that case and here's what you need to do and
25 then you will be in a situation where we would have a

1 problem.

2 So just don't go on line to let everybody know what
3 you're doing as far as being on the jury and don't do any
4 research on anything that could remotely deal with this
5 trial. Don't research the lawyers, Mr. Berry, the defense,
6 me, court procedure, anything like that. You must, and I
7 emphasize base your verdict solely on what you hear and
8 what's developed here in the courtroom as far as the
9 evidence and as far as my charge on the law.

10 Now I'm going to let you go to lunch and when you go
11 I'll let you go out this way. The two alternates will
12 always sit in those seats.

13 And, Ms. Crocker, I'm going to ask you to be the
14 Forelady of this jury. You will always sit in this first
15 seat up here and you will be the liaison between the jury
16 and myself and preside over the jury's deliberations and
17 ultimately sign the jury's unanimous verdict. Now when you
18 leave the bailiff will show you how to get in and out while
19 you are serving as a juror and, let's see, it's 12:30, we
20 have a few matters to take up outside your presence that
21 will take us a little while so I'm going to say be back at
22 2:15.

23 Is that a good time?

24 SOLICITOR ANTHONY: Yes, sir.

25 MR. DELANEY: Yes, sir.

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1 THE COURT: All right. Anything else we should cover
2 before the jury is dismissed?

3 SOLICITOR ANTHONY: Nothing from the State.

4 MR. DELANEY: Nothing from the Defense.

5 THE COURT: All right. The bailiff will show you
6 where the jury room is and how to get in and out. And
7 we'll see you back at 2:15. Have a good lunch.

8 (JURY DISMISSED FOR LUNCH AT 12:34 P.M..)

9 THE COURT: Why don't we go ahead and take care of
10 motions in limine of the defense. None of them are
11 requiring an in camera hearing that I can see and they all
12 require or none of them require in depth analysis.

13 The first is to determine whether or not the State has
14 complied with Rule 5 and Brady. That is discovery.

15 SOLICITOR ANTHONY: We have.

16 THE COURT: All right. Next is to determine whether
17 Mr. Stephen Berry has any impeachable offenses that can be
18 used.

19 SOLICITOR ANTHONY: He doesn't have anything that can
20 be used.

21 THE COURT: All right. You got - You've already
22 prepared a list of witnesses and the defense has requested
23 criminal histories of non-law enforcement witnesses.

24 SOLICITOR ANTHONY: I have those. They don't have
25 usable records but I can pull the records and give that

1 information to them.

2 THE COURT: All right. Next is sequester the
3 witnesses for the State and I'll grant that reciprocally.

4 SOLICITOR ANTHONY: I have a couple of exceptions I'd
5 like to ask for.

6 THE COURT: All right. Well we have the case agent
7 and the victim.

8 SOLICITOR ANTHONY: Yes, sir. I'd like to have - ask
9 the case agent and the victim to be able to stay in the
10 courtroom. I also would like to ask, this is a little bit
11 of an unusual case because Ms. Shugart, the Victim
12 Advocate, is - I put her on the witness list. I don't
13 expect to call her, I didn't call her in the first trial,
14 but she was there for a short interview with the victim and
15 I put her on there just in case I would need to call her in
16 regards to that. Then I would ask that she be allowed to
17 remain in the courtroom.

18 THE COURT: All right.

19 SOLICITOR ANTHONY: I also - I believe under Victim's
20 Rights that the Victim Rights statute says that the parent
21 of a victim falls under the definition of a victim also,
22 and, so because of that I would ask that the victim's
23 father be allowed to stay in.

24 THE COURT: All right. Any objections?

25 MR. DELANEY: Yes, Judge. We object to one, her

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1 father being in the courtroom. I don't know the order Mr.
2 Anthony is going to call witnesses again but the last trial
3 he had called Mr. Williams very early on in the case and
4 was able to stay in the trial. I think there is some
5 definite importance here to have sequestration between the
6 witnesses testifying. I understand Minor is going
7 to testify and Mr. Williams is going to testify right after
8 her so...

9 THE COURT: All right. What part - Let me pull the
10 Victim's Rights Act. I never had this come up.

11 What's the code section on that?

12 SOLICITOR ANTHONY: It's 16 3 1510, 16-3-1510(1)
13 defines a victim.

14 (PAUSE.)

15 THE COURT: Well we're in kind of a sticky situation.
16 In a way it does - And this is not on the record but I
17 understand in previous in chambers pretrial that the victim
18 was a minor at the time of the alleged offenses but is now
19 reached majority. So 16-3-1510(1)(b) says "an individuals
20 parent" if that victim is a minor, she was a minor at the
21 time and is not a minor now, so it's kind of unchartered...

22 I'll let the parent stay. I'll let the father stay.

23 MR. DELANEY: Judge, if I could just be heard briefly.

24 I would just again state we have an idea of what's
25 going to be testified to, but having that idea I still - We

1 still feel that there is going - it could be potential
2 contamination with the testimony with him being allowed to
3 stay in here. And I think that could cure and again by the
4 State as they did the last time by calling Mr. Williams as
5 their second witness in the case. He sat out during
6 Minor's testimony and that was it.

7 THE COURT: Would you have any problems with him being
8 in here after the victim testified?

9 SOLICITOR ANTHONY: I don't as long as there wouldn't
10 be any objection from the Defense to my calling him later
11 in the trial possibly to prove up some impeaching prior
12 statements, or possibly as a reply witness. As I always
13 understood there won't be an objection to that, I don't
14 have an objection to him being out when she testifies and
15 being in for the rest of the trial.

16 THE COURT: Well I'll - We'll - Any objection, Mr.
17 Delaney?

18 MR. DELANEY: No objection.

19 THE COURT: All right. We'll do it that way.

20 SOLICITOR ANTHONY: Okay. Thank you. And just to the
21 Court, is the Court agreeable to the Victim Advocate
22 staying?

23 THE COURT: Yes. I'll let Ms. Shugart -
24 Any objection to Ms. Shugart staying in?

25 MR. DELANEY: I'm sorry, Judge.

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1 THE COURT: Ms. Shugart being - The Victim's Advocate?

2 MR. DELANEY: Well, again, Your Honor, if she's gonna
3 testify our position would be have her sequestered.

4 THE COURT: Why does she need to stay in? She's - The
5 victim is of age and if she's gonna be a witness I think we
6 probably ought to treat her like we do every other witness.

7 SOLICITOR ANTHONY: Yes, sir. Its just part of her
8 job to be in the courtroom.

9 THE COURT: I know but we've got a kind of having it
10 both ways. Having her as witness and being in as the
11 victim's witness assistant, it makes it a little difficult
12 if she's aware of the victim witness assistant as in
13 integral part in the case as opposed to just being the
14 detached victims assistance. I think they should be
15 treated just as a regular witness.

16 SOLICITOR ANTHONY: Yes, sir.

17 THE COURT: Now any Lyle testimony?

18 SOLICITOR ANTHONY: No, sir. We don't have any
19 intention -

20 THE COURT: Now the Sixth Motion is a little
21 different, a motion to limit the testimony of any alleged
22 sexual acts between the victim and the defendant to the
23 dates contained in the indictment and to any acts occurring
24 only in Union County. Any issue with that?

25 SOLICITOR ANTHONY: Yes, sir. The evidence is going

1 to be that this started when the victim was fifteen. The
2 end date in the indictment is her sixteenth birthday, but
3 she would testify that this situation, this relationship
4 with the defendant continued on into March. Her birthday
5 was in [REDACTED] of 2010 and these acts continued on into
6 March of 2011, was shortly before she disclosed.

7 THE COURT: Let me see the indictments.

8 Can I see the indictments? Can I see the indictments?

9 SOLICITOR ANTHONY: Yes, sir. Yes, sir, I have them.

10 (INDICTMENTS RECEIVED UP BY THE COURT FROM SOLICITOR
11 ANTHONY.)

12 THE COURT: Well to start off with criminal sexual
13 conduct with a minor. At what age - She's still a minor at
14 age sixteen, but what is the age of consent?

15 THE COURT: Sixteen.

16 THE COURT: Okay. What - There is no crime.

17 SOLICITOR ANTHONY: Yes, sir, but she was - There was
18 still an ongoing set of acts between the two of them from
19 the time of her sixteenth birthday on into March of 2011.
20 And in order to show that on going relationship, we believe
21 that she should be allowed to testify about the fact that
22 the relationship and those acts continued up until the time
23 she disclosed.

24 THE COURT: Well let me think about that. The
25 relevancy would be what? And that's why she waited to

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1 disclose or?

2 SOLICITOR ANTHONY: Yes, sir. She - The case is not
3 going to make really any sense if it is portrayed to the
4 jury that these acts stopped right at her sixteenth
5 birthday, four months passed before she ever told anybody.

6 THE COURT: Well it's not the Court's responsibility
7 to make the case make sense. I mean it's got the facts;
8 the facts are the facts and the allegations are for a
9 certain time period - I'll give it some thought but I don't
10 see how a continuing relationship is a commission of a
11 crime and it may be reversible. Lyle: It's kind of Lyle
12 in reverse that this continued pattern of bad acts
13 afterward the how she reached the age of consent.

14 SOLICITOR ANTHONY: I have a case I'd like to hand up
15 on that.

16 THE COURT: All right.

17 SOLICITOR ANTHONY: This is a very old case but as far
18 as I can tell it's still a good case. It's *State v.*
19 *Richie*, it's 70 S.E. 729. I'm handing a copy to the
20 defense. I think its very much similar to the case that we
21 have here.

22 THE COURT: All right. I'll take a look at this over
23 lunch. Any other issues before we break for lunch?

24 SOLICITOR ANTHONY: The only thing that I would ask,
25 Your Honor, since I imagine the court would want to go

1 ahead and just start when we start back, there are a number
2 of or at least in the last trial, there were some prior
3 acts of the victim that the defense inquired to on cross
4 examination that the State has objections to and the State
5 probably ask the court to take proffers on those acts
6 during the course of her cross examination. One of them it
7 involves some rape shield evidence; the other one involved
8 just some evidence that we don't believe is relevant to the
9 charge, so, I would ask that there not be any reference to
10 prior complaints made by the victim, prior sexual activity
11 engaged in by the victim during the defendant's opening
12 statement as we believe that that evidence is objectionable
13 and shouldn't be heard.

14 THE COURT: Do you -

15 MS. INZERILLO: I'm sorry, Your Honor, if I could
16 interject, mainly because Minor will be my witness.
17 and just to clarify that. If we can just have the State
18 clarify outside of the rape shield qualms that he has if we
19 could state a little more specifically what other prior
20 complaints that she made so that we do not - -

21 SOLICITOR ANTHONY: There was an inquiry during her
22 testimony at the first trial about a report she made to a
23 guidance counselor about a conflict between she and her
24 father and we believe that's irrelevant and so we would ask
25 to have that excluded.

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1 MS. INZERILLO: Your Honor, I will state for the court
2 that it wasn't the intention of the defense to mention that
3 in opening and certainly to mention that cross examination
4 of the victim and so the court would wish to address that
5 prior to the jury returning we can do that, go and do that
6 now and proffer that testimony.

7 THE COURT: What's the relevancy of - First, one point
8 in time relative to the charges did the incident with the
9 guidance counselor take place? Before or after --

10 SOLICITOR ANTHONY: It was before she made the
11 disclosure of the sexual abuse.

12 THE COURT: Was it during - But was it during the time
13 of the sexual abuse, alleged sexual abuse was occurring?

14 SOLICITOR ANTHONY: It was when she was - She had
15 turned sixteen but it was when this relationship was still
16 - these acts were still going on.

17 THE COURT: All right. So what's the relevancy? I'm
18 sorry, wrong person.

19 What's the relevancy?

20 MS. INZERILLO: Your Honor, by our understanding of
21 what Minor testified to prior about two to three
22 weeks before making allegations against Mr. Berry, she and
23 Mr. Berry's daughter went to a guidance counselor at school
24 and informed that guidance counselor that Mr. Williams her
25 father had physically abused her, showed that guidance

1 counselor photographs of her bruised legs and that guidance
2 counselor then called DSS. She admitted in the last - -

3 THE COURT: She who? You lost me.

4 MS. INZERILLO: I'm sorry, Minor , the victim.

5 THE COURT: Minor .

6 MS. INZERILLO: And Mr. Berry's daughter.

7 THE COURT: Mr. Berry's daughter made a report?

8 MS. INZERILLO: Yes. To a high school guidance
9 counselor.

10 THE COURT: And that report was? I'm getting lost.

11 MS. INZERILLO: That Mr. Williams, the victim's
12 father, physically abused the victim.

13 THE COURT: This victim?

14 MS. INZERILLO: This victim.

15 THE COURT: All right.

16 MS. INZERILLO: And as part of that report showed
17 photographs of Minor bruised legs. And the
18 guidance counselor took that information and called DSS.
19 In the last trial Minor the victim in this case,
20 was cross examined on that incident and admitted under oath
21 that that was a lie, that she had lied to the guidance
22 counselor.

23 SOLICITOR ANTHONY: I would completely disagree with
24 that characterization. I do not - I mean the transcript
25 speaks for itself but she did not admit she lied.

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1 MS. INZERILLO: I can clear that up for Your Honor.

2 THE COURT: Isn't there a missing link in this though?
3 Before you get to that --

4 MS. INZERILLO: Our contention, Your Honor, in terms
5 of relevancy is two fold. One, this happened about two to
6 three weeks prior to the - What our contention is a second
7 false allegation against the defendant. Secondly, Your
8 Honor, again goes to the victim's credibility because it is
9 the defense's contention that she did admit to - -

10 THE COURT: Well how are you going to show if she says
11 - If she denies she said it, how are you going to prove
12 that she did because you don't have her listed as a
13 witness. Maybe - Does that - Is C.B. the link
14 between this?

15 MR. DELANEY: No, Your Honor.

16 MS. INZERILLO: J.B.

17 THE COURT: Well how is she - How are you going to
18 broach the subject of a third party making that report to -

19 MS. INZERILLO: Minor made the report.

20 THE COURT: Well I thought you said that this - That's
21 why I'm getting confused. As I understood Mr. Berry's
22 daughter made the report and showed pictures of the
23 victim's bruised legs.

24 MS. INZERILLO: Minor and J.B. those
25 together went to the guidance counselor.

1 THE COURT: Okay.

2 MS. INZERILLO: And so Minor and J.B.

3 both addressed the incident with that. I'm referring to
4 the transcript in this case.

5 On Page 149, Mr. Anthony.

6 MR. DELANEY: I'll give you a copy, Judge.

7 (TRANSCRIPT RECEIVED UP BY THE COURT.)

8 MS. INZERILLO: And this is the cross examination of
9 Minor in the prior case, Your Honor.

10 THE COURT: Okay.

11 MS. INZERILLO: And it's in the 8th line.

12 "At the time you told the guidance counselor that
13 your father was physically abusing you, did you know your
14 father could get in trouble for that?"

15 Answer. "Yes I did but my father never physically
16 abused me." And then she continues "So you went and told
17 the guidance counselor that he did abuse you but he really
18 didn't?"

19 Answer. "I told the guidance counselor that me and my
20 dad got into an argument one day and I hit my dad and my
21 dad hit me back." And then she continues and blames it on
22 J.B.

23 THE COURT: All right. What's - I still don't get the
24 relevancy.

25 MS. INZERILLO: Your Honor, it's our contention that

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1 for our preview of that back and forth between Ms. Butler
2 who is Mr. Berry's private attorney, Mr. Delaney and I were
3 not on the prior case, and Minor that that indicates
4 that she had gone to the guidance counselor and essentially
5 lied about the case - about the prior -

6 THE COURT: Lied about this case?

7 MS. INZERILLO: I'm sorry?

8 THE COURT: Lied about this case?

9 MS. INZERILLO: Lied about the false accusation
10 against her father, the physical abuse regarding her
11 father.

12 THE COURT: And what's that got to do with this case?

13 MS. INZERILLO: Our contention is that essentially
14 it's inconsistencies that she lied about that in that along
15 with other incidences in our case that we would wish to
16 present to the jury. That it would be relevant in terms of
17 credibility, Your Honor.

18 THE COURT: I'll let you make a proffer on it but
19 don't go into every statement. I'll let you make a proffer
20 and then we'll see. Based on what I'm seeing now, there's
21 been no objection, I mean I don't know how we are where we
22 are now because it's now before us but to the extent that
23 this is going to be a line of questioning I direct that you
24 reserve until such time as this witness is on the stand and
25 have an in camera before I allow it to the jury.

1 It would be more of an assumption and therefore it
2 would not be gone into in opening statements.

3 MS. INZERILLO: Yes, Your Honor. Thank you, Your
4 Honor.

5 SOLICITOR ANTHONY: Thank you. One other thing I
6 would mention is that if the Court as far as the transcript
7 goes I think to get a complete idea of what her testimony
8 was you would need to see the redirect too. I brought it
9 up on redirect as well.

10 THE COURT: What page is that?

11 SOLICITOR ANTHONY: That's Page 158, the bottom, I'm
12 defer the court to questions -

13 THE COURT: Can I write on this?

14 MR. DELANEY: You can, Judge.

15 SOLICITOR ANTHONY: The last question on Page 158 and
16 then her response is just a very simple one question and
17 one answer on 158 and 159.

18 THE COURT: All right. I'll take a look at that.

19 Anything else?

20 SOLICITOR ANTHONY: I don't have anything else right
21 now. Well just one inquiry I'd make to the defense. I
22 stated I complied with Rule 5 and Brady, is there any
23 reciprocal material that needs to be turned over? I never
24 received any.

25 MR. DELANEY: There is not, Judge. And just I guess

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1 to clarify a little bit more, I've heard and just to make
2 sure the State's not going to go into anything that was
3 this trip in Tennessee where there is some allegations made
4 that something happened in Tennessee. I think we're out of
5 jurisdiction on that.

6 SOLICITOR ANTHONY: It was not my intention to elicit
7 testimony about the Tennessee.

8 MR. DELANEY: And the only thing finally would be I
9 just wanted to, there was some things taken from a computer
10 in this case at the church and my understanding is that
11 nothing on a computer is going to be used.

12 SOLICITOR ANTHONY: It's not my intention to do that.

13 THE COURT: All right. We'll be at ease then to 2:15.
14 Or let's say 2:00 then. Be available at 2:00, that will
15 give you over an hour to get some lunch and then maybe get
16 together and address these issues before we get the jury
17 in. Have a pleasant lunch.

18 SOLICITOR ANTHONY: Thank you, Your Honor.

19 THE COURT: And Mr. Berry can remain out. Let's come
20 back to order for one minute. Come back to order just one
21 minute. Let's come back to order just one minute. Come
22 back to order just one minute.

23 Mr. Berry, I am going to allow you to remain at
24 liberty and not require you to be incarcerated during the
25 trial. Do you understand that?

1 MR. BERRY: Yes, sir.

2 THE COURT: Do you understand that this trial if you
3 for some reason do not show up during this trial that the
4 case will not stop; the case will go forward, you will be
5 tried in your absence, the verdict will be rendered and if
6 that verdict is guilty I will seal the sentence, no one
7 will know what that sentence is but me and I will issue a
8 bench warrant for your arrest and you will be sought and
9 arrested and that sentence imposed. Do you understand
10 that?

11 MR. BERRY: Yes, sir, my lawyer reminded me before and
12 I am aware of that.

13 THE COURT: All right. Ms. Inzerillo, is that
14 correct?

15 MS. INZERILLO: Yes, Your Honor.

16 THE COURT: Do you believe he understands he'll be
17 tried in his absence and what will happen if he does not
18 show up?

19 MS. INZERILLO: He does, Your Honor.

20 THE COURT: I will allow him to remain at liberty for
21 lunch and for over night through the trial.

22 MS. INZERILLO: Thank you, Your Honor.

23 (COURT IN LUNCH RECESS AT 12:58 P.M..)

24 (COURT BACK IN SESSION AT 02:39 P.M..)

25 THE COURT: Have a seat. Thank you.

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1 All right the first issue will be the one involving
2 Ms. Price, a juror, certain information related to me over
3 lunch and break regarding inadvertent and probably nocuous
4 interchange between this juror and the defendant's sister
5 that had the state known about it, and I haven't confirmed
6 it with Ms. Price yet, that had the State known about it
7 they would have exercised strikes so both parties had
8 agreed that we will seat the alternate. I'm gonna let the
9 State elaborate on that and the defense to the extent they
10 wish.

11 MS. INZERILLO: Your Honor, for the purposes of the
12 record as we explained to both the State as well as to the
13 Court in chambers, it was brought to our attention by our
14 client that after the Roll Call prior to the court's voir
15 dire of the jury panel this morning that Juror Number 213
16 did have a conversation with the defendant's sister and
17 essentially it was a very short conversation but it was a
18 conversation in which the defendant's sister did remark
19 that she couldn't believe Juror Number 213 was on the jury
20 and Juror Number 213 then responded saying "I hope I don't
21 get chosen it would be very hard for me."

22 We were made aware of this pursuant to a conversation
23 that our client had with our investigator Mr. O'Kelly over
24 the lunch break. As soon as we verified that with not only
25 our client but as well as his sister we made the State, Mr.

1 Anthony, aware of that as quick as possible, brought it to
2 his attention and of course brought it to the attention of
3 the Court.

4 THE COURT: Anything else, Mr. Anthony?

5 SOLICITOR ANTHONY: I think that's the correct
6 recitation.

7 THE COURT: All right. Will you bring in Ms. Price.

8 THE CLERK: Juror Number 223, Ms. Price.

9 THE COURT: Do you want to draw one of these?

10 I'm gonna let the Clerk draw an alternate.

11 (CLERK DREW LOT FOR THE ALTERNATE.)

12 (JUROR ENTERS COURTROOM.)

13 THE COURT: Ms. Price, I hate to put you on the spot
14 but someone called it to our attention that some time this
15 morning you and the defendant's sister -

16 MS. PRICE: Yes.

17 THE COURT: --- exchanged some comments.

18 MS. PRICE: I talked with Chrystal.

19 THE COURT: Okay. All right. Well of course you
20 didn't do anything wrong. But since that's come to our
21 attention one or the other may exercise his strike had they
22 known that so I'm going to excuse you. I hate to do that
23 because you are a good juror I can tell. But you didn't do
24 anything wrong and I'll tell the other jurors that I
25 excused you from further service.

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1 MS. PRICE: All right. Thank you.

2 THE COURT: Yes, ma'am.

3 (JUROR NUMBER 213, JENNIFER PRICE EXCUSED FROM JURY
4 SERVICE.)

5 THE COURT: All right. Bullock is the one, it's not
6 Sandra, but Ms. Bullock has been chosen, Sharon, so she
7 will be the alternate that's serving and that leaves us one
8 alternate Mr. Hendricks.

9 Anything else before we get - -

10 SOLICITOR ANTHONY: Not on this matter.

11 THE COURT: Anything else?

12 MS. INZERILLO: No, Your Honor.

13 THE COURT: All right. I have reviewed both the
14 Richie case and my case from 1999, Weaver - *Weaverling*.
15 And I still find some of the language of the Richie case a
16 little confusing but the *Weaverling* case is fairly - Both
17 of them are on point regarding the acts post the victim's
18 sixteenth birthday. The *Weaverling* case I found that this
19 was - I don't want to misquote.

20 Anyway they upheld me for allowing the testimony after
21 this victim in the *Weaverling* case turned of age. I guess
22 that was the issue. I just got handed this case.

23 (PAUSE.)

24 THE COURT: Of course in looking at the *Weaverling*
25 case the victim was - knowed nothing about the age of

1 consent involves and this was a homosexual relationship. I
2 hate to use that word, male on male relationship, the
3 victim was male and the perpetrator was a male, but in that
4 case I allowed the evidence of continuing sexual abuse
5 outside of the time charged. It's different a little bit
6 from our case because in our case we have a consent issue.
7 In spite of that I'm going to allow the State to show under
8 the *Riley* case and the language it gives me some concern
9 there but I think it's covered more clearly in the
10 *Waverling* case.

11 In *Riley* the court talks about continuousness of
12 eliciting the Court admissible evidence as shown "the
13 relation and mutual disposition of the parties." I quite
14 frankly don't know what that means. Both the court in
15 *Wavering* picked up that exact language but they went
16 further and upheld me for allowing similar - again it's not
17 exact as we've got on this case - but I find that these
18 aren't prior bad acts as subsequent bad acts and that's
19 what the *Richie* case talks about mainly is subsequent acts.

20 MS. INZERILLO: Your Honor, if I can be heard very
21 briefly.

22 THE COURT: Yeah. Just a minute.

23 In that case while there was not a consent issue it
24 was the relationship issue controlled the stepfather -
25 that's *State versus Adams*. I'm trying to digest this on

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1 the fly so to speak. I was looking at some language I saw
2 earlier.

3 (PAUSE.)

4 THE COURT: Yeah this language. "We find those
5 testimony regarding the pattern of sexual abuse suffered by
6 *Wavering* to be quintessential to the common scheme of plan
7 evidence. Evidence. Evidence of the defendant's prior and
8 subsequent elicit sexual activity closely similar to the
9 charge and it is admissible." And they cite *State versus*
10 *Richie*. In this I haven't heard the evidence but I have to
11 find at some point I guess outside - I guess outside the
12 presence of the jury I will have to find that the evidence
13 such as no criminal charge that it's clear and convincing
14 before I can allow it in. Just like the *Riley* I do find
15 that it is clear and convincing that it's probative value
16 out weighs the danger of unfair prejudice to Mr. Berry.

17 All right, I'll be glad to hear from you, Ms.
18 Inzerillo.

19 MS. INZERILLO: Thank you, Your Honor. Just wanted to
20 note the defense's position of this on the record.

21 Your Honor, in sort of my review of *State v. Richie* as
22 well as the *Wavering* case over the break, we would just
23 note that it seems like *State v. Richie* is essentially a
24 prelog - precursor to the common scheme of plan.

25 THE COURT: Well that gave me some concern too that

1 that case hadn't been over turned but it way way way
2 predates our rules of evidence, and so how that play would
3 work we still talk about Lyle which predated and we still
4 cite it. But I was concerned about Richie predating the
5 what is now is not codified, of course, but it's a rule
6 under the administrative procedures act as of course the
7 law and the rules of evidence we have to apply.

8 Go ahead.

9 MS. INZERILLO: Thank you, Your Honor. I just state
10 for the record and ask the court to read more in relation
11 in terms of that as opposed to just stand alone cases. As
12 the court can see in *Waverling* it is often cited as a
13 precursor case to the subsequent case in terms of being the
14 common scheme of plan exception in one of the cases
15 including *Weaverling*. Your Honor, our case, it's the
16 defense's contention that the case before the court today
17 is not a common scheme of plan case.

18 Our case is distinguishable from *Weaverling* in that
19 from reviewing the court's review of the case and I
20 understand Your Honor was actually the presiding judge in
21 *Waverling* but from reviewing the case as provided in
22 *Waverling* that there were common scheme of plan in terms of
23 other witnesses, I believe some other siblings that were
24 testifying to other abuse. We don't have that in this
25 case. Essentially we have one alleged victim that would

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1 testify to some acts falling outside of the terms of the
2 indictment which would be the position of the defense that
3 that is not the common scheme of plan and would not fall
4 under that exception.

5 More over, Your Honor, the court did hit on this
6 briefly, before the lunch break the defense did make a Lyle
7 Motion and was informed by the State that there would be no
8 Lyle evidence that they would intend to present. And if
9 this is the case law that they in turn are relying on in
10 order to fall outside the term of the dates relied upon in
11 the indictment then this is involving case law and it would
12 be our position that we would like to revisit that motion
13 and any specific evidence that they intend to introduce
14 outside of the dates in the indictment the court now treat
15 it as Lyle and make that finding under Lyle and - or make
16 that finding before we go forward and treat it as Lyle,
17 that is, if the court intends to go forward with using
18 these cases.

19 THE COURT: Well the later part is that I will have to
20 hear the evidence and decide, convincing me clearly and
21 convincingly that - When do you want to do that?

22 SOLICITOR ANTHONY: What I intend to do would be for
23 me to call the victim and really the most - all of the
24 specific acts I'm going to ask her about before she turned
25 sixteen. So before I ask her and essentially all I intend

1 to do is just ask her if this behavior continued from the
2 time that she was sixteen up until the time she disclosed.
3 And before I ask her that question I can advise the court
4 and we can send the jury out and do a proffer.

5 THE COURT: All right. Yes I would like to get the
6 jury working as long as we could. That will be another
7 thing to stay away from.

8 SOLICITOR ANTHONY: I'm just trying to figure out how
9 to open and not explain to the jury that this occurred over
10 a lengthily period of time.

11 THE COURT: I think you can explain that. I mean
12 that's - I think that's what he's charged with. I think
13 the dates -

14 SOLICITOR ANTHONY: Well she also didn't disclose
15 until March and she turned sixteen in November.

16 THE COURT: Well I know but he's charged with May 1,
17 2010 to [REDACTED], 2010. That's a pretty substantial
18 period of time.

19 SOLICITOR ANTHONY: All right. I can just stay away
20 from saying how long it lasted. I think I can do that.

21 THE COURT: Anything else before we get the jury in?

22 SOLICITOR ANTHONY: No, sir.

23 MS. INZERILLO: No, Your Honor.

24 THE COURT: Bring in the jury.

25 (JURY REENTERS COURTROOM AT 02:55 P.M..)

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1 THE COURT: All right. The forelady will sit in this
2 seat.

3 Where is, Ms. Bullock? Are you Ms. Bullock?

4 I'm going to ask you and - Mr. Hendricks?

5 MR. HENDRICKS: Yes, sir.

6 THE COURT: I'm going to ask you all to switch because
7 Ms. Bullock, you are now on the panel. You are not an
8 alternate any more. And the reason even though he got
9 picked first in this type court we draw alternates.

10 And, Ms. Bullock, your name was drawn.

11 Ms. Price did not do anything wrong. It was just
12 something came to light that concerned the attorneys which
13 I talked to her about it and she was very comfortable with
14 being relieved because we had some concerns and it's not
15 her fault and she did not do anything wrong. She was a
16 very pleasant lady and I enjoyed talking to her.

17 In just a minute the attorneys will have an
18 opportunity to come before you and make their opening
19 statements. They are not testifying because they are not
20 witnesses and they are not arguing their case. At a later
21 point in the trial they will have an opportunity to argue
22 their case and tell you why the evidence and the law should
23 led you to a certain verdict. They have, the State does,
24 the burden of proving Mr. Berry's guilt beyond a reasonable
25 doubt before you could convict him. Mr. Berry as I told

1 you earlier is presumed innocent just like anyone charged
2 with any offense in our system is presumed innocent until
3 the State can prove, if it can, that person's guilt beyond
4 a reasonable doubt. Of course that person here is Mr.
5 Berry.

6 I have three primary jobs. One is the logistics. I
7 make sure one person speaks at a time and that we take
8 breaks. The mechanical part of the trial. I also rule on
9 questions of evidence. If one side believes certain
10 evidence is admissible for your consideration and the other
11 based on some rule of evidence or rule of law believes the
12 evidence should not be allowed for your consideration I
13 have to rule on it. My third job is that I am the sole
14 judge of the law in this case. You must take accept and
15 apply the law as I charge it. Even if you think I charge
16 the law in error or even if you think the law should be
17 different. Your oath requires you to take accept and apply
18 the law as I charge it.

19 I'm giving you some legal principles now. Perhaps
20 during the trial I'll give you some. And at the end of the
21 trial I will give you a precise and comprehensive charge on
22 the law that you are to apply to the facts that you
23 determine them to be. I've already talked with you about
24 not discussing the case and not to go on line or do
25 anything like that.

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1 Now I am the sole judge of the law and you are the
2 sole judges of the facts. You are not to infer from
3 anything I say or do at any time as being an indication of
4 an opinion of mine on the facts. Our law does not allow a
5 trial judge to formulate or express to a jury any opinion
6 on the facts. It is solely your job to examine the
7 evidence to give to the evidence the effect the value the
8 weight and the truth you believe it should have. In doing
9 this you may believe one witness as opposed to several;
10 several witnesses as opposed to one. You may believe all
11 or part or none of a witnesses testimony.

12 As judges of the facts you necessarily must judge the
13 credibility, that is the believability, of the witnesses
14 who testify. In assessing believability use the things I
15 just talked about. Use the things that you find in your
16 day to day life as being indicative to the truthfulness and
17 you can use certain evaluators. How a witness acts on the
18 stand. Are they hesitant or straightforward? Look at
19 consistencies and inconsistencies in a witnesses testimony.
20 In their testimony is it consistency or inconsistent with
21 any earlier statements that you may call to your attention.
22 You can consider a bias or prejudice a witness may have if
23 any that is whether a witness would wish to help or hurt
24 one side or the other. And you can consider the
25 opportunity a witness had to actually know the things to

1 which the witness testified. All of these things you
2 consider to determine the true facts apply the law and your
3 verdict will in fact speak the truth.

4 If you can't see - you don't need to take notes but if
5 you can't see or you can't hear let me know. Cup your ear
6 or give me a voice raising gesture, nudging gesture, and I
7 will try to correct it. We want you to see and hear the
8 things that are important in this case and if you can't I
9 want to know about it and I will try to correct it.

10 We take breaks about every hour and a half. I find
11 that's a good time usually. However if any of you need a
12 break at any time simply raise your right hand and with no
13 questions ask we will take a break. It's hard to pay
14 attention if you are in discomfort and you need a break
15 raise your hand and we'll take a break.

16 And I extend that to counsel and Mr. Berry. Again
17 we'd like to move the case along as quickly as possible.
18 Not hurriedly but quickly. But if we need a break we will
19 take one.

20 Counsel.

21 SOLICITOR ANTHONY: Thank you, Your Honor.

22 Good afternoon, you all. My name is John Anthony. I'm
23 the Deputy Solicitor here in Union and I'm gonna be
24 representing the State of South Carolina in this case.

25 I want you all to think just a minute about all of the

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1 things that you count on other people to do. And all the
2 things that you trust other people with. And it can be as
3 simple as you trust your car to your mechanic. You trust
4 your money to your bank. You trust your health to your
5 doctor. And if you ask most parents, most parents I'm sure
6 will tell you that the most precious thing that they trust
7 anybody is their children. And they trust their children
8 to the schools, to school teacher, maybe the coaches, maybe
9 the boy scouts leaders, girl scout leaders, but parents
10 also trust their children to churches and the pastors.

11 Either later on this afternoon or first thing in the
12 morning you all are gonna hear from a man by the name of
13 Eddie Williams. And Eddie Williams is a Public Safety
14 officer for the town of Union. He's a single parent, he has
15 three children. He has a oldest child, his daughter
16 Minor ; then he has two boys A.W. and Philip. He lives
17 right up the road from his mother and his mother has helped
18 him raise his children up on [REDACTED] in Jonesville.
19 And back in the spring of 2009 that's really when this case
20 starts is in 2009 Eddie Williams and his family join New
21 Life Baptist Church. And New Life Baptist Church was where
22 the defendant in this case, Mr. Berry, was employed as the
23 youth pastor.

24 Now when they joined New Life Baptist Church his
25 daughter was fourteen. Minor was fourteen and she

1 developed some important relationships at New Life Church.
2 She became best friends with Mr. Berry's daughter who's
3 name is J.B. . And then she also became very attracted to
4 this older boy in the youth group named J.S. And
5 Eddie Williams noticed that his daughter, who was fourteen
6 at the time, was attracted to a seventeen year old boy.
7 And he had some real reservations about that so he went and
8 talked to Mr. Berry about that. And Mr. Berry agreed to
9 keep Minor and the boy that she liked, Minor liked
10 J.S. he agreed that he'd keep them separated.

11 So that happened in - around the summer of 2009. Well
12 we go now again to the spring of 2010, May of 2010. And
13 something very important happened then because in May of
14 2010 Mr. Berry and his family moved. They were living in
15 Union and they moved to Jonesville and they moved just
16 three or four houses down from where Eddie Williams and
17 Minor and his family were living. After he moved some
18 very peculiar things started happening. Mr. Berry started
19 coming to Minor's grandmother's house a lot to see
20 her. And then he started coming up to Minor house.
21 And he come up to Minor house when Mr. Williams -
22 come up to Minor s house when Mr. Williams wasn't there.

23 One time he came up there not wearing anything except
24 a bathing suit after a swimming party at his house. And so
25 this became a concern to Eddie Williams and he talked to

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1 Mr. Berry about it but nothing really changed over time in
2 2010.

3 Well at the same time as Mr. Berry started doing these
4 things, and showing this attention to Minor

5 behavior changed and she started - she
6 became a lot more of a problem, started having a lot more
7 problems, causing a lot more problems for Mr. Williams over
8 this period of time. And then finally one day at school
9 Minor told a friend of her's that Stephen Berry
10 had been performing sexual acts on her over time. That he
11 had been primarily digitally taking his hand and what they
12 refer to as fingering her, putting his finger up inside of
13 her and this behavior had gone on over time.

14 And she reported that to the guidance counselor at the
15 school. She first told a friend of hers. The friend told
16 the guidance counselor and then the guidance counselor
17 referred it to law enforcement so people from the sheriff's
18 office came and they took a statement from her and they
19 began to investigate this case.

20 So what we're gonna do in this case is we're going to
21 basically present this evidence to you. You are going to
22 hear from Minor you are going to hear from
23 several of her family members, you're going to hear from
24 the boy she liked J.S. You're going to hear from
25 her friend that she told about this at school. You're

1 going to hear from the detectives at the sheriff's office
2 who investigated the case. And then you are also going to
3 hear from Mr. Berry's own daughter, J.B. who is
4 Minor best friend for a long time. And I want
5 you to pay attention to her testimony because she saw some
6 things going on at Mr. Berry's house between Mr. Berry and
7 Minor that verify, confirm to you the truth of what Minor
8 is going to testify to you about this afternoon.

9 So that's essentially the case we're going to present.
10 We're going to start this afternoon by calling Minor
11 and then we'll call these other witnesses over the next day
12 or so. And we believe that once you've heard all of the
13 evidence in this case that you will find Mr. Berry is
14 guilty of criminal sexual conduct with a minor in the
15 second degree. Thank you all.

16 MR. DELANEY: May it please the Court.

17 THE COURT: Yes, sir.

18 MR. DELANEY: Good afternoon. A rush to judgment that
19 is what this case is about. A rush to judgment before you
20 know the whole story. The complete story. The true story.
21 A rush to judgment before all of the evidence is examined.

22 What is great about the process we are about to go
23 through, this foundation is built upon not making that
24 mistake. It's built upon being deliberate, being sure that
25 information, facts, can be corroborated. Being sure that

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1 information, facts, make sense.

2 Ladies and gentlemen, you must listen to all of the
3 testimony, hear all of the evidence through the entirety of
4 this trial. And you cannot begin making your decision
5 until you've heard all of that; until you listen to all of
6 that. That is your duty as a juror and as part of the oath
7 as you've taken here today. You are going to hear about
8 the investigation that was done in this case. And an
9 investigation that you will hear the facts do not show that
10 it was deliberate. The facts will not show that there was
11 any checking into someone's story, someone's statement to
12 see if there's corroboration or contradiction.

13 An investigation but it wasn't checking to see if
14 someone's story, someone's statement makes sense, add up.
15 An investigation where you are going to hear that a warrant
16 was sworn out after talking to one person. The bulk of the
17 investigation came afterward. And this one person, Minor
18 the State's star witness.

19 You're going to hear about her behavior. You are
20 going to hear about her lies. You're going to hear when
21 she takes this stand and tells the story and that story
22 she's going to tell is going to change and it's going to
23 change and it's going to change. You are going to hear
24 from up here one of the versions of one of these stories
25 has her in a room being a victim of a brutal rape that's

1 witnessed by potentially three people. Three potential
2 witnesses in this room that witnessed a forcible, potential
3 witness, a forcible rape. That's one of the versions you
4 are going to hear.

5 There is a certain level of trust a parent has with a
6 child especially when that child is getting older, getting
7 close to adulthood. A parent wants to believe, wants to
8 trust that their child is telling the truth. As you heard
9 Eddie Williams is going to get on this stand and testify.
10 And what I want you to do is to go back at the end and look
11 at his testimony; remember his testimony. Does that
12 testimony make sense? Does it add up? You're gonna hear
13 from a guy named J.S. Listen closely to what J.S.

14 tells you about his relationship with Minor

15 Listen closely to J.S. testimony and
16 see if he corroborates anything that Minor says
17 from this stand.

18 There is going to be other witnesses that are going to
19 come up and sit there as well. And what you're going to
20 have to do and as you've heard listen closely look, listen.
21 Does it make sense? Is it being corroborated? It doesn't
22 make any sense. Is it contradicting each other? Those are
23 the things that you are going to look for in this case.
24 You are going to hear and you already did from the
25 Solicitor, Mr. Berry went up to William's residence with a

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1 bathing suit on. No shirt, with his bathing suit on. This
2 was you're going to hear mid summer, late mid to late
3 summer. You're going to hear a pool party was going on.
4 You're gonna hear how long these shorts were.

5 You're also gonna hear some testimony with respect
6 that Stephen Berry was in his bedroom watching TV or a
7 movie. He was on one end of the bed, Minor was
8 on the other end of the bed. You're gonna hear that
9 Stephen Berry knew Minor like a daughter. You're
10 gonna hear it was not unusual for one of his daughters to
11 go into his room when he was watching TV or a movie and
12 watch some TV with him, talk to him, sometimes on the bed.

13 You're gonna hear there were a few occasions where
14 Stephen Berry had to take Minor home from the
15 church and it was just the two of them. Most of the time
16 you will hear his daughter's were with him. But you are
17 going to hear that there were occasions where Minor

18 had to be home by a certain time and he took her
19 home.

20 This is the indictment, this is the charge in this
21 case. Criminal sexual conduct. That is the charge that's
22 in front of you today. That's what this case is about.
23 Did Stephen Berry have sexual relations with Minor

24 That is what this case is about. It's not about
25 whether he wore a bathing suit in midsummer after a pool

Minor

BY SOLICITOR ANTHONY

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1 party. This case is about the evidence and what they can
2 prove.

3 There is going to be some topics that come up in this
4 case that are not going to be the most comfortable to
5 discuss. People who take this stand are going to be ask
6 tough questions. That is because this is serious business;
7 this is a serious case and it's a serious charge. And
8 those questions need to be ask and this is the place to do
9 it. The rush to judgment stops here. At the end of this
10 case after you've heard everything, examine all of the
11 evidence, I contend you will not be firmly convinced, you
12 will be hesitant to act and you will find Stephen Berry not
13 guilty. Thank you.

14 THE COURT: Call your first witness.

15 SOLICITOR ANTHONY: We call Minor .

16 THE COURT: Come up and be sworn.

17 (WHEREUPON: Minor

18 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

19 DIRECT EXAMINATION

20 Minor BY SOLICITOR ANTHONY:

21 Q. Could you state your name, please?

22 A. Minor

23 Q. Minor how old are you?

24 A. Eighteen.

25 Q. And when is your birthday?

Minor

BY SOLICITOR ANTHONY

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1 A. [REDACTED], 1994.

2 Q. All right. And are you currently in school?

3 A. Yes, sir.

4 Q. Where do you go to school?

5 A. University of South Carolina, Union.

6 Q. And what year are you in now?

7 A. Freshman year.

8 Q. And when did you graduate high school?

9 A. Last May 2012.

10 Q. And what is your plan after you finish up this year
11 and next year at USC Union?

12 A. I plan on transferring to USC Upstate and major in
13 psychology.

14 Q. And do you have a job now too?

15 A. I do.

16 Q. Where do you work?

17 A. Dairy A.

18 Q. Where do you live, Minor ?

19 A. I live with my father and my two brothers in
20 Jonesville, South Carolina.

21 Q. And how long have you lived just with your father?

22 A. Ever since I was like ten.

23 Q. Okay. And what happened in your parent's relationship
24 to leave you just living with your father?

25 A. My mom and dad got a divorce when I was little.

Minor

BY SOLICITOR ANTHONY

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1 Q. And along with living with your father during the last
2 eight years or so, who have you stayed with, what adult
3 have you stayed with a lot?

4 A. My grandmother.

5 Q. And what's her name?

6 A. Sherrie Tucker.

7 Q. And where does Ms. Tucker live in relation to where
8 you and your father and your brothers live?

9 A. Right behind them.

10 Q. All right. I want to take you now back to the summer
11 of 2010. Where were you going to church then?

12 A. New Life Baptist Church.

13 Q. And when did you start going to New Life Baptist
14 Church?

15 A. My eighth grade year. It was Spring time so it had to
16 be the Spring of 2009.

17 Q. Of 2009?

18 A. Uh-huh.

19 Q. Okay. All right. And where you in school for the
20 eighth grade?

21 A. Jonesville Middle School.

22 Q. And when you attended New Life Baptist, who was the
23 youth pastor there?

24 A. Stephen Berry.

25 Q. And how often did your family go to church?

Minor

BY SOLICITOR ANTHONY

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1 A. Three times a week.

2 Q. And before you all starting going to New Life, had you
3 ever met Mr. Berry? Did you know him from any time before
4 going to New Life?

5 A. Yes, sir.

6 Q. And how was that?

7 A. I knew him by his brother, David.

8 Q. And how did you know him?

9 A. We used to go to church with David at Lakeside Baptist
10 Church in Union.

11 Q. And had you ever seen him anywhere else?

12 A. That's it.

13 Q. Had you ever seen him at the middle school?

14 A. Well, yes. I seen him at the middle school.

15 Q. Okay. And how did he come to be there?

16 A. He would come to the middle school with some other
17 people that would come to the school and talk to the kids
18 that wanted to know about God and would just talk with them
19 about how they can improve better and they were just
20 basically help and try to improve their Christian walk and
21 tried to deal with every peer pressure they have at school.

22 Q. Now, did Mr. Berry have any children your age?

23 A. He did.

24 Q. And what was the name of his child that was your age?

25 A. J.B. .

Minor

BY SOLICITOR ANTHONY

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1 Q. Okay. And what was your relationship with J.B.

2

3 A. She was my best friend.

4 Q. And what kind of things would the two of you all, you
5 and J.B. do?

6 A. We would spend the night at each other's house. We
7 would just go and hang out. We would go swimming.

8 Basically anything I did J.B. done; anything J.B. done
9 she done. She was my best friend. We did everything
10 together.

11 Q. Okay. And were you friends with anybody else in the
12 youth group, with any other girls in the youth group at New
13 Life that you were as close to as you were J.B. ?

14 A. No.

15 Q. And what was it, was there anything you all shared in
16 common that you think made you all such close friends?

17 A. Her parents got a divorce when she was little and she
18 knew what it was like not to have her mom there all the
19 time so we comforted each other because I was struggling
20 not having my mom and so she helped me through that.

21 Q. And was Mr. Berry married at the time that you were
22 going to New Life?

23 A. Yes, sir.

24 Q. And what was his wife's name?

25 A. Sandy Berry.

Minor

BY SOLICITOR ANTHONY

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1 Q. And was Sandy J.B. 's mother?

2 A. No, sir.

3 Q. Okay. And then how many other children did he have?

4 A. Three.

5 Q. And what were their names?

6 A. C.B. , L.B. and P.B. .

7 Q. And just going to say the summer of 2010. What would
8 have been the approximate age of the three girls?

9 A. C.B. , 12; L.B. , 10; P.B. , 7 or 8.

10 Q. Okay. All right. And when you were at New Life, did
11 you met -- was there a boy there named J.S.

12 A. Yes, sir.

13 Q. Okay. And how old -- When you started going, going
14 back to the time you started going in 2009 when you were in
15 the eighth grade, how old was J.S. , at that time?

16 A. He was seventeen.

17 Q. And then how old were you?

18 A. I was fourteen.

19 Q. Okay. And where was J.S. in school as far as what
20 grade was he in?

21 A. I think he had just got out of high school.

22 Q. All right. He graduated that spring ---

23 A. Yes, sir.

24 Q. --- of '09?

25 A. Yes, sir.

Minor

BY SOLICITOR ANTHONY

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1 Q. Okay. And what developed between you and J.S.
2 in the summer of 2009?

3 A. We talked like. We dated but it was nothing really
4 major because I was underage and its not like we could go
5 out and go out on a date or anything, so we just talked on
6 the phone and seen each other when I went to church.

7 Q. Okay. So is it fair to say the two of you liked each
8 other?

9 A. Yeah.

10 Q. Okay. And how did you all communicate?

11 A. We communicated by text messages. When I went to
12 church, we would talk then. Other than texting, that's
13 when we talked.

14 Q. Okay. And where would you all see each other?

15 A. Church.

16 Q. Now, your father, Mr. Williams, what was his reaction?

17 Did he become aware that you and J.S. liked each
18 other?

19 A. He did.

20 Q. And what was his reaction to that?

21 A. He didn't like it.

22 Q. And so what kind of rule did he give you as far as
23 the nature of your relationship with J.S.

24 A. He told both of us that we could not have any contact
25 outside the church.

Minor

BY SOLICITOR ANTHONY

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1 Q. And how did you respond to that?

2 A. I didn't listen. I continued to text him.

3 Q. You kept texting him?

4 A. I kept texting him.

5 Q. Okay. Could you just scoot up just a little bit,
6 maybe scoot that chair up so we can get you good in that
7 microphone.

8 (WITNESS MOVED WITNESS CHAIR CLOSER TO MICROPHONE.)

9 Q. Okay. Thank you.

10 A. You're welcome.

11 Q. And how did your father -- Did your father become aware
12 of the fact that you kept on texting him?

13 A. Yes, sir.

14 Q. And how did he react to it?

15 A. He had a meeting with J.S. and Stephen.

16 Q. Okay. All right. And this would have been in the
17 summer of 2009?

18 A. Yes, sir.

19 Q. Okay. All right. And did Mr. Berry tell you anything
20 or say anything to you about being involved with J.S. back
21 in the summer of 2009 when this first started?

22 A. Yes, sir.

23 Q. And what did he say?

24 A. He told me he was too old for me.

25 Q. Well as 2009 passed and you started back to school in

Minor

BY SOLICITOR ANTHONY

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1 the fall and going on into the spring of 2010, did anything
2 change about how you felt about J.S. ?

3 A. No.

4 Q. Now, going now into 2010, before May of 2010, where
5 had Mr. Berry lived?

6 A. On [REDACTED] in Union.

7 Q. And then what happened around May of 2010?

8 A. He moved from [REDACTED] up to [REDACTED],
9 which is like three houses down from me.

10 Q. And was there an occasion when you and Mr. Berry went
11 to the house on [REDACTED] ?

12 A. Yes, sir.

13 Q. Around in May of 2010?

14 A. Yes, sir.

15 Q. Okay. And who went on that occasion?

16 A. Just me and Stephen.

17 Q. And what was going on that led to him taking you there
18 to the [REDACTED] residence?

19 A. I went to church and he was suppose to take me
20 straight home after church and he didn't.

21 Q. Okay. And so how did you all get to [REDACTED] ?
22 What was the means of getting there?

23 A. He had told me that he needed to stop by [REDACTED]
24 [REDACTED] to get a few more things that he needed at the other
25 house, so we went by there and we got some things.

Minor

BY SOLICITOR ANTHONY

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1 Q. And what were you riding in?

2 A. His van.

3 Q. And so once you got to the [REDACTED] house what
4 happened?

5 A. Stephen told me to go into J.B. 's room to make sure
6 she had everything and I did that. And when I went to go
7 check, Stephen came in there and he hugged me from behind
8 and --

9 Q. Let me just stop a second. Where did you go to in the
10 house?

11 A. J.B. 's room.

12 Q. Okay. And what was the purpose of doing that?

13 A. To make sure she had everything out of her room.

14 Q. Okay. And did you do that?

15 A. Yeah.

16 Q. And then did you tell Mr. Berry anything about what
17 you had done?

18 A. I told him J.B. had everything.

19 Q. Okay. And so where did you go after that?

20 A. We put the stuff that we had back in the van and we
21 came back into J.B. 's room.

22 Q. Okay. And so what happens when the two of you came
23 back into J.B. 's room?

24 A. I was leaning against her desk looking out the window
25 and Stephen comes in behind me and he hugs me.

Minor

BY SOLICITOR ANTHONY

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1 Q. Okay. And did he touch you anywhere? Where did he
2 touch you when he hugged you?

3 A. He touched my butt.

4 Q. I'm sorry. Where did he touch you?

5 A. My butt.

6 Q. Okay. And what did you do when he did that?

7 A. I turned around and looked at him like he was stupid.

8 Q. And had he ever done anything like that to you before?

9 A. No, sir.

10 Q. Okay. And so how did you feel when he did that?

11 A. I felt violated.

12 Q. Okay. And what happened when you turned around and
13 looked at him, what did he say?

14 A. He asked me why I was looking at him like that.

15 Q. And how did you respond.

16 A. I told him because you touched my butt.

17 Q. Okay. And what did you do after that exchange between
18 the two of you?

19 (PAUSE/NO RESPONSE.)

20 Q. Where did you go in the room? What was the next thing
21 you did?

22 A. I sat on J.B.'s desk.

23 Q. Okay. And at that time, did you all have any
24 conversation between the two of you?

25 A. We did.

Minor

BY SOLICITOR ANTHONY

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1 Q. Okay. And what were you talking about?

2 A. Talking about me and my dad and our relationship and
3 J.S. .

4 Q. Okay. All right. And what happened next? What was
5 the next thing he did?

6 A. Stephen comes up to me and he gives me a hug and he
7 looks at me and tells me that I'm beautiful and I'm like,
8 thank you. And he starts rubbing my legs and he starts
9 unbuttoning and unzipping my pants and I pushed him away.

10 Q. And when you pushed him away, how did he react? What
11 did he do?

12 A. He walked away; then he came right back and pulled my
13 pants down.

14 Q. And did he finger — or did he pull down any other
15 clothing aside from your pants?

16 A. He pulled my underwear down too.

17 Q. Okay. And what did you do after he pulled your pants
18 and your underwear down?

19 A. He fingered me.

20 Q. Now when you use the term "fingered," what
21 specifically happened? What part of his body touched what
22 part of your body?

23 A. His finger went inside my vagina.

24 Q. After he did this, did he do — what was the next thing
25 he did?

Minor

BY SOLICITOR ANTHONY

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1 A. He walked back and then he sat on a crate and he just
2 looks at me and his eyes, I'll never forget his eyes. And
3 he starts walking towards me and unbuttoning and unzipping
4 his pants and he turns me around and tries to stick his
5 penis in my butt.

6 Q. Okay. And when he did this, when he came to you and
7 turned you around and tried to put his penis inside you,
8 what did you do?

9 A. I pushed him.

10 Q. And what happened after you pushed him?

11 A. He falled back and then not two seconds later he
12 started walking back towards me and tried it again.

13 Q. And how did you react when he did that?

14 A. I pushed him.

15 Q. Okay. Did this have any emotional effect on you at
16 the time?

17 A. Yeah.

18 Q. Okay. What did you start doing, how did you react?

19 A. I started crying.

20 Q. And what did he do after you pushed him away the
21 second time?

22 A. He came back one more time.

23 Q. And what happened then?

24 A. He tried it again.

25 Q. And how did you respond when he came back the next

Minor

BY SOLICITOR ANTHONY

-113-

1 time?

2 A. I pushed him and I turned around and I just staring
3 out the window and I'm crying and he asked me "well what's
4 wrong?" And I told him, I said, "I feel like I'm being
5 raped." And he asked me, "would you ever think I would do
6 anything like that to you?" I'm like, "no but it happened
7 to J.B. and it scares me."

8 Q. Okay. And what did he do after that?

9 A. He walked back and sat on the crate and he jacked off.

10 Q. When you said he jacked off. What specifically did
11 you see him do?

12 A. He had his hands on his penis and he was going in a
13 up and forward motion and semen came out.

14 Q. And what did he do after he had ejaculated there in
15 the bedroom, what did he do next?

16 A. He went in the kitchen and got a rag and cleaned it
17 up.

18 Q. And then what happened after that?

19 A. We left.

20 Q. And when the two of you left, was there any
21 conversation between you after you left the residence?

22 A. Yes, sir.

23 Q. Okay. What did he say? What did he tell you?

24 A. He told me if I wanted --

25 MS. INZERILLO: Objection to hearsay, Your Honor.

Minor

BY SOLICITOR ANTHONY

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1 THE COURT: Objection to what?

2 MS. INZERILLO: Hearsay, Your Honor.

3 THE COURT: I think she is talking about the
4 defendant.

5 MS. INZERILLO: Okay. I misunderstood, Your Honor.

6 SOLICITOR ANTHONY: It is. It's a question about what
7 Mr. Berry said.

8 THE COURT: You may proceed.

9 A. He told me, he said, "Minor , I know you probably
10 think that I've done this to other people but you're the
11 first one."

12 Q. And what else did he tell you?

13 A. He told me that I could talk to J.S. as long as I
14 don't say anything about it and that it had to stay between
15 us.

16 Q. And so did you tell anybody after that time?

17 A. No.

18 Q. Okay. And why not?

19 A. Because I was scared that I would never talk to J.S.
20 and I would lose my best friend.

21 Q. And who was your best friend?

22 A. J.B.

23 Q. All right. And then after this incident, was there
24 another time that some sexual happened ---

25 A. Yes, sir.

Minor

BY SOLICITOR ANTHONY

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1 Q. --- between you and Stephen? Okay. And how much time
2 passed approximately before the next time?

3 A. Two weeks.

4 Q. And how did the second incident come about?

5 A. He called me and asked me if I was at home and I told
6 him yeah but my brother is in the bed. And he said well it
7 would only take a few minutes because I just want to talk

8

9 Q. Well was there ever a time that you and Mr. Berry went
10 to his residence together?

11 A. Yes, sir.

12 Q. Okay. And how much time passed from the incident at
13 [REDACTED] to the time you went to his residence?

14 A. A week.

15 Q. Okay. What happened then?

16 A. He called me and I was at my grandma's house and he
17 asked me if I wanted to go see the new house since it's
18 been painted and stuff because I haven't seen it since it
19 was painted and I told him yeah.

20 Q. And did the two of you go to his house?

21 A. Yes, sir.

22 Q. Okay. How did you get there?

23 A. He had came to my grandma's and picked me up.

24 Q. And what was the situation as far as you and your
25 grandma and her either wanting you to go or not wanting you

Minor

BY SOLICITOR ANTHONY

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1 to go?

2 A. She didn't want me to go at first but I talked her
3 into it because I wouldn't shut up about it.

4 Q. Okay. All right. And so he picks you up and takes
5 you up to the house on [REDACTED]?

6 A. Yes, sir.

7 Q. Okay. And was anybody else there?

8 A. No, sir.

9 Q. What happened when you went there? What happened
10 there in the house?

11 A. He showed me where all the rooms was and where J.B.'s
12 room was, the other girls and where his and Sandy's room
13 was.

14 Q. And what happened after that?

15 A. And we sat on the floor and we was just talking about
16 J.S. and stuff and how I still felt about him and he
17 fingered me.

18 Q. And how did that, how did it occur? How did he start
19 trying to do that? What did you do when he started trying
20 to do that?

21 A. I told him no. I pushed his hand away.

22 Q. And how many times did he try to put his hand down
23 your pants?

24 A. Twice.

25 Q. Okay. And then what did you eventually do?

Minor

BY SOLICITOR ANTHONY

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1 A. I eventually gave in because there was no use in even
2 trying to stop it.

3 Q. And so after he put his finger in you that time, where
4 did the two of you go? What happened after that?

5 A. He took me back to my grandma's house.

6 Q. Okay. All right. And then was there an occasion
7 after that where he came to your house?

8 A. Yes, sir.

9 Q. And who was there at the house when he came?

10 A. It was just me and my brother.

11 Q. Okay. What time of the day was it?

12 A. Night.

13 Q. Okay. All right. And where was Mr. Williams?

14 A. My dad was at work.

15 Q. And you said it was just you and your brother?

16 A. Yes, sir.

17 Q. Where was your brother?

18 A. My brother A.W. was in his room asleep.

19 Q. Now where was your other brother?

20 A. P.W. was at my grandma's.

21 Q. Okay. And so was that a common situation that your
22 father was working nights?

23 A. Yes, sir.

24 Q. Okay. So how did Mr. Berry make contact with you
25 about coming to the house that day or that night?

Minor

BY SOLICITOR ANTHONY

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1 A. He called me asking what I was doing and I told him
2 just watching some TV and he told me he was going to stop
3 by for a few minutes. I told him A.W. was asleep. He
4 was like, "it won't be long".

5 Q. And so did he show up at the house?

6 A. He did.

7 Q. And what happened when he got there to the house?

8 A. He came in the front door, he told me to sit on the
9 couch. So I got out the chair and I went to sit on the
10 couch and he turned the TV onto a fight.

11 Q. I'm sorry. What now? He did what?

12 A. He turned the TV from what I was watching to a fight.

13 Q. Okay. And what happened then?

14 A. His phone was laying on his lap about right here where
15 his knee is at and I grab it and I went to his pictures to
16 where a mission trip was where there was a picture of all
17 the youth and there was, J.S. was in it and I looked at it
18 and while I was looking at the picture Stephen takes his
19 hands inside my pants and he fingers me.

20 Q. And what were you wearing at that time?

21 A. I was wearing a pair of elastic pajama pants.

22 Q. And what did you do when he did that?

23 A. I just looked at him.

24 Q. And how did this incident end?

25 A. He gave me a hug and he told me he loved me and he

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BY SOLICITOR ANTHONY

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1 left.

2 Q. All right. Was there an occasion that summer where
3 you went to his house to swim?

4 A. Yes, sir.

5 Q. Okay. And what kind of a function did you go to?

6 A. It was a youth swimming party.

7 Q. Okay. And who went from your family?

8 A. It was me and my two brothers.

9 Q. And was there an incident that occurred after you got
10 home from that swimming party?

11 A. Yes, sir.

12 Q. Okay. What did you do - What did you and your
13 brothers do once you got home from the swimming party?

14 A. As soon as we got home we sat on the couch and we
15 watched some TV. We had our towels so in case it was still
16 a little bit damp we wouldn't get the furniture wet. And
17 the next thing we know, Stephen walks through the door and
18 he tells my brothers that he needs to talk to me and tells
19 my brothers to go outside.

20 Q. And what were you wearing when he came in?

21 A. I was still wearing my swimsuit because we just got
22 home.

23 Q. Okay. And what was he wearing when he came in the
24 house?

25 A. Nothing but his swimming trunks.

Minor

BY SOLICITOR ANTHONY

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1 Q. Okay. Did he have a shirt on?

2 A. No, sir.

3 Q. Okay. And so he told your brothers to go outside?

4 A. Yes, sir.

5 Q. And what happened after that?

6 A. We went into my room.

7 Q. Into your room?

8 A. Yes, sir.

9 Q. Okay. And what happened when you all went into your
10 room?

11 A. He sat on my bed and I was digging through my closet
12 to find a shirt and some shorts to throw on. And once I
13 did I threw them on and I sat on my bed and he just starts
14 talking. I wasn't paying him any attention and the next
15 thing I know, I'm being fingered.

16 Q. And did he do anything - what did he - What was done
17 to the door to your room when you all walked in the
18 bedroom?

19 A. He shut it.

20 Q. Okay. And that time when he put his finger in you,
21 what else did he do?

22 A. He jacked off again that night.

23 Q. Okay. And what happened while he was there in the
24 bedroom with you? Was there any contact from anybody else?

25 A. My house phone rung and my brother A.W. came to my

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BY SOLICITOR ANTHONY

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1 door and told Stephen that my grandma just called saying
2 that he needed to leave and leave now or else she was
3 calling the law.

4 Q. And so what did Mr. Berry do when he was advised of
5 that?

6 A. He stayed about five minutes and then he left.

7 Q. All right. Was there a time that somebody was there
8 in the house besides you and your brothers and Mr. Berry
9 showed up?

10 A. Yes, sir.

11 Q. Okay. Who else was there?

12 A. My cousin M.P. .

13 Q. And what were you and your brothers doing and what was
14 M.P. doing when he came to the house at that time?

15 A. We were cleaning up the house.

16 Q. And what happened when Mr. Berry came in that day?

17 A. He came in right through the door. Shocked that my
18 cousin was there and he told my cousin that he needed
19 to talk to me. And I was coming out my room and I seen him
20 and he was asking my cousin if she had a church she goes to
21 and if she didn't that she could come to New Life. My
22 cousin in turn replied that she had a church.

23 Q. And so did anything happen sexual that day?

24 A. No, sir.

25 Q. Okay. Well, the activity that you described, did that

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BY SOLICITOR ANTHONY

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1 continue throughout the summer of 2010?

2 A. Yes, sir.

3 Q. And did it continue on into the school year?

4 A. Yes, sir.

5 Q. Okay. And what - Did Mr. Berry come up with any terms
6 that he used to describe this type of behavior?

7 A. Yes, sir.

8 Q. And what term did he come up with?

9 A. He called it relieving stress.

10 Q. And during this time leading into the school year, the
11 2010-2011 school year, how often would these kind of things
12 occurring?

13 A. At least once a week.

14 Q. All right. It would be sometimes more than once a
15 week or once a week the most it would be?

16 A. Once a week was the most it would be.

17 Q. Okay. So it would be at most once a week?

18 A. Yes, sir.

19 Q. Okay. All right. And when he would come, where would
20 your father normally be when he would come?

21 A. He would usually be at work.

22 Q. Okay. And where would the two of you go like at your
23 house? When he would come to your house, where would the
24 two of you go for these type incidents to occur?

25 A. My room.

Minor

BY SOLICITOR ANTHONY

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1 Q. And then what would he sometimes have your brothers
2 do?

3 A. He would either have them to go outside or go into
4 another part of the house.

5 Q. And you testified about during the incident where he
6 came after the pool party that your grandmother called?

7 A. Yes, sir.

8 Q. Okay. Would that happen from time to time?

9 A. Every time my grandma seen him she would call.

10 Q. Okay. Would you normally get calls from her when he
11 came in the night time?

12 A. No, sir, because she would be asleep.

13 Q. Okay. All right. And then, aside from your house
14 where would these incidents normally occur?

15 A. At his house.

16 Q. Okay. And where would they occur at his house?

17 A. His bedroom.

18 Q. And was there a time at his house where J.B.
19 came in the bedroom while you were there?

20 A. Yes, sir.

21 Q. Okay. What had happened to lead you to be over there
22 on that occasion?

23 A. I stayed with J.B. that night.

24 Q. Okay. And so what time of day did this incident
25 happen?

Minor

BY SOLICITOR ANTHONY

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1 A. I want to say about eleven in the morning.

2 Q. In the morning? Okay. And how you come to be in Mr.
3 Berry's bedroom that morning?

4 A. I woke up and he seen me because I went to the
5 restroom and I was going back and I was going to go back to
6 bed and Stephen seen me and told me to come into his room
7 for a minute, he had to talk to me.

8 Q. So when you went to the bedroom, what did you do?
9 Where did you go?

10 A. I went and I sat on the bed.

11 Q. And where was Mr. Berry?

12 A. Laying down in the bed.

13 Q. All right. And what were you wearing?

14 A. I was wearing pajamas.

15 Q. And what was Mr. Berry wearing?

16 A. Nothing but his underwear.

17 Q. And so what happened - Once you sat down on the bed,
18 what happened between the two of you?

19 A. He told me to come here and lay down and get up under
20 the covers. I didn't do it because I wasn't cold but then
21 eventually I got cold so I went under the covers and he
22 fingered me.

23 Q. Okay. Well, where did you - You said you got under
24 the cover. What part of the bed did you lay down on?

25 A. The side he was at.

Minor : BY SOLICITOR ANTHONY

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1 Q. I'm sorry?

2 A. The side he was at.

3 Q. Okay. Were you at the foot of the bed or the head of
4 the bed?

5 A. The head.

6 Q. Okay. And where was Mr. Berry?

7 A. At the head.

8 Q. He was at the head too. Okay. And so while you all
9 were there in the bed together, what did Mr. Berry do?

10 A. He fingered me.

11 Q. And while you all were there in the bed, who else came
12 in the room?

13 A. J.B. walked in.

14 Q. How did Mr. Berry react when J.B. walked in?

15 A. He looked like he was shocked.

16 Q. Did he say anything to her?

17 A. He told her to get out.

18 Q. And did J.B. ever ask you anything that day?

19 A. She did.

20 Q. What did she ask you?

21 A. She asked me if her dad made me feel uncomfortable in
22 any way and I told her no and she was like, okay.

23 Q. And why did you tell her no?

24 A. Because I said I wouldn't say anything.

25 Q. Okay. And what were you afraid would happen between

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BY SOLICITOR ANTHONY

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1 you and J.B. if you had said anything?

2 A. I was afraid I would lose her.

3 Q. And was there an occasion where something happened
4 that was more than - where Mr. Berry did more to you than
5 just putting his finger in your vagina?

6 A. Yes, sir.

7 Q. Okay. And what time of the year was that?

8 A. In the fall or the winter.

9 Q. Okay. Of 2010?

10 A. Yes, sir.

11 Q. Okay. And do you recall how old you were when that
12 incident occurred?

13 A. I was fifteen.

14 Q. Okay. Where were you at that time?

15 A. I was at Stephen's house in the bottom floor where the
16 other girl's room and we was - me and the other girls was
17 watching a movie.

18 Q. And so who all was in the room?

19 A. Me, C.B. and L.B. .

20 Q. And so J.B. was not there at that time?

21 A. She wasn't there.

22 Q. Okay. And do you know where she was?

23 A. She was at her mama's. .

24 Q. Okay. And so where - Who was initially there in the
25 room?

Minor

BY SOLICITOR ANTHONY

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1 A. The first people was me, C.B. and L.B. .

2 Q. Okay. At first it was just you three girls?

3 A. Yes, sir.

4 Q. Okay. And where were you all seated or positioned in
5 the room?

6 A. The cover was in the middle of the floor and I was
7 there, then it was C.B. and L.B. .

8 Q. Okay. All right. And then who else came?

9 A. Then Stephen comes in.

10 Q. All right. Where did Mr. Berry go? Where did he wind
11 up positioning himself compared to you and the other two
12 girls?

13 A. He laid down right beside me.

14 Q. All right. And so where was he, where was his body in
15 relation to your body? Was it beside you? In front of
16 you? Behind you?

17 A. He was behind me.

18 Q. Behind you, okay. And what part of your body were you
19 lying on? Were you lying on your stomach?

20 A. I was lying on my side.

21 Q. Okay. And what part of his body was he lying on?

22 A. His back.

23 Q. Okay. And what was - How much light was there in the
24 room?

25 A. The only light was the TV.

Minor

BY SOLICITOR ANTHONY

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1 Q. Okay. And so he was right behind you, and then where
2 was the other two girls?

3 A. The two girls they done scooted on down to the other
4 side where there was hardly any blankets at.

5 Q. Okay. So they were down the beside, beside you down
6 from you?

7 A. Yes, sir.

8 Q. Is that the right way to put it? Okay. All right.
9 And what were you wearing?

10 A. I was wearing a tank top and some soccer shorts.

11 Q. Okay. And what kind of - How are those shorts made?
12 What kind of waist do they have?

13 A. Elastic waist.

14 Q. Okay. Do they have a zipper or button or anything
15 like that?

16 A. No, sir.

17 Q. Okay. All right. And what was Mr. Berry wearing?

18 A. A shirt and a pair of shorts or pants.

19 Q. And so while you were there lying in the floor
20 watching that movie, what did Mr. Berry do?

21 A. He comes in and he lays down.

22 Q. Okay. And then what did he do to you?

23 A. He fingered me and --

24 Q. Okay. Where did he initially place his hands?

25 A. On my sides.

Minor

BY SOLICITOR ANTHONY

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1 Q. Okay. On both sides?

2 A. Yes, sir.

3 Q. Okay. And then what did he do to your shorts that you
4 were wearing?

5 A. He pulled them down.

6 Q. And what happened to your panties?

7 A. They came down too.

8 Q. Okay. And after that happened, what did you feel
9 happening to you?

10 A. I feel something other than his finger in me.

11 Q. I'm sorry?

12 A. I feel something more in me besides his finger.

13 Q. Well, did you initially feel a finger though?

14 A. No.

15 Q. Okay. Okay. So you felt something more than his
16 finger?

17 A. Yes, sir.

18 Q. Okay. And what did you do then?

19 A. Once I realized it was something more, I jerked away
20 and I turned my head and I looked down and there was his
21 penis laying on the floor.

22 Q. And where were his pants positioned on his body when
23 you looked and saw that?

24 A. They were down.

25 Q. Okay. And how - What if anything was covering him up?

Minor

BY SOLICITOR ANTHONY

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1 A. A blanket.

2 Q. If you were in that room and hadn't been looking right
3 under the blanket at him would you have been able to see
4 his exposed penis?

5 A. No, sir.

6 Q. Okay. And why was that?

7 A. Because the blanket was over him.

8 Q. All right. And at any point during that episode did
9 you feel his finger inside you?

10 A. No, sir.

11 Q. Okay. You just felt his penis inside you?

12 A. Yes, sir.

13 Q. Okay. After this happened and you pulled away from
14 him, what was the next thing that he said to you or you
15 said to him?

16 A. He told me I needed to go to the bathroom.

17 Q. And so what did you do?

18 A. I got up and I went to the bathroom.

19 Q. Okay. And did you look at your private area when you
20 went to the bathroom?

21 A. Yes, sir.

22 Q. Okay. Did you notice anything unusual about your
23 private area?

24 A. No, sir.

25 Q. Were you bleeding at all at that time?

Minor

BY SOLICITOR ANTHONY

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1 A. No, sir.

2 Q. Okay. What did you do after you went to the bathroom?

3 A. I went back downstairs and I laid down to finish
4 watching the movie.

5 Q. Okay. And did Mr. Berry communicate with you some way
6 after that?

7 A. Yes, sir.

8 Q. All right. How did he communicate with you?

9 A. He grabbed his phone and he typed to me that I wasn't
10 a virgin anymore and he showed me.

11 Q. And did you respond in some way?

12 A. I typed back and I asked if I could get pregnant and
13 he typed back and he said, "no I'm fixed".

14 Q. Okay. All right. During these events that you talked
15 about, were you allowed to talk to J.S. , to J.S.

16

17 A. Yes, sir.

18 Q. Okay. How many times did you talk to him when that
19 was facilitated by Mr. Berry?

20 A. Twice.

21 Q. Okay. All right. Was there any other time that Mr.
22 Berry at least represented to you that he was trying to get
23 in touch with J.S. so you could talk with him?

24 A. Yes, sir.

25 Q. And how many times did that happen?

Minor

BY SOLICITOR ANTHONY
BY SOLICITOR ANTHONY - IN CAMERA

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1 A. One.

2 Q. Okay. And when you talked to him, how did you talk to
3 him? How did he make a means available for you to get in
4 touch with him?5 A. He would leave his phone sitting somewhere and walk
6 out the room and I would grab it and I would text him.

7 SOLICITOR ANTHONY: May we approach a minute?

8 (SIDE BAR CONFERENCE OFF THE RECORD OUT OF THE HEARING
9 OF THE JURY AT 04:02 P.M.)10 THE COURT: Let me let the jury go to the jury room
11 for a break at this time.

12 (JURY EXITS COURTROOM AT 04:02 P.M..)

13 THE COURT: All right.

14 DIRECT EXAMINATION - IN CAMERA

15 Minor

BY SOLICITOR ANTHONY:

16 Q. Minor , you turned sixteen in November of 2010;
17 is that right?

18 A. Yes, sir.

19 Q. Okay. And that was while these incidents with Mr.
20 Berry were going on; is that correct?

21 A. Yes, sir.

22 Q. Okay. After you turned sixteen - Well, when did you
23 actually tell someone and make a report of what was going
24 on between you and Mr. Berry?

25 A. I told K.K. one day at school.

Minor

BY SOLICITOR ANTHONY - IN CAMERA

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1 Q. And do you remember what month and year that was?

2 A. March 2011.

3 Q. Okay. And in that in between time between November of
4 2010 and March of 2011, what was the - Well, did these
5 episodes with Mr. Berry continue during that time?

6 A. Yes, sir.

7 Q. Okay. What did he continue to do to you?

8 A. He continued to finger me.

9 Q. Okay. And where did they occur? Where he do these
10 things?

11 A. At his house and in his car.

12 Q. Okay. Did he continue to come to your house?

13 A. He did.

14 Q. Okay. And that persisted for somewhere around four
15 more months before you told?

16 A. Yes, sir.

17 Q. Okay. At his house were these things still going on
18 in his bedroom?

19 A. Yes, sir.

20 Q. Okay. And at your house were they still going on in
21 your bedroom?

22 A. Yes, sir.

23 Q. Did really anything change about the nature of what
24 was going on between you and Mr. Berry, the things he was
25 doing during that four month period?

Minor

BY SOLICITOR ANTHONY - IN CAMERA
BY MS. INZERILLO - IN CAMERA

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1 A. No, sir.

2 Q. Was the frequency basically the same?

3 A. Yes, sir.

4 Q. Okay.

5 SOLICITOR ANTHONY: That would be my proffer on the
6 Lyle issue at this time.

7 THE COURT: All right. Cross.

8 MS. INZERILLO: Your Honor, just one or two at this
9 time.

10 THE COURT: Sure as many as you want.

11 CROSS EXAMINATION - IN CAMERA

12 Minor

BY MS. INZERILLO:

13 Q. Minor, you turned sixteen on [REDACTED], 2010;
14 is that right?

15 A. Yes, ma'am.

16 Q. Okay. And the last incident that you claim between
17 you and Mr. Berry happened about the Monday or Tuesday
18 prior to your disclosure to K.K. ; is that correct?

19 A. Yes, ma'am.

20 MS. INZERILLO: Your Honor, that would be all the
21 questions that I have.

22 SOLICITOR ANTHONY: I just have a couple of more
23 things I need to go through just to make it for the record.

24 REDIRECT EXAMINATION - IN CAMERA

25 Minor

BY SOLICITOR ANTHONY:

Minor

BY SOLICITOR ANTHONY - IN CAMERA

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1 Q. You said that there were incidents in his car?

2 A. Yes, sir.

3 Q. And was there an incident anywhere else besides your
4 house, his house and his car?

5 A. Yes, sir.

6 Q. And where was that?

7 A. The church.

8 Q. Okay. All right.

9 SOLICITOR ANTHONY: Thank you. That's everything.

10 THE COURT: I'm a little concerned at this point about
11 the general nature of the testimony, Mr. Anthony. I will
12 give you an opportunity to clarify it if you can but it's
13 just very general and vague at this point.

14 SOLICITOR ANTHONY: Well let me see if I can make it
15 more specific.

16 REDIRECT EXAMINATION - IN CAMERA CON'T

17 Minor

BY SOLICITOR ANTHONY:

18 Q. The incidents at his - The incidents that continued to
19 occur at his house, where did they occur, what part of his
20 house?

21 A. His room.

22 Q. Okay. Would anybody else be in the room when they
23 occurred?

24 A. No, sir.

25 Q. Okay. And what would he do on those occasions?

Minor

BY SOLICITOR ANTHONY - IN CAMERA

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1 A. He would finger me.

2 Q. Okay. When you say finger you, what specifically did
3 he do to your clothes?

4 A. He would either pull my pants down or he would slide
5 his hand through my shorts and underwear and finger me.

6 Q. Okay. And that's essentially the same conduct he was
7 engaging in before you turned sixteen?

8 A. Yes, sir.

9 Q. Okay. In the same place?

10 A. Yes, sir.

11 Q. Okay. And then at your house, when would he come to
12 your house?

13 A. When my daddy wasn't home.

14 Q. When your father wasn't there. And what time of the
15 day would he normally come?

16 A. Night.

17 Q. Okay. And is that when he would come most often and
18 do these things before you turned sixteen?

19 A. Yes, sir.

20 Q. Okay. And where would these incidents happen at your
21 house?

22 A. In my room.

23 Q. In your room?

24 A. Yes, sir.

25 Q. Okay. And what would he do specifically? What would

Minor

BY SOLICITOR ANTHONY - IN CAMERA

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1 he do in your room?

2 A. He would finger me or he would jack off.

3 Q. All right. Well let me just - What specifically would
4 he do to your clothes?

5 A. He would slip his hand through my shorts or either
6 pull them down.

7 Q. Okay. And then where would he touch you?

8 A. My vagina.

9 Q. Okay. And is that basically the same pattern that had
10 been occurring before you turned sixteen?

11 A. Yes, sir.

12 Q. Okay. He would come to the house - Before you turned
13 sixteen he would come to the house at night when your
14 father was gone?

15 A. Yes, sir.

16 Q. He would go in your room. Is that correct?

17 A. Yes, sir.

18 Q. The two of you would go in your room. Would he shut
19 the door?

20 A. Yes, sir.

21 Q. Okay. At that point in time he would pull your under
22 - whatever you were wearing, your shorts, your underwear
23 down; is that correct?

24 A. Yes, sir.

25 Q. And he would put his finger inside you?

Minor

BY SOLICITOR ANTHONY - IN CAMERA

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1 A. Yes, sir.

2 Q. And he would do that before you turned sixteen?

3 A. Yes, sir.

4 Q. And your testimony is that basically that same
5 behavior, same place, circumstance, same act, that all
6 continued for four months after you turned sixteen?

7 A. Yes, sir.

8 Q. Okay. All right.

9 SOLICITOR ANTHONY: Your Honor, does the Court have
10 any more questions?

11 THE COURT: Well, its not my witness.

12 SOLICITOR ANTHONY: Yes, sir.

13 Q. When he came to your house before you turned sixteen
14 where would your brother be?

15 A. He would be in the bed.

16 Q. Okay. And after you turned sixteen, where would your
17 brother be?

18 A. In the bed.

19 Q. Okay.

20 SOLICITOR ANTHONY: Your Honor, I think we showed the
21 same conduct both before and after her birthday. And I
22 submit that's a sufficient proffer.

23 THE COURT: Anything else from the defense?

24 MS. INZERILLO: We have no questions of the witness,
25 Your Honor, we just restate our prior objections to this

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1 line of - of this evidence being admitted to the jury.

2 THE COURT: These incidents, I'm going to ask you a
3 question now. These instances that occurred after November
4 of 2010 when you turned sixteen, did you consent to them or
5 were they done without your consent?

6 THE WITNESS: Without my consent.

7 THE COURT: All right. Let's take a break and I'll
8 make a ruling.

9 You can step down and have some water.

10 THE WITNESS: Okay.

11 (COURT IN RECESS @ 04:12 P.M..)

12 (COURT BACK IN SESSION @ 04:27 P.M..)

13 THE COURT: Thank you. Take your seats.

14 Minor , will you come back up here.

15 (WITNESS RETURNS TO THE WITNESS STAND.)

16 THE COURT: All right. I'm going to allow the
17 evidence. I find that it's been proven by clear and
18 contention evidence that this touching continued, this what
19 amounts to as sexual battery continued, that it occurred
20 with a frequency like that to which it had been occurring
21 since it started and up until the time of her sixteenth
22 birthday. It took place at his house, her house, in her
23 car, at night, and that it consisted of his again
24 committing a battery by using his finger and placing it in
25 her vagina. And I specifically find that by the testimony,

1 again I find her to be credible, that this occurred at
2 least up until based on cross examination by counsel for
3 the defense Monday or Tuesday prior to the time she
4 reported which was in March of 2011, so I find that there
5 is a close degree of similarity between the subsequent bad
6 acts and the charge for which Mr. Berry is on trial.

7 I have exercised the balancing between the probative
8 value of the evidence and it's prejudicial effect, and I
9 find that the approbative value outweighs the prejudicial
10 effects, and it is admissible. I find that by clear and
11 convincing evidence. Again, I find there is not a
12 substantial outweighing of unfair prejudice the approbative
13 value outweighs the prejudicial effect and I therefore will
14 allow it.

15 I particularly had some concerns and don't like to
16 invade the province of the people who have the burden of
17 proof which is the State, but I was concerned that that in
18 the *Wavering* case, citing *Whitner, W-h-i-t-n-e-r*, 228 S.E.
19 244, the cases, and I think *Richie* although I haven't a
20 looked at it over the break, the wording in *Wavering* is a
21 "continued elicit intercourse between the same parties."
22 This was not intercourse, this was a different kind of
23 sexual battery. But the question I asked and I thought
24 needed to be asked because after she turned sixteen, if she
25 consented then it was "elicited," it would be consensual

Minor

BY SOLICITOR ANTHONY

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1 and she had the right to consent. But she testified it was
2 not consensual so I find it does fall under what would be
3 considered elicit sexual battery and therefore will allow
4 the testimony.

5 All right, bring in the jury.

6 (JURY REENTERS COURTROOM AT 04:31 P.M..)

7 THE COURT: It really doesn't matter where everybody
8 sits but the alternate and the foreperson. Thank you.

9 You may continue.

10 SOLICITOR ANTHONY: Thank you, Your Honor.

11 DIRECT EXAMINATION - CON'T

Minor

BY SOLICITOR ANTHONY:

12 Q. Minor, the conduct that you just testified
13 about of Mr. Berry's, did that continue on into 2011?

14 A. Yes, sir.

15 Q. Okay. And where did these incidents continue to occur
16 towards the end of 2010 and going into the first part of
17 2011?

18 A. His house, my house, his car.

19 Q. Okay. All right. And during this time, from the time
20 these incidents started in the summer of 2010 on into the
21 next year, what changed about your behavior?

22 A. Everything.

23 Q. Okay. Well what - Did it get better or did it get
24 worse?
25

Minor

BY SOLICITOR ANTHONY

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1 A. Can you repeat your question?

2 Q. The way you behaved, your interaction with your
3 family, the way you were with your friends in school, did
4 that change for the better or for the worse during this
5 period of time?

6 A. It got worse.

7 Q. Okay. And how did it get worse?

8 A. My attitude, it was horrible. I would get violent
9 with everybody. One time I busted out my window in my
10 room.

11 Q. Okay. And in the first part of 2011, did anything
12 change about Mr. Berry's job with New Life?

13 A. Yes, sir.

14 Q. What happened? Did he keep being the youth pastor?

15 A. No, sir.

16 Q. Okay. All right. And after he left being the youth
17 pastor at New Life, would you still see him over at J.B. 's
18 house?

19 A. Yes, sir.

20 Q. And did these things, these sexual incidents, continue
21 on?

22 A. Yes, sir.

23 Q. Okay. Who was the first person that you told about
24 what Mr. Berry was doing?

25 A. K.K.

Minor

BY SOLICITOR ANTHONY

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1 Q. And who is K.K. ?

2 A. K.K. is my best friend.

3 Q. Okay. And when did you tell her?

4 A. I told her one day at school.

5 Q. Okay. And what month was it if you recall?

6 A. March.

7 Q. Okay. Of 2011?

8 A. Yes, sir.

9 Q. All right. And how did you know K.K. ?

10 A. I knew her from when we went to school at Jonesville
11 and by J.B. .

12 Q. And on that day in March when you told K.K. , what was
13 going on that brought about her talking to you about this
14 type thing?

15 A. I was crying and I was upset and she asked me what was
16 wrong.

17 Q. And what did you tell her?

18 A. I told her what was wrong with me.

19 Q. Did you tell her right then?

20 A. I waited.

21 Q. Okay. All right. And so was there a second time that
22 she asked you what the problem was?

23 A. Yes, sir.

24 Q. Okay. All right. And so at that point in time what
25 did you do?

Minor

BY SOLICITOR ANTHONY

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1 A. When she asked me the second time I told her.

2 Q. Okay. All right. And what was it that caused you to
3 disclose what Mr. Berry was doing? In your mind what was
4 the factor that led you to feel like you had to tell
5 somebody?

6 A. I couldn't destroy my dad the way I had before.

7 Q. Okay. And what was going on specifically that made
8 you worry about your father?

9 A. I used to cut.

10 Q. You used to cut?

11 A. Yes, sir.

12 Q. Okay. And when you say you used to cut, What
13 do you mean? What specifically what would you do?

14 A. I would take a knife and slice my wrist.

15 Q. And what was the purpose in doing that?

16 A. The point in it was to try to get rid of the emotional
17 pain with physical pain so I wouldn't have to deal with the
18 emotional pain.

19 Q. Okay. And at the time you were doing this, you know
20 when you would do this, was it your intention to actually
21 cause yourself to bleed and inflict that degree of injury?

22 A. No, sir.

23 Q. Okay. And so what had you decided to do in regards to
24 the cutting before you told K.K. ?

25 A. I'm sorry?

Minor

BY SOLICITOR ANTHONY

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1 Q. What had you decided to do in regards to the cutting
2 behavior before you told K.K. what Mr. Berry was doing?
3 What were you trying not to do anymore?

4 A. I was trying not to do it.

5 Q. You were trying not to cut?

6 A. Yes, sir.

7 Q. Okay. And why was that?

8 A. Because when my dad found out it destroyed him and I
9 could not see him like that again.

10 Q. All right. And had you in the past done this? Did
11 you engage in this kind of behavior before these things
12 started with Mr. Berry?

13 A. Yes, sir.

14 Q. Okay. When did that been?

15 A. When my mom first came back into my life.

16 Q. Okay. And after you got more adjusted to your mom
17 back in your life, what had you done in regards to the
18 cutting?

19 A. I stopped.

20 Q. Okay. And then when this conduct began with Mr.
21 Berry, what did you start doing in regards to the cutting?

22 A. I started back.

23 Q. Okay. So after you talked to K.K. about what was
24 going on, when was the next time somebody approached you
25 about this?

Minor

BY SOLICITOR ANTHONY

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1 A. The next day at school.

2 Q. Okay. And who approached you?

3 A. I got called out of class by the guidance counselor.

4 Q. Okay. All right. And did she ask you anything?

5 A. She asked me what happened.

6 Q. Okay. All right. And what did you tell her?

7 A. At first I told her nothing.

8 Q. Okay. And then what did you do?

9 A. And then I eventually told her.

10 Q. Okay. And after you told the guidance counselor - and
11 you basically told the guidance counselor what had been
12 going on?

13 A. Yes, sir.

14 Q. All right. Well after you told the guidance
15 counselor, what were you asked to do?

16 A. I was asked to stay there until the people from the
17 sheriff's office got there.

18 Q. Okay. And did the people from the sheriff's office
19 come?

20 A. Yes, sir.

21 Q. Okay. Who came?

22 A. Roxie Belue and Michelle Shugart.

23 Q. And what happened there at the school after you made
24 that disclosure to the guidance counselor?

25 A. I went into another room across the hall from Ms.

Minor

BY SOLICITOR ANTHONY

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1 McGee's office and talked to Roxie and Michelle.

2 Q. And did you have a conversation there with them at the
3 school?

4 A. Yes, sir.

5 Q. And then after you had that conversation, did you have
6 another conversation with them?

7 A. Yes, sir.

8 Q. Okay. And where was that?

9 A. At the sheriff's office and Michelle's office.

10 Q. Okay. And did anybody from your family get called to
11 the school?

12 A. Yes, sir.

13 Q. Who was that?

14 A. My daddy.

15 Q. Okay. And then did he also go to the sheriff's office
16 when you were taken there?

17 A. Yes, sir.

18 Q. And so what did you do when you got to the sheriff's
19 office?

20 A. I wrote a statement.

21 Q. Okay. And do you remember what day of the week that
22 was?

23 A. No, sir.

24 Q. You don't? Okay. That's fine. Well what happened
25 after you wrote the statement that day, do you remember

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BY SOLICITOR ANTHONY

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1 when the next time was you saw J.B. ?

2 A. A couple of days later at school.

3 Q. Okay. And was there a conversation between you and
4 J.B. ? Well, did J.B. ask you anything?

5 A. Yes, sir.

6 Q. What did she ask you?

7 A. She asked me why did I get in a cop car at school.

8 Q. Okay. And did you tell her what you had told the
9 people at the sheriff's office?

10 A. At first I told her I couldn't talk about it and she
11 started crying and begging me to tell her so I told her.

12 Q. Okay. And then what did J.B. do after that?

13 A. She left school.

14 Q. Okay. And did you after - Do you recall that day that
15 you had that conversation with J.B. being a Monday?

16 A. I believe it was.

17 Q. After you had that conversation with J.B. , did you
18 actually go back to the sheriff's office on that Monday?

19 A. Yes, sir.

20 Q. Okay. And what did you do there?

21 A. I wrote another statement because I remembered some
22 more things that happened.

23 Q. And then the next day after you went to the sheriff's
24 office that Monday, did you see J.B. the next day?

25 A. Yes, sir.

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BY SOLICITOR ANTHONY

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1 Q. And where did you see her?

2 A. My grandma's.

3 Q. Okay. And where - At what point of the day did you
4 see her?

5 A. After school.

6 Q. I'm sorry?

7 A. After school.

8 Q. Okay. Was she there when you got home?

9 A. Yes, sir.

10 Q. Okay. And when you got home and J.B. was there, what
11 happened between the two of you?

12 A. When me and J.B. saw each other we ran up to each
13 other. I threw my stuff down and we just started hugging
14 and crying.

15 Q. And then where did the two of you go?

16 A. We went up to my front porch.

17 Q. And was there anybody else there when you all talked
18 there on the porch?

19 A. Yes, sir.

20 Q. And who was that?

21 A. Julia Krasinski.

22 Q. Okay. And who is she? How did you know her?

23 A. I know her from when her and her family started coming
24 to New Life.

25 Q. Okay. And then after you talked awhile what did J.B.

Minor

BY SOLICITOR ANTHONY
BY MS. INZERILLO

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1 and Ms. Krasinski and J.B. 's boyfriend do?

2 A. They left.

3 Q. Was her boyfriend with her that day as well?

4 A. He was.

5 Q. Okay. All right.

6 SOLICITOR ANTHONY: If I could get one moment.

7 (PAUSE.)

8 SOLICITOR ANTHONY: All right. Thank you.

9 That's everything on direct.

10 THE COURT: Cross.

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

12 CROSS EXAMINATION

13 Minor

BY MS. INZERILLO:

14 Q. So, Minor, your testimony here today is that
15 Stephen Berry fingered you a number of times and allegedly
16 had sex with you one time over a number of months from the
17 end of May - March to - I'm sorry, the end of May to March
18 of 2011; is that right?

19 A. Yes, ma'am.

20 Q. And then you say it started when Stephen and his
21 family moved from [REDACTED] near where you were you
22 lived on [REDACTED]; ---

23 A. Yes, ma'am.

24 Q. --- is that right?

25 A. Yes, ma'am.

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BY MS. INZERILLO

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1 Q. And that it started when you were helping him clean
2 out essentially the old house where they lived.

3 A. Yes, ma'am.

4 Q. Is that right? Okay. And that while you All were at
5 the house at [REDACTED] that he fingered you and
6 tried to have anal sex with you and then masturbated in
7 front of you; is that right?

8 A. Yes, ma'am.

9 Q. Okay. Now, [REDACTED] is a residential area in
10 the city of Union. Right?

11 A. Yes, ma'am.

12 Q. Okay. There's houses All around?

13 A. Yes, ma'am.

14 Q. Okay. You didn't scream when this happened?

15 A. No, ma'am. I was scared.

16 Q. You didn't go out of the house and ask a neighbor for
17 help?

18 A. No, ma'am.

19 Q. You didn't go out and ask a neighbor and tell them
20 what happened?

21 A. No, ma'am.

22 Q. In fact, your testimony was when he touched your rear
23 end you just looked at him like he was stupid; is that
24 right?

25 A. Yes, ma'am.

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BY MS. INZERILLO

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1 Q. Okay. And that when he tried to have anal sex with
2 you, you pushed he off of you; is that right?

3 A. Yes, ma'am.

4 Q. And that you - I believe you testified to this,
5 actually watched him masturbate with your pants unbuttoned;
6 is that right?

7 A. Yes, ma'am.

8 Q. But you didn't ask any of the neighbors in this
9 residential neighborhood for help; is that right?

10 A. No, ma'am.

11 Q. And you didn't go home and tell your daddy what he had
12 done did you?

13 A. No, ma'am.

14 Q. And your daddy is a cop. Right?

15 A. Yes, ma'am.

16 Q. Your daddy could have had Stephen arrested that day.
17 Right?

18 A. Yes, ma'am.

19 Q. In fact, Minor , you didn't tell anybody what
20 happened because the truth is that Stephen's daughter J.B.
21 was in the room packing up her stuff with you and Stephen
22 on that day; isn't that right?

23 A. No, ma'am.

24 Q. Okay. Now, I believe you testified that about a week
25 later Stephen told you to come around and visit his new

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BY MS. INZERILLO

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1 house.

2 A. Yes, ma'am.

3 Q. Is that right? And you were at your grandma's house
4 at this point?

5 A. Yes, ma'am.

6 Q. In fact, your grandma told you not to go.

7 A. Yes, ma'am.

8 Q. And you told Stephen, on my way out, I'll go. Is that
9 right?

10 A. Yes, ma'am.

11 Q. When your grandma told you not to go you pretty much
12 said I'll go.

13 A. I had to call him back to let him know that I couldn't
14 go but I had called him back to let him know that I can go
15 because I talked my grandma into letting me go.

16 Q. But your grandma initially told you no you can't go;
17 is that right?

18 A. Yes, ma'am.

19 Q. Okay. And this is a week after this man allegedly put
20 his finger in you; is that right?

21 A. Yes, ma'am.

22 Q. Tried to anally rape you. Right?

23 A. Yes, ma'am.

24 Q. And masturbated in front of you?

25 A. Yes, ma'am.

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BY MS. INZERILLO

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1 Q. Okay. Now, you indicated on direct with Mr. Anthony
2 that you acknowledge you got some behavior problems.
3 Right?

4 A. Yes, ma'am.

5 Q. Okay. And you acknowledged there was one time you
6 busted out the window in your bedroom I think it was; is
7 that right?

8 A. Yes, ma'am.

9 Q. And you busted out that window when you weren't
10 allowed to see Stephen; is that right?

11 A. No, ma'am.

12 Q. Okay. And you also testified under direct that when
13 your daddy told you you couldn't see J.S. anymore you
14 continued to text him; is that right?

15 A. Yes, ma'am.

16 Q. Does that mean you don't mind your adults? You do
17 what you want when they tell you not to do something?

18 A. No, ma'am.

19 Q. Okay. So you talk grandma into letting you get back
20 in the car with someone who just did allegedly despicable
21 acts and you said he does it to you again; is that right?

22 A. Yes, ma'am.

23 Q. Okay. And again the second time you don't tell your
24 daddy. Right?

25 A. No, ma'am.

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BY MS. INZERILLO

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1 Q. And at this time your daddy is still a cop. Right?

2 A. Yes, ma'am.

3 Q. He still has arrest powers. He could still arrest
4 Stephen; is that right?

5 A. Yes, ma'am.

6 Q. And of course when you speak to Michelle Shugart in
7 March of 2011, you don't mention that incident do you?

8 A. Which incident?

9 Q. Of telling Grandma you wanted to hop in the car and
10 see Stephen and the new house?

11 A. I told Michelle a lot of things that day.

12 Q. When you met with Michelle and Roxie Belue you made a
13 statement. Right?

14 A. Yes, ma'am.

15 Q. In fact, in this case you gave two statements?

16 A. Yes, ma'am.

17 Q. Okay. You made a statement, I know you probably don't
18 remember these, but essentially you gave two statements
19 about three days apart; is that right?

20 A. Yes, ma'am.

21 Q. Okay. And those statements you wrote out; is that
22 right?

23 A. Yes, ma'am.

24 Q. Okay. And you wrote these out, right? Ms. Shugart
25 and Investigator Belue, they didn't write those statements

Minor

BY MS. INZERILLO

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1 out.

2 A. I wrote them.

3 Q. Okay. And you chose what to write in those
4 statements. Correct?

5 A. Yes, ma'am.

6 Q. And you signed those statements?

7 A. I did.

8 Q. And you signed at the bottom of the statements where
9 it says, let me make sure we get the language right, "I
10 certify that the facts contained herein are true and
11 correct." Right?

12 A. Absolutely.

13 Q. Okay. And at the time you made the statements you
14 were fifteen. Right?

15 A. I was.

16 Q. And you were pretty smart at fifteen weren't you? You
17 were a grade ahead in school.

18 A. Yes, ma'am.

19 Q. Is that right? Okay. So no problem reading,
20 writing, understanding?

21 A. None at All.

22 Q. Good. Now, another incident you testified to was, I
23 believe it was the third time, you were at your house this
24 time and Stephen comes over and I believe you said your
25 brother was asleep. Do you remember that?

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BY MS. INZERILLO

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1 A. Yes, ma'am.

2 Q. And you're in your house and he comes over and sits I
3 believe on the couch; is that right?

4 A. Yes, ma'am.

5 Q. Okay. And you are sitting in a chair in your house?

6 A. Yes, ma'am.

7 Q. And you move over and sit next to him on the couch;

8 ---

9 A. Yes, ma'am.

10 Q. --- is that right? And I believe you testified his
11 phone was essentially like laying on his leg or something
12 in his lap?

13 A. It was more towards his knee but yes, ma'am.

14 Q. Okay. And you picked up the cell phone and you were
15 kind of flipping through some pictures on the cell phone?

16 A. Yes, ma'am.

17 Q. Okay. Now, you were aware during this time that your
18 daddy and your grandma were asking Stephen to kind of come
19 around and help you with some of the behavioral issues you
20 were having. Were you aware of that?

21 A. Yes, ma'am.

22 Q. Okay. And some of those issues were some of the anger
23 issues like you knocked out your bedroom window.

24 A. Yes, ma'am.

25 Q. Correct? And I believe at the time you had younger

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BY MS. INZERILLO

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1 brothers. Right?

2 A. I have two younger brothers.

3 Q. And there was I think a time or two you were kind of
4 got physical with them and fought with them a little bit.
5 Do you remember that?

6 A. Yes, ma'am.

7 Q. Do you remember a time when you sent some pictures to
8 a boy on a cell phone.

9 SOLICITOR ANTHONY: Objection.

10 THE COURT: Sustained.

11 BY MS. INZERILLO:

12 Q. But they were talking to Stephen about some of the
13 behavioral issues you were having. Right?

14 A. Yes, ma'am.

15 Q. And so Stephen was kind of working with you on those
16 behavioral issues; right, kind of talking with you,
17 counseling with you; is that right?

18 A. Yes, ma'am.

19 Q. And you also would talk with Stephen about things kind
20 of going on in your life; is that right?

21 A. Yes, ma'am.

22 Q. And you would sort of tell Stephen how you would cut
23 yourself the way you described?

24 A. Yes, ma'am.

25 Q. And you had talked with Stephen about other those sort.

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BY MS. INZERILLO

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1 of thoughts, perhaps of suicide, that you were having.

2 A. I never talked to him about committing suicide.

3 Q. Okay. So you knew at this time that your dad was
4 essentially inviting Stephen to be around you?

5 A. Describe what you mean by inviting him to come around
6 me.

7 Q. Well, your daddy was going to Stephen and saying can
8 you help Minor , kind of work with her, help her out with
9 some of these issues.

10 A. Before the swimming truck incident, yes, ma'am.

11 Q. Okay. But you knew that was going on. Right? You
12 knew that conversation had been had.

13 A. Yes, ma'am.

14 Q. Okay. And these incidents that you've described
15 already, they happened before the swimming trunk incident.

16 A. Yes, ma'am.

17 Q. Okay. And knowing that your daddy was having this
18 conversation with Stephen, you never went to your daddy and
19 said, you know what daddy, I really don't want Stephen to
20 work with me anymore. I don't feel comfortable with that
21 ---

22 A. No, ma'am.

23 Q. --- did you? During this time you were also seeing a
24 counselor; is that right?

25 A. Yes, ma'am.

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BY MS. INZERILLO

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1 Q. Her name was Kim Roseborough?

2 A. Yes, ma'am.

3 Q. And you knew as part of this counseling you could talk
4 with her about some issues. Right?

5 A. Yes, ma'am.

6 Q. And when you talked to Kim, you mentioned Stephen; is
7 that right?

8 A. Yes, ma'am.

9 Q. And I believe you told Kim that he seemed to sort of
10 know when you were feeling down or something like that; ---

11 A. Yes, ma'am.

12 Q. --- is that right? And at no point did you tell Kim
13 in any of these months, I really don't want to talk about
14 Stephen any more id you?

15 A. No, ma'am.

16 Q. And at no point did you tell Kim, look can we step
17 aside there's something I really need to tell you that's
18 going on between me and Stephen?

19 A. No, ma'am.

20 Q. Okay. Now, you mentioned the pool party and the
21 swimming trunks. Let's talk it okay. I want to make sure
22 I get sort of the details right. Okay. You testified that
23 there was a pool party. You and your brothers were All at
24 Stephen's house; is that right?

25 A. Yes, ma'am.

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BY MS. INZERILLO

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1 Q. Now, was sort of a pool party and a whole bunch of
2 other people there too, it wasn't just you and your
3 brothers.

4 A. It was a youth swimming party.

5 Q. Okay. So at some point you and your brothers decided
6 to leave. Right?

7 A. Yes, ma'am, because we had a time we had to be home.

8 Q. I'm sorry. Say that again.

9 A. We had a curfew.

10 Q. Okay. So you went home?

11 A. Yes, ma'am.

12 Q. So you get to your house. I want to make sure I get
13 this right. You said that Stephen came to your house,
14 walked in your house. Came into your room. You went into
15 your room. You - he sat on your bed. You still had on
16 your bathing suit so you looked for some clothes to put on
17 since you still had on your bathing suit. You put those
18 clothes on. You sit on the bed. You don't really know how
19 it happens but somehow Stephen fingers you then he
20 ejaculates. Then after that your grandma calls the house.
21 One of your little brothers, I can't remember which one it
22 was, essentially gets word to you and Stephen that
23 grandma's called and Stephen needs to leave or else she's
24 gonna call the law. Stephen texted you about --

25 SOLICITOR ANTHONY: Your Honor, I think it needs to be

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BY MS. INZERILLO

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1 a question.

2 THE COURT: I think there needs to be a question in
3 there somewhere.

4 MS. INZERILLO: Well I'm just making sure - I'm making
5 sure the details are correct for the next question.

6 THE COURT: She's the one who needs to testify.

7 BY MS. INZERILLO:

8 Q. Am I right so far?

9 A. Yes, ma'am.

10 Q. Okay. He stays in the room for five more minutes and
11 then he leaves.

12 A. Yes, ma'am.

13 Q. Okay. So by your estimation he was in your house for
14 about forty-five minutes?

15 A. I'm not sure how long he was in my house.

16 Q. Okay. Well to do All that would you say it was more
17 than thirty minutes?

18 A. I can't say how long he was in my house.

19 Q. He was in there for some amount of time. Would you
20 agree with that?

21 A. Yes, ma'am.

22 Q. Okay. Now, let's talk about the time you All were
23 watching the movie downstairs at Stephen's house. Stephen
24 has - You mentioned that Stephen has a daughter named

25 J.B. . Right?

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BY MS. INZERILLO

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1 A. Yes, ma'am.

2 Q. Stephen also has three other daughters. Right?

3 A. Yes, ma'am.

4 Q. And on this particular night J.B. wasn't there.
5 Right?

6 A. No, ma'am.

7 Q. And so you were actually there to spend the night with

8 C.B.

9 A. Yes, ma'am.

10 Q. And C.B. is Stephen's essentially next oldest
11 daughter.

12 A. Yes, ma'am.

13 Q. And then younger than C.B. are P.B. and L.B. ;

14 ---

15 A. Yes, ma'am.

16 Q. --- is that right? And so watching the movie this
17 night were you and C.B. , P.B. and L.B. ?

18 A. Yes, ma'am.

19 Q. Okay. So your testimony was that initially it was
20 just you girls watching the movie.

21 A. Yes, ma'am.

22 Q. That Stephen was not in the room. Right?

23 A. Yes, ma'am.

24 Q. And then Stephen came into the room and he essentially
25 lays down next to you?

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BY MS. INZERILLO

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1 A. Yes, ma'am.

2 Q. And essentially he lays so that his front lays up
3 against your back; is that right?

4 A. Yes, ma'am.

5 Q. And not to rehash old testimony, but essentially he -
6 Your testimony today was that he pulled your shorts down.
7 He doesn't finger you, but that he puts his penis inside of
8 you; is that right?

9 A. No, ma'am.

10 Q. Okay. What was your testimony?

11 A. My testimony was he pulled my shorts down. He
12 fingered me and then I realized something else was inside
13 of me besides his finger.

14 Q. Okay. But you don't know what it was?

15 A. I knew what it was.

16 Q. And he did this with his other daughters in the room?

17 A. Yes, ma'am.

18 Q. And at no point did you push his hands away?

19 A. No.

20 Q. Okay. You didn't scream or say, hey get off of me,
21 knowing two other girls or three other girls were in the
22 room?

23 A. No, ma'am.

24 Q. And today your testimony is, when this happened you
25 got out of the room, walked to the bathroom; is that right?

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BY MS. INZERILLO

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1 A. Yes, ma'am.

2 Q. Checked to make sure you weren't bleeding and went
3 back into the room; is that correct?

4 A. Yes, ma'am.

5 Q. Now, as we described earlier, you gave a statement in
6 this case; is that correct?

7 A. Yes, ma'am.

8 Q. And you described this incident in that statement; is
9 that right?

10 A. Yes, ma'am.

11 Q. And at no point in that statement did you ever
12 describe walking out of the room and checking to see if you
13 were bleeding; is that right?

14 A. Yes, ma'am.

15 Q. Is that right you never - you're saying yes, ma'am.
16 You never put that in your statement, yes, ma'am?

17 A. I didn't put it in there because at that time I didn't
18 remember that.

19 Q. Okay. And you testified under oath in a prior hearing
20 in this case haven't you?

21 A. Yes, ma'am.

22 Q. And when you took the oath in that case, just like the
23 oath you took today, you swore to tell the truth, the whole
24 truth and nothing but the truth; is that right?

25 A. I absolutely did.

Minor

BY MS. INZERILLO °

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1 Q. Okay. And included in that which is a word we
2 sometimes forget is the whole truth. Right? Whole truth.
3 Right?

4 A. Yes, ma'am.

5 Q. Okay. And when you testified in that prior hearing
6 you didn't mention anything about leaving the room and
7 going to the bathroom. Right?

8 A. No, ma'am.

9 Q. Okay. Now, you also testified that it was dark in the
10 room and the only light was from the TV.

11 A. Yes, ma'am.

12 Q. And that when this act was done, Stephen took his
13 phone and typed in you were no longer a virgin or you were
14 not a virgin. Something like that; is that correct?

15 A. Yes, ma'am.

16 Q. When you gave a statement to the officers you wrote
17 that he texted you that; is that correct?

18 A. Yes, ma'am.

19 Q. Okay. And you are aware, Minor , that the
20 police pulled your cell phone records?

21 A. Yes, ma'am.

22 Q. Okay. And you testified on direct that you actually
23 talked to your friend, I think you called her K.K. ?

24 A. Yes, ma'am.

25 Q. And she was actually sort of the first person that you

Minor

BY MS. INZERILLO

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1 talked to about All this?

2 A. Yes, ma'am.

3 Q. And when you talked to K.K. about this case, you also
4 told her that he texted you that; is that right?

5 A. Yes, ma'am.

6 Q. In fact, the version of the events that you told K.K.
7 was that you were watching a movie in the downstairs room
8 when Stephen came downstairs and told you to get under the
9 covers. Right?

10 A. Yes, ma'am.

11 Q. And that you said no but he forced you. Right?

12 A. Yes, ma'am.

13 Q. And that he did something and you went back to bed.
14 Right?

15 A. Yes, ma'am.

16 Q. And that he texted you saying you weren't a virgin
17 anymore?

18 A. Yes, ma'am.

19 Q. Now, the State asked you about how All of these
20 alleged events happened, and I believe you indicated to the
21 police in your statement that the last incident happened
22 about Monday or Tuesday prior to you meeting with Ms. Belue
23 and Ms. Shugart; is that right, giving that initial
24 statement?

25 A. Yes, ma'am.

Minor

BY MS. INZERILLO

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1 Q. And that about ten days after meeting with the
2 officers, you met with the doctor. Do you remember that?

3 A. Yes, ma'am.

4 Q. And that doctor's name was Dr. Henderson. Do you
5 remember her name?

6 A. I don't recall her name.

7 Q. And that doctor did a sexual assault examination on
8 you. Do you remember that?

9 A. Yes, ma'am.

10 Q. And as a part of that examination, she asked you
11 several questions didn't she?

12 A. Yes, ma'am.

13 Q. And that was sort of at the beginning of the exam you
14 get an idea of what happened?

15 A. Yes, ma'am.

16 Q. And in your conversation with her, you told her that
17 Stephen performed oral sex on you; is that right?

18 A. I don't remember if I did.

19 Q. Okay. But you do remember that you never told that to
20 any of the investigators in your case; is that right?

21 A. I never told them that.

22 Q. Okay.

23 SOLICITOR ANTHONY: I'm sorry, what? I didn't hear
24 the answer.

25 A. I didn't tell them that.

Minor

BY MS. INZERILLO

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1 Q. And that you didn't testify to that on direct when
2 ask that question?

3 A. No, ma'am.

4 Q. We talked a little bit earlier, Minor about
5 the fact that you were seeing Ms. Roseborough your
6 counselor. She's a family counselor. Right?

7 A. Yes, ma'am.

8 Q. And you started seeing her again when your mom began
9 her visitations again; is that right?

10 A. Yes, ma'am.

11 Q. So you had seen Ms. Roseborough essentially your dad
12 would go sometimes and your grandma; is that right?

13 A. It was my dad, my brothers, and when my mom's time was
14 to visit, it was my mom.

15 Q. Okay. And again you felt like as your counselor you
16 would talk with her about things that were going on; is
17 that right?

18 A. Yes, ma'am.

19 Q. And you talked to her about the cutting incidents in
20 relation to your wrists about that; is that right?

21 A. Yes, ma'am.

22 Q. Now, when you no longer cut on your wrists, was there
23 a period of time when you would sort of scratch your thighs
24 to get out some of that agitation that you had?

25 A. Yes, ma'am.

Minor

BY MS. INZERILLO

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1 Q. So it wouldn't be the cutting it was more like
2 scratching and leaving a red mark?

3 A. It was a knife.

4 Q. Okay. Well please correct me, you would know. And
5 all that started prior to March of 2010; is that right?

6 A. Yes, ma'am.

7 MS. INZERILLO: Your Honor, may we approach.

8 (SIDE BAR CONFERENCE OFF THE RECORD @ 05:08 P.M.)

9 THE COURT: We're going to take a short break. I'm
10 going to let the jury go to the jury room just for a
11 refresher break while we take up a matter outside your
12 presence.

13 (JURY EXITS COURTROOM AT 05:08 P.M.)

14 (COURT IN RECESS AT 05:09 P.M.)

15 (COURT BACK IN SESSION AT 05:17 P.M..)

16 THE COURT: Thank you. Take your seats. Before we
17 get back to where we are, I want to go back just a minute.
18 I've set forth my analysis earlier on the Wavering and
19 Richie issue, but I never did start at the beginning, and
20 my ruling was based on the exception to the admission of
21 evidence prior or subsequent bad acts under the common
22 scheme or plan exception. I don't think - I think I danced
23 around that and wasn't real clear.

24 Now on the current issue, I have read the portions of
25 the transcript and I think the best thing now would be to

Minor

BY MS. INZERILLO - IN CAMERA

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1 see if Ms. Inzerillo wishes to ask any questions so I'll
2 know where we're headed with this.

3 MS. INZERILLO: Thank you, Your Honor, may it please
4 the court.

5 THE COURT: Yes, ma'am.

6 CROSS EXAMINATION - IN CAMERA

7 Minor BY MS. INZERILLO:

8 Q. Minor , a few weeks before you and K.K. talked
9 to the guidance about your allegations against Stephen, you
10 and J.B. went to see Mr. Wade, another guidance counselor
11 at your school; is that correct?

12 A. Yes, ma'am.

13 Q. And you and J.B. spoke to Mr. Wade about your
14 accusation, an accusation against your daddy; is that
15 right?

16 A. Yes, ma'am.

17 Q. And that accusation was that he had physically abused
18 you: is that right?

19 A. Yes, ma'am.

20 Q. And you had bruises on your legs; is that right?

21 A. Yes, ma'am.

22 Q. And J.B. had taken pictures of those bruises?

23 A. Yes, ma'am.

24 Q. And you had told J.B. that those bruises were the
25 result of your father physically abusing you?

Minor

BY MS. INZERILLO - IN CAMERA

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1 A. I told J.B. that me and my daddy got into an argument
2 and I hit him and he whipped me.

3 Q. Okay. And did you two then go to see Mr. Wade, the
4 guidance counselor at the school?

5 A. I wasn't aware that J.B. first went until she came
6 and got me and convinced me to tell Mr. Wade.

7 Q. Okay. And then what did you tell Mr. Wade?

8 A. I told Mr. Wade me and my dad got into an argument and
9 he whipped me and I hit him.

10 Q. I'm sorry, Ms. Wade, this is my fault. Can you
11 repeat that for me?

12 SOLICITOR ANTHONY: She's not Ms. Wade.

13 Q. I'm sorry, Minor. Can you repeat that for me?

14 A. I told Mr. Wade that me and my dad got into an
15 argument and he whipped me and I hit him.

16 Q. Okay. And based on that did Mr. Wade call DSS?

17 A. Yes, ma'am.

18 Q. Okay. And your father never physically abused you; is
19 that right?

20 A. He whipped me, ma'am.

21 MS. INZERILLO: Again, and it's sort of short to this,
22 Your Honor

23 Q. You testified in a prior hearing of this case; is that
24 right?

25 A. Ma'am?

Minor

BY MS. INZERILLO - IN CAMERA

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1 Q. You testified at a prior hearing in this case?

2 A. Yes, ma'am.

3 Q. And you were under oath at that time?

4 A. Yes, ma'am.

5 Q. And you testified under oath that your father never
6 physically abused you; is that right?

7 A. He never did. He whipped me.

8 Q. Okay. But your testimony was he never physically
9 abused you?

10 A. No, ma'am.

11 MS. INZERILLO: I beg the Court's indulgence for a
12 moment, Your Honor.

13 THE COURT: Sure.

14 (PAUSE.)

15 MS. INZERILLO: Your Honor, we're actually going to
16 withdraw that offering of questions.

17 THE COURT: All right. Ready for the jury?

18 SOLICITOR ANTHONY: Yes, sir, the State is.

19 THE COURT: You ready for the jury?

20 MS. INZERILLO: Yes, Your Honor.

21 THE COURT: Do you have any further cross examination?

22 MS. INZERILLO: No, Your Honor.

23 THE COURT: Well I'll let you state that in front of
24 the jury.

25 MS. INZERILLO: Yes, Your Honor.

Minor

BY SOLICITOR ANTHONY

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1 SOLICITOR ANTHONY: Okay. You're done?

2 MS. INZERILLO: I am done.

3 SOLICITOR ANTHONY: Okay.

4 THE COURT: All right, bring in the jury. While the
5 jury is coming in, it's almost 5:30, so when we finish with
6 this witness we'll probably stop for the today, I would
7 like to see the attorneys just for a few minutes inside -
8 in my chambers.

9 (JURY REENTERS COURTROOM AT 05:23 P.M..)

10 THE COURT: Ms. Inzerillo, you have any further
11 questions?

12 MS. INZERILLO: No, Your Honor.

13 THE COURT: Redirect?

14 REDIRECT EXAMINATION

15 Minor BY SOLICITOR ANTHONY:

16 Q. You testified on cross examination again about this
17 incident where you pulled away from Mr. Berry and saw his
18 penis; is that correct?

19 A. Yes, sir.

20 Q. And when that happened, what - When you became aware
21 that his penis was inside of you, what was your reaction?

22 A. I jerked away.

23 Q. Okay. All right. And you testified about giving a
24 statement about this incident or about this course of
25 conduct of Mr. Berry; is that correct?

Minor

BY SOLICITOR ANTHONY

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1 A. Yes, sir.

2 Q. Okay. And you've seen that statement since you wrote
3 it out. Correct?

4 A. Yes, sir.

5 Q. Okay. And I'm going to just hand this to you. Is
6 that the statement you gave that day that you went to the
7 sheriff's office with Ms. Shugart and Investigator Belue
8 and they asked you to write out what had happened?

9 A. Yes, sir.

10 Q. Okay. How many pages is that, Minor ?

11 A. Four.

12 Q. Okay. And how long had all of this been going on
13 between Mr. Berry and yourself?

14 A. Since May of 2010.

15 Q. And how many months was that?

16 A. Let me do the math. About ten months.

17 Q. About ten months. So you basically were asked to
18 summarize ten months' worth of behavior in four pages; is
19 that correct?

20 A. No, sir.

21 Q. I mean that's basically what that statement is.
22 Right?

23 A. Yes, sir.

24 Q. Okay. It's about ten months worth of behavior in four
25 pages?

Minor

BY SOLICITOR ANTHONY

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1 A. Yes, sir.

2 Q. Okay. And you were asked -- well --

3 SOLICITOR ANTHONY: If I could just have one moment.

4 (PAUSE.)

5 Q. You were asked about the incident where Mr. Berry
6 picked you up and took you to his house; is that correct?

7 A. Yes, sir.

8 Q. On cross examination you were asked about that?

9 A. Yes, sir.

10 Q. And did you make any reference to that in that
11 statement?

12 A. (No response)

13 Q. If you would, just take a look at Page 3 of that
14 statement.

15 A. Yes, sir.

16 Q. Okay. And what did you say?

17 A. You want me to read it?

18 Q. Yeah, sure.

19 A. Where it first starts?

20 Q. Uh-huh. It's just a sentence, right?

21 (PAUSE.)

22 Q. The sentence where you mention going to his house.

23 (PAUSE.)

24 Q. Is it Page 3? Maybe it's Page 4. Yeah. I'm sorry, I
25 was referring you to the wrong page. Look on Page 4 and

Minor

BY SOLICITOR ANTHONY

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1 see if it's referenced on there.

2 A. Yes, sir.

3 Q. Okay. If you would read it, please.

4 A. "Before the Berry family got moved into the new house
5 completely, he fingered me then."

6 Q. Okay. So you gave that - I mean you're talking about
7 ten months of behavior but you did mention it?

8 A. Yes, sir.

9 Q. Okay. And the detail about going to the bathroom
10 after the incident in the floor, is that in that four page
11 statement?

12 A. No, sir.

13 Q. Okay. But you are covering ten months?

14 A. Yes, sir.

15 Q. All right. And when you say - When you used the word
16 texted in the statement that you gave and in talking to
17 K.K. and telling her what had happened, what were you
18 referring to?

19 A. I was referring to him typing out on his phone and he
20 didn't actually send it but in my definition it was still a
21 text because he typed it out.

22 Q. Okay. And did Mr. Berry - You were asked about
23 mentioning at an exam that Mr. Berry had attempted to
24 perform oral sex on you or did perform oral sex on you.
25 Was there an incident where that happened?

Minor

BY SOLICITOR ANTHONY

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1 A. I don't recall.

2 Q. You don't recall an incident where he tried to put his
3 mouth on your private?

4 A. No, sir.

5 Q. Okay. And why was it - just going back, why was it
6 that after the first time he did this, or when you were in
7 counseling with Ms. Roseborough, why was it that you didn't
8 tell anyone about what Mr. Berry was doing?

9 A. I didn't want to lose my best friend.

10 Q. All right. And was there any other reason?

11 A. And I got to talk to J.S.

12 THE COURT: I'm sorry. What was the answer?

13 MR. DELANEY: We can't hear.

14 THE COURT: Speak in the microphone. Say that again.

15 A. And I got to talk to J.S.

16 Q. Okay.

17 SOLICITOR ANTHONY: If I can have one moment.

18 (PAUSE.)

19 SOLICITOR ANTHONY: All right. Thank you.

20 That's everything on redirect.

21 THE COURT: Recross?

22 MS. INZERILLO: No, Your Honor.

23 THE COURT: All right. You can step down. Thank you
24 for your time.

25 (WITNESS LEAVING WITNESS STAND.)

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1 THE COURT: Members of the jury panel, it's almost
2 5:30. We're going to stop for today and start back at
3 9:30. Report back before 9:30 like you did today to this
4 jury room like the bailiff's helped you do. Keeping in
5 mind what I told you about not discussing the case or
6 trying to make up your own mind or doing any research.

7 One thing that I did not say, and I don't know that it
8 matters much in this particular case, but I always admonish
9 jurors to not go - I said don't do any research - but don't
10 go cruise the scene so to speak. I don't know that these
11 locations are like they are in some cases, but there's no
12 reason for you to be going and seeing where the [REDACTED]
13 address is and the [REDACTED] address is. If you've
14 been there and you happen to live in that area do not,
15 again do any independent research, so have a pleasant
16 evening and we'll see you back at 9:30.

17 (JURY EXITS COURTROOM AT 05:30 P.M..)

18 THE COURT: Anything else before we stop for the day?

19 SOLICITOR ANTHONY: No, sir.

20 MR. DELANEY: No, Your Honor.

21 THE COURT: All right. Let me see counsel just for a
22 couple minutes.

23 (COURT IN RECESS AT 05:30 P.M..)

24 (COURT BACK IN SESSION WEDNESDAY, FEBRUARY 6, 2012, AT
25 09:35 A.M..)

1 (WHEREUPON: STATE'S EXHIBIT ONE AND TWO PREMARKED FOR
2 IDENTIFICATION.)

3 THE COURT: Take your seats. Good morning.

4 Be seated please.

5 Is the State ready?

6 SOLICITOR ANTHONY: Your Honor, we will be in about
7 twenty seconds ready when our first witness gets back in
8 here.

9 THE COURT: While we are waiting, and I know you all,

10 Mr. Anthony, while we are waiting, just - and I know
11 you all have a ton of things to do, but going back to the
12 ruling yesterday on the exemption on the common scheme and
13 plan, of course we've got the rule now. The *Ritchie* case
14 and the *Weaverling* case uses language about any reasonable
15 tended to - show that the evidence is admissible to show
16 the relation and mutual disposition of the parties. As I
17 said yesterday, I am not really sure I understand exactly
18 what that means, but in the *Ritchie* case it follows up by
19 saying "the evidence is submitted to the jury with proper
20 explanation of it's purpose and effect."

21 I don't think that's the law now. I don't know that I
22 am required to charge the jury based as to my ruling on the
23 common scheme and plan and why I admitted it. In fact,
24 that might be detrimental to the defense and they probably
25 wouldn't want one, but I just call that to your attention.

EDDIE WILLIAMS: BY SOLICITOR ANTHONY

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1 I don't plan to charge anything along those lines. There
2 are some things about this case I would like to say. I don't
3 understand. It's only a hundred and one year old case but
4 if any of you - if either side thinks there is some charge
5 that should be submitted, let me know. Otherwise, I'm not
6 charging anything about that, what I consider purely an
7 evidentiary rule.

8 All right. Bring in the jury.

9 (JURY ENTERS COURTROOM AT 09:40 A.M.)

10 THE COURT: Good morning.

11 All right, Mr. Anthony.

12 SOLICITOR ANTHONY: Your Honor, our next witness will
13 be Eddie Williams.

14 THE COURT: Please come up and be sworn.

15 (WHEREUPON: EDDIE WILLIAMS,
16 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

17 DIRECT EXAMINATION

18 EDDIE WILLIAMS BY SOLICITOR ANTHONY:

19 Q. Would you state your name, please?

20 A. Eddie Williams.

21 Q. Mr. Williams, where do you live?

22 A. I live at [REDACTED], Jonesville, South
23 Carolina.

24 Q. Who lives with you?

25 A. With my daughter, Minor, and my two sons, A.W. and

EDDIE WILLIAMS: BY SOLICITOR ANTHONY

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1 P.W.

2 Q. And what are their ages right now?

3 A. Minor is eighteen. A.W. is fifteen and P.W. is
4 thirteen.5 Q. And what is the status of your relationship with
6 Minor and the other two boys mom, the two boy's mother?7 A. I have sole custody of all three children and she gets
8 visitation for the children every other weekend and on
9 holidays.

10 Q. Are you all divorced?

11 A. Yes, sir, we are.

12 Q. Okay. And how long have you been divorced?

13 A. Approximately nine years.

14 Q. How long have you had basically the sole custody of
15 the three children?

16 A. Probably about eight years.

17 Q. Okay. And are there any other family members you
18 have that over the past eight years or so that you've been
19 raising the three children have helped you in doing that?

20 A. Yes, sir.

21 Q. And who is that?

22 A. My mother, Sherrie Tucker.

23 Q. And where does your mom live?

24 A. She lives at [REDACTED].

25 Q. Where is that in relation to your house?

EDDIE WILLIAMS: BY SOLICITOR ANTHONY

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1 A. It's in front of my house.

2 Q. Okay. All right. And how are you employed, Mr.
3 Williams?

4 A. I work for the Union Public Safety Department as a
5 police officer.

6 Q. How long have you been employed in that capacity?

7 A. Almost six years.

8 Q. What is your work schedule working for Public Safety?

9 A. We work twelve-hour days. We work a twenty-eight-day
10 rotation and then we switch to night shift for a twenty-
11 eight-day cycle for twelve-hour nights and our shifts range
12 from 8:00 a.m. to 8:00 p.m. and then from 8:00 p.m. to 8:00
13 a.m.

14 Q. And so you are working days half the time and nights
15 half the time?

16 A. Yes, sir.

17 Q. And you switch every month?

18 A. Roughly every month yes, sir.

19 Q. So basically every other month you would be working
20 eight at night 'til eight in the morning?

21 A. Yes, sir.

22 Q. All right. I want to take you back now to the spring
23 of 2009. What happened then with you regarding with you
24 and your family's church attendance?

25 A. We left Lakeside Baptist Church and started attending

EDDIE WILLIAMS: BY SOLICITOR ANTHONY

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1 New Life Baptist Church.

2 Q. And who was the youth pastor at New Life Baptist
3 Church at that time?

4 A. Stephen Berry.

5 Q. And before you started going there, did you know Mr.
6 Berry?

7 A. I didn't know him personally. I heard him preach a
8 couple of sermons at Lakeside when our pastor was out doing
9 weekend drill with the guards. He did a couple of sermons.
10 I knew his brother, David, quite well because he and I, our
11 families were friends.

12 Q. Okay. And what was David's position at Lakeside?

13 A. He was the Associate Pastor.

14 Q. Okay. All right. So when you all started going to
15 New Life Baptist in the spring of 2009, how old was Minor
16 then?

17 A. Fourteen.

18 Q. Okay. And what grade was she in at that time?

19 A. Eighth grade.

20 Q. She would have been in the eighth grade. Okay. And
21 after she started who - as there any other girl there at
22 the church that she became very close to?

23 A. Yes, sir.

24 Q. And who was that?

25 A. J.B.

EDDIE WILLIAMS: BY SOLICITOR ANTHONY

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1 Q. And what was J.B. 's relation to Mr. Berry?

2 A. That was Stephen's daughter.

3 Q. And what kind of things would J.B. and Minor do, or
4 where would they be together besides church?

5 A. They would spend time together at church and then
6 after church Minor would sometimes go to Stephen's house.

7 Q. And did J.B. come to your house as well?

8 A. Yes she did.

9 Q. All right. And who was at whose house more often?

10 A. Minor was at Stephen's more than J.B. was at my
11 house.

12 Q. And aside from Minor becoming friends with J.B. ,
13 once you all starting going to New Life, did you make any
14 observations about Minor and a boy that was going there?

15 A. Yes, sir.

16 Q. And who was the boy?

17 A. J.S.

18 Q. And what were you able to observe between Minor and
19 J.S. ?

20 A. I noticed them when they were at church, they would
21 hug and talk quite a bit and, you know I could see, I could
22 see more than a friend relationship there.

23 Q. Okay. And did you talk to Minor about this?

24 A. I did. I spoke with Minor letting her know that due
25 to his age and where he was attending school because he was

1 out of high school, based on her age and her being in high
2 school, between the age limits and the maturity level of
3 the two, that I only wanted them to remain friends and no
4 relationship.

5 Q. And after you told her that, what did you continue to
6 see going on?

7 A. I continued to see a pattern of Minor and him
8 hugging, texting back and forth, still showing emotions
9 towards each other, more than a friendship.

10 Q. So after you made these continued observations, who
11 did you talk to about this situation next?

12 A. I talked to Stephen Berry.

13 Q. And what did you ask Mr. Berry to do?

14 A. I asked Mr. Berry if he would talk to J.S. concerning
15 the incidents, letting him know that I didn't see anything
16 wrong with him personally because he is a really good guy.
17 It's just the age difference and the maturity levels.

18 Q. And did you have a talk with J.S. and Mr. Berry about
19 this?

20 A. Yes, sir, we did. We actually had a conference in
21 Stephen's office at the church.

22 Q. And after that conference, what seemed to happen for a
23 while in regards to what you noticed between J.S. and
24 Minor ?

25 A. I noticed that they didn't seem to be having as much

EDDIE WILLIAMS: BY SOLICITOR ANTHONY

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1 interaction at church. They would speak and pretty much go
2 separate ways for a time.

3 Q. And then after that, what developed?

4 A. Once again I started seeing Minor texting a lot.
5 Still didn't see a lot of things at church anymore but you
6 know seeing with Minor texting and all, I did get her
7 phone and I seen that where they were still texting one
8 another she was expressing her feelings towards J.S.
9 again.

10 Q. So after this, what did you do. What was the next
11 step you took?

12 A. I called Mr. Berry again concerning the situation.

13 Q. And about what time of the year would this have been
14 when you had this conversation with Mr. Berry? Was it on
15 into 2009?

16 A. About the fall of 2009.

17 Q. Okay. When you spoke to Mr. Berry about this, how did
18 he respond?

19 A. I'd asked him that if I could speak to J.S. 's parents
20 because they attended the church as well and express my
21 concerns to them. He stated that he would handle the
22 matter because he was related to his parents and that he
23 would speak to them regarding the matter and address it
24 with them.

25 Q. Okay. And did you get a report back from Mr. Berry.

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1 that he'd done that?

2 A. Yes, sir I did. He stated that he spoke with his
3 parents and they understood completely and that they were
4 going to handle the situation.

5 Q. And after that, what observations were you able to
6 make about anything going on between Minor and J.S. ?

7 A. After that it seemed to subside some, and then once
8 again I started seeing Minor ; she was still texting him
9 and you know it was continuing.

10 Q. Okay. But was it as bad as it had been before?

11 A. Not nearly as bad as what it was no, sir.

12 Q. Okay. And going in 2010 now after these conversations
13 in 2009 and you moved into the year 2010, did Minor 's
14 attitude, even though you put these limits on her being
15 able to see J.S. , did her attitude about J.S. change?

16 A. No, sir, not at all.

17 Q. And would she still talk to you about him?

18 A. She talked to me. You know, she expressed that she
19 loved J.S. and that no matter what, you know, she was
20 going to be with him one day, you know, and that I wasn't
21 going to prevent it.

22 Q. All right. So taking you now into 2010, did anything
23 change concerning Mr. Berry's residence in May, around May
24 of 2010?

25 A. Yes, sir. He moved from [REDACTED] to [REDACTED]

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Q. And the house he moved to, where is that in relation to where you lived?

A. I lived at - if you want to look at it from my mother's house, he lives four houses down below my mother and we stayed directly behind my mother.

Q. And before he moved to this location close to yours, had there ever been a problem with him coming to your house?

A. No, sir.

Q. And after he moved up to the residence on [REDACTED], what began to happen in regards to him appearing at your house and your mama's house?

THE COURT: Mr. Anthony, you keep using him and a lot of pronouns. I think we need for the record to be clearer.

SOLICITOR ANTHONY: I'm sorry.

THE COURT: Tell us who you are talking about when you use these pronouns.

BY SOLICITOR ANTHONY:

Q. After Mr. Berry moved up to three or four houses away from your house, did anything change?

A. Yes, sir.

Q. And what changed?

A. I started seeing Stephen and he was coming to the house quite a bit.

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1 Q. And once you became aware of this, what did you do?

2 A. Well, usually when he was coming I was usually at work
3 and, you know, I would get calls from my mother letting me
4 know that Stephen was up there, and after a few times I
5 confronted Stephen concerning it.

6 Q. And what did you ask him to do?

7 A. I asked him that if he was going to come, you know,
8 while I was at work to at least call and let me know that
9 he was coming.

10 Q. Did you make any other requests of Mr. Berry
11 concerning taking Minor to church?

12 A. Yes, sir. I asked him if he was going to take Minor
13 to church or anything to, you know, to make me aware of it.

14 Q. Okay. And were there any concerns about when he was
15 - the times that Mr. Berry was picking Minor up and taking
16 her to church?

17 A. Yes, sir. Church started around 7:00 p.m. I would
18 get calls from my mother that Stephen was picking Minor up
19 between 4:00 and 4:30 and 5:00.

20 Q. And so did you make any request to Mr. Berry in
21 regards to the time that he would pick her up?

22 A. I did speak to Mr. Berry concerning that, asking him,
23 you know, if he could pick Minor up later and his reply
24 was, you know, he picked Minor up sometimes that early
25 because he has to go to church and get things ready for

EDDIE WILLIAMS: BY SOLICITOR ANTHONY

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1 church.

2 Q. And what part of 2010 would you say you had this
3 conversation with Mr. Berry?

4 A. Probably around the summer.

5 Q. Okay. All right. And after you had that initial
6 conversation with Mr. Berry, did anything change in his
7 behavior?

8 A. No, sir.

9 Q. Okay. And so was there a specific incident that you
10 were advised of that you spoke to Mr. Berry about after
11 that initial conversation?

12 A. Yes there was.

13 Q. And what had occurred, what did you talk to him about?
14 What did you talk to Mr. Berry about him doing on that
15 occasion?

16 A. I talked to Mr. Berry about coming to my home while I
17 wasn't there in swimming trunks with no shirt on.

18 Q. And how did Mr. Berry react when you spoke to him
19 about that?

20 A. He apologized to me and stated he realized that it
21 wasn't appropriate.

22 Q. And was that also in the summer of 2010?

23 A. Yes, sir.

24 Q. Okay. After you had that conversation with Mr. Berry,
25 what happened in regards to Mr. Berry coming to your house?

EDDIE WILLIAMS: BY SOLICITOR ANTHONY

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1 A. It still continued.

2 Q. And who did you talk to about him coming to the house?

3 Who would you hear about that from?

4 A. My mother and sometimes one of my sons would call and
5 make me aware that Stephen was there.

6 Q. Okay. And was there yet another attempt made to
7 address this issue of Mr. Berry coming to the residence?

8 A. Yes, sir, there was.

9 Q. Okay. And when was that?

10 A. That was probably toward the fall of 2010.

11 Q. Okay. All right. And what did you ask him to do
12 again at that time?

13 A. I asked him that if he was going to come to the house
14 when I wasn't at home that he needed to call, you know, and
15 let me know that he was going to be coming up there.

16 Q. Okay. And was there - In particular when you had this
17 conversation with him, was there a particular time of day
18 that you were asking him not to come?

19 A. Yes, sir. I had gotten reports, calls from my boys
20 stating that Stephen was coming up and it was the later
21 part of the night and you know, when I say late, it was
22 probably towards 8:30, 9:00, 9:30 at night.

23 Q. All right. And how did he respond when you had this
24 further conversation with him?

25 A. He still continued to come after I requested he not.

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1 Q. Okay. And did he give you any kind of reason for why
2 he was coming?

3 A. Yes, sir. He stated that he was coming to check on
4 Minor and see if the house was clean.

5 Q. And during this period of time in the summer of 2010
6 and the fall of 2010 going into the early part of 2011,
7 aside - was Minor going to Mr. Berry's residence?

8 A. Yes, sir.

9 Q. Okay. And how frequent?

10 A. She would go some on weekends and stay. You know, it
11 wasn't every weekend but it was some weekends she would go
12 and stay.

13 Q. And what happened to the frequency that J.B.
14 coming to your house to stay?

15 A. I would ask Minor when she would ask to go to
16 Stephen's, I would ask her to see if J.B. could come and
17 stay at our house and J.B. would ask and, you know, J.B.,
18 you know, rarely would come and stay at my residence.

19 Q. Now, after the move that Mr. Berry made up to [REDACTED]
20 [REDACTED], what did you notice about Minor's behavior?

21 A. Prior to that, Minor was a well behaved child. She
22 did her chores. Each of my children have responsibilities
23 that they do. She started being rebellious. She wouldn't
24 do what she was asked. You know, talking back to me and my
25 mother and disrespecting her brothers.

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1 Q. And did you notice any other physical problems, any
2 other kind of physical injuries on her?

3 A. Yes, sir. I did see some light scratches. A couple
4 of them were not really, really deep but you could see
5 marks and I addressed that with her and she said that, you
6 know, she had a lot going on. She tried to, you know,
7 injure herself on her arm.

8 Q. I want to take you now to March 18th of 2011. Did you
9 receive a call from anybody that day?

10 A. Yes, sir.

11 Q. And who did you receive a call from?

12 A. It was the guidance counselor at school. I think it
13 was Mrs. McGee.

14 Q. And what day of the week was that?

15 A. I'd say that on either a Tuesday or a Wednesday I
16 think.

17 Q. Okay. It wasn't a Friday?

18 A. It may have been a Friday. Yeah, because it was a
19 Friday that that took place.

20 Q. All right. And so after you got that call from her,
21 where did you go?

22 A. I went to the Union County High School to the guidance
23 office.

24 Q. And who did you see there?

25 A. I spoke to a Mrs. McGee. I also seen Roxie Belue

EDDIE WILLIAMS: BY SOLICITOR ANTHONY

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1 along with Michelle Shugart.

2 Q. And after having an initial conversation there at the
3 school - Well, was Minor in the office there at school as
4 well?

5 A. She wasn't in the office that I was taken to no, sir.

6 Q. Okay. Had she been taken out of class?

7 A. Yes, sir.

8 Q. Okay. And did you go anywhere that Minor was taken
9 later on that day?

10 A. Later on that day yes, sir.

11 Q. Okay. Where did you go?

12 A. We went to the Union County Sheriff's Department.

13 Q. Okay. And did Minor go there as well?

14 A. Yes, sir.

15 Q. How did Minor get there?

16 A. Roxie Belue transported Minor .

17 Q. Okay. And then taking you over into the next week,
18 the Tuesday of that next week, did you see J.B. that
19 day?

20 A. Yes, sir.

21 Q. And where did you see her?

22 A. I was sitting at my mom's back porch. She's got a
23 screened in porch and J.B. and her boyfriend came driving
24 up.

25 Q. And did anybody else come there to your grandmother's

EDDIE WILLIAMS: BY SOLICITOR ANTHONY

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1 house, not in the same vehicle as J.B. and her boyfriend?

2 A. There was a van that pulled up with Julia Krasinski,
3 she was in it.

4 Q. Okay. And where did J.B. go after she arrived there
5 at your grandmother's house?

6 A. She walked up onto the back porch and opened the door
7 and spoke with me and my mother.

8 Q. Okay. And what was the conversation between you and
9 J.B. ?

10 MR. DELANEY: Your Honor, I object to hearsay at this
11 time.

12 THE COURT: I sustain the objection.

13 SOLICITOR ANTHONY: Okay.

14 Q. Was Minor there when J.B. arrived?

15 A. No, sir.

16 Q. Okay. Did Minor eventually get -- Did she eventually
17 arrive from school that Monday?

18 A. Yes, sir.

19 Q. And what did you witness between Minor and J.B.
20 that, or I'm sorry, that Tuesday. What did you witness
21 between Minor and J.B. that Tuesday after Minor got home
22 from school?

23 A. Minor was brought home by one of her friends from
24 school. She walked up. She seen J.B. . Her and J.B.
25 started crying and hugging one another and J.B. told

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1 Minor that she was sorry.

2 MR. DELANEY: Your Honor.

3 THE COURT: Yeah. Just strike what J.B. said. J.B.
4 would have to testify as to what J.B. said.

5 BY SOLICITOR ANTHONY:

6 Q. And where did they go? Where did you see them go to
7 speak?

8 A. Minor and J.B. and Julia, they went up to my home.

9 Q. All right.

10 SOLICITOR ANTHONY: If I could have one second.

11 (PAUSE.)

12 SOLICITOR ANTHONY: That's everything on direct.

13 THE COURT: All right. Mr. Delaney.

14 MR. DELANEY: Thank you, Judge.

15 CROSS EXAMINATION

16 EDDIE WILLIAMS BY MR. DELANEY:

17 Q. Shortly after - Your family joined New Life Baptist
18 Church in 2009; is that right?

19 A. Yes, sir.

20 Q. Minor started lying to you around that time; is that
21 correct?

22 A. I never said she started lying.

23 Q. Well, didn't she start lying to you about contact she
24 was not suppose to be having with this guy named J.S.

25

EDDIE WILLIAMS: BY MR. DELANEY

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1 A. She never lied.

2 Q. Okay. Well, you had -- You were watching them at the
3 church; is that right?

4 A. That's correct.

5 Q. Okay. And you noticed some things; is that right?

6 A. I did.

7 Q. Okay. And as a result of that you took action; is
8 that right?

9 A. Yes, sir.

10 Q. Okay. And you did not approve of some of these
11 behavior things that you saw. Correct?

12 A. I didn't approve of her having a relationship with
13 somebody as old as J.S. was. Yes, sir.

14 Q. Right. The age difference, you had --

15 A. And the maturity level yes, sir.

16 Q. He was I guess almost done with high school. She
17 wasn't even in high school yet. You had a problem with
18 that?

19 A. I did.

20 Q. Right. And after -- And you took those concerns to
21 her. Right? Initially.

22 A. I did.

23 Q. Initially?

24 A. Yes, sir.

25 Q. And you were assured after taking these concerns to

EDDIE WILLIAMS: BY MR. DELANEY

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1 her that there was nothing more going on and they were just
2 friends; is that correct?

3 A. I had instructed her that that's all that I wanted
4 them to be were just a friendship and no relationship.

5 Q. Right. And at that time, that's when Minor led you
6 to believe at that time that this was just a friendship.
7 There was nothing more. Correct?

8 A. Yes, sir.

9 Q. Okay. But later you would learn Minor wasn't being
10 truthful with you about that; is that right?

11 A. Minor told me, you know, no matter what, eventually
12 they were going to be together.

13 Q. Well, before - backing up a little bit, before Minor
14 told you was going to do what she was gonna to do, you had
15 discovered things along the way to concern you. Correct?

16 A. Correct.

17 Q. Assured there was a friendship, and then you would
18 discover things that would lead you to believe that this
19 was something more. Correct?

20 A. Correct.

21 Q. Okay. And she was still interested in this boy in a
22 way that you didn't approve of. Correct?

23 A. That's correct.

24 Q. And the lies continued to pile up from there didn't
25 they?

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1 A. She did continue to like the boy, yes.

2 Q. And you would tell her not to have any contact with
3 this boy outside of church. Right?

4 A. Not other than a friendship. Yes, sir.

5 Q. Right. You saw I guess texts, emails, things of that
6 nature?

7 A. I did see texts yes, sir.

8 Q. Okay. So at some point, you need some help with
9 this situation; is that right?

10 A. Yes, sir.

11 Q. So you go to Stephen Berry for that help. Correct?

12 A. That's correct because he was a youth pastor.

13 Q. Correct. And Stephen helps you doesn't he?

14 A. Yes, sir. We did have a meeting with J.S. .

15 Q... Well before the meeting with J.S. when you first came
16 and talked to him, he talked to J.S. on his own didn't he?

17 A. Yes, sir.

18 Q. Talked to Minor one on one on her own. Correct?

19 A. I'm not sure about that.

20 Q. Okay. He then would give you an update about who he
21 talked to. Correct?

22 A. The only update that I got is when we had a
23 conversation with Stephen in his office and J.S. .

24 Q. Okay. But going before that meeting in the office
25 after he talked to J.S. the first time, you don't know if

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1 he talked to Minor or not, it still appeared to you or you
2 were still getting information that Minor was still doing
3 things, having contact with this boy, and you went to
4 Stephen Berry again about that; is that correct?

5 A. That's correct.

6 Q. Okay. And at this time is when he had you all to come
7 in to, I guess, the church and sit down; is that correct?

8 A. Yes, sir.

9 Q. Okay. And that's you, J.S. Stephen Berry?

10 A. Yes, sir.

11 Q. Is Minor at that evening as well?

12 A. I can't recall if she was or wasn't.

13 Q. Okay. And at that meeting, I guess you get some
14 things off your chest; is that correct?

15 A. Yes, sir. I tell J.S. , you know, I think he is a
16 really good guy. I don't know anything that he's did
17 personally. Seemed to have a good head on his shoulders.
18 It's just that he was beginning college; Minor was, you
19 know, was going to be starting high school and just the age
20 difference and the maturity levels, they just needed to be
21 friends and no relationship.

22 Q. And after that meeting, you said things started to
23 slow down a little bit from what you saw?

24 A. Yes, sir.

25 Q. Okay. But then you started discovering some more

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1 things. Correct?

2 A. Yes, sir.

3 Q. Okay. And that's when you went back to Stephen Berry
4 for some help again. Correct?

5 A. I called Stephen and advised him that I wanted to
6 speak to J.S. 's parents because of the issue.

7 Q. Right. And Stephen at that time said no, I will go
8 speak to - I have some relationship connection to his
9 parents, I'm going to go talk to them; is that right?

10 A. Stephen said that he was related to his parents and
11 that he would address the situation.

12 Q. Right. And from your understanding, he did that?

13 A. Yes, sir. He said that he did.

14 Q. He kept you updated about that?

15 A. He did let me know yes, sir.

16 Q. Okay. And for I guess all intents and purposes after
17 that things seemed to be cooling out; is that correct?

18 A. Yes, sir.

19 Q. Okay. But you had I think going back to what you had
20 testified to a little earlier, at some point Minor comes
21 to you and tells you I'm going to do what I want to do with
22 this relationship; is that right?

23 A. She didn't say it that way. No, sir.

24 Q. She said you weren't going to stop her from at some
25 point if she wants to be in this relationship, she is going

EDDIE WILLIAMS: BY MR. DELANEY

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1 to be in it. Correct?

2 A. What I said is I said that Minor came to me, said
3 that she loved him and cared for him and she was eventually
4 going to be with him no matter what and I couldn't control
5 it forever.

6 Q. Throughout the year 2010 into 2011, Minor's mother
7 wasn't playing a very active role in her life. Correct?

8 A. No, sir. She was beginning to come back into her
9 life.

10 Q. Okay. Minor had a lot of issues as a result of her
11 mother not being in her life; is that correct?

12 A. I wouldn't say that's correct. No, sir.

13 Q. You wouldn't say that's correct?

14 A. No, sir. I never seen a lot of issues with Minor.

15 Q. And I think you had testified a little earlier that
16 prior to 2010, she was a well behaved girl; is that
17 correct?

18 A. For the most part, yes, sir. She was an average
19 child.

20 Q. Okay. During this time you found out Minor was
21 cutting herself. Right?

22 A. I did see marks yes, sir.

23 Q. And that would be her arms?

24 A. Yes, sir.

25 Q. And her legs?

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1 A. I didn't see any marks on her legs.

2 Q. And were you aware that Minor was cutting herself
3 prior to May of 2010?

4 A. No, sir.

5 Q. You weren't aware that she was cutting herself prior
6 to the time that Mr. Berry moved to [REDACTED]?

7 A. I don't recall seeing any injuries resulting in that
8 no, sir.

9 Q. And during this time, you all were seeing a family
10 counselor. Right?

11 A. Yes, sir. We were seeing a family counselor in
12 relation to supervised visitations for her mother, myself
13 and Minor and her two brothers because her mother was
14 coming back into her life and we were Kim Roseborough for
15 that.

16 Q. And so you would spend time with Ms. Roseborough
17 talking about family issues, problems, those type of
18 things; is that correct?

19 A. We would talk about how we were going, you know,
20 handle visitation or when were we going to do visitation
21 with their mother and who would supervise.

22 Q. To make that transition, I guess, for her mother to
23 come visit.

24 A. Eventually to where she could start getting her
25 children on weekends like she should.

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1 Q. Okay. And you all were going to a family counselor
2 before May of 2011; is that correct?

3 A. We had been - After the divorce, we went to the
4 counselor for quite a few years and then it got to a point
5 to where Ms. Roseborough said that we were fine that we
6 didn't need to come unless something changed.

7 Q. There were a lot of arguments at your house. Correct?

8 A. It depends on what time frame.

9 Q. Well, 2010 and 2011, there were a lot of arguments.
10 Correct?

11 A. We did have quite a few arguments yes, sir.

12 Q. Minor would argue with you?

13 A. Yes she would.

14 Q. With her grandmother?

15 A. Yes she would.

16 Q. Your mother?

17 A. Yes, sir.

18 Q. Okay. And these would be arguments before May of
19 2010, correct, these arguments would happen?

20 A. They may argue but it wouldn't - I mean, I don't
21 recall seeing any physical arguments or screaming and
22 hollering like we experienced after that. You know, we
23 would get into a small argument. You know, it wasn't
24 nothing major not like we were seeing later on.

25 Q. Now some of these arguments would get physical.

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1 Correct?

2 A. Yes, sir. After the late summer of 2010, yes, sir.

3 Q. Minor would hit on you?

4 A. Yes, sir.

5 Q. Minor would hit on her grandmother?

6 A. Yes, sir.

7 Q. She would be out of control, wouldn't she?

8 A. At points yes, sir.

9 Q. Now, Minor's relationship with her mother changes in
10 March of 2011. Correct?

11 A. Probably about late year yes, sir.

12 Q. After these allegations were made by Minor, her
13 mother began to play a more active role in her life didn't
14 she?

15 A. Her mother had been trying to play a role. As I said,
16 we had been going to the counselor doing supervised
17 visitations with the counselor.

18 Q. But you testified - You testified under oath in a
19 proceeding regarding this matter before. Correct?

20 A. Yes, sir.

21 Q. Okay. And didn't you testify before under oath that
22 in March of 2011 after these allegations, her mother
23 started playing a much bigger role in her life?

24 A. Okay. I can't recall when I said then.

25 Q. You can't recall? Let me see if I can find that.

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1 A. I know that I did say that her mother did start
2 playing an active role in their lives as opposed to what
3 she was.

4 Q. Right. And that coincided around the time that these
5 allegations were made. Correct?

6 A. Again, I will say that we were going to the counseling
7 and, you know, in the late summer of 2010 regarding the
8 supervised visitations.

9 MR. DELANEY: May I approach, Your Honor.

10 Q. Now, Mr. Williams, I'll back up for a second.

11 If you will look here on Page 174, Line 14 and 15.

12 What was your answer?

13 A. "Now her mother is playing a more active role in her
14 life than she was prior to this taking place."

15 Q. Thank you. Now, Mr. Williams, you testified to some
16 conversations that you had with Stephen Berry. Correct?

17 A. That's correct.

18 Q. Now you left out a lot of these conversations. You
19 left out a lot of conversations that you've had with him
20 didn't you?

21 A. No, sir.

22 Q. You didn't?

23 A. No, sir.

24 Q. Didn't you have a number of conversations with Stephen
25 Berry regarding your daughter's behavior?

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1 A. No, sir.

2 Q. And this didn't start after the time that he started
3 helping you keep Minor and J.S. apart.

4 A. Could you repeat the question, please.

5 Q. After - You had testified that 2009, the end of 2009
6 you came to Mr. Berry, right, and wanted some help with
7 your daughter about trying to keep her apart from this
8 older guy. Correct?

9 A. Correct.

10 Q. Okay. And he helped you with that. Right?

11 A. He did.

12 Q. Okay. And after that time, going into 2010, you
13 continued to go to Mr. Berry for help, advice, regarding
14 problems you were having with your daughter didn't you?

15 A. No, sir.

16 Q. You never did?

17 A. I don't recall. I do recall one time called him and
18 asking him to speak to Minor concerning her attitude
19 towards her brothers and that would have been probably the
20 spring of 2010.

21 Q. So now you do remember one time that you said you
22 called him in the spring of 2010, and you called him
23 regarding arguments Minor was having with her brothers and
24 you wanted to see if Stephen could help. Correct?

25 A. It wasn't a argument it was just her attitude.

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1 Q. Attitude.

2 A. Attitude. Yeah.

3 Q. Now didn't you also call Mr. Berry after there would
4 be these fights where Minor would get physical at the
5 house. You called him those times, didn't you?

6 A. No, sir. I don't recall that.

7 Q. You don't recall that?

8 A. No, sir.

9 Q. Do you recall your mother calling Mr. Berry?

10 A. I can't recall whether she did or didn't.

11 Q. Would Mr. Berry ever come up to the house when you
12 were there and sit with you and Minor and talk to you all?

13 A. I don't recall any no, sir.

14 Q. You don't recall any of those things happening?

15 A. No, sir.

16 Q. But what you recall mainly is these I guess three
17 conversations that you had with him where you would tell
18 him, hey I'm hearing some things. Don't be coming by
19 unless I'm here. Something to that effect. Correct?

20 A. Correct.

21 Q. But nothing else?

22 A. I don't recall him coming up and just sitting and
23 talking with us no, sir.

24 Q. But what you do remember, Mr. Williams, is this. You
25 remember sometime in the summer of 2010, that you were

EDDIE WILLIAMS: BY MR. DELANEY

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1 hearing things, you were getting some calls from your
2 mother. Right?

3 A. Correct.

4 Q. And saying Stephen was over at the house, something to
5 that effect?

6 A. Yes, sir. But it wasn't always from my mother. It
7 was from my sons as well.

8 Q. Your sons as well?

9 A. Yes, sir.

10 Q. Okay. And your mother, she lives right - as we heard
11 right in front of your house. Right?

12 A. Well I say front. My house is turned like this on
13 [REDACTED].

14 (WITNESS DEMONSTRATED.)

15 A. And my mother's house is like so.

16 Q. Uh-HUH.

17 A. And I consider the front as being - because the front
18 of [REDACTED] is this way, so you know, I consider
19 that to be the front, that's where I'm referring to.

20 Q. Well she lives right - Because you got [REDACTED], she
21 lives right there off of [REDACTED]. Correct?

22 A. That's correct.

23 Q. And that's her, the front of her house faces [REDACTED]
24 [REDACTED]. She's got a screened in porch in the back,
25 back to her house?

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1 A. Correct.

2 Q. Okay. And that screened in porch, that looks directly
3 - you know, that's a direct line of sight right to your
4 house. Correct?

5 A. That would be correct.

6 Q. Okay. And the distance is what, a couple hundred
7 yards maybe. Something like that?

8 A. It is. It's not that far.

9 Q. Okay. So you're getting these reports. Correct?

10 A. Yes, sir.

11 Q. Okay. And you're saying the only conversations you
12 remember is one when you go to Stephen the first time and
13 say, hey, you know, I'm concerned, and at that point you
14 say it keeps happening. You keep getting these calls.
15 Correct?

16 A. Correct.

17 Q. And then you go to Mr. Berry again to address the
18 situation. Correct?

19 A. That's correct.

20 Q. Okay. And then it happens again. Right?

21 A. Correct.

22 Q. And you address the situation again. Correct?

23 A. That is correct.

24 Q. Okay. And it's your testimony to this court at no
25 time in this time that you are making any calls to him to

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1 have him come up to the house to help you --

2 THE COURT: Him who? Him who? You're pointing but
3 the record isn't going to show who you're pointing to.

4 MR. DELANEY: I'm sorry, Judge.

5 Q. Mr. Berry - At no point do you contact or call Mr.
6 Berry to have him come up to the house to help out with any
7 situations; that's your testimony?

8 A. I don't recall calling him other than the time that I
9 said that I did concerning Minor's attitude.

10 Q. Right. One time?

11 A. Yes, sir.

12 Q. One time regarding her attitude with her brothers?

13 A. Correct.

14 Q. And during this time you would never meet Mr. Berry at
15 your house in the driveway to talk with him about your
16 daughter?

17 A. I met with Stephen one time in the driveway but we
18 didn't discuss my daughter.

19 Q. And did you meet at any time at any other spots around
20 town as far as the Walmart parking lot, any other
21 parking lots around town to discuss your daughter?

22 A. No, sir.

23 Q. Okay. What you remember again are these three
24 conversations. Correct?

25 A. Yes, sir.

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1 Q. Okay. And as we've heard you were a police officer.

2 Correct?

3 A. Correct.

4 Q. And you were with the Union Public Safety Department?

5 A. That's correct.

6 Q. You've got lots of law enforcement training?

7 A. Correct.

8 Q. You have arrest powers?

9 A. Certainly.

10 Q. You're familiar with the offense of trespassing?

11 A. Correct.

12 Q. Okay. And you're familiar with what it takes to
13 charge someone with trespassing?

14 A. That's correct, if jurisdiction presides.

15 Q. Right. And that's - The trespass, that usually
16 requires some type of notice to be given where you tell
17 someone, hey you can't be on my property or don't come on
18 my property. Correct? That's notice.

19 A. That's correct.

20 Q. Okay. And you know all the detectives, officers here
21 in town don't you?

22 A. I know most of them.

23 Q. Okay. And, Officer Williams, you said that you had an
24 attitude change about Minor going over to Stephen's house;
25 is that correct?

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1 A. That would be correct.

2 Q. Okay. And this was - This attitude change occurred
3 around the fall of 2010. Does that sound about right?

4 A. Yes, sir.

5 Q. Okay. And that was the fall of 2010 your attitude
6 changed about Minor going over to the Berry residence.
7 Correct?

8 A. The later yes, sir.

9 Q. Okay. And you also gave a statement in this case; is
10 that correct?

11 A. Yes, sir.

12 Q. Okay. And you gave your statement to the
13 investigators in March of 2010; is that right?

14 A. I don't recall what actual date I give that statement.

15 Q. Okay. Shortly - Would it be shortly after the
16 allegations were made by Minor you gave a statement?

17 A. Yes, sir.

18 Q. And in that statement, you talk about the concern that
19 you had regarding Mr. Berry. Correct?

20 A. That's correct.

21 Q. And you said that this concern had preceded, and if I
22 tell you you gave this statement, and Minor made her
23 allegations in mid-March, does that sound about right,
24 2010?

25 A. I know it was March. I'm not sure of the actual year.

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1 Q. You would have gave your statement then in March of
2 2010; is that correct?

3 A. I know it was in March. I'm not sure what year I gave
4 it without seeing it.

5 Q. Okay.

6 MR. DELANEY: If I may approach, Your Honor.

7 THE COURT: Yes, sir.

8 Q. What dates do you have on the statement there?

9 A. It appears to be the 25th day of March 2000, and it's
10 got a one and a zero and then there's a one so --

11 Q. Yeah, I'm sorry. It's 2011. Right? So March 25,
12 2011?

13 A. I believe that would be an eleven. It looks like the
14 zeros.

15 Q. Okay. Yeah and I got a little ahead of myself. March
16 25th, 2011, right. And in your statement you talked about
17 the concern that you were having, and this is going back
18 about five months, you said in your statement about five
19 months prior to you making the statement you had these
20 concerns. Correct?

21 A. Yeah. I said about. Yes, sir.

22 Q. Okay. About five months prior. So that would go back
23 so if you made the statement in March, March the 25th of
24 2011, that would go - five months would go back into the
25 fall of 2010; is that correct?

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1 A. Yes, sir.

2 Q. So in the fall of 2010 you had these concerns.

3 Correct?

4 A. I'm sorry. I coughed, could you repeat --

5 Q. You had concerns going back to the fall; is that
6 right?

7 A. Yes, sir.

8 Q. Okay. And you've also testified, you told us about
9 these different conversations that you had with Mr. Berry.
10 Correct?

11 A. Correct.

12 Q. Okay. And in the statement that you wrote, you said
13 that you and you've already testified that you would get
14 information from your mother and your sons; is that right?

15 A. That's correct.

16 Q. Okay. And the information that you in your statement
17 you say that you were given is that your sons, when Mr.
18 Berry would get to the house, your sons would be out --
19 would go outside. They would be asked to go outside; is
20 that correct?

21 A. That's what I was told yes, sir.

22 Q. Okay. And they would be outside the house.

23 A. They would either be outside or they would be asked to
24 go into another room.

25 Q. Okay. And the information that was given to you is

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1 Mr. Berry would go into the bedroom and shut the door with
2 your daughter; is that right?

3 A. On some occasions. That's what I was told, yes, sir.

4 Q. That's the information that you had. Correct?

5 A. That's correct.

6 Q. Back to the fall of 2010? So it's your testimony that
7 and what you're telling this jury is that you knew Mr.
8 Berry was coming over to your house, having your sons at
9 times go outside the house. Correct?

10 A. That's correct.

11 Q. And then he would go in the house and go in the
12 bedroom with your daughter and shut the door; is that
13 right?

14 A. That's what I was told.

15 Q. And as a result of what you were told, you would then
16 have a conversation with Mr. Berry. Right?

17 A. That's correct.

18 Q. And all he would tell you and you would - then you
19 would say you would advise him and say, hey, don't come by
20 when I'm not there. Right?

21 A. That's what I would say. Out of respect, just to make
22 me aware of when you were coming by, you know, so that I
23 can be aware that you going there.

24 Q. This is a guy who was coming to your house when you
25 weren't there. Right?

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1 A. That's correct.

2 Q. Making your children, your two youngest sons go
3 outside the house. Right?

4 A. That's correct.

5 Q. And you were hearing he was going into the bedroom
6 with your fifteen-yea-old daughter. Right?

7 A. That's correct.

8 Q. And shutting the door. Right?

9 A. From what I was told.

10 Q. When you weren't there. Right?

11 A. No, sir.

12 Q. And you're a police officer. Right?

13 A. I am.

14 Q. And you've already heard the concern and the action
15 that you took when you saw your daughter having what you
16 felt was an inappropriate relationship with an eighteen-
17 year-old. Correct?

18 A. That's correct.

19 Q. Mr. Berry is forty-one years old. Right?

20 A. Yes, sir. But Mr. Berry was also a youth pastor
21 who's supposedly called by God to be there to teach
22 children biblical, to teach them right from wrong and teach
23 them what to do. He is suppose to be there helping
24 children. He's not suppose to be there to use his position
25 to take advantage of children.

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1 Q. Mr. Williams, in spite of this attitude change you
2 had, these concerns, these conversations, Minor would
3 continue to be able to go over to the Berry residence.
4 Correct?

5 A. Not after what I heard. Not as much. No, sir.

6 Q. Not as much?

7 A. No, sir.

8 Q. She continued to be able to go over to the Berry
9 residence through the spring of 2011. Right?

10 A. I didn't say she didn't go.

11 Q. She went over there every morning for school didn't
12 she?

13 A. Not that I recall.

14 Q. You don't recall her going over there every weekday
15 morning?

16 A. No, sir.

17 Q. Right up until the time she made these allegations?

18 A. No, sir.

19 Q. And didn't you just weeks prior to these allegations
20 being made, didn't you ask Mr. Berry to pick up Minor from
21 the school?

22 A. I don't recall doing that.

23 Q. You don't recall that?

24 A. No, sir.

25 MR. DELANEY: The Court's indulgence one moment.

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1 (PAUSE AT 10:35 A.M..)

2 Q. Now, at no time during any of this did you call,
3 contact, a magistrate judge; is that correct?

4 A. No, sir.

5 Q. To get any type of a restraining order?

6 A. No, sir.

7 Q. No, and as we've heard, no trespassing charge?

8 A. No, sir.

9 Q. You never went to the pastor at the church, have any
10 conversations with him?

11 A. No, sir.

12 Q. You never told - You said you were good friends with
13 Stephen's brother?

14 A. Yes, sir.

15 Q. Never raised any concerns with him. Correct?

16 A. Never did.

17 Q. And you were in this family counseling with Kim
18 Roseborough; is that correct?

19 A. That's correct.

20 Q. You never raised any concerns. You never said
21 anything to her about this. Correct?

22 A. No, sir. Again, he was a pastor that's suppose to
23 teach young people biblically, and suppose to be able to
24 show our young people to do right and wrong. He's not
25 suppose to be there taking advantage of young people,

EDDIE WILLIAMS: BY SOLICITOR ANTHONY

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1 causing their attitudes to change and their behaviors to
2 change because of acts that he is doing.

3 Q. Mr. Williams, you want to believe your daughter don't
4 you?

5 A. I have no reason not to.

6 Q. It's not tough to believe her?

7 A. No, sir.

8 MR. DELANEY: No further questions.

9 THE COURT: Redirect.

10 REDIRECT EXAMINATION

11 EDDIE WILLIAMS BY SOLICITOR ANTHONY:

12 Q. The efforts that Minor r's mother made, started making,
13 trying to having more interaction with her and her sons,
14 that started back in 2010; is that correct?

15 A. I believe so. Yes, sir.

16 Q. The early part of 2010?

17 A. Yes, sir.

18 Q. And it was at that point in time that the whole family
19 started going back to Ms. Roseborough's; is that correct?

20 A. Yes, sir.

21 Q. Okay. And what was the visitation arrangements for
22 Minor being able to see her mother during 2010?

23 A. Initially we started off with Kim would supervise
24 visitations with their mother and the children and then it
25 got to be to where I would stay in. And then after that,

EDDIE WILLIAMS: BY SOLICITOR ANTHONY

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1 we would meet on weekends at various places and I would let
2 their mother see the children. I would be at a distance
3 supervising and all. You know, watch her beginning to play
4 a more active role and be there and love the kids.

5 Q. And what eventually happened with the visitation
6 arrangement between your children and their mother?

7 A. It eventually to where it is now. Their mother gets
8 them every other weekend. Even if it's not, you know, we
9 work well together. We communicate well. She can get the
10 kids whenever she needs to.

11 Q. And how long has it been like that?

12 A. Probably approximately two years.

13 Q. Okay. So is that visitation situation that had been
14 in a process of change, it actually changed over about the
15 time roughly that Minor came forward.

16 A. That's correct.

17 Q. Is that correct?

18 A. Yes, sir.

19 Q. To your knowledge, did one thing - did her coming
20 forward have anything to do with the change in the
21 visitation situation?

22 A. No, sir.

23 Q. And just so we clear on the timeframe, did you ever
24 have any type violent, physical behavior from Minor before
25 Mr. Berry moved up to Berry Farm Road, or [REDACTED]?

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1 A. No, sir.

2 Q. Okay. Did Minor , did she ever back when you all
3 were going to New Life and you started noticing this
4 behavior between her and J.S. did she ever deny to
5 you that she liked J.S. ?

6 A. Not one time.

7 Q. Okay. So she always told you, I like this boy?

8 A. Correct.

9 Q. Okay. And - Well if I could have one moment.

10 (PAUSE.)

11 Q. Just if you would explain why it was that you never
12 went and did any - you know, you never went and got a
13 restraining order against Mr. Berry. You never reported
14 him to the police. You never trespassed him. Why did you
15 never do anything like that?

16 A. I never did that because him being a pastor, me
17 being a police officer, I didn't feel the need to do that.
18 I had some concerns. I addressed them to Mr. Berry. I
19 asked him to call and make me aware when he was coming, you
20 know. I got more concerned when I heard about and he
21 verified the swimsuit issue with him coming in swimming
22 trunks with no shirt. Again, he is a pastor who is put in
23 a place that's preaching to our children, teaching them
24 right from wrong. Teaching them what they should be doing
25 and not what they shouldn't be doing. It's hard for me to

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1 believe that a man is called to preach and he uses his
2 position to attack certain kids that he knows that he can
3 and physically, sexually abuse them.

4 Q. And did it ever occur to you during this time frame
5 that you testified about that that's what was actually
6 going on?

7 A. No, sir.

8 Q. All right.

9 SOLICITOR ANTHONY: Thank you. That's everything.

10 THE COURT: Recross?

11 MR. DELANEY: No, Judge.

12 THE COURT: All right. You can step down. We
13 appreciate your time. Thank you.

14 (WITNESS LEAVING WITNESS STAND.)

15 THE COURT: Members of the jury panel, we'll take a
16 short refresher break before we switch out witnesses anyway
17 so this is a good time to take a short break.

18 (JURY EXITS COURTROOM AT 10:42 A.M..)

19 (COURT IN RECESS AT 10:42 A.M..)

20 (COURT BACK IN SESSION AT 10:58 A.M..)

21 THE COURT: Thank you. Take your seats.

22 We're waiting on Mr. Delaney.

23 (PAUSE/MR. DELANEY REENTERS COURTROOM.)

24 THE COURT: All right, bring in the jury.

25 (JURY REENTERS COURTROOM AT 10:59 A.M..)

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1 THE COURT: Call your next witness.

2 SOLICITOR ANTHONY: The next witness would be Ms.

3 Tucker.

4 THE CLERK: Ms. Tucker, come up here. Place your left
5 hand on the Bible and raise your right hand.

6 (WHEREUPON: SHERRIE TUCKER,
7 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

8 DIRECT EXAMINATION

9 SHERRIE TUCKER BY SOLICITOR ANTHONY:

10 Q. Would you state your name please?

11 A. I'm Sherry Tucker.

12 Q. And, Ms. Tucker, where do you live?

13 A. At [REDACTED] in Jonesville.

14 Q. And are you married?

15 A. Yes, sir.

16 Q. Who are you married to?

17 A. Ron Tucker.

18 Q. And do you have any children?

19 A. Yes, sir.

20 Q. What are your two children's names?

21 A. Eddie Williams and Dawn Pridemore

22 Q. What's your relation to Minor

23 A. I'm her grandmother.

24 Q. And during the time that Minor and her brothers were
25 growing up, what was your role in helping raise her and her

SHERRIE TUCKER: BY SOLICITOR ANTHONY

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1 brothers?

2 A. To take care of them while their daddy was working.

3 Q. And approximately how long have you had that role in
4 taking care of Mr. Williams' children?

5 A. I would say eight, maybe eight and a half years.
6 Eight to nine at least.

7 Q. Okay.

8 A. I'm not sure of the exact.

9 Q. Okay. And where does Mr. Williams live related to
10 where you live?

11 A. He lives behind me.

12 Q. What road does he live on?

13 A. He lives on [REDACTED].

14 Q. Okay. And are you able to see his house from your
15 house?

16 A. Yes, sir, I am.

17 Q. And what part of your house did you need to be in to
18 see his house?

19 A. Well, the kitchen area or the screen porch on the
20 back.

21 Q. Okay. Well I want to take you now to the spring of
22 2010. Did you come to meet Mr. Berry back in the spring of
23 2010?

24 A. Yes, sir, I did.

25 Q. And had you ever met him before?

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1 A. No, sir.

2 Q. Do you go to church at New Life where Mr. Williams and
3 his family goes?

4 A. No, sir.

5 Q. Okay. And how did you come to meet him?

6 A. He came by my house on a Friday afternoon and
7 introduced his self.

8 Q. Did he have anyone with him?

9 A. He had three girls with him, his children.

10 Q. And who did he want to see?

11 A. Minor . But she hadn't got home from school.

12 Q. And so what did he do there?

13 A. He waited on my back porch until she got there. We
14 all were out on the back porch.

15 Q. And did Minor arrive?

16 A. Yes, sir.

17 Q. Okay. And what happened between him and Minor that
18 day that you observed?

19 A. Well he just, you know, was talking casual that day.

20 Q. All right. Well I want --

21 A. That's the first time I had met him.

22 Q. Well I want to take you to a week or two down the road
23 from that. Did you hear anything from Mr. Berry about
24 wanting Minor to go somewhere with him?

25 A. Yes, sir.

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1 Q. Okay. Where did he want Minor to go?

2 A. Down below me to a house he was planning on buying.

3 Q. And what was your initial reaction to that?

4 A. No.

5 Q. What did you eventually decide to do in regards to
6 letting Minor go with Mr. Berry?

7 A. Well Minor kept on and I let her go.

8 Q. Okay. And how did she get picked up? How did they
9 get together that day, Mr. Berry and Minor ?

10 A. I can't remember if he picked her up or if she walked
11 that day but he did bring her back.

12 Q. Okay. Was anybody else with them ---

13 A. No, sir.

14 Q. --- when he brought her back? Okay.

15 And then did things kind of develop as we move into
16 the summer of 2010 that Mr. Berry would come to your home?

17 A. Yes, sir.

18 Q. Okay. And how often would he come?

19 A. Well, he came maybe twice a week. Sometimes once.

20 Q. Okay. And when he would come, what was the purpose of
21 him being there?

22 A. He said he was coming to see how Minor was doing.

23 Q. All right. Then moving on into the summer, did you
24 notice Mr. Berry up at Mr. Williams' house?

25 A. Yes, sir, I did.

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1 Q. And where would Mr. Williams be when you noticed Mr.
2 Berry up there?

3 A. At work.

4 Q. And when you noticed this behavior starting, what
5 would you - what would you start doing in response to it?

6 A. I would call up to their house and tell them to tell
7 him that he needed to leave, that he shouldn't be there
8 unless their daddy was there.

9 Q. Okay. Would you also call Mr. Williams?

10 A. And then I would hang up and call their daddy and tell
11 him that he was up at the house.

12 Q. Okay. Now, from the summer of 2010 on, when you would
13 see Mr. Berry up at Mr. Williams' house, what time of day
14 would you normally see him?

15 A. It would be late afternoon. He came once or twice in
16 the morning, but most of the time it was in the late
17 afternoon.

18 Q. Okay. And would you notice, after he would come to
19 the house, would you notice the boys sometime after that?

20 A. Yes, sir. They would come outside and start playing
21 football or whatever. Just doing something.

22 Q. Okay. And you said that when you would see him up
23 there, that you would make a call to the house?

24 A. Yes, sir.

25 Q. - Okay. And what would Mr. Berry normally do after you

SHERRIE TUCKER: BY SOLICITOR ANTHONY

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1 made the call up there?

2 A. Well, one of the boys would tell him and he would
3 leave but it wouldn't be, you know, right then. Maybe
4 five, ten, fifteen minutes.

5 Q. And would you normally - Once it would get dark, what
6 would you normally do in regards to where you would be at
7 your home?

8 A. Well if it was dark, normally we were inside.

9 Q. Okay. And would you watch and pay much attention to
10 Mr. Williams' house in the night time as you would do in
11 the day time?

12 A. No, sir.

13 Q. I want to ask you about a particular incident in the
14 summer of 2010. Can you recall a time that the three
15 children went swimming?

16 A. Yes, sir, I do.

17 Q. Okay. And did you observe them coming back to Mr.
18 Williams' house?

19 A. Yes, sir, I did.

20 Q. All right. And what was Minor wearing that day?

21 A. Her bathing suit with a towel around her when they
22 came back.

23 Q. Okay. And do you recall what kind of bathing suit it
24 was?

25 A. I think it was a two piece.

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1 Q. Okay. And where did you see the three children go
2 after they had been swimming?

3 A. They went home.

4 Q. Okay.

5 A. I talked to them for just a few minutes from my porch
6 as they were in my yard going home.

7 Q. Okay. And then once they got back to Mr. Williams'
8 house, what did you observe?

9 A. Stephen Berry coming up [REDACTED], getting out
10 of his car, and I'm sure walking right in because he didn't
11 have time to knock or anything. Nobody could have answered
12 the door. He had on a pair of swimming trunks and nothing
13 else.

14 Q. Okay. Did he have a shirt on?

15 A. No, sir.

16 Q. And what did you do when you saw him go in the house?

17 A. I called the house and P.W. answered and I told him
18 to tell him they needed to tell him that he needs to leave
19 now or I'm calling the law.

20 Q. And did you call anybody else?

21 A. I called their daddy on his job.

22 Q. And did you see - What happened after you made the
23 call?

24 A. Well after A.W. told - To me he left very quick
25 because he normally didn't leave that quick, but that day

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1 he did when I guess mentioned law.

2 Q. Did you just during the times that these incidents
3 that Mr. Berry was coming up there, did you ever see him
4 pick Minor up for church?

5 A. Yes, sir.

6 Q. Okay. What did you notice about the time he'd come
7 pick her up for church?

8 A. I thought it was early. If you were going at say
9 9:30, eight and a little after eight it's early to me.

10 Q. Okay. On Sunday morning?

11 A. Yes, sir.

12 Q. Okay. And then did you notice anything about when
13 he'd come get her in the afternoon?

14 A. Sometimes around four, 4:30.

15 Q. Did you ever see him pick up the boys?

16 A. No, sir. Never.

17 Q. Well after Mr. Berry started coming to your house and
18 coming to Mr. Williams' house, did you notice any kind of
19 change in the way Minor behaved?

20 A. Yes, sir, we did.

21 Q. All right. And how did her behavior change?

22 A. Well she was combative and she just didn't want to
23 follow the rules and she just looked like something was
24 basically I guess bothering her. I don't know but I do
25 know we had a problem during that time.

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1 Q. Okay. Well after March of 2011, did you make any
2 observations about any changes in her behavior then after
3 she made her disclosure?

4 A. Yes, sir, we did. Big time.

5 Q. What did you notice changed about Minor's behavior?

6 A. Her whole demeanor, everything. She was our Minor
7 again. She was - She went back to being Minor.

8 Q. Okay. Well I want to take you now to the 22nd of
9 March of 2011. Did you see J.B. that day?

10 A. Yes, sir, I did.

11 Q. And where did you see her?

12 A. She came to my house.

13 Q. Did anybody come with her?

14 A. Yes, sir. She introduced him as her boyfriend,
15 Austin.

16 Q. And without going into what she said, what was her
17 emotional condition when you saw her?

18 A. She was crying and very upset.

19 Q. Okay. All right. And who was she there to see?

20 A. Minor

21 Q. Okay. And was Minor there when she got there?

22 A. No, sir.

23 Q. Did Minor get home from school that day?

24 A. Yes, sir. She came maybe thirty minutes later from
25 school.

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1 Q. And what happened when Minor got home from school?

2 What did you observe go on between Minor and J.B. ?

3 A. The hugging and the kissing and crying. Not kissing,
4 I'm sorry. The hugging and crying.

5 Q. And did anybody else - Was there anybody else that you
6 saw there with Minor and J.B. that afternoon, a third
7 person, or an adult came?

8 A. Yes, sir.

9 Q. How did she get there?

10 A. I saw this van pull up on the side of the road on
11 [REDACTED] and a lady got out and J.B. and Minor went over
12 to her van and talked to her. I did not know the lady.

13 Q. And then where did the three of them go?

14 A. They went up to Minor's house.

15 Q. And did they talk up there for a while?

16 A. Yes, sir, they did.

17 Q. And then eventually what did J.B. and the lady do?

18 A. Well J.B. came back to my house but the lady got in
19 her van and left.

20 Q. And then did J.B. leave from your house?

21 A. Yes, sir. Well, Austin had stayed at my house. He
22 didn't go with them so she come to tell him to come on, I
23 guess.

24 Q. Okay. All right. I want to show you what's been
25 marked as State's Exhibit Number One and State's Exhibit

SHERRIE TUCKER: BY SOLICITOR ANTHONY

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1 Number Two. I'd ask that you look at those photos and just
2 tell me if you recognize what those are pictures of?

3 A. Yes, sir, I do.

4 Q. All right. What are those pictures of?

5 A. Okay. This one is Eddie's home --

6 Q. When you said this one, are you talking about number --

7 A. Two, is it?

8 Q. That's Number Two. That's right.

9 A. Okay. That's Eddie and Minor's home. And the One is
10 my backyard.

11 Q. Okay. All right. And is that how [REDACTED], Mr.
12 Williams' house and your house look?

13 A. Yes, sir. This is [REDACTED] that leads to
14 Minor's home. This little road here is my backyard where
15 the white car is parked.

16 Q. Okay. All right. And those are accurate depictions?

17 A. Yes, sir. They are.

18 SOLICITOR ANTHONY: All right. We moved One and Two
19 into evidence.

20 MS. INZERILLO: No objection, Your Honor.

21 THE COURT: In without objection.

22 SOLICITOR ANTHONY: And ask to publish.

23 THE COURT: You may.

24 (WHEREUPON: STATE'S EXHIBIT NUMBERS ONE AND TWO
25 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE, PUBLISHED TO

SHERRIE TUCKER: BY SOLICITOR ANTHONY

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1 THE JURY.)

2 Q. All right. I'm going to show you Number Two first.

3 All right. This is - Which view is this, Mrs. Tucker?

4 A. That's Eddie's home from my back porch.

5 Q. Okay. What is this house right here?

6 A. That's Eddie's.

7 Q. Okay. All right. That's -

8 A. And Minor 1's.

9 Q. Okay. That's where Mr. Williams lives. All right.

10 And then Number - I'll show you now Number One and
11 this is just a wider view. Okay.

12 What are we looking at? What road is this?

13 A. That's [REDACTED].

14 Q. Okay. And then your house is over to the left.

15 Correct?

16 A. Yes, sir.

17 Q. All right. And so you can barely see it but this

18 structure I've got the pointer on right there, what is

19 that? Is that the house right there?

20 A. I have trouble seeing and I can't make that out right

21 there. I don't think that's - That's the house, yes. I

22 see it now. I see the shutters.

23 Q. Okay. Right there?

24 A. That's Eddie's homes. Yes.

25 Q. Okay. And so the road just runs up past your house

SHERRIE TUCKER: BY MS. INZERILLO

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1 ----

2 A. Yes, sir.

3 Q. --- and then up to Mr. Williams' house?

4 A. Well it goes beyond his house too. It's a dead end
5 but it's not at his driveway. It goes on down a little
6 more.

7 Q. Okay.

8 SOLICITOR ANTHONY: If I could have one moment.

9 (PAUSE.)

10 SOLICITOR ANTHONY Thank you. That's everything on
11 direct.

12 MS. INZERILLO: May it please the Court.

13 THE COURT: Yes, ma'am.

14 CROSS EXAMINATION

15 SHERRIE TUCKER BY MS. INZERILLO:

16 Q. Good morning, Mrs. Tucker.

17 A. Good morning.

18 Q. I'm going to refer back to the pictures that Mr.
19 Anthony just showed you.

20 A. Yes, ma'am.

21 Q. And to be a little fair, --

22 May I approach the witness, Your Honor?

23 THE COURT: Yes, ma'am.

24 Q. I'm going to show you State's Exhibit One again.
25 That's the picture of the road.

SHERRIE TUCKER: BY MS. INZERILLO

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1 A. Uh-huh.

2 Q. That picture is a little bit misleading when we kind
3 of put it up here because actually it's a little, you can
4 actually see more clearly from your back porch to your
5 son's house; is that right?

6 A. Yes, ma'am. You can see more clearly than the
7 picture.

8 Q. Than what's in the picture. Right? Because when we
9 look at the picture on the screen it kind of looks a whole
10 bunch of trees are in the way and it's hard to see but --

11 A. And there aren't.

12 Q. Right. In actuality if I'm standing with you on your
13 back porch and I am looking at Mr. Williams' house, it's
14 more clear, it's more open space.

15 A. It's an open space straight to his home. It sure is.

16 Q. Okay.

17 A. No trees in the way from my screened porch.

18 Q. Okay. So you have a pretty good clear view.

19 A. Yes I do of his home.

20 Q. Okay. I don't think that was real clear from that --

21 A. That's true but from where my porch is, it's open
22 view. There is no trees. There's two trees that sit on
23 this side but to his home it's clear.

24 Q. And the trees that are in between your back porch and
25 his yard, those are kind of skinny trees? I mean, they're

SHERRIE TUCKER: BY MS. INZERILLO

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1 not real full trees.

2 A. They're not full grown. I mean, they're --

3 Q. So you can see through them.

4 A. You sure can.

5 Q. I mean the trees you can see through them. Okay. So
6 when you were testifying about you could sit on your back
7 porch and you could see what was going on, you have a
8 pretty clear idea to see what was going on?

9 A. Yes I do.

10 Q. Okay. Now, when Mr. Berry came to Eddie's house on
11 the day with his swimming trunks you say you saw him drive
12 up in his little car, pull in the yard; is that right?

13 A. Yes, I did.

14 Q. Okay. And when you saw him do that and go inside the
15 house, you picked up the phone and called the house?

16 A. I had to go inside and get the phone.

17 Q. Okay.

18 A. But then I dialed it.

19 Q. Okay. And then you called immediately I think one of
20 your grandsons?

21 A. Yes I did.

22 Q. Okay. And told him to tell Stephen to leave or you
23 were going to call the law on him?

24 A. Yes I did.

25 Q. Okay. And upon hearing that, Stephen pretty much left

SHERRIE TUCKER: BY MS. INZERILLO

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1 lickety split; is that right?

2 A. That day he left quicker than he had ever left.

3 Q. Okay. Pretty much you had seen the boys I think had
4 walked to the house because they had come with Minor back
5 from the pool party?

6 A. All three of them were together.

7 Q. And when he had left so quickly the boys actually
8 hadn't come back out in the yard; is that right?

9 A. When they went home?

10 Q. Uh-huh.

11 A. None of them had came back outside.

12 Q. Okay. And after that you said you called Eddie, your
13 son. Right?

14 A. I did.

15 Q. Okay. And you told him what you'd seen?

16 A. I did.

17 Q. And really it's fair to say your son is the law.
18 Right? I mean, he's a police officer.

19 A. That is his job yes it is.

20 Q. Okay. And so you had made him aware what you had
21 seen?

22 A. Yes I did.

23 Q. Okay.

24 A. But he's also their daddy and he should know.

25 Q. Sure. And when you called him about this, when you

SHERRIE TUCKER: BY MS. INZERILLO

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1 saw Stephen walk into that house, you didn't call Eddie and
2 say why don't you come over and see what's going on?

3 A. My instinct was I called the house as I normally did
4 to get him to leave.

5 Q. Okay. So that was your instinct?

6 A. Yes it was.

7 Q. Okay.

8 A. That's what I did. And I have always called their
9 daddy. My job was to protect these children and I tried to
10 protect my grandchildren and he introduced his self to me
11 as a preacher and I trusted him but I was let down.

12 Q. Okay.

13 A. Yes it does hurt.

14 Q. Okay. So let's talk about that. You met Mr. Berry as
15 a preacher.

16 A. He gave me his card the first day he came and said if
17 you ever need me, and so and so, and I thought I could
18 trust him.

19 Q. Okay. And you and Minor's father talked to Mr. Berry
20 about some problems that Minor was having?

21 A. We did talk to him. I called him one time.

22 Q. Okay.

23 A. Way before the swimming incident because I thought he
24 was a man of God.

25 Q. Okay. Because you all recognized that Minor was

SHERRIE TUCKER: BY MS. INZERILLO

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1 having some issues and you went to Mr. Berry for help.

2 A. I did call him yes I did.

3 Q. Okay. And you were aware that Mr. Williams had talked
4 to Mr. Berry and tried to get him to talk for Minor .

5 A. I'm not aware of what he may have done. I know I did
6 call him.

7 Q. Okay. So then you started seeing according to your
8 testimony Mr. Berry coming up to the house ---

9 A. Yes.

10 Q. --- in a way you didn't like?

11 A. Right.

12 Q. Okay. And you are Minor s grandmother. Right?

13 A. But I had also witnessed it. He had come to my house
14 a whole lot too.

15 Q. Okay.

16 A. But when he was - you know, at first in the beginning,
17 he was this man that was just concerned, but when it came
18 to you know, going up there, that wasn't right. Men don't
19 go where young girls are without a grown person there in my
20 opinion.

21 Q. Okay. And at no point did you sit down with your son
22 and say, I think we need to tell Mr. Berry not to come
23 around here anymore?

24 A. I don't know what Eddie has said to Mr. Berry. I know
25 I didn't but I can't answer for Eddie. I can answer for

SHERRIE TUCKER: BY MS. INZERILLO

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1 me.

2 Q. Okay. But at no point you didn't do that?

3 A. No. I did not do that.

4 Q. Okay. And at no point you didn't sit down with Eddie
5 and say isn't there something like a trespass notice or he
6 needs to stop coming around my granddaughter. Let's see if
7 we can put a trespass notice on him.

8 A. I never said the word trespass or anything. I mean,
9 we talked about it but I never used the word trespass
10 notice or anything.

11 Q. Okay. So you had these suspicions for a while. You
12 had this gut instinct as a grandma, I don't like this, but
13 you didn't do anything to stop it.

14 A. I did. I called and he would leave. I did what I
15 thought was right.

16 Q. Okay. And that's what you did, you called to make him
17 go; is that right?

18 A. And I even asked him if his wife knew he was coming up
19 there and he said no.

20 Q. Okay. And at no point did you tell Mr. Berry do not
21 come to my son's house anymore?

22 A. I don't tell anybody not to come to anyone else's
23 home. I can't do that. I answer for my home.

24 Q. Okay.

25 A. I don't know what Eddie did.

SHERRIE TUCKER: BY MS. INZERILLO

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1 Q. Okay. Mrs. Tucker, do you know a counselor named Kim
2 Roseborough?

3 A. Yes I do.

4 Q. Okay. She was Minor s, and I'm going to say Mr.
5 Williams' too, family counselor.

6 A. Yes, ma'am, that's right.

7 Q. And you went to maybe one or two sessions as part of
8 the family as well. Right? With Mrs. Roseborough.

9 A. I think I may have went once but it was a lot of years
10 ago.

11 Q. Okay. And you didn't mention any of these concerns to
12 Ms. Roseborough did you?

13 A. I think when I went he wasn't even in the picture. To
14 the best of my knowledge now because when I went it was
15 problems and they were put in there years and years ago
16 because of the divorce and that's why I went because I was
17 going to be a care giver and help with the children. But
18 to the best of my knowledge, that was way before this.

19 Q. All right. Now just a couple more questions, Mrs.
20 Tucker. You had described on direct the incident where Mr.
21 Berry wanted to pick up Minor at your house and initially
22 you told Minor you didn't want her to go but Minor
23 insisted that she wanted to go and kind of talked you into
24 it.

25 A. That's right.

A.W.

BY SOLICITOR ANTHONY

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1 Q. And then eventually you did end up letting her go?

2 A. I did but his family supposedly was there too..

3 Q. Okay. All right.

4 MS. INZERILLO: I have no further questions, Your
5 Honor.

6 THE COURT: Redirect.

7 SOLICITOR ANTHONY: One second, Judge.

8 (PAUSE AT 11:26 A.M..)

9 SOLICITOR ANTHONY: No redirect.

10 THE COURT: All right. You can step down. We
11 appreciate your time. You may be excused.

12 (WITNESS LEAVING WITNESS STAND.)

13 THE COURT: Call your next witness.

14 SOLICITOR ANTHONY: Next witness is A.W.

15 THE CLERK: Place your left hand on the Bible and
16 raise your right hand.

17 (WHEREUPON: A.W.

18 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

19 THE CLERK: Have a seat over there.

20 DIRECT EXAMINATION

21 A.W. BY SOLICITOR ANTHONY:

22 Q. Would you state your name, please?

23 A. A.W.

24 Q. A.W. , you might want to pull that microphone down
25 just a little bit. There. That might work a little

A.W.

BY SOLICITOR ANTHONY

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1 better. Okay.

2 A.W. , how old are you?

3 A. Fifteen.

4 Q. Okay. And where do you live?

5 A. [REDACTED].

6 Q. Okay. And who do you live with?

7 A. My father.

8 Q. All right. Who else lives with you?

9 A. My sister, Minor , and my brother, P.W.

10 Q. Okay. And do you also stay sometimes with somebody
11 besides your daddy?

12 A. Yes, sir.

13 Q. And who was that?

14 A. My Grandmother, Sherrie Tucker.

15 Q. And where does Mrs. Tucker live in relation to where
16 you live?

17 A. From my house down the hill.

18 Q. And back in the summer of 2010, was there anybody else
19 that would spend - anybody else that's related to you that
20 would spend time up at your house?

21 A. Yes, sir.

22 Q. And who was that?

23 A. M.P. my cousin.

24 Q. All right. M.P.

25 A. Yes, sir.

A.W.

BY SOLICITOR ANTHONY

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1 Q. All right. Well going to the summer of 2010, where
2 did you and your family go to church then?

3 A. New Life Baptist.

4 Q. And who was the youth pastor there?

5 A. Stephen Berry.

6 Q. And back in the summer of 2010, what happened in
7 regards to Mr. Berry coming to your house?

8 A. He moved.

9 Q. Okay. All right. And where did he move in relation
10 to your house?

11 A. From the city of Union to the country.

12 Q. Okay. And so it was a lot closer to where you all
13 lived?

14 A. Yes, sir.

15 Q. And after he moved up close to your house, what did he
16 start doing?

17 A. Coming to my house more often.

18 Q. And when - When in your experience and recollection,
19 when would he normally come?

20 A. While my dad's gone and mostly at night.

21 Q. All right. And do you remember him coming one time
22 when M.P. was there?

23 A. Yes, sir.

24 Q. And when he would come to the house, what would he
25 want to do?

A.W.

BY SOLICITOR ANTHONY

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1 A. He wanted to go see Minor and all in her room.

2 Q. Would he ever do anything else? Would he ever help do
3 anything else when he come up there?

4 A. He would help clean sometimes.

5 Q. And what - When he would come, would he ever ask you
6 and your brother to do anything?

7 A. Yes, sir.

8 Q. What would he want you and your brother to do?

9 A. Stay in the living room or go outside.

10 Q. Okay. And when he come to talk to Minor, where would
11 he want to talk to her?

12 A. In her room.

13 Q. And what would he do after the two of them went into
14 her room? What would he do?

15 A. ... the door.

16 MADAM COURT REPORTER: I'm sorry, Mr. Anthony. I
17 couldn't hear that remark.

18 Q. Could you repeat your answer please, A.W. .

19 A. He would shut the door.

20 THE COURT: You need to speak up just a little if you
21 would, young man.

22 Q. Now, on some of these occasions when he would come up
23 to your house, would there ever be a call come in after
24 that?

25 A. Yes, sir.

A.W. BY SOLICITOR ANTHONY.

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1 Q. And would the calls come from?

2 A. From my grandmother.

3 Q. Okay. And what would you or P.W. do in response to
4 these calls?

5 A. We would tell Stephen that he needed to leave.

6 Q. And if you were outside, if it was an occasion where
7 you'd gone outside, how would you get the call?

8 A. I would take the cordless phone out there with me.

9 Q. Okay. And so what did you do when -- say when your
10 grandma called, what would you do?

11 A. Tell Stephen that he needed to leave and if he didn't
12 she was going to call the law.

13 THE COURT: You need to speak up a little bit. I'm
14 having trouble understanding you. Say that again.

15 Q. Just speak more clearer so everybody can hear you.

16 THE COURT: Answer the question again. Go ahead.

17 A. To tell Stephen that he needed to leave and if he
18 didn't, my grandmother was going to call the law.

19 Q. And normally if you would tell Mr. Berry that he
20 needed to leave, what would he do?

21 A. Stay for a few more minutes and talk.

22 Q. Okay. Well now I want to ask you about one particular
23 incident. Do you remember back in the summer of 2010 going
24 over to Mr. Berry's house to swim?

25 A. Yes, sir.

A.W.

BY SOLICITOR ANTHONY

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1 Q. And how many times do you recall going over there that
2 summer?

3 A. Once or twice.

4 Q. Okay. Okay. And on this one occasion, what - Well,
5 what did you go over there for? What would be going on to
6 cause you to go over there to swim? Was there other people
7 there as well?

8 A. Yes, sir.

9 Q. Okay. Where would they be from?

10 A. The church youth group.

11 Q. Okay. All right. And was there an occasion where Mr.
12 Berry came to your house after you had left a pool party?

13 A. Yes, sir.

14 Q. Okay. And how had you all gotten back and forth from
15 Mr. Berry's house?

16 A. We walked.

17 Q. And who had gone?

18 A. Me, my brother and my sister.

19 Q. And when you all left, when you left Mr. Berry's
20 house, were there still people there?

21 A. Yes, sir.

22 Q. And how long had you been home approximately when Mr.
23 Berry arrived?

24 A. Maybe four or five minutes.

25 Q. Okay. And how did he get to the house?

A.W.

BY SOLICITOR ANTHONY

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1 A. He drove.

2 Q. Okay. When he came in, did he do anything to announce
3 himself or how did he come in the house?

4 A. He just walked in.

5 Q. And what did he have on?

6 A. His swimming trunks.

7 Q. And did he have anything else on?

8 A. No, sir.

9 Q. Okay. What happened when he walked into the house?
10 What did he do?

11 A. Went in to talk to Minor .

12 Q. Okay. And where did he and Minor go to talk?

13 A. Her room.

14 Q. And what was Minor wearing at that time?

15 A. Her two-piece bathing suit.

16 Q. And what did he do when he - When they walked in the
17 room, what did he do in regards to the door?

18 A. He shut the door.

19 Q. And after they had been in there, in her room for some
20 time, did a call come in?

21 A. Yes, sir.

22 Q. And who was the call from?

23 A. My grandmother.

24 Q. And who answered the call?

25 A. My brother.

A. W.

BY SOLICITOR ANTHONY

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1 Q. And after the call came in, what did you do?

2 A. I told Stephen he needed to leave and if not, my
3 grandma was going to call the law.

4 Q. Okay. You say you told him. Where did you go to tell
5 him?

6 A. Right next to the door.

7 Q. Okay. Did you actually open the door and go in the
8 room?

9 A. No, sir.

10 Q. Okay. You just said it from outside?

11 A. Yes, sir.

12 Q. Did you get a response?

13 A. No, sir.

14 Q. What did Mr. Berry eventually do?

15 A. He left.

16 Q. Okay. And when he came out of the room, did he speak
17 to you or what - How long did he stay after he came out of
18 the room?

19 A. Three or four more minutes.

20 Q. Well let me just ask you. About how long was it
21 before they came out of the room?

22 A. Not that long.

23 Q. And then he stayed a few minutes before he left?

24 A. Yes, sir.

25 Q. Okay. All right. And then did Mr. Berry coming up to

A. W.

BY SOLICITOR ANTHONY

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1 your house, did that continue after the summer of 2010,
2 like when you all started back to school that fall, was he
3 still coming?

4 A. Yes, sir.

5 Q. And when you started back to school, when would he
6 mostly come?

7 A. In the evening or at night.

8 Q. Okay. And when he would come at night, the times he
9 would come at night, where would your father be?

10 A. At work.

11 Q. Okay. And what was the arrangement if your dad was
12 working, who would be there sleeping at the house at night
13 if your daddy was working the night shift?

14 A. Minor , my sister.

15 Q. Okay. And what about your other brother P.W.
16 where would he normally be?

17 A. Sometime he would stay with my grandmother.

18 Q. All right. And did you observe Mr. Berry come take
19 Minor to church?

20 A. Yes, sir.

21 Q. All right. And when he would do this, would he take
22 you or your brother?

23 A. No, sir.

24 Q. All right. How many times do you recall him taking
25 you or your brother?

A.W.

BY MR. DELANEY

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1 A. Once or twice.

2 Q. All right.

3 SOLICITOR ANTHONY: If I could have just one moment.

4 (PAUSE.)

5 SOLICITOR ANTHONY: All right. Thank you.

6 That's everything on direct.

7 THE COURT: All right.

8 Mr. Delaney.

9 CROSS EXAMINATION

10 A.W. BY MR. DELANEY:

11 Q. A.W. , Mr. Berry would come up to the house at times
12 when your dad was there. Correct?

13 A. Not that often.

14 Q. Okay. At times - you said not that often - at times
15 Mr. Berry would come up to the house when your dad was
16 there. Correct?

17 A. Very few.

18 Q. And these very few times that your dad would come up
19 to the house - that Mr. Berry would come up to the house
20 when your dad was there, he would meet with your
21 dad and your sister at the house. Correct?

22 A. Yes, sir.

23 Q. And these meetings would be about some problems,
24 issues, your sister was having. Correct?

25 A. Yes, sir.

A.W.

BY MR. DELANEY

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1 Q. Okay. And Mr. Berry would stop by the house when
2 there were fights going on between your sister and your
3 dad. Correct?

4 A. Yes, sir.

5 Q. Okay. Also, there were fights - he would come over to
6 the house after there were fights between your sister and
7 your grandmother. Correct?

8 A. Yes, sir.

9 Q. Okay. And he was called up to the house by your dad
10 wasn't he?

11 A. Yes, sir.

12 Q. Called up to the house sometimes by your grandmother
13 wasn't he?

14 A. Yes, sir.

15 Q. Now, Mr. Berry would stop by the house at times when
16 your dad wasn't there. Correct?

17 A. Most of the time.

18 Q. Okay. And - But you've just testified that these
19 times when he would come up there, sit down and talk with
20 your dad and Minor. Correct?

21 A. Yes, sir.

22 Q. Okay. But when your dad wasn't there he would stop by
23 at times and he would talk to you and your brother
24 sometimes about going to church. Right?

25 A. Not that often.

A.W.

BY MR. DELANEY

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1 Q. But he did. Right?

2 A. At times.

3 Q. Okay. Wanting you to go to church with him more.

4 Correct?

5 A. At times.

6 Q. Okay. And you didn't want to go to church more, did
7 you, with him?

8 A. No, not really.

9 Q. Okay. And he also talked to you and your brother
10 about being involved in different church youth group
11 related activities; is that right?

12 A. Yes, sir.

13 Q. Okay. And he also did something as far as I guess put
14 something together where you, your brother, your dad would
15 go on some type of retreat; church related retreat; is that
16 right?

17 A. Not that I know of.

18 Q. You didn't know about that?

19 A. No, sir.

20 Q. Okay. And at times he would stop by and check how
21 everything was going at the house; is that correct?

22 A. Yes, sir.

23 Q. At times he would stop by and check on Minor ; is that
24 correct?

25 A. Yes, sir.

A.W.

BY MR. DELANEY

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1 Q. At times he would stop by and help you all clean the
2 house; is that correct?

3 A. Yes, sir.

4 Q. Now, we've heard the day that Mr. Berry came to your
5 house wearing a bathing suit. Right?

6 A. Yes, sir.

7 Q. Okay. And this was a summer day; is that right?

8 A. Yes, sir.

9 Q. Okay. And you all had been over to the Berry
10 residence; they have a pool. Correct?

11 A. Yes, sir.

12 Q. You all had been over to the house in that pool?

13 A. Yes, sir.

14 Q. Okay. And he just lives a few houses down the road;
15 is that correct?

16 A. Yes, sir.

17 Q. Okay. These swimming trunks that he came over to your
18 house wearing, these were some longer swimming trunks,
19 correct, went down to about his knee?

20 A. Yes, sir.

21 Q. Okay. And Mr. Berry, he knocked on the door before he
22 entered the house that day. Isn't that what really
23 happened?

24 A. No, sir.

25 Q. And when he was inside the house, didn't your sister

A.W.

BY MR. DELANEY

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1 want to show him something? Isn't that what really
2 happened?

3 A. No, sir.

4 Q. You don't recall going into the hallway and your
5 sister showing him I believe some Bible versus, some things
6 she had written in her room?

7 A. She has Bible versus written on her mirror.

8 Q. Right. And do you remember that day you all being in
9 the hallway and Mr. Berry standing at her doorway and her
10 showing these things to him?

11 A. Yes, sir.

12 Q. Do you remember that?

13 A. Yes, sir.

14 Q. And at that time, that's when the phone call comes in.
15 Right?

16 A. No, sir.

17 Q. No. You're saying that he came in. You went directly
18 to the room and the door was shut. Right?

19 A. Yes, sir.

20 Q. Now I think your testimony was Mr. Berry wanted to see
21 Minor in her room; is that right?

22 A. Yes, sir.

23 Q. Okay. And - But what you said first off, you guys
24 were in the hallway for a little while. Is that what
25 happened?

A.W.

BY MR. DELANEY

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1 A. It was just a brief moment for him to see.

2 Q. Okay.

3 A. And then he wanted to go take Minor to her room to go
4 talk with her.

5 Q. Okay. And you said that - You said he was in the room
6 for a while with her before a phone call came in. Correct?

7 A. Yes, sir.

8 Q. Okay. And you had testified a little earlier four to
9 five minutes. It was only about four to five minutes when
10 you had got back to the house, you know, by the time that
11 he was coming to your house. Only a few minutes went by.
12 Right?

13 A. Yes, sir.

14 Q. All right. And you said that he was in the room for a
15 while?

16 A. Yes, sir.

17 Q. Okay. How long is a while?

18 A. Fifteen to twenty minutes maybe.

19 Q. So he's in the room for fifteen to twenty minutes
20 before your grandma - before you get a call from your
21 grandmother. Right?

22 A. Yes, sir.

23 Q. Okay. And then you say after this call comes in, you
24 go to the door and say some things to him. Right?

25 A. Yes, sir.

A.W. BY MR. DELANEY

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1 Q. Through the door?

2 A. Yes, sir.

3 Q. Okay. And you said after that, it's a while then
4 again before he comes out. Right?

5 A. Yes, sir.

6 Q. And again your definition of a while is about - was
7 another fifteen to twenty minutes?

8 A. No, sir.

9 Q. How long was it after you - how long was that while?

10 A. Maybe three to four minutes.

11 Q. Three to four minutes? Didn't you testify a little
12 earlier it was three to four minutes after he came out of
13 the room?

14 A. Yes, sir.

15 Q. So after he came out the room, it was three to four
16 minutes?

17 A. Yes, sir.

18 Q. Okay. But you said when you first went to the door
19 and told him that he needed to leave behind this closed
20 door you said it was a while before he came out.

21 A. Yes, sir.

22 Q. Okay. How long was that while?

23 A. Three to four minutes.

24 Q. Three to four minutes?

25 A. Yes, sir.

A.W.

BY MR. DELANEY
SOLICITOR ANTHONY

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1 Q. So I'm not the best at math, but my math would be -
2 you said about fifteen to twenty minutes in the room to
3 begin with and then it looks like maybe an additional six
4 to eight minutes, so we're talking twenty-five minutes or
5 so he was in the house that day, right, before he left?

6 A. That seems correct.

7 Q. Okay. And, A.W. , your father and your grandmother,
8 Minor , they've talked to you about the allegations that
9 your sister has made. Correct?

10 A. Yes, sir.

11 Q. They've also talk to you about your testimony here
12 today. Right?

13 A. We had a brief discussion.

14 Q. A brief discussion?

15 A. Yes, sir.

16 Q. All right.

17 MR. DELANEY: No further questions. Thank you.

18 THE COURT: Redirect.

19 REDIRECT EXAMINATION

20 A.W. BY SOLICITOR ANTHONY:

21 Q. You said that you've seen Mr. Berry come to your house
22 and talk to Mr. Williams and to Minor ?

23 A. At times he would.

24 Q. Okay. How many times do you recall him coming up
25 there and talking to your daddy and Minor , the three of

A.W.

BY SOLICITOR ANTHONY

-262-

1 them having a meeting?

2 A. Maybe three, maybe four times.

3 Q. Three or four times?

4 A. Yes, sir.

5 Q. Okay. And was that after he moved up to Jonesville or
6 before he moved to Jonesville?

7 A. After.

8 Q. After. Was it after this incident at the pool party
9 or before the incident at the pool party?

10 A. Most of 'em was after the pool party.

11 Q. Of the three or four?

12 A. Yes, sir.

13 Q. But that's all you remember maybe three or four times
14 he came in the house?

15 A. With my father.

16 Q. When your daddy was there?

17 A. Yes, sir.

18 Q. Okay. And you don't know - Did you ever hear your
19 father call him up and ask him to come up to the house?

20 A. Maybe once.

21 Q. Okay. And when was that?

22 A. About when Minor had an issue.

23 Q. Okay. So you think there might have been one time
24 that your father actually wanted him to come to the house?

25 A. Yes, sir.

A.W.

BY SOLICITOR ANTHONY

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1 Q. Okay. All right. And the incident at - When he came
2 to the house in the swimming - in the bathing suit, you
3 said that she had - Minor had these Bible versus up on her
4 mirror; is that right?

5 A. Yes, sir.

6 Q. Okay. And at some point he saw, Mr. Berry saw the
7 Bible versus?

8 A. Yes, sir.

9 Q. Okay. Was that before he went in the room and shut
10 the door or after - or was that mentioned after he came
11 out?

12 A. Before.

13 Q. Before?

14 A. Yes, sir.

15 Q. All right. So what did he do after he saw the Bible
16 versus?

17 A. He wanted to know if he could talk to her alone in
18 her room.

19 Q. Okay. And then after that is when he went in?

20 A. Yes, sir.

21 Q. Okay.

22 SOLICITOR ANTHONY: If I can have a moment.

23 (PAUSE AT 11:51 A.M..)

24 SOLICITOR ANTHONY: If I can have one moment.

25 That's everything on direct.

M.P.

BY SOLICITOR ANTHONY

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1 THE COURT: Recross?

2 MR. DELANEY: No, Your Honor.

3 THE COURT: You can step down and be excused. Thank
4 you for your time.

5 (WITNESS LEAVING WITNESS STAND.)

6 THE COURT: Call your next witness.

7 SOLICITOR ANTHONY: We call M.P.

8 May we approach a minute?

9 (SIDE BAR OFF THE RECORD OUT OF THE HEARING OF THE
10 JURY AT 11:52 A.M..)

11 DIRECT EXAMINATION

12 M.P. BY SOLICITOR ANTHONY:

13 Q. Would you state your name, please?

14 A. M.P.

15 Q. And, M.P. , where do you live?

16 A. Union, South Carolina.

17 Q. And are you currently in school?

18 A. Yes, sir.

19 Q. And where do you go to school?

20 A. Brian Matthew College in Greenville.

21 Q. And what are you studying to do?

22 A. Surgical technician.

23 Q. And are you employed as well?

24 A. Yes, sir.

25 Q. And where do you work?

M.P.

BY SOLICITOR ANTHONY

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1 A. Union County Disability and Special Needs Board.

2 Q. And what is your relationship to Minor

3 A. She is my first cousin.

4 Q. And what is your relationship to Sherrie Tucker?

5 A. She is my grandma.

6 Q. I want to take you back now to the late spring and
7 summer of 2010. Who were you living with at that time?

8 A. My grandmother.

9 Q. And would you spend time during that time while you
10 you were living with Ms. Tucker, would you spend time at
11 Mr. Williams' house?

12 A. Yes, sir, I would.

13 Q. And what's your relationship to Mr. Williams?

14 A. He is my uncle.

15 Q. Okay. And what kind of things would you do up there
16 when you would go up to his house?

17 A. We would clean.

18 Q. Okay. And did you know or do you know Mr. Berry?

19 A. Yes, sir.

20 Q. And how do you know him?

21 A. From prior to attending New Life Baptist Church.

22 Q. And do you recall an incident where you were up at Mr.
23 Williams' house that summer and Mr. Berry came?

24 A. Yes, sir.

25 Q. Okay. And what were you doing up there?

M.P.

BY SOLICITOR ANTHONY

-266-

1 A. We were cleaning.

2 Q. Okay. And who of the three kids, who was doing what?

3 A. A.W. was in the kitchen area washing dishes.

4 P.W. was in his bedroom and Minor was in her bedroom as
5 well.

6 Q. Okay. And was school still going on at this time?

7 A. Yes, sir.

8 Q. Okay. And so this was after the school day?

9 A. Yes, sir.

10 Q. All right. And so where were you in the house?

11 A. I was in the living room.

12 Q. And what happened as you were in the living room that
13 afternoon?

14 A. As I was standing in the living room, a very short
15 distance from the front door, I heard a car door shut and
16 (before I could even get to the window or the front door to
17 see who it was, without a knock on the door Stephen Berry
18 was already in the doorway inside the house.

19 Q. And when he walked in, did you notice any particular
20 reaction from him?

21 A. He was really shocked.

22 Q. All right. And what did you - what did he say to you?

23 A. He called and said that he needed to use the restroom
24 that he was moving into his new home.

25 Q. And what did you tell him?

M.P.

BY SOLICITOR ANTHONY

-267-

1 A. I told him that we were cleaning and that they did not
2 need any distractions and to please hurry up and make it
3 quick as possible.

4 Q. Okay. And so what did he do?

5 A. He proceeded to go into the restroom and as he come
6 back out, all the kids come into the living room and Minor
7 did as well and as she approached the living room --

8 Q. Well let me just ask you, did he -- did you have any
9 conversation with him there?

10 A. Yes.

11 Q. What did he ask you?

12 A. He wanted to know whose car that was in my
13 grandmother's backyard.

14 Q. Okay. And whose was it?

15 A. It was mine.

16 Q. Okay. And did he ask you about anything else?

17 A. He proceeded to go on and ask if I attended any
18 churches and I said yes I have my own church.

19 Q. And then you said Minor came into the living room as
20 well?

21 A. Yes.

22 Q. All right. And what was the interaction you witnessed
23 between him and Minor ?

24 A. He approached her but she was very -- seemed very
25 distant and stuff to, you know actually approach him, and

M.P.

BY SOLICITOR ANTHONY

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1 she had a look on her face as a scared little girl almost.

2 Q. All right. And did you see - Were there other
3 occasions that summer of 2010 where you would see Mr.
4 Berry's car at Mr. Williams' residence?

5 A. Yes, sir.

6 Q. And then what happened - Once the 2010-2011 school
7 year started, what happened with your living situation?

8 A. I moved back in with my parents.

9 Q. Okay. And so you weren't living with your grandma all
10 the time?

11 A. No, sir.

12 Q. Do you still recall any occasions where you'd seen Mr.
13 Berry's car up at Mr. Williams' house like when you would
14 be over there visiting your grandmother after you left -
15 after you quit living with her permanently?

16 A. Yes, sir.

17 Q. All right.

18 SOLICITOR ANTHONY: If I could have one moment.

19 (PAUSE.)

20 SOLICITOR ANTHONY: Thank you. That's everything.

21 CROSS EXAMINATION

22 M.P.

BY MR. DELANEY:

23 Q. M.P. , you are the first cousin to Minor .

24 Correct?

25 A. Yes, sir.

M.P.

BY SOLICITOR ANTHONY

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1 Q. And Eddie Williams is your uncle. Right?

2 A. Yes, sir.

3 Q. Sherrie Tucker is your grandmother?

4 A. Yes, sir.

5 Q. Okay. And the day that you're talking about was I
6 guess summer of 2010; is that right?

7 A. No, sir.

8 Q. No? When was it?

9 A. No. It had to be during the school year.

10 Q. Of the school year?

11 A. Yes, sir.

12 Q. So this would have been fall of 2010?

13 A. I can't recall the actual...

14 Q. Okay. But you remember him coming to the house and
15 telling you that he needed to use the - well when he was
16 inside the house he told you that he needed to use the
17 bathroom. Correct?

18 A. Yes.

19 Q. Okay. And something about he had moved in and he
20 needed to use the restroom. Right?

21 A. Yes.

22 Q. Okay. And he did use the restroom?

23 A. Yes, sir.

24 Q. Okay. And you told him to make it quick?

25 A. Yes, sir.

M.P.

BY MR. DELANEY
SOLICITOR ANTHONY

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1 Q. Okay. And he made it quick?

2 A. Yes, sir.

3 Q. Okay. And he didn't go back into Minor's bedroom or
4 anything like that?

5 A. No, sir.

6 Q. He didn't go to try to find Minor in the house?

7 A. No, sir.

8 Q. You said that Minor came out of her bedroom and all
9 the kids came out to where he was at?

10 A. Yes, sir.

11 Q. Okay. And you said Minor had a scared little girl
12 look on her face. Correct?

13 A. Yes, sir.

14 Q. Okay. And your car was at your grandmother's?

15 A. Yes, sir.

16 Q. Your car was at grandmother's. It wasn't hidden under
17 some bushes or something like that?

18 A. No, sir.

19 Q. Okay.

20 MR. DELANEY: All right. No further questions.

21 Thank you.

22 THE COURT: Redirect?

23 REDIRECT EXAMINATION

24 M.P.

BY SOLICITOR ANTHONY:

25 Q. When you say it was at your grandmother's, I want to

P.W.

BY SOLICITOR ANTHONY

-271-

1 show you State's Exhibit One. Is there a car in that
2 photo?

3 A. Yes, sir.

4 Q. All right. Where was your car parked that day in
5 relation to where the car is in that photo?

6 A. In the same spot.

7 Q. It is in the very same place. So you weren't actually
8 parked there at Mr. Williams' house?

9 A. No, sir. In between my grandmother's and the
10 Williams' residence there's a good lot between those
11 two.

12 Q. Okay.

13 SOLICITOR ANTHONY: Thank you. That's everything on
14 redirect.

15 MR. DELANEY: The Court's indulgence, Judge, for one
16 minute.

17 (PAUSE.)

18 MR. DELANEY: No further questions.

19 Thank you.

20 THE COURT: You can step down and be excused. We
21 appreciate your time.

22 (WITNESS LEAVING WITNESS STAND.)

23 THE COURT: Call your next witness.

24 SOLICITOR ANTHONY: The next witness is P.W.
25

P.W.

BY SOLICITOR ANTHONY

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(WHEREUPON: P.W.)

BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

DIRECT EXAMINATION

P.W. BY SOLICITOR ANTHONY:

Q. Would you state your name, please?

A. P.W.

Q. And, P.W., how old are you?

A. Thirteen.

Q. And where do you live?

A. [REDACTED].

Q. Okay. And who do you live with?

A. My daddy, my sister and my brother.

Q. And what is your sister's name?

A. Minor.

Q. And what's your brother's name?

A. A.W.

Q. And do you from time to time stay with anybody else?

A. Yes, sir.

Q. And who is that?

A. My mama and my cousin and my granny.

Q. All right. And what's your grandma's name?

A. Sherrie Tucker.

Q. And where does Sherrie Tucker live in compared to where you live?

A. She lives down the hill from us.

P.W.

BY SOLICITOR ANTHONY

-273-

1 Q. Okay. All right. Back in the summer of 2010, where
2 were you going to church?

3 A. New Life Baptist.

4 Q. And who was the youth pastor there?

5 A. Stephen Berry.

6 Q. And back in the late part of the spring of 2010, what
7 happened with Mr. Berry as far as where he was living?

8 A. He moved from where he was living to down - a couple
9 a houses down the street from us.

10 Q. Okay. And before he moved, how often did he come to
11 you all's house?

12 A. Often.

13 Q. Well once he moved, what changed about how often he
14 was coming to your house?

15 A. He came more often ---

16 Q. All right.

17 A. --- than he used to.

18 Q. All right. After he moved?

19 A. Yes, sir.

20 Q. All right. And when he would come, where would your
21 father usually be?

22 A. He would be at work.

23 Q. And when he would come -- normally when he came, did he
24 do anything like let you all know he was there so you could
25 let him in?

P.W.

BY SOLICITOR ANTHONY

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1 A. Sometimes he would come on in and - But most of the
2 time he would come on in and sometimes he would knock.

3 Q. Sometimes he would knock. Most of the time he just
4 came on in?

5 A. Yes, sir.

6 Q. All right. And when he came to your house, who would
7 he want to talk to?

8 A. My sister.

9 Q. Okay. Did he ever do anything else up there besides
10 just talking to your sister?

11 A. Sometimes he would help us clean.

12 Q. Okay. And when he - when he would come and he'd
13 want to talk to Minor , where would he and Minor talk?

14 A. Sometimes on the couch and the rest of the time in
15 Minor 's room.

16 Q. And would he want you all, want you and A.W. to do
17 anything or tell you all to do anything when he would go
18 take Minor into her room?

19 A. He would tell us to go to our room or go outside or
20 watch TV in the living room.

21 Q. Okay. All right. And did he pick Minor up and take
22 her anywhere?

23 A. Yes, sir.

24 Q. And where would he take her?

25 A. To church.

P.W.

BY SOLICITOR ANTHONY

-275-

1 Q. Okay. And when he would take her to church what would
2 be going on with your dad where he could take you all to
3 church?

4 A. He would be at work.

5 Q. Okay. All right. And did he take you and your
6 brother to church along with Minor ever?

7 A. He did sometimes.

8 Q. Okay. All right. And do you recall a time when Mr.
9 Berry came and your cousin M.P. was at the house?

10 A. Yes, sir.

11 Q. Now when he would come to the house, would there be
12 times that you all would get a phone call?

13 A. Yes, sir.

14 Q. Okay. And who would be calling?

15 A. My granny.

16 Q. Okay. And after she called, what would either you or

17 A.W. tell Mr. Berry he needed to do?

18 A. He needed to leave.

19 Q. And after you would tell Mr. Berry this, what would
20 normally happen?

21 A. He would leave.

22 Q. Okay. All right. I want to take you now to the
23 summer of - still asking you about the summer of 2010. Was
24 there an occasion where you and A.W. and Minor went over
25 to Mr. Berry's house to a swimming party?

P.W.

BY SOLICITOR ANTHONY

-276-

1 A. Yes, sir.

2 Q. Okay. And was there a time after one of those parties
3 that Mr. Berry came up to your house?

4 A. Yes, sir.

5 Q. Okay. And how had you all got to Mr. Berry's
6 house?

7 A. We walked.

8 Q. Okay. And how had you gotten back home?

9 A. We walked.

10 Q. Okay. And once you got back home, what did Mr. Berry
11 do?

12 A. He came right up to our house.

13 Q. Okay. And when he got there, how did he come in?

14 A. He came in with his swimming trunks on ---

15 Q. Okay.

16 A. --- without knocking.

17 Q. Okay. Did he have anything else on besides his
18 swimming trunks?

19 A. He might have had some flip flops on or something.

20 Q. Okay. And how long had you all been there when he got
21 there, just approximate, just estimated how long?

22 A. Maybe one or two minutes.

23 Q. Okay. Not long?

24 A. No, sir.

25 Q. All right. And when he got there, what happened?

P.W.

BY SOLICITOR ANTHONY

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1 A. He said that he needed - Well, he came in and talked
2 to us on the couch for a minute and he said that he wanted
3 to talk to Minor .

4 Q. Okay. And so where did he and Minor go?

5 A. To Minor s room.

6 Q. Okay. And where did he want you and A.W. to stay?

7 A. He said you all stay in the living room.

8 Q. Okay. When he went to Minor s room, what did he do
9 to the door?

10 A. He closed it.

11 Q. What was Minor wearing when he went into her bedroom?

12 A. Her bathing suit.

13 Q. Okay. And then did anybody call? Like after they had
14 gone in the room, did you all get a call?

15 A. Yes, sir.

16 Q. And who called?

17 A. My granny.

18 Q. All right. And what did A.W. do after your
19 grandmother called?

20 A. What did A.W. do?

21 Q. Yeah. What was the next thing that you or A.W. one
22 did after your grandmother called?

23 A. When I picked the phone up she said, "tell Stephen to
24 get out or she is calling the law" ---

25 Q. Okay.

P.W.

BY SOLICITOR ANTHONY

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1 A. --- so I told A.W. to tell him, to tell Stephen.

2 Q. All right. And did A.W. do that?

3 A. Yes, sir.

4 Q. Okay. All right. And where did he go to to tell
5 Stephen that?

6 A. Minor s door.

7 Q. All right. And then once he told -- Once he said this
8 there at Minor s door, what did Mr. Berry do?

9 A. I really don't know because I wasn't there with
10 A.W. at the door.

11 Q. Well, what did you see Mr. Berry do though after

12 A.W. said that? Did he come out of the room?

13 A. Maybe minutes after.

14 Q. Okay. But he did come out after a time?

15 A. Yes, sir.

16 Q. Okay. And then after -- like after you started back to
17 school in that next fall, was Mr. Berry still coming to the
18 house? Would you still see him up there at the house?

19 A. Yes, sir.

20 Q. Okay. And would your dad be there when he would come?

21 A. Not most of the time.

22 Q. Not most of the time. Okay.

23 SOLICITOR ANTHONY: Thank you.

24 That's everything on direct.

25 CROSS EXAMINATION

P.W.

BY MR. DELANEY

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1 P.W.

BY MR. DELANEY:

2 Q. Hey P.W. .

3 A. Hey.

4 Q. Now, there were times that Mr. Berry would ask you and
5 your brother if you all wanted to go to church. Right?

6 A. Sometimes.

7 Q. Okay. And there were I guess one or two times that
8 you guys actually wanted to go with him and you went.

9 Right?

10 A. Yes, sir.

11 Q. Okay. But he would ask you many more times that that
12 wouldn't he?

13 A. He maybe asked us two times.

14 Q. Just two times?

15 A. That's all I remember.

16 Q. Okay. And the day that you gave - P.W. , you gave a
17 statement to the police; is that correct?

18 A. Yes, sir.

19 Q. Okay. You wrote down what you knew about the case?

20 A. Yes, sir.

21 Q. Okay.

22 MR. DELANEY: May I approach, Your Honor?

23 THE COURT: You may.

24 Q. P.W. , I just want you to look at that for a minute.

25 Does that look like the statement that you gave to the

P.W.

BY MR. DELANEY

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1 police?

2 A. Yes, sir.

3 Q. Okay. And the day that Mr. Berry came over to your
4 place with his bathing suit on, did you all - when he came
5 in the house, did you all go down the hallway?

6 A. Not when he came in.

7 Q. No? When he came in, what did you guys do?

8 A. We sat on the couch.

9 Q. Yeah? You sat on the couch?

10 A. Yes, sir.

11 Q. Okay. And I guess you socialized on the couch?

12 A. For maybe two minutes.

13 Q. Okay. About two minutes.

14 A. Yes, sir.

15 Q. And then did you go down the hallway?

16 A. No.

17 Q. No? Do you remember your sister showing him any type
18 of Bible versus or anything that she had in her room?

19 A. No because I didn't go down there but I knew - I know
20 she had Bible versus on her mirror.

21 Q. Yeah? Okay. And Mr. Berry would come up to your
22 house when your dad was there wouldn't he?

23 A. Maybe once or twice.

24 Q. Yeah. And these would be times after Minor as having
25 fights, arguments with your father and your grandmother?

P.W.

BY MR. DELANEY

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1 A. Yes, sir.

2 Q. Okay. And there would be times he would come up to
3 the house and meet with your father and Minor after he
4 came to the house wearing his bathing suit. Right?

5 A. There was this one time he did.

6 Q. Yeah. Met with your dad?

7 A. He wanted to talk to my daddy.

8 Q. Yeah. Were you aware of times that your dad - you
9 said you were aware of times that your dad would call Mr.
10 Berry?

11 A. I guess he would call Stephen sometimes but I knew he
12 had called him one time.

13 Q. Okay. All right. Thank you, P.W.

14 SOLICITOR ANTHONY: No redirect.

15 THE COURT: You can step down. Thank you. We
16 appreciate you being here.

17 (WITNESS LEAVING WITNESS STAND.)

18 THE COURT: Call your next witness.

19 SOLICITOR ANTHONY: The next witness is J.S.

20 J.S.

21 THE CLERK: Place your left hand on the Bible and
22 raise your right.

23 (WHEREUPON: J.S. BEING

24 FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

25 DIRECT EXAMINATION

J.S. BY SOLICITOR ANTHONY

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1 J.S. BY SOLICITOR ANTHONY:

2 Q. Would you state your name, please?

3 A. J.S.

4 Q. J.S. , are you currently working anywhere?

5 A. Yes, sir.

6 Q. Where do you work?

7 A. Rent A Center.

8 Q. And then are you also in school?

9 A. Yes, sir.

10 Q. Where do you go to school?

11 A. Spartanburg Community College.

12 Q. And what are you studying there?

13 A. Graft design.

14 Q. Are you in school right now?

15 A. Not right now.

16 Q. Okay. What's your situation as far as finishing
17 school?

18 A. I got one class left in the summer.

19 Q. Okay. And then you'll have your degree?

20 A. Yes, sir.

21 Q. Okay. All right. Well I want to take you back to the
22 summer of 2009. Where did you go to church then?

23 A. New Life.

24 Q. And back in July of 2009, how old would you have been?
25 What age did you turn in July 2009?

J.S.

BY SOLICITOR ANTHONY

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1 A. Eighteen.

2 Q. Eighteen. Okay. And when did you graduate high
3 school?

4 A. May 2009.

5 Q. Okay. All right. Well in the spring of 2009, did you
6 come to meet Minor

7 A. Yes, sir.

8 Q. And how was it that you came to meet her?

9 A. Through church.

10 Q. And did her family start going to church there?

11 A. Yes, sir.

12 Q. All right. Would you see her father there?

13 A. Yes, sir.

14 Q. How often would you see Mr. Williams there at New
15 Life?

16 A. If it wasn't every week, it was every other week.

17 Q. Okay. I want to take you now moving on into the
18 summer of 2009. Were you approached by Eddie Williams
19 about anything concerning you and Minor ?

20 A. Yes, sir.

21 Q. And what was that?

22 A. That she liked me.

23 Q. That Minor liked you?

24 A. Yes, sir.

25 Q. Okay. Okay. And after that, was there a meeting set

J.S. BY SOLICITOR ANTHONY

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1 up between you and Mr. Williams and Mr. Berry?

2 A. Yes, sir.

3 Q. Okay. And what was the understanding that was reached
4 after that meeting there during the summer of 2009?

5 A. That it was just friendship.

6 Q. Okay. And what was the concern that Mr. Williams had
7 about you and Minor having more than just a friendship at
8 that point in time?

9 A. Age.

10 Q. The age difference. Okay. Because you turned
11 eighteen already.

12 A. Yeah.

13 Q. And she was fourteen; is that right?

14 A. I guess.

15 Q. Okay. Okay. All right. So after that meeting, what
16 was the nature of the relationship that you had with
17 Minor ?

18 A. Friendship.

19 Q. Okay. Where would you see each other?

20 A. Church.

21 Q. Okay. And did Minor still have some contact or try
22 to have some contact with you there in the summer of '09
23 after that meeting?

24 A. Every once in a while.

25 Q. Okay. And what would that consist of?

J.S.

BY SOLICITOR ANTHONY

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1 A. Just phone calls.

2 Q. Okay. Okay. But in your mind it certainly wasn't
3 like you had a dating relationship with her?

4 A. No, sir.

5 Q. Okay. Did you even after that meeting and moving
6 through the fall of 2009 and into 2010, what was your
7 perception about how Minor felt about you?

8 A. She still liked me.

9 Q. Okay. All right. And so moving in to the summer of
10 2010, during the summer of 2010, did you receive any calls
11 from Minor ?

12 A. A couple.

13 Q. Okay. And how did you get those calls?

14 A. Usually through Stephen's phone.

15 Q. Through Mr. Berry's phone?

16 A. Yes.

17 Q. Okay. They would coming in from his phone?

18 A. Yes, sir.

19 Q. Okay. And once you got those calls - approximately
20 how many were there?

21 A. Three or four.

22 Q. Okay. Three or four calls. Once you got those calls,
23 what did you start doing given what you had agreed to with
24 her father?

25 A. Just didn't answer them.

J.S. BY SOLICITOR ANTHONY

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1 Q. Okay. Okay. And so after you received a few calls,
2 if you got a call from Mr. Berry's phone, what - how did
3 you respond?

4 A. Just screened it and didn't answer it and figured it
5 was her.

6 Q. Okay. And were there calls coming at times that you
7 would anticipate Minor might have been around Mr. Berry?

8 A. Yes, sir.

9 Q. Okay. What would be - What would you know that was
10 going on to where if you got a call from Mr. Berry you
11 would think it was Minor ?

12 A. Like if there were a youth party or something at
13 his house.

14 Q. And how many calls would you say that you screened out
15 that were from Mr. Berry's phone that you suspected were
16 coming from Minor ?

17 A. Two or three.

18 Q. Two or three. Okay. And did that happen throughout
19 the 2010 - like the fall of 2010?

20 A. Yes, sir.

21 Q. Okay. All right. And now that we've moved into 2013,
22 how would you characterize your relationship with Minor

23 now?

24 A. In a relationship.

25 Q. You're - I'm sorry?

J.S. BY MR. DELANEY

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1 A. In a relationship.

2 Q. You're in a relationship with her now. Okay. All
3 right.

4 SOLICITOR ANTHONY: Thank you.

5 That's everything.

6 MR. DELANEY: A few questions, J.S.

7 CROSS EXAMINATION

8 J.S. BY MR. DELANEY:

9 Q. Now, J.S., first off starting back in 2009 when you
10 and Minor first started talking at the youth group.
11 Right?

12 A. Yes, sir.

13 Q. And you wouldn't necessarily describe that as a
14 relationship that was going on. Correct?

15 A. No, sir.

16 Q. You guys weren't dating. Right?

17 A. No, sir.

18 Q. Okay. But there was enough going on to get the
19 attention of her father; is that right?

20 A. Yes, sir.

21 Q. Okay. And as a result of that, there was some
22 meetings with the father, with Mr. Berry, Mr. Berry went to
23 your parent's house; is that right?

24 A. Not that I can remember.

25 Q. Okay. Did you ever meet with Mr. Berry or meet with

J.S.

BY MR. DELANEY

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1 your parents?

2 A. At church.

3 Q. At church. Okay. Now, and going forward now to
4 summer of 2010, okay. You - Let me ask you first. Did you
5 talk to Lieutenant Humphries in this case?

6 A. Yes, sir.

7 Q. Okay. He interviewed you?

8 A. Yes, sir.

9 Q. Okay. When you testified a little earlier that there
10 were three to four - I think you said three to four phone
11 calls that you received?

12 A. Uh-huh.

13 Q. Now are those calls that you answered?

14 A. To begin with yes.

15 Q. Okay. Now you remember telling Lieutenant Humphries
16 that you only answered one call?

17 A. No.

18 Q. You don't recall telling that to Lieutenant Humphries?

19 A. No, sir.

20 Q. Okay. How many calls did you answer where it was
21 Minor ?

22 A. It was two or three.

23 Q. Two or three calls. Okay. And this was two to three
24 calls through the summer of 2010 into the fall?

25 A. Yes, sir.

J.S. BY MR. DELANEY

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1 Q. Okay. And you said there were a few calls that came
2 in where you assumed it was Minor calling from Mr. Berry's
3 phone; is that right?

4 A. Yes, sir.

5 Q. Okay. Now, during this time, J.S. , you were in the
6 youth group; is that correct?

7 A. Yes, sir.

8 Q. Okay. And you were pretty active in the youth group
9 at that time; is that correct?

10 A. Yes, sir.

11 Q. Okay. As far as - I guess you guys would meet on
12 Wednesdays and Sundays?

13 A. Yes, sir.

14 Q. You were regular as far as attending those times?

15 A. Yes, sir.

16 Q. Okay. And then there was also retreats; is that
17 right?

18 A. Yes, sir.

19 Q. Okay. And you would go to those ---

20 A. Most of them.

21 Q. --- during the time? Okay. And there would also be
22 things outside the youth group as far as at people's
23 houses; is that right?

24 A. Yes, sir.

25 Q. Okay. And some of these events would take place at

J.S.

BY MR. DELANEY

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1 Mr. Berry's house; is that right?

2 A. Yes, sir.

3 Q. Okay. He's got a swimming pool there?

4 A. Uh-huh.

5 Q. And you guys wouldn't always swim would you?

6 A. No, sir.

7 Q. Okay. There would be - Would you go there for
8 football games?

9 A. (WITNESS INDICATED.)

10 Q. Okay.

11 THE COURT: You need to answer with a word instead of
12 shaking or nodding your head.

13 Q. Now Mr. Berry, he was the leader of the youth group;
14 is that correct?

15 A. Yes, sir.

16 Q. Okay. And you had a pretty good relationship with
17 him; is that right?

18 A. Yes, sir.

19 Q. Okay. It wasn't unusual for Mr. Berry during this
20 time period to give you a call; is that right?

21 A. No, sir.

22 Q. Okay. He would stay in contact with members of the
23 youth group; is that correct?

24 A. Yes, sir.

25 Q. And that could be quick phone calls?

J.S. BY MR. DELANEY

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1 A. Yes, sir.

2 Q. Okay. So when you're saying that you are assuming it
3 was Minor using Mr. Berry's phone, that's all you're doing
4 is assuming; is that correct?

5 A. Yes, sir.

6 Q. And Mr. Berry would call you regularly during that
7 time; is that right?

8 A. Yes, sir.

9 Q. Okay. Now, was there one single time that Mr. Berry
10 called you, had any type of contact with you where he tried
11 to initiate any type of contact between you and Minor ?

12 A. No, sir.

13 Q. No calls?

14 A. No, sir.

15 Q. Nothing when you met with him and talked to him in
16 person?

17 A. Nothing.

18 Q. In fact, the only thing Mr. Berry tried to do with you
19 and Minor is to keep you separated. Right?

20 A. Yes, sir.

21 Q. And in the summer of 2010, there was nothing going on
22 between you and Minor . Right?

23 A. No, sir.

24 Q. This behavior that concerned her father, it was over
25 wasn't it?

J.S. BY MR. DELANEY

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1 A. Yes, sir.

2 Q. It was over after Mr. Berry got involved. Right?

3 A. Yes, sir.

4 Q. There was no relationship. Did you other than these I
5 think you described two to three phone calls you got from
6 her when she called you, how long did she talk to you for?

7 A. Two to three minutes.

8 Q. Two to three minutes. So two to three phone calls for
9 two to three minutes?

10 A. Yes, sir.

11 Q. So we're talking about a total of about six to nine
12 minutes ---

13 A. Yes, sir.

14 Q. --- over the summer into the fall?

15 A. Yes, sir.

16 Q. That's the only contact you had with her?

17 A. Other than church.

18 Q. Did you in all the - When you were active in the youth
19 group, Minor was there as well?

20 A. Yes, sir.

21 Q. Did you ever observe any type of inappropriate
22 behavior between Mr. Berry ---

23 A. No.

24 Q. --- towards Minor ?

25 A. No, sir.

J.S. BY SOLICITOR ANTHONY

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1 Q. And this would be at the church?

2 A. Yes, sir.

3 Q. At his house?

4 A. Yes, sir.

5 Q. At any other type of functions?

6 A. Yes, sir.

7 Q. Thank you, J.S.

8 MR. DELANEY: No further questions.

9 THE COURT: Any redirect.

10 SOLICITOR ANTHONY: Yes, sir.

11 REDIRECT EXAMINATION

12 J.S. BY SOLICITOR ANTHONY:

13 Q. When you would screen out those calls, did she ever
14 leave you a message?

15 A. I think there was one time.

16 Q. One time. Okay. So at that point in time you had
17 more than just an assumption she was using his phone; you
18 knew she was using his phone?

19 A. Yes, sir.

20 Q. Okay. And in the summer of 2010, you weren't seeing
21 her obviously. You and her - you were not - you knew you
22 couldn't show any interest in her. Correct?

23 A. Yes, sir.

24 Q. But you were aware in the summer of 2010 she still
25 really liked you?

J.S. BY SOLICITOR ANTHONY

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1 A. Yes, sir.

2 Q. Okay.

3 SOLICITOR ANTHONY: That's all.

4 THE COURT: Recross.

5 MR. DELANEY: No questions, Judge.

6 THE COURT: You can step down and be excused.

7 Appreciate your time. Thank you.

8 (WITNESS LEAVING WITNESS STAND.)

9 THE COURT: Members of the jury panel, it's almost
10 12:30 so we'll break for lunch until 1:45. So have a
11 pleasant lunch and we'll see you back at 1:45.

12 (JURY EXITS COURTROOM AT 12:29 P.M..)

13 THE COURT: Anything from the State before we break
14 for lunch?

15 SOLICITOR ANTHONY: No, sir.

16 THE COURT: Anything from the defense?

17 MR. DELANEY: No, Your Honor.

18 THE COURT: We'll see you back at 1:45. Have a
19 pleasant lunch.

20 (COURT IN RECESS AT 12:30 P.M..)

21 (COURT BACK IN SESSION AT 01:51 P.M..)

22 THE COURT: Thank you. You may take your seats. Take
23 your seats.

24 State ready?

25 SOLICITOR ANTHONY: Yes, sir.

K.K. BY SOLICITOR ANTHONY

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1 THE COURT: Defense ready?

2 MR. DELANEY: Yes, sir.

3 THE COURT: All right. Bring in the jury.

4 (JURY REENTERS COURTROOM AT 01:52 P.M..)

5 THE COURT: Call your next witness.

6 SOLICITOR ANTHONY: We call K.K.

7 (WHEREUPON: K.K.

8 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

9 DIRECT EXAMINATION

10 K.K. BY SOLICITOR ANTHONY:

11 Q. Would you state your name, please?

12 A. K.K.

13 Q. And, K.K. , where do you live?

14 A. In Jonesville.

15 Q. And how old are you?

16 A. I'm eighteen.

17 Q. Are you in school?

18 A. Yes, sir.

19 Q. Where do you go to school?

20 A. Limestone.

21 Q. And what year are you in at Limestone?

22 A. A freshman.

23 Q. What are you majoring in there?

24 A. Psychology and Art.

25 Q. And where did you go to high school?

K.K.

BY SOLICITOR ANTHONY

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1 A. Union County High School.

2 Q. When did you graduate there?

3 A. In 2012.

4 Q. Okay. You graduated May of last year?

5 A. Yes, sir.

6 Q. Okay. And do you have a job? Are you employed as
7 well as in school?

8 A. Yes, sir.

9 Q. And where do you work?

10 A. At the school.

11 Q. At Limestone?

12 A. Yes, sir.

13 Q. Do you know Minor

14 A. Yes, sir.

15 Q. And when did you become friends with Minor

16 A. During school.

17 Q. And was there a time that you and her became friends
18 or a year of school, a year that you were in school
19 together you two became particularly close friends?

20 A. Yes, sir.

21 Q. Okay. And when was that?

22 A. 2010 and 2011.

23 Q. Okay. All right. And what year of school was that
24 for you?

25 A. My junior year.

K.K.

BY SOLICITOR ANTHONY

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1 Q. Okay. And how did you - Was there a third person that
2 you came to be - came to sort of become friends with Minor
3 through?

4 A. Yes, sir.

5 Q. And who was that?

6 A. J.B.

7 Q. And so you were already friends with J.B. ?

8 A. Yes, sir.

9 Q. All right. And what besides going to school together,
10 where would you see Minor and J.B. ?

11 A. During church.

12 Q. And what church would you all go to?

13 A. I don't remember the name.

14 Q. Okay. But it's the church where Minor and J.B.
15 attended?

16 A. Yes, sir.

17 Q. Okay. And would you back in the fall of 2010, were
18 there things - did you have opportunities to be with Minor
19 and J.B. aside from just being in church together?

20 A. Yes, sir.

21 Q. And what kind of things would you all do or where
22 would you be when you would see them aside from school or
23 church?

24 A. At leader camp, at Minor 's house and at J.B. 's
25 house.

K.K.

BY SOLICITOR ANTHONY

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1 Q. And just becoming friends with Minor and getting to
2 know her, did you become aware that she liked a boy?

3 A. Yes, sir.

4 Q. And who did she like?

5 A. J.S.

6 Q. And what was the situation as far as Minor being able
7 to see J.S. and her father's position on that happening?

8 A. She wasn't allowed to.

9 Q. I want to take you now to March of 2011. Did you come
10 to have a conversation with Minor on a day at school in
11 March of 2011?

12 A. Yes, sir.

13 Q. And what did you observe about Minor that led to that
14 conversation?

15 A. That she was upset.

16 Q. And what - When you say upset, what specifically was
17 going on?

18 A. She was crying.

19 Q. And so what did you ask Minor when you observed this?

20 A. I ask her what was wrong.

21 Q. And did she tell you anything at that time?

22 A. No. She said she was not ready.

23 Q. And then did the two of you all have another
24 conversation about Minor being upset?

25 A. Yes, sir.

K.K.

BY SOLICITOR ANTHONY

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1 Q. And when was that?

2 A. During the following day.

3 Q. Okay. Just try to speak up a little bit so we can all
4 hear you. All right. And what was going on? What time of
5 the day was it the following day that you talked to Minor ?

6 A. It was during lunch.

7 Q. Okay. And what was her - How did she appeared when
8 you had that conversation?

9 A. She was still upset and crying.

10 Q. And did she report some sexual incidents to you that
11 had occurred?

12 A. Yes, sir.

13 Q. And where had those incidents occurred?

14 A. At J.B. 's house and her house.

15 Q. And once she told you this, what was your reaction?

16 A. I didn't know what to do.

17 Q. So how did you respond, K.K. , to the news that
18 Minor gave you?

19 A. I talked it over with my parents and then I went and
20 told the guidance office

21 Q. And when did you tell the guidance office?

22 A. The next school day.

23 Q. Okay. And after you reported this, what Minor had
24 told you to the guidance counselor, did you ever speak to
25 anybody in law enforcement about what you were told?

K.K. BY SOLICITOR ANTHONY
BY MS. INZERILLO

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1 A. I told the police. I had to write a statement

2 Q. Okay. You gave a detective a statement?

3 A. Yeah.

4 Q. And do you recall when that was?

5 A. No, sir.

6 Q. Okay. Okay. So the day - The next week after you
7 went to the guidance office, do you remember taking Minor
8 home on the Tuesday of that week?

9 A. Yes, sir.

10 Q. Okay. And when you took her home, who was at her
11 house?

12 A. J.B.

13 Q. Okay. And did you stop and get out at that time?

14 A. No, sir.

15 Q. Okay. You just dropped Minor off at her residence?

16 A. Yes, sir.

17 SOLICITOR ANTHONY: If I can have just a moment.

18 (PAUSE.)

19 SOLICITOR ANTHONY: Thank you.

20 That's everything on direct.

21 MS. INZERILLO: May it please the Court, Your Honor.

22 THE COURT: Yes, ma'am.

23 CROSS EXAMINATION

24 K.K. BY MS. INZERILLO:

25 Q. K.K., Mr. Anthony asked you if you had given a

K.K.

BY MS. INZERILLO

-301-

1 statement to law enforcement?

2 A. Yes, ma'am.

3 Q. And you did. Right?

4 A. Yes, ma'am.

5 Q. And when you gave your statement and you talked to the
6 guidance counselor and you talked to your parents, you were
7 relying on what Minor had told you. Right?

8 A. Yes, ma'am.

9 Q. Okay. And you were relying on that being the truth?

10 A. Yes, ma'am.

11 Q. And when you talked to law enforcement and you wrote
12 your statement, you didn't add or change anything from what
13 she had told you did you?

14 A. No, ma'am.

15 MS. INZERILLO: No further questions, Your Honor.

16 THE COURT: Any Redirect.

17 SOLICITOR ANTHONY: No redirect.

18 THE COURT: Thank you, K.K. , you can step down
19 and be excused. We appreciate your time.

20 (WITNESS LEFT WITNESS STAND.)

21 THE COURT: Call your next witness.

22 SOLICITOR ANTHONY: The next witness is J.B.

23 (WHEREUPON: J.B.

24 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

25 DIRECT EXAMINATION

J.B. BY SOLICITOR ANTHONY

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1 J.B. BY SOLICITOR ANTHONY:

2 Q. Would you state your name, please?

3 A. J.B.

4 Q. J.B. , how old are you?

5 A. Nineteen.

6 Q. And where do you live now?

7 A. With my mom.

8 Q. Where is that?

9 A. [REDACTED] Anna Drive.

10 Q. What town is that?

11 A. Jonesville.

12 Q. In Jonesville? Okay. And what is your relation to
13 Stephen Berry?

14 A. That's my dad.

15 Q. And how long have you lived or was there a time in the
16 past when you lived with Mr. Berry?

17 A. Yes, sir.

18 Q. And when did you live with him?

19 A. Most of my life I've lived with him.

20 Q. Going back to around Christmas of 2010, did something
21 change temporarily, your living arrangements then?

22 A. I moved out.

23 Q. Okay. And then what happened after that as far as
24 your living arrangements?

25 A. After a week or two, I came back.

J.B.

BY SOLICITOR ANTHONY

-303-

1 Q. Okay. So from the time you moved back in after
2 Christmas of 2011, how long did you live with him after
3 that?

4 A. Till all this came.

5 Q. Okay. And that was in March of 2011; is that right?

6 A. Yes, sir.

7 Q. Okay. All right. And up until that time, where were
8 you going to school?

9 A. Union High.

10 Q. So when you say you lived with Mr. Berry, are you
11 referring to the house up on the [REDACTED]?

12 A. Yes, sir.

13 Q. Okay. And who lived there with you in that house?

14 A. My step mom, my dad and my sisters.

15 Q. Okay. And how many - You're Mr. Berry's - How many
16 children does he have with your step mom?

17 A. Three.

18 Q. Three. Okay. All right. And before that, where did
19 you live with Mr. Berry?

20 A. Catherine Street.

21 Q. Okay. And then you moved up on the [REDACTED]
22 when he did ---

23 A. Yes, sir.

24 Q. --- in May of 2010?

25 A. Yes, sir.

J.B. BY SOLICITOR ANTHONY

-304-

1 Q. Okay. And up until January of 2011, what was Mr.
2 Berry's occupation? Where did he work?

3 A. The youth ministry.

4 Q. Okay. And at what church?

5 A. New Life.

6 Q. Okay. And up until March of 2011, what was your
7 relationship with Minor

8 A. She was my best friend.

9 Q. And how long have you known her?

10 A. Since we were little.

11 Q. And where would you see Minor up until that time in
12 March of 2011?

13 A. Her dad was friends with my uncle. She would come to
14 my house. I would go over to her house. Church.

15 Q. Okay. All right. So would you all be like outside of
16 school, did you see each other a lot outside of school?

17 A. Yes, sir.

18 Q. Okay. How often would you say? You know, how many
19 days a week would you see Minor outside of school?

20 A. Just about every day.

21 Q. Just about every day? Okay. How frequently would the
22 two of you spend the night together?

23 A. Whenever her dad would let her come over.

24 Q. Okay. And then what kind of things would you all do
25 together?

J.B. BY SOLICITOR ANTHONY

-305-

1 A. Play the Wii, watch movies, talk.

2 Q. Okay. Once your family moved up to Jonesville in May
3 of 2010, did you notice any changes in your father's
4 behavior towards Minor ?

5 A. He talked to her more.

6 Q. Okay. And where would he talk to her?

7 A. Her house, our house, church.

8 Q. Okay. At your house where would he talk to her?

9 A. Outside, his room, my room, the living room.

10 Q. Okay. And when you say his room, are you referring to
11 his bedroom?

12 A. Yes, sir.

13 Q. Okay. And would he take - Would there be instances
14 where he would either pick Minor up for church or take her
15 home from church?

16 A. Yes, sir.

17 Q. Okay. And would anybody else be with them when he
18 would do this?

19 A. Sometimes.

20 Q. Okay. Would there be other times it would just be him
21 and her alone in the car?

22 A. Yes, sir.

23 Q. And at the times that he would talk to her, say when
24 he was at your house and he would talk to her, who else
25 would be there with them when they were talking?

J.B. BY SOLICITOR ANTHONY

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1 A. My sisters and me.

2 Q. Okay. Would there be times when there would just be
3 him and her?

4 A. Yes, sir.

5 Q. Okay. And did that happen in his bedroom?

6 A. Yes, sir.

7 Q. Okay. And was there an occasion where you found Mr.
8 Berry and Minor in bed together in his bedroom?

9 A. Yes, sir.

10 Q. And what was Mr. Berry wearing when that happened?

11 A. Well I couldn't see what he had on.

12 Q. Okay. So you didn't know what he had on?

13 A. No, sir.

14 Q. Okay. Where were they in the bed?

15 A. My dad was near the pillows and Minor was at the
16 end of the bed.

17 Q. Okay. And was there a time when you walked in and
18 they were both under the covers in the bed?

19 A. Not on the same side like beside each other no.

20 Q. Did you make some observations after you all moved to
21 [REDACTED] that he would try - that Mr. Berry would
22 touch Minor ?

23 A. Not inappropriately.

24 Q. Did you make any observations about how much time he
25 wanted to spend with Minor compared to the amount of time

J.B. BY SOLICITOR ANTHONY

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1 he wanted to spend with you?

2 A. Yes, sir.

3 Q. Now what was that?

4 A. What do you mean?

5 Q. Well, did he want to spend more time with Minor than
6 he wanted to spend with you?

7 A. Minor had a lot of problems that she just liked to
8 talk to my dad about and so she would come to my dad to
9 talk to him. There was a lot of times where it would just
10 be them talking instead of me.

11 Q. All right. And were there times that he would -
12 it would seem to you that he would just want to be with
13 Minor and not with you?

14 A. I mean if it was needed he would be with Minor and
15 not me.

16 Q. All right. I want to take you now to the 21st of
17 March of last year - or I'm sorry, 2011. Did you talk to
18 Minor at school on that day?

19 A. Yes, sir.

20 Q. Okay. And what did you talk to her about?

21 A. The situation.

22 Q. Okay. And when you say the situation, what are you
23 referring to?

24 A. What happened with my daddy.

25 Q. And did you ask her about that?

J.B.

BY SOLICITOR ANTHONY

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1 A. She told me about it.

2 Q. Okay. And how did you react to that?

3 A. At the time I didn't know how to react.

4 Q. Okay. Well, what did you do after being told that?

5 A. I left school.

6 Q. And where did you go?

7 A. D.T. 's grandma's.

8 Q. And who is D.T. ?

9 A. He is my friend from the youth group.

10 Q. And so what did you do after going to D.T. 's
11 grandmother's house? What did you do then?

12 A. Well I sat there and then Julie came over there and
13 talked to me.

14 Q. Okay. And that was on that Monday that you left
15 school?

16 A. Yes, sir.

17 Q. And after Julie had talked to you, what happened then?

18 A. I left.

19 Q. Okay. And where did you go?

20 A. Austin's.

21 Q. And who was Austin?

22 A. Was my boyfriend at the time.

23 Q. Where did he live?

24 A. In Spartanburg.

25 Q. Okay. And is that where you stayed that Monday night?

J.B. BY SOLICITOR ANTHONY

-309-

1 A. Yes, sir.

2 Q. And what happened the next day?

3 A. Roxie Belue called me and told me to come to the
4 police station.

5 Q. And so did you do that?

6 A. Yes, sir.

7 Q. Okay. Did you go back to D.T. 's house on
8 Monday?

9 A. No, sir.

10 Q. Okay. You just went straight to the sheriff's office?

11 A. No. I went to Austin's. I went to D.T. 's when I
12 left school.

13 Q. Okay. But I mean the next day, the next day after you
14 left school when you spent the night at Austin's, did you
15 go back to D.T. 's house that day?

16 A. No, sir.

17 Q. You never went to D.T. 's house that day?

18 A. No, sir.

19 Q. And when you went to the sheriff's office, who went
20 with you?

21 A. Austin.

22 Q. Did anybody else go with you?

23 A. That's it.

24 Q. Ms. Krasinski didn't go with you?

25 A. No, sir.

J.B.

BY SOLICITOR ANTHONY

-310-

1 Q. And who was Ms. Krasinski?

2 A. She helped my dad with the youth.

3 Q. Okay. And you said you saw her that Monday when you
4 left school. That's your recollection?

5 A. Yes, sir.

6 Q. Okay. And did you -- Were you friends with any of her
7 kids?

8 A. Her son.

9 Q. And had she -- When she came to D.T. 's
10 grandma's house looking for you, what was her concern?

11 A. Just to check on me.

12 Q. Okay. And did you talk to her about some things you
13 had seen between Minor and your father?

14 A. I told her that Minor told me the situation and I was
15 freaking out.

16 Q. Okay. Did you tell her that you had seen Mr. Berry;
17 your father, and Minor under a blanket together watching a
18 movie?

19 A. No, sir.

20 Q. You didn't tell her that?

21 A. No, sir.

22 Q. Okay. And did you tell her that Mr. Berry would be at
23 the house with Minor while you weren't there; that the two
24 of them would be alone together?

25 A. Yes, sir.

J.B. BY SOLICITOR ANTHONY

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1 Q. You did tell her that?

2 A. Yeah.

3 Q. All right. And when you went to the sheriff's office,
4 did you see Ms. Krasinski there?

5 A. No, sir.

6 Q. You never saw Ms. Krasinski at the sheriff's office?

7 A. After I came out of Roxie Belue's office she was out
8 there with Austin.

9 Q. Okay. And when you got to the sheriff's office, did
10 you meet with Investigator Belue?

11 A. Yes, sir.

12 Q. All right. And did you meet with Lieutenant Humphries
13 here?

14 (SOLICITOR INDICATED TO LIEUTENANT HUMPHRIES SITTING
15 AT SOLICITOR'S TABLE.)

16 A. Yes, sir.

17 Q. Okay. And did you write the statement on that day?

18 A. Yes, sir.

19 SOLICITOR ANTHONY: If I could just have one moment,
20 Your Honor.

21 THE COURT: Okay.

22 (PAUSE AT 02:15 P.M..)

23 Q. And I'm going to hand up this document. I'd ask that
24 you take a look at that.

25 (WITNESS REVIEWING DOCUMENT.)

JADEA BERRY: BY SOLICITOR ANTHONY

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1 Q. Do you recognize that?

2 A. Yes, sir.

3 Q. And what is that, J.B. ?

4 A. The statement I made.

5 Q. Okay. And would you say that - Is it accurate to say
6 that after your family moved to [REDACTED], did you
7 have any kind of concerns or worries about what you saw
8 happening between Mr. Berry and Minor

9 A. What do you mean?

10 Q. I'm sorry?

11 A. What do you mean?

12 Q. Well, did you - Seeing them interact, did you have any
13 worries that something inappropriate might be going on
14 between your father and Minor ?

15 A. Um, before all this no.

16 Q. I'm sorry?

17 A. No.

18 Q. Okay. All right now, I'll just call your attention to
19 the statement. The statement begins, "My name is J.B.

20 Me and Minor have been best friends for a
21 very long time." And then the next line is, "I have saw
22 some things that made me think about a lot." Is that
23 correct?

24 A. Yes, sir.

25 Q. All right. And is it your testimony that there was an

J.B.

BY SOLICITOR ANTHONY

-313-

1 occasion where you would see Minor and your father
2 go in his bedroom and he had his boxers on?

3 A. Yes, sir.

4 Q. Okay. And you have seen that?

5 A. Yes, sir.

6 Q. Okay. And is it your testimony that you walked in on
7 them and they would be under the bed covers?

8 A. Yes, sir.

9 Q. Okay. And is it correct to say that your father
10 during this time after he moved would want to be around
11 Minor more than he would want to be around you?

12 A. If she needed to talk to mu dad yes.

13 Q. Okay. In the statement, the third sentence of the
14 statement reads, "My dad would always want Minor with him
15 instead of me." Is that correct?

16 A. Yes, sir.

17 Q. Okay. And then it goes on, "he would ask me to go to
18 the store and I would say Minor come on and my dad would
19 say no, Minor is staying here with me. Is that --

20 A. Yes, sir.

21 Q. And is that what would happen?

22 A. Yes, sir.

23 Q. And did you ever see Mr. Berry touch Minor in a way
24 that was inappropriate?

25 A. No, sir.

J.B.

BY SOLICITOR ANTHONY

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1 Q. And the next - Let me call your attention to the
2 second page of the statement, the first full sentence on
3 that page, "Minor would always freak out when my dad would
4 come in and try to touch her and play around like she would
5 say no Stephen stop. I don't feel like doing this right
6 now."

7 A. Yes, sir.

8 Q. Okay. Is that what would happen?

9 A. He would tickle her and stuff like he did to us. Not
10 nothing like inappropriately.

11 Q. Okay. And did Mr. Berry during this period of time
12 not want you and Minor to be together? Like would he not
13 want the two of you to just be together by yourselves?

14 A. I mean, sometimes. Most of the time he was with us.

15 Q. Most of the time he was with you?

16 A. Yes, sir.

17 Q. Okay. Okay. And you said, the next sentence down,
18 "He would never want just me and Minor to hang out." Is
19 that correct?

20 A. Yes, sir.

21 Q. Okay. And would there be situations where he would
22 want you to move so he could be close to Minor ?

23 A. What do you mean?

24 Q. Like if you all were together, would he ever ask you
25 to move so he could be close to Minor ?

J.B. BY SOLICITOR ANTHONY

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1 A. I don't understand what you're asking. Like if we
2 were sitting by each other or something?

3 Q. Yeah.

4 A. Uh, no, sir.

5 Q. Okay. Well now the next line of the statement is, "We
6 would be watching a movie and we would come and he would
7 come and lay in bed with Minor and make me sit on the
8 bed."

9 A. Well, he didn't ask me to move. I just sat on the
10 bed. You said he would sit beside, you know. That's what
11 I was saying.

12 Q. Okay. Is that accurate?

13 A. Yes, sir.

14 Q. There were times that he would come and you would sit
15 on the bed and he would lay in the bed with Minor ?

16 A. Yes, sir.

17 Q. Okay. And would he have his boxers on at this time?

18 A. I don't really remember.

19 Q. Okay. And did you notice that this kind of behavior
20 where he was in his boxers around Minor and showing this
21 attention to Minor , did you notice that that became more
22 pronounced and happened more often when you all moved from
23 Catherine Street up to [REDACTED] ?

24 A. My dad treated Minor like he treated everybody, like
25 his own so.

J.B.

BY SOLICITOR ANTHONY

-316-

1 Q. Okay. Well, so you're saying there really was a
2 change?

3 A. I mean we moved closer to each other so she was over
4 more.

5 Q. Okay. The next line of the statement is, "I think
6 this started around the time we moved out from Catherine
7 Street."

8 A. Yeah, because we moved closer together.

9 Q. Okay. All right. And while you were talking to the
10 police that day, J.B. , was there some contact from
11 your father, from Mr. Berry?

12 A. Yes, sir.

13 Q. Okay. And what was going on? What did he call and
14 talk to you about?

15 A. I called him.

16 Q. Oh, you called him? Okay. Well what did you call him
17 and talk to him about?

18 A. I went down there because of something, Roxie told
19 me to come down there and so I thought my dad was gonna
20 hurt himself so I called my dad to see if he would tell me
21 where he was or anything and all he would tell me is he
22 loves me, he loves my sisters and he loves Sandy.

23 Q. Okay. And who is Sandy?

24 A. My step mom.

25 Q. Okay. Would he tell you where he was?

J.B. BY SOLICITOR ANTHONY

-317-

1 A. No, sir.

2 Q. Okay. And what were you - Were you asking him to do
3 anything? Were you concerned about anything?

4 A. I was just telling him don't hurt yourself.

5 Q. And he would never said anything to you except just
6 that he loved you?

7 A. And my sisters and Sandy. Yes, sir.

8 Q. Did you know he had left home at that time?

9 A. I didn't know where he was.

10 Q. Okay. And he wouldn't tell you where he was?

11 A. No, sir.

12 Q. And so you gave that statement at the sheriff's office
13 that day?

14 A. Yes, sir.

15 Q. And you signed the statement staying that it was true?

16 A. Yes, sir.

17 Q. And did you tell - Well, when you walked in on the two
18 of them in the bed, you said they were both under the
19 covers; is that right?

20 A. Yes, sir.

21 Q. Okay. Did you notice anything about what they were
22 doing when you walked in?

23 A. No, sir.

24 Q. Okay. Do you recall telling the investigator that it
25 looked like to you like they were pulling up their

J.B. BY SOLICITOR ANTHONY

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1 underwear?

2 A. No, sir.

3 Q. Okay. But you did put in your statement that you seen
4 them under the covers in the bedroom?

5 A. Yes, sir.

6 Q. And that they would go in the bedroom and Mr. Berry
7 would have his boxers on?

8 A. Yes, sir.

9 Q. Okay. All right. Well, after you made that statement
10 at the sheriff's office that day, where did you decide
11 to go then?

12 A. To [REDACTED] to get some of my stuff and to go talk
13 to Minor .

14 Q. All right. And who went with you to [REDACTED]?

15 A. Austin.

16 Q. Okay. Did anybody else go?

17 A. Julia came to Minor s when I got to Minor s.

18 Q. Okay. Did she go to the residence as well?

19 A. To Minor s.

20 Q. I'm sorry?

21 A. To Minor s house.

22 Q. Okay. Did she go to your house, to Mr. Berry's house
23 as well?

24 A. No. She just came to Minor s.

25 Q. Okay. And this was you and Austin together ---

J.B. BY SOLICITOR ANTHONY

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1 A. Yes, sir.

2 Q. --- at Minor s?

3 A. Yes, sir.

4 Q. Okay. And so when you went to [REDACTED] - going
5 back, you went to Mr. Berry's house first; is that correct?

6 A. Yes, sir.

7 Q. Okay. What did you do there?

8 A. I got some of my stuff.

9 Q. Okay. And what was the purpose of getting your stuff?

10 A. I wasn't living there so I was just getting some of my
11 stuff.

12 Q. Okay. Well, you had been living there up until the
13 day before. Right?

14 A. Yes, sir.

15 Q. Okay. So had you decided that you weren't going back
16 there?

17 A. Yes, sir.

18 Q. Okay. And where were you going to go?

19 A. Austin's mother's house.

20 Q. Okay. All right. Where does Austin live again?

21 A. In Spartanburg.

22 Q. In Spartanburg, okay. And before you all left
23 Jonesville to go up to Spartanburg, where did you want to
24 go then? Where did you want to go first?

25 A. I went to Minor s house.

J.B.

BY SOLICITOR ANTHONY

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1 Q. Okay. And was Minor there when you got there?

2 A. I think she was coming home from school or she was
3 already at her house.

4 Q. Okay. And did you and Minor talk that afternoon?

5 A. Yes, sir.

6 Q. Okay. And before Minor got there, did you talk to
7 Mr. Williams and to Mrs. Tucker?

8 A. Yes, sir.

9 Q. And did you tell them that you had put the whole thing
10 together and that you knew Mr. Berry did it?

11 A. No, sir.

12 Q. Okay. You never said that?

13 A. No, sir.

14 Q. Okay. And then later on Minor arrived; is that
15 right?

16 A. Yes, sir.

17 Q. Okay. And did you have a conversation with her?

18 A. Yes, sir.

19 Q. Okay. And what was the conversation between you and
20 Minor ?

21 A. I wanted her to tell me the whole story.

22 Q. Okay. And did she talk to you more about it?

23 A. Yes, sir.

24 Q. And would you characterize it as a very emotional
25 meeting?

J.B. BY SOLICITOR ANTHONY

-321-

1 A. Yes, sir.

2 Q. For the two of you?

3 A. Yes, sir.

4 Q. And at that point in time you resolved you were going
5 to stay Minor s friend through this?

6 A. Yes, sir.

7 Q. And since this - since this incident, since March of
8 2011, you have resumed contact with Mr. Berry; is that
9 right?

10 A. Yes, sir.

11 Q. Okay. And how long was it before you talked to Mr.
12 Berry again after that day that you left the house in
13 Jonesville?

14 A. Not very long.

15 Q. Not very long?

16 A. I'm not sure.

17 Q. A few days?

18 A. Maybe. When he got out of jail.

19 Q. Okay. And you have since, since this happened you've
20 had a child; is that right?

21 A. Yes, sir.

22 Q. And Mr. Berry has helped you support your child; is
23 that correct?

24 A. Yes, sir.

25 Q. That's correct?

J.B. BY SOLICITOR ANTHONY

-322-

1 A. Yes, sir.

2 Q. He has bought things for the baby since you had the
3 baby?

4 A. Yes, sir.

5 Q. And he's bought things for you; is that correct?

6 A. Yes, sir.

7 Q. Okay. And you are still in frequent contact with Mr.
8 Berry; is that right?

9 A. Yes, sir.

10 Q. Okay. How often do you talk to him?

11 A. Every day.

12 Q. Okay. Sometimes more than one time a day?

13 A. Yes, sir.

14 Q. Okay. Do you still - Do you go spend time at his
15 house?

16 A. Yes, sir.

17 Q. Take the grandbaby to the house?

18 A. Yes, sir.

19 Q. Okay. And he's given you support and basically has
20 been for the last two years?

21 A. Yes, sir.

22 Q. Okay. And is it fair to say you really don't have a
23 relationship with Minor anymore?

24 A. No, sir.

25 Q. Okay. And it's also I take it fair to say that you

J.B. BY SOLICITOR ANTHONY

-323-

1 love Mr. Berry?

2 A. He's my dad.

3 Q. And before you - You testified about this behavior one
4 other time; is that correct?

5 A. What do you mean?

6 Q. Like you testified in court about this one other time
7 in court. Right?

8 A. Yes, sir.

9 Q. Okay. And do you remember a couple of weeks before
10 you testified last time receiving a phone call from
11 Lieutenant Humphries?

12 A. Yes, sir.

13 Q. Okay. And what did Lieutenant Humphries ask you to
14 do?

15 A. I don't remember.

16 MR. DELANEY: Your Honor, we're getting in some
17 hearsay at this time.

18 THE COURT: Yeah. I sustain the objection.

19 BY SOLICITOR ANTHONY:

20 Q. Well, were you asked to come talk to me?

21 A. Yes, sir.

22 Q. Okay. And would you do that?

23 A. I wasn't gonna talk to you until I talked to my dad.

24 Q. Okay. And when Lieutenant Humphries called you, who
25 was with you?

J.B. BY SOLICITOR ANTHONY

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1 A. My dad.

2 Q. Okay. And do you recall your father getting on the
3 phone with Lieutenant Humphries?

4 A. When I started getting upset he got on the phone.

5 Q. All right. And what did your father tell Lieutenant
6 Humphries?

7 A. I don't really remember. All I know is to not call me
8 again.

9 Q. All right. Your father told Lieutenant Humphries not
10 to try to talk to you anymore?

11 A. Because he was making me upset.

12 Q. And have you were getting ready to testify today, have
13 you met with your father's attorneys?

14 A. Yes, sir.

15 Q. Who have you talked to?

16 A. Erik.

17 Q. And how many times have you talked to Mr. Delaney over
18 there?

19 A. Three or four times.

20 Q. Okay. And would you meet with him with Mr. Berry, the
21 three of you together?

22 A. No, sir.

23 Q. Okay. Mr. Berry wasn't there when you were meeting
24 with Mr. Delaney?

25 A. No, sir.

J.B. BY MR. DELANEY

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1 Q. Okay.

2 SOLICITOR ANTHONY: If I could ask for one moment.

3 (PAUSE.)

4 SOLICITOR ANTHONY: Okay. That's all on direct.

5 CROSS EXAMINATION

6 J.B. BY MR. DELANEY:

7 Q. Now, J.B., regarding a few questions that Mr. Anthony
8 has asked you about this phone call you received from Mr.
9 Humphries. I wasn't your dad's - I wasn't your dad's
10 lawyer at that time was I?

11 A. No, sir.

12 Q. And in preparation of what we're doing here today, for
13 today's purposes, has Mr. Anthony tried to get in touch
14 with you wanting to talk to you?

15 A. No, sir.

16 Q. You moved back in - You said that there was a time
17 back in December of 2010 that you had moved out of your
18 dad's place; is that right?

19 A. Yes, sir.

20 Q. Okay. And then you moved back in at some point after
21 Christmas; is that right?

22 A. Yes, sir.

23 Q. So for a couple of weeks you were out of the house?

24 A. Yes, sir.

25 Q. What was that about?

J.B.

BY MR. DELANEY

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1 A. I turned seventeen and I wanted to go live with my mom
2 and so I went to live with my mom and then I got in some
3 situations that I didn't need to be in so I went back to my
4 dad's.

5 Q. Okay. And obviously as we've heard, your mom and your
6 dad, they don't live together. Right?

7 A. No, sir.

8 Q. And where do you live now?

9 A. With my mom.

10 Q. Okay. And we've heard testimony that since these
11 allegations were made, you haven't lived back in the house.
12 Right

13 A. No, sir.

14 Q. Okay. Now, one of the issues that came up about you
15 living back at the house is your dad didn't approve, wasn't
16 cool with you living with another guy; is that right?

17 A. Yes, sir.

18 Q. He didn't approve of that did he?

19 A. My dad tries to live by the Bible so everything
20 against that he's against.

21 Q. So he wasn't going to let you and your boyfriend live
22 at the house; is that right?

23 A. No, sir.

24 Q. Where did you guys live at?

25 A. His mom's.

J.B. BY MR. DELANEY

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1 Q. Okay. Your boyfriend's mom's?

2 A. Yes, sir.

3 Q. And currently at the residence now, your three step
4 sisters live there with your father. Right?

5 A. Yes, sir.

6 Q. And that's C.B. , P.B. and L.B. ?

7 A. Yes, sir.

8 Q. And they are all a little bit younger than you?

9 A. Yes, sir.

10 Q. Now, J.B. , we've heard that you gave a statement to
11 Detective Belue and Humphries; is that right?

12 A. Yes, sir.

13 Q. Now two months after giving that statement, you talked
14 to a lady from DSS named Betsy Hudson; is that right?

15 A. Yes, sir.

16 Q. And did she come - Did you go meet her somewhere or
17 did she come to where you were at?

18 A. She came to my grandma's.

19 Q. Okay. And you guys sat down and talked?

20 A. Yes, sir.

21 Q. Talked for a while?

22 A. Yes, sir.

23 Q. Okay. And again this was approximately two months
24 after you gave the statement?

25 A. Yes, sir.

J.B.

BY MR. DELANEY

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1 Q. Okay. And, J.B. , you told her, you told her the
2 investigator --

3 SOLICITOR ANTHONY: Objection. This is hearsay.

4 THE COURT: He's talking about this witness told
5 somebody else. She can tell what she said.

6 SOLICITOR ANTHONY: Well it's not a inconsistent
7 statement to my knowledge.

8 THE COURT: Let me hear the question again.

9 MR. DELANEY: I would submit it's going to be
10 inconsistent. I was just going to ask her what she -- go
11 through with her what she told this lady when she met with
12 her.

13 THE COURT: All right. Let's go. Listen.

14 BY MR. DELANEY:

15 Q. You told her --

16 THE COURT: Back up just a little bit. We kind of got
17 off track. Who are we talking about being her?

18 MR. DELANEY: What we're talking about, Judge, two
19 months after --

20 THE COURT: No, her. Who is her?

21 MR. DELANEY: The DSS caseworker, Betsy Hudson.

22 THE COURT: Okay. All right. Go ahead.

23 BY MR. DELANEY:

24 Q. You told her that law enforcement had you write down
25 all the things that Minor could possibly twist around; is

J.B. BY MR. DELANEY - IN CAMERA

-329-

1 that right?

2 A. Yes, sir.

3 SOLICITOR ANTHONY: Objection. That's just hearsay.

4 Q. Did you say that?

5 A. I said it. Yes, sir.

6 SOLICITOR ANTHONY: I still say -

7 THE COURT: Well let the jury go to the jury room just
8 for a minute while we hash this out.

9 (JURY EXITS COURTROOM AT 02:38 P.M..)

10 THE COURT: All right. Why don't you go make a
11 proffer and let's see what we're dealing with.

12 CROSS EXAMINATION - IN CAMERA

13 J.B. BY MR. DELANEY:

14 Q. Two weeks - Two months after giving your written
15 statement, right, you talked to DSS caseworker, Betsy
16 Hudson; Is that right?

17 A. Yes, sir.

18 Q. Okay. And you told her the investigators had you
19 write down all the thing Minor could possibly twist
20 around; is that right?

21 A. Yes, sir.

22 Q. Okay. And you told her as we're heard, Minor is your
23 best friend?

24 A. Yes, sir.

25 Q. And she was like another daughter to your father; is

J.B.

BY MR. DELANEY - IN CAMERA

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1 that correct?

2 A. Yes, sir.

3 Q. And Minor - You told her that Minor would come over
4 every day if possible?

5 A. Yes, sir.

6 Q. You told her one time she busted out a window when she
7 wasn't allowed to come over to the residence?

8 A. Yes, sir.

9 Q. Okay. And you told her that Minor's story sounded
10 similar to your story when you went through and what you
11 shared with her as far as a sexual assault charge you
12 incurred?

13 A. Yes, sir.

14 Q. You told her your dad counseled Mr. Williams; is that
15 right?

16 A. Yes, sir.

17 Q. Encouraged him to spend more time with Minor ?

18 A. Yes, sir.

19 Q. You told her you were put out and mad at Minor ?

20 A. Yes, sir.

21 Q. And you told her you didn't believe your dad did
22 anything wrong?

23 A. Yes, sir.

24 Q. And this was two months after you gave your statement.

25 Right?

J.B. BY MR. DELANEY - IN CAMERA

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1 A. Yes, sir.

2 Q. Okay.

3 MR. DELANEY: That's it, Judge.

4 THE COURT: Any objection?

5 SOLICITOR ANTHONY: She was testifying to all that
6 from the witness stand but it's hearsay for her to say, oh
7 I told Dss that two years ago. That's an assertion she
8 made out of court two years ago that's being used for the
9 truth of matter asserted. I mean she can say all that from
10 the stand and that can be elicited from her, but to couch
11 it in the terms of well this is what you said to DSS,
12 that's just hearsay.

13 THE COURT: Well its not hearsay if she's the one who
14 said it.

15 SOLICITOR ANTHONY: I would - I would argue that it
16 is,
17 Your Honor. It's still an out of court assertion she made
18 being used for the truth of the matter asserted.

19 THE COURT: But she's the declarant.

20 SOLICITOR ANTHONY: I'm sorry?

21 THE COURT: She is the declarant.

22 SOLICITOR ANTHONY: She is -

23 THE COURT: And she is available for cross
24 examination.

25 SOLICITOR ANTHONY: Well --

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1 THE COURT: I wouldn't call it cross examination but
2 redirect.

3 SOLICITOR ANTHONY: I understand. But, Your Honor, I
4 think the Rule is pretty clear that even though she is the
5 declarant, this is still something she said and I don't
6 think -

7 THE COURT: Tell me what Rule we're talking about.

8 SOLICITOR ANTHONY: 801.

9 THE COURT: Mr. Delaney, what do you have to say about
10 that?

11 MR. DELANEY: Judge, first off I would say that she is
12 the declarant in this case. This is what she is saying she
13 said. I think it is important. I think it is relevant to
14 this case the fact that she said these things just months
15 after making her statement. This wasn't something that she
16 is just coming into court and saying today. She said this
17 was something - she said to someone just months after
18 giving her statement.

19 SOLICITOR ANTHONY: I think if you look at 801©, the
20 definition of hearsay is "a statement other than one made
21 by the declarant while testifying in the trial or hearing."
22 So this is not a statement she made while testifying at the
23 trial or hearing and it's offered into evidence to prove
24 the truth of the matter asserted which is what they're
25 using it for. So it falls under the definition of hearsay

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1 under 801© and there is no exception that allows that to
2 come in. She can testify to all the things that that
3 report says but I don't think it can be couched in terms of
4 --

5 THE COURT: I agree with the State. She can testify
6 to all of that but not couch it in kind of a difference
7 without a distinction but not characterize it as this is
8 what I earlier said.

9 Do you have anything else to add to that?

10 MR. DELANEY: No.

11 THE COURT: Bring in the jury.

12 (JURY REENTERS COURTROOM AT 02:44 P.M..)

13 THE COURT: Let me - I'm sorry. Catch them, take them
14 back out.

15 Let me let you go back - go back out just one more
16 minute.

17 (JURY EXITS COURTROOM AT 02:44 P.M..)

18 THE COURT: Let me just follow up.

19 Why do you say, Mr. Anthony, that this is offered to
20 prove "the truth of the matter asserted" matter?

21 SOLICITOR ANTHONY: Well, --

22 THE COURT: The matter at issue is the charge against
23 Mr. Berry.

24 SOLICITOR ANTHONY: Well, if what they're saying that
25 she said isn't true, it really has no relevance. Now I'm

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1 sure they're offering it for - they want the jury to
2 believe that she was told to write things that they can
3 twist around so I think its undoubtedly the truth of the
4 matter asserted.

5 THE COURT: Say that again. She was suppose to write
6 things --

7 SOLICITOR ANTHONY: That's what she said, Your Honor,
8 in this report that they were trying to submit. They've
9 got that she told the DSS worker and law enforcement to
10 write - told her to write down all the things that Minor
11 could possibly twist if they went to court about
12 the accusations toward J.B. 's father.

13 THE COURT: Well that's no question hearsay. That's
14 no question. If she is saying what somebody told her
15 there's no question that's hearsay.

16 SOLICITOR ANTHONY: Yes, sir. But my point would be
17 that they obviously want the jury to believe that's what
18 happened. Their - Obviously this is being offered for the
19 truth of matter asserted. They are not offering it and
20 don't want the jury to believe it.

21 THE COURT: I hate to admit that I'm somewhat lost.

22 What are the questions you want to ask again, Mr.
23 Delaney?

24 MR. DELANEY: You want me to just go over them, Judge?

25 THE COURT: Yes, let's go through them real quick.

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1 MR. DELANEY: You mean to proffer those again?

2 THE COURT: Well, it'll be quicker than having the
3 court reporter look it up.

4 MR. DELANEY: And, Judge, the questions I ask, told
5 her, "the investigators had you write down all the things
6 Minor could possibly twist around."

7 THE COURT: Slow down and say that again.

8 MR. DELANEY: "You told her" which is Betsy Hudson,
9 "You told Betsy Hudson who had you write down all the
10 things Minor could possibly twist around."

11 THE COURT: I don't understand that as a question. I
12 don't even understand the question.

13 MR. DELANEY: "You told her the --

14 THE COURT: Who?

15 MR. DELANEY: At least that's what - the next
16 question, "you told her Minor was your best friend." And
17 she, Minor "was like another daughter to your dad."

18 THE COURT: All that she can testify to I think but
19 the part about her relating what somebody else told her
20 about writing things down and stuff that Minor could
21 twist, that is hearsay.

22 MR. DELANEY: I understand that. I'll take that
23 question out.

24 THE COURT: I just misunderstood.

25 MR. DELANEY: "You told her one time" --

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1 THE COURT: Who told who? You say told her. That's
2 just out in space.

3 MR. DELANEY: Okay. J.B. told her "one time Mr.
4 Williams wouldn't let Minor come over so she busted out a
5 window."

6 THE COURT: I never heard her testified to.

7 MR. DELANEY: Hum?

8 THE COURT: Here again, was she there when the window
9 was busted out, this witness? I mean you're not only
10 saying that she is testifying to something that she didn't
11 see happening but giving a motive for it so I don't think
12 that question is appropriate.

13 MR. DELANEY: Told her that "Minor's story sounded
14 similar to your's after you shared with Minor some things
15 about when you were assaulted."

16 THE COURT: Any objection to that?

17 SOLICITOR ANTHONY: I'm sorry. What was the question
18 again?

19 MR. DELANEY: "You told her that Minor's story
20 sounded similar to your's, J.B., after you shared with
21 Minor some things about the time you were assaulted."

22 SOLICITOR ANTHONY: I think that's hearsay. I mean
23 they obviously are wanting to introduce that for the truth
24 and want the jury to believe it.

25 THE COURT: I don't think it's relevant anyway so I'm

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1 not going to allow that.

2 MR. DELANEY: "Told her you were mad and put out with
3 Minor ." And the last question, "You told her that you
4 believed that your dad didn't do anything wrong."

5 THE COURT: Any objection to that?

6 SOLICITOR ANTHONY: Yes, sir.

7 THE COURT: All right. Just stay away from that
8 question too. She can certainly testify under oath today
9 that she doesn't think her dad did anything wrong. And I
10 apologize for not - I did not quite grasp the question
11 being asked in the context it was being asked in relation
12 to the objection.

13 All right. Bring in the jury.

14 (JURY REENTERS COURTROOM AT 02:50 P.M..)

15 THE COURT: Okay. You may proceed.

16 CROSS EXAMINATION

17 J.B. BY MR. DELANEY:

18 Q. J.B. , do you believe your dad did anything wrong?

19 A. No, sir.

20 Q. Now, J.B. , that wasn't always the case. Right?

21 A. No, sir.

22 Q. You heard about the allegations against your dad at
23 the school; is that right?

24 A. Yes, sir.

25 Q. Where in the school was that?

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1 A. In the hall.

2 Q. Was this during school?

3 A. Yes, sir.

4 Q. During the school day?

5 A. Yes, sir.

6 Q. So during the school day. Is it between classes?

7 A. Yes, sir.

8 Q. Okay. So during school between classes you have a
9 conversation with Minor ?

10 A. Yes, sir.

11 Q. And that is when you find out the allegations that
12 she's made; is that correct?

13 A. Yes, sir.

14 Q. And this is your best friend at the time. Right?

15 A. Yes, sir.

16 Q. Okay. She is telling you at school between classes.
17 Correct?

18 A. Yes, sir.

19 Q. Okay. And were you the first to know at school?

20 A. No, sir.

21 Q. Were you the last to know?

22 A. Seemed like it.

23 Q. Why do you say that?

24 A. Because she wouldn't talk to me at first. I had to
25 find her and make her talk to me.

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1 Q. Did a lot of people know.

2 A. After she told me I went to lunch and found out that
3 she told --

4 SOLICITOR ANTHONY: Objection. That's hearsay.

5 THE COURT: Don't go into what somebody else said.

6 BY MR. DELANEY:

7 Q. Fast forward, next day at the sheriff's office. Who
8 did you speak with first when you got there?

9 A. Al Black.

10 Q. And did you ask to speak to him?

11 A. I asked where he was?

12 Q. Okay. And was he there?

13 A. Yes, sir.

14 Q. And did you go talk to him?

15 A. Yes, sir.

16 Q. Okay. And Al Black was the investigator on your case
17 when you were sexually assaulted. Right?

18 A. Yes, sir.

19 Q. And you liked him?

20 A. Yes, sir.

21 Q. He treated you good?

22 A. Yes, sir.

23 Q. Did you trust him?

24 A. Yes, sir.

25 Q. And he was the person that you asked to talk to when

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1 you went to the sheriff's department?

2 A. Yes, sir.

3 Q. And you guys talked about the allegations that were
4 being made against your dad?

5 A. Yes, sir.

6 Q. And after that you went and talked to Officer Belue;
7 is that correct?

8 A. Yes, sir.

9 Q. And then at some point did Lieutenant Humphries become
10 involved?

11 A. Yes, sir.

12 Q. Okay. Now, after your conversations with Al Black,
13 Officer Belue and Lieutenant Humphries, were you ready to
14 believe there was a lot of evidence against your father?

15 A. Yes, sir.

16 Q. DNA evidence?

17 A. Yes, sir.

18 Q. And as we've heard, J.B. , after giving your
19 statement, you went and talked to Minor ; is that right?

20 A. Yes, sir.

21 Q. And this time she gave you her entire story; is that
22 right?

23 A. Yes, sir.

24 Q. Okay. And you were upset at that time weren't you?

25 A. Yes, sir.

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1 Q. You were upset about what you were hearing weren't
2 you?

3 A. Yes, sir.

4 Q. And, J.B. , at that time you had your best friend's
5 back didn't you?

6 A. Yes, sir.

7 Q. You were there for Minor ?

8 A. Yes, sir.

9 Q. You thought you knew what she was going through?

10 A. Yes, sir.

11 Q. But, J.B. , did things change shortly after that day?

12 A. Yes, sir.

13 Q. Did you continue to have communications, contact with
14 her?

15 A. Not really.

16 Q. Would there be some contact, some conversations?

17 A. Yes, sir.

18 Q. The more time you spent around Minor after she made
19 these allegations, the more you began to question her
20 story; isn't that true?

21 A. I wasn't around her but she would call me.

22 Q. Say again.

23 A. She would call me.

24 Q. And I guess my question to you, J.B. , is this. The
25 more time that you would spend around Minor after these

J.B.

BY MR. DELANEY

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1 allegations, the more you began to doubt her story; isn't
2 that true?

3 A. Yes, sir.

4 Q. And it came to a point ultimately where you doubted
5 her story all together; is that correct?

6 A. Yes, sir.

7 Q. And this was just a few days after you gave your
8 statement wasn't it?

9 A. Yes, sir.

10 Q. This had nothing to do with your dad?

11 A. No, sir.

12 Q. Where was he at at that time?

13 A. I think in jail.

14 Q. What did you say?

15 A. I think he was in jail.

16 Q. In jail? You didn't have a baby at that time did you?

17 A. No, sir.

18 Q. You not believing Minor anymore, had everything to do
19 with Minor .

20 A. Yes, sir.

21 Q. Isn't that right?

22 A. Yes, sir.

23 Q. Minor was your best friend?

24 A. Yes, sir.

25 Q. You knew her well?

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1 A. Yes, sir.

2 Q. Who stopped being friends with who?

3 A. Minor didn't want to be friends with me any more.

4 Q. So you didn't stop being friends with Minor ?

5 A. No, sir.

6 Q. Minor stopped being friends with you?

7 A. Yes, sir.

8 Q. And before all of this you spent a lot of time with
9 her. Right?

10 A. Yes, sir.

11 Q. And as you've testified, you knew her pretty good.
12 Right?

13 A. Yes, sir.

14 Q. There was a lot of arguments going on up at the
15 Williams' house. Right?

16 A. Yes, sir.

17 Q. With the dad?

18 A. Yes, sir.

19 Q. With the grandmother?

20 A. Yes, sir.

21 Q. A lot of arguments with the entire family?

22 A. Yes, sir.

23 Q. Minor would lie to her dad wouldn't she?

24 SOLICITOR ANTHONY: Objection. That's just all based
25 on hearsay.

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1 THE COURT: I sustain the objection.

2 BY MR. DELANEY:

3 Q. Something you all shared, talked about, was the fact
4 that both of you didn't have your mothers in your life as
5 much as you wanted.

6 A. Yes, sir.

7 Q. Is that right?

8 A. Yes, sir.

9 Q. And because of that, Minor had a lot of issues didn't
10 she?

11 A. Yes, sir.

12 Q. And your dad gets called in to try to talk to Minor
13 about some of these issues wasn't he?

14 A. Yes, sir.

15 Q. Mr. Williams would call your dad to have him come and
16 try to talk to Minor .

17 SOLICITOR ANTHONY: Well objection. Once again all of
18 this is based on hearsay.

19 THE COURT: Well I think there has already been some
20 testimony to that but that would be based on hearsay so I
21 sustain the objection.

22 BY MR. DELANEY:

23 Q. Would the calls come into the house from Eddie
24 Williams?

25 A. Yes, sir.

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1 Q. Would calls come into the house from Sherrie Tucker?

2 A. Yes.

3 Q. Who would answer those calls?

4 A. My dad.

5 Q. What would your dad do as a result of those calls?

6 SOLICITOR ANTHONY: Objection.

7 THE COURT: Yeah. We - That question is predicated
8 on telephone calls that she wasn't involved in. She can't
9 really testify to who made them or what was the content of
10 them. I sustain the objection.

11 BY MR. DELANEY:

12 Q. Are you aware of times that your father would go up to
13 the Williams house to meet with Eddie?

14 A. Yes, sir.

15 Q. And would these be sit downs with Mr. Williams and
16 Minor --

17 SOLICITOR ANTHONY: Objection, unless she was there.

18 THE COURT: Yeah. I think you need to stick to stuff
19 she has absolute direct knowledge of. Not things that may
20 have happened.

21 MR. DELANEY: I understand.

22 Q. And you testified your dad would talk to Minor
23 sometimes when she was over at the house. Right?

24 A. Yes, sir.

25 Q. She would want to talk to him. Right?

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1 A. Yes, sir.

2 Q. Sometimes would that make you jealous?

3 A. Yes, sir.

4 Q. What do you mean by that? Can you explain that?

5 A. Well that was my dad and I guess being a teenage girl
6 you want all the attention on you.

7 Q. But you knew your dad was trying to help her. Right?

8 A. Yes, sir.

9 Q. And why was he trying to help her?

10 A. Um...

11 SOLICITOR ANTHONY: Objection. That just calls for
12 speculation.

13 THE COURT: Yeah, I sustain the objection. That would
14 be going into somebody else's -

15 MR. DELANEY: Was you trying -

16 THE COURT: Let me finish. That would be going into
17 somebody else's thought process.

18 BY MR. DELANEY:

19 Q. Were there ever times that you and that Minor was
20 over at the house and you became concerned that she may
21 harm herself based upon things you heard?

22 A. Yes, sir.

23 Q. Was your dad around at these times?

24 A. Yes, sir.

25 Q. When you were at the house, would Minor ever make any

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1 threats to harm herself in front of your dad?

2 A. Yes, sir.

3 Q. And you had said that your dad looked at Minor as one
4 of his own?

5 A. Yes, sir.

6 Q. That would be one of his daughters?

7 A. Yes, sir.

8 Q. Now, the house that you lived at on [REDACTED],
9 it had some different levels to the house; is that right?

10 A. Yes, sir.

11 Q. There is a bottom level?

12 A. Yes, sir.

13 Q. And then there is a level just on top of that; is that
14 right?

15 A. Yes, sir.

16 Q. These are all kind of big rooms; is that correct?

17 A. Yes, sir.

18 Q. And then there is the top level?

19 A. Yes, sir.

20 Q. Are there any doors to each one of these rooms that
21 can be closed off for privacy and anything of that nature?

22 A. Four of the bedrooms and the bathrooms.

23 Q. So it was the bedrooms and the bathrooms had a door
24 that would shut and that would be for privacy; is that
25 correct?

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1 A. Yes, sir.

2 Q. Now, was it common for you and your sisters to go in
3 your dad's room and sit on his bed?

4 A. No.

5 Q. That wasn't common?

6 A. Oh. That was common, yes.

7 Q. Okay. And would you ever - And you said you've got
8 three other sisters. Right?

9 A. Yes, sir.

10 Q. There were four of you at the house?

11 A. Yes, sir.

12 Q. And it wouldn't be uncommon for you all to be in your
13 dad's room; is that right?

14 A. It would be common.

15 Q. It would be common?

16 A. Uh-huh.

17 Q. And would you go in there to watch TV?

18 A. Yes, sir.

19 Q. Watch movies?

20 A. Yes, sir.

21 Q. Would you ever - When you were in there be on one end
22 of the bed where your was on the other end of the bed?

23 A. Yes, sir.

24 Q. Was that that unusual?

25 A. No, sir.

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1 Q. If you got cold on one side of the bed, would you put
2 some covers over you?

3 A. Yes, sir.

4 Q. And, J.B. , you testified that you went in your
5 father's room and Minor was on, I think you said the
6 bottom part of the bed; is that correct?

7 A. Yes, sir.

8 Q. And in fact your father was up near the top part of
9 the bed?

10 A. Yes, sir.

11 Q. That didn't shock you did it?

12 A. No, sir.

13 Q. You didn't think anything of it at that time did you?

14 A. No, sir.

15 Q. That was pretty normal for the family wasn't it?

16 A. Yes, sir.

17 Q. And Minor was like part of the family wasn't she?

18 A. Yes, sir.

19 Q. You never told anyone associated with this case that
20 you saw anybody pulling up any underwear or anything like
21 that ---

22 A. No, sir.

23 Q. --- when you walked in that room?

24 A. No, sir.

25 Q. You never told anybody that. Correct?

J.B.

BY MR. DELANEY

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1 A. No.

2 Q. You never put that in your statement?

3 A. No.

4 Q. Never told that man?

5 (INDICATED TO LIEUTENANT HUMPHRIES.)

6 A. No.

7 Q. Never told Roxie Brewer?

8 A. No.

9 Q. What you're telling, what you saw, is that the truth?

10 A. Yes, sir. What I saw is in the statement.

11 Q. Now, would it be uncommon for your dad to be in his
12 boxers if he is in his bedroom watching some TV, watching a
13 movie?

14 A. No. He would - He would do it all the time. It
15 wasn't nothing weird.

16 Q. Did you ever see your dad touch Minor in an
17 inappropriate way?

18 A. No, sir.

19 Q. Did you ever see him act in an inappropriate way
20 towards Minor ?

21 A. No, sir.

22 Q. Did you ever hear any inappropriate remarks directed
23 towards Minor ?

24 A. No, sir.

25 Q. Now, in your statement you said there were on occasion

J.B.

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1 or a time, times that - Well one time that Minor -- freaked
2 out when your dad touched her; is that right?

3 A. Yes, sir.

4 Q. Now, when you were talking about your dad touched her,
5 what do you mean about when she freaked out when your dad
6 touched her. What do you mean about that?

7 A. Tickling her. Not anything inappropriately.

8 Q. Describe, describe this touching. What do you mean by
9 that?

10 A. Tickling her. Holding her down and tickling her.

11 Q. And did your dad ever hold you down and tickle you?

12 A. He did all of us like that.

13 Q. Okay. When you say all of us, who is all of us?

14 A. C.B. , L.B. , P.B. , me.

15 Q. And would you - When that's happening and your dad's
16 tickling you, would you freak out?

17 A. Yeah.

18 Q. Did you freak out?

19 A. Yeah.

20 Q. Did your sisters freak out as well?

21 A. Yes, sir.

22 Q. Did Minor freak out?

23 A. Yes, sir.

24 Q. Did you see anything inappropriate happen when he was
25 tickling her?

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1 A. No, sir.

2 Q. Now, J.B., I want to take you to a time when you were
3 moving out of your old house on Catherine Street, okay.
4 And do you remember when you all were moving, moving
5 everything out of the residence?

6 A. Yes, sir.

7 Q. Do you remember that?

8 A. Yes, sir.

9 Q. Okay. And did Minor help you move things out of your
10 room?

11 A. Yes, sir.

12 Q. Is that a yes?

13 A. Yes, sir.

14 Q. And what was she specifically - you're saying she
15 helped you. Right?

16 A. Uh-huh.

17 Q. What specifically was she helping with with the move?

18 A. The rest of my clothes in my drawers and my closet.

19 Q. So she was helping you move things out of your room?

20 A. Yes, sir.

21 Q. And other parts of the house?

22 A. My room was the last room.

23 Q. And that's what she helped you with?

24 A. Yes, sir.

25 Q. And was there ever a trip to the house on Catherine

J.B.

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1 Street where that day, or night, where you weren't with
2 Minor ?

3 A. No, sir.

4 Q. And do remember going over to the house one last time
5 to make sure everything was out?

6 A. Yes, sir.

7 Q. And during that trip, who was with you? Who were you
8 with?

9 A. Minor , me and my dad.

10 Q. And you went in the house with them?

11 A. Yes, sir.

12 Q. Did you ever leave Minor alone in the house that day?

13 A. No, sir.

14 Q. And you testified that you went with her or she was
15 with you on every trip you went there; is that correct?

16 A. Yes, sir.

17 Q. And, J.B. , you would ride with your dad to church
18 wouldn't you?

19 A. Yes, sir.

20 Q. And would that be on Wednesdays and Sundays?

21 A. Yes, sir.

22 Q. And who else would ride with your dad to church?

23 A. My sisters, Minor , her brothers if they could come,
24 or they wanted to come.

25 Q. Okay. And you had testified a little earlier that

J.B.

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1 there were sometimes that your dad would take Minor - that
2 it would be just your dad and Minor ; is that correct?

3 A. Yes, sir.

4 Q. Okay. Now, going to getting taken to church, most of
5 the time that was you and your sisters and Minor . Right?

6 A. Yes, sir.

7 Q. And would you attend church regularly?

8 A. Yes, sir.

9 Q. And your sisters as well?

10 A. Yes, sir.

11 Q. Now, your step mom, at some point did she start
12 driving a separate car?

13 A. Yes, sir.

14 Q. The majority of the time did you still ride with your
15 dad?

16 A. Yes, sir.

17 Q. What time did church start on Wednesdays?

18 A. Seven.

19 Q. Seven. What time would he usually then pick up Minor
20 if church was at seven?

21 A. If she didn't come down to my house early, I guess on
22 the way to church we would go.

23 Q. And do you know how early that would be approximately?

24 A. Maybe 6:30 we'd leave our house and go to church.

25 Q. And did your dad, did he have things to do at the

J.B. BY MR. DELANEY

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1 church before stuff started?

2 A. Yes, sir.

3 Q. Is that why you guys would leave a little early?

4 A. Yes, sir.

5 Q. You said there were times that instead of picking
6 Minor up, she would go to the house and then you guys
7 would leave from there?

8 A. Or she would just stay over there after school and
9 then go to church with us.

10 Q. She would stay at your house after school and then
11 just go to church?

12 A. Yes, sir.

13 Q. Now, sometimes your dad would have to take Minor home
14 from church him self; isn't that right?

15 A. Yes, sir.

16 Q. And that is when her father wanted her home at a
17 certain time. Correct?

18 A. Yes, sir.

19 Q. And that certain time was right after church; is that
20 right?

21 A. Yes, sir.

22 Q. Why would she have to be home right after church?

23 SOLICITOR ANTHONY: Well objection. Once again this
24 is all -

25 THE COURT: I sustain the objection. Somebody else

J.B. BY MR. DELANEY

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1 set the rule and she wouldn't know.

2 BY MR. DELANEY:

3 Q. And after church your family would go out for dinner
4 sometimes wouldn't they?

5 A. Yes, sir.

6 Q. And after your dad would drop off Minor he would go
7 meet you at the restaurant; is that correct?

8 A. Yes, sir.

9 Q. And that's because Minor had to be home at a certain
10 time?

11 A. Yes, sir.

12 SOLICITOR ANTHONY: Once again, same objection.

13 THE COURT: I sustain the objection.

14 BY MR. DELANEY:

15 Q. Now, J.B. , do you remember a time when your dad went
16 over to Mr. Williams' house to talk with him regarding
17 wearing a bathing suit over to the house?

18 SOLICITOR ANTHONY: Objection unless she was --

19 THE COURT: I sustain the objection. I think you need
20 to lay a better foundation.

21 BY MR. DELANEY:

22 Q. J.B. , were you over at the Williams' residence after
23 your day wore a bathing suit over there earlier that day?

24 A. Yes, sir.

25 Q. So you know, you knew about the situation there that

J.B. BY MR. DELANEY

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1 day?

2 A. Yes, sir.

3 Q. Okay. And at some point did your dad come and pick
4 you up from the Williams' house that night?

5 A. I left.

6 Q. You left?

7 A. Yes, sir.

8 Q. And did you go and talk to your dad?

9 A. About the situation, yes.

10 Q. Okay. And your dad seemed to be concerned about the
11 situation?

12 A. Yes, sir.

13 Q. And he then went up to the Williams house to talk to
14 Mr. Williams. Right?

15 A. Yes, sir.

16 Q. And your dad's bathing suit -- Are you familiar with
17 what type of bathing suit your dad wears?

18 A. It went to his knees.

19 Q. You guys have a pool at the house?

20 A. Yes, sir.

21 Q. Now, the summer of 2010, Minor , into the fall of that
22 same year, 2010. I mean, J.B. . Now did the summer of
23 2010 to the fall of 2010, would Minor be at your house
24 regularly?

25 A. Yes, sir.

J.B.

BY MR. DELANEY

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1 Q. And when you say regularly, can you explain that to
2 us?

3 A. If she wasn't in trouble or if she was allowed to
4 come, she would be there every day.

5 Q. Okay. And going forward a little bit into the winter
6 of 2010 into 2011, would Minor regularly still come to the
7 house?

8 A. Yes, sir.

9 Q. And hang out with you?

10 A. Yes, sir.

11 Q. Spend time there at the house?

12 A. Yes, sir.

13 Q. Spend the night at the house?

14 A. Yes, sir.

15 Q. She was spending the night at your house regularly up
16 until the time these allegations were made; isn't that
17 correct?

18 A. Yes, sir.

19 Q. In fact, she was coming over to the house every single
20 morning school days. Right?

21 A. Yes, sir.

22 Q. Why was that?

23 A. So she could ride to school with me.

24 Q. And this was going on up until the time Minor made
25 these allegations?

J.B. BY MR. DELANEY
BY SOLICITOR ANTHONY

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1 A. Yes, sir.

2 Q. Do you know of a time that your father would have to
3 pick Minor up from school?

4 A. Yes, sir.

5 Q. Did any of these times happen close to the time that
6 Minor made these allegations?

7 A. Yes, sir.

8 Q. That took place just weeks before these allegations.
9 Correct?

10 A. Yes, sir.

11 Q. J.B., do you believe your father sexually assaulted
12 Minor ?

13 A. No, sir.

14 Q. Did you make a rush to judgment in the case against
15 your father?

16 A. Yes, sir.

17 MR. DELANEY: Thank you, Judge. No further questions.

18 REDIRECT EXAMINATION

19 J.B. BY SOLICITOR ANTHONY:

20 Q. You testified about an incident where you say that you
21 went to Catherine Street with Minor and your dad?

22 A. Yes, sir.

23 Q. And helped move?

24 A. Yes, sir.

25 Q. Okay. And you claim, you say that all three of you

J.B.

BY SOLICITOR ANTHONY

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1 were there at that time?

2 A. Yes, sir.

3 Q. But insofar as whether or not Minor and your father
4 ever went to the Catherine Street house by themselves, you
5 wouldn't know that would you?

6 A. He asked me all the times I was there was Minor
7 and my dad at the house.

8 Q. Okay. But you don't know if there would have been a
9 time where Minor and your dad went just the two of them
10 would you?

11 A. No, sir.

12 Q. Because you wouldn't have been there to know.

13 A. No, sir.

14 Q. And did you ever -- Was there ever a time that you
15 moved back in to the residence on [REDACTED] after
16 March of 2011?

17 A. No, sir.

18 Q. Okay. You never lived there since then?

19 A. No, sir.

20 Q. Have you spent the night there?

21 A. Yes, sir.

22 Q. You spent the night there?

23 A. Yes, sir.

24 Q. Okay. And your testimony is that you resumed contact
25 with your dad very shortly after he was charged with this?

J.B. BY SOLICITOR ANTHONY

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1 A. Yes, sir.

2 Q. And that contact has persisted to this day.

3 A. Yes, sir.

4 Q. Okay. And you said that there were times that Mr.
5 Berry and Minor would be in the car alone and he would
6 take her home from church?

7 A. Yes, sir.

8 Q. And it's accurate that you saw the two of them,
9 Minor and Mr. Berry, in bed together?

10 A. Yes, sir.

11 Q. And you saw the two of them going into his bedroom and
12 he wouldn't have anything on but a pair of boxer shorts?

13 A. Yes, sir.

14 Q. No shirt. Just a pair of boxer shorts.

15 A. Yes, sir.

16 Q. And he would take Minor into the room and shut the
17 door?

18 A. Yes, sir.

19 Q. And then you walked in on them and they were in the
20 bed together?

21 A. Yes, sir.

22 Q. Under a cover?

23 A. Yes, sir.

24 SOLICITOR ANTHONY: If I can have a moment.

25 (PAUSE AT 03:30 P.M..)

J.B.

BY SOLICITOR ANTHONY

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1 Q. All right. You testified - I believe one of the last
2 things you said was, you don't think your father did this
3 any more?

4 A. Yes, sir.

5 Q. Now, it is fair to say that on the day you went to the
6 sheriff's department and wrote your statement, you did
7 think that your father had done this to the girl who was
8 your best friend at the time?

9 A. After I talked to Al Black and Ms. Belue and - I'm not
10 sure what his name is - after I talked to them, at the time
11 yes. After the situation yes I thought it was true.

12 Q. Okay. Well, when you went to the sheriff's office
13 that day, they weren't telling you what you were suppose to
14 put in that statement were they?

15 A. No, sir. I wrote it.

16 Q. You wrote what you saw. Correct?

17 A. Yes, sir.

18 Q. Okay. So when you wrote about seeing your daddy and
19 Minor in the bedroom, that was based on what you saw.
20 Correct?

21 A. May I say something or you --

22 Q. Well my question was what you wrote about seeing them
23 in the bedroom together. That was based on what you saw.

24 A. Yes, sir.

25 Q. Is that right?

J.B. BY SOLICITOR ANTHONY

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1 A. Yes, sir.

2 Q. Okay. And so the facts of what you saw have not
3 changed?

4 A. No, sir.

5 Q. What has changed is now you are back in a spot where
6 you have a good, a really good relationship with your dad;
7 is that right?

8 A. What do you mean?

9 Q. Well, wouldn't you characterize yourself now as having
10 a good relationship with your dad?

11 A. Are you saying like I am changing my decision because
12 of my dad's and my relationship?

13 Q. I'm just asking a question, J.B.

14 A. That's what I was asking like. I was asking why.

15 Q. Is it fair to say now you have a very good
16 relationship with your dad?

17 A. I have a very good relationship but it's not because
18 of my dad why I changed my mind about the situation.

19 Q. Okay. It's fair to say you love your dad?

20 A. He's my dad.

21 Q. Okay. And you'll always love your dad?

22 A. Always.

23 Q. And so regardless of what you believe about what
24 happened, what you saw is what you saw. Correct?

25 A. Yes, sir.

J.B. BY MR. DELANEY

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1 MR. DELANEY: Just a couple on recross, Judge.

2 THE COURT: Wait and see if he is through.

3 Are you through, Mr. Anthony?

4 SOLICITOR ANTHONY: Yes.

5 THE COURT: All right.

6 SOLICITOR ANTHONY: If I can have one more moment.

7 (PAUSE.)

8 SOLICITOR ANTHONY: All right. Yes, sir. That's
9 everything.

10 THE COURT: All right. Recross.

11 RECROSS EXAMINATION

12 J.B. BY MR. DELANEY:

13 Q. You just testified you loved your dad. Right?

14 A. Yes, sir.

15 Q. Would you lie for your dad?

16 A. No.

17 Q. Did you tell the truth here today?

18 A. Yes, sir.

19 SOLICITOR ANTHONY: Objection. That's bolstering.

20 MR. DELANEY: What's changed -

21 THE COURT: I sustain the objection. It's up to the
22 jury to determine whether she is telling the truth or not.

23 BY MR. DELANEY:

24 Q. What's changed, J.B. , is that now you don't believe a
25 word Minor is saying. Correct?

J.B.

BY MR. DELANEY

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1 A. I don't.

2 MR. DELANEY: Thank you.

3 THE COURT: All right. You can step down and be
4 excused. We appreciate your time.

5 (WITNESS LEAVING WITNESS STAND.)

6 THE COURT: Call your next witness.

7 SOLICITOR ANTHONY: May we approach a minute?

8 (SIDE BAR CONFERENCE OFF THE RECORD OUT OF THE HEARING
9 OF THE JURY AT 03:22 P.M..)

10 THE COURT: We'll go ahead and take our afternoon
11 break at this time based on, I think the next witness may
12 take a little longer so we'll break at this time. We take
13 about a ten to twelve minute break.

14 (JURY EXITS COURTROOM AT 03:22 P.M..)

15 THE COURT: We'll be at ease for about ten minutes.

16 (COURT IN RECESS AT 03:22 P.M..)

17 (COURT BACK IN SESSION AT 03:36 P.M..)

18 THE COURT: Take your seats. Thank you.

19 Bring in the jury.

20 (JURY REENTERS COURTROOM AT 03:37 P.M..)

21 THE COURT: Call your next witness.

22 SOLICITOR ANTHONY: The next witness would be Ms.

23 Krasinski.

24 (WHEREUPON: JULIE KRASINSKI,

25 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

JULIA KRASINSKI: BY SOLICITOR ANTHONY

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DIRECT EXAMINATION

JULIE KRASINSKI BY SOLICITOR ANTHONY:

Q. Would you state your name, please?

A. Julia Krasinski.

Q. Ms. Krasinski, where do you live?

A. I live at [REDACTED] in Union.

Q. And where is that?

A. Out at Riverchase golf course.

Q. And who do you live with?

A. My husband and my two children.

Q. And what are your children's names and ages?

A. Co.K. is seventeen and Ca.K. is thirteen.

Q. And what is your occupation?

A. My husband and I, we own Riverchase.

Q. And how long have you been the owners of the golf course?

A. Seventeen years.

Q. And do you know Stephen Berry?

A. I do.

Q. And how do you know him?

A. We went to church together.

Q. And where did you go to church?

A. New Life.

Q. When did your family start going to New Life Church?

A. Early 2010.

JULIA KRASINSKI: BY SOLICITOR ANTHONY

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1 Q. And are any of your children friends with any of Mr.
2 Berry's children?

3 A. Yes.

4 Q. Which - Go ahead. Start with your daughter. Which
5 one of your daughter friends with?

6 A. Ca.K. is really good friends with L.B.

7 Q. And then was your son friends with any of Mr. Berry's
8 children?

9 A. J.B.

10 Q. Okay. All right. And once you all joined New Life in
11 the early part of 2010, what activities did you become
12 involved in at the church?

13 A. I was really interested in working with the youth so I
14 went to Stephen and told him that I wanted to work with the
15 youth group and I helped out and chaperoned and taught some
16 classes when he wasn't there.

17 Q. And the youth group at New Life at that time, what
18 ages or what grades in school did it cover?

19 A. Seven through twelve.

20 Q. And approximately how many young people were in the
21 group.

22 A. A given day it would be twelve to fourteen.

23 Q. Okay. And did you have any particular involvement
24 with any particular part of the youth group?

25 A. I liked working with the girls.

JULIA KRASINSKI: BY SOLICITOR ANTHONY

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1 Q. And so what did you do as far as being involved in the
2 youth ministry there at New Life?

3 A. Mostly just helped out, chaperone the trips, and if
4 Stephen couldn't be there he would ask me to step in and
5 help teach.

6 Q. Okay. Alright. And did you from time to time would
7 attend parties and activities at Mr. Berry's residence?

8 A. I did.

9 Q. And what kind of activities would you go to there?

10 A. We had swimming pool parties and a football party.

11 Q. And from being involved at New Life, did you come to
12 know Minor

13 A. Yes.

14 Q. And before you all joined the church, did you know
15 Minor or her family?

16 A. No.

17 Q. Okay. And just from working in the youth group, who
18 was Minor's best friend in the youth group?

19 A. J.B.

20 Q. And as far as you're involvement with J.B., did you
21 and J.B. develop a relationship?

22 A. We did.

23 Q. And what kind of things would the two of you all do?

24 A. We became close. We'd after school got to McDonalds
25 and have a cup of coffee and just talk about things; what

JULIA KRASINSKI: BY SOLICITOR ANTHONY

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1 was going on in her life, boys, just we would talk.

2 Q. And did you also develop a relationship with Minor ?

3 A. I did but not to that extent.

4 Q. Okay. From being involved in the youth program there
5 at New Life, was it clear that Minor liked a particular
6 boy in the youth group?

7 A. Yes.

8 Q. And who did she like?

9 A. J.S.

10 Q. And was that apparent from the whole time that you
11 were there and she was in the youth group?

12 A. Yes.

13 Q. Okay. I want to take you now to March 22nd of 2011,
14 that Tuesday. Did you receive any contact from anybody
15 concerning Mr. Berry?

16 A. Yes. That morning we received a phone call from the
17 sheriff's department asking if he had been in contact with
18 me.

19 Q. And had he been?

20 A. No.

21 Q. Okay. And then did you have contact from anybody else
22 concerning Mr. Berry or J.B.

23 A. My son.

24 Q. Okay. And after - And how did your son contact you?

25 A. He sent me a text message from his school just saying

JULIA KRASINSKI: BY SOLICITOR ANTHONY

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1

--

2

MR. DELANEY: Your Honor, I object.

3

THE COURT: I sustain the objection.

4

BY SOLICITOR ANTHONY:

5

Q. Well once you got the text message from your son, what did you start doing?

6

7

A. I started looking for J.B. .

8

Q. Okay. And how did you start looking for her? What did you start doing trying to find her?

9

10

A. I just started thinking about any place that she could have been and found her at one - another one of the other youth members grandmother's house.

11

12

13

Q. And who was that youth member?

14

A. D.T.

15

Q. Okay. And where did his grandmother live?

16

A. In Buffalo.

17

Q. Okay. And so after you figured out that was where she was, what did you do?

18

19

A. I drove over there.

20

Q. Okay. And did you find J.B. there?

21

A. I did.

22

Q. And what was her emotional condition when you found her there?

23

24

A. She was very upset. She was crying.

25

Q. And did she make - Did she tell you anything

JULIA KRASINSKI: BY SOLICITOR ANTHONY - IN CAMERA

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1 pertaining --

2 MR. DELANEY: Your Honor, I object, to this line at
3 this time, this hearsay.

4 THE COURT: I sustain the objection.

5 SOLICITOR ANTHONY: Well it would be at least one
6 comment would be something that J.B. denied when she
7 testified.

8 THE COURT: Let me let the jury go to the jury room
9 while we take up a matter of law.

10 (JURY EXITS COURTROOM AT 03:44 P.M..)

11 THE COURT: All right. Why don't you ask the
12 questions first so we'll know what we're dealing with.

13 DIRECT EXAMINATION - IN CAMERA

14 JULIA KRASINSKI BY SOLICITOR ANTHONY:

15 Q. When you went to Mr. Turner's house in Buffalo and saw
16 J.B. , did you talk to her?

17 A. Yes.

18 Q. Okay. And did she make a comment to you that she had
19 seen Mr. Berry under a blanket with Minor while watching a
20 movie?

21 A. Yes.

22 Q. Okay.

23 SOLICITOR ANTHONY: And Your Honor, I asked Ms. Berry
24 if she said that to Ms. Krasinski and Ms. Berry denied
25 making the statement, so I'm trying to elicit this to prove

JULIA KRASINSKI: BY SOLICITOR ANTHONY

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1 the impeachment.

2 THE COURT: What do you have to say about that under
3 Rule 801(d)?

4 MR. DELANEY: Yeah, I think I wouldn't disagree. I
5 think that comes in.

6 THE COURT: All right.

7 Bring the jury back in.

8 (JURY REENTERS COURTROOM AT 03:47 P.M..)

9 THE COURT: You may proceed.

10 DIRECT EXAMINATION - CON'T

11 JULIA KRASINSKI BY SOLICITOR ANTHONY:

12 Q. And when you spoke to Ms. Berry there at D.T.

13 's house, did she tell you that she had seen Mr.
14 Berry under a blanket with Minor watching movies?

15 A. Yes.

16 Q. And after you had a conversation with J.B. there,
17 where did the two of you decide that you would go?

18 A. To the sheriff's office.

19 Q. And how did you get to the sheriff's office?

20 A. J.B. drove her car and I drove mine.

21 Q. And what happened once you got to the sheriff's
22 office?

23 A. I came inside with her and told them that I had
24 Stephen Berry's daughter with me and they took us straight
25 back.

JULIA KRASINSKI: BY SOLICITOR ANTHONY

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1 Q. And did you give them any information concerning Mr.
2 Berry's children and their whereabouts, where you thought
3 they might be?

4 A. I tried to come up with something -

5 MR. DELANEY: Your Honor, I object at this time.

6 THE COURT: I sustain the objection.

7 BY SOLICITOR ANTHONY:

8 Q. Were you asked any questions about Mr. Berry's
9 children?

10 A. Yes.

11 Q. Okay. And what were you asked?

12 A. I was asked if I knew where they could be.

13 Q. And did you have any suggestions in regards to that?

14 MR. DELANEY: Your Honor, I objection again.

15 THE COURT: I sustain the objection.

16 BY SOLICITOR ANTHONY:

17 Q. So after you spoke to the investigators concerning
18 that, what was the next thing - What was the next thing
19 happening in regards to J.B. ?

20 A. They started questioning her.

21 Q. Okay. And who questioned her?

22 A. She was a detective. I wasn't - don't know Roxie's
23 last name.

24 Q. Okay. It was a female?

25 A. Yes.

JULIA KRASINSKI: BY SOLICITOR ANTHONY

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1 Q. Okay. Named Roxie?

2 A. Uh-huh.

3 Q. Okay. All right. And while you were at the sheriff's
4 office - let me ask you. When you came to the sheriff's
5 office, did you and Ms. J.B. actually walk in
6 together?

7 A. We did.

8 Q. Okay. And were you together from the time you walked
9 in to the time you went back there to speak to the two
10 detectives?

11 A. Yes.

12 Q. All right. Did you see Ms. Berry interact with
13 anybody else yourself? Did you see any other --

14 A. No. Not other than Terry and Roxie.

15 Q. Okay. And where did Detective or Investigator
16 Humphries and Investigator Belue, where did they speak to
17 J.B. ?

18 A. In Roxie's office.

19 Q. Okay. And where were you while they were speaking to
20 Ms. Berry?

21 A. I was mostly out in the hall. I would pace back and
22 forth out in the hallway waiting.

23 Q. And at times would you come in the office?

24 A. Yes. If she - I could hear that she was getting
25 really upset. They would come and they would let me in the

JULIA KRASINSKI: BY SOLICITOR ANTHONY

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1 room to talk to her for a minute.

2 Q. And while you were there, did you hear any
3 communications between J.B. and Mr. Berry?

4 A. I did.

5 Q. Okay. And what kind of communication was that?

6 MR. DELANEY: Your Honor, ---

7 A. Well he would --

8 MR. DELANEY: --- I would object at this time.

9 THE COURT: This was comments by Mr. Berry?

10 SOLICITOR ANTHONY: Yes, sir.

11 THE COURT: I overrule the objection.

12 BY SOLICITOR ANTHONY:

13 Q. And what kind of communication was it? How were they
14 talking?

15 A. On speaker phone.

16 Q. Okay. All right. And what did you hear Mr. Berry say
17 when he was conversing with his daughter?

18 A. He wasn't coming back in and I remember hearing that
19 he said he had a knife.

20 Q. And what was J.B. asking him to do or not to
21 do?

22 A. Just to come in.

23 Q. And he said he wasn't going to be there?

24 A. Yes. He wasn't going to.

25 Q. While you were there with J.B. , did anybody else come

JULIA KRASINSKI: BY SOLICITOR ANTHONY

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1 to the courthouse that was associated with her?

2 A. Her boyfriend, Austin.

3 Q. And where was he while the investigators were talking
4 to J.B. and you were in the hall?

5 A. Out on the bench right outside the offices.

6 Q. Okay. And did J.B. give a statement? Did she write
7 out a statement for the investigators?

8 A. Yes.

9 Q. And what happened after she finished that statement?

10 A. We were ready to leave. She didn't want to leave but
11 I kind of talked her into leaving.

12 Q. Okay. Now, as far, just going back to the time, to
13 the actual process of getting to the sheriff's office, what
14 was your initial recollection as to how you and J.B. got
15 to the sheriff's office?

16 A. I had really thought that she had drove with me

17 Q. Okay. And did you testify about this a prior time?

18 A. I did.

19 Q. Okay. And when you testified before, did you testify
20 that the two of you rode together?

21 A. I did.

22 Q. Okay. But upon thinking about it a little more, is
23 that accurate?

24 A. No, sir.

25 Q. Okay. And so how was it that you got to the sheriff's

JULIA KRASINSKI: BY SOLICITOR ANTHONY

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1 office and she got to the sheriff's office?

2 A. She had her own car and I drove in mine.

3 Q. Okay. Insofar as what you've testified to about what
4 happened once you got to the sheriff's office, how certain
5 are you of the accuracy?

6 A. One hundred percent.

7 Q. Well after you finished up at the sheriff's office,
8 what was the next thing that you and J.B. decided to do?

9 A. Well we talked about where she should go and about
10 possibly bringing her home with me, that that could be a
11 place that Stephen might go. So we rode to Jonesville and
12 she - to pack up her stuff so she could go to Austin's
13 house.

14 Q. Okay. And so did you go to Jonesville as well?

15 A. I did.

16 Q. And did you have a role in helping her pack up her
17 stuff?

18 A. Yes.

19 Q. Okay. And so after that, after you finished up at her
20 house in Jonesville, where was the next place you went and
21 J.B. and Austin went?

22 A. She wanted to go and speak Minor .

23 Q. Okay. And how did - what was - How did you all get to
24 Minor's house?

25 A. We drove in two separate cars.

JULIA KRASINSKI: BY SOLICITOR ANTHONY

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1 Q. Okay. And who got there first? Between J.B. and
2 Austin and yourself who got there first?

3 A. I think I was following them.

4 Q. Okay. All right. And when you arrived there, did you
5 see J.B. and Minor together?

6 A. Yes.

7 Q. Okay. And where did they actually talk?

8 A. On Minor's front porch.

9 Q. And what happened when they met each other that
10 afternoon? What did you see occur between them?

11 A. There was a lot of crying, hugging. Minor saying she
12 was sorry. J.B. saying that she was sorry.

13 Q. And you say they went to Minor's porch to talk?

14 A. Yes.

15 Q. All right. And were you there as well?

16 A. I was.

17 Q. Okay. Where were you in relation to them?

18 A. I was right off of the porch. I tried to give them,
19 you know, a little bit of space.

20 Q. Okay. Could you hear the conversation between them?

21 A. Yes.

22 Q. Okay. And did you hear Minor speak to J.B. about a
23 specific sexual incident that occurred?

24 A. Yes.

25 Q. And where had that occur?

JULIA KRASINSKI: BY SOLICITOR ANTHONY

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1 A. At the Berry house.

2 Q. Okay. And what - When had it occurred as far as what
3 was going on when it happened?

4 A. They were watching TV.

5 Q. Now, you yourself, did you ever observe any behavior
6 at any time between Mr. Berry and Minor that struck
7 you as inappropriate?

8 A. There was one party; it was the Clemson Gamecock
9 football game, and we all went over to the Berry's to
10 watch the game together - the youth group. And she was
11 sitting in the recliner with him.

12 Q. Okay. The two of them in a recliner?

13 A. Uh-huh.

14 Q. All right. Well after this conversation, going back
15 to the 22nd of March, after this conversation occurred,
16 what did you eventually tell the two girls?

17 A. We just talked about how it was, how bad things happen
18 and we prayed together.

19 Q. And then what happened then?

20 A. We walked back to Minor's grandmother's house.

21 Q. Okay. And who did J.B. leave with?

22 A. Austin.

23 Q. And did you have any more conversations with J.B.
24 that day?

25 A. No.

JULIA KRASINSKI: BY SOLICITOR ANTHONY

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1 Q. Okay. And since that day, have you talked to J.B.
2 about the incident?

3 A. No we didn't. It was like we purposefully didn't
4 discuss it.

5 SOLICITOR ANTHONY: If I could just have a moment.

6 (PAUSE.)

7 Q. Just going back to when you were at the sheriff's
8 office, the location where you were in relation to where
9 J.B. was with the investigators, where were you in
10 relation to them?

11 A. In the chair outside the door.

12 Q. Okay. Okay. All right. And is there a little hall
13 that sort of connects all the detective's offices?

14 A. Yes.

15 Q. Okay. And you were in that hall?

16 A. I was in the hall.

17 Q. Okay. And insofar as J.B. - Well when the calls from
18 Mr. Berry came in, what was the effect that that had on
19 J.B. as far as her emotional condition?

20 A. She was really just very upset. She was crying. I
21 mean she was devastated that he was going to hurt himself
22 and just crying a lot.

23 Q. Okay.

24 A. Begging him to come back.

25 Q. And prior to those calls, what had been her condition?

JULIA KRASINSKI: BY MR. DELANEY

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1 A. What do you mean? When she was upset prior to the
2 calls? I mean she was talking with me. I don't understand
3 the question.

4 Q. Did she become more emotional once the calls came in?

5 A. Yes.

6 Q. Okay.

7 SOLICITOR ANTHONY: All right. Thank you.

8 That's everything on direct.

9 THE COURT: Cross?

10 MR. DELANEY: Yes, Judge.

11 CROSS EXAMINATION

12 JULIA KRASINSKI BY MR. DELANEY:

13 Q. Ms. Krasinski, you testified that you at some point
14 became interested in working with specifically this youth
15 group at New Life Baptist Church; is that right?

16 A. Yes.

17 Q. And when you became interested with that you went and
18 spoke with Mr. Berry about that?

19 A. Yes.

20 Q. Because he was the head of the youth group?

21 A. Yes.

22 Q. And did you then start helping him out, assisting him
23 in the youth group?

24 A. I did.

25 Q. Okay. Was there anybody else there that would assist?

JULIA KRASINSKI: BY MR. DELANEY

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1 A. Sandy.

2 Q. Who is Sandy?

3 A. His wife.

4 Q. His wife. She would be there as well.

5 A. Uh-huh.

6 Q. And would anybody else, any other members from the
7 church help out in the youth group?

8 A. Jack Buchanan.

9 Q. Okay.

10 A. And Chris Cochran.

11 Q. A guy named Chris Cochran?

12 A. Uh-huh.

13 Q. Okay. And you testified you taught some classes, you
14 liked working with the girls. You went on trips; is that
15 right?

16 A. Yes.

17 Q. Okay. And you got to know some of these kids pretty
18 well in the youth group; is that right?

19 A. Yes.

20 Q. Okay. And you would get to know quite a bit of things
21 about these kids; is that right?

22 A. Yes.

23 Q. What I mean by that is they formed relationships where
24 they will open up to you; is that right?

25 A. Yes.

JULIA KRASINSKI: BY MR. DELANEY

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1 Q. They would tell you things that they may not feel
2 comfortable talking or revealing to their parents; is that
3 right?

4 A. Yes.

5 Q. Okay. And they will come to you at times for advice;
6 is that right?

7 A. Yes.

8 Q. Guidance?

9 A. Uh-huh.

10 Q. Okay. And you tried to provide that?

11 A. Yes.

12 Q. Okay. There are a lot of occasions where essentially
13 you are playing counselor; is that right?

14 A. I guess. Yes, sir.

15 Q. And that you were from what you know any member, or
16 anybody that ran this youth group had a background, degrees
17 in counseling or anything like that?

18 A. Probably Stephen.

19 Q. You said probably Stephen? But you don't know that.

20 A. I'm not sure what degrees. I don't know what degrees
21 he had.

22 Q. You don't know what training Mr. Berry had; is that
23 right?

24 A. Well he had to have some. I mean he's in charge of
25 the youth group but I don't know what his degrees were.

JULIA KRASINSKI: BY MR. DELANEY

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1 Q. But you don't know?

2 A. No.

3 Q. And you can learn from some of these kids at times
4 some pretty heavy things; is that right?

5 A. Yeah.

6 Q. Okay. And you can get pulled in, emotionally
7 involved; is that right?

8 A. I try to separate myself from what's going on with the
9 kids. I was an occupational therapist for years before
10 that so I learned how to separate myself a little bit from
11 the situation.

12 Q. It sounds like on the day that you went to the
13 sheriff's department, it sounds like you were pretty into
14 it; is that right?

15 A. I was very concerned about J.B.

16 Q. Right. And that's not uncommon for you or whoever is
17 in that youth group and spending time with these kids, you
18 get to become concerned about them. Right?

19 A. Yes.

20 Q. You care about them. Right?

21 A. Yes.

22 Q. You want to try to help them. Right?

23 A. Yes.

24 Q. Okay. Now going back to the day you went to the
25 sheriff's department, and I want to talk a little bit

JULIA KRASINSKI: BY MR. DELANEY

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1 about, because it just sounds like you had some difficulty
2 remembering how things played out that day; is that right?

3 A. Not once we came into the sheriff's office. No.

4 Q. Well I guess my question is, we've heard from some
5 questions that Mr. Anthony asked you, you at some point had
6 some trouble remembering or got confused on some things; is
7 that correct?

8 A. Just on the driving part of it. It didn't seem
9 important to me at the time to figure out what car we was
10 in.

11 Q. Right.

12 A. It is just once we got there, how we got there.

13 Q. But it was important enough that shortly after you
14 testified last time, you let people know that it wasn't
15 entirely accurate; is that correct?

16 A. Yes because it bothered me and I wanted to tell the
17 truth and make sure it was the truth.

18 Q. Now, Julia, you spent a lot of time in the youth
19 group. Right?

20 A. I did.

21 Q. Spent a lot of time with Mr. Berry. Right?

22 A. I did.

23 Q. Spent a lot of time in youth group related activities
24 around Minor. Correct?

25 A. I did.

JULIA KRASINSKI: BY MR. DELANEY

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1 Q. Okay. And isn't the truth that you never witnessed
2 anything inappropriate between Stephen Berry and Minor

3
4 A. Well I would feel that sharing a recliner wasn't
5 appropriate.

6 Q. Okay. Let's talk about that because you came in and
7 - It looks like you came in and talked to the
8 investigators; is that correct, at some point?

9 A. Uh-huh.

10 Q. Okay. And that would be that you talked to that man.
11 Right?

12 (INDICATED TO INVESTIGATORS AT SOLICITOR'S TABLE.)

13 A. Yes.

14 Q. And he took a statement from you?

15 A. Yes.

16 Q. And you told him what you knew about this case?

17 A. Yes.

18 Q. Told him everything that was important about this
19 case?

20 A. Yes.

21 MR. DELANEY: May I approach.

22 Q. And is that the statement that you wrote in this case?

23 A. It is.

24 Q. Okay. Could you tell me where - How many pages is
25 that statement?

JULIA KRASINSKI: BY MR. DELANEY

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1 A. Four - well, three and a half.

2 Q. Could you tell me where in those three and a half
3 pages there is any mention of this recliner incident?

4 A. It's not in here.

5 Q. It's not in there?

6 A. No.

7 Q. It's kind of important.

8 A. Well it came to me after. I've never been in a
9 situation like this before.

10 Q. Yeah.

11 A. The more I thought about it.

12 Q. Initially you were at the sheriff's department a few
13 days after Minor made these allegations?

14 A. Yes.

15 Q. Okay. And that was back in I guess March of 2011.
16 Correct?

17 A. I think in 2011. Yes.

18 Q. Okay. When did you give your statement?

19 A. I have to look.

20 Q. You can look. What's the date?

21 A. April 18.

22 Q. April 18th?

23 A. Uh-huh.

24 Q. So in March - What's the year on that?

25 A. Its 2011.

JULIA KRASINSKI: BY MR. DELANEY

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1 Q. 2011?

2 A. Uh-huh.

3 Q. So in April of 2011, no mention of that. Correct?

4 A. Correct.

5 Q. You never told Lieutenant Humphries about that?

6 A. No.

7 Q. You never told Detective Belue about that?

8 A. No.

9 Q. Okay. And that was close to a couple years ago; is
10 that right?

11 A. Yeah.

12 Q. And now two years later, almost two years later,
13 you're coming to court saying this is what I remember?

14 A. Uh-huh. Yes.

15 Q. You've already testified you've had some difficulties
16 with your memory. Right?

17 A. Just how we got to the sheriff's office. My memory is
18 fine.

19 Q. And this other thing that you just testified about to
20 about. Right?

21 A. Well I wasn't confused about it. But yes the more
22 I think about the trial.

23 Q. You just never told anybody about it until today.
24 Right?

25 A. I didn't think about it until - Yeah, you're right.

JULIA KRASINSKI: BY SOLICITOR ANTHONY

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1 Q. Okay.

2 MR. DELANEY: No further questions.

3 Thank you.

4 THE COURT: Redirect?

5 REDIRECT EXAMINATION

6 JULIA KRASINSKI BY SOLICITOR ANTHONY:

7 Q. Do you have the statement up there with you?

8 A. I do.

9 Q. All right. When is it dated?

10 A. Oh, I looked at the wrong date. It was June 8th,
11 2012.

12 Q. All right. So you wrote that --

13 A. I did.

14 Q. --- in June of 2012?

15 A. Yes. I looked at the notary attached.

16 Q. Okay. All right. So you wrote that over a year after
17 the day you went to the sheriff's office with J.B.

18 A. Yes.

19 Q. Okay. And does that statement concern anything
20 besides what has happened on March 22nd when you took
21 Minor - or took J.B. to the sheriff's office and
22 then took her up to Minor house?

23 A. No.

24 Q. Okay. That's all it's about?

25 A. That's all it was about.

JULIA KRASINSKI: BY SOLICITOR ANTHONY

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1 Q. All right. And when you were asked to write that
2 statement, were you asked to write about anything other
3 than what happened that day?

4 A. No. No.

5 Q. Okay. And were you ever asked by anyone during -- When
6 Lieutenant Humphries was talking to you and when you were
7 asked to write that statement, were you ever asked if you
8 had seen anything inappropriate between Minor and
9 Stephen Berry?

10 A. No.

11 Q. Okay. When is the first time anybody spoke to you
12 about that?

13 A. About what?

14 Q. About seeing something inappropriate between Minor
15 and Stephen Berry?

16 A. Just recently.

17 Q. Okay. Did I asked you about that ---

18 A. Yeah.

19 Q. --- a couple of days ago?

20 A. Uh-huh.

21 Q. Okay. And nobody had ever inquired about that ---

22 A. No.

23 Q. --- up until a few days ago?

24 A. No.

25 SOLICITOR ANTHONY: All right. Thank you.

JULIA KRASINSKI: BY MR. DELANEY

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1 That's everything.

2 MR. DELANEY: Just briefly, Judge.

3 RE CROSS EXAMINATION

4 JULIA KRASINSKI BY MR. DELANEY:

5 Q. And you testified under oath regarding this matter
6 before. Correct?

7 A. Yes.

8 Q. And there was no mention in that testimony previously
9 about this recliner incident. Correct?

10 A. No one asked me. Correct.

11 Q. And this man right over here, ---

12 (INDICATING TO SOLICITOR'S TABLE.)

13 Q. --- he was asking you
14 questions. Correct?

15 A. Yes.

16 Q. And you were telling him what you knew about this
17 case. Right?

18 A. Yes.

19 Q. It never came up. Right?

20 A. Right.

21 MR. DELANEY: Thanks.

22 THE COURT: You can step down and be excused. We
23 appreciate your time. Thank you.

24 Hand that back to Mr. Anthony.

25 A. Okay.

INVESTIGATOR ALLEN BLACK: BY SOLICITOR ANTHONY

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1 (WITNESS LEAVING WITNESS STAND.)

2 THE COURT: Call your next witness.

3 SOLICITOR ANTHONY: The next witness would be
4 Investigator Black.

5 (WHEREUPON: INVESTIGATOR ALLEN
6 BLACK, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS
7 FOLLOWS:)

8 DIRECT EXAMINATION

9 INVESTIGATOR ALLEN BLACK BY SOLICITOR ANTHONY:

10 Q. Would you state your name, please?

11 A. Marion Allen Black.

12 Q. And, Mr. Black, how are you employed?

13 A. I'm employed with the Union County Sheriff's Office.

14 Q. And what is your position there?

15 A. I'm an investigator detective.

16 Q. And how long have you worked for the sheriff's office?

17 A. A little over seven years now.

18 Q. And do you know J.B.

19 A. Yes, sir. I do.

20 Q. And how do you know her?

21 A. I've known J.B. since about 2006. We had a case
22 together where she was a victim.

23 Q. And did you work on that case?

24 A. Yes, sir. I was working with then Detective Ken
25 Riddle. He has since retired.

INVESTIGATOR ALLEN BLACK: BY SOLICITOR ANTHONY

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1 Q. And I want to take you now to March of 2011. Was
2 there a day in March of 2011 that you saw Ms. Berry in the
3 sheriff's office?

4 A. I believe that was the time that she was in the office
5 to give a statement to one of the investigators about a
6 case involving her father.

7 Q. Okay. And to the best of your recollection, where did
8 you see her?

9 A. It was either in the hallway outside of the sheriff's
10 office, that long hallway right across from the magistrate,
11 or it was in the hallway, the back hallway, where the
12 investigator's offices are at. It was in a hallway is all
13 I really remember about that.

14 Q. When you saw her, were you looking for her?

15 A. No, sir.

16 Q. Okay. Did you have some idea when you saw her what
17 she would be there for?

18 A. Yes, sir. I knew that there was an investigation
19 involving her father and I knew that they had her coming in
20 for a statement of some kind.

21 Q. And when you saw her, did you say anything to her?

22 A. I tried to speak with her. I was concerned about her
23 as far as her person and safety and well being. I just
24 wanted her to be good and tell the truth, cooperate.

25 Q. Okay. And was that basically - Was that the extent of

INVESTIGATOR ALLEN BLACK: BY SOLICITOR ANTHONY

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1 your conversation with Ms. Berry?

2 A. Yes, sir, it was.

3 Q. Did you have anything personally to do with the
4 Stephen Berry investigation?

5 A. No, sir, I did not.

6 Q. All right. When you saw Ms. Berry out in the hallway
7 that day, did you tell her anything about the evidence of
8 the case?

9 A. I had no knowledge of the evidence in the case.

10 Q. So you couldn't have told her?

11 A. No, sir.

12 Q. Okay. Did you tell her anything about any physical
13 evidence the sheriff's office had?

14 A. No, sir.

15 Q. All right. And then after had -- After you saw her in
16 the hall that day, what did you do?

17 A. After I spoke with her for just a few moments making
18 sure that she was okay and just encouraging her to be
19 truthful and honest with the investigators I went back to
20 my work.

21 Q. All right.

22 SOLICITOR ANTHONY: Thank you. That's everything on
23 direct.

24 CROSS EXAMINATION

25 INVESTIGATOR ALLEN BLACK BY MR. DELANEY:

INVESTIGATOR ALLEN BLACK: BY MR. DELANEY

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1 Q. Lieutenant, you testified that starting in 2006 you
2 had a pretty good -- you had a relationship with Ms. Berry,
3 you were working on her case; is that right?

4 A. You're talking about J.B. ?

5 Q. J.B. yes.

6 A. Yes, sir.

7 Q. Okay. And you worked on her case; is that right?

8 A. That's correct. Yes, sir.

9 Q. And it sounds like it developed from there as far as
10 you were someone that she trusted; is that right?

11 A. I was the investigator on her case. I tried to make
12 myself available to her yes, sir. I hope so.

13 Q. And she liked you; is that right?

14 A. I got the impression she did yes, sir.

15 Q. You guys got along pretty good?

16 A. She was very cooperative in our case yes, sir.

17 Q. And the office downstairs is a pretty small office,
18 the sheriff's department. Correct?

19 A. Yes, sir, it is.

20 Q. And you all are working in pretty close quarters down
21 there. Right?

22 A. Can't help but do that yes, sir.

23 Q. And a couple of your colleagues working on a case, you
24 know, its as bound you're gonna know some stuff about
25 someone else's case. Right?

INVESTIGATOR ALLEN BLACK: BY MR. DELANEY

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1 A. Peripheral information because there is a pretty solid
2 rule about getting involved in other people's cases else
3 wise you can end up in court testifying about it.

4 Q. Now there are occasions though where an investigator
5 can be brought in at certain times if that investigator or
6 detective has a certain relationship, good relationship
7 with a witness, they feel the witness will open up to that
8 person, then that could be a reason to get involved in a
9 case but really you didn't start out on the case; is that
10 correct?

11 A. I was never a part of the case in any way no, sir.

12 Q. Right. And I'm not saying and as far - and I'm saying
13 that can happen. You can be brought in, someone can be
14 brought in for that purpose?

15 A. If you are directed by the sheriff or if you are
16 requested by the other investigator, yes, sir. I see what
17 you're saying.

18 Q. And you stated you knew a little bit about the
19 investigation; is that correct?

20 A. Simply because I know about the case assignments. We
21 know about those but yes, sir.

22 Q. Okay. You all, I say you all, law enforcement, you
23 get a lot of training; is that correct?

24 A. We're constantly in training yes, sir.

25 Q. And part of that training has to do how you talk.

INVESTIGATOR ALLEN BLACK: BY MR. DELANEY

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1 to people, witnesses; is that right?

2 A. Yes, sir.

3 Q. Okay. And also how you talk to, interrogate
4 defendants; is that correct?

5 A. Interviewing is part of the training yes, sir.

6 Q. Right. And there is definitely certain tactics that
7 are taught; is that correct?

8 A. They go through very specific detail about how to deal
9 with defendants and people who are subjects of interest
10 yes, sir.

11 Q. And, or witnesses; is that correct?

12 A. Yes, sir.

13 Q. Okay. And it's not uncommon for law enforcement to
14 let someone know that the case is a little stronger than
15 what it really is; isn't that right?

16 A. If its my case and I'm dealing with them yes, sir,
17 I'll tell them up front. I try to be up front with
18 everybody whether I have evidence or not yes, sir.

19 Q. I guess my question specifically would be it's not
20 uncommon to let someone know, defendant, witness, as far as
21 the evidence to tell someone there is more evidence out
22 there than there really is. That's not that uncommon is
23 it? And I'm not saying you do it but ...

24 A. In the training that I received, discussing what
25 evidence we have with witnesses is not one of the things

INVESTIGATOR ALLEN BLACK: BY SOLICITOR ANTHONY

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1 they train us to do. No.

2 MR. DELANEY: Court's indulgence.

3 (PAUSE.)

4 MR. DELANEY: Thank you.

5 THE COURT: Anything further?

6 REDIRECT EXAMINATION

7 INVESTIGATOR ALLEN BLACK BY SOLICITOR ANTHONY:

8 Q. Were you in any way brought in to speak with Ms.
9 Berry?

10 A. No, sir, I was not.

11 Q. And had you wanted to make some representation to her
12 or misrepresentation to her about the evidence in the
13 case, would you have known enough about the case at that
14 time to do that?

15 A. No, sir.

16 Q. All right.

17 SOLICITOR ANTHONY: That's everything.

18 THE COURT: Anything else?

19 MR. DELANEY: No, Judge.

20 THE COURT: You can step down and be excused.
21 Appreciate your time.

22 THE WITNESS: Thank you, Judge.

23 THE COURT: Thank you.

24 (WITNESS LEAVING WITNESS STAND.)

25 THE COURT: Call your next witness.

INVESTIGATOR ROXIE BELUE: BY SOLICITOR ANTHONY

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1 SOLICITOR ANTHONY: The next witness is Investigator
2 Belue.

3 THE CLERK: Place your left hand on the Bible and
4 raise your right hand.

5 (WHEREUPON: INVESTIGATOR ROXIE
6 BELUE, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS
7 FOLLOWS:)

8 DIRECT EXAMINATION

9 INVESTIGATOR ROXIE BELUE BY SOLICITOR ANTHONY:

10 Q. Would you state your name, please?

11 A. Roxie Belue.

12 Q. Ms. Belue, how are you employed?

13 A. With the Union County Sheriff's Office.

14 Q. And what's your job there?

15 A. I'm an investigator.

16 Q. And how long have you been an investigator with the
17 sheriff's office?

18 A. Since January to July of 2010.

19 Q. And how long have you worked in law enforcement?

20 A. Since January 2001.

21 Q. I want to take you back to March 18th of 2011. Did
22 you receive a call that day from somebody at the high
23 school?

24 A. I did.

25 Q. All right. Who made the initial contact with you?

INVESTIGATOR ROXIE BELUE: BY SOLICITOR ANTHONY

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1 A. A city investigator, Jerome Beatty.

2 Q. All right. And after you got the call from him, what
3 did you do?

4 A. I went to the Union County High School.

5 Q. And who did you go there with?

6 A. Michelle Shugart.

7 Q. Now what was Ms. Shugart's job?

8 A. She is the victim advocate for Union County.

9 Q. And who did you meet with there?

10 A. The school guidance counselor, Jennifer McGee.

11 Q. And what did you meet with her - What particular
12 person did you meet with her about?

13 A. Minor

14 Q. And where was Minor at that time?

15 A. She was in a room across the hall.

16 Q. And after - Well, did anybody else associated with
17 Minor come to the school after you got there?

18 A. Her father, Eddie Williams.

19 Q. And so once you arrived there, was there any - did you
20 have any discussion with Minor there at the school?

21 A. I did.

22 Q. Okay. And who else spoke to her with you?

23 A. Michelle Shugart.

24 Q. Okay. And did Minor report a sexual battery to
25 you at the time?

INVESTIGATOR ROXIE BELUE: BY SOLICITOR ANTHONY

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1 A. She did.

2 Q. And where did she report that that had occurred?

3 A. She reported that it occurred at the Berry's
4 residences on Catherine Street and also at her residence in
5 Jonesville, his residence in Jonesville, as well as a
6 vehicle.

7 Q. All right. And as far as the Catherine Street
8 incident, when did she say that had occurred?

9 A. In May. It was the end of May to June when she
10 reported that.

11 Q. Of --

12 A. 2010.

13 Q. Okay. And what happened -- Once you had this initial
14 interview with her at the school, what happened then?

15 A. We relocated to the sheriff's office for privacy
16 reasons.

17 Q. Okay. How did Minor get to the sheriff's office?

18 A. She rode with me.

19 Q. Okay. And was it just the two of you?

20 A. In my car yes, sir.

21 Q. Okay. And then who met with Minor there at the
22 sheriff's office when you got her there?

23 A. Her father came there as well and Michelle, Michelle
24 Shugart.

25 Q. Okay.

INVESTIGATOR ROXIE BELUE: BY SOLICITOR ANTHONY

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1 A. She came in her car and her dad came in his vehicle.

2 Q. Okay. And what did you - What request did you make of
3 Minor when you got her to the sheriff's office?

4 A. We requested that she give a written statement ---

5 Q. Okay.

6 A. --- of what she had us at the school.

7 Q. Okay. And who was she with when she gave that written
8 statement?

9 A. She was with myself and Michelle Shugart that was out
10 there.

11 Q. Okay. And in that statement, did she report in that
12 statement that she had been sexually assaulted?

13 A. She did.

14 Q. All right. And were the locations - Were the
15 locations you just testified about, the two homes, her home
16 and the Berry home in Jonesville and the Berry home on
17 Catherine Street and Mr. Berry's car; is that correct?

18 A. Correct.

19 Q. All right. And what was the time frame that was given
20 for these assaults?

21 A. May and June of 2010.

22 Q. Okay. Up until --

23 A. 'Till the day of the report.

24 Q. Okay.

25 A. The actual time frame of the report.

INVESTIGATOR ROXIE BELUE: BY SOLICITOR ANTHONY

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1 Q. All right. And the physical locations that she
2 reported, were all those in Union County?

3 A. Yes, sir.

4 Q. All right. And after you had that initial meeting
5 with Minor , did you do anything in regards to asking
6 for some additional assistance on the case?

7 A. I did. I followed up with my Captain James McNeil and
8 discussed with him the case that had come forward and the
9 fact that we had taken the statement and that I had a prior
10 history with Mr. Berry and he then stated for me to get
11 with Lieutenant Terry Humphries and work the case with him.

12 Q. And you said since prior history with Mr. Berry, how
13 did you know Mr. Berry?

14 A. We had a juvenile relationship in junior high and
15 possibly into the ninth grade.

16 Q. Okay. And after Lieutenant Humphries was assigned to
17 the case as well, was there another meeting with
18 Minor ?

19 A. There was.

20 Q. All right. And when was that?

21 A. That was on the following Monday, the 21st of March.

22 Q. Okay. All right. And was an additional statement
23 given that day?

24 A. Yes, sir.

25 Q. All right. Now, on that Monday, the 21st of March

INVESTIGATOR ROXIE BELUE: BY SOLICITOR ANTHONY

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1 2011, and just so I can make sure we're clear on this, what
2 day of the week was the initial report made on?

3 A. Friday the 18th.

4 Q. Okay. So when we get to Monday the 21st, did you do
5 anything that day in an attempt to contact J.B.

6 A. I did.

7 Q. And what was your interest in talking with J.B. ?

8 A. My interest in talking to J.B. was that in
9 Minor s statement she indicated that J.B. may have some
10 information. She may have been somewhat of a witness.

11 Q. All right. So what did you do in an attempt to locate
12 her?

13 A. I think the first contact numbers I had was some
14 relatives. Her mom was one of them. Her mom's boyfriend I
15 think was another contact I had. And I phoned, I know both
16 of those people, to try to get a number for J.B. .

17 Q. All right. And then did you take a statement that day
18 from another other potential witness?

19 A. We did. K.K. If I'm pronouncing that
20 right.

21 Q. All right. Where did you go to to do that?

22 A. The high school.

23 Q. All right. Now taking you on to the next day that
24 Tuesday, did you contact J.B. that day?

25 A. I was able to speak with her that day.

INVESTIGATOR ROXIE BELUE: BY SOLICITOR ANTHONY

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1 Q. All right. And where did you speak to her?

2 A. On - I spoke to her on the telephone. This was around
3 lunch time on Tuesday and she came into the sheriff's
4 office that afternoon.

5 Q. And when you talked to her on the phone, what did you
6 ask her to do?

7 A. I asked her if she would come by the sheriff's office
8 and talk with us about a report.

9 Q. Did you ever say anything to her at that time about
10 Mr. Berry's condition?

11 A. No, sir.

12 Q. Okay. And when J.B. came to the sheriff's
13 office, who was with her?

14 A. I saw Julia Krasinski. If that's the pronunciation.

15 Q. Okay. I'm sorry?

16 A. If that's the pronunciation. I'm not sure how to
17 pronounce it.

18 Q. Okay. And Minor came to the sheriff's office,
19 where did you talk to her?

20 A. In my office.

21 Q. And who was with you when you talked to her?

22 A. Lieutenant Humphries.

23 Q. Okay. And what was your purpose in talking to her?
24 What were you asking her to tell you about?

25 A. Well, we were told by Minor that she had information

INVESTIGATOR ROXIE BELUE: BY SOLICITOR ANTHONY

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1 of some incidents that occurred at the Berry house in
2 Jonesville as indicated in the statement and we asked her
3 was she familiar with the report that had been filed by
4 Minor .

5 Q. And did she give you some information?

6 A. She gave us some information.

7 Q. And after you spoke to her and you realized she had
8 some information, what did you ask her to do?

9 A. We asked her to write a statement. There was a lot of
10 things that was said verbally but at a point we ask her to
11 write a statement.

12 Q. All right. And then while she was writing the
13 statement what happened?

14 A. There was contact with her father on the phone. I'm
15 not clear on who made the first phone call, but there was
16 contact because she became concerned for his welfare.

17 Q. Okay. And were you able to hear these calls?

18 A. The phone was on speaker phone at one time.

19 Q. Okay. And what did you hear Mr. Berry saying on the
20 phone?

21 A. J.B. continued to ask him not to harm him self and
22 where he was at and he never give a clear indication that
23 he would not harm him self and she became more and more
24 upset because of this. He never said where he was. She
25 asked him where he was and asked him not to harm him self

INVESTIGATOR ROXIE BELUE: BY SOLICITOR ANTHONY

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1 more than one time, several times, and I know the call got
2 dropped at least once, maybe twice. I don't know what
3 happened to the conversation or whose phone may have
4 dropped signal. I don't know but I know we dropped the
5 call several times, at least twice.

6 Q. And did you hear Mr. Berry say anything that would
7 make you think he was talking about harming himself from
8 what you heard from the call?

9 A. Well, from what I heard he never gave her a straight
10 answer which concerned her. He said it was the end.
11 That's the only thing that made me think that he may harm
12 himself and I guess that upset her just as well.

13 Q. Okay. All right. And during this time while these
14 calls were coming in, what would Ms. Krasinski do from time
15 to time?

16 A. She would come to the office door. It's a very small
17 office but she would come in and speak to J.B. and then
18 she would go back out. I think she was down the hall in
19 another office if I remember.

20 Q. And as far as your involvement in the investigation of
21 this, did you back on April 12th, did you do anything in
22 regards to a phone?

23 A. I did. I took a phone of Minor from Union
24 County High School that had been impounded there at the
25 school sometime in November. I took it to SLED to be

INVESTIGATOR ROXIE BELUE: BY SOLICITOR ANTHONY
BY MR. DELANEY

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1 analyzed for a physical dumping of the phone actually.

2 Q. And was there any relative evidence to the
3 investigation found on that phone?

4 A. No, sir.

5 Q. All right.

6 SOLICITOR ANTHONY: If I could just have a moment.

7 (PAUSE AT 04:31 P.M..)

8 Q. When you were interviewing J.B. , did she say
9 anything to you about when she walked in on Minor
10 and Mr. Berry in the bed that she saw that it appeared as
11 if they were pulling their clothes up?

12 A. She did.

13 SOLICITOR ANTHONY: Thank you. That's everything on
14 direct.

15 THE COURT: Cross.

16 MR. DELANEY: Yes, sir.

17 CROSS EXAMINATION

18 INVESTIGATOR ROXIE BELUE BY MS. DELANEY:

19 Q. How many years have you been with the sheriff's
20 department?

21 A. With the sheriff's office?

22 Q. Yes.

23 A. I came to the sheriff's office in 2003. I think I
24 came to the sheriff's office in 2003.

25 Q. You were in law enforcement before that as well?

INVESTIGATOR ROXIE BELUE: BY MR. DELANEY

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1 A. Correct. I came from the city police department.

2 Q. Okay. And prior to all that, you received some pretty
3 extensive law enforcement training; is that right?

4 A. Prior to which?

5 Q. Prior to becoming a law enforcement officer, you
6 go through training; isn't that correct?

7 A. I went to the police academy.

8 Q. Justice academy?

9 A. Correct.

10 Q. Okay. And obviously you get a lot of on the job
11 training. Correct?

12 A. Yes, sir.

13 Q. Okay. And you attend various seminars; is that right?

14 A. Yes, sir.

15 Q. Okay. So along with your training you've got quite a
16 few years of training. Correct?

17 A. Yes, sir.

18 Q. Okay. And that's experience in investigating all
19 types of different crimes. Correct?

20 A. Yes, sir.

21 Q. Okay. And when you investigate a crime, you have many
22 responsibilities. Right?

23 A. Yes, sir.

24 Q. Okay. And your responsibilities begin as soon as you
25 arrive on the scene so to speak. Correct?

INVESTIGATOR ROXIE BELUE: BY MR. DELANEY

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1 A. Yes, sir.

2 Q. Okay. And you were taught to be as detailed as
3 possible?

4 A. Yes, sir.

5 Q. As thorough as possible?

6 A. I'd say that.

7 Q. Because you need to find out what happened; is that
8 right?

9 A. Yes, sir.

10 Q. How it happened?

11 A. Yes, sir.

12 Q. When it happened?

13 A. Yes, sir.

14 Q. Where it happened?

15 A. Yes, sir.

16 Q. And you learned from your training and experience you
17 want to talk to witnesses ASAP. Correct?

18 (PAUSE.)

19 Q. I'm sorry. I didn't hear you.

20 A. I'm trying to get -- You're saying originally as
21 responding to a call?

22 Q. Well --

23 A. I don't understand the question.

24 Q. When you investigate a case, you want to try to talk
25 to a witness as soon as possible. Correct? When it's

INVESTIGATOR ROXIE BELUE: BY MR. DELANEY

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1 fresh on your mind?

2 A. I want to speak with the victim of a case first and
3 foremost to establish that it was in violation of the law
4 to begin with.

5 Q. Okay.

6 A. That's most important.

7 Q. And you want to speak to I think you said the victim
8 as soon as possible and that's when it's fresh on your
9 mind. Correct?

10 A. Correct.

11 Q. Okay. And you want to know everything they can
12 remember. Correct?

13 A. My first response is going to be establish
14 jurisdiction and also whether that is actually in violation
15 of the law in our jurisdiction and the safety of the victim
16 at that time.

17 Q. You want to know everything that they can remember.
18 Right?

19 A. Yes, sir.

20 Q. Because one's memory is best right after an incident
21 occurs. Correct?

22 A. Yes, sir.

23 Q. Okay. Now, to have some written documentation in the
24 case is pretty important. Correct?

25 A. Yes, sir.

INVESTIGATOR ROXIE BELUE: BY MR. DELANEY

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1 Q. And if its important, you want to record it; is that
2 right?

3 A. Yes, sir.

4 Q. If you've got some information you want to write it
5 down. Correct?

6 A. Yes, sir.

7 Q. And you write down the facts. Right?

8 A. Yes, sir.

9 Q. I'm sorry?

10 A. Yes, sir.

11 Q. And you can't write down every little thing. Correct?

12 A. We don't. I don't.

13 Q. The important facts is what you write down. Correct?

14 A. I'd say I probably miss some but it's important to
15 write down the facts. Yes.

16 Q. The important facts.

17 A. Right.

18 Q. That's how you are taught. Right?

19 A. Right.

20 Q. That's how you are trained. Right?

21 A. Right.

22 Q. You act as accurate and detailed as possible when you
23 are writing these reports. Correct?

24 A. Yes, sir.

25 Q. Okay. And you did that in this case. Right?

INVESTIGATOR ROXIE BELUE: BY MR. DELANEY

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1 A. As far as the report goes?

2 Q. Yeah.

3 A. The actual initial report?

4 Q. Yeah.

5 A. There's a lot of details we don't put in the initial
6 report.

7 Q. That's why you've got supplemental reports. Right?

8 A. Yes, sir.

9 Q. And your information that you put in these reports is
10 accurate. Right?

11 A. To the best of my knowledge yes, sir.

12 Q. Detailed as you can be. Correct?

13 A. Again I don't put a lot of details in the report for
14 media purposes.

15 Q. I'm sorry?

16 A. For media purposes, especially on a case like this.

17 Q. And you arrived at the high school in this case; is
18 that correct?

19 A. Yes, sir.

20 Q. And had a conversation with Minor. Right?

21 A. Yes, sir.

22 Q. And that was regarding a sexual assault?

23 A. Correct.

24 THE COURT: Speak up just a little bit, please. You
25 got a --

INVESTIGATOR ROXIE BELUE: BY MR. DELANEY

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1 A. Yes, sir.

2 Q. She told you what happened?

3 A. She did.

4 Q. How it happened?

5 A. She gave us some locations as to where it happened.

6 She gave us some details there at the high school.

7 Q. When it happened?

8 A. Correct.

9 Q. How it happened?

10 A. Some of which.

11 Q. And you wanted all that information. Correct?

12 A. Yes, sir.

13 Q. Okay. And she told you all that information.

14 Correct?

15 A. I don't know that she told us everything on that day

16 because we took a second statement. We have more details

17 in the second statement than in the first statement.

18 Q. You talked to her in a couple of different statements

19 and we'll get to that, okay. Now, as part of your

20 investigation, you took notes; is that right?

21 A. I didn't.

22 Q. You didn't take any notes?

23 A. I didn't take the notes.

24 Q. Now to just make sure I'm clear on a few things. The

25 Union County - You made the report in this case. Correct?

INVESTIGATOR ROXIE BELUE: BY MR. DELANEY

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1 Incident Report.

2 A. I did.

3 Q. Okay.

4 MR. DELANEY: May I approach?

5 THE COURT: Yes, sir.

6 Q. You wrote that report. Correct?

7 A. Yes, sir.

8 Q. Okay. And you then wrote a supplemental report.

9 A. I did.

10 Q. Correct? And that would be this one?

11 A. Yes, sir.

12 Q. You've got copies of those?

13 A. Yes, sir.

14 Q. Okay. Now these are the two reports that you prepared
15 in the case?

16 A. Yes, sir.

17 MR. DELANEY: The Court's indulgence one moment, Your
18 Honor.

19 (PAUSE.)

20 Q. Now, I wanted to ask you, Detective, whose notes are
21 these?

22 A. Those are Michelle Shugart's notes.

23 Q. Those are Michelle Shugart's notes?

24 A. Yes, sir.

25 Q. Okay. And that's both pages here?

INVESTIGATOR ROXIE BELUE: BY MR. DELANEY

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1 A. I believe so.

2 Q. These aren't your's?

3 A. No, sir.

4 Q. Okay. Now a part of the investigation, you took
5 statements. Right?

6 A. Yes, sir.

7 Q. And you reviewed, wrote, read reports. Correct?

8 A. Yes, sir.

9 Q. Okay. And you had another detective come in at some
10

11 oint, Detective Humphries, to work on the case with you;
12 is that right?

13 A. Yes, sir.

14 Q. And you guys worked as a team on the case?

15 A. Yes, sir.

16 Q. And that teamwork lead to a warrant being obtained in
17 this case. Correct?

18 A. Yes, sir.

19 Q. Now, Minor , the time you talked to her at the school
20 or at the sheriff's office, you never detected she was high
21 from any drugs; is that right?

22 A. No, sir.

23 Q. You never suspected she was under the influence of
24 anything when you were talking. Correct?

25 A. No, sir.

INVESTIGATOR ROXIE BELUE: BY MR. DELANEY

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1 Q. Not under the influence of any type of medication.
2 Right?

3 A. No, sir.

4 Q. And sex can be a tough subject sometimes to talk to
5 people about. Correct?

6 A. For some people, don't like to discuss it.

7 Q. But she was able to give you details regarding the
8 many incidents; is that right?

9 A. Yes, sir.

10 Q. Important details?

11 A. I feel as though they were important.

12 Q. Little details?

13 A. Yes, sir.

14 Q. She told you about sexual abuse. Right?

15 A. Yes, sir.

16 Q. Who was harmed during the sexual abuse?

17 A. Yes, sir.

18 Q. And that would be the kids, the wife; is that right?

19 A. At one time.

20 Q. Okay. Told you about his scary eyes?

21 A. Yes.

22 Q. Okay. Told you he didn't wear a condom?

23 A. Yes, sir.

24 Q. She told you Stephen had sexual intercourse with her.
25 Correct?

INVESTIGATOR ROXIE BELUE: BY MR. DELANEY

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1 A. Yes, sir.

2 Q. Put his finger inside her?

3 A. On several occasions.

4 Q. Those are some details that were given to you.
5 Correct?

6 A. Yes, sir.

7 Q. Okay. Now this first statement, do you have a copy of
8 that?

9 A. Minor's statement?

10 Q. Yeah. The first statement you took from Minor. I
11 think it's dated March the 18th.

12 A. Yes, sir.

13 Q. Do you have that?

14 A. Yes, sir.

15 Q. Okay. And you took her to the department and she
16 wrote that statement. Right?

17 A. Yes, sir.

18 Q. Okay. That was after being at the high school?

19 A. Uh-huh.

20 Q. And I think you talked to her a little bit there; is
21 that correct?

22 A. Yes, sir.

23 Q. And that statement is in her handwriting; is that
24 correct?

25 A. Yes, sir.

INVESTIGATOR ROXIE BELUE: BY MR. DELANEY

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1 Q. Okay. Using her own words?

2 A. Yes, sir.

3 Q. And it was on March 18th, 2011?

4 A. Yes, sir.

5 Q. And the first sentence in that statement talks about
6 it all starting in the summer of 2010, in late May or early
7 June. Correct?

8 A. Yes, sir.

9 Q. Okay. Nothing in there about May the 1st Correct?

10 A. Did I say May the 1st?

11 Q. No. I'm asking you is there anything in there --

12 A. Nothing specific about May the 1st.

13 Q. Okay. And it says it all started late May or early
14 June. Right?

15 A. Yes, sir.

16 Q. Nothing about the early part of May 2010. Right?

17 A. Nothing in this statement.

18 Q. And no where in that first statement does she say it
19 started with Stephen fondling her. Right?

20 A. In the first statement or the first sentence?

21 Q. Anywhere in that first statement that she gave does
22 she describe, does she start with saying Stephen fondled
23 her.

24 SOLICITOR ANTHONY: I object. The statement is
25 hearsay and it would have been appropriate to ask the

INVESTIGATOR ROXIE BELUE: BY MR. DELANEY

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1 victim questions about the statement --

2 THE COURT: I sustain the objection. This is a
3 statement of a third party and not of this witness.

4 BY MR. DELANEY:

5 Q. No where in your investigation did you get any
6 type of evidence that you find anything out about because
7 you had heard that she was being fingered; is that correct?

8 A. I understand that on several occasions. Yes.

9 Q. Okay.

10 A. As well as penile penetration on one incidence.

11 Q. Okay.

12 A. And an attempt on another.

13 Q. Okay. And your investigation did not detect -- You did
14 not learn while conducting your investigation that Stephen
15 Berry had any type of oral sex with her; is that right?

16 A. No oral sex that I'm aware of.

17 Q. That's not anywhere in the statement. Correct?

18 A. No, sir.

19 Q. No where in any of the reports that you filed in this
20 case. Correct?

21 A. No.

22 Q. And you don't have anything in any of the reports that
23 you prepared in this case nothing about her being fondled;
24 is that correct?

25 A. Only the digital and penile penetration.

INVESTIGATOR ROXIE BELUE: BY MR. DELANEY

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1 Q. Right. Now, what you learned about when you started
2 investigating this case is this thing that was going on
3 supposedly where Minor was allowed to see, talk to, given
4 access to J.S. is that correct?

5 A. In exchange for Mr. Berry to relieve stress.

6 Q. Right.

7 A. That came out in the statement yes, sir.

8 Q. What's that?

9 A. That did came out of the statement yes, sir.

10 Q. Right. And basically they had this thing where she
11 could call and text J.S. if he needed to - if Mr. Berry
12 needed to relieve stress. Right?

13 A. She stated that's what he told her.

14 Q. Right.

15 A. Yes.

16 Q. And she had told you about an act of intercourse that
17 she had with Stephen; is that right?

18 A. She stated that he had with her yes, sir.

19 Q. Right. And this was one weekend when I guess she was
20 staying with - it was C.B. is that correct?

21 SOLICITOR ANTHONY: Once again, this is all just based
22 on hearsay.

23 THE COURT: I'll sustain the objection.

24 BY MR. DELANEY:

25 Q. AS part of your investigation in investigating this

INVESTIGATOR ROXIE BELUE: BY MR. DELANEY

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1 case, who did you - because she's saying this man had sex
2 with her. Correct?

3 A. Yes, sir.

4 Q. Just one time. Right?

5 A. Yes, sir.

6 Q. Okay. At the Berry house. Right?

7 A. At the house in Jonesville and an attempt one on
8 Catherine Street.

9 Q. Okay. And this happened a weekend she was staying
10 at the Berrys. Right?

11 A. I'm not sure if it was a weekend. It was a night
12 that she was staying at the house in Jonesville.

13 Q. Okay. She told you they were all watching a movie
14 over there?

15 A. Yes, sir.

16 SOLICITOR ANTHONY: Once again, this is all hearsay.

17 MR. DELANEY: Judge, I'm just saying, - Minor
18 already testified to the fact that she --

19 THE COURT: As to that but it's just a prior
20 consistent statement which is not admissible under those -
21 where we are right now it's not a prior and consistent
22 statement so I sustain the objection.

23 BY MR. DELANEY:

24 Q. And we heard that there, part of your investigation
25 we heard that there was in her statement that there was a

INVESTIGATOR ROXIE BELUE: BY MR. DELANEY

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1 text message that was sent. Correct?

2 Did she say something about a text message in her
3 statement?

4 A. Yes, sir. That was typed out on the telephone.

5 Q. Right. She didn't say it on her statement though did
6 she?

7 A. She indicated a text message.

8 Q. Right. Nothing about it --

9 SOLICITOR ANTHONY: I object. This is all hearsay
10 because actually its all ask and answered.

11 THE COURT: I sustain the objection. That witness has
12 already been on the stand. And as far as her statement,
13 she could be examined on her statement, but a third party
14 cannot be examined on her statement. When I say her, I
15 mean the person who gave the statement which is the victim,

16 Minor , the alleged victim.

17 BY MR. DELANEY:

18 Q. Now, there was never - In this first statement there
19 was never anything in there about any other act of
20 intercourse. Correct? One time; is that right?

21 Q. Is that right?

22 A. An attempted. According to Minor an attempted.

23 Q. Right. But she says they only had sex, he only had
24 sex with her one time. Right?

25 A. She stated that he tried to have sex with her at the

INVESTIGATOR ROXIE BELUE: BY MR. DELANEY

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1 Catherine Street address.

2 Q. Right but there was no sex that happened there.

3 Right?

4 A. No --

5 Q. That was when he tried to anally rape her. Correct?

6 A. According to her, correct.

7 Q. Right.

8 SOLICITOR ANTHONY: I'll just object again. It's the
9 same thing.

10 THE COURT: I'll sustain the objection. Let us don't
11 keep going over what is not admissible.

12 BY MR. DELANEY:

13 Q. Now she gave a second statement in this case.

14 Correct?

15 A. Yes, sir.

16 Q. Stating that it was true?

17 A. Sir?

18 Q. Stating that it was true? She said what she put
19 in the second statement was true. Correct?

20 A. Yes, sir.

21 Q. Did she receive a copy of that statement?

22 A. Minor ?

23 Q. Yes.

24 A. Yes, sir.

25 Q. And she signed it; is that right?

INVESTIGATOR ROXIE BELUE: BY MR. DELANEY

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1 A. Yes, sir.

2 Q. And you never learned - As a result of your
3 investigation, you never learned, I know we talked about
4 the one attempted act, but you never learned of any other
5 times where sex occurred. Correct?

6 A. In the second statement there was an incident that
7 according to Minor took place at the church, New Life
8 Church, in an adult classroom.

9 Q. But she doesn't talking about any other incidents of
10 sexual intercourse. Right?

11 A. As far as penile penetration no, sir.

12 Q. In the second statement. And you also took a
13 statement from K.K. in this case?

14 A. Yes, sir.

15 Q. And she told you she had a conversation with Minor ?

16 A. Yes, sir.

17 Q. Okay. And Minor had told her what happened?

18 A. Yes, sir.

19 Q. How it happened; where it happened. Right.

20 A. She gave details in the statement ---

21 Q. Okay.

22 A. --- what Minor said.

23 Q. K.K. gave that statement in her own handwriting;
24 is that right?

25 A. Yes, sir.

INVESTIGATOR ROXIE BELUE: BY MR. DELANEY

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1 Q. In her own words?

2 A. Yes, sir.

3 Q. You got a little different story from K.K. didn't
4 you?

5 SOLICITOR ANTHONY: Well objection.

6 THE COURT: Yeah, I sustain the objection. You cannot
7 under the rules examine, challenge the statement of another
8 witness through this witness. You should have done that
9 when that witness was on the stand.

10 MR. DELANEY: The Court's indulgence.

11 (PAUSE AT 04:55 P.M..)

12 Q. You were instructed to get Minor's cell phone.
13 Right?

14 A. Yes, sir.

15 Q. Take the cell phone to SLED?

16 A. Yes, sir.

17 Q. And that was to be analyzed; is that right?

18 A. Yes, sir.

19 Q. And SLED means the South Carolina Law Enforcement
20 Division; is that right?

21 A. Yes, sir. The computer files --

22 Q. They have got the latest technology?

23 A. I'm not sure about that.

24 Q. A phone call can be made; when someone makes a phone
25 call, they can pin point where that call's coming from.

INVESTIGATOR ROXIE BELUE: BY MR. DELANEY

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1 That's some pretty advanced technology. Would you not
2 agree?

3 A. Yes, sir. We didn't request that.

4 Q. What I'm saying, that can happen. Right?

5 A. Yes, sir.

6 Q. And they can process cell phones. Correct?

7 A. Yes, sir.

8 Q. Look and see what is on that phone. Right?

9 A. Yes, sir.

10 Q. And look at text messages. Correct?

11 A. On occasion - Sometimes you can. Sometimes they're
12 able to do - analyze the phone and sometimes they're not.

13 Q. Voicemail, they can get into that as well?

14 A. I've never requested that.

15 Q. And they're located in Columbia?

16 A. Yes, sir

17 Q. Their like the FBI but like on a state level. Is that
18 fairly accurate?

19 A. I use them on state level.

20 Q. And there was no relevant information to the
21 investigation found on that phone. Correct?

22 A. No, sir.

23 Q. And during your conversations with Minor , you never
24 recorded any of her statements. Correct?

25 A. No, sir.

1 Q. Those can be recorded for the jury to hear; is that
2 right? Those can be recorded for other people to hear; is
3 that correct?

4 A. They could be.

5 Q. Right. But you didn't do it. Right?

6 A. No, sir.

7 Q. Okay. And you didn't do the same thing with K.K. ;
8 is that correct?

9 A. No, sir.

10 Q. Okay. And to your knowledge no statements were
11 recorded in this case. Right?

12 A. Not to my knowledge.

13 Q. But your department, they can do that. Correct?

14 A. Could they?

15 Q. Yes. Could you?

16 A. I don't specifically have the technology to do that.

17 Q. Detective, there are all kinds of technology in the
18 sheriff's department to record a statement isn't there?

19 A. We don't have any video cameras there and at the time
20 we didn't have any voice recorders.

21 Q. Okay. And you were aware that there was a warrant
22 taken out for Stephen Berry. Correct?

23 A. Yes, sir.

24 Q. And that was signed on March the 21st 2010; is that
25 accurate?

INVESTIGATOR ROXIE BELUE: BY MR. DELANEY

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1 A. I didn't sign the warrant, I'd have to look. I didn't
2 obtain the warrant, sir. I'll check.

3 (PAUSE.)

4 A. That's accurate.

5 Q. And that warrant was signed by Lieutenant Humphries,
6 or his name is on that warrant?

7 A. Yes, sir.

8 Q. Okay. And that was the date that Minor gave her
9 second statement, March the 21st. Right?

10 A. Yes, sir.

11 Q. And you were aware that at the time the warrant was
12 signed, you had no statement from Minor's brothers.
13 Right?

14 A. That's correct.

15 Q. Minor's dad. Right?

16 A. No, sir.

17 Q. I'm sorry?

18 A. We didn't have them at that time.

19 Q. Minor's grandmother?

20 A. No, sir.

21 Q. No statement from J.B.

22 A. At at that time no, sir.

23 Q. No statement from Julia Krasinski?

24 A. I'm not sure when that statement was taken on Julia.
25 I didn't take that statement.

1 Q. Any SLED results?

2 A. Of the cell phone?

3 Q. Uh-huh.

4 A. We did not have that at the time.

5 Q. At that time?

6 A. Correct, we did not have that at the time.

7 Q. Right. No statement from J.S.

8 A. On the 21st to my knowledge no, sir.

9 Q. No statement from M.P.

10 A. Not to my knowledge.

11 Q. No statement from Kim Roseborough?

12 A. The only statements that I was involved in was
13 Minor s statement and K.K. 's statement on the 21st.

14 Q. Right. But you --

15 A. As well as J.B. 's statement on the 22nd.

16 Q. But you were involved and you reviewed all the
17 statements that were given in this case. Correct?

18 A. No, sir.

19 Q. You haven't --

20 A. I have not reviewed all the statement.

21 Q. You haven't reviewed all the statements?

22 A. I have no reviewed every statement.

23 Q. You don't think that's important?

24 A. Well there were some statements taken at the high
25 school that I wasn't involved in from other people.

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1 Q. But other than that, you didn't review any other
2 statements?

3 A. Some of the statements I have not reviewed. Correct.

4 Q. Right. Because you already had your mind made up.
5 Right?

6 A. I never signed the warrant. I wasn't the charging
7 officer in the case.

8 Q. So you wouldn't have signed the warrant? You wouldn't
9 have done that?

10 A. Would I have signed the warrant? If I had worked the
11 case solo, I would have signed the warrant.

12 Q. And at the time the warrant was signed, are you aware
13 that there was no medical results from any exams at that
14 time?

15 A. I'm aware of that.

16 Q. Okay. And what you had in this case when it first
17 came to you, you had a minor child stating that a man had
18 unprotected sex with her on more - had unprotected sex with
19 her; is that correct?

20 A. Correct.

21 Q. Did you take her to the doctor?

22 A. No, sir, I didn't.

23 Q. She didn't go to the doctor until what, ten days
24 later, something like that?

25 A. According to Minor's statement, there had not been

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1 any penile penetration and it was not within what our
2 protocol is is the seventy-two hours that we would use in
3 hopes of finding DNA of some type, therefore, our protocol
4 at the sheriff's office is to schedule on the next business
5 day for the Children's Advocacy Center and let them set up
6 an appointment.

7 Q. Okay. I guess going back to the question I asked you
8 a little bit ago. The fact that you - So you decided to
9 follow protocol even though you had a girl, a minor, coming
10 to you saying a guy had unprotected sex with her. Right?

11 A. We had no reason to believe there would be any DNA
12 found since how it was past seventy-two hours.

13 Q. And you weren't concerned about getting her tested or
14 anything?

15 A. A referral was made to the Children's Advocacy Center
16 for a medical.

17 Q. And I guess that happened much later. Correct?

18 A. It was after the initial report.

19 Q. In certain situations if someone comes to you, you can
20 take them to the hospital right then. Correct?

21 A. If we believe that there will be a DNA sample. If
22 there is reason to believe that DNA will still be present,
23 the clothing would still be worn, no showers had been
24 taken, then yes we would send them immediately for an
25 examination. In this case that was not what we had, not

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1 according to the statement that was given.

2 Q. And you never - You didn't go get any type of DNA
3 evidence in this case. There's none. Right?

4 A. According to the statement we didn't have the time
5 frame that there would be DNA present.

6 Q. I'm just asking you is there any DNA evidence in this
7 case, is the question I'm asking.

8 A. To my knowledge, there is not.

9 Q. And you had knowledge that he was ejaculating in these
10 different places. Correct?

11 A. Correct.

12 Q. Correct. And you never talked to L.B. . Right?

13 A. I did not.

14 Q. You never talked to C.B.

15 A. I didn't.

16 Q. P.B. ?

17 A. No, sir.

18 Q. Sandy Berry?

19 A. No, sir. I did not have a conversation with them.

20 Q. You were aware that they were supposedly at the
21 locations where sexual intercourse took place. Right?

22 A. My understanding at the time that we took the
23 statement from J.B. that no one knew where the children
24 were at this time.

25 Q. This happened what, two, three - almost three years

1 ago, these allegations stem from ---

2 A. Yes, sir.

3 Q. --- what, two and a half, three years ago; is that
4 right?

5 A. Yes, sir.

6 Q. Okay. And in the last two and a half years, have you
7 talked to any of these people?

8 A. I have not.

9 Q. You never went and took any pictures of the inside of
10 Stephen's house?

11 A. I personally did not.

12 Q. Now referring to the incident report you wrote on
13 March the 18th, 2011. Have you got that?

14 A. Yes, sir.

15 Q. You wrote that Stephen had sex with her more than
16 once. Correct?

17 A. Yeah that's what's in the report yes, sir.

18 Q. And also in different locations. Right?

19 A. Yes, sir.

20 Q. Detective Belue, you went to see Stephen when he was
21 in the jail didn't you?

22 A. Yes, sir. I didn't go to see him. I went to the jail
23 when he was up there yes, sir.

24 Q. And during that visit, you gave him a phone card
25 didn't you?

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1 A. Yes I did.

2 Q. Okay. And that was to call one of his girls?

3 A. The phone card was provided by Sheriff Taylor actually
4 in the case and I was told to give it to Stephen at the
5 jail. His daughter did ask that we let her know that he
6 was okay and safe, which I did.

7 Q. You were told by Sheriff Taylor to take a phone card
8 to --

9 A. He purchased the card, not me.

10 Q. Sheriff Taylor purchased the phone card?

11 A. Correct.

12 Q. Gave it to you, told you to take it to Mr. Berry who
13 you all just charged with criminal sexual conduct?

14 A. He was at the jail --

15 THE COURT: Just answer yes or no.

16 A. Yes.

17 THE COURT: If it can be answered that way.

18 A. Yes I did.

19 Q. Are you suppose to do that?

20 A. I did it. The Sheriff purchased the card that was
21 given to Stephen Berry, a calling card, to call his
22 daughter.

23 Q. Have you ever done anything like that before?

24 A. No, sir.

25 Q. You guys got the capabilities to record any phone call

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1 that can be made from that jail. Correct?

2 A. Correct.

3 Q. And did you tell Lieutenant Humphries that you did
4 that?

5 A. I'm not sure that he was present at the time.

6 Q. So you did tell him or you didn't tell him?

7 A. I don't recall if I told him or not. I don't know if
8 there was a discussion about that.

9 Q. And you had already told Sheriff Taylor that you had a
10 personal relationship with Stephen Berry that ended badly.
11 Correct?

12 A. He knew that there was a prior relationship between me
13 and Stephen. He was aware of that.

14 Q. Did you tell him that it ended badly?

15 A. I don't think I discussed how it ended.

16 Q. Well you testified ---

17 A. With the sheriff.

18 Q. --- before to matters regarding this case. Right?

19 A. I testified that I spoke with my Captain, Captain
20 James McNeil, about a prior relationship with Stephen Berry
21 who then indicated that I get with Lieutenant Terry
22 Humphries. I don't know that there was any discussion
23 about it beyond a bad note but in the last trial I was
24 asked did it end on a bad note and yes it did. Most
25 relationships don't end unless their on a bad note but it

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1 did.

2 Q. And you testify in a previous trial that the
3 relationship ended on a bad note. Correct?

4 A. I was asked and answered that it did yes, sir.

5 Q. And your explanation of why you purchased this phone
6 card --

7 THE COURT: She didn't testify that she purchased it
8 so let's stick to what's already in the record so we won't
9 go round and round and round. She didn't say that she
10 purchased a card.

11 Q. Did you purchase the card?

12 A. I did not.

13 THE COURT: She testified earlier that the Sheriff
14 purchased it.

15 Q. And you just didn't. The sheriff was telling you.

16 You went and gave it to him.

17 A. Yes, sir.

18 MR. DELANEY: No more questions.

19 THE COURT: Redirect.

20 SOLICITOR ANTHONY: If I can have one moment.

21 (PAUSE AT 05:11 P.M..)

22 REDIRECT EXAMINATION

23 INVESTIGATOR ROXIE BELUE BY SOLICITOR ANTHONY:

24 Q. The relationship that you had with Mr. Berry, how old
25 were you when ended, Investigator Belue?

INVESTIGATOR ROXIE BELUE: BY SOLICITOR ANTHONY

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1 A. I don't have the exact age. I want to say that it was
2 either in my eighth grade year of junior high, possibly in
3 through the summer. I don't think that it stemmed into the
4 ninth grade year and I graduated in '93.

5 Q. All right. And I'm not trying to, you know, help
6 people guess your age or anything, but approximately how
7 many years ago would that have been?

8 A. About twenty-four years ago.

9 Q. Okay. And you were asked some questions about video
10 taping and audio taping witness interviews.

11 A. Yes, sir.

12 Q. And you didn't do that in this case?

13 A. I did not.

14 Q. And is that the procedure the sheriff's office
15 follows, basically in regards to every CSC report?

16 A. No. We don't videotape interviews.

17 Q. Okay.

18 A. Normally.

19 Q. Or audio tape?

20 A. No, sir.

21 Q. Okay. So insofar as to how this case was investigated
22 from the perspective of documenting what people had to say,
23 was anything done differently in Mr. Berry's case than in
24 the other cases you investigate?

25 A. No, sir.

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1 Q. Okay. And just so we're clear. Insofar as the
2 allegations that Minor made, there was only one
3 allegation in her statements of penile intercourse.

4 A. Yes, sir.

5 Q. Is that right?

6 A. Yes, sir.

7 Q. Okay. Not more than one. Just one?

8 A. Just one.

9 Q. Okay. And as to the text messages that you testified
10 you sent the phone to SLED?

11 A. Yes, sir.

12 Q. Okay. Would it be accurate to say there were two days
13 of text messages on the phone?

14 A. I believe there were three days.

15 Q. Okay. You recall three days?

16 A. Three or four days. It was a short time frame.

17 Q. It was a very, very short time frame of texting?

18 A. Yes, sir.

19 Q. Okay. And to your knowledge, did Mr. Berry ever make
20 a call off the phone card that was given to him?

21 A. To my knowledge, he did not.

22 Q. Okay. And at the jail, there is a taping mechanism at
23 the jail. Correct?

24 A. Yes, sir.

25 Q. Okay. So it would have been possible had he made a

1 call, he might have said something that would have been
2 relevant to your investigation during that call?

3 A. Yes, sir.

4 Q. And that would be a reason to enable him to use the
5 phone?

6 A. Yes, sir.

7 SOLICITOR ANTHONY: If I can have another moment.

8 (PAUSE AT 05:14 P.M..)

9 Q. All right. Thank you.

10 SOLICITOR ANTHONY: That's everything on redirect.

11 THE COURT: Recross.

12 MR. DELANEY: Nothing, Judge.

13 THE COURT: All right. You can step down. Thank you.
14 We appreciate your time.

15 (WITNESS LEAVING WITNESS STAND.)

16 THE COURT: Members of the jury, we're going to stop
17 for the day and start back at 9:30. Keep in mind you're
18 not in a position yet to make up your mind or discuss the
19 case; avoid any outside research or news coverage, so have
20 a pleasant evening and we'll see you back at 9:30 in the
21 morning. Thank you.

22 (JURY EXITS COURTROOM AT 05:14 P.M..)

23 THE COURT: All right. How many more witnesses does
24 it look like we have?

25 SOLICITOR ANTHONY: I believe that I will have three

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1 although one of the three will be very brief. One of them
2 is just an impeachment witness, but I still intend to call
3 the case agent and I still intend to call the counselor. I
4 expect both of those will probably be fairly lengthy.

5 THE COURT: That's Humphries and Roseborough?

6 SOLICITOR ANTHONY: Yes, sir.

7 THE COURT: Okay. All right. If either of you have
8 any request to charge, if you'll hand them up in the
9 morning if they're ready. I know you've got a lot of other
10 things to do, but I'd like to start looking at them.

11 And along those lines, the Section 16-3-655 has been
12 amended several times. It would look to me like the
13 amendment that the law enforced at time of this would have
14 been probably the 2008 Amendment. Of course, I don't have
15 the pocket parts from time period 2003 to 2012 so I don't
16 have - It tells you what the Amendment was and it does not
17 look like it changes the substance of what's charged in the
18 indictment. The bottom line is I was gonna make sure I've
19 got the right version of 16-3-655 to look at before I
20 prepare my charge.

21 SOLICITOR ANTHONY: Yes, sir. I don't think that that
22 statute - I don't think that that particular code,
23 particular crime has been changed.

24 THE COURT: I don't either but I'm just telling you,
25 there are several amendments. They tell us what the

1 amendments are. None of them look like they effect what
2 we've got here. I just want to be sure.

3 SOLICITOR ANTHONY: Yes, sir.

4 THE COURT: Seems like there was something else we
5 discussed. Mainly if you have any request to charge, you
6 can start handing them up in the morning.

7 Anything else before we stop for today from the State?

8 SOLICITOR ANTHONY: No, sir.

9 THE COURT: From the defense?

10 MR. DELANEY: No, Your Honor.

11 THE COURT: All right. We'll start back at 9:30. If
12 I can see the attorneys just for a couple minutes.

13 (COURT IN RECESS AT 05:20 P.M..)

14 (COURT BACK IN SESSION THURSDAY, FEBRUARY 7, 2013 AT
15 09:34 A.M..)

16 THE COURT: Thank you. Good morning. Please take
17 your seats.

18 Without going into great detail, an issue has come up
19 about the identity of our Foreperson. I'm going to call
20 her in and I think that what my dialogue with her will
21 address what the issue is and resolve it. But I'm not
22 going to go into depth unless the Solicitor or -

23 Anything you want to put on the record about that?

24 SOLICITOR SHELTON: No, sir.

25 THE COURT: Anything you want to put on the record?

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1 MR. DELANEY: No, Your Honor.

2 THE COURT: All right. Bring Ms. Crocker in just a
3 minute.

4 (JURY FOREPERSON ENTERS COURTROOM.)

5 THE COURT: Hey, Ms. Crocker. I'm sorry to single you
6 out, but we've got a little confusion. You also go by
7 Jill?

8 MS. CROCKER: Yes, sir.

9 THE COURT: Okay. We've got the right Ms. Crocker. We
10 had some concerns. Someone who was in here yesterday said
11 that's not Julia Crocker, that's Jill Crocker.

12 MS. CROCKER: My real name is Julianne.

13 THE COURT: And so you are also Julia?

14 MS. CROCKER: I go by Jill.

15 THE COURT: Acatree Crocker?

16 MS. CROCKER: Yes, sir.

17 THE COURT: Okay. I though that would be the case
18 but we just had to check.

19 MS. CROCKER: Yes, sir.

20 THE COURT: Thank you. Sorry to do that to you.

21 (FOREPERSON, JULIA CROCKER, EXITS COURTROOM.)

22 THE COURT: Any comments?

23 SOLICITOR ANTHONY: No, sir.

24 THE COURT: Any comments from the Defense?

25 MR. DELANEY: No, Judge.

KIM ROSEBOROUGH: BY SOLICITOR ANTHONY

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1 THE COURT: You can bring in the jury.

2 (JURY REENTERS COURTROOM AT 09:36 A.M..)

3 THE COURT: I had to ask Ms. Crocker to come in to
4 clear up some confusion which we cleared up. It's not
5 anything she did so I just wanted to make sure you
6 understand that. Sometimes these little things happen and
7 we have to check on them.

8 I'll turn it over to the State to go forward
9 with calling their first witness.

10 SOLICITOR ANTHONY: Thank you, Your Honor.

11 The next witness is Kim Roseborough.

12 THE CLERK: Ms. Roseborough, place your left hand on
13 the Bible and raise your right hand.

14 (WHEREUPON: KIM ROSEBOROUGH,
15 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

16 DIRECT EXAMINATION

17 KIM ROSEBOROUGH BY SOLICITOR ANTHONY:

18 Q. Would you state your name please?

19 A. Kimberly Rae Roseborough.

20 Q. And, Ms. Roseborough, how are you employed?

21 A. I am self-employed at a therapy practice called Turning
22 Leaves Therapy in Spartanburg, South Carolina.

23 Q. And what is your qualifications?

24 A. I am a psychotherapist. I am a licensed, independent
25 social worker.

KIM ROSEBOROUGH: BY SOLICITOR ANTHONY

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1 Q. In that practice, who do you primarily treat?

2 A. I have specialized in my practice working specifically
3 with adolescents and young children and their families.

4 Q. And could you tell the court and jury your education
5 in the field of therapy and provide therapy to children and
6 adolescents.

7 A. I'm sorry, the first part of that was?

8 Q. In the therapy field, could you just tell the
9 court and the jury your education and training?

10 A. Yes. I have a *Bachelor of Arts* degree in Psychology and
11 I have a master's degree in social work.

12 Q. And do you have any licenses?

13 A. Yes.

14 Q. Okay. How are you licensed?

15 A. I am licensed by the State of South Carolina as an
16 independent social worker which allows me to do clinical
17 practice independently and provide therapeutic services
18 to children and families.

19 Q. And are you also have some credentials in the field
20 of counseling children?

21 A. Yes, I do.

22 Q. Tell us about that.

23 A. I am a registered play therapist which means that after
24 I got my master's degree I went back and did three - I'm
25 sorry, three thousand hours' worth of training and

KIM ROSEBOROUGH: BY SOLICITOR ANTHONY

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1 extra supervision and other educational requirements
2 to become a registered play therapist to work specifically
3 with children and adolescents.

4 I am also a supervisor in the play therapy field and
5 I also am a supervisor for licensed social workers for
6 people that are trying to get their social work degree.

7 I also have extensive training in child sexual abuse,
8 training experience, and experience. I have about eight
9 hundred extra hours in working with children and going
10 to training for child sexual abuse. One of those
11 specifically was in the area forensic counseling, which
12 which was a forty hour intensive training in Huntsville,
13 Alabama with one of the national children's advocacy
14 centers to become a forensic counselor.

15 After that I was able to be certified through the
16 American Counseling Association for Forensic Counselors.

17 Q. And so aside from just dealing with children and
18 adolescents in your practice, do you also deal - have sort
19 of something of a speciality dealing with children and
20 adolescents who have been sexually abused?

21 A. Yes. And I have worked in that field since 1984 working
22 with children who have been sexually abused. I started my
23 career working at a residential treatment facility where
24 a large percentage of the population of the girls there
25 had been sexually abused.

KIM ROSEBOROUGH: BY SOLICITOR ANTHONY

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1 And then I went to the Department of Social Services and
2 there I worked with the sexual abuse unit. We had a
3 specialized unit at that time. I did child sexual abuse
4 investigations. I was a first responder with the police
5 department when initial complaints came in and I did
6 that and became the supervisor in that unit and worked
7 there for seven years.

8 After that I went back to get my master's degree and
9 I worked at Safe Homes Rape Crisis in Spartanburg and
10 helped start their child therapy program doing therapy
11 with children who had been sexual abused and worked there for
12 two years.

13 I also co-developed a training curriculum with the
14 College of Social Work in Columbia, South Carolina to
15 train DSS caseworkers statewide to diagnose and treat -
16 identify, diagnose and treat child sexual abuse. I did
17 that for three years. And then as I finished my master's,
18 I went into private practice in 1995 - Let me think of the
19 year. Sorry. 1995 I started my private practice and
20 have been there ever since

21 Q. And have you testified in court before ---

22 A. I have.

23 Q. --- as an expert in the field of child sexual
24 assessment and treatment?

25 A. I have.

KIM ROSEBOROUGH: BY SOLICITOR ANTHONY

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1 Q. Okay.

2 A. Yes.

3 Q. Approximately how many times have you qualified as
4 an expert?

5 A. I have been qualified as an expert both in criminal
6 court, general sessions courts and family courts in about
7 eight or nine different counties in the State and have
8 probably testified over two hundred times.

9 SOLICITOR ANTHONY: Your Honor, at this time we submit
10 Ms. Roseborough to the Court as an expert in the field of
11 child sexual abuse assessment and treatment.

12 THE COURT: Any voir dire?

13 MS. INZERILLO: No, Your Honor.

14 THE COURT: I find she is qualified.

15 Members of the jury panel, I'll tell you more about
16 this when I charge you at the end of the case, but
17 generally witnesses can only testified to something they
18 have seen or heard or sensed with one of their five
19 senses. However where an individual has certain training
20 and experience and skill in a certain area, that person
21 can be qualified as an expert in that area. I have
22 found she is qualified in the area of expertise
23 as articulated by Mr. Anthony.

24 That means she can reach opinions rather than
25 state just facts; I saw something, I heard something.

KIM ROSEBOROUGH: BY SOLICITOR ANTHONY

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1 She can take facts and from those render an opinion.
2 Now those opinions are given and I've allowed that evidence
3 to assist you; they are not binding on you. You judge
4 this witness just like you judge any other witness in the
5 case and you can accept her opinion, you can reject
6 her opinion or you can give it such weight as you deem.

7 But an expert witness differs from a non-expert
8 witness because a non-expert witness can't give an
9 opinion about something. They can only testify as to
10 actual facts; something they've heard, seen, et cetera,
11 whereas an expert can take facts and from those say its
12 my opinion, whatever her opinion may be. And again that's
13 to assist you or allowed into evidence to assist you.

BY SOLICITOR ANTHONY:

14
15 Q. Ms. Rosebrough, have you in the course of your practice
16 at Turning Leaf Therapy counseled Minor

17 A. I have.

18 Q. And when were the days that you dealt with
19 Minor and dealt with her family?

20 A. Originally this family came to see me back in 2005 and
21 I worked with them they around some divorce issues and
22 some visitation issues and worked with the entire family
23 at that point.

24 Q. And how long did that treatment last?

25 A. They were in therapy approximately two years.

KIM ROSEBOROUGH: BY SOLICITOR ANTHONY

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1 There were so many court hearings during that time and we
2 were working on some specific treatment plans and some
3 things that needed to happen for the mother to regain
4 her normal regular standard visitation.

5 Q. So it ended in 2007?

6 A. Yes.

7 Q. Okay. And after that was there resumption of your
8 relationship with the Williams family?

9 A. There was.

10 Q. And when was that?

11 A. They called back sometime early in 2010 and wanted
12 to come back in and at that point I was full and was not able
13 to have them back as a regular client and they briefly saw
14 someone else at my office that I referred them to. But
15 in February of 2010, they asked to come back to see me and at
16 that point I did have an opening for their family that I
17 could see them. They came back in for the first time on
18 February the 19th 2010.

19 Q. And when you started seeing them in February 2010, what
20 was that initially in regards to?

21 A. It was specifically in regards to the issue of the
22 mother's visitation. There had been a treatment plan that
23 she was supposed to do certain things in order to
24 re-establish the standard visitation and she had not done
25 it until 2010 and at that point when she had completed

KIM ROSEBOROUGH: BY SOLICITOR ANTHONY

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1 everything, she wanted to re-establish standard
2 visitation and part of the court order required that they
3 had to come back to therapy and that a therapist had to
4 review that she had done those things and then
5 gradually reinstate visitation. So when they came in
6 that was the only purpose of the therapy at that point.

7 Q. And during 2010 when you were seeing the Williams
8 children, what was the normal procedure you would follow
9 when you would have sessions with them?

10 A. Well it would depend, but basically I was treating -
11 Minor was the identified client which she had been
12 previously just in terms of that was the name that my file
13 was opened in. But I was working with the entire family
14 so I would see sometimes the children; sometimes the children
15 by themselves. I would sometimes have the father come
16 into my office and talk with him. I also met individually
17 some with the mom to kind of go over the treatment plan and
18 make sure that she had finished up what she needed to do and
19 then I started supervised visitation with the children and
20 the mom in my office.

21 You have to do it in a very slow, graduated process
22 before the regular visitation is just given back
23 unsupervised. So it would depend on who I brought into the
24 office that day but I did a variety of different types of
25 sessions with the family to get them prepared to move to

1 that unsupervised visitation.

2 Q. And on average when the counseling was resumed in
3 February of 2010, how often would you see the family?

4 A. I would see them at least once a month. Sometimes
5 twice a month. Just depending on my schedule and their
6 availability to come in.

7 Q. Okay. And then did anything change in March of 2011
8 as far as your relationship with Minor and the rest of the
9 family?

10 A. Yes. In March of 2011, there was a police report
11 where Minor disclosed sexual abuse and at that point
12 I was still working with the family around the visitation
13 issues and I also began to see Minor some individually
14 that was more specifically related to the sexual abuse
15 allegations even though I did continue to work with the
16 family and the other child with mom's visitation.

17 Q. And did you have individual sessions in March of
18 2011 just with Minor concerned with sexual abuse?

19 A. Yes. Those started March the 21st and that was at
20 the appointment that she disclosed the sexual abuse to me.
21 She had just made a police report at that time.

22 Q. And did she give you a time frame where the sexual
23 abuse incidents had occurred?

24 A. Yes. She reported that they had started in May or
25 early June of 2010.

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1 Q. Okay. And did she give you a time frames for the
2 continuation of those acts, how long that it lasted?

3 A. It is my understanding, and I can go back and look
4 more thoroughly in my notes, but it had continued up
5 until just several weeks prior to her making the police
6 report.

7 Q. And where did she - When you talked to her where did
8 she report to you, what locations did she report to you that
9 these incidents had occurred?

10 A. She told me that they had occurred at her residence
11 and at the residence of Stephen Berry.

12 Q. And when you would - In the sessions where you
13 discussed these incidents with Minor what
14 observations did you make about her demeanor?

15 A. About her demeanor?

16 Q. Yes, ma'am.

17 A. Over time, and I did see her for some time after that,
18 I noticed several things about her demeanor, including many
19 symptoms that related to trauma. She was very avoidant.
20 Many times of trying - of me trying to talk to her about what
21 happened she became increasing more agitated and depressed.
22 She became more angry. She had a lot of feelings of
23 guilt and hopelessness and was very hyper-vigilant, very
24 easily startled in my office and was very emotionally
25 distressed and that progressed and got worse over time after

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1 the disclosure was made.

2 Q. And based on your experience and your training, were
3 the circumstances of her disclosure when she spoke to you
4 about these issues consistent with the disclosure of sexual
5 abuse?

6 MS. INZERILLO: Objection, Your Honor.

7 THE COURT: Let me ask the jury to go out just a
8 minute.

9 (JURY EXITS COURTROOM AT 10:30 A.M..)

10 THE COURT: Yes, ma'am.

11 MS. INZERILLO: Your Honor, my object to Ms.
12 Roseborough's comments on any consistency or inconsistency
13 is based on a case that has just recently been handed down by
14 the Supreme Court of our state which is the State versus
15 Kromah...

16 I have a copy for you.

17 MADAME COURT REPORTER: Yes, ma'am. Thank you

18 MS. INZERILLO: I will say at the outset of my
19 argument, Your Honor, this case is extremely new. I believe
20 it was just filed in January which would have been last
21 month and I don't think the time period has passed but I do
22 think it is instructive on this issue.

23 In the copy I handed to the State as well as up to
24 the Court, unfortunately they are not numbered but I will
25 point the court to which is essentially Subsection II which

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1 is about six pages from the back.

2 In this case, Your Honor, the court expressly
3 addressed this forensic interviewer's comments regarding
4 her assessment of the demeanor of essentially in this
5 case what is a child victim's demeanor and how it
6 relates to whether that child was believable in a
7 disclosure of sexual abuse. It is an extensive
8 recitation of how that forensic interview was certified
9 as an expert in forensic interviewing and how even
10 though the person was qualified as an expert that does
11 not allow that person to comment on anything involving
12 the credibility of a witness.

13 It further does caution that there are certain
14 statements that should be avoided at trial, one of which
15 is any statement to indicate to a jury that the interviewer
16 believes the child's allegations in the current matter.

17 It is our concern, Your Honor, that should Ms.
18 Roseborough testify, as the State has ask her to do, that
19 her disclosure, to mean Minor 's disclosure is
20 consistent or inconsistent with her actions or
21 disclosures were consistent or inconsistent with the
22 disclosure of sexual abuse.

23 That is asking Ms. Roseborough to comment in a manner
24 that would require her to comment on whether she believes
25 Minor ' allegations in this matter involved in this

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1 case when our Supreme has determined this an improper
2 comment.

3 This court does further - The Supreme Court does
4 further argue that it is within the sole providence of
5 the jury to determine the credibility of witnesses which
6 is where it says this caution to this - any question about
7 the statement at this point with Ms. Roseborough being
8 qualified as such as an expert in child sexual abuse
9 treatment in this line of questioning where she's
10 specifically asked about any interactions, any
11 conversations she's had if she's had anything involving her
12 assessment of any demeanor specifically after the
13 disclosure; specifically any specialized sessions regarding
14 the disclosure and her assessment on that disclosure we
15 would ask that that not be

16 THE COURT: Mr. Anthony, have you had a chance --

17 We'll take a break because I want to look at the
18 case too. I was just skimming over it. If you want to
19 address - are you familiar with this case?

20 SOLICITOR ANTHONY: No, sir.

21 THE COURT: All right. Let's take a short break.

22 Ms. Roseborough, you can step down and have water, use
23 the restroom if you want too, but I want a chance to look at
24 this myself.

25 It is a January 23rd - I never do math in public

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1 because I always get it wrong, but about two weeks. So I
2 have not seen this case. We'll be at ease for at least
3 ten minutes.

4 (COURT IN RECESS AT 10:38 A.M..)

5 (COURT BACK IN SESSION AT 11:26 A.M..)

6 THE COURT: Thank you. Take your seats. We're back in
7 order.

8 I'm going to ask the court reporter to read back or
9 play back the question that elicited the objection.

10 A. Over time, and I did see her for some
11 time after that, I noticed several things
12 about her demeanor, including many
13 symptoms that related to trauma. She was
14 very avoidant. Many times of trying --
15 of me trying to talk to her about what
16 happened she became increasing more
17 agitated and depressed. She became more
18 angry. She had a lot of feelings of
19 guilt and hopelessness and was very
20 hyper-vigilant, very easily startled
21 in my office and was very emotionally
22 distressed and that progressed and got
23 worse over time after the
24 disclosure was made.

25 Q. And based on your experience and

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1 your training, were the circumstances of
2 her disclosure when she spoke to you about
3 these issues consistent with the disclosure
4 of sexual abuse?

5 MS. INZERILLO: Objection, Your Honor.

6 MADAME COURT REPORTER: Yes, sir, Judge, you're on
7 the record.

8 THE COURT: Okay. Mr. Anthony, I've looked at the
9 case, K-r-o-m-a-h, Kromah. Have you had a chance to
10 take a look at it?

11 SOLICITOR ANTHONY: Yes, sir.

12 THE COURT: All right. And your thoughts?

13 SOLICITOR ANTHONY: Well, the question in that case was
14 or the testimony in that case from the forensic interviewer
15 was that there was a compelling finding. And my question
16 to her I think it would be distinguished from that
17 because I --

18 THE COURT: You ask about consistency.

19 SOLICITOR ANTHONY: Yes, sir.

20 THE COURT: I am aware of that, and that's not a
21 compelling finding, but in looking at the list that the
22 court has placed that you can't ask and can ask, the
23 last bullet point of statements a forensic interviewer
24 should avoid at trial says, "an opinion that the child's
25 behavior indicated that the child was telling the truth."

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1 That's where it gets a little gray because they used
2 the word indicated. You're asking whether behavior is
3 consistent with someone who ask was telling the truth.

4 SOLICITOR ANTHONY: Yes, sir.

5 THE COURT: Well I sustain the objection.

6 SOLICITOR ANTHONY: I can't really dispute that
7 assessment.

8 THE COURT: All right. Well I sustain the objection.

9 MS. INZERILLO: Thank you, Your Honor.

10 THE COURT: All right, bring in the jury.

11 (JURY REENTERS COURTROOM AT 10:23 A.M..)

12 THE COURT: You may proceed.

13 SOLICITOR ANTHONY: All right.

14 DIRECT EXAMINATION - CON'T

15 KIM ROSEBOROUGH BY SOLICITOR ANTHONY:

16 Q. Ms. Rosebrough, just to kind of get us back to where
17 we were. When you spoke to Minor and she relayed
18 sexual abuse to you, what types of behavior did you notice
19 about her?

20 A. In my office that I observed specifically?

21 Q. Yes, ma'am.

22 A. I noticed that she was very hyper-vigilant, easily
23 started, became very emotionally distressed and distraught,
24 became very tearful on many occasions when I was attempting
25 to elicit information from her. She reported symptoms that

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1 were obviously not occurring in my office that also indicated
2 trauma around not being able to sleep and having a lot of
3 intrusive thoughts about the sexual abuse that occurred and
4 about a lot of anger and agitation. She became having some
5 real violent outbursts that had not been typical of her. She
6 became so depressed that in September I was --

7 Q. I'll get - We'll get on to that in a minute.

8 A. Okay.

9 Q. I was just asking when you talked to her, I just
10 wanted to go back through the things you saw when you talked
11 to her. I want to move on now. Is there a term in your
12 field that, a common term called delayed disclosure?

13 A. Yes there is.

14 Q. All right. And what is it that people mean when they
15 talk about delayed disclosure?

16 A. In 1983, a physician named Roland Summit did a lot of
17 research around the area of child sexual abuse and wrote a
18 paper based on information through literature and what we
19 knew about children who had been sexually abused, and about
20 how they accommodate for that sexual abuse, and how they
21 disclose it if and when they do disclose it, and some of the
22 major tenants of child sexual abuse and it's called the Child
23 Sexual Abuse Accommodation Syndrome. And one of the tenants
24 of that syndrome that he identified is delayed disclosure.
25 What they saw when they were looking at cases of child sexual

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1 abuse is that most of the kids who had been sexually abused
2 did not report it in a timely fashion.

3 Q. And what factors are thought to play a role in delayed
4 disclosure by a child of sexual abuse?

5 A. There are many but some of the major ones and the ones
6 that are most documented in the research and that I have seen
7 most in my practice have to do with children feeling like
8 that people won't believe them and usually that's because the
9 adult who is sexually abusing them convinces them of that.
10 They say, no one is going to believe you. I'm this or that
11 and, you know, people are going to say that you're lying,
12 that you made this up.

13 A lot of times there is bribing going on and sometimes
14 kids are in a situation where there has been a threat made to
15 them about what will happen if they tell. And a lot of kids
16 really think about what the consequences might be if they
17 tell and what it would do to their family and what it would
18 do to the other family that's involved.

19 A lot of times it really surprises me that kids are ever
20 brave enough to tell after they've had some of these kinds of
21 experiences based on what happens afterwards because then the
22 police are involved. There is usually court. There are a
23 lot of other circumstances then that they have to deal with.

24 Q. And how common is delayed disclosure?

25 A. It is incredibly common. With incestuous cases, it

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1 happens quite a lot. As I said, it's one of the major
2 tenants of the Child Sexual Abuse Accommodation Syndrome
3 because it happens so often. You have to remember we're not
4 talking about a stranger rape and even those don't get
5 reported as we all know that those numbers are incredibly low
6 based on what actually occurs. But for many reasons people
7 don't report that and these kinds of sexual abuse cases, they
8 have the person who is the perpetrator has spent time
9 grooming the child, getting the child to accept the behavior
10 --

11 MS. INZERILLO: Objection, Your Honor.

12 THE COURT: I sustain the objection.

13 Go on to the next question.

14 BY SOLICITOR ANTHONY:

15 Q. And could you just give us some examples in your own
16 practice of time spans that you've seen from time of abuse
17 until the disclosure?

18 A. Certainly. I have had people that, kids who have not
19 told at all during their childhood. Many examples are kids
20 who don't tell until they're seventeen or eighteen and they
21 know that there's not going to be a police report or there's
22 not going to be the danger of them being taken out of their
23 home.

24 I work with a lot of adults who are adult survivors of
25 child sexual abuse and they come into my office in their

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1 thirties and forties and fifties and are telling for the
2 first time. The longest person that I had to wait to
3 disclosure was a seventy-year-old woman who came into a
4 psychiatric hospital who had been sexual abused at the age of
5 five and that was the first time that she was telling anyone
6 was in her early seventies. So there is a lot of long spans
7 between when some of these events occur and people feel safe
8 enough to tell.

9 Q. And based on your experience with Minor
10 were there factors in her situation that you could identify
11 that might lead to a delayed disclosure of abuse?

12 A. Yes.

13 Q. And what were they?

14 A. Well, there were several. One was because she didn't
15 think anybody would believe her. That was the first one.
16 That she didn't believe that people would believe who this
17 person was, was actually abusing her. One of the major ones
18 that she --

19 MS. INZERILLO: Your Honor, I'm going to object.

20 THE COURT: I sustain the objection.

21 SOLICITOR ANTHONY: I'm sorry, Your Honor.

22 THE COURT: Let the jury go out again. Let the jury go
23 out again for a minute.

24 (JURY EXITS COURTROOM AT 10:30 A.M..)

25 SOLICITOR ANTHONY: Yes, sir. I would just like to be

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1 heard. I don't think there is any prohibition on her
2 explaining factors she observed in the victim's situation
3 that would be consistent with her delaying her report.

4 MS. INZERILLO: Your Honor, I think again it's a
5 situation where she has commentated on consistency and again
6 in this case why perhaps the victim has acted the way that
7 she has which may lend credence to one fact of believability
8 in this case because certainly the jury can take into
9 consideration whether it was delayed reporting or whether
10 it's a credibility issue.

11 SOLICITOR ANTHONY: Well in that case it just says
12 people can't say somebody is telling the truth. I don't
13 think that case is so broad that a witness can't say here are
14 factors that based on the experience I have in the field
15 would be present in her circumstance. I think that's a
16 completely different thing. Now I'm not asking her was the
17 witness telling the truth. I'm just asking her based on her
18 experience and her training what factors were in the
19 witness' - present in the witness' situation that might lead
20 to a delayed disclosure.

21 THE COURT: Well, part of the problem there is like you
22 said, you said might. We're now having her indicate what all
23 in her opinion, she's an expert, reasons that might have been
24 a delay, but in essence and she's clothing the victim with
25 these reasons for not reporting and she can't do that. She

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1 can't say that these are the reasons this particular victim
2 did not report. By using these as example is conveying to
3 the jury that these are things that made this young girl not
4 report. It is a little different but I still think the
5 objection is sustained. I sustain the objection.

6 SOLICITOR ANTHONY: Well, can she be asked about the
7 particular circumstances that in general might cause a child
8 not to report?

9 THE COURT: Well the problem when you get into
10 in general, the jury has a hard time in my opinion, that if
11 you start picking out stuff quote, in general, then
12 you're really talking about specifics and there is no reason
13 to talk about why somebody else did or did not do
14 something and by cataloging things that are in general
15 the jury would, I think, logically conclude that those
16 are the things that are present here while they are couched
17 in the words of, in general, that they apply here so I'm not
18 going to allow that.

19 SOLICITOR ANTHONY: Well I would just ask the Court
20 to consider there is a lot of cases in South Carolina that
21 allow this kind of evidence, allow behavioral evidence.
22 I don't think this case is so broad that it starts touching
23 that because all it deals with is just the interviewer
24 saying the disclosures compelling and that's not what I'm
25 doing with her. I'm not asking her about what the victim

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1 told her.

2 I'm just asking her what - Well I'm not asking her about a
3 specific disclosure the victim made. I'm asking her to
4 evaluate it.

5 THE COURT: I understand but the - I'll be glad to look
6 at those cases when we take another break. But this case
7 raises a red flag about how far a forensic interviewer's
8 testimony can go. And the - I'll have to look at those
9 cases, but I think they're sending up a red flag, or put up
10 a red flag saying be very, very cautious and not only that,
11 but they tailor three specific inferences and says
12 these aren't exhaustive but this question that you're
13 asking now doesn't fall within any of those three can -
14 Or you don't have to avoid bullet points sort of issues. So
15 I'll be glad to look at whatever cases you have. I think in
16 the past absent this case I wouldn't be having the concern
17 I'm having but I mean this is a shot across the bow in
18 forensic interviews quite frankly.

19 SOLICITOR ANTHONY: Well I will just argue or point out
20 to the court if the language here, that the paragraph where
21 that list that precedes that list that starts "because the
22 admissibility of forensic interviews and testimony based
23 thereon in trial has been the subject of several recent
24 appeals would at least be helpful to set forth by way of
25 example the kinds of statements a forensic interviewer should

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1 avoid at trial. Then it has the list.

2 I mean my argument to the court would be that I'm not -
3 She's not speaking in her role as a forensic interviewer;
4 she's speaking in the role as a therapist and she's not
5 talking about making a affirmation of an interview anymore.
6 She is talking about behavior that she observed based on her
7 treatment of the victim. So I would argue to the court that
8 this case, while I think obviously it sets some rules for
9 testimony about forensic interviews, I think that's very
10 distinguishable from the cases that allow people to talk
11 about behavioral evidence.

12 THE COURT: Let's go back again and see exactly what she
13 was qualified in. You presented her as an expert and let's
14 see what - have you got it written down?

15 SOLICITOR ANTHONY: She was qualified as an expert in
16 the field of child sexual abuse assessment and treatment. And
17 I would argue that I'm just asking questions about the
18 treatment part.

19 THE COURT: Well, questions about in general what would
20 cause somebody to delay hasn't got anything to do with
21 treatment, does it? How can that be treatment?

22 SOLICITOR ANTHONY: Well, she would have to have some
23 knowledge of why people would delay reporting to be able to
24 treat the condition. I think certainly it falls within the
25 purview of her knowledge as she's testified about the

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1 origination of the term to known about --

2 THE COURT: So you're equating diagnosis with treatment?

3 SOLICITOR ANTHONY: Well, you have to be able to
4 diagnose to treat, yes, sir.

5 THE COURT: I understand that. They're two distinct
6 things.

7 SOLICITOR ANTHONY: Yes, sir. Yes, sir, but I think
8 certainly within her realm of knowledge is delayed reporting.

9 THE COURT: I got no question about that. The question
10 is whether or not it's admissible for this jury to hear.

11 SOLICITOR ANTHONY: Yes, sir.

12 THE COURT: She's extremely qualified, I'm impressed.

13 SOLICITOR ANTHONY: Yes, sir.

14 THE COURT: I'm very impressed. But she's got as good
15 a credentials in this area as I have seen, but the question
16 is not whether she knows it but whether it's admissible.

17 SOLICITOR ANTHONY: Yes, sir.

18 THE COURT: We'll take a break and I'll let you round up
19 some more cases.

20 SOLICITOR ANTHONY: All right. Thank you very much.

21 THE COURT: And you see where my thought pattern is
22 headed, I think.

23 SOLICITOR ANTHONY: I think I understand your concern,
24 Yes, sir.

25 THE COURT: We'll be at ease for a few minutes.

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1 (COURT AT EASE AT 10:38 A.M..)

2 (COURT BACK IN SESSION AT 11:26 A.M..)

3 THE COURT: Thank you. Take your seats.

4 Anything else from the State? I read the cases and I've
5 got an opinion of where I'm headed but I'll be glad to hear
6 anything else.

7 SOLICITOR ANTHONY: I handed up the law I found, Your
8 Honor.

9 THE COURT: Anything else?

10 MS. INZERILLO: No, Your Honor.

11 THE COURT: Well, we're getting into a thorny area and
12 the courts have ultimately got to carve out where
13 we're headed with all of this. This current line of
14 questioning which has to do with as I understand delayed -

15 Mr. Anthony, are you listening? The question about
16 what causes delayed reporting. That's the major issue that
17 we're dealing with right now. Correct?

18 SOLICITOR ANTHONY: Yes, sir. I think the objection
19 actually came in to a question about in the victim's
20 situation what factors were there that would be consistent
21 with delayed reporting. I think that was the words I used,
22 consistent with delayed reporting.

23 THE COURT: Well I still have trouble with the word
24 "consistent," and this is a very thorny issue. I find that,
25 like I say I have some concerns with the word "consistent,"

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1 but I do find that based on the *Weaverling* case, a 1999
2 case, 337 S.C. 460, in there and this has not been changed to
3 my understanding, this was a rape trauma case and the court
4 citing *Frenzel F-r-e-n-z-e-l* versus *State of Wyoming*, 1993,
5 favorably and states and I hold that this testimony of this
6 extent is admissible and that it's approbative value
7 outweighs its prejudicial value, that is, expert testimony
8 concerning common behavior, behavioral characteristics of
9 sexual assault victims and the range of responses to sexual
10 assault encountered by experts is admissible.

11 The court went on citing *Frenzel* again, "Such testimony
12 is relevant and helpful in explaining to the jury the typical
13 behavior patters of adolescent victims of sexual assault."
14 If this testimony is ultimately found by our appellant courts
15 to be not admissible, I think the courts would be closing a
16 door on numerous cases that we hear of all the time and
17 already been eluded to and that is cases of depressed memory.

18 If the testimony of this type is not allowed in the
19 context of typical, not consistent, typical, then I think
20 that delayed reporting cases would be much harder to present
21 to the jury and would not be presented with a complete
22 picture of the victim's rationale or reasoning, or that's
23 not the right word, but the underlying reason that one may
24 not report in a more timely fashion some sort of traumatic,
25 particularly sexually, or possibly physically sexual abuse,

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1 so my ruling is that you can ask questions about typical
2 responses that may cause delayed reporting.

3 Anything further?

4 SOLICITOR ANTHONY: No, sir.

5 MS. INZERILLO: Yes, Your Honor, for clarification.

6 In terms of typical responses but nothing specific to
7 this case?

8 THE COURT: Well, it may. If they are typical nad they
9 relate to this case they are just typical and relate to this
10 case. I mean, I can't say that - As way of an example and I
11 don't know if she's going there, but that a typical reason
12 that an adolescent may not report is that the perpetrator is
13 someone associated with the church, if that's typical she can
14 testify to it. The fact that it may be also in line with the
15 facts of this case is just the fact that it's in line with
16 this case. She can't be - I'm not going to exclude her from
17 using - and I'm not saying that's an example.

18 MS. INZERILLO: Right.

19 THE COURT: That's an example in my mind. The fact that
20 a typical response parallels to the facts as the state has
21 developed them doesn't mean they can't go into it.

22 MS. INZERILLO: I think my question goes to what if by
23 way of response it is specific to the case in terms of she
24 was afraid of losing her best friend J.B. ?

25 THE COURT: Well I think she can testify that she may be

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1 losing - fear of losing a best friend or a close friend but
2 I think as far as naming that friend, I think that wouldn't
3 be typical because everybody doesn't have a best friend named
4 J.B.

5 MS. INZERILLO: Thank you, Your Honor

6 THE COURT: I mean, my logic may be not the best but
7 that's the best - I'm the best you've got right now.

8 All right. Bring in the jury.

9 (JURY REENTERS COURTROOM AT 11:33 A.M..)

10 THE COURT: Go ahead.

11 SOLICITOR ANTHONY: All right.

12 DIRECT EXAMINATION - CON'T

13 KIM ROSEBOROUGH BY SOLICITOR ANTHONY

14 Q. Ms. Roseborough, I'm gonna back up just a little bit
15 and try to move forward.

16 You were testifying about delayed disclosures with child
17 abuse.

18 A. Yes.

19 Q. And could you tell the jury if there are any typical
20 factors that might lead a child to delayed disclosing?

21 A. Yes. What might have a child have delayed disclosure
22 would be things like not believing that someone would believe
23 him or her. A lot of times they, when we interview children
24 or talk to kids after a disclosure has been made, they will
25 say that they did not believe anyone would believe them

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1 either because of the content of their disclosure or because
2 of who the perpetrator was.

3 A lot of times the perpetrator may be someone that they
4 know through other ways and that other people know and would
5 not believe on the surface that, that could be true so that
6 would be a reason that they might not would tell. Other
7 reasons for delayed disclosure center around the fear of the
8 unknow, what is going to happen next.

9 A lot of kids, especially teenagers, are savvy enough to
10 understand that there might be police involvement, a police
11 report. There might be court. They would have to make their
12 statement to numerous people. That they would have to be
13 talked to and interviewed by professionals. And when you
14 think that people wouldn't believe you, that's a really hard
15 thing to do.

16 If the perpetrator is someone that other people know or
17 is involved with your family, you are also very or maybe
18 concerned about what is going to happen to that person or how
19 people are going to react if you say that is the person that
20 offended against you. In some cases that I've worked on,
21 there may be friendships involved in these kinds of
22 situations. There may be - they may have friends that are
23 involved with that family or with that offender that they may
24 not want to put that family through, and their family
25 through, what they know what might happen if they make a

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1 disclosure.

2 Q. And based on your work with Minor are any
3 of those typical factors present in her situation?

4 A. Yes, they are.

5 Q. And which factors are present?

6 A. Well, there are numerous factors present. The first
7 one was that not being believed because of the position --

8 MS. INZERILLO: Your Honor, I going to object.

9 THE COURT: Yeah. I sustain the objection.

10 BY SOLICITOR ANTHONY:

11 Q. Okay. The first factor is not being believed. What
12 else? Without going into the reason why she might not be
13 believed, what else would -- well, insofar as she might not be
14 believed, without specifically saying what would be pertinent
15 to Minor ' case, what factors might a child consider in
16 delaying a disclosure because of a fear of not being
17 believed?

18 A. If they felt like their disclosure was going to hurt
19 someone that they really cared about or were very close to.

20 Q. And then aside from the fear of not being believed,
21 what other typical factors were present in Minor ' case
22 that might lead to a delayed disclosure?

23 A. That she was afraid that it would hurt her friendship.

24 MS. INZERILLO: Objection, Your Honor.

25 THE COURT: Yeah. I sustain the objection.

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1 Disregard that question and answer.

2 BY SOLICITOR ANTHONY:

3 Q. Would that be a typical factor?

4 A. That their disclosure might hurt someone? Absolutely.

5 Q. And what else was present in regards to her?

6 A. Generally threats and being told to not tell, to
7 keeping it a secret.

8 MS. INZERILLO: Your Honor, I'm going to object. I
9 believe those questions --

10 THE COURT: I sustain the objection. I thought we
11 were going to keep it as to typical; not specific.

12 SOLICITOR ANTHONY: Well, --

13 THE COURT: Well I've ruled.

14 SOLICITOR ANTHONY: Okay. I'm sorry.

15 Q. All right. And moving on, are there any typical
16 symptoms of trauma that are exhibited by people who have been
17 -- by children who have been sexually assaulted?

18 A. Yes.

19 Q. Okay. And what are those?

20 A. There are certain symptoms of trauma that must be
21 present in order to diagnose someone with a traumatic
22 response or post traumatic stress disorder, and those include
23 certain things -- there are certain categories and the way
24 that it is written in the Diagnostic Statistical Manual, you
25 have to have a certain number under each category. The first

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1 category is that there has to have been some type of
2 traumatic event where someone was harmed or felt like that
3 they were in danger in some way and that that caused them a
4 significant amount of distress.

5 MS. INZERILLO: Your Honor, I'm going to object.

6 May we approach at this point?

7 (SIDE BAR CONFERENCE OFF THE RECORD OUT OF THE
8 HEARING OF THE JURY AT 11:39 A.M..)

9 BY SOLICITOR ANTHONY:

10 Q. Okay. Are there any specific trauma symptoms that
11 children would tend to show following a sexual assault?

12 A. Yes.

13 Q. And what are those or some of those?

14 A. Some of those would be hyper-vigilance. A very
15 exaggerated, startled response. There could be distressing
16 intrusive thoughts about the event that occurred. These can
17 sometimes cause really significant problems with
18 concentration because they are having intrusive thoughts
19 and they are not able to get the event out of their mind.

20 A lot of people can have and one of the symptoms
21 certainly is agitation, outbursts of anger. They also can
22 have feelings of detachment that lead to very significant
23 depression and anxiety and the symptoms that would go along
24 with both of those; lack of sleep, problems with appetite.
25 Those types of things.

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1 Q. And in regards to any of your treatment of Minor
2 did you make observations and form opinions as to
3 specific symptoms of trauma suffered by her?

4 A. Yes.

5 Q. And were there trauma symptoms that you observed in
6 regards to her family relationships?

7 A. Yes.

8 Q. And what were those?

9 A. Over time Minor became much more agitated and had a
10 lot of feelings of guilt and separation and detachment from
11 her family. She became increasingly more angry and had
12 some --

13 MS. INZERILLO: Your Honor, I'm going to object.

14 THE COURT: I overrule your objection.

15 Go ahead.

16 A. Thank you. Had some very violent outbursts toward
17 people in her family, her dad and her brothers. And she
18 became more withdrawn. She had a lot of feelings of
19 loneliness and detachment. She became so clinically
20 depressed that I was concerned about her and referred her to
21 a psychiatrist.

22 Q. Okay. And when did you do that?

23 A. I referred her to the psychiatrist in September of
24 2011.

25 Q. Okay. All right. And then were there trauma

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1 symptoms that you became aware of in regards to
2 concentration?

3 A. Yes.

4 Q. What were --

5 A. Yes. She was having a very hard time concentrating
6 because of the intrusive thoughts. She was not able to keep
7 her mind on her school work. She was not able to listen in
8 class. She was having very significant problems with sleep
9 patterns because of the intrusive thoughts. And her grades
10 significantly dropped during the period of time right before
11 I had referred her to the psychiatrist.

12 Q. And was there - were there trauma symptoms that you
13 observed in regards to the infliction of physical harm?

14 A. Yes. There were reports of her cutting herself.

15 Q. Now, in your treatment of Minor , the reports of
16 physical aggression on her part, when did that first start?

17 A. The most significant events that I documented began
18 in July of 2010. I'm not saying that there hadn't been
19 anything ever prior to that, but as far as my notes it was so
20 concerning that there is significant documentation about it.

21 They had come in that day and there was lots of anger. There
22 had been some hitting. There was a lot of acting out. A lot
23 of rebellion against her dad and some rules and some
24 boundaries that he was trying to put in place for her.

25 She was becoming increasingly more agitated and that

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1 went on for several months. She became very belligerent.
2 There was an incident where the police had to be called
3 because of a physical incident between her and her father and
4 her grandmother and her step grandfather.

5 Q. Okay. And this began to be reported to you in July
6 of 2010?

7 A. July of 2010, yes.

8 Q. Now, is there a condition - In your field is there a
9 condition that once you see a certain set of these symptoms
10 you attribute to a person, a diagnosis you give to a person
11 based on an accumulation of these symptoms?

12 A. Yes. Yes.

13 Q. Okay. What is that?

14 A. It is very important that if you start seeing these
15 symptoms as a therapist, and the person is having problems
16 functioning, you want to address it as quickly as possible if
17 medication is needed because of the likelihood of self harm
18 and the depression becoming more severe and more chronic.

19 When I was treating her, the symptoms that she was
20 exhibiting met the criteria for post traumatic stress
21 disorder, and because it was so severe I was worried about
22 Minor and her functioning and just how depressed she had
23 gotten and whether she might engage in more self injury, so
24 I referred her to a psychiatrist at that time to assess her
25 for the possibility of that person making a diagnosis and

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1 then being able to treat her with medication to help with her
2 symptoms.

3 Q. And did you form an opinion as to whether Minor
4 suffered from post traumatic stress disorder?

5 A. Yes. That was my opinion when I referred her.

6 Q. And when you say or when the people in your field say
7 somebody has post traumatic stress disorder, what does that
8 mean has happened?

9 A. It means that they fit a certain number of criteria
10 that is listed in the *Diagnostic Statistical Manual* that
11 would indicate that they have that condition, and the first
12 one is that an event occurred that was traumatizing to that
13 person that made them feel for their sense of safety, and
14 that they felt helpless and they felt like it was something
15 that was out of their control.

16 Now some people can have that event and not develop the
17 rest of the symptoms. We don't know exactly why. We do know
18 there are factors involved but you can have an event and not
19 necessarily go on to start exhibiting all of those symptoms.

20 But if you do start exhibiting symptoms and there is a
21 certain number of them, and based on the severity, you can
22 make the diagnosis, and since it is a very serious disorder,
23 it often needs medical treatment in the form of a
24 psychiatrist and have an assessment for medication.

25 Q. And what kind of things would be sort of - typically

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1 what are some stressful events that could lead to a person
2 having post traumatic stress disorder?

3 A. There are several categories, but certainly any kind
4 of physical attack, physical abuse, a crime is committed
5 against you, a sexual assault, being in a war situation.
6 Anywhere that you might fear for your life or your safety or
7 your sense of whether you are safe or not. Being in an
8 accident. Natural disasters can be - can also be included in
9 that list.

10 Q. And so you began working with Minor in
11 regards to the assault allegations she made in March 2011;
12 is that accurate?

13 A. Yes. When that disclosure was made, I started working
14 with her specifically about the sexual assault.

15 Q. And what was her progress in the counseling with you?

16 A. Well, as I stated, she got - her symptoms became much
17 more severe between probably July and September. That is
18 when the symptoms became very severe, acute, very concerning
19 to me about her safety.

20 After she saw the psychiatrist in October and started on
21 medication, she began to improve and that improvement - that
22 progress was pretty significant and around January of the
23 next year she had been on the medication a couple of months
24 she began reporting and reporting much better functioning.
25 She was not as depressed. She - I actually noted in my file

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1 that she smiled one day. I had not seen her smile so I wrote
2 in there that she actually came in smiling and was happy and
3 was reporting some more normal teenage kinds of activities
4 that you would expect of someone that age.

5 Q. When did you stop treating her?

6 A. Minor came to see me for a while. We gradually
7 reduced the number of times that she was coming per month.
8 I saw her once a month toward the end and the last time I saw
9 her was in the fall. She was doing so well. She had
10 graduated and started her college classes and was doing
11 incredibly well. There were no more intrusive thoughts or no
12 more significant problems with depression and I stopped
13 seeing her probably September or October of 2012. I have not
14 seen her since then.

15 Q. Of last year?

16 A. Yes.

17 Q. So you treated her for about a year and a half?

18 A. Yes.

19 Q. Okay. Just specifically for sexual abuse?

20 A. Well, from March of '11 until, yes, September,
21 October of 2012.

22 Q. And during this time, was there ever any conversations
23 with you, between you and Minor about the effect that losing

24 J.B. was having on her?

25 A. Yes.

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1 Q. And what did you observe about that?

2 A. It was one of the saddest and most traumatizing pieces

3

4 MS. INZERILLO: Objection, Your Honor.

5 THE COURT: I overrule your objection.

6 A. It was one of the saddest and most traumatizing pieces
7 of this and how devastated she was over losing that
8 friendship and how she grieved over her friend and what her
9 disclosure had done to her friendship and had done to this
10 other child.

11 Q. Now you also while this counseling in regard to the
12 sexual conduct was going on, you were also working with the
13 family in regards to the visitation situation; is that
14 correct?

15 A. Yes. Yes.

16 Q. How has that resolved itself?

17 A. That was resolved also. We did several supervised
18 visits between mom and the children in my office. Minor was
19 working towards seeing her mom and seeing her outside of my
20 office. We did some initial visits and then we started very
21 slowly with doing maybe a four hour visit and then an eight
22 hour visit and then we started doing some overnight visits.
23 After each visit I would check back in with the family and
24 the children to see how they were doing. I had several
25 appointments with the mom and the dad together to make sure

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1 I was getting a good read on how the children were doing both
2 on the visit and then after they returned to dad and then at
3 that point, stopped seeing them for that and they were
4 allowed the standard visitation that the court had ordered.

5 Q. Okay. And was there - Do you know approximately when
6 that ended?

7 A. I can look. They last time I noted that they were in
8 my office for a supervised visit, I did a visit with them in
9 December of 2010 when we were doing some supervised
10 visitation. In May of 2011, it looks like the last
11 appointment that I had with the parents prior to us going
12 into the standard visitation.

13 Q. And are you aware of any connection between the
14 visitation situation that you were dealing with, with the
15 Williams family and the sexual abuse allegations made from
16 Minor ?

17 MS. INZERILLO: Objection.

18 A. No, I am not.

19 THE COURT: She said she didn't know any.

20 She said she didn't know any connection but I sustain
21 the objection then.

22 Disregard the question and the answer, members of the
23 jury.

24 SOLICITOR ANTHONY: Well if I can rephrase.

25 Q. To your knowledge, are you aware of any aspect of the

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1 visitation situation that Minor might think would have been
2 affected by making the sexual abuse allegations?

3 A. No.

4 Q. Okay. Thank you. Before the sexual abuse allegations
5 were ever made in March 2011, before that, going back into
6 2010, was there ever any mention made to you of Mr. Berry?

7 A. Before the allegation? Yes. Yes. He had been
8 mentioned in a counseling session.

9 Q. Okay. And when was that?

10 A. It was on March the 11th of 2010.

11 Q. Okay. And how did that come up?

12 A. It came up in two different ways. It came up with the
13 father initially and then it came up with Minor when I was
14 seeing her. I saw them separately. I would ask usually the
15 parent to come in for a few minutes to get an update and I
16 had talked to the dad and then Minor, when I talked to
17 Minor alone that day, she had mentioned the name Stephen
18 Berry and told me who he was and made some specific comments
19 about him that caused me to make a note of it in my file.

20 Q. And what did she say to cause you to make a note?

21 A. She was talking about her relationship with him in
22 terms of him being a good friend of her's and understanding
23 her and someone that she could really talk to and that was
24 helping her with some of her problems.

25 Q. And what was it about her saying that to you that

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1 caused you to make a note?

2 A. It - Just doing this job for so long, when kids talk
3 about adults as good friends and the only person who
4 understands them or someone that they share really personal
5 information with and that is helping them, I just made a note
6 of it in case it came back up later because she obviously was
7 putting a lot of stock in her relationship with him and him
8 - and her trust in him and I wrote it down.

9 Q. And did you ever make any other inquiry about him ---

10 A. No.

11 Q. --- later on ---

12 A. No.

13 Q. --- as the counseling progressed?

14 A. I did not.

15 Q. And why was that?

16 A. I never brought up his name again because she didn't
17 bring up his name again and I felt very strongly that I
18 shouldn't be trying to create something or bring up something
19 or ask her about something that would cause her to say things
20 that she did not bring up with me. When you do this type of
21 interviewing and this kind of work that I do, you're very
22 cautious but you would never want to do anything that could
23 lead a child or cause a child to think that you're suspicious
24 in any way of anything that they've said unless they follow
25 up on it. So the note in my file was just for me to remember

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1 that that was a conversation that she and I had but since she
2 did not bring it back up, it was nothing that I pursued with
3 her.

4 Q. All right. Thank you, Ms. Roseborough.

5 SOLICITOR ANTHONY: That's everything on the record.

6 THE COURT: Cross?

7 MS. INZERILLO: Yes, Your Honor. May it please
8 the Court.

9 CROSS EXAMINATION

10 KIM ROSEBOROUGH BY MS. INZERILLO:

11 Q. Good morning, Ms. Roseborough.

12 A. Good morning.

13 Q. You were the therapist for the Williams family; is
14 that right?

15 A. Correct.

16 Q. And I believe you testified that that relationship
17 resumed again in February of 2010.

18 A. Yes.

19 Q. And it resumed essentially after you had counseled I
20 guess primarily the children for the family, the parent's
21 divorce?

22 A. Yes.

23 Q. Okay. And then it resumed again essentially because
24 the children had to deal with visitation with mom?

25 A. Correct.

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1 Q. Okay. I mean, I know that's watering it down.

2 A. Uh-huh.

3 Q. But that's essentially what the situation was?

4 A. Yes

5 Q. Okay. And one of the children that you counseled was
6 Minor . Right?

7 A. Yes.

8 Q. And she was the oldest?

9 A. Yes.

10 Q. And at that time Minor was fifteen?

11 A. In 2007?

12 Q. When you started again in 2010.

13 A. Oh, when I started again. Yes.

14 Q. And at the time when there was a court order, you were
15 being paid by the Williams family; is that right?

16 A. At the time of the - in February when they first
17 started coming back?

18 Q. Right. Your regular rate is a Hundred Dollars an
19 hour, I think. Is that right?

20 A. Yes, and they - but they were using insurance so - I
21 apologize. I don't remember if they paid and I filed
22 insurance and they were reimbursed or if the insurance
23 company actually sent me the check.

24 Q. Okay. Okay. But it would be for a Hundred Dollars;
25 is that right?

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1 A. In 2010, I'll be honest, I don't know if that was my
2 fee in 2010 or not. It is my fee now.

3 Q. Sure. Okay. And when you met with the family, you
4 indicated that sometimes you would meet with different
5 members of the family; is that right?

6 A. Yes.

7 Q. Okay. Because for the first part of that time, that
8 was your job was the family. Right? You would meet with
9 dad. Sometimes with Minor , grandma, the boys; is that
10 right? You would counsel them as a family.

11 A. Well I never met with grandmother but I did - I mean
12 grandmother did bring them on occasion to the appointment but
13 who I would talked to would generally be the parents and the
14 children, and sometimes I would talk to all of them together.

15 Q. Okay.

16 A. And in different dyads, just depending on what issues
17 needed to be addressed that day.

18 Q. Okay. So your primary role was family counselor.
19 That's how you sort of got reinvolved in there. Right?

20 A. Well, actually Minor was my identified client.

21 Minor has been my identified client since 2007. But yes, I
22 did see her family as part of that role of working with them
23 around the divorce and the court order at that time which I
24 had wanted them to be doing therapy together.

25 Q. And prior to the disclosure in March, you were seeing

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1 the family for about a year; is that right? Starting
2 February 2010 up until the following ---

3 A. Yes. It had been - uh-huh. About that time.

4 Q. --- March of 2011. And I'm going to refer you very
5 quickly to your notes dated March 11, 2010. Do you have a
6 copy of that?

7 A. I don't know if I have that one or not. No. I don't
8 have a copy of the individual daily notes.

9 Q. I apologize for the holes in it. That was your note
10 regarding the only mention of Mr. Berry; is that right?

11 A. That was my note that day. Yes.

12 Q. Okay. And accompanying Minor that day was her
13 dad; is that right?

14 A. Uh-huh.

15 Q. But I'm assuming from your testimony dad didn't make
16 that statement.

17 A. No. Minor made that statement.

18 Q. Okay. I just wanted to be clear.

19 A. Yeah. I did talk to dad that day but Minor made that
20 particular statement.

21 Q. Okay. Now, the Solicitor asked you several questions
22 about delayed disclosure.

23 A. Yes.

24 Q. And you made a very excellent presentation of that.

25 And in part of that presentation you explained how sometimes

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1 people can take a lot of time to disclose.

2 A. Correct.

3 Q. Okay. But there are lots of instances where people
4 disclose immediately. Right?

5 A. That is generally not true in these types of cases.

6 Q. Okay. But you have seen instances where there is
7 immediate disclosure?

8 A. Those incidents generally look really differently.

9 They often are a sudden attack. Not where grooming has
10 occurred and maybe working on a long term relationship with
11 a child where someone just, you know, came into a child's
12 life immediately touched them sexually then the child might
13 run out and tell immediately, but that is not the kind of
14 case that I'm talking about.

15 Q. But I guess what I'm asking you is on a hundred
16 percent of all cases, there is not always delayed disclosure?

17 A. No. There would never be a hundred percent but it is
18 a very high percentage in these kinds of cases that there is
19 a delayed disclosure.

20 Q. Okay.

21 MS. INZERILLO: I have no further questions.

22 SOLICITOR ANTHONY: No redirect.

23 THE COURT: You can step down and be excused. We
24 appreciate your time. Thank you.

25 (WITNESS LEAVING WITNESS STAND.)

LIEUTENANT TERRY HUMPHRIES: BY SOLICITOR ANTHONY

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1 THE COURT: Call your next witness.

2 SOLICITOR ANTHONY: The next witness is Lieutenant
3 Humphries.

4 THE COURT: Please come forward and be sworn.

5 (WHEREUPON, TERRY HUMPHRIES,
6 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

7 DIRECT EXAMINATION

8 LIEUTENANT TERRY HUMPHRIES BY SOLICITOR ANTHONY:

9 Q. Would you state your name, please?

10 A. Terry Humphries.

11 Q. Mr. Humphries, how are you employed?

12 A. Union County Sheriff's Office.

13 Q. How long have you worked with the sheriff's office?

14 A. Twenty-six years.

15 Q. And what's your position there now?

16 A. I'm an investigator.

17 Q. How long have you been an investigator?

18 A. Probably about twenty of those years.

19 Q. I want to take you back to March 21st 2011. Did you
20 become involved in a sexual assault investigation concerning

21 Minor on that day?

22 A. I did.

23 Q. And how was it that you became involved in the case?

24 A. One of our other investigators, Roxie Belue, had come
25 to me and told me that she had talked to our captain, Captain

LIEUTENANT TERRY HUMPHRIES: BY SOLICITOR ANTHONY

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1 McNeal, and that she had expressed to him concern about a
2 case she had been given where there might be a possible
3 conflict with a family, of knowing the family, of having some
4 kind of relationship with the family when she was younger.
5 And she told me that Captain McNeal had asked that I assist
6 her with the investigation.

7 Q. And so how did you get up to speed on what was going
8 on in the case involving Mr. Berry?

9 A. Investigator Belue and Michelle Shugart, a victim's
10 advocate, had already taken a statement from Minor
11 that previous Friday, and I saw the statement, and then I
12 requested that Investigator Belue get Minor back to
13 the sheriff's office so we could talk to her again.

14 Q. And what did you - did you talk to her again that day,
15 on the 21st?

16 A. Yes, sir.

17 Q. Okay. And what day of the week was that?

18 A. Monday.

19 Q. That was a Monday. Okay. And did she give you
20 another statement?

21 A. Yes, sir.

22 Q. Okay. And did that statement make a report of sexual
23 incidents?

24 A. Yes, sir.

25 Q. Where did they report of sexual incidents or where did

LIEUTENANT TERRY HUMPHRIES: BY SOLICITOR ANTHONY

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1 the statement --

2 A. The new statement at her house and at New Life Baptist
3 Church.

4 Q. And what was the next thing you did after you spoke
5 with Minor ?

6 A. After I spoke with Minor , I remember that day
7 Ms. Shugart talked to me about getting an evaluation with the
8 Children's Advocacy Center and I told her to go ahead and at
9 least get the physical evaluation. And later on as a result
10 after we had looked over and talked about the statement, I
11 signed the warrant on Stephen Berry.

12 Q. And what was the charge that you requested a warrant?

13 A. Criminal sexual conduct with a minor, second degree.

14 Q. Okay. And when you did the warrant, what were the
15 offense dates placed in the warrant?

16 A. From May of 2010 to [REDACTED] of 2010.

17 Q. Okay. What was the significance of [REDACTED] of
18 2010?

19 A. It was Minor's sixteenth birthday.

20 Q. Okay. So after the warrant was taken for Mr. Berry,
21 what efforts began to be made by the sheriff's office to find
22 him and place him under arrest?

23 A. At that time once I obtained the warrant it was
24 entered into our system in the sheriff's office in our CAD
25 system and I believe at that time I gave the warrant to

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1 Sheriff Taylor and several -- him and other deputies left the
2 sheriff's office.

3 Q. Now was Mr. Berry arrested that Monday?

4 A. No, sir.

5 Q. Were there any efforts made to locate him that Monday?

6 A. Yes, sir, I believe there were efforts made to locate
7 him.

8 Q. Now, taking you to the next day, March 22nd 2011, who
9 did you meet with about the case on that day?

10 A. J.B.

11 Q. And where did you meet with J.B.

12 A. In the sheriff's office.

13 Q. And who came to the sheriff's office with her?

14 A. The person I seen was Julia Krasinski. She is the
15 only one I saw.

16 Q. And who met with J.B. at the sheriff's office?

17 A. Myself and Roxie Belue.

18 Q. And where did you meet with her?

19 A. In Ms. Belue's office.

20 Q. And what kind of contact -- Just what was the sort of
21 the course of your dealings with her during that meeting?

22 A. I think Ms. Belue had talked to her earlier to get her
23 to come in and when she come in, we just questioned her about
24 the incident --

25 (LOUD COUGH.)

LIEUTENANT TERRY HUMPHRIES: BY SOLICITOR ANTHONY

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1 Q. I'm sorry.

2 A. Questioned her about the incident or information that
3 had about her father.

4 Q. Okay. And did she give you information about her
5 father?

6 A. She did.

7 Q. Okay? And what did you ask her to do?

8 A. I asked her to write a statement.

9 Q. And where were you when she was writing the statement?

10 A. Well, to explain it, when we first started, I never
11 start out by asking someone just to sit down with a piece of
12 paper and write a statement. We always ask them to come in
13 and we talked with J.B. probably forty-five minutes in
14 the office, myself and Investigator Belue in the office, and
15 she talked to us and she told us what she knew and once she
16 had finished, we got her to sit down and write a statement.

17 The reason we do that is because in most cases if you
18 just hand somebody a piece of paper, they won't write but a
19 few lines and you don't know exactly what they are going to
20 write so by knowing the whole story, if they leave something
21 out, then you can ask them about it and if it's the truth,
22 then they can add it to their statement.

23 Q. And so where were you located while she was writing
24 out - once you talked to her and she started writing the
25 paper, where were you all, where were you?

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1 A. I walked out of the office and back down to my office
2 which is just two doors away. It's a really short hall and
3 the offices are real close together. There is one office
4 between - one office door but all the doors is right
5 together. There's one office door and I went down to my
6 office and I started talking to Julia Krasinski, who was
7 sitting in my office at the time.

8 Q. Okay. And while during the course of that
9 conversation with Ms. Krasinski, did you hear anything coming
10 from Investigator Belue's office?

11 A. I did. We heard - All of a sudden we heard J.B.
12 talking to someone and it sounded like that she was
13 distressed and I got up. And Ms. Krasinski I looked and she
14 was following me up the hall and when we walked in, J.B. was
15 on the telephone.

16 Q. And were you able to hear what was being said?

17 A. Yes, sir. J.B. , when we walked in the office, she
18 put the phone on speaker phone and we was able to hear the
19 conversation.

20 Q. Okay. And who was she talking to?

21 A. Her father, Stephen Berry.

22 Q. And what was Mr. Berry saying during this
23 conversation?

24 A. He was saying stuff like I don't have a reason to
25 live. I've just got so much on me now. J.B. was begging

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1 him, daddy don't hurt yourself. She was begging him to give
2 up at that time. I don't know if he knew he had a warrant on
3 him at that time but I knew she -- evidently she knew or she
4 was trying to get him to come turn himself in and that
5 conversation just kept on. She was telling him she loved
6 him. He was telling her he loved her but that he just had so
7 much on him.

8 Q. Did he ever say he was going to come?

9 A. No, sir.

10 Q. Okay. And these conversations between J.B. and
11 her father, how did that interrupt the process of writing the
12 statement?

13 A. Well, every time when -- she would talk for a few
14 minutes and once she would get through talking, she would
15 hang up the phone or the phone would hang up and we -- Ms.
16 Krasinski mostly; she could deal with her more than we could,
17 she would get her back settled down again, stop crying from
18 this ordeal that she was going through and she would get back
19 to start writing her statement again. And after she would
20 write for a few minutes and maybe write a paragraph, then the
21 phone would ring again and it would go all over again. The
22 same thing of --

23 Q. Approximately how many times did they talk or how many
24 conversations were there?

25 A. Be four or five times.

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1 Q. Okay. And did J.B. eventually finish the
2 statement?

3 A. Yes, sir.

4 Q. And did she sign the statement?

5 A. Yes, sir.

6 Q. All right. Now, once the statement was finished, did
7 you notice anything about any difference between the amount
8 of information she gave you when she was talking to you and
9 the amount of information that was in the statement?

10 A. Yes, sir. There was a lot more that could have been
11 added to the statement but the problem was, once we got
12 something on the statement - we knew she was so upset - once
13 we got something on the statement that we could have in our
14 hands then basically we let her go. We just felt like that
15 she was under so much stress we let her go.

16 Q. In the statement did she make a reference to walking
17 in on Mr. Berry and Minor in the bed?

18 A. Yes, sir.

19 Q. And in the statement and she said that - she put that
20 in the statement. Correct?

21 A. Yes, sir.

22 Q. Did she also tell you that when she walked in --

23 MR. DELANEY: Your Honor, I object at this time.

24 THE COURT: I sustain the objection.

25 SOLICITOR ANTHONY: Well this is something I asked

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1 J.B. about and she denied so I'm just proving up a
2 inconsistent statement, Your Honor.

3 THE COURT: I overrule the objection.

4 Q. Did she tell you that when she walked in that they
5 appeared to be pulling up their clothes?

6 A. Yes, sir.

7 Q. She said that?

8 A. Yes, sir.

9 Q. And did you ever see J.B. talk to anybody else
10 from the sheriff's office when she was there that day, any
11 other investigators?

12 A. I did not.

13 Q. Okay. And did you ever make any comment to her about
14 she needed to talk to you because Mr. Berry might harm
15 himself?

16 A. No, sir.

17 Q. When is Mr. Berry's birthday?

18 A. [REDACTED], 1972.

19 Q. Okay. And I want to take you, just to ask you about
20 some other things you did on the case. That next day, that
21 Wednesday the 23rd, did you interview anybody that day?

22 A. Yes, sir. J.S.

23 Q. You went and talked to J.S. ?

24 A. At his home. Yes, sir, on ... Road.

25 Q. Okay. And then on the 25th, did you interview some