RECEIVED
May 24 2023
S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

CERTIORARI TO AIKEN COUNTY
Robert J. Bonds, Circuit Court Judge

Appellate Case No: 2022-001088

HAROLD CARTWRIGHT, RESPONDENT,

v.

STATE OF SOUTH CAROLINA, PETITIONER.

APPENDIX

DAYNE C. PHILLIPS
Price Benowitz LLP
1614 Taylor Street, Suite D
Columbia, South Carolina 29201

ATTORNEY FOR RESPONDENT

ALAN WILSON
Attorney General

ZACHARY WILLIAM JONES
Assistant Attorney General

Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-3737

ATTORNEYS FOR PETITIONER

INDEX

TRANSCRIPT (November 13-14, 2012) 1

TRANSCRIPT (April 15-16, 2013).....197

TRANSCRIPT (April 17-18, 2013).....423

RECORD ON APPEAL 661

FINAL BRIEF OF APPELLANT 1092

FINAL BRIEF OF RESPONDENT 1122

COURT OF APPEALS OPINION 1170

PETITION FOR REHEARING.....1173

ORDER DENYING PETITION FOR REHEARING.....1179

PETITION FOR WRIT OF CERTIORARI 1181

APPENDIX.....1210

RETURN TO PETITION FOR WRIT OF CERTIORARI 1223

BRIEF OF PETITIONER.....1259

BRIEF OF RESPONDENT 1294

SUPREME COURT OPINION 1340

REMITTITUR 1354

PCR APPLICATION.....1355

AIKEN COUNTY CLERK OF COURT'S RECORDS.....1365

ARREST WARRANTS.....1404

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS' RECORDS.....1458

RETURN 1490

ORDER AUTHORIZING DISCOVERY.....1502

AMENDED PCR APPLICATION.....1506

PCR HEARING TRANSCRIPT (February 3-4, 2022).....1532

PCR HEARING TRANSCRIPT (February 25, 2022) 1715

PROPOSED ORDER GRANTING PCR.....1903

PROPOSED ORDER OF DISMISSAL 1937

ORDER GRANTING PCR 1984

STATE'S MOTION TO ALTER OR AMEND 2049

MOTION TO RECONSIDER HEARING TRANSCRIPT (June 24, 2022).....2092

AMENDED ORDER GRANTING PCR.....2189

A That's right.
Q Thank you.
Nothing further.
THE COURT: Redirect?
MISS AGNEW: No, Your Honor.
THE COURT: All right. You may step down.
May she be released from her subpoena so she can go back to Columbia, Mr. Hayes?
Any objection to that?
MR. HAYES: No, sir.
THE COURT: Next witness.
MR. MOLONY: Judge, the State calls Doctor Lilly Gallman.

LILLY GALLMAN, after being duly sworn, testified as follows:

THE CLERK: Have a seat in the witness stand. State your full name and spell your last name for the Court.
THE WITNESS: My name is Lilly Smalls Gallman. Gallman is G-A-L-L-M-A-N.

DIRECT EXAMINATION

BY MR. MOLONY:

Q Mrs. Gallman, where are you employed?
A I am employed with the South Carolina Law Enforcement Division.
Q And is that what we all commonly, commonly refer to

as SLED?
A Yes, it is.
Q Okay. How long have you been with SLED?
A Twenty-three years.
Q During that time that you've been employed at SLED, have you held any particular type of job?
A Yes. When I began working with SLED I, I was hired as a forensic DNA analyst.
Q And is that what you're doing today?
A Yes, it is.
Q Tell me about your educational background.
A I have a degree in biology from the University of South Carolina. Once I received my degree I continued working there in the area of molecular genetics, and in January of 1990 I began working with SLED as a forensic DNA analyst.

Since that time I've been trained by forensic serologists. Also trained in the area of forensic DNA, which is quite different than what you find in the laboratory. I've attended the FBI DNA typing schools for that purpose. I've taken advanced genetics courses and statistic courses since my time at SLED.
Q And do you have any estimate as to the number of DNA analysis that you've done during the course of your career at SLED?
A I've done thousands.

Q Okay. And after you do those DNA analysis, is there any review process done after your work is over?
A Yes, in each case, if a particular case is assigned to me, I will do the DNA on that, on that case, developed DNA profiles or whatever, and then that case will be reviewed -- would go through a technical review where the person looked at my results, and then we do an admin review where it's checked to see if all the T's are crossed and the I's are dotted.
Q And have you ever been qualified as an expert in Courts in this state?
A Yes, I have.
Q In what field?
A In the field of forensic DNA analysis.
Q And do you have an estimate as to how many times you've been qualified as an expert in that field?
A Between 50 and 60.
Q And you've testified in Courts?
A Yes, I have.
MR. MOLONY: Your Honor, at this time I move to have Agent Lilly Gallman declared an expert in the field of forensic DNA testing.
MR. ROUTZONG: Without objection, Your Honor.
THE COURT: Thank you.
All right. Mr. Foreman, ladies and gentlemen of the jury, like the last witness, Mrs. Gallman will also be

allowed to give her opinion testimony concerning DNA analysis.

Q Mrs. Gallman, tell me -- us a little bit about what DNA is.

A DNA -- excuse me. DNA stands for deoxyribonucleic acid. It's considered to be the blueprint of the body. Each person received part of their DNA from their mother and part from their father.

Everyone's DNA is unique except for identical twins. And since this is the case, we're able to compare evidence that's taken from a crime scene or that's given to us with standards. And when I say from standards, it would be from the victim and the subject.

Like in this particular case, it could be a blood standard or it could be what we call a buccal swab, which is swabbing the inside of the, the cheek and you use that as a standard. We compare the evidence and the standards, and by developing a DNA profile from each, and we determine whether we have a match or we do not have a match with those items.

Q How do you develop these DNA profiles?

A In this particular case, since it's a semen case, the sample is placed in the tube and the DNA is extracted from that sample. A DNA profile is then developed from that particular sample and then compared to the standards. The

same type of procedure basically is done on the standards also in order to develop a DNA profile.

Q And when you actually develop this profile, what, what is it?

A It's -- the DNA profile, we're looking at the chromosome. We look at 16 areas on the chromosome, and then we do a comparison between that.

Q And what are those 16 areas called?

A They're called loci.

MR. MOLONY: Okay. And may I approach, Your Honor?

THE COURT: You may.

Q Mrs. Gallman, I'm gonna show you what has been entered as State's Exhibit 8 and 10.

They've been entered?

THE COURT: Eight and ten?

MR. MOLONY: Yes, sir, judge.

THE COURT: Those are the buccal swabs.

MR. MOLONY: Yes, sir.

Q I'm gonna ask if you recognize what those are.

A Yes, there's a SLED label that's here. The last number, like on this particular one is three, and the SLED number three is the buccal swab from [redacted] [redacted]. This item is item number four, as you can see on the label, and it is the buccal swab from Harold Cartwright, III.

Q And these are the items that, in this case, you're

able to develop a profile from?
A Yes, these are the standards that were given to me to use to compare to the evidence.
Q Okay. And did you receive evidence in this case?
A Yes, I did.
Q Where did you receive that from?
A Oh, our evidence processing area processed the evidence and made a cutting and that cutting was given to me.
MR. MOLONY: Okay. May I approach, Your Honor?
Q I'm gonna show you what's been marked for identification as State's Exhibit 11, and ask if you recognize that.
A Okay. As I said before, there's, there's a label here, it's a SLED label, and it's State's Item 2.1 and Item 2.1 is the cutting from the fitted sheet.
Q All right.
THE COURT: I'm sorry. It is what?
2.1 is what?
THE WITNESS: Cutting from the fitted sheet.
THE COURT: Cutting from the fitted sheet?
THE WITNESS: Yes, sir.
Q And is this the, is this the cutting that you performed tests on in this case?
A Yes, this cutting was given to me first to check if there was the presence of semen there, and then once I established

that semen was there, I developed a DNA profile from this particular cutting and compared it to the standards.

MR. MOLONY: Okay. Your Honor, at this time the State would move to introduce Exhibit 11 into evidence.

MR. ROUTZONG: Without objection, Your Honor.

(WHEREUPON, State's Exhibit No. 11 was received into evidence at this time.)

Q Okay. So, you compared what you get from the two buccal swabs, the defendant's and victim's, to the cutting you get from the sheets, is that correct?

A That's correct.

Q And you look to see if it's a match?

A That's correct.

Q And explain what your comparison in this case, what the results of that comparison were, were?

A Once I did the comparison between the DNA profile developed from the standard from [redacted] [redacted], the standard from Harold Cartwright, and the DNA profile developed from the cutting from the fitted sheet, it was established, and I'm reading from my report, that the DNA profile developed from the semen on Item 2.1 matches the DNA profile of Harold Cartwright, III, and has been entered into our database.

Excuse me. And then once you establish that you have a match between evidence and a, and a standard, we're required to apply a statistical value to that particular

DNA profile. What, what -- basically what you're telling everyone is how rare is this DNA profile.

And, so, my next, next sentence is DNA profile -- the probability of randomly selecting an unrelated individual having a DNA profile matching this item, and I'm talking about Item 2.1, is approximately one in 16 trillion.

Q One in 16 trillion.

Now, were you able to find any profiles of [redacted] in that cutting?

A No, I was not.

Q Specifically what were you testing and what was being tested on those sheets in this case?

A The submitting agency request was for DNA/semen and that's what we were looking for, the presence of semen on that particular fitted sheet.

Q So, you weren't looking specifically for the presence of any touch DNA?

A No, we were not.

Q And is there a different test done to determine if there's DNA from touch DNA as opposed to DNA from body fluids such as semen?

A Once the, the person in the evidence processing is processing that item, every request there is for touch DNA or for ownership to place someone on a particular item, instead of using the alternative light source to look for body fluids,

that item would be either swabbed, scraped, or a cutting made for that purpose.

Q But you didn't -- that wasn't done in this case?

A No, it was not.

Q Because the intent was to look for semen?

A That's correct.

Q And how do you know it's semen that was on the sheet and not sweat or saliva or anything else, any other body fluid?

A The first test that -- the first thing that's done is, like I said, with an alternative light source. You check that item to see if it fluoresces. Semen fluoresces. Saliva and urine also fluoresces. Semen more so than any of the other body fluids.

A cutting would be made, and then there's a -- the first test that's done is called an acid phosphate test to check and see if it could possibly be semen. The cutting is made and given to the DNA analyst and we do another test that confirms the fact that we have semen on the item, and then we go on into doing the DNA on that particular cutting.

Q Okay. And were there other, other items submitted other than the sheets in this case?

A Yes, a pair of panties were submitted also.

Q Okay. And did, did you do any tests on the pair of

panties?
A No, the person that's in the evidence processing who processed the panties checked that for the presence of semen and there was not any semen on the panties. So, I didn't never get any cuttings from that.
Q Okay. Now, you stated one in 16 -- what was it?
A Trillion.
Q I'm not a math guy, but do you know how many people are, they are, they're estimated are alive right now in the world?
A Approximately 7 billion.
Q And is that less than 16 trillion?
A Yes, it is.
Q Thank you. Please answer any questions that Mr. Routzong may have.

CROSS-EXAMINATION

MR. ROUTZONG:

Q Good morning.
A Good morning.
Q Help me out with touch DNA again.
What kind of things can cause DNA to transfer on to clothing or sheets or anything like that?
A Handling, handling or, like in particular, like in this particular case, like with a sheet, like laying on it. Just lying down on it. And it also depends on how many cells this

person sheds during the time when they're on, on the sheet, and also if the particular area that you're looking at, that you made a cutting from, if this person came in contact with it.

Q So, if, if there, if there were -- well, I won't ask that question.

Tell me about cells.

How many cells does it take to develop a profile?

A I got too much knowledge going on here. It depends on what type test you're doing as to how many cells you need. For example, if you only got one sperm head, it's a possibility, depending on what test you're doing, in order to develop -- you can develop a DNA profile from that.

Q Let's suppose it's skin cells.

How many cells would it take?

A It's flushing off. I don't know exactly. I wouldn't want to say exactly.

Q It's -- it's not -- it doesn't take a pound. It doesn't take anything like that.

It can -- it would be a very small amount?

A It can be and that also come into play as whether something -- if someone else's DNA is masking it or not, and you just don't pick it out.

Q That's an interesting question because when -- if you're developing, if you're developing a DNA profile I

guess they call it, you're looking at it to see well, is this someone's DNA and you're comparing it to someone else, you're comparing, you're comparing it to a known buccal swab, let's say for example, and you develop DNA off the buccal swab, and now you're gonna compare whatever you're looking at to the DNA on -- and develop the DNA out of the cutting, let's say. Now you're gonna compare it to the buccal swab.

Is that correct?

A Yes.

Q I'm sorry. I said that very---

THE COURT: Move along.

A No, I'm just trying to follow you.

Q Basically, basically that's how it's done. You start out with a known buccal swab and you develop DNA from the other item and you compare the two?

A I normally start with the evidence and then the buccal swab.

Q Oh, it's the other way around.

A Yes.

Q Okay. And no matter what, when you develop -- are you looking at developing the DNA off of that cutting, let's say for example, the evidence.

If somebody else's DNA is on there, you'll come, you'll come up with what's called a mixture, isn't that

true?
A That's correct. And it depends on how much of that person's DNA is there also. Like I said that if you got quite a bit of one person's DNA or it could mask, mask the minor contributor, and then the minor contributor could possibly only be a very small quantity there, and you don't -- you just don't pick it up.
Q So, it really -- there's no way of knowing that, in this particular case, his DNA masked it?
A No, there's not.
Q You're not testifying to that?
A No, I'm testifying to the fact that there were semen on the fitted sheet and that the semen on the fitted sheet matched Mr. Cartwright.
Q And that there was no mixture?
A No, there was not a mixture.
Q And the test that you conducted, looking at -- the test that you conducted relative to this, this item of evidence, you still would have known there was a mixture if, if there was other DNA in there?
A If it was enough to detect I would know that it was a mixture.
Q Okay. Well, thank you very much.
MR. MOLONY: Briefly, Judge.
REDIRECT EXAMINATION

BY MR. MOLONY:

Q Mrs. Gallman, can DNA be destroyed?

A Yes. Well, it could be degraded, yes.

Q Okay. And, for instance, in the case like this, these sheets, if you wash these sheets, would that have any effect on the DNA?

A Yes, it would.

Q What, what effect would it have?

A It -- well, what are you doing, you're watching. You want to get your sheets clean. So, anything that's there you would like to get it off.

Q And what about the dryer?

A Yes, that would help the process.

MR. MOLONY: I don't have anything further, Judge.

THE COURT: You may step down.

Next witness.

MR. MOLONY: Your Honor, we may need to proffer some testimony.

THE COURT: Is this your last witness?

MR. MOLONY: Yes, sir.

THE COURT: Mr. Foreman, ladies and gentlemen, we got one last witness. This is one of the issues I had to deal with in the pretrial on Monday. I got to do a little bit of work outside your presence. Probably about ten minutes at the most.

Step back out. Don't discuss. Don't deliberate. We'll do that witness. Your food is supposed to be here. We'll just see where we are about that time and see where we go.

(WHEREUPON, the following takes place outside the presence of the jury.)

THE COURT: All right. This is the jail witness concerning the alleged suicide attempt?

MR. MOLONY: Yes, sir, Your Honor.

THE COURT: All right. Call him please.

MR. MOLONY: Yes, sir, Your Honor.

The State calls Deputy Hettich.

JAMES HETTICH, after being duly sworn, testified as follows:

THE CLERK: Have a seat in the witness box. State your full name for the Court spelling your last.

THE WITNESS: My name is James Carl Hettich. Last name is H-E-T-T-I-C-H.

DIRECT EXAMINATION

BY MR. MOLONY:

Q Where do you work at, Mr. Hettich?

A I work for the Aiken County Detention Center.

Q And were you working there on April 13th of 2011?

A Yes, I was.

Q In what capacity?

A As a detention deputy.
Q What pod were you assigned to that day?
A C-pod.
Q And what is a pod?
A A pod is a housing, a housing area for inmates that's currently incarcerated.
Q Okay.
THE COURT: Mr., Mr. Solicitor, just go straight to the point on a proffer. I mean---
MR. MOLONY: It's the next one, Judge.
Q What happened that day at pod, at C-pod?
A Deputy Bramlet called the---
THE COURT: Who?
Who?
THE WITNESS: Deputy Bramlet. He's our pod tour deputy that works the machine. The inmates that was in the cell pushed the intercom and advised Deputy Bramlet that Cartwright was trying to hurt, hurt himself. Deputy Bramlet notified me and Deputy Santos and responded and investigated the cell, and I saw Cartwright hanging in the cell.
Q Speak up please for us.
A Sure.
Q What, what did you see?
A Cartwright was inside the cell. The bunk is on the back

wall. He had a sheet tied around his neck, tied to the top of the bunk, and he was like hanging himself.

THE COURT: Was hanging or was getting ready to?

THE WITNESS: No, was hanging. He was hanging himself. He was -- he had the rope tied on the bunk and he was, had -- the rope was tight. The sheet was tight, and he was draped over unresponsive hanging from the neck.

Q Who got him down?

A Me and Deputy Santos secured the other inmate that was inside the cell. We entered -- I lifted up Cartwright, and Deputy Santos untied the knot and we laid him down on the ground.

Q And explain what his condition was?

What was his body condition at that time?

A His touch was cold and clammy. He was unresponsive. He wasn't speaking. He was breathing however.

THE COURT: I'm sorry. Cold, clammy, and what?

THE WITNESS: His skin was like cold, clammy.

THE COURT: And you said something next.

THE WITNESS: He was breathing, unresponsive. He wasn't talking.

MR. MOLONY: That would be the nature of the questions, Your Honor, and we would have two pictures we would try to move into evidence just of the cell.

THE COURT: Well, what did y'all do as a result of

that?

THE WITNESS: Well, of course, medical emergency was called. Our nurse responded and sent him, Cartwright out to the hospital. At the time that he was sent out to the hospital he was breathing. He was not speaking.

THE COURT: All right. And, and he was arrested on what date and put into --?

MR. MOLONY: He was arrested I think on March the 12th, sometime around there. This day is when warrants were served on him for the third victim, [redacted]. They go -- they spoke with her April 6th of 2011. April 13th is the date they go and serve the additional warrants.

THE COURT: On him in the jail?

MR. MOLONY: In the jail and the same day is when the suicide attempt --.

THE COURT: Is that, is that evidence been put into the record already?

MR. MOLONY: It has. Investigator Gaskins testified---

THE COURT: All right. Any cross-examination on the proffer?

MR. ROUTZONG: No, sir.

THE COURT: All right. You may step down.

All right. Mr. Routzong, what's your position on

this testimony?

MR. ROUTZONG: Your Honor, I don't have any additional arguments as to what I argued in limine, Your Honor.

THE COURT: Okay. Well, I am going to allow it. I, once again, as I stated on the motion in limine, I believe that the case that is controlling is the State versus Juan Orozco, that's O-R-O-Z-C-O, which goes through the first impression case where it was decided in South Carolina back in 2011 when our Court of Appeals found that their analysis allowed evidence of attempted suicide. They went through and showed other states that had, majority of the states had generally allowed this type of evidence.

They find it to be relevant as to possibly indicating consciousness of guilt and it's admissible for trial for whatever weight the jury chooses to assign it.

They further state that you must show some nexus between the suicide and the event and in that case they were found that the nexus was the close proximity from the time the defendant learned of the accusations and the time that the, of the alleged attempted suicide.

Obviously, in this case, he was served with warrants, as stated by the solicitor, very close in proximity to the time he was found hanging unresponsive, cold, not breathing, which required emergent medical attention in

his cell very shortly thereafter. I will allow it.

Anything else for the record before we call the jury back?

MR. MOLONY: Nothing from the State.

MR. ROUTZONG: No, sir.

(Pause.)

THE COURT: Jimmy says we got one juror out smoking and they have gone to get the juror.

While we're waiting on that juror, Mr. Molony, Mr. Routzong, on Indictment 1682, 12-GS-02-1682, the victim is noted as [redacted] On all the other indictments dealing with [redacted] it is spelled [redacted]. I don't know if that's a scribner's error, how she spells her name or what. We need to correct it one way or the other.

MR. MOLONY: It is a scribner's error, Your Honor.

THE COURT: How does she spell her name?

MR. MOLONY: It's, it's with an I at the end.

THE COURT: Well, the I's correct then. Then the other ones that are spelled Y -- there are a number of those---

MR. MOLONY: Yes, sir.

THE COURT: ---would have to be changed.

MR. MOLONY: Yes, sir, Your Honor.

THE COURT: I mean there are a number of them. I'm

looking at 316, 315.

MR. MOLONY: There should be six total indictments.

THE COURT: Sir?

MR. MOLONY: There should be six total indictments for that victim, 314 through 18, and then that 1682 you just referenced.

THE COURT: Well, how does she spell it, with an I or Y?

MR. MOLONY: With an I.

THE COURT: All right. We're gonna go through and correct all the Y's to I. Correct the scribner's error.

Mr. Routzong, any objection to that?

MR. ROUTZONG: No objection, Your Honor.

MR. MOLONY: Thank you, Judge. Sorry about that.

(Whereupon, a short recess was taken at this time.)

(Whereupon, the following takes place within the presence of the jury.)

(Whereupon, a bench conference was held out of the hearing of the jury at this time.)

THE COURT: You may call your next witness, Mr. Solicitor.

MR. MOLONY: Thank you, Judge.

The State calls Deputy James Hettich.

JAMES HETTICH, after being duly sworn, testified as follows:

THE CLERK: Have a seat in the witness box. State your full name for the Court and spell your last.

THE WITNESS: My name is James Carl Hettich. Last name is H-E-T-T-I-C-H.

DIRECT EXAMINATION

BY MR. MOLONY:

Q Deputy Hettich, where are you employed?

A Aiken County Detention Center.

Q And how long have you been there?

A About two years.

Q And prior to working at the detention center here in Aiken where did you work?

A Orange County Corrections.

Q And what did you do there?

A Correctional officer.

Q Now, were you working as a correctional officer here at the Aiken County Detention Center on April the 13th, 2011?

A Yes, I was.

Q In what capacity?

A As a housing deputy.

Q And what pod were you assigned to that day?

A C-pod.

Q And what is a pod?

A A pod is an inmate housing area where all of the inmates

are housed. There's like a total of five housing units in the jail.

Q Explain to the jury what happened on April the 13th of 2011 in C-pod.

A The inmate inside the Cartwright cell hit the intercom. We have an intercom to let the inmates and the tower communicate what's going on in the cell. The inmate pushed the button and let Deputy Bramlet know that Inmate Cartwright was trying to hurt himself.

Me and Deputy Santos responded to the location, and once we got to the door I saw Inmate Cartwright hanging from the top bunk. He tied a sheet to the top of the bunk, tied it around his neck, and was hanging by his neck on the cell.

I went ahead and secured the other inmate that was inside that cell, and me and Santos entered the cell. I lifted Cartwright up and Deputy Santos untied the knot from the bed sheet and then we laid him on the ground.

Q Okay. And what was the defendant's condition whenever you laid him on the ground?

A Well, he was not speaking. He was breathing. His skin was cold and clammy -- like cold and clammy like a sweat.

Q Okay. And what was he hanging by?

A A bed sheet. A blue bed sheet that was issued.

MR. MOLONY: Your Honor, may I approach?

THE COURT: You may.
Q Deputy, I'm gonna show you what has been marked for identification as State's Exhibits 11 and 12 and ask you if you recognize those.
A Yes, I do.
Q And what are those?
Q That's the sheet. That looks like an inmate uniform and that's the cell.
Q And the, the sheet would be State's 13, the cell 12?
A Yes.
Q Is that correct?
A Correct.
Q And are these fair and accurate pictures of how the sheet looked and how the defendant's jail cell looked on April the 13th of 2011?
A Yes, it does.
MR. MOLONY: Your Honor, at this time the State would move to introduce Exhibits 12 and 13 into evidence.
MR. ROUTZONG: Without objection.
THE COURT: Sir?
MR. ROUTZONG: No objection, Your Honor.
(Whereupon, State's Exhibit Nos. 12 and 13 were received into evidence at this time.)
Q Deputy, after he's laying on the ground and he's cold to the touch, what, what did you then do?

A Medical, of course, was notified due to the medical emergency. She evaluated him and had to recommend an outside medical transport. So, EMT's arrived and transported him out to the hospital.

MR. MOLONY: I don't have any further questions, Judge.

THE COURT: Mr. Routzong.

CROSS-EXAMINATION

BY MR. ROUTZONG:

Q Good morning, sir.

A Morning, sir.

Q There was no note found?

A That's correct.

Q What happens to folks after an event like this?

What happens -- how do you dispose of them in the jail for the future?

A Well, once they return back from the hospital and they're medically cleared, they're placed on a suicide watch, and our Nurse Penny, our medical and mental health person, talks and decides what their status will be.

Q And what exactly does suicide watch mean?

A It's pretty much where we take all the clothing and bedding and everything away from them so they can't hurt themselves with it. They are issued a garment and it's made of a special material where it can't be destroyed or ripped apart.

Q Any other problems with Mr. Cartwright since that time --

A Not that I'm aware of.

Q -- as far as something along these lines?

A Not that I'm aware of.

Q Thank you, sir.

THE COURT: Redirect?

REDIRECT EXAMINATION

BY MR. MOLONY:

Q The man that was hanging from the jail cell that was cold and non-responsive, do you see him in the courtroom today?

A Yes, I do.

Q And where is he?

A Mr., Mr. Cartwright. Harold Cartwright, the defendant.

THE COURT: What's he got on?

THE WITNESS: He's wearing a black suit with blue shirt and blue tie.

THE COURT: Thank you.

MR. MOLONY: That's all I have.

THE COURT: I assume it's the one on the far right because we got two of them over there with the same thing.

THE WITNESS: Yes, Your Honor.

MR. MOLONY: Let the record reflect that the witness has identified the defendant.

THE COURT: All right. You may step down.

Next witness.

MR. MOLONY: Your Honor, at this time the State would rest.

THE COURT: All right. Mr. Foreman, ladies and gentlemen of the jury, that will conclude the evidence that the State will present. I need to spend a few minutes with the defendant to go over some matters. I'll let you step back in there. I think this is what we're gonna do.

I've been told that there will be a couple of witnesses by the defense. Our meal should be here about a quarter 'til. If it's okay with y'all, we'll keep on going. When the meals get here we'll take a break and eat those. I'm gonna try to -- we will finish the testimony probably more early than late afternoon.

Since there are 20 some odd indictments, there's about an hour or an hour and a half worth of work that I have to do with the lawyers dealing with the instructions, the charge, the verdict forms, those sorts of things. I don't want y'all sitting back there twiddling your thumbs for an hour and a half.

I think what we're going to do is probably, once the testimony is over, I'll let you go home and we'll decide whatever time you want to come back tomorrow. The only

thing will be left tomorrow will be the arguments and my instructions, which won't take long, and then y'all can receive the case fresh in, in the morning and however long you need to to deliberate and stuff instead of not getting in until about four o'clock this afternoon and 4:30 and going late to the night.

If that's okay, I think that's the most efficient way to do it. Of course, I'll have you some breakfast in the morning and that sort of thing.

Step back and I won't be long this time, and we'll keep, we'll keep going and when the food comes we'll break for that.

Thank you very much.

(WHEREUPON, the following takes place outside the presence of the jury.)

THE COURT: All right. Anything from the State at the conclusion of your case?

MR. MOLONY: No, sir, Judge.

THE COURT: Mr. Routzong?

MR. ROUTZONG: Your Honor, I misspoke when I did not object to those pictures being placed into evidence. I would like to correct that on the record.

THE COURT: I assume you want to object based on the same objection you had concerning that testimony and your earlier arguments that you made in limine, is that

correct?

MR. ROUTZONG: That's correct, Your Honor.

THE COURT: Anything you need to add to that?

MR. ROUTZONG: No, sir.

THE COURT: All right. I will let the record -- I will note, will note that the record should be, will reflect, obviously it does, that obviously Mr. Routzong meant to say he did have an objection. He said he didn't, and he'll be protected on that.

Any objection by the State?

MR. MOLONY: No, sir, Judge.

THE COURT: Thank you.

All right. Mr. Routzong, any motions?

MR. ROUTZONG: Yes, Your Honor. I have a motion for a directed verdict and we have a lot of indictments here, and I have to go through each one of them obviously.

THE COURT: Well, you can do what you, however you have to do it. I mean the evidence is, sort of covers it, a blanket covers it all. But I'll -- however you want to handle it.

MR. ROUTZONG: Your Honor, viewing the evidence in a light most favorable to the State, as to Indictment Number three -- the last three digits are 321.

THE COURT: All right. Hold on one second. Let me get the indictments as you talk about them.

Three what?

MR. ROUTZONG: The last three are 321, Your Honor.

THE COURT: 321 is an indictment for criminal sexual conduct with a minor in the first degree dealing with [redacted] between January 7 of '90 and January 6 of '91.

MR. ROUTZONG: That's correct, Your Honor.

THE COURT: Yes, sir.

MR. ROUTZONG: Your Honor, the only evidence that we have recorded down that the State elicited from the accuser is -- what I would argue, Your Honor, is an unclear reference to oral sex. The State did not, at that time, elicit testimony that a battery took place.

THE COURT: Well, isn't oral sex a battery?

MR. ROUTZONG: Your Honor?

THE COURT: Is not oral sex described in the statute as a battery?

MR. ROUTZONG: Well, they didn't elicit testimony as to what she meant by an oral sex, Your Honor. I have no idea what that means. I think --.

THE COURT: You don't have any idea what oral sex means?

MR. ROUTZONG: No, I don't have an idea what she meant by that, and that's why I think we have to make our motion on it, Your Honor. If the State has asked her explicitly does oral sex mean A or B, then I wouldn't have

a leg to stand on.

In this particular case, Your Honor, if they're only eliciting testimony as to oral sex, that's ambiguous. I don't think the jury can be -- I don't think that can go to the jury and ask them to fill in the gaps to assume oral sex means oral sex in the sense of cunnilingus or fellatio, and that's what the, that's what the, the elements of the statute are, Your Honor.

THE COURT: Mr. Molony?

Miss Agnew?

MR. MOLONY: Judge, that witness testified that she was four years old, went into graphic detail about what the defendant had her do to his penis.

THE COURT: She did. She talked about underneath the computer table and about candy and all that sort of stuff.

MR. MOLONY: Right.

THE COURT: It was pretty graphic.

MR. MOLONY: And then we proceeded to ask her did that oral sex occur from when you were four until you were 10. She testified that only one instance of oral sex performed upon her by the defendant. I think the record is sufficiently clear that oral sex was described for each year and what oral sex she meant.

THE COURT: All right. Anything else, Mr. Routzong?

MR. ROUTZONG: Your Honor, I'd make the same motion

for Indictment Number 323. This was also -- the only evidence, the only evidence -- that's a criminal sexual conduct with a minor with [redacted] first degree and the only -- the only testimony that was elicited by the State referred to oral sex, and also there was testimony elicited that there was ejaculation in [redacted] mouth I believe.

Your Honor, I'd make the same motion on that, and what the -- I know there's a lot of indictments here, but we can't leave it up to the jury to assume oral sex means cunnilingus or fellatio. That should have been explicitly brought out by the State and it wasn't.

THE COURT: Okay. Do you have any case law that says they show that oral sex described as these girls described it, because they don't use the word cunnilingus or fellatio, does that give you grounds for a directed verdict?

I don't think so.

MR. ROUTZONG: Actually, Your Honor, I'd argue probably the opposite is true because the State is able to meets its burden by showing that oral sex means those two things, and there's much case law on that, Your Honor.

THE COURT: Well, I think -- I don't know of anybody that thinks that the two are not synonomous.

MR. MOLONY: Your Honor, fellatio, in and of itself,

there's not a definition in our statute book of what fellatio is or of any case law. There is cunnilingus, and it's no penetration required.

THE COURT: Sure.

MR. MOLONY: Fellatio itself is the oral stimulation of the private, male private part. There is ample testimony in the, in the record, especially under the burden he's got in this directed verdict.

THE COURT: All right. I find that there is ample testimony in the record, if the jury believes it, to support the conviction that there was fellatio or cunnilingus and/or oral sex.

MR. ROUTZONG: Your Honor, I would make the same -- I'm sorry. And this would be Indictment Number 326.

No, strike that, Your Honor. It's, it's -- I have to skip that one. It's actually Indictment Number 327, 328, 329, 330, 331, and 332. The testimony elicited by the solicitor was basically, and this is not a quote obviously, but he asked the victim did you experience sexual abuse in the years of eight, nine, and ten years old. Those indictments, I believe, Your Honor, cover those years.

Sexual abuse is even more equivocal than oral sex, Your Honor, obviously. The jury ought not to be allowed to supply those kind of -- ought not to be asked to supply

those kind of elements. The State had plenty of time and opportunity to elicit each and every element of all these charges.

Sexual abuse is not an element of any of those charges. It's an assumption. The jury ought not be afforded the opportunity to wonder what sexual abuse means.

MR. MOLONY: Your Honor, I would, I would agree with him except for the fact that the State, the beginning of the testimony, one of the first things she said after she described what she meant by oral sex, in that the defendant -- she had -- the defendant had her to do to him. She stated that the oral sex occurred every year multiple times in Aiken County from the time I was four until some point after I turned 10 and we left. Anything else -- I mean it's all covered there in one sentence.

Now, whether the jury believes it, he can argue that. But for the directed verdict, the testimony's in the record, Your Honor.

THE COURT: All right. The motion is denied.

MR. ROUTZONG: Your Honor, could I just be heard on one additional --?

THE COURT: You may.

MR. ROUTZONG: We believe, Your Honor, and would argue that to prove our point we need to have the court

reporter read back the testimony on those particular -- on that particular witness on that particular testimony. That's the only way that the defense can really prevent or present evidence to Your Honor that's not---

THE COURT: Well, I've heard the evidence just like the rest of the people heard it. I don't need it read back. I think there's sufficient evidence that's testified by these young ladies that, if the jury believes it, it would support a conviction. They may not believe it. That's a whole other story.

We're not concerned about the weight of the evidence at this stage of the game. We're concerned about the existence of the evidence. It's my opinion that there is -- there exists, there exists evidence that the jury believes it would support a conviction.

Next.

MR. ROUTZONG: On all the lewd acts, Your Honor, at no time -- strike that, Your Honor. I'll wait on that for my final directed verdict.

THE COURT: Thank you.

Anything else?

(Pause.)

THE COURT: Anything else?

MR. ROUTZONG: If I could ask for just one second, Your Honor.

THE COURT: You may.

(Pause.)

MR. ROUTZONG: Your Honor, as to Indictment Number 304 we'd make the same argument on oral sex. That would be 304 and 306.

THE COURT: Same ruling.

MR. ROUTZONG: As to Indictment Number 309, Your Honor, that's a -- I'm gonna have to strike that, Your Honor. I misread what that, that charge was.

As to Indictment Number 313, Your Honor, this is one from criminal sexual conduct third degree. I think the testimony that was elicited by the State---

MR. MOLONY: Your Honor, that's not -- we didn't call that indictment. It's not in the record.

MR. ROUTZONG: He's correct, Your Honor. He did tell me. I apologize, Your Honor. I neglected to remove that from my list. I don't have any other.

THE COURT: Thank you.

All right. Mr. Cartwright, would you please stand.

(WHEREUPON, the defendant was placed under oath at this time.)

THE COURT: All right. You can have a seat or stand, whichever is more comfortable for you.

Anyway, we now are at the stage of the trial where obviously you could now present your own defense, and we

do -- and may do that by calling witnesses, introducing relevant exhibits, and testifying in your own defense. If you make a decision to testify, then obviously you'll be subjected to the same rules that everyone else testifies to. In other words, you'll be subjected to cross examination-and may be cross-examined on any relevant subjects of the case or facts on the case.

Does he have a record?

MR. MOLONY: Nothing, nothing we will be---

THE COURT: No impeachable.

On the other side of the coin, obviously, you, like everyone else, you have protections provided to you by the Fifth Amendment to the Constitution of the United States as well as the South Carolina Constitution, which simply says that nobody, when they're accused of a crime, can be compelled or forced to testify. In other words, you have the complete right, the absolute right, the constitutional right to remain silent.

If you exercise that constitutional right, included in my charge or in my instructions to the jury would be the following: I would tell them that the defendant, in this case, has exercised his constitutional right to remain silent. You are not to hold that against him in any manner whatsoever. There is to be no inferences obtained from him failing to testify. He has the absolute

right not to testify. You're not to mention the fact that he didn't testify when you deliberate his guilt or innocence, and it's something that you can't discuss, can't go into the deliberations. It is just his right to not testify.

So, now, my question to you is do you understand your constitutional right to remain silent?

THE DEFENDANT: Yes, sir, I do.

THE COURT: All right. I need to know whether or not you wish to exercise it or do you wish to testify?

THE DEFENDANT: I wish to testify, Your Honor. I want to tell the truth of what's went on here. There's only been a little bit of it disclosed.

THE COURT: Very well.

And you understand that you'll be subjected to cross-examination?

THE DEFENDANT: Yes, sir.

If I may, can I ask a question of the Court, Your Honor?

THE COURT: You certainly may.

THE DEFENDANT: Your Honor, as you know, I've previously been tried.

THE COURT: That's correct.

THE DEFENDANT: And there was a mistrial. And in the last trial, the investigator set up there under oath and

testified to the picture of my daughter's bedroom and said that that was the bed that he got the sheets off of. My daughter testified, under oath, that she was in her bedroom in her bed.

In my defense, when I was up there, was when they asked me about the sheets, if those were her sheets. I said no. They're the sheets off of my son's bed and they are.

That picture is a picture of my son's bed. But that's not the picture that they had at the last trial. They had [redacted] bed -- picture of her bed in the trial, and that's the bed -- she testified that it was in her bed and I would come into her bedroom, and now at this trial she's saying that she moved to her brother's bedroom and that that is where she was staying and it's not.

I never saw her stay in that bedroom. And now, since the last trial, when I come into this trial there's a picture sitting there that a jury of 12 people have seen in the last trial that can testify that that's not the picture that was in the last trial, and I want to know if that's justice.

THE COURT: I can't answer that. That's something you need to discuss with your lawyer.

THE DEFENDANT: I don't---

THE COURT: I can't give advice.

THE DEFENDANT: But I don't understand how that they can give testimony of the same event, and then tell a different story of a different bed in a different bedroom in this trial based on simply the fact that the bed sheet -- the sheets they know where the DNA come from. I know.

They, they didn't have to send them sheets off to ask -- to find out my DNA was on them. I could have told them my DNA was on them sheets. I know how it got on them sheets and it's not the way they're saying it got on them sheets.

They had the wrong sheets. They had the wrong bedroom sheets and, and, and [redacted] testified that it was her bed, her bedroom in the previous trial. This trial she states, no, she moved into her brother's bedroom.

THE COURT: That's something you need to discuss with your lawyer. I cannot comment on that. That's why we have a jury. They're the finders of the facts. I am not. Thank you.

Anything else?

THE DEFENDANT: Your Honor, I just would like to ask that if I may be able to say anything about this in front of the jury.

THE COURT: You can answer whatever questions, relevant questions your lawyer asks you.

THE DEFENDANT: I'm sorry?

THE COURT: You may answer any questions that are relevant to this trial that your lawyer asks you.

THE DEFENDANT: Yes, sir, thank you.

THE COURT: Thank you.

MR. MOLONY: Judge, just to be clear, it's still a prior proceeding, whether it's his attorney or myself or him on the, on the witness stand. I just -- I need to make the defendant clear that he can't say in the last trial.

THE COURT: If he wants to open that can of worms up.

MR. MOLONY: Yes, sir.

THE COURT: All right. We're going to take a break for, about a 30 to 45 minute break for lunch. Let me see the lawyers in chambers please.

(Whereupon, Court was in recess for the lunch break.)

THE COURT: Is the State ready to proceed?

MR. MOLONY: Yes, sir, Your Honor.

THE COURT: Mr. Routzong, are you ready to proceed?

MR. ROUTZONG: Yes, sir.

THE COURT: Bring the jury in please.

Mr. Routzong, two, two witnesses?

MR. ROUTZONG: That's correct, Your Honor.

Oh, Your Honor, I do need to do one thing I forgot before the jury comes in.

THE COURT: Hang right there.

MR. ROUTZONG: I apologize.

THE COURT: Yes, sir.

MR. ROUTZONG: A moment ago I mentioned about that directed verdict and I said I wanted to wait. Actually, Your Honor, I need to inform the Court of other things I need to allege for, that the State has not shown in elements. It will be very brief.

THE COURT: I'm not, not fussing.

MR. ROUTZONG: All the lewd acts, Your Honor, one of the elements that the State is required to allege is that the defendant is, I think is 16 years or older. They did not allege any of that testimony, Your Honor, on any of the lewd act.

THE COURT: Well, it was testified to. They testified to it, their ages.

MR. ROUTZONG: No, the defendant, the, Mr. Harold Cartwright, Your Honor. One of the, one of the elements of lewd act is that he has to be -- oh, it is either 16 or over 16.

THE COURT: Well, they infer that he was a stepdad and one of them was his daddy. He can infer from a girl that age that her daddy would have to be over 16.

What's, what's the situation?

MR. MOLONY: Your Honor, the victims testified that these lewd acts occurred as early as 1989. The inference

there is that this is my dad that's doing this to me. She's over 14, she's over 14, 14 years of age whenever the next lewd acts keep going again. The inference is in there that he's over 14 years old whenever this occurred.

THE COURT: I'll respectfully deny it.

MR. ROUTZONG: Thank you, Your Honor.

THE COURT: All right. Bring the jury in.

(WHEREUPON, the following takes place within the presence of the jury.)

THE COURT: Everybody get a, a lunch?

THE JUROR: Yes, sir.

THE COURT: We took a little longer than I thought because the lunch came, and I had a couple of matters I had to do. We got a lot of stuff out of the way. I think we got just a few more witnesses. We'll see how far we go. We'll get together and see where we're going after that.

Mr. Routzong, you may call your first witness.

MR. ROUTZONG: If it please the Court, the defense calls Mr. Vernon Carter.

THE COURT: Mr. Carter, come around please.

VERNON CARTER, after being duly sworn, testified as follows:

THE COURT: Have a seat in the witness box. State your full name and spell your last name for the Court.

THE WITNESS: My name is Vernon Carter. C-A-R-T-E-R.

DIRECT EXAMINATION

BY MR. ROUTZONG:

Q Good afternoon, Mr. Carter.

A Good afternoon, sir.

Q Where do you live at?

A 436 Lee Street, North Augusta, South Carolina.

Q Where are you employed?

A At Bridgestone working for Brassfield.

Q What relationship are you to Mr. Harold Cartwright?

A Stepbrother.

THE COURT: You're what?

THE WITNESS: Stepbrother.

Q What relationship are you to the complainants in this case?

A Nieces, nephews, and sister-in-laws.

MR. ROUTZONG: I'd like to approach, Your Honor.

THE COURT: Yeah.

Q I'm going to show you what has been previously marked as Defense Exhibit No. 8. I'd like to ask you if you recognize that.

A Yes, sir, that's a picture of my brother's trailer on my, my land.

THE COURT: That's what?

THE WITNESS: A picture of my brother's trailer on my

land.
Q How did I come into possession of that?
A I gave it to you.
Q Have I changed---
MR. MOLONY: Your Honor, may the State see this picture?
I just want to see what he's talking about.
THE COURT: Go ahead.
Q How did I get -- how did I come into possession of that, Mr. Carter?
A I, I took the picture and give it to you.
Q Did I change or alter it in any way?
A No, sir.
Q Is it a fair and accurate representation of the defendant's trailer?
A Yes, sir.
MR. ROUTZONG: Your Honor, at this time I'd ask Defendant's Exhibit No. 8 be admitted into evidence.
THE COURT: Any objection?
MR. MOLONY: No objection, Your Honor.
(WHEREUPON, Defendant's Exhibit No. 8 was received into evidence at this time.)
MR. ROUTZONG: I'd like to publish this to the jury, Your Honor.
THE COURT: You may.

Q Mr. Carter, can you read out loud what is spray painted on the side of that?
A Yes, sir, it says [redacted] with a money sign at the end, and to the left of it it looks like something is blacked out or whatever.
Q Did you paint that?
A No, sir.
Q Was that painted after -- let me put it this way.
Do you know when it was painted?
A No, sir.
Q Where was Mr. Harold Cartwright at when, when you discovered that?
A He was incarcerated.
Q Had you seen -- had an opportunity to see the trailer before he was incarcerated?
A No, sir.
Q After Mr. Cartwright -- oh, by the way, who is [redacted]
Who is [redacted]?
A [redacted]. We call her [redacted].
Q Is she in the courtroom?
A Yes, sir.
Q Can you point her out?
A She's in the first row here, the second---
Q What's she wearing?

A ---to the left.

THE COURT: He pointed her out.

Go ahead. Go ahead. He's already pointed her out.

Q After Mr. Cartwright was charged, who was living in that trailer?

A Buffy.

Q Is she still there?

A No, sir.

Q When did she move out?

A I don't know the exact date of when she moved out exactly. I, I know she got sick and she moved out after she got [redacted] back, and I think [redacted] was with her at, at that time, and then I think she moved to her mom's house when she got sick.

Q It was after -- she moved out after she got sick?

A Yes, sir.

Q Where was Mr. Cartwright?

A He was still incarcerated.

Q Who, if anyone, lived in that trailer after Buffy moved out?

A [redacted] and her boyfriend moved in to that, in, into the doublewide in Trenton.

Q How do you know that?

A I've rode by there and seen them living there.

Q When did she move out?

A She moved out 2011 right about Christmas time.
Q Okay.
A Right around in that area.
Q Have you been inside the trailer after [redacted] moved out?
A Yes, sir.
Q I'd like to ask you if any of these items are still in the trailer?
A Yes, sir.
Q You've been in there?
A Yes, sir.
Q Is there a coin collection in there?
A No, sir.
Q A stamp collection?
A No, sir.
Q Raw diamonds?
A No, sir.
Q Any rubies?
A No, sir.
Q Gold?
A No, sir.
Q Antique radio?
A No, sir.
Q What is in there?
A It's basically a shell of a trailer. There's a few old

clothes in there, and some real old furniture. I wouldn't, I wouldn't call it antique. It is stuff that ain't worth nothing at this point.

Q What was your relationship with the accusers in this case in terms of -- I know you're their uncle.

Did you ever get a chance to babysit them or any of that kind of stuff?

A Yes, sir, several occasions.

Q Ever been alone with them while you were babysitting them?

A Yes, sir.

Q When, when was the first time you'd ever heard about any of these accusations against Mr. Cartwright?

A The first time I heard about these accusations was the first time we went to Court.

Q Did you feel like you had a good relationship with your nieces?

A Yeah, real good. I mean I felt like they -- I mean I loved them. I mean I bought them Christmas, spent time with them, talked to them. You know, I mean, been to the houses, their houses many a time.

Yes, sir, I remember cooking breakfast for them. I remember one occasion [redacted] and [redacted] bragged on many a time I just whipped up -- it was like -- about like an omelette. I mean they loved it, and I remember them

bragging about that many a time. That made me feel good.

It's just something I cooked up for them, and it was a conversation come up, you know, they, they missed their dad, you know, and we got to talking, you know. They said they missed their dad and wished he would come home.

MR. MOLONY: All of this is hearsay as to what these girls allegedly said to him.

THE COURT: Hold on. Hold on.

Sustained.

Move along, Mr. Routzong. It is not -- anything you want to ask him?

Hold on a second.

Q Mr. Carter, how would you characterize your relationship with the accusers in this case now?

A I'm stunned. I mean I really am. I'm stunned you know.

Q Yes, sir. Thank you very much. Please answer any questions that Mr. Molony may have.

CROSS-EXAMINATION

BY MR. MOLONY:

Q You're the defendant's brother?

A Yes, sir.

Q And you love the defendant, don't you?

A Yes, sir.

Q You talk to him all the time even while he's been incarcerated?

A Yes, sir.
Q Okay. And do anything in the world for him?
A We both do anything in the world for each other. Yeah, we're brothers.
MR. MOLONY: I don't have anything else.
THE COURT: All right. You may step down.
Next witness.
MR. ROUTZONG: Defense calls Harold Cartwright.
HAROLD CARTWRIGHT, after being duly sworn, testified as follows:
THE CLERK: Have a seat in the witness box. State your full name for the Court and spell your last.
THE WITNESS: My name's Harold Cartwright. C-A-R-T-W-R-I-G-H-T.
DIRECT EXAMINATION
BY MR. ROUTZONG:
Q Mr. Cartwright, I'd like to take you back to 1989 and probably even before that.
Let's talk about how did you meet [redacted] mom, Melinda?
A Oh, well, I lived in Florida originally. I used to shrimp whenever I was younger and whenever I, I -- matter of fact, I was the youngest American in Cuba in the Mario Boat Lift. My father owned shrimp boats and stuff, but the government took them away when the Mario Boat Lift. Carter

called us back.

But at any rate, I moved to Tampa, and I was building Interstate 75 from Sarasota to Tampa, and whenever I moved to Tampa I started living, you know -- I lived in Tampa for a while building that piece of interstate, and I met Melinda, and my relationship started there, and it wasn't long after we were together we had [redacted]. Melinda had horrible complications having [redacted]. She was in labor 21 days. [redacted] was born at Tampa General Hospital, which I'm thankful because it's a baby hospital.

THE COURT: Mr. Routzong, ask him to please respond to your question. You didn't, you didn't ask him about the baby and complications.

THE WITNESS: Well, it---

THE COURT: Just answer the question, please.

THE WITNESS: Could you repeat the question, sir?

THE COURT: How did you meet your wife.

THE WITNESS: I met her whenever I moved to Tampa, Florida.

THE COURT: Thank you.

Q How long were you with her?

A Oh, all together about 11 years.

Q When you met her, how long after you met her did you actually get married?

A It was probably close to eight years.

Q What year did you get married?
A I believe we were married in '93, late '93 or '94. I'm not sure. Right in there somewhere.
Q At what point -- when, when is it that the, I guess, so to speak, the wheels started to come off and you decided you were gonna separate.

When was that?

A It was after -- we was having -- well, we was having a lot of trouble in our relationship without getting into a lot of details on it. I mean it was a bad relationship at that point. I had caught her sleeping around, me and her were having a lot of trouble.

My mother come over to the house. Her and my mother got into a fight and she hit my mother three times in the chest, and it's the only time I ever really got physical. I grabbed her and throwed her off of my mom, and my mom -- it stunned her. I could see the shock in her face when she was hit.

I was sitting on one side of the living room and Melinda was sitting on the other, my mom was in front of her, and she come up out of the chair and hit my mother like this in the chest.

Q Mr. Cartwright, let me ask you, let me ask something.

That's the point in time that the wheels really came off I guess and you decided to get a divorce?

A At that point in time, no. That wasn't the, the end of it. My mother had to go to the hospital. She was having trouble with her heart. She had a big bruise on her chest, and she went to Aiken Regional and she come back -- they sent her back home. They had checked her out and they sent her back home. She came back to the house and she was hurting, and I told her, I says, you know, if anything happens to you, I says I'm gonna see to it that the world knows what happened. My mother loved Melinda like a daughter, and she told me, no, that she didn't, she was okay. She would be all right even if something did happen to her.

Q What year did you---

A Not to say anything. Excuse me.

Q I didn't mean to interrupt you, but what, what year did you actually separate?

A Well, we separated in '95, but the divorce, I don't think, was final until like '96.

Q And you had -- did you make any kind of agreement with her as far as visitation rights?

A Yes, sir, I had visitation for the kids two weeks in the summer and every other weekend, which I'd end up getting them all summer long most of the time and every other weekend that I was able to make it due to work schedule.

Q Where were you working at at that time?

A I work all over. I do construction work. I was a

construction superintendent. I've built River Watch Parkway, River Walk, Woodside Plantation. I built the Aiken Mall. I built Laney Loosey. I built Church Hill Commons, all the Wal-Mart Super Centers and the CSRA just about. Even the Sam's Club and Target Center in Augusta, Stone Crest Mall in Atlanta. Built landfills in Washington.

Q How -- I'm sorry.

A I worked all over the place, all over the southeast.

Q How long have you been working?

A I've been working since I was eight years old.

Q So, in '96 you got divorced and the, the -- I believe your testimony can be summed up that it was an amicable agreement and she didn't complain about visitation rights?

A Let me clarify. I've been working since I was eight years old in the summertime. I started full time when I was 15.

THE COURT: He asked you another question. You want to answer it?

THE WITNESS: I'm sorry. I just---

Q And the, and the divorce separation agreement, it was amicable?

A Yes, sir.

Q Where was Melinda and [redacted] -- where were they at when you got divorced and after you got divorced?

A They were living in Rome, Georgia. Well, they moved

around right in that area several different little towns.
Q Where were you living?
A I was living here.
Q And that's in Aiken?
A At 437 Loan.
Q Where were you living in 1999?
A In 1999 I was living in Warrenton. I was redoing the water system up in Warrenton, Georgia, and that's when mine and [redacted] relationship started changing. She started acting a lot different, aggressive, rebellious. She didn't want to do anything she was told to do. She got real rebellious, as a matter of fact, at that time.
Q But Melinda had the custody, right?
A Yes, sir, she was -- [redacted] was getting where she didn't actually, at the age of 13 and 14, she started getting to where she didn't want to come visit any more. She'd rather stay in Rome and before that she was talking about moving in and living with me and Buffy. She wanted to.
Q You'd already met Buffy by that time?
A Yes, sir, I met Buffy in the end of '96.
Q At the end of '96.
Not soon after you---
A No, I'm sorry. End of '95.
Q End of '95?
A Yes, sir.

Q What, if anything, happened in 1999 to, to cause you to seek out some assistance from the Family Court in Aiken?

A In 1999 I went to get my children for visitation on the weekend. It was in I'd say somewhere in the fall, close to the -- yeah, it was about the end of summer. I went to go get the kids for the weekend to spend time with them.

Whenever I got there I walked up to the trailer. I knocked on the front door, and when I knocked on the front door it eased open. Well, I -- it was early. I'd been driving since three o'clock in the morning to get there to see them on visitation.

The door kind of opened up, and I stepped in, hollered if everybody was up. When I did, I noticed movement on the couch. There was two people on the couch, and then I noticed one of them was my daughter [redacted], and the other one was a young man.

Q Is that young man her, the man she's married to today?

A Yes, sir, it is.

Q What, if anything, did you do when you saw that?

A I almost went ballistic because he was close to ten years or ten years older than her. She was 14 years old at the time. I walked into the house. They jumped up. [redacted] said she just, had just run out there and jumped on him and laid

down. He, come to find out, Melinda tells me he had been babysitting the children whenever she was at work and stuff.

Q Did she ever -- excuse me. Let me stop you right there for a second.

Who asked him to babysit?

A I presume she did. She hired him.

THE COURT: Mr. Routzong, you know we don't do speculation. If he knows an answer, answer it. If he doesn't, don't speculate.

Mr. Solicitor, y'all object to those speculation type of questions and answers.

Q So, you don't really who -- you don't really know if Melinda asked him to babysit?

A Well, she stated that she felt more comfortable---

MR. MOLONY: That's hearsay, Your Honor.

THE COURT: Come on. You can't testify about what somebody said.

Please, Mr. Routzong.

Disregard that, ladies and gentlemen.

THE WITNESS: Well, I understand.

At any rate, I went nuts pretty much, and started to anyhow, but I noticed that my younger children were up, Hoss and Jamie, waiting on me. So, when I saw them I calmed down and I told Melinda, at that point, I said you need to take her to the doctor and have her checked. I

said if she's been touched, I said he's got problems, and---

Q Let me ask -- let me stop you right there, and let's fast forward a little bit.

What, if anything, did you do in terms of making sure that this didn't happen again?

A I went to the law enforcement, to the DFCS.

Q What law enforcement agency did you go to?

A It was up there in Rome, Georgia. I think -- I'm trying to remember. I think that's Fulton County if I'm not mistaken. But I had to go through DFCS.

Q Are you aware of anyone else contacting law enforcement about this issue?

A No, sir.

Q What happened as a result of you contacting law enforcement?

A [redacted] kidnapped my daughter, took off to Alabama for about six months. They finally found her and he ended up being incarcerated, put in jail, went to prison.

Q And when he got out of prison, to the best of your knowledge, what did he have to do?

A He had to register as a sex offender.

Q When was the last time you spoke to your daughter, [redacted]

A That day, for a, for a good many years she didn't have

anything to say to me other than that day she said that if I had him locked up she would never talk to me again.

Q Don't, don't tell---

A I'm sorry.

Q ---what someone else said.

A I'm sorry.

THE COURT: Disregard that, ladies and gentlemen, please.

Q And during this period of time you said that -- you've already testified that you were already -- you'd already met Buffy?

A Uh-huh. (Affirmative).

Q And who's Buffy?

A She's my ex-wife, second ex-wife.

Q What relationship is she to the accusers?

A The -- she's the mother of two of them and the stepmother of one. Well, not actually stepmother to one, I guess, cause [redacted] never lived with us.

Q Prior to you -- when you were still in -- when you were still with Melinda, did there come a time when you met somebody by the name of Sandra Parsons?

A Yes, sir.

Q What relationship is Sandra Parsons to you?

A Well, I actually had a relationship with her husband, me and him were friends. We were close friends. I knew Frank

Parsons. We had a car lot, ventured into a car lot together. We repossessed cars together there for a little while right after my mother died. I couldn't handle the stress of the construction, being a superintendent, and the type of work I do. It's a lot of -- you got five or six million dollar jobs you're over, and 40 or 50 men. It's a lot of stress on you, and I---

MR. MOLONY: Your Honor, he asked him how he met Sandra Parsons.

THE COURT: That's exactly right.

Please listen to the question and respond to the question.

THE WITNESS: Yes, sir.

THE COURT: If he wants to know about the stress on your job he'll ask you.

THE WITNESS: Okay.

THE COURT: Thank you. That's the third time I told you.

THE WITNESS: Yes, sir.

THE COURT: Please. It is very easy to get along. Just answer the question.

Q Did there come a, did there come a time when your relationship with Sandra Parsons soured?

A Yes, it did.

Q What caused that?

A My relationship with her husband. Me and him used to spend a lot of time together, like I said, and we would drink, be gone a lot, and we were drinking buddies at that time. She thought that I was the reason that she got a divorce.
Q When did you actually marry Buffy?
A I married Buffy in ninety -- it's either Winter of '99 or 2000. I think it was 2000.
Q Where did Sandra Parsons live about that time?
Where was she living?
A Sandra Parsons lived up the road.
Q Not far from where you lived at?
A No, sir, not far, probably a block.
Q What relationship did Sandra Parsons have with Buffy?
A They become best friends. They were, they were smoking buddies.
Q Yes, sir.
Now, the State's alleging that there's a period of from 2000 to 2001, 2002, 2003, four, five, six, seven, eight, nine, ten, there's a long period of time there that you were molesting your stepdaughter.
A No, sir, I was not.
Q You moved -- let me, let me rephrase that question.
In, in 2000 or 2001, [redacted] made a charge against you.
MR. MOLONY: Your Honor, that's not a question.

THE COURT: Hold on.

MR. MOLONY: That's not a question, and if it is, it's not a direct examination type of question. It's completely leading.

THE COURT: What's your objection?

MR. MOLONY: It's a leading.

THE WITNESS: In, in talking---

THE COURT: Sustained.

Hold on.

Rephrase your question, Mr. Routzong, in a direct manner.

Q What happened in 2001 between you and [redacted]?

A In 2001 Buffy come to me. I was working in Charlotte.

THE COURT: Don't testify about what she said.

THE WITNESS: Okay. I come home. I was at the house. And Buffy -- I was told that---

THE COURT: Sir, what did I just tell you?

We're going to play by the rules in here.

THE WITNESS: Okay.

THE COURT: The rules are that you can't testify about what somebody else told you. That's the third time.

THE WITNESS: Okay. Yes, sir. Yes, sir.

THE COURT: Don't interrupt me when I'm talking.

Now, you think you can play by the rules?

THE WITNESS: Yes, sir.

THE COURT: Thank you.

Ask the question again.

Q What did, what did you -- what did you become aware of that [redacted] did, [redacted] did?

A Whenever they come to -- the police officer come to me and -- well, actually the first time a lady come to the house to speak with [redacted] She asked [redacted]---

THE COURT: Sir, answer the question what happened. Not what everybody told you.

THE WITNESS: [redacted] made an accusation against me I guess. I mean --.

Q Was it true?

A No, sir.

Q What happened with that accusation?

A Well, they -- I moved out of the house. They let [redacted] and Buffy and them stay at the house and eventually, after three years, almost two and a half years, I -- the charges were dropped.

Q And who, who recanted those charges?

A [redacted] did.

Q About when did you move back into the house?

A I moved back in the house probably around -- it was right there at -- let's see. [redacted] turned 12. Right before [redacted] 12th birthday. So, that would of been in 2000, late 2002 I believe. 2003. I'm sorry.

Q Let me fast forward to 2010. Now, you've already testified that you, you didn't molest any of these children during that period of time.
A No, sir, I have not molested them children.
Q What, if anything, happened with [redacted] in 2010?
A In 2010 [redacted] had a boyfriend and she called me up.
THE COURT: Careful.
THE WITNESS: In 2010 with [redacted]---
Q Was she living with you?
A She came to live with me, yes, sir.
Q Did she move back out?
A Yes, sir.
Q When did she move back in?
A She moved back in -- she didn't move back in until after I was incarcerated.
Q Did she live with anybody else during 2010?
A She lived with Chris Falkner.
Q In 2010, what happened in the Fall and your relationship with [redacted]?
A In 2010, my relationship with [redacted], I discovered pictures on the internet that I thought were her. I immediately went to her about it, and when I did she denied it. But it was her and the picture of her and four of her friends. I recognized all of them.
I went to one of her friends's parents and notified

them, but the -- I didn't know the girl's names that were in the picture other than [redacted] and the one that took the picture, which I couldn't see. [redacted] later on disclosed to me---

THE COURT: Sir.

THE WITNESS: I'm sorry.

Q What, if anything---

A But---

Q What, what, if anything, other than notifying a parent, what did you do about that?

A I went to Channel 12 News and I went to North Augusta Police Department.

Q Were you pretty upset?

A Yes, sir, I was.

Q Why were you upset?

A I was upset because she was on the Internet. My son was living there at the house and I found this stuff going on. They had previously had been, got in trouble for stealing these condoms, and I was worried that things were going on in the house.

Q And who were you, who are you talking about?

What two people?

A Hoss and [redacted].

Q What are you, what are you saying that you believed was going on?

A I was afraid that they may be doing things inappropriate with one another. Hoss, I had found pot in his room, cigarettes. With the issue of the, the stuff on the Internet, and it caused me to, to get to the point to where I was accusing my son and my stepdaughter. They were getting angry with me. They -- I was having a lot of problems out of them.

Q Mr. Cartwright?

A Yes, sir.

Q There's been testimony that your semen was found on these sheets that they presented, the State has presented to SLED and they were tested.

A Uh-huh. (Affirmative).

Q Tell us how that semen got on those sheets.

A Well, on February 24th Buffy was washing clothes and she tried to pull me into -- she come out of the laundry room, and I come walking out of the kitchen toward the laundry room. She tried to pull me into [redacted] room, and I pulled back and the doors of the rooms are right next to one another. And when I pulled back onto the door around the corner to Hoss's room, she took me and pushed me back onto the bed and masturbated me with some panties. And after she done so, proceeded to immediately, probably not even an hour later, me and her get into a confrontation because things were bad at the house.

I had been arguing with [redacted]. Buffy didn't want to

do anything about it, told me I was pushing her away. It got to the point to where even her aunt and her uncle, they all come over to the house.

THE COURT: Sir, be careful. I'm not gonna warn you again about saying what other people said. You just did it with Buffy.

THE WITNESS: Yes, sir.

THE COURT: Please, the rule is -- can't you follow the rules?

THE WITNESS: Yes, sir, I wasn't gonna say anybody said anything.

THE COURT: Sir.

THE WITNESS: I'm sorry.

THE COURT: You just testified about what Buffy said. Now, please don't make me get testy with you. I'm trying. Just play by the rules.

Okay. Is that fair?

THE WITNESS: I was just trying to---

THE COURT: Isn't that fair?

THE WITNESS: Yes, sir.

Q What was your relationship like with Buffy before that incident happened?

A We had a great relationship.

Q And the incident I'm referring to is the incident you just testified to about being masturbated by her.

What was your sexual relationship like with her?
A We didn't have much of one. She had had a hysterectomy. She said that it---
THE COURT: Sir.
THE WITNESS: She had had a hysterectomy, complained of problems, and we didn't have it that often.
Q How often would you have sex?
A Probably, in the last five years of our relationship, probably a couple of dozen times at most.
Q Right before that incident, what was going on in the house?
Did you -- what did you -- did you suspect anything or was it a normal day?
What kind of day was it?
A It was a, it was a good, a good -- could you rephrase that?
I don't understand what you're asking me.
Q Well, what I'm trying to get at is -- let me put it this way.
Is it fair to say that was an unexpected---
MR. MOLONY: Your Honor, leading.
THE COURT: Gentlemen?
THE WITNESS: I, I---
THE COURT: Hold on.
Rephrase the question, please.

Q You testified that you didn't have -- you had infrequent sexual encounters with your wife for several years.
A Yes, sir.
Q And the relationship was somewhat strained. You testified to that.
Was this a good day before that incident?
Did anything give you an indication that it was a good day?
A Yeah, it was a good day. I was out cleaning my boat when she come home.
Q And what did y'all -- without saying what she said, what were the kind of things you were talking about?
A Well, we were talking about selling my boat. I had gotten -- we got into it about the, the stuff going on with [redacted] after she had masturbated me, and we got into an argument, and I was fed up with the way things were going on at the house, and---
Q Well, what did you think -- what did you think was the -- I mean what did you think was going on when she did that?
Was it, was it a surprise?
A Yes, sir, it was a surprise.
Q But it was a -- was it a welcomed surprise?
A No, sir.

Q Now, all these charges, Mr. Cartwright, there are 28 of them. They span about 20 years period of time.
A Uh-huh. (Affirmative).
Q And the State says that -- and the accusers say that you are guilty of all those charges.
What do you have to say about that?
A I say that I'm not guilty of them. I haven't molested my children. I've done everything that a good father's supposed to do. When I thought something was going wrong with my children's lives I went straight to law enforcement. I went straight to try to get custody of my children whenever I thought that they was in danger. I've had a great relationship with my children up until that point, and now they all hate me because I love them.
Q The, the State's elicited testimony about a suicide attempt at the jail.
Why did you try to kill yourself?
A Well, I committed -- tried to commit suicide. I've been told -- well, I had to go through counseling afterwards, and I haven't never really disclosed it, but I'm gonna try to explain it the best that I can.
I'm gonna do this. I, I found out that there was charges against me. So, I came and turned myself in. I thought that the charges were about the stuff on the Internet because I had -- me and Buffy had gotten in an

argument and that's what it was about and I left. I left her. I was leaving. That was that. It was over with us.

I couldn't go through the stress of the kids. They was all grown. They didn't need me any more. I had done run my only son off that I hadn't never got a chance to be with, and I finally got him in my life, and because of what was going on with that stuff, I run him out of my life being too strict I guess.

We was even fighting. We got to where we were fighting about what [redacted] was wearing. I'd get on to her about what she was wearing, and he'd be telling me well, I don't see anything wrong with it. So, I'm sorry.

MR. MOLONY: Your Honor?

THE COURT: Sir, hold on.

MR. MOLONY: It is obviously hearsay, and I don't know if that's in response to the question that he even asked.

THE WITNESS: It, it---

THE COURT: All right. Hold on. Hold on.

This is the last time. Please fly by the rules. That's all we ask you to do.

THE WITNESS: Yes, sir.

THE COURT: I make everybody else do the same thing.

Why should I not make you?

THE WITNESS: I understand, sir.

THE COURT: You don't understand. You keep doing it. Now please.

Okay?

THE WITNESS: Yes, sir.

THE COURT: Thank you.

A I was -- like I said, I turned myself in. I'd been there for 30 days. I couldn't get a bond. I was charged with some of the most heinous crimes that somebody could ever think about being charged with. I've never heard of anybody being charged with that many crimes even on TV, and I'm in my cell with all these things on my mind, and then the daughter that I loved, my biological daughter, hates me so much because I had her husband or her lover, whatever, locked up, the man that raped her when she was 14 years old, and she held a grudge against me, and they come and served me ten warrants. And, yes, sir, at that time I didn't feel I wanted to live any more.

THE COURT: Cross examination.

MR. ROUTZONG: I don't have any other questions, Your Honor.

CROSS-EXAMINATION

BY MR. MOLONY:

Q Mr. Cartwright, how are you doing?

A All right.

Q That was a lot. I'm gonna go back through just some

of it. Not all of it.

[redacted], let's start with her. She's your oldest biological daughter, isn't that right?

A Yes, sir.

Q And you would agree with me that you live with, with [redacted] and Melinda here in Aiken right off Malone in 1989?

A In 1989, yes, sir, I did.

Q Okay. And you also agreed with me that Melinda moved with [redacted] and the others sometime in 1995 when y'all separated?

A Yes, sir.

Q And at some point after that -- in the separation, you stated on direct, was basically because Melinda had killed your mother, isn't that right, what you said?

A My mother died three days later after she had beat her in the chest, yes, sir.

Q Okay. So, she moves off and your testimony is that you walk in and see her with her husband and they're wrestling around on the couch in Georgia or something, is that right?

A No, not with her husband. With a man that had molested her.

Q She's not married to that man?

A She is now. She was 14 years old then.

Q Okay.

A He was 24. He was molesting her.
Q And that's your, that's your baby, wasn't it?
A That's my daughter.
Q That's your girl, yeah.
A My daughter.
Q So, at that point you play investigator and you call the police, right?
A Yes, sir.
Q All right. And with [redacted], you would agree with me that she was nine years old whenever you became aware of her allegations against you?
A Yes, sir.
Q And you became aware of that because you were arrested at that time, isn't that right?
A Not directly arrested at that immediate time. They put charges against me or the accusations were made. I continued working and they decided they were gonna put charges against me and I went and turned myself in to them.
Q Well, you just stated on direct you guess she told someone. The fact is she did tell someone because you did, you were in jail, you were arrested, isn't that right?
A Right.
Q And you bonded out, didn't you?
A Yes, sir.

Q The same day?
A Yes, sir.
Q And you went and moved in with the guy that, your brother that just testified, isn't that right?
A Yes, sir.
Q Okay. And after [redacted] goes to the, to the sheriff, I mean to the Solicitor's Office and recants, you move back in with them, isn't that right?
You testified in 2002, end of 2002?
A Yes, sir.
Q Okay. And you continued living there and that was at 112 Cully, isn't that right?
A Yes, sir.
Q Until she moved out ultimately?
A Yes, sir.
Q Isn't that what you testified to?
A Yes, sir.
Q Okay. Now, she was 15, 16 at that time?
A Well, she was 15, 16, yes, sir, when she moved out to her -- when she turned 16 she moved in with her grandmother.
Q Okay. And during the time she was 16 living with her grandmother, isn't it true that the previous statement under oath you stated that she didn't come back home. She wouldn't, she wouldn't stay at the house.
A Oh, she, yeah, she came -- she wouldn't stay with her

grandmother because her grandmother wanted her to pay---
Q No, before that.
A Before what?
Q Before she moved to her grandmother's house she was there, and isn't it true that you testified under oath in a prior proceeding that she would stay gone from your house when she lived with you for three or four days at a time?
A When she lived with us she went home three or four -- was gone three or four days at a time, yes, sir.
Q And isn't it true that you testified under oath that you would go find her?
Is that true?
A Yeah, I'd go find her.
Q And isn't it true that you testified under oath that you'd get her, isn't that true?
A I would go get her and bring her home to her mother because her mother was worried. Yeah, I testified that under oath.
Q And didn't you also testify under oath that ultimately she had to go. You kicked her out of your home because she was stealing jewelry from your wife at the time.
A Yes, sir.
Q And you testified that she had to go because she didn't want to live by the rules of your house, didn't

you?
A Yeah, she didn't want to live by the rules of the house. She didn't -- that was -- that testimony is---
Q Did you say, in a prior proceeding, she did not want to live by the rules of my house was the question?
A Yes, sir, but not when she lived at, in Trenton. That was when we lived at---
Q Right.
A ---Cully Drive when she moved out to her grandmother's, and then after she moved out to her grandmother's she moved back in.
Q Yes, sir, I'm with you.
Now---
A And then she run away.
Q She---
A That was between the point in time that she says that I brutally raped her when she was 15. But when she turned 16, she moved out and then moved back in, and then she was raped says, when she was 16 and then she run away when she was 17. That's what the testimony says.
Q That's what your testimony says?
A That's what she verified in her testimony.
Q I didn't ask you what [redacted] said, did I?
THE COURT: Just ask the question please.
Q Moving on to [redacted]. I'll move on.

You previously stated [redacted], that you and [redacted] had a wonderful relationship when she was a kid?
A Yes, sir, we did.
Q She was very good in school?
A Yes, sir.
Q She was, you testified, your pet pea, didn't you?
A Yes, sir.
Q And it all changed at some point in 2010 when you found porn on the Internet.
Isn't that what you just testified to?
A Yes, sir.
Q That you searched and found her and I believe in a prior proceeding you stated it took you within the first two clicks you found her, isn't that right?
A First couple of pages, yes, sir.
Q Out of all the porn on the Internet you found your daughter in the first two clicks?
That's your testimony, isn't that right?
A The picture that I give to the investigator, yes, sir.
Q And it didn't end there, did it?
You also found a bunch of movies, which you testified to under oath?
A I found movies. I found pictures of my nieces and nephews. I found -- not nephews. My nieces. I found pictures on the Internet. Yes, sir, of a bunch of kids. I

went to the police. Nobody would do anything about it.
Q The police didn't do anything about it at that time?
A No. No, sir.
Q And you went to the news station, too, didn't you?
A Yes, sir, to let people be aware that if they had teenage kids to check that site because it was teenage kids and it was not an adult site. Something needed to be done about it. If we could not police the Internet, we needed to shut it down was my statement to the public.
Q You told them at the news exactly what you told this jury sitting here today.

Your statement to the public was exactly what you're saying here today, isn't that right?
A My statement to the public, yes, sir.
Q So, you would deny that in that interview that you told News Channel 12 that a friend basically called you up and said you needed to look at this website and that he wasn't sure but he thought he found your daughter?

Would you deny that?
A He thought it looked like my daughter, yes, sir.
Q But now you just testified under oath that you found this picture and in a previous testimony you stated that after watching Tyra Banks TV show?
A I did watch Tyra Banks TV show. That's what got me asking about it at work.

Q Yeah.
A And my friend told me about this site.
Q And then you put your investigator hat on again and you go and you found this picture on the Internet after they give you the name of the site.
Isn't that what you---
A Right.
Q Prior to today, isn't that what you said?
A Yes, sir, I had to look for it.
Q Okay. And in this News Channel 12 video you told the public a friend told you he found her, and then that's how she ended up getting---
A No, I said a friend told me -- when I had asked about it because I had seen the Tyra Banks show. I mean but, yes, a friend is the one that told me about the name of the site. All Tyra Banks had me questioning was she said that over half the children are on porn sites.
THE COURT: Half the children?
THE WITNESS: Of a, of a certain age. It was -- that's what her show said. It got me concerned, yes, sir.
Q Are you denying that you told the news that a friend called you and told you he found your daughter on a porn site?
He wasn't sure, but he thought it was your daughter, and so then you go and check it?

A I just said that he thought it looked like her, yes, sir.
Q No, you said he give you the name of the site.
A And he thought it looked like her.
Q Is that right?
A That's right. He gave me the name of the site. He said he thought he saw a girl that looked like her, yes, sir.
MR. MOLONY: Judge, I don't have anything else.
THE COURT: Anything on redirect?
REDIRECT EXAMINATION
BY MR. ROUTZONG:
Q Mr. Cartwright, the State just spent a lot of time asking you about that Internet site.
Why were you concerned about things like that?
A Because I love my children and I don't want to see them exploited on the Internet. I wanted to try to get the place shut down.
Q Why do you do that?
A Because I'm a responsible adult. Whenever I know something's happening with children I go to somebody about it immediately. I don't wait.
Q Thank you, sir.
THE COURT: You may step down.
Next witness, Mr. Routzong.
MR. ROUTZONG: That's all we have from the defense, Your Honor.

THE COURT: All right. Anything in reply by the State?

MR. MOLONY: No, sir, Judge.

THE COURT: All right. Let me see y'all over here at the side bar real quick.

(WHEREUPON, a bench conference was held out of the hearing of the jury at this time.)

THE COURT: All right. Mr. Foreman, ladies and gentlemen, it's 2:15. I probably need about an hour with the lawyers. So, that would put us at 3:15. By the time we argue and charge it puts us at about 4:15 when you would get the case.

Would y'all rather keep going or would you rather come back at 9:30 in the morning and be fresh and I'll have all of that out the way and we can get it going?

It's up to y'all.

THE JUROR: Prefer to go.

THE COURT: Ma'am?

THE JUROR: Prefer to go.

THE COURT: Keep going today?

THE JUROR: No, come back tomorrow.

THE COURT: Come back tomorrow.

Y'all can't -- you guys can't argue in the front row, now. You noticed where I looked.

All right. Let's do this then. Is 9:30 okay like we

did this morning?

We'll have everything out of the way. As soon as 9:30 gets here we'll come out and let them make their closing arguments and then I'll charge you on the various aspects of the case, and then we'll turn it over to you. And if you deliberate through lunch, I'll order your lunch. We can get it from wherever you want to get it.

In the morning, we've got fruit, whatever you want. Y'all tell me.

Ma'am?

THE JUROR: Fruit.

THE COURT: We got one that wants fruit. I think we got---

THE JUROR: Fruit.

THE COURT: Fruit okay?

All right. We'll have fruit. Mr. Whittle does pretty good with that. He finds bananas and strawberries and grapes.

Y'all have a pleasant evening. Please, we've got the news here. I would ask that you not read the news in the morning. Obviously they are welcome here always, and if you want to read all of the articles, let's just read it when it's over. Don't do any Internet research and just have a pleasant evening.

I'll see you bright and early in the morning at 9:30

and we'll go from there.

(WHEREUPON, the following takes place outside the presence of the jury.)

THE COURT: All right. Anything for the record by the State before we break?

MR. MOLONY: No, sir, Judge.

THE COURT: By the defendant?

MR. ROUTZONG: At this time, Your Honor, we'd move to renew our directed verdict motion.

THE COURT: All right. Respectfully denied for the same reasons as set forth before.

I've got the verdict forms is simply I'll ask y'all to look at them tonight before you leave. They are very simple. They are -- I will charge each of the offenses set out in the indictments. I think there are five different ones, four different ones, five. Anyway, whatever they are. Lewd act, CSC second and third, and second---

MISS AGNEW: CSC with a minor first, CSC with a minor second, lewd act, CSC first, CSC third.

THE COURT: Well, I'll just charge the statute on all of those.

Mr. Routzong, anything -- then you know my other charges are reasonable doubt, presumption of innocence, credibility of the jury, duties of the judge and jury

consider each indictment separate, separate and apart from the others. I might be leaving something out.

Anything else you need, Mr. Routzong?

MR. ROUTZONG: What is your charge on expert testimony, Your Honor?

THE COURT: The same as it's always been since you've been here, that you don't have to believe it, whether or not it's corroborated or not you can, you know, just give it whatever weight the jury determines to give it. If you will step up here I'll just give you a copy of it verbatim that you can look at. But it's the same thing we charge all the time.

They can give an opinion, but the jury can give it whatever weight basically, if any, if they want to. They don't have to accept it even if it's not contradicted.

MR. ROUTZONG: Yes, sir.

THE COURT: But I'll be glad to let you look at it and that's it. That's -- in essence, that's what it says. I'll hand you that copy and you can take it with you.

Anything else?

MR. MOLONY: No, sir, Your Honor.

THE COURT: All right. Well, let's be ready to go at 9:30. In fact, let's be here about 9:15 if there's any last minute things for me to do because I don't want to hold the jury up.

Thank you.

Have a very pleasant evening.

(WHEREUPON, Court was in recess for the evening.)

Thursday, April 18th, 2013

THE COURT: Good morning.

Anything for the record by the State before we proceed?

MR. MOLONY: No, sir, Your Honor.

THE COURT: Mr. Whittle?

THE BAILIFF: Yes, sir.

THE COURT: Bring me that newspaper off my desk.

THE BAILIFF: Yes, sir.

THE COURT: Anything by the defendant before we proceed other than we, for the record, discussed in chambers a newspaper article that was in the local newspaper this morning. I will inquire to see if any of the jurors have read it when they come out. We'll deal with that based on what we find out.

MR. ROUTZONG: Other than that, Your Honor, we don't have anything.

THE COURT: Okay. We are missing one jury, juror. It's 20 'til. I'm, I'm -- I'm gonna go ahead and elevate the alternate, the other alternate.

Any objection by the State?

MR. MOLONY: No, sir, Your Honor.

THE COURT: By Mr. Routzong?

MR. ROUTZONG: Not at this time, Your Honor.

THE COURT: Well, there won't be a later time either.

MR. ROUTZONG: Well, that would probably depend on what happens with the issue about the newspaper article, and that's what I'm referring to.

THE COURT: All right. Bring the jury in please.

(WHEREUPON, the following takes place within the presence of the jury.)

THE COURT: Good morning. I apologize. We're running about 12 minutes behind, and we're missing a juror.

So, first of all, before I do anything, I need to know, as I expected, there was an article in this morning's Aiken Standard that they brought to my attention when I got here concerning the trial.

Did anybody read that?

(WHEREUPON, the jurors respond negatively.)

THE COURT: I knew you would follow my instructions.

Now, I need to do this. Mrs. Candice Chavis, you're now part of the regular jury. Congratulations.

How was your fruit?

THE JUROR: Very good.

THE COURT: We had, we had bananas and strawberries. I just enjoyed it all so much. Just kidding.

Okay. Any other questions about the newspaper article, Mr. Routzong?

MR. ROUTZONG: No, sir.

THE COURT: All right. We are ready.

You're going to waive opening on the law?

MR. MOLONY: Yes, sir, Your Honor.

THE COURT: All right. Here's where we go now, Mr. Foreman, ladies and gentlemen.

The last thing to be presented to you, or the next to the last thing, will be the arguments, what we call the final arguments of the lawyers. You've heard all the testimony that will come in the trial of the case. So, what the lawyers do now is -- obviously they are adversaries for each respective side, and they'll be arguing the evidence in the light they deem it to be.

But you're the finders of the facts. You'll make your decision based on what you've heard. They'll just try to make an argument concerning their position and obviously it's, it's merely that. It's argument. You've already heard everything you're going to hear.

Once they complete their final argument, then I will charge or instruct you on the law, and then you'll be in a position to commence your deliberation, and we'll see how we go this morning, and I suspect we should have it to you within an hour, hour and a half, and then we'll see how we're going with deliberations about lunch. We'll, we'll order in, but we'll decide whether, what you want or you

may have enough fruit back there to carry you through.

Okay. Mr. Routzong, good morning. You may make your final argument.

MR. ROUTZONG: Thank you, Your Honor.

CLOSING STATEMENT

MR. ROUTZONG: Good morning, ladies and gentlemen.

I started out the other day by giving you a little head's up on what presumption of innocents means, and I want to reiterate that one more time, and that was -- for the presumption of innocence, as you're sitting there in those chairs, to have that viewpoint, that means that the State has their case wrong, and the accusers, the complainants in this case, are not telling the truth. That's the only thing the presumption of innocence means.

As you're sitting in your chairs right here, up until the time you go back to sit in those chairs in the jury room, you have to maintain that viewpoint. You have to maintain that presumption of innocence until you talk amongst yourself, argue amongst yourselves as to what you've heard, and you have to maintain that presumption of innocence as you go through that viewpoint as you go through each and every indictment.

Each and every indictment has elements of the crime. You have to find, beyond a reasonable doubt, on each and every indictment. Each and every element, you have to

find that the State has proven that beyond a reasonable doubt.

Judge Early will explain all of that to you.

You've heard a lot of witnesses in this trial. It's kind of gone up and it's kind of gone down sometimes, but I'd like to tell you now what I think we heard.

The first thing we heard was that Mr. Harold Cartwright was married to Melinda. That happened in '93. They got a divorce. After the divorce there was an agreement where no mention was made of any criminal sexual conduct towards [redacted]. Melinda agreed to give Harold visitation rights.

There was no problem. There's been no problem. There's no evidence that there was any problem up until 1999.

And what happened in 1999?

That's when Harold Cartwright discovered that [redacted] was becoming involved with a man who was about ten years older than she was, and, in fact, she got pregnant. Harold Cartwright, being Harold Cartwright, went to the police. He testified that he pushed for prosecution.

Ultimately what happened, the man that [redacted] married and has three children with now went to prison, and not only that, and maybe even worse than that, every year since he got out of prison he's had to register as a sex

offender.

You may wonder why I think that's important. It's important because year-to-year, and there's no evidence of this, but let's use our common sense, year-to-year he has to register. It's on the computer. Her children's friends can see it. The parents of her children's friends can see it. People who he may want to be employed with can see it.

What hardship has that brought upon that family?

[redacted] sat in that chair and said she wasn't mad about it. Basically it's okay. I'm not holding a grudge. But you also heard testimony that she hasn't spoken to her father in several years.

I think there was actually two kinds of testimony. One was 14 years I think or since she was 14, and one that I think Mr. Cartwright said has been several years.

The point is the relationship was broken and why?

It's not because of what she said. Because what [redacted] told you about the molestation was a lie.

And how do we know that?

We know that because all those years went by and nothing was said until he prosecuted her husband and accused her mom of being a bad mother. Now, suddenly, there's molestation issues.

Remember what Doctor Benedetto said. Child custody

issues, in her experience and training, are a reason that people bring false allegations.

I want to say one other thing at this point about what the State presented about Mr. Cartwright's suicide. Their argument is that that's an issue of flight. In other words, he feels guilty and he's trying to flee from the justice system. You have to presume that he's innocent.

And what does that mean?

That means that's not true.

Alternatively, Mr. Cartwright told you that the day he tried to kill himself was the day they served warrants, and the warrants that they served were on the charge that [redacted], his biological daughter, he said the daughter that I love, she made these allegations and that's the day he tried to commit suicide.

You have to presume that's true until collectively, after the arguments that you make back there, you decide unanimously that the State has proven that beyond a reasonable doubt. The opposite.

Let's also talk about the other things we know about what was going on right around 1999, 2000. You heard testimony from Melinda that she knew a lady named Sandra Parsons.

Now, if you'll recall, Sandra Parsons was the lady

that [redacted] said that she disclosed to. Not Buffy, her mom, but Sandra Parsons.

I would argue, ladies and gentlemen, that's a very important fact. It's important because Harold Cartwright testified that Sandra didn't like him very much. Sandra also knew Melinda.

We don't know what the connection is there exactly. We know there's a connection. I can't stand up here and say I know for sure that Sandra told [redacted] or maybe told Buffy or maybe told Buffy and, and Buffy kept asking her and asking her and asking her and she said finally, yeah it happened.

I don't know. I can't say what happened, but the one fact that we do know out of that whole situation right there is that [redacted] came to this courthouse, went down, and downstairs in the Solicitor's Office, and told Solicitor Brenda Brisbin that it didn't happen. That's a fact that we know, and that was back in 2002.

Around that same timeframe you have Buffy marrying Harold. They were living together. There's [redacted], and [redacted], Buffy, and Harold. They were living together in 2003. There's no allegations. 2004 there's no allegations. 2005 there's no allegations.

They said [redacted] and -- [redacted] probably a little bit later on, but [redacted] and [redacted] said, during that

period of time from 2003 to 2010 and actually up to 2011, the beginning, that he was molesting them three to seven times a day. That's two, two young ladies. Apparently that's six to fourteen times a week.

Ladies and gentlemen, that's not credible. That's not, that's not common sense. That's not reasonable to believe, and the other things are, during that whole period of time, you've got relatives, principals, teachers. He's not there all the time. You know, in that context, they said that he was a very violent man and that he threatened them and to blow them up and hold knives to them and guns and, and everything else. But during that whole period of time there's nothing.

Ladies and gentlemen, if you're under that kind of pressure with violence, you've got relatives. There are, there are people like Hoss Cartwright in the house during that period of time. It's not reasonable to believe. It's not common sense to believe that they didn't make any report to someone.

It's easy. Hoss said he knew how to dial 9-1-1. Obviously all of them do. Buffy's letting her children go through all this, this threats of physical violence for ten years and nobody says anything. Nobody sees anything. Just them. Fourteen times a week.

Ladies and gentlemen, I told you that [redacted] lied.

She told a lie and I just told you why. She's mad.

Let's go up to the point in time where the allegations that we're here today first began to surface to law enforcement. [redacted] testified that she was called into the Sheriff's Office because her ex-boyfriend was involved with drugs. She says it wasn't me. They just wanted to know what I thought about that situation.

Ladies and gentlemen, that's not reasonable. That's not common sense because she testified that she didn't know whether or not she was going to be arrested. That's one reason it's not reasonable.

But the other reason is your common sense will tell you, if you're staying with a person that is a target of a police investigation, and we're talking about drugs, what does that mean?

You're involved with drugs.

Either you're a user or a supplier. You don't live with drug dealers, and she was trying -- she testified, well, I did that because I was trying to get rid of, to get away from Harold.

Well, ladies and gentlemen, do you remember what else she said?

She moved in and out of that house a few times. She lived with her grandmother. She could have lived with an aunt, an uncle, but she went back, afterwards, back into

the house where somebody's threatening to kill, molesting them 14 times a week, all these vile things that they said happened in that house. That's where she went back to.

That's not reasonable. That's not common sense. And, you know, when you're thinking in light, in light of what Doctor Benedetto said about child sexual dynamics, you're talking about a person that's not a little kid anymore. She's out staying with her boyfriend who's involved with drugs.

So, she walked into the police station, the Sheriff's Department, and she played that victim card because she was worried that she was, she was in hot water.

And the police said, well, what else was going on?

Well, my sister, [redacted], also was molested.

[redacted] kind of an interesting case here as well.

What did [redacted] testify?

She said Harold -- she said her deceased father, the Social Security benefit from the government, she got a check for $20,000 and got monthly payments of $800, and she said Harold Cartwright took all that money. She didn't get it. Bought land, a trailer in his own name, and she didn't get it.

You know, the interesting thing I thought when I saw this, and you'll recall the testimony was this is the defendant's trailer, is, is his utility trailer?

It says [redacted] dollar sign. [redacted], dollar sign. [redacted] money.

Now, can I say that [redacted] painted this?

There's no testimony to that. But it does corroborate my argument. If you believe that [redacted] painted this -- if that's the most likely thing, she's telling you what it's about.

And what else was going on in that house?

We have Hoss Cartwright. He said, well, I would see my dad go into [redacted] room every morning and he was just in there for odd, bizarre periods of time, extended periods of time, and he testified that it, it was just unbelievably odd and yet he also testified or finally he had to admit that he testified in a prior proceeding that he didn't think anything about that at the time.

Ladies and gentlemen, that's not reasonable. That's not common sense. He was hardly in or he hardly had a relationship with the defendant. The defendant was hardly in his life at all. It's not because the defendant wanted it that way. But finally Harold came to live with him.

Now, here's the thing about why he came to live with his dad. You heard testimony from Hoss and Harold. Harold said I believe they were becoming romantically involved with, with each other, and Hoss said he had the impression that his dad believed it.

You know why?

His dad told him that.

That's the way Hoss -- I'm sorry. That's the way Harold Cartwright is. You know, when he saw that his daughter was with an older man, he went to the police. When he sees that there may be a romantic relationship blooming between [redacted] and her brother, he tried to put a stop to that. He probably, at least common sense would tell us, if we believe that that's true, they probably got mad about that.

And what is, what is the evidence?

How can I even say that?

That's all just kind of speculation, right?

Or is it?

Because Hoss sat right there and said, when I asked him, isn't it true that you and [redacted] were put on trespass notice at the K-Mart in North Augusta for shoplifting condoms, and he said yes, that's true.

Can I say that they were purchasing condoms with any amount of certainty so they could use them?

No, I can't sit up here and say that. There's no evidence of that. But use your common sense and it tells you. It helps to corroborate what Harold believed was, was happening and why Hoss is lying about what he saw.

And at the same time with [redacted], there's a five

month period there from October, the follow-up, I'm sorry, the Fall of 2010 up until February when these disclosures came out when Mr. Cartwright, when he saw or when he thought he saw his stepdaughter on the Internet posing in compromising, compromising pictures, and they were being placed on the computer for everybody to see, what did he do?

He went to the police department in North Augusta he said. He even went to the television station to try to alert everyone else.

Now, I don't know. That might have been extreme. I might have wanted just to keep all of that quiet and tell them not to do it anymore. But that's not Harold Cartwright. He's a guy, when he sees something wrong, he's gonna do something about it. Just to fill in the picture a little bit, you remember what he said. He told you about I was a construction supervisor and I did this, that, and the other. That's the person he is. He takes charge and he's going to be the person that, that does what's right. He's not gonna sit down when he sees that something is wrong.

So, at the time there, right before this disclosure, you've got Hoss and you've got [redacted]. You've got [redacted]. You got Buffy living in a mobile home, all thin walls, stuff happening three to seven times a week times two, and

Buffy said, in the, in the testimony that we read, she said well, I guess I was just naive.

Ladies and gentlemen, that's not reasonable. It's not common sense. It just doesn't make sense.

So, [redacted] said well, [redacted] involved. She tells law enforcement she's being molested. So, law enforcement tells or goes, goes to the school and they talk to [redacted], and she says yeah, this, that, and the other thing happened.

But you remember what they talked about that there was some testimony about -- before the allegations came out they were going to get together and they were going to disclose and actually try to, you know, get this situation squared away finally. That was in December of 2010 I think or maybe January of 2011. It was a birthday party around that time.

So, law enforcement talks to [redacted]. They hear about [redacted], but they ask [redacted] well, what happened and [redacted] says, well, there was this time when he came into my room and that was within a very short period of time after her disclosure or, and during the time when, close to where she, when she disclosed, and she said he came into the room. I was wearing pajama bottoms with penguins on them and a Michigan shirt or a tank-top. She wasn't sure which one. He got on top of me. She never said he took her

clothes off. He got on top of me. He held me down. I couldn't get up.

So, she's got her clothes on and on these sheets that she says she's been sleeping in for a couple of weeks. He gets on her and she calls it humping. So, he's on top of her. He's humping her, she says. He ejaculates and then he leaves. I think she says he goes about his business.

Ladies and gentlemen, let's just pause right there and consider the evidence. When the police came and collected all those items of clothing, including the sheets -- well, it's not an item of clothing, but including the sheets, they did a, a test to see if there was any bodily fluids. The only thing that they actually sent to SLED was a pair of panties and the sheet, and the reason is there's no semen on the pajamas or the shirt or any other items of clothing there.

Ladies and gentlemen, that story was a lie. It's not reasonable to believe that he's holding her down. She can't get up. She's wearing these clothes on these sheets that she's been sleeping on for a couple of weeks. It's not reasonable to believe that there's no semen on any of the clothing. That's not common sense. That's how you know it's a lie.

On the same day that [redacted] and [redacted] disclosed to law enforcement, law enforcement called Buffy -- this is

on the 24th of February -- to the school to let her know what was going on. Remember, the testimony was they took [redacted] and they put her in Helping Hands.

But the testimony that Buffy gave was that after that meeting she went back home, met with Harold Cartwright, drove all the way to Rance, Georgia with him so that he could borrow some money from a friend and then they came back and he left.

Ladies and gentlemen, that was a lie. That's not reasonable. That's not common sense. You've got these, these vial allegations made by two of your kids to law enforcement with a man that she, everyone says is extremely violent, going to blow them up, shoot them, whatever, what he's gonna do, and the only thing she knows to do is go back home, get in a car with him, and go to Rance, Georgia so he can borrow some money. Come on.

The next day, after the 24th, after going to Rance she says, she calls the Sheriff's Department and says I have some sheets, some articles of clothing. I think you'll find DNA on them. So, law enforcement comes out there. They gather all of them up. They test them, pretest them down here, and the ones that they actually wanted SLED to test for DNA, they send them up to Columbia and Doctor Gallman testified as to what she found.

And you remember I asked a couple of people what is

touch DNA. Touch DNA is the DNA that's transferred from one person to an object or something else from the skin cells. It can come off your sweat, saliva, bodily fluids, probably semen obviously. That's where touch DNA comes from. Semen is not so much that way, but usually it's when you touch something, you lay on it for two weeks, you're shedding skin cells, you're shedding hair. You haven't washed it in two weeks. It's gonna be there.

But when they tested it, ladies and gentlemen, the only DNA they found was Harold Cartwright, and you'll, you'll recall that I asked her well, what is a mixture. A mixture is when there's two kinds of DNA, two, two person's DNA. There was no mixture here. There was only Harold Cartwright's semen.

Let's back up for just a second and listen to what Harold Cartwright said happened. He testified that his marriage had not been very good for a while. She'd had a hysterectomy. She wasn't having sex with him all that frequently, and he said it was an okay day, and then suddenly she offers to masturbate him with a pair of panties on the bed in Hoss's bedroom. Coincidentally, that's where the sheets are supposed to be coming from.

Now, can I say to you is there really evidence -- there's some evidence. [redacted] said those are the sheets I was on, I was on. Buffy said she got it out of that room.

Can we say, beyond certainty or beyond a reasonable doubt, those were the same sheets?

All what we can say is Harold Cartwright's telling you that he got masturbated on the bed, Hoss's bedroom, with a pair of panties. Afterwards he said she immediately started getting in a fight with him, and at that point he actually left the house because he told you things hadn't been going very well for a while.

Ladies and gentlemen, Doctor Benedetto was an interesting witness because she testified to child sexual dynamics and what did she say?

She said, well, sometimes people disclose. Sometimes they don't disclose. Sometimes they recant. Sometimes they don't recant. Sometimes they delay. Sometimes they don't delay. In other words -- and she told you it's not diagnostic of anything.

But the important thing that she did say, and Mr. Hayes asked her, is revenge a motive for, for making a false allegation?

She said yes, in her experience.

Money?

She said yes, in her experience.

Child custody?

Yes, in her experience.

If you look at this picture, this story that I've

tried to tell you, ladies and gentlemen, and you follow it, you find all those things, but what you don't find are people, when they had the opportunity, they could have gotten away, they didn't. That's not reasonable. That's not common sense and you're not always talking about a little kid.

You're talking about young women, and you've got all these elements, ladies and gentlemen. You have revenge. [redacted] mad. She has to live with a sex offender maybe for the rest of her life, maybe until he gets off of it. It's an irritant.

[redacted] was in trouble. She lied to get herself out of trouble. [redacted] lied because she's mad because he took her money. She's mad because -- and she said it was wrong. She said -- that makes it worse. She said I wasn't on there and he called one of her friend's parents and broadcast it all over, all over the Augusta and Aiken area on television.

If you take all of those things into consideration, ladies and gentlemen, and you presume that the State has their case wrong, and they're lying, you have to give credit to the defendant's story, and you have to find him not guilty.

Thank you.

THE COURT: Mr. Foreman, ladies and gentlemen,

everybody okay?

THE JUROR: I need to be excused for just a moment if at all possible.

THE COURT: Sir?

THE JUROR: I need to be excused for just a moment if at all possible.

THE COURT: Why don't y'all all step back. Don't discuss the case. Don't deliberate. If you'll knock on the door and tell Mr. Bailiff when you're ready to come back out.

(WHEREUPON, a short recess was taken at this time.)

CLOSING STATEMENT

MR. MOLONY: Please the Court.

Ladies and gentlemen, I, I won't be up here all morning. I've got to touch on a couple of things you just heard from Mr. Routzong.

So, first of all, can you believe this poor man?

Everybody's lying. The cops are lying. Doctor Benedetto's lying. These three daughters are all lying.

[redacted], the oldest, the biological daughter, she's lying because 18 years ago there was a custody dispute between the defendant and her mother. Eighteen years. Fourteen years ago the defendant puts on his investigator hat, which is one of the many he wears, and he decides he's gonna go look for some child predators and he finds

them, her husband, 14 years ago, and that's 12 years after the defendant says he and [redacted] relationship ended, that law enforcement came to [redacted]. Came to her. She didn't call them.

There was no motive to lie. She didn't go to them. She never said anything. She tried to move past it. She got three kids and a husband. She's in Rome, Georgia. She didn't want to be here, but she said she's got to do it. She's got to get it off her chest.

She's got 24 ears listening to it finally, and that goes for all of them.

But, golly, can you believe him?

I feel bad for him, huh?

Because then [redacted] comes up. [redacted], the nine year old, when it begins. But [redacted] was rebellious as a teenager. She was rebellious. She didn't want to go to his house. So, he went and got her, brought her home. Didn't want to play by the rules of his house. I wonder why. She went and is a drug dealer, drug something from Mr. Routzong said.

Investigator Gaskins is a liar. She tells you she's not being investigated for anything. She's there helping police against an ex-boyfriend from a year ago giving some information, if any she had, about drugs. And while explaining why she's not living with that guy anymore and

why she was living with him in the beginning because of the rules of his house.

And then [redacted]. Tyra Banks television show. He decides to put on another investigator hat. This time into child porn on the Internet. He's going to find her. He talks to some young people at work. The young people at work tell him a name of a website.

So, he goes and the first two pages he finds his daughter out of all the porn. That's what he says. It's not what I'm saying. All the porn on the Internet, I find her -- I found her in the first two clicks.

But then, when I brought up this TV interview he did, well, I, I found her, but see my friend called me and said he found her, but really he just gave me the site and found her and then he just kind of moved on.

Golly. Credibility, ladies and gentlemen.

But he finds her on this porn site, and he says he confronts her, and he's, he's going after her and now she's embarrassed. So, that's why she's here.

DNA on the sheets. His wife, who testified through the little play type thing we did here because she can't be here, she's sick, his wife tells you we ain't had sex in years. He's saying it. They didn't have -- they weren't having sex. But that day when he walked out of that kitchen she couldn't resist him.

So, she pushes him, tries to, into [redacted] bedroom, but he fought back until she got a hold of him and threw him into the bed that just so happened [redacted] was staying in, the bed that these sheets are on. He grabs or she grabs a pair of panties against his will. Poor guy, golly, and ejaculates him on her bed with panties against his will.

Did you notice what day that was?

The day that he said that that happened, the same day that [redacted] and [redacted] got it off their chest to law enforcement and told them what happened. What a coincidence.

Golly, I feel bad for him, don't you?

You got to. That poor guy, and the suicide attempt.

Did you hear him say this?

They hate me because I love them.

Now, that's why he did it. I think, after you listened to exactly what the evidence showed, you might understand if they don't like him very much, but I don't think they got the same idea of love that he does, and I could keep going with his ridiculous stories including being the youngest American Cuban shrimper in Cuba, American shrimp. It's about what we said at the beginning, what the evidence was gonna prove, ladies and gentlemen.

The truth is in the details, and this third grade chart I made, it, it really could be helpful in one sense that you can actually see when you go back there, these are gonna be your indictments. These are gonna be your sentencing sheets.

[redacted], the oldest victim, I told you it started when she was four. You heard her say it started when she was four years old. At the house, in the bathroom, she's forced, she's forced to perform oral sex on him. He tells her to lick it up because it tastes like candy. I told you it would be disgusting, revolting, and it was.

Four and four, the lewd acts, the same thing basically, during the same time. He's doing it, touching her body, making her touch his body, and I think it was probably for his sexual desires. I doubt it was for his four year old or his five year old when it continued from '90 to '91 or his six year old, seven year old, eight year old, nine year old, ten year old. She stated it happened from when she was four until she was ten.

She gave you specifics. The truth is in the details. When she's six years old, she's fishing and he does it underneath -- she remembers an overpass not far from their house in Clearwater, and they fished for a little bit. They get back and they leave. Those are the little things.

When she's seven, she's in the bathroom. He performs oral sex on her in the bathroom. Seven year old. She said it seemed like forever, but it was about five minutes. He closes the glass back and leaves. Goes on with his business.

Eight, nine, and ten, she said the oral sex continued until finally some time in 1995 in-between these two dates she's able to get out because Melinda leaves, and during this time she tells Melinda. Melinda sits up here and tells you she told me as a four or five year old.

Should Melinda have done more?

Probably so.

She -- it's -- but don't blame [redacted]. It isn't [redacted] fault, and the same with Buffy.

Should Buffy have done more for those two girls?

Absolutely, in my opinion. Absolutely.

But that doesn't mean he didn't do it, and that isn't their fault. These are children. These are children and you can see now. See CSC with a minor, sexual battery, which would be fellatio in this case, and also cunnilingus when she was seven, and the victim is under 11. It's four to ten. The lewd act we've been through.

And then [redacted], the rebellious one, didn't want to play by his rules. It starts when she's nine. And if you look at the years, this is 2000 and 2001. He just meets

Buffy. Buffy has two brand new targets already waiting on him, two, two daughters from a previous marriage. That's a perfect target for him. I married a woman who has two daughters, set up, waiting on him, and that's what he did. He started when she was nine years old, 2000 to 2001. You got your lewd act and your CSC with a minor.

In the computer room, underneath the computer desk. Told me that it was good for me. The details. Those are things you don't make up, and, ladies and gentlemen, it's corroborated.

I didn't hear why Michelle Prince is lying, the DSS caseworker. I don't guess he knew her very well. She got up here and told you, she told me, on July 17th of 2001, as a nine year old, that she was sexually abused in the computer room of her residence. You don't make that up. That's before she was running away, trying to stay away from him, trying to stay away from the house. That's, that's, that's when she's nine.

That's corroboration, ladies and gentlemen, and you don't even need that. You can listen to these victims, but you've got it. You've got it with Melinda. You've got it with her.

When she's nine years old, nine years old, I told you when she was ten, no indictments. I told you to listen why. He's in jail. Then he's out of jail and he's bonded

out and he's with the brother that you heard. I'll get to this in a little bit. The brother that put this picture in I believe. The money sign, spray painted, it looks like some storage trailer somewhere. But ten years old. Nothing happens. She gets a break because he is bonded out of jail basically, and as soon as he moves back in, in 2002, it's towards the end of 2002, it starts right back up, but this time it's not oral sex.

She's not claiming that continued. It's the humping starts. She called it -- she said that he called it scooching, the details. If you're going to lie, make it a whopper.

Why not say oral sex, oral sex, rape, rape, rape?

Because they're telling the truth, ladies and gentlemen.

That's how you know it. It starts right back here, but it's humping. It's less than it was. Here's your lewd act. It continues when she's 12, 13, and 14. Humping, humping, humping.

And then when, when [redacted] turns 15, the defendant buys her a tongue ring and forces her to perform oral sex on him and then later that same year, [redacted] not quite as young of a target, she's not quite as innocent of a target due to the abuse that's been occurring in the last six years, she's not quite as convenient of a target. So,

he ups the anti, and gets the buck knife with a black handle, and he throws her over the couch. She remembers hitting her toe on the coffee table. The details.

Not American and Cuban shrimper. Hitting my toe on the coffee table with a knife to my throat, that's your aggravated force, that's what he did, and he rapes her.

This adds up, ladies and gentlemen. The whole story adds up, the details, and it's in the details.

Finally [redacted] [redacted]. His pet pea.

Do you remember him saying that?

I didn't have any trouble with [redacted]. She was a great student. She was just -- gave me no troubles up until this infamous Tyra Banks episode, and I found out she's a porn star. I think [redacted] told you a different story that before this porn star allegation came out from the defendant that basically half of North Augusta children were in porn he said, and his niece and then he kind of said his nephew, and he took that back.

Before all that occurred, when she was 16, I think [redacted] told you a little different story. That when she's 13 years old he starts with the humping. It's the same type humping that [redacted] was describing. The same type things, in the morning time, before school, he'd get up. He'd go about his day like nothing happened. She'd get up and go live like -- try to live like a normal 13 year old

at school the rest of the day.

Continues when they're 14, when she's 14 years old, the humping up until they moved to the shed.

What a target he had at the shed?

And he had a hand in it. I got an idea. Let me not work. Let me let my wife go to work. Let me homeschool my daughter. Let me put her on birth control, and let me rape her every morning, about every morning, and Mr. Routzong misquoted some of the facts that you heard. They didn't say three to seven times a day. It was three to seven times a week. Three to seven times a day really wouldn't be that implausible, but that's not what they said, and the raping occurred, which is what you got CSC with a minor, the sexual intercourse.

She was 14 years old and he was the stepdad, if you call it that. Fourteen, continued 15 years old when they moved from the shed back into the house. It breaks for a little bit when Hoss moves in which is when they get back. This is the lewd act, touching the private parts, her sexual desires again. Again, I assume it would probably have been for his sexual desires and only his sexual desires.

And lastly she turned 16. This is the time period she said the sex occurs again. Hoss moves out and you've got the CSC third, which is just the sexual intercourse

with force and coercion. He lays her down on the bed and does it in her room, the room where these sheets came from, the room she was staying in at the time.

You've got the DNA. You got exactly how it came. They took those sheets because he said go wash the sheets, my DNA is on them. You noticed he said we took one pair of sheets that day. They didn't collect sheets from every bed. They took those sheets because that's where he said his DNA was on it, and boy was it ever.

It wasn't his DNA. It was his semen. Lily Gallman told you they weren't looking for -- I love it. I love how things can come out sometimes. They weren't looking for this touch DNA. She says we're looking for semen. We're looking for specifically semen.

What good would it have done to look for her DNA when we knew she was sleeping there?

His semen would tell us a little something about what was going on with her sleeping there and it did. One in 16 trillion. I have no idea how many zeros that is, but it is a ton, and it ultimately means that there is one in 16 trillion chance that it's not his semen in that bed.

And then the suicide. The same day, April 13th, 2011, he thought, okay, I may can beat this thing with [redacted] and [redacted]. I've scared them enough, recent enough, that maybe they'll back down. Maybe they'll go away.

April 13, they go to the jail. Here is your new warrants, you unlucky guy. Sorry, man. Here you go.

Oh my. I thought she was gone. I thought I didn't have to worry about her anymore.

All three of them?

How am I going to do this?

I got an idea. I'm gonna grab this sheet.

Ladies and gentlemen, the case comes down to what the evidence showed. It's not as all over the place as the defense wants you to think, and that's what they have to do. Otherwise you'd listen to what you heard. You'd listen to what the evidence proved.

Now, beyond a reasonable doubt is your burden and it's firmly convinced. Use your common sense. The judge will tell you. Mr. Routzong kept telling you. He's right. Use your common sense. All that means is the things we use everyday, judging, judging the credibility of the witnesses.

As Mr. Routzong said in his opening statement, if you believe the victims, the defendant's guilty. We got the victims. You got I may have messed with those girls. If I did, I'm sorry, I can't remember, from the poor, poor, poor guy's mouth. You got one in 16 trillion.

Find him guilty.

THE COURT: Mr. Molony, how about move that chart?

Mr. Foreman, my charge is about 15 to 20 minutes. I'm gonna give my court reporter and everybody else a little quick bathroom break. Y'all step back. Don't discuss the case. Don't deliberate. They'll knock on the door for you as soon as everybody stretches their legs.

(WHEREUPON, the following takes place outside the presence of the jury.)

THE COURT: We're going to take a bathroom break for everyone.

The defendant's in custody.

(Whereupon, a short recess was taken at this time.)

THE COURT: Is the State ready to proceed?

MR. MOLONY: Yes, sir, Judge.

THE COURT: Mr. Routzong.

MR. ROUTZONG: Yes, sir.

THE COURT: All right.

(WHEREUPON, the following takes place within the presence of the jury.)

JURY CHARGE

THE COURT: All right. Mr. Foreman, ladies and gentlemen of the jury, the first part of my instructions or charge deals with general propositions concerning criminal cases, and then once I finish that we'll go into the specific indictments in this case.

Let me start off by reminding you, obviously, in this

case, the defendant has multiple charges set out in over 28 indictments. Yeah, 28 indictments. If my count is correct, and I think it is, we have one charge of first degree criminal sexual conduct. We have eight charges of criminal sexual conduct with a minor in the first degree, two charges of criminal sexual conduct with a minor in the second degree, one charge of criminal sexual conduct with a minor in the third degree, and then 16 counts of lewd act.

Now, obviously, as I told you when we began, the fact that he has been arrested and charged and indicted, that is not evidence in the case. That's simply the manner in which this case is brought into the courtroom, the formal documents bringing it into the courtroom. So, please do not infer anything from the fact that he was simply indicted.

Now, you will be asked to consider each indictment, each indictment separate and apart from the others. In other words, you'll decide one indictment, and then you'll go to the next and to the next and to the next and to the next. You have 28 of them.

He can be found not guilty on some, guilty on others. He can be found not guilty on all, guilty on all. Any combination that you feel, if the evidence proves his guilt beyond a reasonable doubt. So, you have to look at

all 28 of them individually and decide whether or not the State has met their burden of proof on each indictment separate and apart from the others.

Does that make sense?

As to each of the 28 indictments, the defendant has pled guilt -- he has pled not guilty. He's pled not guilty, and a plea of not guilty obviously puts the burden on the State of South Carolina, through the Solicitor's Office, to prove each and every element of each and every offense of each and every indictment to you beyond a reasonable doubt.

A person charged with committing a criminal offense in South Carolina is never required to prove himself innocent. I charge and instruct you that there is an important rule of law, a constitutional rule of law that no matter how serious the charges may be, the defendant will always be presumed to be innocent of the crimes for which the indictments were issued unless guilt has been proven to you by evidence satisfying you of that guilt beyond a reasonable doubt.

The presumption of innocence does not end when you begin your deliberations, but it stays with a defendant throughout the trial until you reach a verdict of guilt based on evidence satisfying you of that guilt beyond a reasonable doubt.

Now, the presumption of innocence is not a mere legal theory. It's not a legal phrase. It is a substantial constitutional right to which every defendant is entitled unless you, the jury, are satisfied from the evidence of the defendant's guilt beyond a reasonable doubt.

Now, what is a reasonable doubt?

Our Appellate Courts have defined it basically two ways. They say that a reasonable doubt is the kind of doubt that would cause a reasonable person to hesitate to act. It's the kind of doubt that would cause a reasonable person to hesitate to act.

The State has the burden of proving the defendant's guilt to you beyond a reasonable doubt. Proof beyond a reasonable doubt is also said to be proof that leaves you firmly convinced of the defendant's guilt. There are very few things in the world that we know with absolute certainty, and, in criminal cases, the law does not require proof that overcomes every possible doubt.

If, based on your consideration of the evidence, you are firmly convinced that the defendant is guilty of the crimes charged, you must find him guilty. If, on the other hand, you think there's a real possibility that he is not guilty, then you must give him the benefit of the doubt and find him not guilty.

Let me remind you, once again, as I told you when we

started the trial of the case, that you and I have different duties to perform. My duty is mainly two fold. That is I instruct and charge you on the law. That's what I'm doing now, and I also rule on the admissibility of the evidence.

There was some evidence that we kept out such as hearsay and things of that nature, but, for the most part, everything's been admitted into the trial of the case. So, those are my two responsibilities.

Your responsibility, obviously, is much more important than mine because you are the finders of the facts. You're the judges of the facts.

So, by being the judges of the facts, that means I cannot have any opinion about the facts. I have to sit up here and have no opinion about the facts. So, if there's been any time during the trial of this case that I rolled my eyes or yawned or whatever, picked up my glasses and chewed on them or stretched or whatever, and you think I'm commenting on the facts, please don't, don't take anything that I've done in the trial to think that I have an opinion about the facts.

I can't do that. The law doesn't allow me to do it. I have to sit up here and rule on the law and the evidence and I have no opinion whatsoever about the facts. That is solely, solely your job. So, please don't believe or

think that I have any opinion on the facts because the law doesn't allow me to do so.

Now, I did tell you, when we started, that if this trial is like most of them that I'm involved in, you will hear testimony anywhere different from night and day, and this trial has been no different. You've got a version of facts by some witnesses and a complete different version of the facts by other witnesses.

So, to perform your job as the finders of the facts, obviously you must determine the credibility of the witnesses who have testified in the case. Credibility simply means believability.

Who do you believe?

Who was telling the truth?

What are the true facts are in the case?

It is your duty, as jurors, to analyze and to evaluate the evidence and determine which evidence convinces you of its truth. In doing so, I ask that you use your every day common sense. You deal, have dealt, throughout life, with wives, with husbands, children, employees, employers, friends, and you know how to determine, how to determine whether someone is telling the truth. Use that, in a sense, to determine what the true facts are in this case.

In determining the credibility or the believability

of the witnesses who have testified in this case, you can believe one witness over several, several over one. You can disbelieve everything a witness says. You can believe everything a witness says. You can believe a little bit of it, disregard the other. You have the right, and it is your duty to determine what the true facts are and what the truth is and who is telling the truth, and I ask that you use your common sense to do that.

You may consider whether any witness has exhibited to you any interest, bias, prejudice, or other motive in the case, and you can also consider the appearance and manner, how the witness testified and how he, he or she acted on the witness stand.

We had a couple of witnesses who I qualified as an expert. Normally our rules of evidence do not permit a witness to testify to opinions or conclusions. An exception to the rule is what we call the expert witness exception.

A witness, who by education, training, and/or experience who has become an expert in some field, art, science, or profession may state an opinion as to any relevant and material matter in which the witness claims to be an expert, and may also state the reasons for the opinion. You should consider any expert opinion received in this case, and like any other evidence, give it the

weight you think it deserves. If you decide that the opinion of an expert is not based on sufficient education and experience or if you, or if you conclude that the reasons given in support of the opinion are not sound or that the opinion is outweighed by other evidence, you may disregard the expert's opinion.

An expert witness's testimony is to be given no greater weight than that of any other witness simply because the witness is an expert. Further, you're not required to accept an expert's opinion even though it's not contradicted.

Now, Mr. Foreman, ladies and gentlemen, that's sort of the general propositions of law dealing with criminal cases. Let's go now to the various offenses set out in the indictments, and I will start off with the charge of first degree criminal sexual conduct.

That's defined in our statutes in Section 16-3-652. In one of the indictments, Indictment 304, he's charged with criminal sexual conduct in the first degree, and that would have been between October 17, 2006 and October 16, 2008, with [redacted].

The first element which the State must prove, beyond a reasonable doubt, is that the defendant engaged in a sexual battery with the victim. Must prove, beyond a reasonable doubt, he engaged in a sexual battery with the

victim.

Sexual battery is defined by that same code section as either sexual intercourse, cunnilingus, fellatio, anal intercourse, or any intrusion of any part of a person's body or of any object into the genital or anal openings of another person's body. If you find that the State has not shown, beyond a reasonable doubt, that a sexual battery, as I've just defined it, occurred, then you would stop deliberating and your verdict would be not guilty. If you find, however, that a sexual battery, i.e., sexual intercourse, cunnilingus, fellatio, did occur then you must decide whether the State has proven, beyond a reasonable doubt, that the defendant used aggravated force to accomplish the sexual battery.

Aggravated force means the use of physical force or physical violence of a high and aggravated nature to overcome the victim, which includes the use or threat of a deadly weapon.

All right. That is criminal sexual conduct in the first degree. There's one indictment for that. Must prove a sexual battery, which I've defined, and that it was accomplished by means of physical force or physical violence. That's the one, the one indictment dealing with criminal sexual conduct in the first degree.

Now, there are eight indictments dealing with

criminal sexual conduct with a minor in the first degree. That's a separate offense from first degree criminal sexual conduct.

Criminal sexual conduct with a minor in the first degree, the State must prove, beyond a reasonable doubt, number one, or, again, that the defendant engaged in a sexual battery with the victim. Must prove, beyond a reasonable doubt, that the defendant engaged in a sexual battery with the victim. And, once again, sexual battery, under that statute, has the same definition, sexual intercourse, cunnilingus, fellatio, anal intercourse, or any intrusion of a person's body or any object into the genital or anal openings of another person's body.

The State must then prove, beyond a reasonable doubt, that the victim was less than 11 years old at the time of the battery.

So, in first degree criminal sexual conduct with a minor, you have to prove, beyond a reasonable doubt, that there was a sexual battery, i.e., intercourse, fellatio, cunnilingus, et cetera, and that the victim was less than 11 years old at the time of the battery.

That's criminal sexual conduct with a minor in the first degree, and, as I said, there are eight of those and they deal with [redacted] between January 7 of '95 and January 6 of '96. Again with [redacted], January 7, '94

through January 6 of '95. Again with [redacted], January 7, '93 January 6 through '94, through '94. Again with Miss [redacted] January 7, '92 through January 6 of '93. Again with Miss [redacted] January 7, '91 through January 6 of '92. Again with Miss [redacted] between January 7 of '90 and January 6 of '91. And again with Miss [redacted] between January 7 of '89 and January 6 of 1990. And then with [redacted], [redacted] between October 17th of 2000 and October 16 of 2001.

So, it's -- the dates is what makes it -- the different dates is for the different indictments, but they're still, for each one of them, have to prove that he committed, beyond a reasonable doubt, committed sexual battery and the victim was less than 11 years of age.

So, that's the ones -- that's the eight criminal sexual conduct with a minor in the first degree.

All right. There are two indictments dealing with criminal sexual conduct with a minor in the second degree. That would be with [redacted] [redacted] [redacted] between February 8 of 2009 and February 7th of 2010. And, once again, with [redacted] between February 8th of 2010 and February 24th, 2011.

He's charged with criminal sexual conduct with a minor in the second degree. The State must prove to you, beyond a reasonable doubt, that the defendant, once again,

engaged in sexual battery. Sexual battery is defined, as in the other statutes, sexual intercourse, cunnilingus, fellatio, or anal intercourse. And, secondly, the State must prove, beyond a reasonable doubt, that either the victim was at least 11, but not more than 14, 11 to 14 or the victim was less than 16, but at least 14, and the defendant was in a position of familial, family, or official authority or that the defendant was older than the victim.

So, that's criminal sexual conduct with a minor in the second degree. It's age difference is basically what we're talking about. The sexual battery, as I've defined, and the victim was at least 11, but not more than 14, or less than 16, but more than 14, and the defendant was in a position of familial or custodial authority or that the defendant was older than the victim.

All right. Now we'll turn to -- there was one indictment for criminal sexual conduct in the third degree, and that would be for [redacted] between February 8, '11, and February 24 of '11, all in the year of 2011. February 8th, February 24th.

Third degree criminal sexual conduct with a minor, in order to prove that, the State must prove, beyond a reasonable doubt, that -- prove that -- the State must prove, beyond a reasonable doubt, that, once again, the

defendant engaged in a sexual battery with the victim. Sexual battery, once again, is defined as I've said, sexual intercourse, cunnilingus, fellatio, or anal intercourse, and, and they must also -- the State must prove to you, beyond a reasonable doubt, that the defendant used force or coercion without any aggravating circumstances to accomplish the battery. Using force or coercion means to make the victim follow the prescribed and dictated course to inflict or impose or to force one's will on someone.

That's criminal sexual conduct with a minor in the third degree. You have to prove battery, and that he used force or coercion without any aggravating circumstances. Force or coercion is obviously, as I said, means following a prescribed and dictated course to inflict or impose or to force one's will on someone. That's criminal sexual conduct with a minor in the third degree.

And then the last 16 indictments deal with -- before I go to that, on the first degree criminal sexual conduct, criminal sexual conduct with a minor in the third degree, criminal sexual conduct with a minor in the second degree, and criminal sexual conduct with a minor in the third degree, pursuant to our state law, the testimony of the victim in these cases need not be corroborated.

Section 16-3-552 through 16-3-558 says those types of

cases, which I just read, testimony of the victim need not be corroborated. There's a state law that says that.

Now, let's go to the other 16 indictments and they deal with all three alleged victims, and it deals with different times, and you'll have the -- what we call the verdict form back there, and we'll set out the times as to each related victim.

On that, that's defined by Section 16-15-140. He's charged with committing a lewd act on a minor. A minor is a person under the age of 18. The State must prove, beyond a reasonable doubt, that the defendant was over the age of 14. Then the State must prove that the defendant willfully and lewdly committed or attempted a lewd or lascivious act on or with the body or its parts of a child under the age of 16 with the intent to arouse, appeal to, or gratify the lusts, passions, or sexual desires of the defendant or the child.

Willfully means voluntarily and intentionally with the specific act to do something the law forbids.

Lewd means obscene, lustful, indecent, or lecherous.

Lascivious means tending to incite lust, lewd, indecent, obscene, or intending to deprave the morals and respect to sexual relations.

So, there's 16 of those, lewd act upon a child. A minor is under the age of 18. The State must prove the

defendant was over 18 by beyond a reasonable doubt, and that the State must prove, beyond a reasonable doubt, the defendant willfully and lewdly committed or attempted a lewd or lascivious act on or with the body or its parts of a child under the age of 16 with the intent to arouse, appeal to, or gratify the lust, passions, or sexual desires of the defendant or the child.

Now, Mr. Foreman, ladies and gentlemen, obviously your verdict on each indictment, each of the 28 indictments, has to be unanimous. All 12 of you must agree. You'll have a verdict form back there for each indictment, and they'll have on it -- hand me one of them as an example.

It'll have on it the offense, the alleged victim, and the dates. The first one I'm just looking at here is as to the offense of criminal sexual conduct with a minor in the second degree upon [redacted] on or between February 8, 2010, and February 24th, 2011. We find the defendant not guilty or guilty.

You'll have one for each of the 28 indictments. So, you'll have to consider each one of them separate and apart from the others. Your verdict must be unanimous.

Obviously you have no friends to reward, no enemies to punish. You're to make your decision based solely on what you determine the true facts are in the case and

determine and apply those facts to the law as I give it to you, and from those facts, if you determine that the State has proven each of the elements that I gave to you beyond a reasonable doubt, then the verdict would be guilty. If not, it would be not guilty.

Once you have reached a decision on all of them, obviously check the appropriate box and sign your name and date it as the foreperson.

Oftentimes juries will have -- oftentimes juries will have a question. Sometimes. Not all the time. But sometimes. So, if you do have a question you -- the protocol is this. You write it out on a piece of paper, knock on the door, and the bailiff will hand it to me.

Sometimes I can answer it, sometimes I can't, but I'll send you back my best shot. You may ask me a question that I can't comment on or you may ask me something that I have to bring you-all back out and re-read it to you. Those are the kinds of things.

But don't feel -- I mean if you, if you have a question, put it down and we'll deal with it. That's what we're here for. We are gonna order the lunch.

Already been ordered?

Anyway, once -- when you first go back there, just go ahead and order your lunch the first thing, and then we'll get that handled. When the lunch comes, you can continue

to deliberate. Y'all can take a break. However you want to do it. Y'all are in charge now.

I would ask you, when you go back this time, to go ahead and get your lunch orders done cause I have to ask the lawyers if I've left anything out or I need to add anything. Like I say, this will take us just a few minutes, and then we have to gather up all the exhibits, and we'll send those back to you. And once you get the exhibits and the verdict forms, then you can start your deliberation.

If you need -- I think we've had a smoker or two. I don't know. If somebody has to have a cigarette break --

THE JUROR: Guilty.

THE COURT: -- please, but when they leave, stop deliberating until they come back. Hopefully they're not a chain smoker.

Anyway, if you have any questions, just let me know.

Thank you.

Everybody else remain seated.

(WHEREUPON, the following takes place outside the presence of the jury.)

THE COURT: All right. Ladies and gentlemen, is there any objections, requested additions, or deletions to the charge as given or any problem with the verdict forms by the State?

MR. MOLONY: No, sir, Your Honor.

THE COURT: Mr. Routzong?

MR. ROUTZONG: Your Honor, the only issue is when you were charging the lewd act, I heard you say that, when you were discussing that, that a minor is someone under the age of 18. That's not an element, and I'm concerned about that.

THE COURT: Well, I'm reading the statutes. The statute says minor under the age of 18, but then for it to be -- I read that they have to prove that the minor was 16 -- under 16. I read that.

MR. ROUTZONG: I did hear you read from that, and I wanted it corrected. But that was the only issue I had, Your Honor.

THE COURT: I'll stand by it. That's the exact charge, the exact statute.

All right. Y'all please come up and look at the exhibits and make sure we have everything.

(Pause.)

THE COURT: All right. Let the record reflect that the State and the defense have reviewed all exhibits and are, all are accounted for and in order, and all 28 of the verdict forms are -- well, all 28 are accounted for. I am going to reprint one that we had to put a, where we added something by pencil, which is Indictment 1682. It did not

have with a minor. Criminal sexual conduct in the third degree should be with a minor. So, we have corrected that.

Fair enough, fellows?

MR. MOLONY: Yes, sir.

MR. ROUTZONG: Thank you, Your Honor.

THE COURT: All right. Mr. Bailiff, if y'all take the exhibits back in the courtroom, back in the jury box, back in the jury deliberation room. Tell them they can start deliberating at their convenience.

(WHEREUPON, the jury began deliberations at 11:32.)

THE COURT: We're back on the record on the Cartwright case.

We received a note from the foreperson that says we would like to hear the audio of the testimonies of Melinda, [redacted], [redacted], and [redacted].

I discussed the note with the lawyers. They've allowed me or we have agreed to bring the foreperson out to see if he wants the entire testimony or a portion or whatever we can try to do. If we play all four of these testimonies we'll be here for the rest of the day. I mean it will take most all afternoon to play it. I assume y'all would agree with that.

Any objection by the State that I handle it in that manner?

MR. MOLONY: No, sir, Your Honor.

THE COURT: Mr. Routzong?

MR. ROUTZONG: I don't have any objection, Your Honor.

THE COURT: All right. Ask the foreperson to step out, and ask them to please stop deliberating.

(WHEREUPON, the foreperson comes into the courtroom at 1:39.)

THE COURT: Just have a seat, Mr. Foreperson, please.

Mr. Foreperson, I've got the note that you want to hear the testimonies of the four, Melinda, [redacted], [redacted], and [redacted], is that correct?

THE FOREPERSON: Yes, sir.

THE COURT: Now, the only way we can do it is to bring all of you back out and the court reporter will have to just replay it.

Now, my question is do you want to have it replayed in its entirety?

Is there a certain portion you're looking for?

The testimony was -- make -- to re-listen to all of it may take all afternoon.

THE FOREPERSON: I think a lot of the, the question had to do with the timeline of when the original -- when the victims originally claimed to be---

THE COURT: Here is what I'm gonna say.

THE FOREPERSON: And there were different timeslines, different years.

THE COURT: I understand. I'm gonna do this. I'm gonna give y'all notepads so you can take notes during their testimony.

THE FOREPERSON: Okay.

THE COURT: You can write it down. So, give me 12 notepads and then -- go back and tell them what I've said.

THE FOREPERSON: Okay.

THE COURT: And then if they feel satisfied when they're listening to witness one, when they get to that point where they're satisfied, raise their hand and we'll go to witness two.

THE FOREPERSON: Right. We're interested in certain specific things.

THE COURT: That's fine. Fair enough.

Go back and tell them that and we'll bring them right back out with their pads.

THE FOREPERSON: Thank you, sir.

(WHEREUPON, the foreperson leaves the courtroom at 1:40.)

THE COURT: Any objection to that conversation with the foreperson by the State?

MR. MOLONY: No, sir, Your Honor.

THE COURT: By the defendant?

MR. ROUTZONG: Your Honor, we object to that. We feel like that, that to properly give all of the context if the jury wants to hear -- in other words, they may hear portions. I don't know what will happen with that. It might be out of context.

THE COURT: I'm gonna let them hear it as long as they want to hear it. When they've heard what they want to hear they can raise their hand. I do that in all of these cases. So, your objection's noted.

MR. ROUTZONG: Okay. Just to make it more specific, Your Honor, if you don't mind, for the record---

THE COURT: Certainly.

MR. ROUTZONG: ---I believe they should listen to the whole testimony.

THE COURT: Well, they can tell me what they want to listen to. If it's the whole testimony, that's fine. If it's their name, that's fine.

Now they're gonna discuss that. Melinda's 15 minutes, [redacted] 30, [redacted] is 45, and [redacted] 40. It's two hours and 10 minutes worth of testimony.

Thank you.

(Pause.)

THE COURT: All right. Mr. Whittle, tell them I'm ready for them.

(WHEREUPON, the jury returns to the courtroom at 1:44

to hear the testimony again.)

THE COURT: Mr. Foreman, that was clear enough?

THE FOREPERSON: Yes, sir.

THE COURT: Ladies and gentlemen of the jury panel, I've given you notepads so you can keep some notes. When you have gotten as much as you want to hear, you're welcome to hear it all, a portion of it, whatever. When you are satisfied you got where you want to go, let me know and we'll cut it off there. If you want to hear the whole thing, that's no problem. We got it all available. I'll do whatever you deem that you need to answer or satisfy yourselves.

Fair enough?

THE FOREPERSON: Thank you.

THE COURT: Okay. The first one we will do is Melinda, is that correct?

COURT REPORTER: The first one I've got is [redacted].

THE COURT: Well, we've got -- which one do you want to hear first?

THE FOREPERSON: It doesn't matter.

THE COURT: We'll do them in the order in which they testified. So, the first one we'll do is [redacted].

(WHEREUPON, a portion of the testimony of [redacted] was played for the jury at this time.)

THE COURT: I've gotten word from the foreperson

that's what they need to hear from that.

Let's go to the next one please.

COURT REPORTER: The next one is Melinda.

(WHEREUPON, a portion of the testimony of Melinda Lively was played for the jury at this time.)

THE COURT: All right. That's all they needed. Let's go to the next one.

The next one is [redacted].

COURT REPORTER: [redacted] [redacted].

THE COURT: [redacted].

(WHEREUPON, a portion of the testimony of [redacted] was played for the jury at this time.)

THE COURT: All right. And the last one will be [redacted].

COURT REPORTER: [redacted].

(WHEREUPON, a portion of the testimony of [redacted] was played for the jury at this time.)

THE COURT: Mr. Foreman, if there's anything else you need to listen to just let us know. Send us a note.

THE FOREPERSON: Thank you.

THE COURT: Yes, sir.

Everyone else remain seated please.

(Whereupon, the jury exited the courtroom at 2:43.)

THE COURT: All right. We'll stand at ease for about five minutes and see if probation is ready to go.

Anything for the record before we break?

MR. MOLONY: No, sir, Judge.

MR. ROUTZONG: We just object, Your Honor, to not playing the whole testimony. They just sort of rehashed the State's case without the benefit of hearing the cross-examination.

THE COURT: Well, Mr. Routzong, I asked them to let me know if they wanted to hear the whole thing, when they wanted to stop, and that was an agreement between them as to when to stop. I can't help it they didn't want to hear anymore, what you wanted them to hear.

Thank you.

(Whereupon, a short recess was taken at this time.)

THE COURT: Is the State ready to receive the verdict?

MR. MOLONY: Yes, Your Honor.

THE COURT: Is the defense ready?

MR. ROUTZONG: Yes, Your Honor.

THE COURT: Let me just warn everyone in here. This is obviously a very emotionally charged case. A lot of feelings. I commend everybody. Everybody has behaved wonderfully throughout the trial. However, when the verdict comes in, sometimes emotions get away from you.

So, I am giving you fair warning. If you do not think that you can control your emotion, I am asking you

very pleasantly to leave now. Any outburst, crying, carrying on, will result in contempt of Court and I will deal with you accordingly. Therefore, if you do not think you can handle yourself, I ask that you leave now.

(WHEREUPON, the jury came into the courtroom at 4:07.)

THE COURT: Mr. Foreman, have y'all reached a verdict?

THE FOREPERSON: Yes, sir.

THE COURT: If you'll hand it to the bailiff please.

(Whereupon, the Foreman complies.)

THE COURT: All right. Mr. Routzong, will you have the defendant stand please?

(Defendant complies.)

THE CLERK: Your Honor, we have the State of South Carolina, County of Aiken, versus Harold Bennon Cartwright, III, Indictment Number 2012-GS-02-00319. As to the defense of criminal sexual conduct with a minor in the first degree upon [redacted] between January 7, 1989, and January 6, 1990, we, the jury, find the defendant zero not guilty, 12 guilty. Foreperson Michael Enlow. Date April 12, 2013.

Your Honor, the State of South Carolina versus Harold Bennon Cartwright, III, Indictment Number 2012-GS-02-00320, as to the offense of lewd act upon a child upon [redacted] between or on or between

January 7th, 1989, and January 6th, 1990, we, the jury, find the defendant zero not guilty, 12 guilty. Foreperson, Michael Enlow. April 18th, 2013.

We have the State of South Carolina versus Harold Bennon Cartwright, III, Indictment Number 2012-GS-02-00321, as to the offense of criminal sexual conduct with a minor in the first degree upon [redacted] on or before 7, January 7th, 1990, and January 6th, 1991, we, the jury, find the defendant zero not guilty, 12 guilty. Foreperson, Michael Enlow. April 18th, 2013.

The State of South Carolina versus Harold Bennon Cartwright, III, Indictment Number 2012-GS-02-00322, as to the offense of lewd act upon a child upon [redacted] on or between January 7th, 1990, and January 6th, 1991, we, the jury, find the defendant zero not guilty, 12 guilty. Foreperson, Michael Enlow. April 18th of 2013.

We have the State of South Carolina versus Harold Bennon Cartwright, III, Indictment Number 2012-GS-02-00323, as to the offense of criminal sexual conduct with a minor in the first degree upon [redacted] on or between January 7th, 1991, and January 6th, 1992, we, the jury, find the defendant zero not guilty, 12 guilty. Michael Enlow. April 18th, 2013.

Your Honor, the State of South Carolina versus Harold Bennon Cartwright, III, Indictment Number

2012-GS-02-00324, as to the offense of lewd act upon a child upon [redacted] on or between January 7th, 1991, and January 6th, 1992, we, the jury, find the defendant zero not guilty, 12 guilty. Michael Enlow. April 18th, 2013.

The State of South Carolina versus Harold Bennon Cartwright, III, Indictment Number 2012-GS-02-00325, as to the offense of criminal sexual conduct with a minor in the first degree upon [redacted] on or between January 7th, 1992, and January 6th, 1993, we, the jury, find the defendant zero not guilty, 12 guilty. Michael Enlow, foreperson. April 18th, 2013.

The State of South Carolina versus Harold Bennon Cartwright, III, Indictment Number 2012-GS-02-00326, as to the offense of lewd act upon a child upon [redacted] on or between January 7th, 1992, and January 6th, 1993, we, the jury, find the defendant zero not guilty, 12 guilty. Foreperson, Michael Enlow. April 18th, 2013.

The State of South Carolina versus Harold Bennon Cartwright, III, Indictment Number 2012-GS-02-00327, as to the offense of criminal sexual conduct with a minor in the first degree upon [redacted] on or between January 7th, 1993, and January 6th, 1994, we, the jury, find the defendant zero not guilty, 12 guilty. Foreperson, Michael Enlow. April 18th, 2013.

The State of South Carolina versus Harold Bennon Cartwright, III, Indictment Number 2012-GS-02-00328, as to the offense of lewd act upon a child upon [redacted], [redacted] excuse me, on or between January 7th, 1993, and January 6th, 1994, we, the jury, find the defendant zero not guilty, 12 guilty. Michael Enlow. April 18th, 2013.

The State of South Carolina versus Harold Bennon Cartwright, III, Indictment Number 2012-GS-02-00329, as to the offense of criminal sexual conduct with a minor in the first degree upon [redacted] on or between January 7th, 1994, and January 6th, 1995, we, the jury, find the defendant zero not guilty, 12 guilty. Michael Enlow April 18th, 2013.

The State of South Carolina versus Harold Bennon Cartwright, III, Indictment Number 2012-GS-02-00330, as to the offense of lewd act upon a child upon [redacted] on or between January 7th, 1994, and January 6th, 1995, we, the jury, find the defendant zero not guilty, 12 guilty. Foreperson, Michael Enlow. April 18th, 2013.

The State of South Carolina versus Harold Bennon Cartwright, III, Indictment Number 2012-GS-02-00331, as to the offense of criminal sexual conduct with a minor in the first degree upon [redacted] on or between January 7th, 1995, and January 6th, 1996, we, the jury, find the defendant zero not guilty, 12 guilty. Michael Enlow,

foreperson. April 18th, 2013.

The State of South Carolina versus Harold Bennon Cartwright, III, Indictment Number 2012-GS-02-00332, as to the offense of lewd act upon a child upon [redacted] on or between January 7th, 1995, and January 6th, 1996, we, the jury, find the defendant zero not guilty, 12 guilty. Foreperson, Michael Enlow. April 18th, 2013.

The State of South Carolina versus Harold Bennon Cartwright, III, Indictment Number 2012-GS-02-00306, as to the offense of criminal sexual conduct with a minor in the first degree upon [redacted], on or between October 7th, 2000, October 16th, 2001, we, the jury, find the defendant zero not guilty, 12 guilty. Michael Enlow. April 18th, 2013.

The State of South Carolina versus Harold Bennon Cartwright, III, Indictment Number 2012-GS-02-00307, as to the offense of lewd act upon a child upon [redacted] on or about October 17th, 2000, and October 16th, 2001, we, the jury, find the defendant zero not guilty, 12 guilty. Foreperson, Michael Enlow. April 18th of 2013.

The State of South Carolina versus Harold Bennon Cartwright, III, Indictment Number 2012-GS-02-00312, as to the offense of lewd act upon a child upon [redacted], on or between October 17th, 2002, and October 16th, 2003, we, the jury, find the defendant zero

not guilty, 12 guilty. Michael Enlow. April 18th, 2013.

The State of South Carolina versus Harold Bennon Cartwright, III, Indictment Number 2012-GS-02-00311, as to the offense of lewd act upon a child upon [redacted] on or between October 17th, 2003, and October 16th, 2004, we, the jury, find the defendant zero not guilty, 12 guilty. Michael Enlow. April 18th of 2013.

The State of South Carolina versus Harold Bennon Cartwright, III, Indictment Number 2012-GS-02-00310, as to the offense of lewd act upon a child upon [redacted] on or between October 17th, 2004, and October 16th, 2005, we, the jury, find the defendant zero not guilty, 12 guilty. Foreperson, Michael Enlow. April 18th, 2013.

The State of South Carolina versus Harold Bennon Cartwright, III, Indictment Number 2012-GS-02-00309, as to the offense of lewd act upon a child upon [redacted], excuse me, [redacted], on or between October 17th, 2005, and October 16th, 2006, we, the jury, find the defendant zero not guilty, 12 guilty. Michael Enlow, foreperson. April 18th, 2013.

The State of South Carolina versus Harold Bennon Cartwright, III, Indictment Number 2012-GS-02-00304, as to the offense of criminal sexual conduct in the first degree upon [redacted] on or between October 17th, 2006, and October 16th, 2008, we, the jury, find the

defendant zero not guilty, 12 guilty. Michael Enlow, foreperson. April 18th, 2013.

The State of South Carolina versus Harold Bennon Cartwright, III, Indictment Number 2012-GS-02-00308, as to the offense of lewd act upon a child upon [redacted] on or between October 17th, 2006, and October 16th, 2007, we, the jury, find the defendant zero not guilty, 12 guilty. Foreperson, Michael Enlow. April 18th, 2013.

The State of South Carolina versus Harold Bennon Cartwright, III, Indictment Number 2012-GS-02-00314, as to the offense of lewd act upon a child upon [redacted] on or between February 8th, 2008, and February 7th, 2009, we, the jury, find the defendant zero not guilty, 12 guilty. Michael Enlow. April 18th of 2013.

The State of South Carolina versus Harold Bennon Cartwright, III, Indictment Number 2012-GS-02-00317, as to the offense of lewd act upon a child upon [redacted] on or between February 8th, 2009, and February 7th, 2010, we, the jury, find the defendant zero not guilty, 12 guilty, Michael Enlow. April 18th, 2013.

The State of South Carolina versus Harold Bennon Cartwright, III, Indictment Number 2012-GS-02-00315, as to the offense of criminal sexual conduct with a minor in the second degree upon [redacted] on or between February 8th, 2009, and February 7th, 2010, we, the jury,

find the defendant zero not guilty, 12 guilty. Foreperson, Michael Enlow. April 18th, 2013.

The State of South Carolina versus Harold Bennon Cartwright, III, Indictment Number 2012-GS-02-00318, as to the offense of lewd act upon a child upon [redacted] [redacted] [redacted] on or between February 8th, 2010, and February 7th, 2011, we, the jury, find the defendant zero not guilty, 12 guilty. Foreperson, Michael Enlow. April 18th of 2013.

The State of South Carolina versus Harold Bennon Cartwright, III, Indictment Number 2012-GS-02-00316, as to the offense of criminal sexual conduct with a minor in the second degree upon [redacted] [redacted] [redacted] on or between February 8th, 2010, and February 24th, 2011, we, the jury, find the defendant zero not guilty, 12 guilty. Michael Enlow, foreperson. April 18th, 2013.

The State of South Carolina versus Harold Bennon Cartwright, III, Indictment Number 2012-GS-02-01682, as to the offense of criminal sexual conduct with a minor in the third degree with [redacted] [redacted] [redacted] on or between February 8th, 2011, and February 24th, 2011, we, the jury, find the defendant zero not guilty, 12 guilty. Foreperson Michael Enlow, April 18th of 2013.

Ladies and gentlemen of the jury, if this is still your verdict, please indicate by raising of your right hand.

(WHEREUPON, all jurors raised their hands at this time.)

THE CLERK: All hands are raised, Your Honor.

THE COURT: Thank you.

You may be seated, Mr. Routzong.

Anything from the jury before I dismiss them?

MR. MOLONY: Nothing from the State, Judge.

MR. ROUTZONG: Nothing from the defense, Your Honor.

THE COURT: Mr. Foreman, ladies and gentlemen, I can't thank you enough. Y'all have done a wonderful job. What we have left to do is obviously we've got some administrative things to do. It's gonna take us about 15, 20, 30 minutes to get all of the sheets signed and then I will sentence him tonight before I go home. You're welcome to stay for that or you're excused to go now.

We've got some other work that we'll do while we're waiting to get all of that administrative work done. I've still got a couple of probation violations and a couple of pleas and some motions, and we'll be doing that while we're waiting to get all the sentencing sheets. But you're more than welcome to stay or you're welcome to leave.

Y'all have done a commendable job. You've paid very close attention. It's been a very difficult case, tough case, and y'all have done your job well. I thank you.

So, having said that, you're welcome to go. You're welcome to stay. If you're gonna leave, I want to speak to you in the jury room.

All right. Get the sentence sheets ready for me please.

Mr. Routzong, go ahead and get that done.

MR. ROUTZONG: Yes, sir, Your Honor.

THE COURT: We'll finish up with everything after that.

(Whereupon, a short recess was taken at this time.)

THE COURT: All right. Mr. Routzong, I'll be glad to hear from you or Mr. Hayes and/or Mr. Cartwright.

MR. ROUTZONG: Your Honor, the defendant's been in our detention center for 763 days. I believe he's 46 years old and a resident of North Augusta. I think you've heard a lot of his biographical information already, Your Honor. I'd ask the Court to be as lenient as possible.

THE COURT: Mr. Hayes, anything you want to tell me?

MR. HAYES: No, sir.

THE COURT: Mr. Cartwright, anything you want to tell me?

THE DEFENDANT: Yes, sir. I'm not guilty, sir.

THE COURT: Well---

THE DEFENDANT: I understand y'all found me guilty -- The -- what I stated before about them swapping of the

evidence, I'd like that to be in the record that I know that a, a picture was changed. I spoke to Mr. Harte when he come through in the back and he said he distinctly remembers in the last trial when me and him went to trial that the sheets that the officer presented were blue and green out of [redacted] bedroom, and then I had told them in that trial that those weren't my sheets, that the sheets that my DNA was on was my son's sheets, and that's when we come back to this trial that it's all been changed around. I just want that to be on the record, Your Honor.

THE COURT: Thank you. Well, I'm not the finder of the facts.

THE DEFENDANT: I understand.

THE COURT: The jury is.

THE DEFENDANT: Yes, sir.

THE COURT: But, you know, I have to listen to all of the facts.

THE DEFENDANT: Yes, sir.

THE COURT: And I found your children, your stepchildren, and your natural daughter's testimony to be most credible, most believable. I found your testimony to be uncredible, terribly uncredible, wholly unbelievable.

I've been doing this a long time, and the way you treated your natural, biological child, and your stepchildren is despicable, beyond all decency, and you

don't deserve to be out in society so you can hurt other children. It's, it's just not natural. It's against the law, and, to me, it's just despicable conduct, and then---

THE DEFENDANT: Yes, sir, I agree with you on that. If I knew somebody that was doing that I would of been the first one to go to the law.

THE COURT: I think you're in complete denial.

I want to commend, well, first of all, the lawyers. I thought Mr. Routzong and Mr. Hayes did a commendable job. They defended you with all of their ability and all of their efforts and all of their energy, and I commend both of you as members of the bar. You did an excellent job.

To the Solicitor's Office, I commend you. Y'all were most prepared, presented the case fairly.

To the Sheriff's Department, Sheriff Hunt, the investigation was thorough. I wish we had more of these types of investigations around the state. I commend you.

I commend my jury. You know it's not -- it's difficult to ask 12 citizens to come in here and have to listen to these types of facts that go on right here in our community, and I thank you for your civic duty and the way that you handled it. I commend you.

MR. ROUTZONG: Your Honor, just prior to sentencing, there is the issue of the motion. We didn't have any

chance to do any motions. We can do it later. That's no problem.

THE COURT: I'll give you ten days to file any post-trial motions.

MR. ROUTZONG: Yes, sir.

THE COURT: So you can think about it.

All right. Let me make sure, Mr. Routzong, Mr. Hayes, that y'all agree with me on this, that the law, as it existed at the time of these crimes, on criminal sexual conduct first degree, that carries up to 30 years.

Y'all agree with that?

MR. ROUTZONG: Yes, sir.

THE COURT: It's classified as most serious and violent.

MR. ROUTZONG: Yes, sir.

MR. HAYES: Yes, sir.

THE COURT: And criminal sexual conduct with a minor first degree carried up to 30 years.

Do you agree with that?

MR. ROUTZONG: Yes, sir.

THE COURT: Criminal sexual conduct with a minor second degree was a 20 year sentence?

MR. ROUTZONG: Yes, sir.

THE COURT: It's up to 20 years, and lewd act is up to 15 years.

MR. ROUTZONG: Yes, sir.

THE COURT: Is that correct?

MR. ROUTZONG: That's correct.

THE COURT: All right. As to Indictment 12-GS-02-304, the indictment for criminal sexual conduct in the first degree, the Sentence of the Court is you be committed to the State Department of Corrections for a period of 30 years.

As to the other indictments for criminal sexual conduct with a minor in the first degree, those too are 30 year sentences. They will all run concurrent. That means you'll do all the 30 year sentences together.

As to Indictment 12-GS-02-315, criminal sexual conduct with a minor in the second degree, the Sentence of the Court is you be committed to the State Department of Corrections for a period of 20 years. Those, too, will be run concurrent with your 30 year sentence.

As to Indictment 12-GS-02-308, lewd act upon a child, the Sentence of the Court is that you be committed to the State Department of Corrections for a period of 15 years. There are 16 of these indictments. They will likewise all run concurrent to your 30 year sentence.

So, you'll do your criminal sexual conduct, criminal sexual conduct with a minor in the first degree, criminal sexual conduct with a minor in the second degree, lewd

acts all together. The 30 year sentences, 20 year sentence, and the 15 year sentences will all run concurrent.

As to Indictment 12-GS-02-1682, criminal sexual conduct in the third degree, the Sentence of the Court is that you be committed to the State Department of Corrections for a period of 10 years. That, sir, will run consecutive to all the others.

So, once you finish your 30 year sentence you'll have ten more to do. You'll be given credit for your time served. Your lawyers have ten days to file any posttrial motions.

Good luck to you.

MR. MOLONY: Thank you, Your Honor.

MR. ROUTZONG: Thank you, Judge.

(WHEREUPON, two notes from the jury were marked as Court's Exhibit Nos. 4 and 5 for identification purposes only at this time.)

* * *END OF REQUESTED TRANSCRIPT OF RECORD* * *

CERTIFICATE OF REPORTER

State of South Carolina)
)
County of Aiken)

I, Pamela E. Green, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Aiken County, South Carolina, on the 17th and 18th day of April, 2013, as reported by Lisa Davenport and transcribed by myself to the best of my ability.

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

July 2nd, 2013

Pamela E. Green

Pamela E. Green, Circuit Court Reporter

ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

RECEIVED
DEC 30 2014
SC Court of Appeals

APPEAL FROM AIKEN COUNTY

Doyet A. Early, III, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

HAROLD BENNON CARTWRIGHT, III,

APPELLANT.

APPELLATE CASE NO.2013-000894

RECORD ON APPEAL

ROBERT M. DUDEK
Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

Attorney for Appellant

ALAN WILSON
Attorney General

DAVID SPENCER
Senior Assistant Attorney General
Office of the Attorney General
PO Box 11549
Columbia, SC 29211

(803) 734-3727

J. STROM THURMOND , JR.
Solicitor, Second Judicial Circuit
Post Office Box 3368
Aiken, SC 29802-3368
(803) 642-1557

Attorneys for Respondent

INDEX

INDEX i

TRIAL TRANSCRIPT (April 15-16, 2013) 1

PRETRIAL MOTIONS 4

OPENING STATEMENT BY MR. MALONY 24

OPENING STATEMENT BY MR. ROUTZONG 28

TESTIMONY

[redacted]
Direct Examination by Mr. Malony 31
Cross-Examination (In Camera) by Mr. Routzong 42
Cross-Examination by Mr. Routzong 45
Redirect Examination by Mr. Malony 52

MELINDA LIVELY
Direct Examination by Mr. Malony 53
Cross-Examination by Mr. Routzong 55
Redirect Examination by Mr. Malony 61

[redacted]
Direct Examination by Mr Malony 63
Cross-Examination by Mr. Routzong 85

MICHELLE PRINCE
Direct Examination by Mr. Malony 96
Cross-Examination by Mr. Routzong 100

[redacted]
Direct Examination by Ms. Agnew 100
Cross-Examination by Mr. Routzong 124
Redirect Examination by Ms. Agnew 136

EMMA DICKS
(reading BUFFY CARTWRIGHT'S testimony into the record)
Direct Examination by Ms. Agnew 141
Cross-Examination by Mr. Harte 151
Redirect Examination by Ms. Agnew 156

TRIAL TRANSCRIPT (April 17th and 18th, 2013) 157

TESTIMONY

HOSS CARTWRIGHT
Direct Examination by Miss Agnew 165
Cross-Examination by Mr. Routzong 172

VICKY GASKINS
Direct Examination by Miss Agnew 178
Cross-Examination by Mr. Routzong 183

KRISTOPHER EVENSEN
Direct Examination by Mr. Molony 187
Cross-Examination by Mr. Routzong 196

O'GRADY WATTS
Direct Examination by Mr. Molony 198
Cross-Examination by Mr. Routzong 200

ALICIA BENEDETTO
Direct Examination by Miss Agnew 204
Cross-Examination by Mr. Hayes 209
Continued Direct Examination by Miss Agnew 212
Cross-Examination by Mr. Hayes 229

LILLY GALLMAN
Direct Examination by Mr. Molony 235
Cross-Examination by Mr. Routzong 244
Redirect Examination by Mr. Molony 247

JAMES HETTICH
Direct Examination by Mr. Molony 249
Continued Direct Examination by Mr. Molony 256
Cross-Examination by Mr. Routzong 259
Redirect Examination by Mr. Molony 260

VERNON CARTER
Direct Examination by Mr. Routzong 262
Cross-Examination by Mr. Molony 258

HAROLD CARTWRIGHT
Direct Examination by Mr. Routzong 269
Cross-Examination by Mr. Molony 291
Redirect Examination by Mr. Routzong 300

CLOSING STATEMENT BY MR. ROUTZONG 302

CLOSING STATEMENT BY MR. MOLONY 319

CHARGE ON THE LAW 331

VERDICT 356

SENTENCING 368

INDICTMENTS 370

CERTIFICATE OF COUNSEL 426

THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT.
STATE'S EXHBITS 12 AND 13 (photographs of jail cell)

State of South Carolina)
) In the Court
) Of General Sessions
County of Aiken)

Indictment No.: 2012-GS-02-0304, 0306-0327, 0329-0332, 1682

State of South Carolina,)
Plaintiff.)
)
) Partial
vs.) Transcript of Record
)
)
Harold Cartwright,)
Defendant.)

April 15-16, 2013
Aiken, South Carolina

B E F O R E:

The Honorable Doyet A. Early, Judge and a jury.

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

Kevin Malony, Assistant Solicitor
Attorney for the State

Michael D. Routzong, Esquire
David Hayes, Esquire
Attorneys for the Defendant

Brenda J. Sigwald, Circuit Court Reporter
For the Honorable R. Knox McMahon
P.O. Box 206, Jackson, South Carolina 29831

INDEX

Page

Pretrial Motions..... 4

Jury Voir Dire..... 24

Jury Selection..... 44

Opening Remarks by the Court..... 55

Opening Statements

By Mr. Malony..... 63

By Mr. Routzong..... 67

[redacted]

Direct Examination by Mr. Malony..... 72

Cross-Examination - In Camera by Mr. Routzong.... 82

Cross-Examination by Mr. Routzong..... 86

Redirect Examination by Mr. Malony..... 93

Melinda Lively

Direct Examination by Mr. Malony..... 94

Cross-Examination by Mr. Routzong..... 96

Redirect Examination by Mr. Malony..... 102

[redacted]

Direct Examination by Mr. Malony..... 104

Cross-Examination by Mr. Routzong..... 126

Michelle Prince

Direct Examination by Mr. Malony..... 137

Cross-Examination by Mr. Routzong..... 141

///

Page

[redacted]

Direct Examination by Ms. Agnew..... 142

Cross-Examination by Mr. Routzong..... 165

Reading of Prior Testimony of Buffy Cartwright..... 177

Certificate of Reporter..... 199

Keyword Index..... 200

E X H I B I T S

NO.	DESCRIPTION	ID	PAGE
S-1	Photograph	105	106
S-2	Photograph	147	148
S-3	Photograph	154	154
S-4	Photograph	154	154
S-5	Photograph	157	158
S-6	Consent to Search		192
C-1	Letter of 04/18/2013		4
C-2	Defense Requested Voir Dire		43

PRETRIAL MOTIONS

THE COURT: All right: Let me hear the motions from y'all.

All right, Mr. Solicitor?

KEVIN N. MALONY: Yes, sir, Your Honor. First thing I think we could take up, Your Honor, is the unavailable witness and mark as a Court's Exhibit the letter that we received from Ms. Buffy Cartwright, who testified in the trial in November. She was subjected to cross-examination and was cross-examined at that time. The defense has stipulated to the authenticity of this letter from her hospice care nurse basically stating that she is unavailable to be here today. She has stage 4 lung cancer. This week -- excuse me -- she won't be here all week. She's ultimately -- her diagnosis is palliative in nature. The treatments at this point, she is only on pain management.

So, Your Honor, the State would seek to introduce her prior testimony from a prior proceeding under oath and both the defense and myself realize that under 804(s)4, she would be unavailable based on her infirmity and under the B portion of that statute that it would be former testimony that should be admissible in this case.

THE COURT: Mr. Routzong?

MR. ROUTZONG: I don't have any objection to that,

Your Honor.

THE COURT: All right. Next matter, please. Next matter.

KEVIN N. MALONY: Your Honor, I believe this would be more of Mr. Routzong's motion, but last trial and again for this trial, the State would be attempting to introduce evidence of the defendant's suicide attempt. This attempt occurred on April 13th of 2011, which is the same day the defendant was served with warrants for the third victim in this case.

The State would move to introduce this evidence through testimony of a deputy at the jail who actually found the defendant hanging from the sheet. No statements were made at that time, it would simply be evidence of his attempted suicide. Two pictures from the jail cell, one of the jail cell itself and one of the sheets tied in a noose. For purposes under State v. Rosco of showing a guilty conscience and evidence of flight.

THE COURT: Mr. Routzong?

MR. ROUTZONG: Please the Court, Your Honor. I think Rosco is distinguishable from this case here. In this case, Your Honor, or rather in Rosco, the defendant did write a suicide note, specifically connecting the attempted suicide in Rosco to the allegations. There's no note here, Your Honor. There's testimony that there was no

note and that the officer who testified in the last hearing was not aware of any conversation relative to any of the charges.

In addition, Your Honor, in this particular case, the State has to show a nexus between the suicide and the charges. They have to show that he was aware of the charges. Obviously he was aware of the charges when he turned himself in almost a month prior to that, Your Honor.

They also have to show a nexus between the two events and they have to show that he was aware of the charges -- I just repeated myself.

This is also distinguishable, Your Honor, as I've already said, he was in jail for a month. I don't believe he had bond at the time. I just don't think, Your Honor, that the State's going to be able to establish that one event lead to the other in the sense of flight, particularly in light of the fact that he did turn himself in.

By turning himself in, Your Honor, that shows that he was willing to face these charges. Also in Rosco, Your Honor, I noted that the Court also said that the defendant objected under Rule 403 asking as well, Your Honor, at this point in time. We do believe that the prejudice that the defendant could suffer because this evidence would come in outweighs its probative value. The Court in Rosco held or

noted that no effort was made by that attorney to demonstrate what the prejudice is. Your Honor, I would argue that the prejudice is in these particular kind of charges, the typical persons from where we get jurors, under the typical populous, you've already got a long row to hoe, Your Honor, in trying to get people to understand that they should presume innocence in charges involving allegations of sexual misconduct until -- I believe the defendant would be prejudiced, Your Honor, by this because the State's argument would simply validate what's already a prejudice in the mind of most people.

In addition, Your Honor, I would argue this really is an issue of bad character. I think most people would agree that people who commit suicide or attempt to commit suicide are really also cowards and are unwilling to face life or they have mental health issues. In either case, Your Honor, I think this is an issue -- there are 28 indictments, there are plenty of witnesses. I think this is something that would just inflame and potentially prejudice the public from where we get the jury and I just believe, Your Honor, that it's probative value outweighs -- I'm sorry, it's prejudicial value outweighs it's probative value.

THE COURT: Thank you. All right. I have reviewed and read the case of State of South Carolina versus Rosco,

it's a 2011 case where Court of Appeals first addressed the issue as to whether or not attempted suicide is probative of the accused consciousness of guilt. They went through an analysis of comparing it to evidence of flight. They looked at the rules from other states, finding that a majority -- an overwhelming majority of states had considered the issue and have determined that the evidence of second-degree is generally admissible to establish consciousness of guilt. And concluded that the evidence of suicide attempt is probative of the defendant's consciousness of guilt.

And they went onto analyze the nexus argument that you made just a few minutes ago and also the 403 prejudicial versus probative argument and based on Rosco, I am not going to disallow suicide. I will ask the solicitor when it comes to that point of the trial that you attempt to go into the suicide, alleged suicide attempt, please do so outside the presence of the jury, do a proffer for me because if the testimony is as you've said it will be, I will more than likely allow it, but I will make sure that we have that testimony on the record before going forward. Therefore, do not mention it in your opening statement, I will then, at that time determine whether or not it's distinguishable with Rosco. I'm not sure that a note concerning suicide is necessary. Rosco certainly did not

say so. I do understand the nexus and the 403 argument. I'll look at all of this at that time, I assume I will allow it in, but we'll see.

MR. MALONY: Thank you.

THE COURT: Next.

MS. AGNEW: Your Honor, at this time, the State would move per compliance with the rape shield law. Your Honor has the State's motion on that. Essentially the rape shield law prevents mentioning of specific acts of sexual conduct by the victims or opinion or reputation evidence of the victims regarding their sexual conduct or their sexual history. Specifically mentioned in your motion are three instances that were brought up by the defense in the last trial. One, a prior sexual relationship that the victim [redacted] had in 1999, her now husband. Two, an alleged sexual encounter the victim [redacted] [redacted] had in 2006 or 2007 with an unidentified male; and three, a relationship that [redacted] [redacted] had with a boyfriend in 2006 or 2007.

Your Honor's got the State's argument on that and the Finley case, I believe, is pretty dispositive as far as the exception to the rape shield law; however, the Finley case is a very narrow holding that was specific to the unique facts in that case. This case is distinguishable in that both of the victims had already disclosed this abuse before these alleged acts took place. Therefore, at the

time of the disclosure, no motive to lie exists, so this can't be used to argue motive to life. The remoteness in time is the significant part that distinguishes this from Finley, but Your Honor does have the State's motion.

THE COURT: Mr. Routzong?

MR. ROUTZONG: Your Honor, this is an initial matter. I believe I would argue to the Court that the State's actually waived this issue already. Your Honor, the purpose of the rape shield statute, at least according to -- to -- I believe it was quoted in -- but anyway, Your Honor, the point being, the purpose of the rape shield statute is to protect the victim from being -- from having prior sexual encounters inquired into in open court to show that they're unchaste, immoral.

THE COURT: Prior sexual -- go ahead.

MR. ROUTZONG: And, Your Honor in this particular case, all three of these cases actually stand for the same proposition and I am referring to cases, I will refer to Romanstein, Finley and Lang, which Your Honor has all three of them.

It all stands for the same proposition, there is no salacious -- the Court's do not require a salacious adherence to the statute. All three of these cases allow inquiry into, alledgedly, I'm not sure I would concede that issue in either issue, but alleged sexual misconduct or

those items that are in the statute itself --

THE COURT: What exception to the rape shield statute do you claim that would allow you to introduce or cross-examine them on these alleged sexual activities that took place long after these events.

MR. ROUTZONG: Your Honor, all three of these cases allow the defense to inquire into prior sexual conduct if they -- the State -- rather the defense can demonstrate some other reason than -- and in my particular case in all of these would be a motive to fabricate or bias on behalf of the defendant. All of these cases allowed the defense to inquire. In Lang, it was -- the defense was allowed to impeach the length of time -- I'm sorry the accuser on whether or not he was homosexual or not. That's a very -- that's an even more tenuous type of inquiry than an actual motive to fabricate. And in Finley, the accuser was observed by the defendant having sex on -- very close in time.

THE COURT: Almost the same day or the day before.

MR. ROUTZONG: That's correct. And the defense was allowed to demonstrate that they could inquire into that to show that she had a reason to fabricate. In other words, she wanted money. I believe it was a money issue and she also didn't want it brought to public notice. That's identical to what we're arguing right here. In some of

these cases -- at least in terms of [redacted] she was -- her father, in terms -- I don't even know in that particular case if that even counts as sexual misconduct, but it's within the purview of the statute because I'm not alleging any sexual misconduct, that's just whether or not the defendant made allegations to a television station, to the police and actually called friends of the victims and alleged that all these young ladies were exhibiting themselves naked on the --

THE COURT: What -- do you intend to just let the defendant get up and sort of boldface say this is what was going on? Or do you have some way to corroborate it or something?

MR. ROUTZONG: I don't think I need to corroborate that, Your Honor. The fact is he thought it was happening. Now, they've denied it and if I were able to demonstrate that they were participating in it, then that could be something I could use to impeach. But, however, Your Honor, the fact still remains just like in Finley, one of the issues was that she was afraid of having her sexually activities with the next door neighbor going to the public. That was one of the issues.

And they were allowed to investigate that. The defense was allowed to inquire. In this case as well, Your Honor. Even if the Court found that there was a form of

sexual misconduct, we have the right to inquire of the victim whether or not she was embarrassed, whether or not she suffered any humiliation publicly and go into that as a motive for fabrication. That's only one piece of the puzzle, Your Honor. That's only one small piece.

We have other issues with her that we can demonstrate fabrication, but that helps to complete the picture.

As far as [redacted] [redacted] --

THE COURT: That's the one that was married?

MR. ROUTZONG: I think she was impregnated when she was 14 years old. The defendant was either separated or divorced from his wife at that time so there was a custody issue. The defendant can testify that the mother was allowing that older man, I think he was about 10 years older than she was, to live in the house. The defendant discovered that, he brought -- made it known to the police and that person that she is now married to and has three children with, I believe, went to prison for 3 years and has to register as a sex offender.

Now, Your Honor, the defendant tells me, and I believe she testified in the last hearing, that she hadn't really spoke to him in years.

THE COURT: Hasn't spoke to the victim?

MR. ROUTZONG: The defendant. So that's a motive,

Your Honor. It goes without saying and the Court knows -- and I think Georgia, my investigation of Georgia sex offender rules are that when he was actually convicted, those rules are less strenuous or non forced --

THE COURT: The now husband?

MR. ROUTZONG: The now husband.

THE COURT: All right. My ruling is this, do not go into it until we get to the point where you think it is time to do so. Once we do, we'll send the jury out and I'll let you proffer and I'll sort of look at it in connection with everything else that's going on. I will make my ruling at that time. Do not mention it in opening statement.

MR. MALONY: Very well.

MR. ROUTZONG: Yes, Your Honor.

THE COURT: I think the last one was concerning an expert witness.

MS. AGNEW: That's correct, Your Honor. It's actually defense's motion to exclude the qualification of expert in --

THE COURT: The qualification or the testimony?

MS. AGNEW: I think it's pretty much everything, Your Honor.

THE COURT: Tell me what it is, Mr. Hayes.

MR. HAYES: Judge, starting --

THE COURT: Who's the witness?

MR. HAYES: Your Honor, Benedetto was the witness.

THE COURT: Madame Solicitor, what's she an alleged expert in and what do you intend for her to testify?

MS. AGNEW: Your Honor, has actually had doctor Benedetto in front of you before.

THE COURT: I know that, ma'am, but I do so many of these, I really and truly cannot remember her.

MS. AGNEW: She will be qualified as an expert in child sexual abuse dynamics and will testify as to the behavioral issues of children that have been abused.

THE COURT: And what would the behavioral characteristics be?

MS. AGNEW: Your Honor, she would go into things such as delayed disclosure and why children delay disclosing sexual abuse, why children may not disclose at all. Why children may have behavioral issues or acting out as victims of sexual abuse; how factors in the home can affect children that have been sexually abused and things of that nature.

THE COURT: You're not going to ask her to testify or give opinions related to the credibility of these three victims?

MS. AGNEW: Not at all, Your Honor.

THE COURT: Mr. Hayes?

MR. HAYES: Thank you, may it please the Court. Judge under 702, I first would argue that rules of evidence say it has to be scientific, technical or otherwise specialized knowledge that will assist the trier of fact in understanding the evidence at question.

THE COURT: That's correct.

MR. HAYES: Judge, in this case, the question would be whether these women or victims are telling the truth and the matter of credibility is something that is strictly within the purview of our jury.

THE COURT: No question about that and our case law has been very specific when you have these types of witnesses, they cannot testify or opine as to whether or not they believe what the victims alledgedly are telling them to be the truth. That is absolutely within the province of the jury.

MR. HAYES: Yes, sir.

THE COURT: But our State courts also realize or recognize that they are able to give opinions testimony dealing with behavioral characteristics as long as it does not invade the province of the jury, going to the credibility issues.

MR. HAYES: Yes, sir. And I would argue, Judge from this testimony that the only reasonable conclusion that could be drawn from it will be that these victims are

exhibiting characteristics that are consistent with child abuse. However, I will also just argue that, this is -- and I believe Your Honor is citing Weberling, State versus Weberling. As I was reading that earlier in a quick reading of it, I agree with Your Honor. In the past, in 1999, this case was decided that they allowed testimony for behavioral science concerning a rape trauma. And in that case, John Doe was being molested by his uncle who was in the five or six year range and their testimony in that case was that John Doe was found doing similar acts with other individuals. When he was --

THE COURT: Then let's fast forward to Kromah, K-r-o-m-a-h, which also gives analysis of it. That's a 2013 case.

MS. AGNEW: Yes, sir.

THE COURT: January of 2013. Written by Justice Beaty, which talks about forensic interviews and a little different than this, but I'm still not going to allow an expert to opine on credibility, but allow the expert to talk about the interview. We don't have interviews because they never saw the children. That's sort of saying basic reasoning.

MR. HAYES: Correct, Your Honor, and I would argue this, the Courts are going in the direction of excluding these types of witness and --

THE COURT: Well, they didn't exclude them in that case.

MR. HAYES: Well, in Kromah they said it was error. It was harmless error though and Judge --

THE COURT: But not to let the witness testify to what the witness testified about.

MR. HAYES: That's correct. And compounded with them being designated an expert or qualified as an expert was what the damaging factors were in Kromah, is that the jury, even being instructed that they cannot treat them with any more weight or consideration, that there is an understanding or underlying fabric that we believe may give them more credit than due.

THE COURT: Well, we tried a case in Barnwell, a month ago, three weeks ago, being of late disclosure where this same solicitor's office did not use an expert to explain why children -- awful lot of -- but that's their prerogative. But --

MR. HAYES: I understand that, Your Honor and our argument would be that that would be prejudicial, not probative, that it outweighs it because the only reasonable conclusion is that they're testifying, their testimony would be inadmissible or bell centering of their testimony.

THE COURT: Well, do you have any cases that could preclude me from allowing testimony as long as it does not

go to opinions concerning the credibility of the children, or the ladies who testify in the case as alleged victims. And Weberling, that would be a social worker's testimony and never interviewed the children.

MR. HAYES: And I would distinguish Weberling, in that case there was testimony that the victims themselves were alledgedly caught doing very similar acts, which would be considered with the trauma that he had suffered as a rape. In this case there are no such allegations.

THE COURT: Well, in Weberling, behavioral testimony concerning rape trauma, both expert testimony and behavioral evidence are admissible as rape trauma evidence to prove a sexual offense occurred where the probative value of such evidence outweighs its prejudicial effect, State versus Shumpert in 1939. Expert testimony concerning common behavioral characteristics of sexual assault victims and the range of responses to sexual assault encounter by experts is admissible and they site cases from other jurisdictions. Opinion testimony described as behavioral characteristics is outside the jurors common experience is permitted as long as it meets other admissibility requirements such as 403 prejudicial versus probative.

And it goes onto say that they've allowed that type of testimony and allowed behavioral expert testimony to be given in this case, it would have to be cognitive not to

let the expert give opinions concerning the credibility of these particular witnesses.

I'm very cognizant of that and I know you are too. So go ahead.

MR. HAYES: In that same paragraph, Your Honor, I would like to point, it says they seek also one when facts of the case arise credibility or accuracy that might not. They explain by experience to jurors like reaction or child victims of sexual abuse, expert testimony is inappropriate. Judge, I would argue the question of whether someone is telling the truth or not is not a factual issue that is outside the purview of a jury.

THE COURT: But I've just told you I'm not going to let the expert give opinion testimony about the credibility of whether or not these victims are telling the truth.

MR. HAYES: Yes, sir.

THE COURT: And they try to say -- give an opinion within a reasonable degree of certainty in this field whether or not these victims are telling the truth, that's absolutely not permitted. They can testify about general behavioral responses to someone who has been alledgedly abused, i.e. delayed reporting or disclosure, nondisclosure, why they were -- those sorts of things. But I'm not going to let them go into the credibility. And I think Ms. Agnew knows how to do that. If she decides

whether to bring her out.

MR. HAYES: Just for clarity, Judge, our objection is to the general overview.

THE COURT: I understand that. That case from South Carolina, that's well used. Give me another case that says, Hey we've decided that's not correct law anymore.

MR. HAYES: And, Judge, I would concede there is no case law on that fact. Kromah is the closest thing that we have.

THE COURT: Well, just out of an abundance of caution, when we get to that point, we may do a proffer to make sure she knows she is not to go into whether or not She believes these victims. I don't know how she could, she never talked to them.

MS. AGNEW: That's correct, Your Honor.

THE COURT: All right. Anything else?

KEVIN N. MALONY: Your Honor, only that both the State and the defense realize going forward whether it be through cross-examination or whatever, closing arguments, we're limited to the terms of prior proceeding or prior hearing based on any cross-examination that may come from the testimony at the time of the prior case. I just -- for the record, we are on the same page for that.

THE COURT: Well, the rule allowing the use of

testimony from a previous proceeding, 80 -- what? Rules of evidence, 804.

MR. MALONY: That's it, Your Honor, 804(b)1.

THE COURT: Well, it says testimony given as a witness in another hearing or in the same or different proceeding or in deposition may be used, blah, blah, blah -- I'm normally -- in all my experiences as a lawyer and as a judge, we always refer -- I'll give an instruction to the jury that I'll read the rule that while this witness is not here, the parties have stipulated, she has a medical condition which precludes her from being here, which comes within the 404(a)4 and that she had given testimony in a prior proceeding. I think those are the words they use and/or a different proceeding and her testimony under the rule from that different proceeding is now being admitted into the trial of this case as if she were here today giving testimony. And that's the way I'll do it.

I suggest that y'all all use the word prior proceeding, but -- I'm going to tell you to use prior proceeding, Mr. Routzong can use what he wants to.

Fair enough?

MR. MALONY: Yes, sir, thank you, Your Honor.

THE COURT: I would think Mr. Routzong would want to do the same thing. Maybe.

I would suggest that you do. Is that correct, Mr.

Routzong?

MR. ROUTZONG: Yes, sir.

THE COURT: I don't think we'll have any problem with that. And I'll give them instruction on that before you ask to proceed with that testimony.

Now, I understand you -- I think there's an objection in there that y'all are going the redact that out because the Court ruled on it.

MR. MALONY: Yes, sir. We'll get together and make sure we're on the same page as far as what exactly is going to be read to the jury. The objection will not be read in. In other words, the next question is objected to as well.

THE COURT: Very well. Anything else from either one of you?

MR. MALONY: No, sir, Your Honor.

MR. ROUTZONG: No, sir.

THE COURT: What's the defendant's name?

MR. MALONY: Harold Cartwright.

THE COURT: Mr. Cartwright, any questions you have that you want to ask me today?

THE DEFENDANT: No, sir, Your Honor, not at this time.

THE COURT: Well, the jury is to be here in the morning at 9:30. They'll go through a little process next door to be acclimated as to what they can expect. They'll

THE COURT: All right. Mr. Malony?

MR. MALONY: Thank you, Judge, may it please the Court.

THE COURT: Yes, sir.

OPENING STATEMENTS

MR. MALONY: Mr. Routzong, ladies and gentlemen, this is a case about easy targets. That's why all of us are here today. We're all here because the defendant, Harold Cartwright chose three young, convenient, innocent targets to sexually abuse for a period of years at a time. Three targets. They called him daddy. Three daughters.

Now, like the judge said, some of the things that you're going to listen to and the facts that you're going to hear, the specifics that they're going to get into aren't going to be easy on the ears and it isn't something any of us like listening to it, but they're all important. Some of it's disgusting and revolting, but it's all extremely important.

Now, this isn't TV. This isn't on the movie screen; you're not reading this in some sick book. Unfortunately, this is real life, these are real people, these are real stories. These are real victims. Keep that in mind throughout the course of this trial.

Now, this case is a little unique in that we have three victims. You'll hear from each one of them. I think

it's important. I can't draw at all and you can't read my handwriting, I did take some time for this. I think it's important for you to see the time frame that we're going to be discussing. I think it's important that you keep it in mind throughout the course of the trial as it relates to each victim and the charges. And all of these charges are related by the girl's age.

Okay. This is the first victim you'll hear from, [redacted]. [redacted] was born in 1985. You'll hear that from her and her biological father is the defendant. And you'll hear that the sexual abuse occurred at the age of 4 years old. And this occurred from four to five to six to seven to eight to nine to ten. These dates are her birthdays. These are the dates of the indictments. These are the dates when all this is said and done, when you look at each victim, they correlate to the day she was born through the last date of that age. The next birthday and the last date of that age. I think it's just important that you kind of see how we grouped these indictments together.

Now, that's as to [redacted] [redacted], the defendant is charged with seven counts of criminal sexual conduct with a minor in the first-degree; and the State will be alleging and the evidence will show you that the defendant committed sexual battery in regards to [redacted], oral sex, whether

it was her performing it on him or him performing it on her. Every year from when she was four until at some point when she was ten years old and was able to leave.

Accompanied with that charge is a lewd act charge. Same time, same time frames. The only difference in the charges here is that the lewd act is the touching of a body part. The judge will tell you the exact law, this is just a heads up to have before we get going. In the end, listen to the judge if anything he says is different from what I'm saying, but it's the touching of a body part, the child's under 16 and it's to appeal to the sexual desires of either the child or the actor.

You'll also hear from the second victim, [redacted] This is the defendant's stepdaughter. The defendant, you'll hear remarries after [redacted] mom leaves and you'll hear from [redacted]. You'll hear her abuse starting when she was nine years old. Again, CSC first with a minor, sexual battery, oral sex, the victim was under 11. She's nine year's old. The lewd act, again, accompanies that same time frame, nine years old.

Pay attention during the trial from 2001 to 2002, excuse me, October 17th, '01 through October 16, '02, her ten-year-old indictment, when she would be ten. Notice there's no indictment. There's no allegation. Listen to why. It starts back '02, '03, '04, '04. She's 11, she's

12, she's 13, she's 14, she's 15. At some point when she's 15 years old, the evidence will show you that an actual criminal sexual conduct first-degree, not with a minor because of her age then. That's the differences in these charges, which is a sexual battery. In this case we will be alleging that the evidence is going to show that it was sexual intercourse, sex, with aggravated force. And you'll hear exactly what that aggravated force was.

And finally, you'll hear from the youngest victim, [redacted]. This is, again, the defendant's stepdaughter. Her and [redacted], you'll hear are sisters, stepsisters of [redacted] The difference in age, you'll see. [redacted] will testify that her abuse began when she was thirteen years old and the defendant continued, as you'll hear, from thirteen to fourteen to fifteen, the lewd acts, again which is the touching. The victim under sixteen, sexual desires to appeal to them.

Then you'll hear why -- when she's fourteen years old, how it escalated. Actually the sexual battery in this case, we will be alleging sexual intercourse, with a victim of fourteen to sixteen and that he was familial custody or in custody of authority, her dad, step dad.

And finally, you'll here a CSC, third degree. This is when she turned sixteen on February 8th up until -- you'll hear the reports of February 24th, 2011. Keep that

date in mind.

Now, as the judge said, none of this is evidence. This is just a good outline I think even though probably poorly written, but a good outline to give you an idea of what to look for going into this. And as the judge stated, it's going to be your job to judge the credibility of the witnesses, which is simply who you believe or don't you believe. The truth in this case, just as in any of these cases, is in the details. In the details. Pay attention to the details. And we're convinced, Ashley Agnew and I, that when this thing is said and done, you'll go back and you'll come back with the only verdict that this evidence and these details prove and that's guilty on every count. Thank y'all.

THE COURT: Mr. Routzong?

MR. ROUTZONG: Your Honor, Mr. Malony, Ms. Agnew. My name is Michael Routzong and I have -- over there is Mr. David Hayes, we are the attorneys for Mr. Cartwright. What I'd like to first of all tell you this morning is there's really only one fact that we know right now. Maybe I can say two facts. First fact is you, all of you, just took an oath to do the right thing and to do justice for both sides; to fairly and impartially look at the evidence and come to a decision as to the facts.

And here's the other fact involved in that. As

each and everyone of you are sitting in those chairs, in spite of all those charges that Mr. Malony put on that sheet, each and everyone of you as you're sitting in this chair, must sit there with the presumption that Mr. Cartwright is innocent.

Now, what does that mean, presumption of innocence? Everybody banters that term around because you hear it all the time. I don't think -- or at least rarely, do you ever hear anybody explain to you what it means and I hope to do that right now.

What presumption of innocence means is the State, represented by Mr. Malony and Ms. Agnew are wrong and you must keep that standpoint, that viewpoint that they're wrong until you've heard all of the evidence and until you've gone back there and considered all the evidence and all of you unanimously come to a conclusion as to what the facts are. If you don't do that, you've broken your oath and justice won't be done.

The other thing presumption of innocence means integral of that is that the accusers in this case are either mistaken or untruthful. That's the position you have to take as you're sitting all the way through this trial because that's what presumption of innocence means. If they're telling the truth, he can't be innocent. If he's innocent, they can't be telling the truth or mistaken.

And as you sit here this morning and all through this trial, as you listen to everything, that has to be your viewpoint and nothing else. That's what you took an oath to do. If you don't do that, and keep it until you come to a conclusion together, after considering all of the arguments, all the evidence, if you don't do that, you've broken your oath and justice won't be done. You must understand that.

Now, this is a case, I would argue, is about revenge, people with axes to grind, so to speak, money, love -- it's all in this case. And the one thing we know as a fact right now is that the State is wrong and they're either mistaken or telling untruths. And that's where you have to start. Thank you, ladies and gentlemen.

THE COURT: Okay.

MR. MALONY: I think the first witness may take a little while, Your Honor.

THE COURT: Okay. As promised, we're through with opening statements and opening remarks and we're going to break until two o'clock and then we'll go until about five this afternoon. Y'all want me to buy your lunch? How about y'all go back in the jury room. Y'all feel like walking down to the bowery? It's pretty out. Everybody can walk?

(WHEREUPON the jurors nodded their heads.)

///

[redacted],

having been duly sworn, testified as follows:

THE CLERK: Please have a seat in this witness box. State your full name for the Court and spell your last.

THE WITNESS: [redacted]

DIRECT EXAMINATION

BY MR. MALONY:

Q [redacted], how old are you?

A Twenty-eight.

Q And when's your birthday?

A [redacted].

Q Where do you currently live?

A In Rome, Georgia.

Q And are you married?

A Yes.

Q Do you have any children?

A Yes.

Q How many children do you have?

A I have three.

Q Could you speak up, please, so the jury can hear you.

How many children? I'm sorry.

A Three.

Q And how old are they?

A Thirteen, ten and nine.
Q Okay. [redacted], explain to the jury how you're related to the defendant?
A He's my biological father.
Q And who's your mother?
A Melinda Lively.
Q Do you have any natural siblings?
A Yes.
Q And who are they?
A Jamie and Hoss Cartwright.
Q And what about step siblings?
A Yes, I have two, [redacted] and [redacted].
Q Okay. [redacted], I'm going to take you back to 1989. Where were you living during that time?
A In Clearwater on [redacted] Street.
Q And who were you living there with?
A My mom and Bo.
Q Now, you say [redacted] Street, is that in Aiken County?
A It is.
Q Now, was your mother working during that time?
A Yes, sir.
Q And what was she doing?
A She was waitressing.
Q And was the defendant working?

A Off and on.
Q In 1985?
A Off and on.
Q What type of work was he doing during that time?
A Construction.
Q Now, how old were you, again, in 1989?
A Four.
Q [redacted], explain to the jury what the defendant -- what, if anything, the defendant did to you?
A He had me perform oral sex on him.
Q Where did that occur?
A On [redacted] Street in our home.
Q Where in the home?
A In the bathroom.
Q Okay. When you say perform oral sex, what exactly would he do?
A He would place my hand on his penis until he ejaculated and then he would have me place my mouth on him and lick the cum off of him.
Q Did he say anything afterward?
A He told me that it tasted like candy is why he told me to do it, that it was sweet.
Q Now, did it happen more than one time when you were four years old?
A Yes.

Q How often would it occur?
A From the time I was four to ten, every year, numerous times.
Q And each time was it in Aiken County?
A Yes.
Q Now, where else would it occur other than the bathroom in that home?
A His bedroom, the living room.
Q And who would be present during these acts?
A No one.
Q Where would your mom be?
A At work.
Q Now, when you were four, five years old in 1989 -- 1990, you turned five; is that correct?
A Yes, sir.
Q Did you ever tell anyone during that time about this abuse?
A I did.
Q Who did you tell?
A My mom.
Q And as a result of your conversation with your mother during that time, did law enforcement become involved?
A No.
Q Did -- in your knowledge were they contacted?

A I don't believe so, no.
Q Why not?
A When he was approached by my mom and me, he threatened to kill us, kill her, hisself.
Q Okay. So did the abuse start back after that?
A Yes.
Q And what happened? What type of abuse?
A Just the oral sex, his touching me, having me touch him.
Q Okay. And that was when you were five?
A Yes.
Q Now, when you turned six where were you living at that time?
A On [redacted] still.
Q And did the oral sex continue to happen during that time?
A Yes, it did.
Q Do you remember any specific events when you were six years old?
A He took me fishing and --
Q Where?
A It was somewhere close by to our house.
Q Was it in Aiken County?
A Yes.
Q What happened? Describe what happened when he took

you fishing that day.

A We were in the truck and before we went fishing and put the boat in the water, he unzipped his pants and ejaculated in my mouth.

Q Okay. And did you go fishing after that?

A Yes.

Q How long did y'all fish?

A It wasn't really long because I was upset and crying, so it wasn't long, but we did.

Q Now, when you were six, seven, first grade --

A Yes.

Q -- do you remember ever telling anybody else about this sexual abuse at that time?

A Yes.

Q Who did you tell?

A Someone at school.

Q Okay. And at that point did you speak with DSS?

A Yes.

Q Where did you speak with them at?

A At the school.

Q And what happened after you got home from school that day?

A Bo took me off after school, told me that I dreamed it all, that it wasn't true and that's what I needed to go back to school and tell them.

Q Is that what you told them?
A Yes.
Q Where did he -- where did he have that conversation with you at?
A We were driving. I don't know where we were, if we even went anywhere. We were just driving.
Q So in a vehicle?
A Yes.
Q So after that occurred, did the sexual abuse continue?
A Yes.
Q When you were eight?
A Yes.
Q When you were nine?
A Yes.
Q After you turned ten?
A My mom left him when I turned ten.
Q Okay. At some point while you were ten years old?
A Yes.
Q And that would have been at some point in 1995?
A Yes.
Q And the oral sex that occurred, was it the same type experiences that you had from four, five, six and seven?
A Yes -- well, there was a different experience when

I was seven, that was a little different, he actually performed oral sex on me.

Q Okay. Explain to the jury how that occurred, where that occurred.

A It was in the bathroom and I was taking a bath. He came in and needed to use the bathroom. I shut the door, the glass sliding door on the tub and laid down in the water and woke up or opened my eyes to the feeling of him licking me.

Q Where was he licking you?

A My vagina.

Q How long did he do that?

A It seemed like forever, but it probably wasn't but four or five minutes.

Q Did he ever have sex with you during this period of time?

A No.

Q And was that the only time that you remember him performing oral sex on you?

A Yes.

Q Now, throughout the years, did he ever threaten you?

A Yes.

Q What type things would he do?

A He would hold guns to my head, guns to his head,

threaten to kill my mom, me, hisself.
Q And would he ever bribe you with anything throughout those years?
A He would give me money a lot of times afterwards, take me places, buy me things.
Q And did you ever tell him no during those -- from when you were four to ten years old?
A Every time.
Q And did he ever apologize at any point during those years?
A Yes.
Q And what would happen after he apologized?
A He would just start doing it again.
Q Did you say anything when he would start back.
A I would tell him that he promised he would never do it again.
Q Did he do it again?
A Yes.
Q Now, you stated it ended when you were ten. After you turned ten at some point in '95, why did it end at that point?
A My mother left with me, my brother and sister and moved to Georgia.
Q Okay. All of this abuse, all of this oral sex, touching, occurred in Aiken County? There in Clearwater?

A Yes.
Q Now, I'm going to fast forward you to April of 2011. What do you remember occurring during that time?
A I was contacted in April by the Aiken County -- some detectives from Aiken County.
Q So you didn't contact them?
A No.
Q And did come see you?
A Yes, they came to Summerville and spoke with me at my mom's residence.
Q In Georgia?
A Yes.
Q And did you give a statement that day?
A I did.
Q Did you tell them what you've told us here today?
A Yes.
Q Now, sitting here today telling these events to these thirteen strangers, how are you doing?
A I would rather be at home with my children, but it's something that needs to be done; and I'm glad I finally get to tell what happened.
Q Now, the person that you stated sexually abused you from when you were four until after some point you turned ten, do you see him in the courtroom here today?
A Yes.

Q And could you please identify him for the Court?
A Yes, it's the man sitting there on the end, Harold Cartwright, on the end.
MR. MALONY: Your Honor, may the record reflect that the witness has identified the defendant.
BY MR. MALONY:
Q Now, [redacted] from when you were four years old until after you are tenth birthday, what did you refer to the defendant as?
A Daddy.
Q Lastly, when you're talking -- you stated Bo a couple of times.
A Yes.
Q Who is Bo?
A It's Harold Cartwright.
Q The defendant?
A Yes.
Q Thank you, please answer any questions Mr. Routzong has.
THE COURT: Cross.
MR. ROUTZONG: Your Honor, may we approach?
(WHEREUPON, there was a bench conference out of the hearing of the jury and the Court Reporter.)
THE COURT: All right. Mr. Foreman, ladies and gentlemen of the jury, I've got to rule on an objection

that was held yesterday during a pretrial matter and it requires me to take up about five minutes of testimony outside of your presence so I can look and see whether to let it in or not let it in. Obviously, if I decide not to let it in, you don't need to hear it. So if you'll step out for just a few minutes, but it's going to happen about three times. This is the first time.

Don't discuss the case and don't deliberate and I'll be right back with you.

(WHEREUPON the jury left the courtroom at 2:13.)

MR. ROUTZONG: Thank you, Your Honor.

CROSS-EXAMINATION - IN CAMERA

BY MR. ROUTZONG:

Q Your mom and dad got divorced in '96?

A Somewhere around then.

Q They separated in '95?

A Yes.

THE COURT: Get to the point where we're talking about the rape shield statute that we dealt with pretrial, Mr. Routzong. Just ask her what you intend to ask on that matter.

BY MR. ROUTZONG:

Q In the year 2000 -- and you're married to Mr. [redacted] Kevin [redacted]

A Correct.

Q And in the year 2000, he was convicted of statutory rape?

A Yes.

Q And you are the victim in that crime?

A Correct.

Q And since that time, he's had to register as a sex offender?

A Yes.

MR. ROUTZONG: That is basically the issue at hand, Your Honor.

THE COURT: You object to it?

MR. MALONY: Your Honor, I just don't know that it's relevant that her husband is a sex offender and has to register as one.

THE COURT: How is it relevant, Mr. Routzong?

MR. ROUTZONG: Your Honor, it's relevant because at the time that this event happened -- and she herself testified in the last trial that she has not talked to him since fourteen years of age. That was the time that this happened. The first few years of her children's life, obviously, her dad -- their dad was in prison. They are -- there are effects, as the Court knows, from being registered as a sex offender. It is -- it goes to the motive and the reason why she would be upset at the defendant enough to fabricate this testimony against him.

MR. MALONY: Your Honor --

MR. ROUTZONG: And more --

MR. MALONY: I'm sorry.

MR. ROUTZONG: I neglected to mention, Your Honor, the defendant is the person that pushed that prosecution. She testified in the last trial that she didn't who did it, but Mr. Cartwright -- and I believe there's some other evidence that can elicit from court documents associated with the divorce that will show that the defendant actually went into a custody dispute with his ex-wife, her mother, and that's when the -- the first time this allegation appeared was in 1999, Your Honor.

In '96, they got a divorce. There was no allegations of any sexual abuse. They had been living apart at that time for at least three or four years.

THE COURT: That's fine, but how about this -- what happened in 2000? I mean to her now husband --

MR. ROUTZONG: He pushed that prosecution, Your Honor. She's still married to him. That's the person, I presume she's been married to for at least ten years.

THE COURT: Who pushed the prosecution?

MR. ROUTZONG: The defendant. That's the -- that's the testimony I will attempt to elicit. At least she said the last time she didn't remember, but certainly the defendant can testify that he pushed that prosecution. The

jury can believe it or not, but it is a motive, Your Honor. And it has nothing to do with her chastity. I could care less. That's really what the rape shield statute is meant to protect -- from people like me dragging her through the dirt or her propensity --

THE COURT: I will allow it.

Bring the jury in.

(WHEREUPON the jury entered the courtroom at 2:17 p.m..)

THE COURT: Go ahead.

MR. ROUTZONG: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. ROUTZONG:

Q You now live in Adairsville, Georgia?

A It's inside of Rome, yes.

Q How long have you lived there?

A Over ten years.

Q During that ten year period of time, where did the defendant live? He lived in Aiken; is that correct?

A I believe so, yeah.

Q He didn't live in Rome, Georgia?

A No.

Q How were you employed during that time?

A I'm a homemaker.

Q Did you own a candy shop?

A I did at one point.
Q What happened to that?
A It shut down for the lack of business.
Q Did your husband work there as well?
A Yes.
Q And your mom's name is Melinda Lively?
A Correct.
Q And you testified that Harold's your dad?
A Correct.
Q And he married your mom in '93?
A I believe so.
Q You testified that -- in a prior hearing that you told your mom when you were in first grade that Harold was molesting you; is that correct?
A I believe -- I was a little younger than that, but --
Q You testified here today the same thing?
A Correct.
Q And you disclosed to your mom?
A Yes.
Q And you -- you've made a prior statement that you disclosed to your grandmother?
A Correct.
Q That would be his mom?
A Yes.

Q And she's deceased?
A Correct.
Q And your mom and dad separated in '95?
A Yes.
Q And they got divorced in '96?
A Correct.
Q And your mom got custody?
A Correct.
Q And your dad had visitation rights?
A He did.
Q That issue never came up in the divorce proceeding, did it?
A I don't know what went on in the divorce proceedings.

MR. MALONY: Your Honor -- Judge, I don't know if she has any idea of what came up in any divorce proceeding.

THE COURT: She just said that.

BY MR. ROUTZONG:

Q About how far away is Rome from Aiken?
A About four hours, depending on traffic.
Q You said one of the reasons that you didn't disclose is that you were afraid?
A Yes.
Q And Harold lives four hours away?
A Yes.

Q It's just you and your mom and your brother and your sister?
A Yes.
Q And from '95, '96, Harold is not there?
A Correct.
Q All the way up to 2000, 2001, you never said anything?
A Correct.
Q All the way up to one -- 2002, 2003, Harold's not there; 2004, 2005, Harold's not there. You're in Rome, right?
A Yes.
Q And in 2006, up to 2011, Harold is not there, just you and your mom and your siblings?
A Correct.
Q And they have police departments?
A Correct.
Q And at some point in time during that time, you got married?
A I did.
Q And that was what year?
A 2001, I believe.
Q 2001?
A I believe so, 2000 or 2001, I'm not sure of the exact date.

Q So you had a husband?
A Yes.
Q You don't have any doubt that he has the ability to protect you?
A Yes.
Q So all this period of time, you never said anything to anybody, but the reason that you didn't was because you were afraid of him?
A Yes.
Q I'd like to show you what I've previously marked as Defense No. 7. What year did you say you got married? 2001?
A I believe so, yes.
Q And you married [redacted] Kevin [redacted]
A Yes.
Q Is that the same [redacted] Kevin [redacted] that was convicted in 2000 for statutory rape?
A Yes.
Q And he served some prison time for that?
A Yes.
Q How many years did he have to serve?
A Three.
Q Did you have any children while he was in prison?
A Not while he was in prison, no.
Q And he's had to register as a sex offender ever

since then?
A Yes.
Q You were the victim in that case?
A Correct.
Q Isn't it true that the person who pushed the prosecution of your husband is your father, Harold Cartwright?
A I don't know that for a fact, no.
Q You don't deny that?
A I don't believe he was, no.
Q Then you do deny it?
A Yes.
Q Who were you living with when this incident of statutory rape occurred?
A With my mother.
Q And Melinda's your mom?
A Yes.
Q Are you aware that around that same time in 1999 there was a custody dispute between Harold Cartwright, your father, and your mom?
A I was not in my mother's home at that time. I found out after the fact.
Q You previously have testified that you haven't spoken to your father since you were fourteen?
A Thirteen, fourteen, yes, sir.

Q You're holding a grudge, aren't you?
A No. Only for what he done to me as a child.
Q You're --
A I don't think that's a grudge.
Q Your testimony today is your father was behind the prosecution -- this is not your testimony, but at least we're alleging that your ^ father ^ fare was the person behind --

MR. MALONY: Your Honor --

MR. ROUTZONG: The prosecution of --

MR. MALONY: Your Honor, objection.

THE COURT: Let him finish his question.

BY MR. ROUTZONG:

Q We're alleging today that your father is the person behind the prosecution of your husband for statutory rape and if that is the case, you're going to tell this Court and these jury folks that you do not hold a grudge because of that?
A I don't think he pros -- or pushed the prosecution. And that has nothing to do with why I don't speak or have anything to do with my father. I hadn't had anything to do with him for over a year before I met my husband.
Q Since the divorce in '96, up until this incident with your husband. He had visitation rights with you?
A Yes.

Q And your mother allowed that?
A Yes.
Q She didn't protest that?
A I don't believe so.
Q But she was aware of your prior allegations?
A Yes.
Q At four years old and you testified at five, six, seven years old?
A Yes.
Q All during that period of time before the divorce, then after the divorce, she allowed you without protest to have visitation rights with Harold Cartwright after you told her this?
A Yes. He stopped after we left.

MR. ROUTZONG: I don't have any other questions, Your Honor.

THE COURT: Redirect?

MR. MALONY: Briefly, Your Honor.

REDIRECT EXAMINATION

BY MR. MALONY:

Q [redacted], you testified that you told multiple people as a child about this abuse?
A Yes.
Q And then Mr. Routzong brought up, you're married to Kevin [redacted] now?

A Yes.
Q And y'all's relationship began around 1999, 2000?
A '99, correct.
Q And when did law enforcement contact you about this case?
A 2011, April.

MR. MALONY: Nothing further, Your Honor.

THE COURT: You may step down.

Next witness.

MR. MALONY: Your Honor, the state calls Melinda Lively.

MELINDA LIVELY,

having been duly sworn, testified as follows:

THE CLERK: Please have a seat in the witness box, state your full name for the Court and spell your last.

THE WITNESS: Melinda Lively, L-i-v-e-l-y.

DIRECT EXAMINATION

BY MR. MALONY:

Q Melinda, do you have any children?
A Yes.
Q And did you just hear [redacted] testify?
A Yes.
Q Is that your daughter?
A My oldest daughter.
Q Your oldest daughter. Who are the other two?

A Jamie Cartwright and Hoss Cartwright.
Q Okay. And who's [redacted], Jamie and Hoss's father?
A Harold Cartwright, the defendant.
Q Okay. I'm going to take you back to 1989, 1990. Where were you living during that time?
A In -- on [redacted] Avenue in Clearwater.
Q And at some point during that time on [redacted] street in Clearwater, did [redacted] tell you that she'd been sexually abused?
A Yes.
Q Where did she say she was sexually abused at?
A In our home on [redacted] Avenue.
Q Where in the home?
A In the bathroom.
Q And, again, that was 1980 -- how old would she have been around that time?
A Four or five.
Q And did you contact law enforcement?
A No.
Q Did you contact law enforcement after that date?
A No.
Q Why not?
A I was scared for our life. I was threatened by there father, as [redacted] stated.
Q I need you to testify. Don't tell me what [redacted]

said. You tell me why didn't you call the police?

A He basically held us at gunpoint and threatened to kill us if we told anybody.

MR. MALONY: I don't have any further questions, Your Honor.

THE COURT: Mr. Routzong?

CROSS-EXAMINATION

BY MR. ROUTZONG:

Q Ms. Lively, you got married in '87; is that correct?

A Yes.

Q You married Mr. Cartwright?

A Yes.

Q And you guys have three children?

A Yes.

Q How well did you know Sandra Parsons and Buffy Cartwright at that time?

A I didn't know Buffy at all.

Q You knew Sandra?

A Yes.

Q How well did you know her?

A Not well. Just acquaintance.

Q And you testified that [redacted] told you about this first allegation in the '89, '90 time frame?

A Around '89, '90.

Q When did you separate from Mr. Cartwright?
A It was around '95 or '96 -- '95, I do believe.
Q So between '89, '95, '96, you didn't make any allegations to any law enforcement agencies or tell anyone what your daughter had alleged?
A No.
Q And you filed for divorce in '96. Do you admit or deny that in your complaint for divorce filed in Floyd County Georgia, March 25th, '96, that you did not make any allegations of sexual abuse of any of your children?
A I don't understand how to answer that question.
THE COURT: Did you -- in your complaint, did you make any allegations of sexual abuse when you asked for a divorce from your husband?
THE WITNESS: No.
BY MR. ROUTZONG:
Q Do you admit or deny that in your final judgment and decree of divorce -- and this was filed August 26 of '97 in Floyd County Georgia, that you were okay -- you told the Court you agreed that you were okay with visitation rights?
A Yes.
Q Yet your testimony today is that your daughter told you that Mr. Cartwright sexually molested her and you never told the Court anything at all -- your golden opportunity

to get this situation squared away with a man you said you were afraid of, yet you never said anything?

A I didn't say anything because I didn't have any evidence, and that's when -- DFACS was involved with it and I spoke to DFACS. Because there was no evidence, I had nothing. The Court's gave him visitation, not me.

Q And you didn't disagree with that?

A Yes, I did.

Q I have the -- I have the final judgment decree of divorce. Would you like to take a look at it to refresh your memory?

A No. I know that they gave him visitation.

Q And you don't disagree that in this document before that Court, you did not say anything to the Court about those allegations?

A I didn't --

THE WITNESS: I'm sorry, Your Honor. I don't -- Say that again, please.

BY MR. ROUTZONG:

Q Yes, ma'am, I sure will. I have here a final judgment and decree of divorce and it was filed in Floyd County Georgia and I'm asking you as to the visitation rights and what you agreed to, you agreed to the visitation rights?

A Yes.

Q And that was in spite of the fact that your daughter, your own daughter, [redacted], had alleged to you that Harold molested her?

A Yes.

Q And, in fact, it's true, isn't it, that you did let him visit her? You let all your kids visit?

A Yes.

Q And that would be in spite of the fact of those allegations?

A Yes.

Q I also have some other documents both from Floyd County, Georgia and from the Aiken County Second Judicial Circuit Family Court. I'll start off with Aiken County. In this particular -- motion for emergency hearing. Do you remember that in '99?

A Yes.

Q Do you remember what Mr. Cartwright alleged?

MR. MALONY: Objection, Your Honor.

THE COURT: The objection is what?

MR. ROUTZONG: I'm sorry -- what --

MR. MALONY: I'm not talking to you.

THE COURT: What's your objection?

MR. MALONY: This is all hearsay, Your Honor. He's going to enter it into evidence and he's got to lay a foundation for it and --

THE COURT: He is laying a foundation. Overruled.

BY MR. ROUTZONG:

Q My question is, do you remember what Mr. Cartwright alleged in this motion for emergency hearing that was filed in this County?

A I don't recall the exact reason or what they call it in the Court system as his allegations.

Q Isn't it true that he alleged that you were allowing an older man, her now husband, to live in your home with her and with your permission; and he alleged that you were allowing her -- I will find the exact -- at sometime in '99, Mr. Cartwright learned that you had been permitting his eldest daughter, fourteen years old, to engage in a sexual relationship with a twenty-three-year-old man. Do you remember that allegation in this complaint?

A I remember him making allegations, but we never went in front of a judge into court.

Q And you don't deny that was filed December 1st in '99, in Aiken County, South Carolina?

A No.

Q Six days later, in the Superior Court of Floyd County, Georgia, you don't deny that you filed a civil action for citation for contempt?

A I don't remember. I don't deny -- I filed.

Q This is six days after he filed his complaint. And you alleged, apparently for the first time officially, that [redacted], your fourteen-year-old daughter had been a victim of sexual abuse by the defendant. You don't deny that's the first time that you ever officially told anyone any of the Courts about what you believed happened with Mr. Cartwright?

A No.

Q And this was in a custody dispute?

A I don't deny making those allegations, but it wasn't a dispute. We never went into the Courts. That's just his allegations and he had my other two children in his custody and caused them to fail their school year and -- because he wanted everything, as always, his way.

Q Yes, ma'am. But the issue at hand is, you are the plaintiff in this citation for contempt and this is the first time you let any Court know about your allegations against him. And she first told you in '99?

A Yes.

Q And this was filed December 7th, '99?

A Yes.

Q You previously testified that you knew Sandra?

A Yes.

Q You were acquaintances?

A (Witness nodded head.)

Q And how long did you know her?
A She was just a neighbor that lived a few blocks over from where I lived.
Q And where did you live?
A On [redacted] Avenue.
Q And where is that?
A Clearwater.
Q Oh, in Clearwater.

MR. ROUTZONG: I don't have anything else, Your Honor.

THE COURT: Redirect?

MR. MALONY: Briefly, Your Honor.

REDIRECT EXAMINATION

BY MR. MALONY:

Q Sandra Parsons, this lady that Mr. Routzong is speaking of, was she -- she was friends with the defendant?
A Yes.
Q And her husband was good friends with the defendant?
A Yes.
Q And he said DSS became involved before all this stuff that Mr. Routzong just brought up concerning your divorce before y'all left Aiken County?
A Yes.
Q And they told you to leave Aiken County with these

children?

A To take my --

MR. ROUTZONG: Objection, Your Honor, that's hearsay.

THE COURT: Sustained. Disregard that.

BY MR. MALONY:

Q In 1999 or 2000, whenever this paperwork was that he just showed you from the divorce, is that the first time that you found out or alleged that your daughter had been abused by the defendant?

A The --

MR. ROUTZONG: Objection, Your Honor, that's been asked and answered.

THE COURT: Overruled.

BY MR. MALONY:

Q In 1999 had -- previous to 1999, had you learned that your daughter, [redacted], had been abused by the defendant?

A Yes.

Q When she was four years old?

A Yes.

MR. MALONY: Nothing further, Your Honor.

THE COURT: You may step down.

Next witness.

MR. MALONY: The State calls [redacted] [redacted].

///

[redacted] [redacted],

having been duly sworn, testified as follows:

THE CLERK: Please have a seat in the witness box. State your full name for the Court and spell your last.

THE WITNESS: [redacted]

DIRECT EXAMINATION

BY MR. MALONY:

Q [redacted], how old are you?

A Twenty-one.

Q What's your birth date?

A [redacted].

Q Where do you currently live?

A Aiken.

Q Are you working?

A Yes.

Q What type of work do you do?

A Sales associate.

Q What's your relationship with the defendant?

A He was my step father.

Q And he married your mother?

A Yes, sir.

Q Who was your mother?

A Buffy [redacted]

Q Do you have any biological siblings?

A Yes, my sister, [redacted].

Q Any step siblings?

A Yes, three, Jamie, Hoss, and [redacted].

Q And what's the age difference between you and [redacted]?

A Seven years.

Q Seven years?

A Uh-huh, yes, sir.

Q She's older than you?

A Yes.

Q And what about you and [redacted]?

A About three years.

Q And you're --

A She's --

Q -- older than her?

A -- I'm older than her, yes, sir.

Q Now, [redacted], I'm going to take you back to the year 2000, 2001. How old would you have been at that time?

A Nine.

Q And where were you living?

A [redacted] Drive in North Augusta.

(WHEREUPON State's Exhibit No. 1 was marked for identification.)

MR. MALONY: Your Honor, may I approach?

THE COURT: You may.

BY MR. MALONY:

Q [redacted], I'm going to show you what's been previously marked as State's Exhibit 1 and ask you if you recognize this?

A That is our house on [redacted] Drive in North Augusta.

Q And is this a fair and accurate representation of how that house looked --

A Yes.

Q -- when you were living in it?

A Yes, sir.

MR. MALONY: Your Honor, at this time, the State moves to introduce Exhibit 1 into evidence.

MR. ROUTZONG: Without objection, Your Honor.

(WHEREUPON State's Exhibit No. 1 was entered into evidence.)

BY MR. MALONY:

Q Now, who lived at this residence with you between 2000 and 2001?

A Me, my sister, my mom and Bo.

Q When you say Bo, who are you referring to?

A The defendant, Harold Cartwright.

Q Okay. And what grade would you have been in at that time?

A Third grade.

Q And explain to the jury what you remember happening

when you were in the third grade, nine years old.

A He would make me give him oral sex underneath the computer desk in the computer room of our house.

Q The house --

A On [redacted] Drive, yes, sir.

Q -- on State's Exhibit 1?

A (Witness nodded head.)

Q Is that Aiken County?

A Yes, sir.

Q All right. Explain -- make you give him oral sex. Explain to the jury -- I know it's difficult and I apologize, but explain what you -- what happened.

A He would make me go under our computer desk and put his penis in my mouth and ejaculate in my mouth when he was finished.

Q Did he say anything to you after that?

A He would tell me to swallow it because it's good for me.

Q And did you do what he said?

A Sometimes I would swallow it, sometimes I would spit it out.

Q Did this happen more than one time when you were nine years old?

A Yes, sir.

Q How often would this occur?

A A few times a month.
Q Did he ever buy you anything or give you any gifts during this time period when you were nine?
A Yes, sir.
Q Explain to the jury what type of things he would bribe you with?
A He told me he would take me shopping. Buy me clothes or shoes; take me out to eat, somewhere I would want to go.
Q And he would do those things?
A Yes, sir.
Q Now, at some point in July of 2001, did you ever tell anyone about the sexual abuse?
A Yes.
Q Who did you tell?
A Sandra Parsons.
Q And after you told Sandra, did you speak with anyone else about it?
A Yes, sir, DSS.
Q With DSS?
A Yes.
Q Where did you do that at?
A DSS office.
Q And that would have been in 2001?
A Yes, sir.

Q And what did you tell them?
A What he was making me do is give him oral sex.
Q And did law enforcement become involved at that time?
A Yes, sir.
Q And was the defendant arrested at that time?
A Yes, sir.
Q Do you know around what time he was arrested?
A September or so, somewhere around the end of the year.
Q And that's 2001?
A Yes, sir.
Q And did he bond out of jail after he was arrested?
A The same day.
Q Okay. And so after he bonded out, does he move right back in with you?
A No, sir.
Q Where did he live?
A I believe he was staying with his brother in Clearwater.
Q Who's his brother?
A Marty Carter.
Q Okay. And while he was at his brother's house, where were you?
A With my mom and sister at the [redacted] residence in

North Augusta still. Same house.

Q And did anything occur during that time frame --

A No, sir.

Q -- between you and the defendant?

A No, sir.

Q All right. Was your mother still seeing the defendant during that time?

A She was seeing him away from us.

Q And again your mother is not the one we just heard from. Your mother is Buffy Cartwright?

A Yes, sir.

Q Okay. During that time period, did DSS stay involved with you?

A Yes, sir.

Q And you continued to meet with them?

A Yes.

Q And explain to the jury how the defendant ended up moving back into the residence with you?

A I had a meeting here at the courthouse with the solicitor that was involved in the case and on the way --

Q I'm sorry. Who drove you to that meeting?

A My mom.

Q And what happened on the way to that meeting?

A On the way here, my mom told me to lie to them --

MR. ROUTZONG: Objection, Your Honor. That's

hearsay.

THE COURT: Ma'am, you can't testify as to what your mama says.

Sustained.

BY MR. MALONY:

Q As a result of your conversation with your mother on the way to the courthouse, what did you tell prosecutors that day?

A That it did not happen.

Q And was that the truth?

A No.

Q And when was that done? How old were you? Do you remember?

A Ten, eleven.

Q Okay.

A Ten.

Q And who did you actually speak with here? Do you remember?

A Brenda Brisbin.

Q She was -- she was prosecuting that case in 2001?

A Yes, sir.

Q Okay. So as a result of your conversation at that time, did the defendant move back in?

A Yes.

Q How long after you spoke with them did the

defendant come back in the residence?
A Immediately. Within that month, he was -- well before that month was over, he moved in.
Q Okay. And when you say moved in, are we still talking about State's Exhibit 1?
A Yes, the same house in North Augusta.
Q You would have been eleven years old when the defendant moved back in?
A Yes.
Q Now, explain the interior of that home in State's Exhibit 1. How many bedrooms did it have?
A Three bedrooms.
Q And with regard to the computer room that you stated you were forced to perform oral sex in when you were nine, was that still the computer room when the defendant moved back in?
A No, it was now my sister's bedroom.
Q When you state your sister, which sister?
A [redacted]
Q Okay. Explain to the jury what happened whenever the defendant moved back in the house?
A No time when he moved back in he started doing what I call humping.
Q What did he call it?
A Scooching.

Q And describe what this action was?
A In the mornings he would come in my room before school about five o'clock or so. He would lay in the bed with me, take his penis out and put it on my leg. He would hump me and when he was almost done, he would take and get on top of me and put it between my thighs and ejaculate on my legs, in between my legs.
Q What time of day would this occur?
A Early morning.
Q And would anyone be up?
A No, sir.
Q Now, how would you be laying when he would do this?
A On my stomach.
Q And was your mother working during that time.
A Yes.
Q And was the defendant working?
A Yes.
Q What type of work was he doing during that time?
A Construction.
Q After the defendant ejaculated, what did he do?
A Just get up and make his coffee and go on with his day, go to work.
Q And what did you do?
A Got cleaned up and got ready for school.
Q Now when you're eleven years old, how often did

this humping occur?
A Multiple times a week. Three to seven times a week. Very often.
Q Was it always in the mornings?
A Yes.
Q Did he give you anything during this period of time? Any gifts, any bribes, anything like that?
A Yeah, he would take us shopping, out to eat.
Q Did he ever threaten you?
A Yes.
Q What would he say?
A He would threaten to kill me, kill her -- my mom and my sister. He's threatened to kill hisself.
Q Now, [redacted] of 2003, you would have been 12 years old; is that correct? It's your birthday?
A Yes.
Q Did the abuse continue during that time?
A Yes.
Q And what type of abuse?
A It was just the humping.
Q And so from when he moved back in when you were 11, you had not been forced to perform oral sex on him anymore?
A No, sir.
Q At that time?
A No, sir.

Q Did that occur at the same residence?
A Yes, sir.
Q And it was -- it was this humping, scooching action that you referred to earlier?
A Yes.
Q In the morning times?
A Yes, sir.
Q Now, did that continue when you were thirteen, fourteen?
A Yes, sir.
Q And at any point thirteen or fourteen, did he have you perform oral sex on him?
A No, sir.

MR. ROUTZONG: Objection, Your Honor, these are all leading questions.

THE COURT: They are. Sustained.

Don't ask leading questions.

BY MR. MALONY:

Q Throughout this period of time when you were eleven, twelve, thirteen, fourteen, were you still living at the [redacted] in Aiken?
A Yes, sir.
Q And again how often would this humping occur in each of those years in that residence?
A Anywhere between three to seven times a week.

Q Did it only occur in your bed?
A No.
Q Explain when it would occur elsewhere?
A There was times like on the weekends when he was off work and my mom was gone, he would call me into his bedroom and he would do it there.
Q You say do it, what do you mean?
A Hump me, except I would be in a different position. He'd make me wrap my legs kind of around his and he would always try to move my pants out of the way, but I wouldn't allow him to get in to my pants. He just humped me.
Q Okay. Other than in his bed, did it occur anywhere else?
A In a rocking chair in the living room.
Q Explain what happened there?
A There was one point in time where he would lay me down on his lap and he wouldn't allow me to get up for a matter of time of about -- we were watching the crows. It was about six or seven movies long, for hours and hours I sat on his lap. I cried. He wouldn't let me up and when he finally let me up, the back of my pants were soaking wet.
Q Do you remember him ever doing anything to you while you were in the shower?
A Yes.

Q And what did he do?

A Often he would come in and say he had to use the restroom and I really never thought nothing of it. He would always ask me if I was washing my hair or shaving my legs. And at this point in time, I was washing my hair and I seen something go over the shower curtain very, very fast, so I looked out to see what was going on and he had a camera in his hands and he said he was deleting them after he looked at them. He wasn't doing anything with. So he was taking pictures of me in the shower.

Q And this would have been thirteen, fourteen, somewhere around in there?

A Yes, sir.

Q At some point when you turned fifteen, explain to the jury what happened.

A I wanted to get my tongue pierced when I turned fifteen years old, so he agreed to take me downtown to get my tongue pierced. On the way there --

Q Downtown where?

A Augusta, Georgia. On the way there, he drove extremely slow and was telling me if he lets me get my tongue pierced, I have to agree to give him oral sex. I was saying that I didn't want to, of course. He pulled over on the Ally Street by the Mellow Mushroom and proceeded to ask me and tell me if he lets me do this, I

need to give him oral sex. I didn't want to. At this point, we still went to get my tongue pierced. I didn't want to do it then, but he -- we still got it done. On the way home --

Q I'm sorry, didn't want to do what?

A Get my tongue pierced.

Q Okay. And was it just you two there at the time?

A Yes.

Q Who paid for your tongue to be pierced?

A Bo did.

Q And when you say Bo, who are you referring to?

A The defendant, Harold Cartwright.

Q And after you got your tongue pierced, explain to the jury what happened.

A On the way home, he drove very slowly. I'd say less than 30 miles an hour and was saying, now, you remember you have something to do since I got this done for you. And we just went home and at that point, it didn't happen then. I tried to stay away from the house to refrain from doing that.

Q All right. So what happened next? When did it occur?

A A few months later when we ended up home alone. He came home for lunch or it was the weekend and he was saying I had something to do, that was to give him oral sex and I

didn't want to do it. He was getting mad, irate with me, so -- threatening me, so that's when I agreed and I did it. I gave him oral sex.

Q And where was that?

A On the chair in the living room.

Q At which residence?

A [redacted] Drive.

MR. ROUTZONG: Your Honor, I'm having a real hard time hearing her testimony.

THE COURT: Speak up, please.

BY MR. MALONY:

Q Please speak up, [redacted], so he can hear you and everybody else can hear you.

How old were you when you performed oral sex on him at --

A Fifteen.

Q Was that the first time since you were nine?

A Yes.

Q And what happened later that year while you were fifteen?

A I wanted to go to Six Flags with one of my friends and I needed some money to go, so he came and picked me up from a friend's house and he took me to one of his job sites and locked the doors, went to the back of the job site -- locked the doors and begged me for three or four

hours to have sex with him for the money to go to Six Flags. I wouldn't -- I kept saying no, I'm not doing it. I wouldn't agree to do it. That's when he started getting angry with me. After about three or four hours of me saying no, he took me down to the canal in Augusta, Georgia. He was driving very fast. He was very angry, saying he'll throw me in the water -- he'd kill me and throw me in the water falls. He could throw me in the canal and nobody would ever find me. So at that point is whenever, yes, I will do it. And he dropped me off -- after I agreed he acted like nothing happened. He dropped me off at Wal-Mart with my friends and he gave me the hundred dollars.

Q And what, if anything, occurred after that while you were fifteen?

A Eventually, I ended up at the house with him alone. It was a couple of months later. And he told me I told him I would have sex with him and I wouldn't do it. I told him that I'm not going to do it. That's when he goes and gets very angry with me, saying things that, oh, you'll have sex with other people, just not me. Getting mad because I kept saying no. And he got to the point when he got sober he pulled a knife on me.

Q What was the knife? What did the knife look like?

A A big buck knife with a black handle. He always

carried it on the side.

Q And where were y'all during --

A At the same house in North Augusta.

Q Where in the house?

A The living room.

Q Was anyone else home?

A No, sir.

Q And what happened after he pulled the knife?

A He kind of lunged me on the couch. I remember hitting my foot on the coffee table. He put the knife up to my throat and my stomach. That's whenever I agreed to have sex with him. And he bent me over the couch, put a condom on and had intercourse with me.

Q Was this the first time he'd had sex with you --

A Yes, sir.

Q -- actual sexual intercourse?

A Yes, sir.

Q And how old were you at this time?

A Fifteen.

Q And now, was this the first time that the defendant had actually threatened you?

A No, sir.

Q Explain throughout this whole deal how he would threaten you. What types of things would he do other than this incident?

A He would bump up at me like he was going to punch me in the face. He's pulled guns on me, put them to my head before, very angry. He's pulled guns on hisself, big shotguns saying he'd kill hisself after he kills all of us; knives, more than a couple of occasions.
Q Now ultimately -- when did you leave the residence?
A When I was 16.
Q Why did you leave?
A Because I didn't want to put up with the abuse anymore.
Q Where did you go?
A To a boyfriend's.
Q And what was his name?
A Timothy Bowman.
Q And this was when you were sixteen?
A Yes, sir.
Q And did you ever move back into the area the defendant was living in?
A For about a month I moved into a shed behind their house until I found my own place to live. That was when I was about eighteen.
Q Okay. Who were you dating at that time?
A Chris Faulkner.
Q Are you still dating him today?
A Yes.

Q And who was living at the residence when you and Chris Faulkner, your boyfriend, were in the shed out back?

A My sister, [redacted] my stepbrother Hoss, my mom, and the defendant.

Q Okay. And did you leave the shed at some point?

A Yes.

Q And where did you and Chris move to?

A New Ellenton.

Q Okay. In 2011, how did law enforcement -- how did you come in contact with law enforcement in February of 2011?

A I voluntarily went to the sheriff's department to talk to some investigators about some things I knew about Timothy.

Q Okay. When you say Timothy is that the --

A My ex-boyfriend.

Q -- boyfriend?

A Yes.

Q And boyfriend you moved out of the residence that the defendant was living in when you were sixteen?

A Yes.

Q How long had it been since you and Timothy Bowman been dating?

A At that point, it was about six months, six, eight months.

Q That y'all hadn't been dating?
A Yes.
Q And --
A That point it was about a year whenever I went and talked to the sheriffs about him.
Q Okay. And what did you tell them about Timothy Bowman? What information did you tell them?
A Just about drugs and things I knew about whenever I was living with him.
Q And did you tell eventually -- did the defendant's name come up?
A Yes.
Q Why did you even mention the defendant's name when you were there trying to help with Timothy Bowman?
A I was explaining to them the reason I moved in with Timothy was to get away from the abuse from the defendant.
Q And did you tell them at the sheriff's office that day about the sexual abuse --
A Yes.
Q -- that you had endured?
A Yes, sir.
Q Now, you stated at the very beginning of this, you had a stepsister named [redacted]?
A Yes.
Q Is that the one we heard from first today?

A Yes, sir.
Q During -- February 24th, 2011, when you went to the sheriff's office, what was your and [redacted] relationship?
A We hadn't spoken in many, many years, since we were -- I was little.
Q And what was that relationship like on that day, February 24th, 2011?
A I still hadn't spoken to her or heard from her.
Q Did you call her and tell her that you had told the sheriff's office about --
A No, sir.
Q Now, the person that you stated sexually abused you when you were nine and then starting back when you were eleven to fifteen, is he in the courtroom here today?
A Yes, sir.
Q Would you please identify him?
A He is at the end of the table in the middle with the blue shirt and the black blazer and the glasses.

MR. MALONY: Will the record reflect, Your Honor, that the witness has identified the defendant.

BY MR. MALONY:

Q And lastly, what did you refer to the defendant as the majority of your life?
A Daddy.

MR. MALONY: I have no further questions, Your

Honor.

THE COURT: Cross?

CROSS-EXAMINATION

BY MR. ROUTZONG:

Q Since these allegations arose in 2011, you've stayed in pretty constant contact with [redacted]

A No, just during this.

Q You don't talk to her on FaceBook all the time?

A She's on my FaceBook.

Q You frequently talk with her?

A No, sir.

Q The person that you say you disclosed to back in 2001 or 2000, I guess it is, was Sandra Parsons?

A Yes, sir.

Q That was your mom's friend, Buffy?

A Yes.

Q She ever babysit you?

A I believe so, yes, sir.

Q She was at the house all the time?

A She'd come to the house and -- yes, sir.

Q You had the impression that she was a good friend of your moms?

A Yes.

Q So you actually disclosed to Sandra rather than Buffy. Why would you do that?

A I believe -- I'm real sure. I think the way it happened is, I was initially asked about it because Sandra was staying with us for a week or two and things were happening that the defendant was doing to me while she was there. And I ended up telling her exactly what was going on.

Q So actually Sandra was the one that approached you?

A I don't remember a hundred percent.

Q But it wasn't your mom that approached you?

A No, no, sir.

Q Wasn't anybody else that approached you?

A No, sir.

Q Were you aware -- were you aware of the fact that your mom had made it known that she'd asked you several times about this during that first time that you had said it didn't happen?

A She never asked me several times. Never.

Q She asked you about it sometimes?

A After DSS got involved and I told Sandra, I also told my mom.

Q And you're saying it was your mom, Buffy Cartwright that ultimately convinced you to recant?

A Yes.

Q And you did recant?

A Yes.

Q I think you just testified that Harold was gone from the house during this period of time when -- right after you made this first allegation back in 2001 and he was gone for a lengthy period of time?
A Yes, sir.
Q And you said it was right before your 12th birthday? Within a month of that time?
A After he moved back in -- are you asking when he got arrested or when he moved back into the residence.
Q I think you just testified a few minutes ago that he moved back into the residence just before your twelfth birthday. I think you said within a month.
A Two thousand -- my eleventh. It was in 2002, so, yes.
Q And you recanted in December of that year?
A Yes.
Q And your birthday is when?
A [redacted].
Q [redacted] and you said that you recanted -- I'm sorry, you said that he moved back in the house right before your twelfth birthday, within a month?
A Yes, yes, sir.
Q I'm going to refer back to prior testimony. You previously testified that Mr. Cartwright molested you almost every morning?

A Yes.
Q That wasn't exactly true because in your previous testimony, you testified that it only seemed that way?
A It seemed like it was almost every morning, but I know it was multiple times a week. Anywhere between three and seven days per week.
Q Three to seven days per week?
A Yes.
Q It didn't just seem that way?
A No, it was that often.
Q So when you said that under oath, that wasn't true?
A What I said was true, yes, it was true.
Q That it seemed that way?
A It was that way. It might not have happened every day of the week every week. Some days it may have, some days it may not have.
Q You previously testified that your stepfather, Harold, was very strict?

THE COURT: Very what?

MR. ROUTZONG: Very strict.

MR. ROUTZONG:

Q Is that correct?
A Yes, sir.
Q And he was very strict about you and your sister attending school?

A Yes, sir.
Q And you previously testified that he was very concerned about the things that you and [redacted] had on your computer?
A Yes.
Q There came a time as you've just testified to when you got in contact with the -- actually the Aiken County Sheriff asked you to come in and talk to him?
A Uh-huh.
Q And they were investigating you because they believed you were involved with drugs?
A No. They -- I told them I knew some things that may help them with their investigation. I was not involved in drugs.
Q You don't recall that you testified in your prior hearing that you were involved with drugs?
A I was talking to them about drugs and the things that I knew what was going on with my ex-boyfriend.
Q But you actually testified in the other proceeding that you were involved --
THE COURT: Well, show her what you're talking about if that's what you've got.
THE WITNESS: Please.
THE COURT: Show it to her.
(WHEREUPON the witness was looking at a document.)

THE COURT: Mr. Routzong, the rule is when you're using prior testimony, you show it to her line and verse.

MR. ROUTZONG: Yes, Your Honor, I neglected to actually mark it. That's my problem.

THE COURT: You don't have to mark it.

MR. ROUTZONG: I might have marked it on the other transcript.

THE COURT: Well, we need to move along now.

MR. ROUTZONG: Yes, sir.

Your Honor, I'm just going to move along. I didn't mark it.

THE COURT: Just ask questions.

MR. ROUTZONG: Yes, sir.

THE COURT: You know the rules. Next question. Move along.

BY MR. ROUTZONG:

Q When you recalled the interview with the investigator, you did not know whether or not you were going to be arrested?

A I know I was not going to be arrested.

Q How did you know that?

A Because I wasn't involved in anything. I was voluntarily giving them information that I knew that would help with the case with my ex-boyfriend.

Q But law enforcement did not tell you that you were

not a target of the investigation?
A I don't remember if they told me I was or not, but I don't believe I was.
Q So you were confident based on your own knowledge of what your involvement with the drugs were, but you weren't told by any law enforcement agency you were not going to be arrested?
A Correct.
Q Therefore, you didn't really know whether you were going to be arrested?
A Yeah.
Q You previously have testified that before going to speak with law enforcement, you were aware that Mr. Cartwright suspected that you and [redacted] had been involved in some things dealing with the internet?
A At this point, I did not know anything about the internet situation.
Q You were aware that Mr. Cartwright was actually interviewed on a local television station about that situation?
A No, sir.
Q You weren't?
A No, sir.
Q When did you go see law enforcement?
A February 24th. I found out after that -- that all

that internet was going on. And if anything was said to me about that, I don't remember it being before that.

Q You weren't aware that Mr. Cartwright had reported his suspicions to the North Augusta Police Department?

A No, sir, I was not.

MR. MALONY: Objection, Your Honor. I think this is of the scope of this witness's knowledge as to what Mr. Cartwright reported and what he didn't report. That's what she eluded at earlier.

THE COURT: I'm going to allow it. Let /PHEUPLhim ask it. Move along, please.

BY MR. ROUTZONG:

Q You have your own admission about Harold being a strict father -- strike that. It was about five months from when Mr. Cartwright became suspicious of those things on the internet that you moved back in the house? Do you know?

A I'm not sure the time frame of any of that.

Q You previously testified that when you were about fourteen to sixteen years of age, you were gone two or three times a day -- I'm sorry two or three times a week from the house?

A Yes, sir.

Q And stayed away?

A Yes, sir.

Q And you testified you were kind of rebellious?
A Yes, sir.
Q Timothy Bowman was the man this you were involved with drugs?
A Yes, sir. That was involved with drugs. He was.
Q And is it true that you called Mr. Cartwright when you were threatened by Mr. Bowman?
A Yes.
Q And it's also true that after that relationship ended, you moved back into that house?
A I moved into a shed behind their house for about a month.
Q And that was your house?
A That was their house.
Q That was where you resided?
A Yes, for about a month.
Q You previously testified that you moved in with your grandmother?
A Yes, sir.
Q During this period of time? What's your grandmother's name?
A Barbara [redacted]
Q You disclosed to her?
A Not until way after the fact.
Q And you moved back out because your grandmother

wanted you to pay rent?

A That's one reason.

Q Where did you move back to?

A She wanted me to pay a phone bill and I moved back into the [redacted] residence in North Augusta.

Q Where did you move back to?

A In North Augusta, [redacted] Drive.

Q And who were you living with?

A My sister and my mom and Harold Cartwright.

Q You don't deny that you previously testified that you were being investigated for that boyfriend at the time for drugs?

A I do not deny that.

MR. ROUTZONG: I don't have anything else, Your Honor.

THE COURT: Redirect?

MR. MALONY: No redirect, Your Honor.

THE COURT: You may step down.

Mr. Foreman, ladies and gentlemen, let's take a little short afternoon break. Please do not discuss the case nor deliberate. We'll come back in, in about ten or fifteen minutes and go until about five o'clock. Everybody okay? You a little warm? I can probably find you a wrap or a jacket. Both of you. Y'all okay? I'll try to find something. Thank you. Y'all step out.

Everybody else remain seated.

(WHEREUPON the jury left the courtroom at 3:26 p.m.

THE COURT: Anything for the record before we break, Mr. Malone?

MR. MALONY: Your Honor, can take it up before we bring the jury back out. I do have one small matter concerning my next witness.

THE COURT: And what is it?

MR. MALONY: Your Honor, the State would be calling next Michelle Prince, the DSS caseworker that the last victim, [redacted] [redacted] spoke to in 2001, July 17th. The defense just opened the door, rather than being a time and place witness, Michelle Prince should be allowed to testify to exactly -- a prior consistent statement of this victim in this case because he's alleged multiple improper motives that arose after this statement was made.

The statement was made July 17, 2001. He's alleged a motive up until February 24th, 2011, in this investigation of drugs. I believe the case law is clear.

THE COURT: Well, we'll get to it and you can ask whenever questions you want to ask and if he wants to object, he can and we'll deal with it then.

MR. MALONY: Yes, sir.

THE COURT: Thank you. Anything Mr. Routzong?

MR. ROUTZONG: No, sir.

THE COURT: All right. We'll stand at ease for about ten minutes.

(WHEREUPON a recess was observed.)

THE COURT: Ma'am can y'all get the defendant out for me.

(WHEREUPON the defendant entered the courtroom.

THE COURT: State ready to proceed?

MR. MALONY: Yes, sir, Your Honor.

THE COURT: Mr. Routzong?

MR. ROUTZONG: Yes, sir.

THE COURT: All right.

THE BAILIFF: Bring the jury in.

(WHEREUPON the jury entered the courtroom at 3:43 p.m.

THE COURT: Call your next witness.

MR. MALONY: Thank you, Judge.

The State calls Michelle Prince.

MICHELLE PRINCE,

having been duly sworn, testified as follows:

THE CLERK: Please have a seat in the witness box. State your full name for the record and spell your last.

THE WITNESS: Michelle Prince, P-r-i-n-c-e.

DIRECT EXAMINATION

BY MR. MALONY:

Q Ms. Prince, where have you been employed for the

last fifteen years?
A Aiken County Department of Social Services.
Q And what did you do at -- commonly referred to as DSS?
A Yes.
Q What did you do at DSS?
A I did investigations, treatment and foster care.
Q And do you have any training to do those types --
A Yes, we go through basic training and I have advanced training in the forms of physical abuse, sexual abuse, drug abuse, and forensic interviewing.
Q Okay. Explain how DSS becomes involved in cases like -- such as the one we're involved with here today?
A Somebody calls in a report and makes a complaint and if it meets the legal statute in the State of South Carolina, we take it as a report and go interview the family.
Q All right. And what capacity were you working with DSS in July of 2001?
A In investigations and investigating allegations of child abuse and neglect.
Q And please explain to the jury how you first became involved in this case?
A I received a call from an intake supervisor saying that we had received a report of sexual abuse concerning

[redacted] [redacted] and her stepfather, Harold Cartwright. The mother is Buffy Cartwright.

Q Okay. And did you have the opportunity to meet with [redacted]?

A I did.

Q Where did you meet with her?

A At the North Augusta office.

Q And do you remember what day that would have been?

A July 17th of 2001.

Q Now, during these meetings with these children, do you take notes?

A I do.

Q Why do you take notes?

A To gather an accurate response of what the children say.

Q And did you take notes in this case?

A I did.

Q And do you actually remember meeting with [redacted]

A Yes, I do.

Q Okay. How old was [redacted] at that time?

A She was nine.

Q And do you remember that conversation you had with [redacted]

A I do.

Q And what if anything did [redacted] tell you happened

to her?

MR. ROUTZONG: Objection, Your Honor. I'm not sure what all this testimony is relevant to. The State has already established that back in the 2000, 2001 time period, [redacted] became involved in law enforcement that resulted in an indictment. She recanted the indictment to the State. This is just cumulative, Your Honor. It's bolstering -- I guess it's bolstering the testimony that's already been offered. There's nothing to be gained here. It's not relevant. All of that is already into evidence.

THE COURT: Overruled.

MR. MALONY: Thank you.

BY MR. MALONY:

Q What did [redacted] tell you?

A That she had been sexually abused.

Q Where did she say that she'd been sexually abused?

A At her home on [redacted] Street in the office part of the home.

Q Excuse me, I didn't hear you, I'm sorry.

A On [redacted] in North Augusta in the office.

Q Where in that residence?

A In the office part.

MR. MALONY: Thank you, Judge. I have no further questions.

THE COURT: Any cross-examination?

CROSS-EXAMINATION

BY MR. ROUTZONG:

Q Good afternoon. Who's your husband?

A Stacy Prince.

Q And where does he work?

A Aiken County Sheriff's Office.

Q And you're aware of the fact that the charges that were indicted that arise out of this conversation with you, she recanted that and they were nol prosed?

A I was not the worker when that happened. I understand that there was a recantation. I wasn't sure of the criminal charges.

MR. ROUTZONG: I don't have anything else, Your Honor.

THE COURT: Anything?

MR. MALONY: No, sir, Judge.

THE COURT: You may step down.

Next witness.

MS. AGNEW: State calls [redacted].

THE CLERK:

[redacted],

having been duly sworn, testified as follows:

THE CLERK: Please have a seat in the witness box. State your full name for the record court and spell your last.

THE WITNESS: [redacted] [redacted]

DIRECT EXAMINATION

BY MS. AGNEW:

Q Now, Ms. [redacted], you just said that your name is [redacted] What do you go by?

A [redacted]

Q How old are you?

A Eighteen.

Q When's your birthday?

A [redacted] [redacted], 1995.

Q Are you in school?

A Yes, ma'am.

Q Where do you live right now?

A In Aiken.

Q Can you tell me about your family?

A My mom is Buffy Cartwright. I have one sister, real sister, [redacted] [redacted]; three stepbrothers and sisters, [redacted] Hoss and Jamie.

Q Okay. What's your relationship to the defendant?

A He was my stepfather.

Q What did you call him?

A Daddy.

Q How long have you known him?

A Ever since I can remember. Since I was a small baby.

Q Can you tell the jury how was your relationship with the defendant when you were a little girl?
A It was good. We -- I thought he was my father for a long time.
Q At some point did that relationship change?
A Yes, ma'am.
Q Can you tell the jury when it changed?
A It changed when I was about thirteen.
Q What grade would you have been in?
A About seventh grade.
Q Would that have been in 2008?
A Yes, ma'am.
Q Where were you living at that time?
A [redacted] in North Augusta.
Q And [redacted] I'm going to show you what's already been entered into evidence as State's Exhibit 1. Do you recognize that?
A Yes, ma'am.
Q What is it?
A Our house in North Augusta, [redacted].
Q So that's the house that you're talking about that you were living in in 2008.
A Yes, ma'am.
Q Now [redacted] when you were living there, who else was living with you then?

A It was my sister, my mom, and the defendant, Harold Cartwright.
Q Now, you mentioned that your relationship with the defendant changed then. Can you tell the jury how it changed?
A Well, he started sexually abusing me when I was about thirteen. And it went from us having like a father/daughter relationship to me basically despising him.
Q Now, you said that he was sexually abusing you and I -- I'm going to have to ask you to be specific. Can you tell the jury specifically what you mean?
A He did -- he humped me every morning in the morning time.
Q And again, what do you mean by humping?
A He would take -- he would come in my room in the morning, take his penis out and just basically hump my legs, my bottom.
Q When you say in the morning time, are we talking mid-morning, early morning? Can you tell me what morning means?
A Early morning before I would get up and get ready for school.
Q Did it always happen in the same room?
A Sometimes whenever my mom -- like on the weekends or something, he would call me -- scream my name to come

into his room.

Q But during the school week before school where would it happen?

A My room.

Q Would anybody else be around?

A Well, my mom and sister would be in the house, but they wouldn't be around.

Q Okay. Do you know if he ever ejaculated?

A Sometimes.

Q Where would he do that?

A On me, on my bed, on my clothes.

Q Now, [redacted] when he was doing this, did you ever try to get away from him?

A Yes, ma'am.

Q What would you -- I mean -- what would happen?

A I mean when I would try to like get away from him or get up out of the bed, he would wrap his legs around me or put his arm around my body to hold me down.

Q Now, how often would this happen?

A Multiple times a week. Anywhere between four and seven times.

Q Did he ever say anything to you when he would do this?

A Not while he was doing it.

Q Would he say something to you before he was doing

it?
A No.
Q Did he ever offer you anything or promise you anything?
A He never really directly told me if you do this, I'll go buy you clothes, but, I mean, he took me shopping and he bought me stuff.
Q Was that any different than just a normal father/daughter shopping?
A I would say so.
Q Did he ever threaten you?
A Yes, but he wouldn't directly threaten me.
Q Well, can you tell the jury what you mean by that?
A Like whenever he got mad, he would hold a gun up to his head and said he was going to kill all of us and himself.
Q Did he get mad a lot?
A Yes.
Q When did you turn fourteen?
A [redacted] 2009.
Q And where were you living then?
A North Augusta, [redacted].
Q Did anything happen with the when you were fourteen?
A The humping continued.

Q Same place?
A Yes, ma'am.
Q Same time of day?
A Yes, ma'am.
Q Was anybody else around then?
A No, ma'am.
Q Even then, did you try to get away?
A Yes, ma'am. I tried to get away basically every time.
Q Now, while you were 14, did you move to a different house?
A Yes, ma'am.
Q When did you -- when did y'all move?
A We moved the -- before school started in 2010, I think or '9.
Q Okay. Where did you move to?
A [redacted], his brother's house.
Q Okay. Is that here in Aiken County?
A Yes, ma'am.

(WHEREUPON State's Exhibit No. 2 was marked for identification.)

BY MS. AGNEW:

Q Now, [redacted] I'm showing you what's been premarked as State's Exhibit 2. Do you know what that is?
A That's the defendant's brother's house.

Q So is that where y'all lived in 2009?
A Well, we lived in a shed kind of in the side yard over there.
MS. AGNEW: Your Honor, at this time, the State moves State's Exhibit 2 into evidence.
MR. ROUTZONG: No objection.
(WHEREUPON State's Exhibit No. 2 was entered into evidence.)
BY MS. AGNEW:
Q Now, you mentioned that you didn't actually live in the house, but you lived in a shed beside it. Can you explain to the jury what you mean by shed?
A Well, it was just basically a storage shed. There was a door and when you walk in the door, on the right-hand side was my stuff, my bed, my dresser and stuff; and on the left-hand side it was the defendant's and my mom's bed and a refrigerator and it was divided by a dresser in the middle.
Q So was there more than one room?
A It was just one big room.
Q Why did you move to [redacted]?
A From what I understand they were -- the house was going in foreclosure.
Q Was the defendant working then?
A No, ma'am.

Q And who lived in the shed with you?
A It was me, my mom, and the defendant.
Q Where was [redacted]
A She already moved out with her ex-boyfriend.
Q Now, you said you moved in right before school started in 2009. Were you in school that year?
A Yes, ma'am.
Q Did you stay in school?
A No, ma'am.
Q Why not?
A Because the defendant thought it was a good idea for me to be home schooled.
Q So were you home schooled?
A Yes, ma'am.
Q Where would you be all day?
A In the shed.
Q Would you go anywhere else?
A We would go to the store occasionally.
Q But for the most part, did you stay in the shed all day?
A Yes, ma'am.
Q Would anybody else be at home with you during the day?
A Just the defendant.
Q Where was your mother?

A She was at work.
Q Do you remember what her work schedule was like?
A She worked from about 7:30 in the morning to about three or four in the afternoon.
Q Now, what, if anything, happened with you and the defendant while you were alone in the shed with him all day?
A Well, at first he continued humping me for a little while and then he started to actually have sexual intercourse with me.
Q Did he ask your permission?
A No.
Q Did you ever say anything to him about it?
A No, no.
Q Where would it happen?
A Usually -- well, most of the time in my bed.
Q Do you know if he would ever ejaculate?
A He did sometimes.
Q How often would the sex happen?
A It was mostly every morning, other than the days that my mom wasn't at work. She didn't work maybe two or three days a week.
Q Do you know if the defendant ever used protection?
A I remember sometimes I would hear him opening a condom, but sometimes I didn't.

Q Now [redacted] were you on birth control?
A I got on birth control later on.
Q Why did you get on birth control?
A Well, I guess the defendant thought that since I was getting to the age --
MR. ROUTZONG: Objection, Your Honor. That's speculation.
THE COURT: Sustained. It's what you know of your own knowledge, not with respect to what other people knew.
BY MS. AGNEW:
Q Do you know why you got on birth control?
A Because --
Q Well, let me ask you this, [redacted] was it your idea?
A No, ma'am.
Q Do you know whose idea it was?
A The defendant's.
Q During this time that he was doing this, did he ever offer you or promise you anything then?
A He would -- I mean he would take me shopping, he would buy me things.
Q Did you ever get mad -- I'm sorry.
A He would offer me money.
Q Did he ever get mad while you were living in the shed?
MR. ROUTZONG: Objection, Your Honor.

THE COURT: What's the objection?

MR. ROUTZONG: I'm not sure what she's asking, but --

THE COURT: She's asking did he offer any money. Still objecting?

MR. ROUTZONG: No, sir.

THE COURT: Please ask the question.

BY MS. AGNEW:

Q Did you ever see the defendant get mad while you were living in the shed?

A Multiple times.

Q Did he get violent when he got mad?

A Very much so.

Q Can you tell the jury what you're talking about with that?

A He would hold guns to his head, say he was going to kill me, my mom, himself. He would get knives, walk around with them being very violent, just being irate.

Q When did you turn fifteen, [redacted]

A [redacted].

Q In 2010, you turned fifteen?

A Maybe '9.

Q You were born in 1995, right?

A Yes.

Q You had a fifteenth birthday, right?

A (Witness nodded head.)
Q Were you still living in the shed when you were fifteen?
A Yes, ma'am.
Q Did the defendant continue the humping and sex when you were fifteen?
A Well, the sex --
MR. ROUTZONG: Objection, Your Honor. It's a leading question.
THE COURT: Sustained. Rephrase your question.
BY MS. AGNEW:
Q What, if anything, did the defendant do to you when you were fifteen?
A He really didn't continue on with the humping, he just -- it was just sex at that time.
Q Now, while you were fifteen, did you move out of the shed?
A Yes, ma'am.
Q Do you remember when you moved?
A It was April of that year.
Q 2010?
A Yes, ma'am.
Q Where did you move?
A To [redacted] Drive.
Q Is that in Aiken County?

A Yes, ma'am.

(WHEREUPON State's Exhibits 3 and 4 were marked for identification.)

Q Now, [redacted] I'm going to show you what's been marked as State's Exhibit's 3 and 4. I want you to take a look at both of them and let me know if you know what they are?

A That was our house at [redacted] Drive.

Q Is that house in both of those pictures?

A Yes, ma'am.

MS. AGNEW: Your Honor, at this time, the State would move State's Exhibit's 3 and 4 into evidence.

(WHEREUPON State's Exhibits 3 and 4 were moved into evidence.)

MR. ROUTZONG: Without objection.

BY MS. AGNEW:

Q And who was living with you at the [redacted] Drive address?

A At first it was me, my mom, and Harold Cartwright.

Q Now, you say at first, did anybody else ever move in?

A Yes, ma'am.

Q Who moved in?

A Hoss, my stepbrother.

Q Now, let me ask you this, when you moved into the

[redacted] Drive address, did you end up going back to school?

A I went back to school that following year.

Q Once you went back to school, did the defendant ever say anything about the clothes you were wearing?

A Yes, ma'am.

Q What would he say?

A He would say that I -- they didn't cover up enough, that it was inappropriate.

Q What would he do or what would he make you do?

A He would -- whenever I wore shorts or something, he would make me sit down cross legged on the floor to see if anything showed and he would make me bend over to see if you could see anything if I was to bend over.

Q Did your mother ever say anything to you about the clothes you were wearing?

A No, ma'am.

Q Did you ever get in trouble at school for the clothes you were wearing?

A No, ma'am.

Q Now, you said that Hoss eventually moved into that house. Can you tell the jury who Hoss is?

A He's my stepbrother.

Q Okay. You remember when he moved into the house?

A He moved in at the end of May, I believe.

Q Okay. Now, when Hoss moved in, did you have your own bedroom?
A Yes, ma'am.
Q Did he have his own bedroom?
A Yes, ma'am.
Q Where were y'all's bedrooms?
A They were side by side.
Q What, if anything, did the defendant do to you at the [redacted] address?
A He -- whenever Hoss moved in, he stopped the intercourse and he just started with the humping again.
Q And when would he do this?
A It would be in the mornings before school.
Q And where would he do this?
A In my room.
Q Did Hoss eventually move back out of the house on Winter Place?
A Yes, ma'am.
Q Do you know when he moved out?
A It was Christmas break of 2010.
Q Did you know he was moving out?
A Whenever he left, I didn't know.
Q Now, after Hoss moved out, did you keep -- did you stay in the same bedroom?
A No -- well, for a little while I did, but I

switched bedrooms after that.

Q How come?

A Because the bed in the other room was bigger than mine.

Q So whose room did you move into?

A Into Hoss's old bedroom.

(WHEREUPON State's Exhibit No. 5 was marked for identification.)

BY MS. AGNEW:

Q Now, [redacted] I'm showing you what's been marked as State's Exhibit 5. Do you recognize that?

A Yes, ma'am.

Q What is it?

A That's Hoss's bedroom. That's the room I moved into.

Q That's the bedroom that you moved into after he moved out?

A Yes, ma'am.

MS. AGNEW: Your Honor, at this time, the State would move State's Exhibit 5 into evidence.

(WHEREUPON the defense was looking at the exhibit.)

THE COURT: Any objection?

MR. ROUTZONG: I don't have any objection, Your Honor.

THE COURT: Thank you. Move along.

(WHEREUPON State's Exhibit No. 5 was moved into evidence.)

MR. MALONY: Your Honor, is it moved into evidence?

THE COURT: Without objection.

BY MS. AGNEW:

Q Now, [redacted] after Hoss moved out Christmas break, 2010, did the defendant's behavior toward you change in any way?

A Well, he continued -- he started back with the humping and stuff.

Q Did he have intercourse with you after that?

A I think there was a couple --

MR. ROUTZONG: Leading, Your Honor, objection.

THE COURT: Rephrase your question.

BY MS. AGNEW:

Q What, if anything, would he do beside the humping to you?

A There were a few times where he had sexual intercourse with me. But it wasn't as regular as before.

Q When that would happen, where would it be?

A In Hoss's old bedroom.

Q And --

A Where I moved in.

Q In the bedroom in State's Exhibit 5?

A Yes, ma'am.

Q And that's where you were sleeping at that time?
A Yes, ma'am.
Q When did you turn sixteen?
A [redacted], 2011.
Q Were you still living at the house on [redacted]
A Yes, ma'am.
Q What, if anything, did the defendant do to you then?
A I remember him humping me. That's it.
Q And where would that happen?
A In the same bedroom that I moved in to.
Q In the bedroom in State's Exhibit 5?
A Yes, ma'am.
Q Now, [redacted] a few weeks after you turned 16, specifically February 19th, 2011, do you remember anything significant about that day?
A Yes, ma'am.
Q What day of the week was it?
A A Saturday.
Q Who was home?
A It was just me and the defendant.
Q Where was your mom?
A She was at work.
Q What happened?
A He -- the defendant called me in his room. He was

screaming my name about twenty times to come -- so I could come in there and he could do whatever and I wouldn't go in there. I refused. I was doing stuff around the house to make him just leave me alone. I was like washing dishes, feeding the animals outside and walking around and stuff and he just got very, very mad and --

Q What happened when he got mad?

A He was just screaming and hollering and he left and went to the store. And I assume he got alcohol. I saw him with beer.

MR. ROUTZONG: Objection, Your Honor. She's testifying to what she assumed.

THE COURT: Sustained. Disregard that, ladies and gentlemen.

Move along.

BY MS. AGNEW:

Q Did you see him with alcohol?

A Yes, ma'am.

Q Had he ever done anything like this before?

A No, ma'am.

Q Now, while this was going on, does your mom eventually come home?

A Yes, ma'am, later on.

Q What happened after she came home?

A She put her things down inside, asked me what was

going on and I told her he was mad. I didn't tell her why. She went outside to talk to him. They were outside for about an hour.

Q How long were you alone with him before she came home?

A Probably about six or seven hours.

Q Now, [redacted] at some point, did your mom and the defendant come back in the house?

A Yes, ma'am.

Q Did you hear him say anything when he came back in the house?

A Yes, ma'am.

Q Now, [redacted] I need you to tell the jury what did you hear the defendant say when he came back in the house?

A Well, him and my mom came back inside. My mom went to go use the bathroom, which was right inside of their room. He laid down in the bed, was going to sleep and he looked at my mom and asked her if she'd ever seen my lady part and she said no. And he said well, she has a pretty p-u-s-s-y.

Q Before we move on, I want to talk to you about internet stuff. At any point, has the defendant ever accused you of participating in pornography?

A Yes, ma'am.

Q Can you tell the jury how that happened?

A Well, one day I was at school and he just -- he picked me up from school, mad, saying that he had found these pictures online and said that they were me and my friends.

Q When did this happen?

A It was probably late October, November, when he first brought it up.

Q Of 2010?

A Yes, ma'am.

Q Did you see the pictures he was talking about?

A Yes, ma'am.

Q Were you in those pictures?

A No, ma'am.

Q Have you ever participated in pornography?

A No, ma'am.

Q Did you tell him it was you or wasn't you in the pictures?

A Well, at first I told him it wasn't me.

Q What happened when you told him that.

A He got very mad. He was threatening to kill all of us, my brother, me, and my mom. He -- at one point he grabbed a knife, you hold it in the middle and there's two blades that came off of it, and he grabbed that knife and went outside. And he came back inside, mad and went in the room with my mom and shut the door. And at that point I

was scared that he was going to hurt my mom or one of us. So I said the pictures were of me.

Q After you said that, did he calm down?

A Not really.

Q Now, going back to February of 2011, you told us what happened at the house February 19th. Now, I want to talk to you about that next Thursday, February 14th. What happened on February 24th, 2011?

A Well, I was at school and I got called to the office and I went up to the office and there's an investigator in one of the offices.

Q And when you say investigator, do you mean like the police?

A Yes, ma'am.

Q What did the police ask you about?

A He asked me if he had ever touched me in any way.

Q And when you say he, who are you talking about?

A Harold Cartwright.

Q When the police officer first told you about that, did you tell him what was going on?

A No, ma'am.

Q How come?

A Because I was scared. I was -- really just taken by surprise. I didn't really know what to do.

Q Well, while he was there at the school with you,

did you eventually tell him what was going on?
A Yes, ma'am.
Q After you told the police, what happened to you?
A I went to Helping Hands.
Q Can you tell the jury what Helping Hands is?
A It's basically just a group home.
Q And how long did you stay there?
A I stayed there from February 24th to May 3rd.
Q [redacted] did the defendant ever sleep in your bed?
A No, ma'am.
Q Did he ever sleep in the bed in Hoss's room that you moved into?
A No, ma'am.
Q Did the defendant and your mom ever sleep in that bed?
A No, ma'am.
Q Now, you said in the two weeks or so before the police came to your school that the sexual activity was still going on with the defendant. Who was in charge of doing the laundry in your room?
A I was in charge -- I did all of the laundry in my room.
Q Does that include your bed sheets?
A Yes, ma'am.
Q Does that include the bed sheets that were on the

bed in Hoss's room that you were sleeping on?

A Yes, ma'am.

Q The sheets in that picture?

A Yes, ma'am.

Q In that two weeks before the police came to your school, did you wash the sheets on your bed?

A Not that I can remember.

Q Did your mama wash them?

A No, ma'am.

Q Now, [redacted] the man that you said was humping you and having sex with you, do you see him in the courtroom today?

A Yes, ma'am.

Q Can you identify him for the Court by saying what he's wearing, where he's sitting?

A It's the man on the far right in the blue shirt with the glasses.

MS. AGNEW: Your Honor, let the record reflect that the witness has identified the defendant.

No further questions.

[redacted] answer any questions Mr. Routzong has.

THE WITNESS: Okay.

CROSS-EXAMINATION

BY MR. ROUTZONG:

Q Good afternoon?

A Hi.
Q Do you and [redacted] have the same father?
A No, sir.
Q Where is your father today?
A He's deceased.
Q What year was that that he passed away?
A I believe it was 2010, in January.
Q After your father passed away, you received a check from Social Security?
A Yes, sir.
Q How much was that?

MS. AGNEW: Objection, Your Honor. Relevance.

THE COURT: How is that relevant?

MR. ROUTZONG: It's relevant, Your Honor. It goes to motive.

MS. AGNEW: How?

MR. ROUTZONG: Well, if I --

THE COURT: Hold on, hold on. I'll let you ask the question.

MR. ROUTZONG: Thank you, Your Honor.

BY MR. ROUTZONG:

Q How much was that check?
A Are you talking about the first initial check or just --
Q The first check?

A I think it was around $20,000.
Q Around 20,000?
A Yes, sir.
Q And did you put that check in your bank deposit?
A No, sir.
Q Whose banking account did it go in?
A The defendant's. Not by my choice.
Q Sounds like that made you upset.
A Well, I mean, it provided a roof over my head, so not really.
Q You weren't upset by that? And did you receive checks every month after this?
A Well, my mom and the defendant did.
Q How much were those checks?
A About $850 every month.
Q Who handled all the money in the house? Your mom or Mr. Cartwright?
A Well, I think it was -- they both did their fair share.
Q He actually used some of your money from that Social Security check to buy some land and a trailer?
A He used all of it to do that.
Q And he put that in his own name?
A Yes, sir.
Q That kind of made you mad too?

A Like I said, it provided a roof over my head, so not really.

Q But you testified you didn't think it was right?

A I didn't think that it was right that some of it didn't go toward my college fund.

Q Yes, ma'am. You've already testified that sometime in the Fall of 2010, Mr. Cartwright developed suspicions about the internet?

A Yes, sir.

Q Who was living there at that time?

A At the time it first came about, it was me, my mom, the defendant, and my stepbrother, Hoss.

Q [redacted] wasn't there?

A No, sir.

Q When did she move in?

A She moved in the shed probably about August -- maybe July or August -- before that.

Q Before October 2010?

A Yes.

Q And she was living there after -- up to October 2010 when these --

A No, she moved about before the pictures came about.

Q And then she was gone for a while?

A Yes, sir.

Q And then she moved back in?

A No, she never moved back in.
Q She never did. Did you -- you never talked to your sister about the --
A About the pictures? No.
Q You never talked to her at all during that time?
A I talked to her, yes.
Q You don't deny that Mr. Cartwright actually went to law enforcement to talk about that internet allegation?
A No, sir.
Q And you don't deny that he went -- even went as far as to go on television in Augusta?
A No, sir.
Q Did you watch that program?
A No, sir. At the time, I didn't know he'd done that until afterwards.
Q But you became aware afterwards?
A Yes, sir.
Q You became aware of the fact that he was actually calling some of your friends and telling their parents about this?
A Yes, sir. Well, I was aware of one.
Q Who was that?
A My friend Ashley.
Q Ashley? He called her parents?
A I think he called her dad.

Q Did Ashley talk to you about that?
A No, we never talked about it.
Q How did you find out about it?
A He told me.
Q Whether this was true or not, it was really a kind of immense sort of embarrassment to you, wasn't it?
A Not, really. The pictures weren't me, so I had no reason to be embarrassed.
Q That makes it worse doesn't it?
A No, I don't think so.
Q If somebody makes an allegation that you're on the internet in pornographic pictures and it's not true, that's not worse?
A I don't think so. I had no reason to be upset if they weren't me.
Q How long did he keep railing about this internet thing?
A It was from about the end of October beginning of November, until February 24th. And he's of course still --
Q So he carried on about it?
A Yes, sir.
Q Was it something that was brought up almost every night?
A Yes, sir.
Q That was irritating to you?

A Yeah.

Q Did there come a point in time when you became aware that Mr. Cartwright thought that there might be some romantic inclinations between you and your stepbrother Hoss?

A Could you say that again? I'm sorry.

Q Are you aware of any time when Mr. Cartwright thought that there might be a romance developing between you and --

MS. AGNEW: Objection to the form of the question. If he's going to ask what the defendant thought, he needs to ask her did the defendant say anything to her. She can't read a mind.

THE COURT: Your objecting because it calls for speculation?

MS. AGNEW: Yes, Your Honor.

THE COURT: Sustained.

MR. ROUTZONG: I think I actually asked, Your Honor, whether or not she was aware of this.

THE COURT: I'll let you ask that.

BY MR. ROUTZONG:

Q Were you aware of that?

A I mean, he had said something, but it wasn't like he was accusing. He wasn't -- I've never heard him accuse us of anything.

Q He never expressed his disproval to you?

A Disproval of what?

Q Any kind of romantic relationship between you and Hoss?

A There was no romantic relationship with Hoss.

Q So you deny that?

A Yes.

Q And your prior testimony in another hearing, you testified that you had never disclosed it to anyone about this before the police came to your school?

A That I never said anything to anyone until that Saturday which caused my sister to talk to the police.

Q But before that you never disclosed to anyone?

A No, sir.

Q Do you admit or deny that on March 1st -- that would have been 2011 -- that you told a forensic investigator that you disclosed to --

MS. AGNEW: Objection, Your Honor.

THE COURT: Your objection is what?

MS. AGNEW: The substance of forensic interviews isn't admissible.

THE COURT: State the question again.

BY MR. ROUTZONG:

Q Do you admit or deny that when you spoke to an investigator on March 1st 2011 that you were --

MS. AGNEW: Your Honor, before he gets to the substance of that, he's talking about a forensic interview.

THE COURT: Well, you going to open that door, Mr. Routzong?

MR. ROUTZONG: It really goes, Your Honor, to whether or not she's consistently testifying. And so --

THE COURT: That's for the jury to decide.

MR. ROUTZONG: Right. But if I can't bring out what the inconsistency is --

THE COURT: Ask the question, but you may be opening a can of worms.

BY MR. ROUTZONG:

Q Do you admit or deny speaking to that forensic investigator. On March 1st you told that investigator that you disclosed to both your sister and your grandmother?

A I honestly don't remember any -- there were so many interviews, I don't really remember.

Q You would be able -- if you're telling the truth, you'd be able to keep your story straight.

THE COURT: Is that a question?

MR. ROUTZONG: Yes, sir.

THE COURT: Sir?

MR. ROUTZONG: Yes, sir.

THE WITNESS: Could you rephrase the question?

///

BY MR. ROUTZONG:

Q If you were keeping your story straight, you wouldn't have to wonder about that.

MS. AGNEW: Objection, Your Honor --

MR. ROUTZONG: It doesn't matter how many interviews --

MS. AGNEW: That's not a question.

THE COURT: Hold on.

Your objection is what.

MS. AGNEW: He's not asking a question.

THE COURT: Ask a question, Mr. Routzong, not a statement.

MR. ROUTZONG: Your Honor, can we have a side bar?

THE COURT: You can ask the question. That's a simple thing. Just ask it. You can't just sit there and make a statement. If you make a statement, say, is this true. You just can't say --

BY MR. ROUTZONG:

Q Is it true that if your story is true, you don't have to try to remember what you told each investigator?

A Yes, that's true.

Q So if you --

MR. ROUTZONG: I'll just move on, Your Honor.

BY MR. ROUTZONG:

Q You didn't disclose to anyone prior to the police

talking to you at school; is that correct?

A Yes, sir.

Q And you're not sure whether or not you said in prior statements that you disclosed to your sister and your grandmother but not your mom? You're not sure?

A I didn't disclose to my mom. I talked to my grandmother that Saturday before, but I'd not disclosed as to what was actually going on.

Q And you don't remember if you spoke to anyone in another interview and in that interview, you said you disclosed to your mom, your grandmother, but not your sister. You don't remember that?

A I do not remember that.

Q Okay. Let me ask you about this last incident where the sheets were involved. In that incident, you told investigators that you were wearing pajamas with birds on it?

A It was penguins.

Q And you told in one report, you said you had a tank top on and in another report you said you had a Michigan t-shirt on. Is that true?

A I can't remember. You know I usually wore a tank top underneath a shirt.

Q And in those interviews, you told law enforcement that Mr. Cartwright -- that was one of those humping

sessions, I guess?
A Yes, sir.
Q Is that correct?
A (Witness nodded head.)
Q And you testified that Mr. Cartwright got on top of you and you were laying on your stomach and he would hold you down and you couldn't get up?
A Yes, sir, that's what he did, usually.
Q And that was when this humping started? He got on top of you and the humping started while he's holding you down?
A Well, he would usually lay down beside me and start humping me and then either get on top or just do whatever.
Q But in your statement to law enforcement, you told them you were on your stomach, he got on top of you and he held you down and you couldn't move?
A Yes, sir.
Q Okay. And that's the way during the whole thing, that's the position you were in?
A That time, yes, sir, that I remember.
Q Okay.
(WHEREUPON Defendant's Exhibit No. 9 was marked for identification.
Q I'd like to show you a picture that I got marked as a Defendant's Exhibit No. 8 just for identification.

MS. AGNEW: And Your Honor, I would just ask that he show it to the State.

(WHEREUPON there was a pause in the proceedings.)

(WHEREUPON Defense Exhibit No. 8 was marked for identification.)

BY MR. ROUTZONG:

Q Can you -- you don't have to say what it is, but do you know what that is?

A Yes, sir.

MR. ROUTZONG: I don't have any other questions, Your Honor.

THE COURT: Redirect?

MS. AGNEW: Briefly, Your Honor.

REDIRECT EXAMINATION

BY MS. AGNEW:

Q Now, [redacted], Mr. Routzong talked to you a whole lot about you telling people about what happened. So let's talk about that. Did you tell your sister what was going on?

A Yes, ma'am.

Q When did you tell her?

A I told her that Saturday before the investigators came to my school.

Q And that Saturday, what else happened that Saturday?

A That was whenever he got very mad at me because I wouldn't do anything with him.
Q Had you told your grandmother at this point?
A At that point, I think so.
Q Did you tell her that Saturday?
A Well, I told her what was going on, but I didn't tell her why it was going on.
Q Did you and your sister make a plan about telling what happened?
A Yes, ma'am.
Q Tell the jury about that?
A We decided that we were going to tell my mom on her birthday, just have a girl's dinner, which was [redacted], after what happened.
Q And why did y'all decide to tell her that way?
A Because it was the only way we could get her alone without him.
Q Why did you want to get her alone without the defendant?
A Because we were very scared of him.
Q Did you get a chance to tell your mom?
A No, ma'am.
Q How come?
A Because the police came to my school and I went -- it had already happened basically.

Q Did you call the police and report it?
A No, ma'am.
Q All right. Now, [redacted] after you turned sixteen, did the defendant have sex with you?
A I can't remember anything, right now.
Q Do you remember at an earlier proceeding talking about or being asked that question?
A Yes, ma'am.
Q Would it help to review what you said last time at the other proceeding?
A Well, I remember things happening, but I can't -- I don't know the exact -- exactly what happened. It's hard to remember everything that happened.
Q Well, would it help you to remember if you read what you said before?
A Yes, ma'am.

(WHEREUPON there was a pause in the proceedings.)

BY MS. AGNEW:

Q And [redacted] if I could direct your attention, starting at line 13. The numbers are on the side. Read that and let me know when you're done reading.

(WHEREUPON the witness was reading.)

BY MS. AGNEW:

Q Did reading that help refresh your memory?
A A little bit, not really.

Q Okay. Did the defendant have sex with you after you turned sixteen?

A From reading that I --

MR. ROUTZONG: Objection, Your Honor, it's leading.

THE COURT: Overruled.

THE WITNESS: From reading that, yes, ma'am, but I can't remember when or anything.

MS. AGNEW: Thank you, [redacted]

THE COURT: You may step down.

MS. AGNEW: Your Honor at this time, the State would like to enter the testimony of Buffy Cartwright.

THE COURT: How long is that testimony?

MS. AGNEW: Probably about 30 pages.

THE COURT: Y'all come up here.

(WHEREUPON, there was a bench conference out of the hearing of the jury and the Court Reporter.)

THE COURT: Mr. Foreman, ladies and gentlemen of the jury, the next witness -- this is one that is unavailable?

MS. AGNEW: That's correct, Your Honor.

THE COURT: This next witness, both sides have agreed to stipulate -- she has a medical condition which precludes or keeps her from being here. We've received some medical reports and everybody agrees that she is unable medically to attend. When that happens, under our

rules, you can use testimony taken from a prior proceeding, as if she were here today testifying and that testimony from the prior proceeding has been preserved by way of transcript and they're going to introduce or read into the record that testimony. The lady was under oath when she gave it, so treat it just as if she were in the courtroom here today.

They're going the have someone sitting here reading her responses to the answers -- the questions will be verbatim as what was asked in the last proceeding and her responses will be verbatim. It's just a reading of a transcript from a prior proceeding.

Any objection, Mr. Routzong? Any objection by anyone? That's what we all agreed to in the pretrial; is that right?

MR. ROUTZONG: That's correct, Your Honor.

THE COURT: All right. Let's move forward.

Who's going to be reading the witness.

MS. AGNEW: Ms. Dicks.

THE COURT: Come up ma'am.

EMMA DICKS,

having been duly sworn, testified as follows:

THE CLERK: Please have a seat in the witness box. State your full name for the Court and spell your last.

THE WITNESS: Emma Dicks, D-i-c-k-s.

(WHEREUPON the testimony was read into the record as follow:)

DIRECT EXAMINATION

BY MS. AGNEW:

Q Ms. Cartwright, where do you live currently?

THE COURT: Before she starts those questions, Ms. Cartwright, who she is portraying, was also sworn under oath at the time she gave the testimony, so it's testimony that was under oath at that prior proceeding.

You may proceed.

THE WITNESS: I live in Augusta, Georgia.

BY MS. AGNEW:

Q And what is your current health situation?

A I have stage four lung cancer, metastasized into my brain and into my lymph nodes.

Q And considering that, are you feeling okay today?

A Yesterday was better. I am not feeling well today.

Q Buffy, can I call you Buffy?

A Yes.

Q Do you have any children?

A Yes, I do.

Q And what are their names?

A [redacted] and [redacted].

Q How old are they?

A [redacted] is twenty-one and [redacted] is seventeen.

Q And what is your current relationship with the defendant?

A Divorced.

Q And how long were y'all married? When did you get married?

A We got married in '99, in December of '99.

Q And when did you get divorced?

A The divorce just became final a few weeks ago.

Q And are either [redacted] or [redacted], the defendant's biological daughters?

A No, sir.

Q Buffy, I am going to move your attention to the case we're all here for today. Do you remember the house you lived in with the defendant, [redacted], and [redacted] on [redacted] Drive?

A Yes, sir.

Q And when [redacted] was young, what, if anything, do you remember the defendant doing with [redacted], that seemed odd to you at that time, while at that home on [redacted] Drive?

A Waking her up in the mornings, getting her ready, you know, for school, getting her awake for school.

Q And how would we make her up?

A He would lay in the bed with her, rub her back.

Q And how long would he stay in the bed with her?

A Ten to twenty minutes, maybe.

Buffy [redacted] - Testimony read into the record.

Q Now, were you working at that time?
A Yes, sir.
Q Okay. And around 2001, did law enforcement and yourself find out that the defendant had been molesting [redacted]
A Yes.
Q And after law enforcement became involved in September of 2001, did [redacted] eventually tell authorities that she had not been sexually abused?
A She did.
Q And where did she do that at? Where did she tell them? Where did she recant?
A That was in North Augusta. Oh, no. That was in here, in Aiken to Brenda Brisbin.
Q And who drove her? You said Brenda Brisbin. That was the solicitor that was on the case?
A Uh-huh.
Q Who drove her to meet with Brenda?
A I did.
Q And Buffy, explain to the jury, what pressure, if any, you put on [redacted] at that time period?
A I probably did put some pressure on [redacted] because he had convinced me that he had done nothing wrong.
Q So [redacted] did recant that day in December of 2002?
A Yes, sir.

Q And after that, did the defendant move back in with you guys at 112 Cully Drive?

A Yes, sir.

Q Now once he moved back in during really this whole time period -- and I realize this is a personal issue and I apologize for it, but explain to the jury what your and the defendant's intimate relationship was like during this time?

A We did not have one. We didn't have one.

Q So once he moved back in, Buffy, did he continue waking [redacted] up in the mornings?

A Yes.

Q And [redacted] eventually moved out of that residence?

A Yes, she did.

Q Okay. And at that point, where did you and the defendant and [redacted] move to?

A After we lost the house on [redacted] we moved into [redacted] Avenue into a shed.

Q Okay. And was this around 2009?

A Yes, sir.

Q This is the shed that was in the defendant's brother's lot?

A Yes, sir.

Q Okay. Were you working during that time?

A Yes, sir, I was.

Buffy [redacted] - Testimony read into the record.

Q Where were you working?
A Manuel's Bread Cafe.
Q Where is that?
A That's Hammond's Ferry on the new development on the river.
Q What did you do there?
A I was assistant manager.
Q What hours did you work?
A They varied, but most of the time, I worked from six o'clock in the morning until three or four o'clock in the afternoon.
Q And why were you there that early?
A I had to make pastries and get everything open and ready for the day.
Q And during that time period was the defendant working?
A No, sir, he was not.
Q And what was [redacted] situation as far as school was concerned?
A At that time [redacted] was being home schooled.
Q So you would be at work in the morning around six o'clock in the morning. Who would be at the residence? Who would be at this shed?
A [redacted] and Bo.
Q Now, y'all moved out of that shed in 2010, correct?

A Yes, sir.
Q And where did y'all move to at that point?
A That's when we moved to Trenton, South Carolina.
Q Buffy, explain to the jury what you remember occurring on Saturday, February 19th, of 2011?
A I was at work that day.
Q Where were you working?
A I was working at the Bowery right downtown here in Aiken.
Q Did you leave work that day?
A Yes, sir, I did.
Q And where did you go?
A I went home.
Q And when you got to the house, what did you observe as far as the defendant was concerned?
A He was in the back of the property in his truck, drunk.
Q And did you approach him?
A Yes, I did.
Q Buffy, please tell the jury what you remember the defendant telling you at that point about [redacted] and [redacted]
A He started crying and stated to me that maybe he did molest [redacted] and [redacted]. He didn't know for sure. That he was so sorry and he was crying.
Q Did he appear very upset?

A Very emotional.
Q And how long were y'all out there at that truck?
A Hours.
Q Okay. And after speaking with him at the truck, where did y'all go?
A We went back inside the house. I finally got him to where he would go inside.
Q And who was in the residence at that time?
A [redacted] was.
Q Just [redacted]
A Just [redacted]
Q And tell the jury what you remember the defendant saying whenever he walked back into that home?
A She was sitting on the couch. The first thing he said to her -- and please pardon my language -- was she's got the prettiest little pussy I've ever seen.
Q What did he do after saying that?
A He went and got into the bed.
Q Now, the next week, Thursday, February 24th, 2011, do you remember when law enforcement became involved in this case?
A Yes, ma'am, I do.
Q And how did you become aware of law enforcement?
A I got a phone call at work from the school that I needed to get to the school as soon as possible.

Q Did you go to the school at that time?
A Yes, sir, I did.
Q And where did you go after leaving the school?
A I went home.
Q And later that day, did you and the defendant eventually meet up, get together?
A Yes, we did.
Q And tell the jury where y'all went?
A We went to Wrens to one of his friend's house.
Q I'm sorry, to wrens?
A Georgia.
Q Okay. And why did you go to his friend's house in Wrens Georgia?
A He was trying to get some money because --
Q Why did he want money?
A He was broke and my understanding he wanted to take off.
Q And once y'all left that residence in Wrens, Georgia where did y'all go?
A We headed back up I-20 and stopped at the River Watch Parkway Truck Stop there.
Q And did y'all have a conversation once y'all were at this truck stop?
A Yes, sir, we did.
Q How long did that conversation last?

A That conversation lasted probably a good hour.
Q What, if anything, do you remember the defendant telling you during that conversation with regards to [redacted] sheets and [redacted] clothing at the residence at Winter Place?
A He told me that when I went home to get her sheets, her bed linens and her underwear and clothes that was wearing on the bed and to wash them.
Q Did he tell I why he wanted you to wash them?
A He stated that because he had been laying in the bed with her and his DNA was in the bed.
Q Now, after that conversation, where did you go?
A I went home.
Q And did you wash the sheets?
A No, sir, I did not.
Q Did you mess with the sheets at that point in any way?
A No, sir.
Q Now, the next day, do you remember members of the sheriff's office investigators coming to your residence?
A Yes, sir.
Q And that was on February 25th, 2011?
A I believe so.
Q And at that point, did they ask you for consent to search the residence?

A Yes, sir, they did.
Q And did you tell them at that point the same thing you told us today with regards to what the defendant stated the day before?
A Yes, sir.
Q At that gas station?
A Yes, sir, I did.
MS. AGNEW: May I approach, Your Honor.
THE COURT: Yes.
BY MS. AGNEW:
Q [redacted]-- I'm sorry, Buffy, I am showing you what's been previously marked for identification State's Exhibit 6 and ask if you recognize that?
A Yes, I do.
MS. AGNEW: I'm sorry, Your Honor. Beg the Court's indulgence.
(WHEREUPON there was a pause in the proceedings.)
MS. AGNEW: And just to go back to where I was.
BY MS. AGNEW:
Q I'm sorry, Buffy, I'm showing what's been marked -- what's been previously marked for identification State's Exhibit 6 and ask if you recognize that?
A Yes, I do.
Q And what is it?
A That was the consent that I signed for them to

search my residence.
Q Is your signature on it?
A Yes, it is.
Q Is the date on it?
A Yes.
Q And is that the actual consent to search that you signed on February 25th of 2011?
A Yes, it is.
MS. AGNEW: Your Honor, at this time, the State moves to introduce Exhibit 6 into evidence.
THE COURT: Was there an objection.
MR. ROUTZONG: No objection.
BY MS. AGNEW:
Q Buffy, throughout this entire period of time, [redacted] and [redacted], the defendant's stepdaughters, what did they refer to the defendant as?
A Daddy.
Q Thank you. Please answer any questions that Mr. Harte has for you.

CROSS-EXAMINATION

BY MR. HARTE: (Read by Mr. Routzong)
Q Ms. Cartwright, in 2001, you were convinced that your husband had not molested [redacted], weren't you.
A Uh-huh, I was.
Q And in fact, you told [redacted] to tell what you

believed to be the truth, that she had not been molested?

A Uh-huh.

Q You need to answer.

A Yes, sir.

Q After that, y'all were separated for a period of time; is that correct?

A Yes, sir.

Q How long?

A It was probably a year and a half, two years.

Q Okay. And during that year and a half, two years, did he have any contact with [redacted]

A No, sir.

Q Now, I believe that during [redacted] youth, y'all had a lot of problems with her, didn't you?

A We did have some problems, yes, sir.

Q She would sneak out and go out at night; is that correct?

A Yes, sir.

Q She was drinking; is that correct?

A I'm not positive about the drinking.

Q Do you recall giving a statement that said that she was drinking at different times?

A I don't recall.

Q Let me show you a copy of a statement given on February 28th, 2011, and ask you if that's your statement.

Is that your handwriting?
A It is my hand writing.
Q All right. If you'll look at the third line down -- or fourth line down, it talks about drinking with her friends.
A Yes, sir.
Q And you also talked about her cussing you out?
A I'm sorry?
Q You talked about her cussing you out?
A Yes, sir.
Q On a regular basis?
A Uh-huh.
Q Had trouble at school?
A Yes, sir.
Q At one time, you and Bo talked about getting her in boot camp, didn't you?
A Yes, sir, we did.
Q Or even taking her out of school for that reason; is that correct.
A Yes, sir. Can I reiterate on that?
Q Well, I mean did you talk about doing the boot camp or not?
A We had talked about the boot camp, but he was actually against it.
Q Now, during the eight and a half to nine years that

this was going on, you were living in the house the whole time?

A Yes, sir.

Q And you saw -- well, let me ask you this, you said that he would go into [redacted] room and lie in her bed and rub her back. Did you see that?

A I did on occasion.

Q And on the occasions that you saw that he was not doing anything improper was he?

A No, sir.

Q So it is -- so is it your testimony that -- I mean, you heard the girls testify yesterday?

A Yes, sir.

Q And [redacted], in particular, said that for -- altogether, we're talking about eight and a half to nine years, four to seven days a week, they're claiming he was molesting him?

A Correct.

Q And you were in the house the whole time?

A I mean, I was there, yeah.

Q You were there?

A I was living in --

Q You were living in the house the whole time?

A I was living in the house, yes.

Q So were you complacent at keeping this quiet?

A No. I mean, I didn't realize it was going on.
Q Your husband was going in your daughter's rooms almost every morning for they said up to thirty to forty-five minutes and you didn't believe anything was going on?
A Not of a sexual nature, I did not.
Q And then on September -- on February 19, 2011, you decided that something was going on?
A Uh-huh.
Q Yes?
A Yes.
Q And at that point in time, you decided that you would make amends for what, for your daughters, didn't you.
A Yes.
Q And so you helped concoct these stories and help plant evidence with regards to your husband, didn't you?
A No, I have not concocted any stories or planted any evidence.
Q Either one of two things: Wouldn't you agree you were complacent or it didn't happen? Wouldn't you agree with that?
A No, I was probably naive.
MR. ROUTZONG: I don't have any further questions.
///
///

REDIRECT EXAMINATION

BY MS. AGNEW:

Q Did you and the defendant ever sleep in [redacted] bed?

A No.

Q Are you aware of the defendant ever sleeping by himself in [redacted] bed?

A Not to my knowledge.

Q Is there any reason that the defendant's DNA should have been on [redacted] bed?

A No.

MS. AGNEW: Thank you. No further questions, Your Honor.

THE COURT: I said five o'clock. So they -- how many more witnesses do y'all have? I'm fine.

MS. AGNEW: Five.

THE COURT: 9:30 or 10? What suits y'all? Wear your coats tomorrow. Is 9:30 okay with everybody.

(WHEREUPON the jurors were nodding their heads.)

THE COURT: Okay.

(WHEREUPON there was talk about breakfast for the next morning.)

THE COURT: We can't bring it out here in the courtroom. We'll start right at 9:30, so if you want a good hot biscuit in time that you can eat that and we'll

STATE OF SOUTH CAROLINA)
) COURT OF GENERAL SESSIONS
COUNTY OF AIKEN)

STATE OF SOUTH CAROLINA,)
)
PLAINTIFF,)
vs.) Transcript of Record
)
HAROLD BENNON CARTWRIGHT, III)
) 2012-GS-02-304, 306-327
DEFENDANT.) 329-332, 1682

April 17th and 18th, 2013
Aiken, South Carolina

B E F O R E:

THE HONORABLE DOYET A. EARLY, III, JUDGE, AND A JURY.

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

KEVIN MOLONY and ASHLEY AGNEW, Assistant Solicitors
Attorneys for the State

MICHAEL ROUTZONG and DAVID HAYES, Esquire
Attorneys for the Defendant

Lisa H. Davenport, RPR
Official Court Reporter

Transcribed by Pamela E. Green, Circuit Court Reporter

I N D E X

WITNESSES	PAGE
HOSS CARTWRIGHT	
Direct examination by Miss Agnew	9
Cross-examination by Mr. Routzong	16
VICKY GASKINS	
Direct examination by Miss Agnew	22
Cross-examination by Mr. Routzong	27
CHRIS EVENSEN	
Direct examination by Mr. Molony	31
Cross-examination by Mr. Routzong	40
SAGE O'GRADY-WATTS	
Direct examination by Mr. Molony	42
Cross-examination by Mr. Hayes	44
ALICIA BENEDETTO	
Direct examination by Miss Agnew	47
Cross-examination by Mr. Hayes	53
Redirect examination by Miss Agnew	56
Recross examination by Mr. Hayes	73
LILLY GALLMAN	
Direct examination by Mr. Molony	79
Cross-examination by Mr. Routzong	88
Redirect examination by Mr. Molony	91

WITNESSES	PAGE
JAMES HETTICH	
Direct examination by Mr. Molony	93
JAMES HETTICH	
Direct examination by Mr. Molony	99
Cross-examination by Mr. Routzong	103
Redirect examination by Mr. Molony	104
Motions	107
VERNON CARTER	
Direct examination by Mr. Routzong	121
Cross-examination by Mr. Molony	128
HAROLD CARTWRIGHT	
Direct examination by Mr. Routzong	129
Cross-examination by Mr. Molony	151
Redirect examination by Mr. Routzong	160

WITNESSES	PAGE
Motions	163
Closing by Mr. Routzong	169
Closing by Mr. Molony	186
Charge by the Court	198
Question from the Jury	216
Verdict	223
Motions	235
Sentencing	236
Certificate	238

E X H I B I T S

NO.	DESCRIPTION	ID	EV
	State's Exhibits		
S-1	Photograph		
S-2	Photograph		
S-3	Photograph		
S-4	Photograph		
S-5	Photograph		
S-6	Photograph		
S-7	Bedsheets		35
S-8	Buccal Swab		35
S-9	Consent to Search Form		38
S-10	Buccal Swab		39
S-11	Bedsheet Cuttings		85
S-12	Photograph		102
S-13	Photograph		102

NO.	DESCRIPTION	ID	EV

Defendant's Exhibits

D-1			
D-2			
D-3			
D-4			
D-5			
D-6			
D-7			
D-8	Photographp		123

NO.	DESCRIPTION	ID	EV
	Court's Exhibits		
C-1	Letter		
C-2	Defendant's Voir Dire		
C-3	Memorandum	73	
C-4	Jury Note	237	
C-5	Jury Note	237	

PROCEEDINGS

THE COURT: Anything for the record before we start, by the State?

MR. MOLONY: No, sir, Judge.

THE COURT: By the defendant?

MR. ROUTZONG: No, sir.

THE COURT: Mr. Routzong, y'all ready to proceed?

MR. ROUTZONG: Yes, Your Honor.

MR. MOLONY: Yes, sir.

THE COURT: All right.

(WHEREUPON, the following takes place within the presence of the jury.)

THE COURT: All right. Good morning. I hope you enjoyed your biscuits, and y'all must have voted back there to put all the women on the front row today except for my alternate. We have back this morning -- I'm glad to have back with me my wonderful court reporter. She's been out for a couple of days.

Welcome back.

Okay. We'll start right back up.

You may call your next witness.

MISS AGNEW: Thank you, Judge.

The State calls Hoss Cartwright.

THE COURT: Come around, Mr. Cartwright.

HOSS CARTWRIGHT, after being duly sworn, testified as follows:

CLERK: State your full name for the Court and spell your last please.

WITNESS: Hoss Cartwright. C-A-R-T-W-R-I-G-H-T.

DIRECT EXAMINATION

BY MISS AGNEW:

Q And, Hoss, how old are you?

A Eighteen.

Q When is your birthday?

A [redacted].

Q Are you in school?

A No.

Q Are you working anywhere?

A Yes.

Q Where do you work?

A Ihop.

Q Where do you live now?

A Rome, Georgia.

Q Okay. And just to make sure everybody can hear, make sure you speak up for me.

A All right.

Q Okay. How long have you been living in Rome?

A Two and a half years now.

Q Okay. Where did you live before that?

A Aiken.
Q Where did you live in Aiken?
A [redacted] Drive.
Q Who were you living with at [redacted] Drive?
A My stepmom, Buffy, Harold Cartwright, the defendant, and my stepsister, [redacted]
Q Can you tell us a little bit about or tell the jury a little bit about the [redacted] house, kind of how it was arranged?
A Yeah, it was a double wide trailer. Master bedroom, which was my dad's and stepmom's room, was on the further side of the house, and then me and [redacted] had two bedrooms side-by-side on the other side of the house, and then the kitchen and living room is separated.
Q Did you and [redacted] share a bathroom?
A Yes.
Q Now, really quickly, when did you move in at Winter Place Drive?
A Last few days of May of 2010.
Q Why did you decide to move in?
A Well, my parents got divorced when I was about six months old. So, I never really got a chance to know my dad, and I really, really wanted to have a father and know my father, and I -- so, I -- when I got old enough to decide, I was like hey, I'm gonna move in with my dad. My mom was like, all right,

you're old enough. So, go ahead. So, I just moved in so I could get to know him.

Q Now, you were talking about the arrangement of the house, that you had your own bedroom next to [redacted]

A Uh-huh. (Affirmative).

Q Y'all shared a bathroom.

Did y'all have a morning routine for getting ready?

A It wasn't really a routine, but it was kind of -- just kind of happened you know. Naturally she took longer to get ready in the morning. She would wake up about an hour before I did, take a shower, and, you know, do all her morning stuff. Then after I either heard her, you know, done or out of the shower I'd wake up. Then I'd go get ready and we'd go to school.

Q Now, during that 2010 school year, when you were living at [redacted] Drive, did you notice anything unusual involving [redacted] and the defendant?

A Yeah, every morning I'd like, since our rooms are side-by-side, they shared a wall, and it was a trailer. So, the walls were very thin. I would hear him, you know, knock on her door, and she'd be like, I'm awake, you know. He'd go in there and then be in there for a long, long, long, long, long time, and then come out and then she would go take a shower and get ready for school.

Q Did you ever say anything about it?

A No, because I just figured -- I am difficult to wake up in the morning. I just figured, you know, she was the kind of person, if you didn't just stay on her, she would fall back to sleep, be late, didn't get up. So, I really didn't think nothing of it at the time. So, I never really said anything.
Q Did anybody ever say anything to you about it?
A No.
Q While you were living at [redacted] Drive, did the defendant ever threaten you in any way?
A Multiple times.
MR. ROUTZONG: Your Honor, objection. That's leading.
THE COURT: It's leading?
That's your objection?
Overruled.
Q Can you explain to the jury how he would threaten you?
A One time he said I was getting smart with him, and he said he would knock my head right off my shoulders. At one point he said that he was about to blow the house up and he was gonna kill all of us MF'er's.
Q Did this happen often?
A Yeah.
Q Did you ever see him get violent in any way while you were living there?

A Several times.
Q Can you tell the jury about that?
A At one point I was in the living room and I heard a big commotion outside, and I was like what's going on. So, I went out on the front porch and the next thing I see is the defendant standing in the driveway with a knife about this long up to my stepsister's boyfriend's neck.
Q Now, Hoss, while you were living at [redacted] Drive, what, if anything, happened between the defendant and [redacted] regarding the kind of clothes she was wearing?
A She'd get up and get ready for school in the morning, and then he would tell her to sit in the floor, and just get in just in the weirdest positions to see if -- well, I guess if he thought they were too exposed, exposing. He would -- if he felt they were, he would not just be like hey, go change. He would be like I can see your pussy, your tits are hanging out. Just being too vulgar like a father shouldn't be.
Q Did that seem odd to you?
A Extremely.
Q Now, we've had some talk before about this, and I want to ask you, while you were living at [redacted] Drive, did anything ever come up with the defendant and pornography?
A Yes, I was -- me and my sister was sitting in German class and the intercom came on, and she's getting checked out,

and I was like why ain't I getting checked out. She was like I don't know. So, I just stayed in class and she went, I assume, back to the house and talked to him, and she came back and she was like really frazzled and upset, and I was like what happened, and she told me that---

Q Let me stop you. You can't say what somebody else told you.

But did you get a chance to talk to the defendant---

A Yes.

Q ---about pornography?

A Actually after he picked us up from school and took us both back to the house.

Q Is that on that same day?

A Yes, the same day, three o'clock, and he took us back to the house, and then I had already found out what the situation was. So, I was aware of it, and then he proceeds to tell me to come in the bedroom and take a look at the picture and see if -- see what I thought about it, if I thought it was her.

Q And when you say -- let me stop you. Sorry.

When you say the bedroom, whose bedroom are you talking about?

A His bedroom.

Q Okay. And you said that he was, wanted to show you some pictures.

A Yes.

Q Tell the jury about that.
A While he's in the room he closes the door and I -- he opens his laptop, and then the, the desktop pops up and the background was a picture of random females I've never saw and he's like -- he asked me is that [redacted] and I was like no, and then he just -- he starts getting mad and mad and just scaring me. I was like he was about to freak out on me.

So, I was -- I started to just be like, well, I -- maybe. Just in a sense I kind of agreed with him, but just kind of left it alone because I really didn't want to be involved in it. But, to me, it didn't look like her that I've ever known in my lifetime.

Q Hoss, you mentioned that you moved in at [redacted] so you could get to know your dad.
A Uh-huh. (Affirmative).
Q How long did you live at [redacted] Drive?
A Almost six months to the "T."
Q When did you move out?
A Christmas break.
Q Of 2010?
A Yes.
Q Why did you move out of the house?
A Well, I basically decided that the father I wanted to get to know wasn't the father I wanted to have. I decided that that everyday lifestyle there was not the kind of lifestyle I

was accustomed to and wanted. It was too stressful. Things were just getting too weird and hectic and violent, and honestly I was scared for my life to live there any longer than what I did.

Q What time of day did you move out?

A 3:30 is when we got picked up from the school and we was gonna meet my mother down the interstate a little ways to meet her.

Q Did you tell anybody that day you were moving out?

A Nope, I told him I was actually just gonna go visit her for Christmas and I'd be back in a week.

Q Did you ever go back?

A No.

Q Please answer any questions Mr. Routzong has for you.

THE COURT: Cross-examination.

CROSS-EXAMINATION

BY MR. ROUTZONG:

Q Morning, sir.

You testified just now that you never really got a chance to know your dad, is that correct?

A For the first 13 years of my life, no.

Q You lived with Melinda most of your life?

A Uh-huh. (Affirmative).

Q And you went to Aiken High?

A For six months.

Q I think you just testified a second ago that you were scared for your life, is that correct?
A Yes.
Q And you went to Aiken High.
Did Aiken High have any resource officers there?
A Yes, they did.
Q Have principals?
A Yes, they did.
Q Teachers?
A Yes.
Q Guidance counselors?
A I assume. I never talked to them, but I assume they did.
Q Did you have any friends that had a driver's license while you were at Aiken High?
A I was a sophomore. So, I didn't have my license. So, very few of my friends probably didn't have a license either.
Q But you could of gotten to the police if you had wanted to, right?
A I had no reason to go to the police at that time.
Q You know how to dial 9-1-1?
A Yes.
Q You said that you went back home and lived with your mom in Rome, Georgia.
How far away is that?
A Four hours. But I never stated that I lived with her

when I moved back.
Q I'm sorry?
A I never stated that I lived with her when I moved back.
Q But if you're four hours away from the defendant you certainly don't have any reason to be afraid of him. I mean, after all, you're familiar with Georgia.
There is a Army base between here and Rome, isn't there, Fort Gordon?
A I'm not sure.
Q All kind of county sheriffs and Floyd County has sheriffs---
A They do, but---
Q ---and police officers?
A He's been to my mother's residence, my sister's residence, my grandmother's residence several times. He knows exactly where they're at and how to get there and he's told me several times that he's been up there without us knowing. So, I know exactly -- I know that he knows how to get there and where we live, where our bedrooms are at. So, yeah, I was, you know, kind of scared to make him mad so he might come up there.
Q You've never testified to that anywhere else?
THE COURT: Hold on a second.
(WHEREUPON, a phone rings in the courtroom at this time.)

THE COURT: You got my foreman this morning.

THE FOREPERSON: I'm sorry.

THE COURT: Everybody, just a reminder, please put your phones on silent.

A But he is my father. So, I guess to be expected he would know where I live.

Q You previously testified that your dad caught you smoking dope?

A He never caught me smoking it, no.

Q You didn't testify in the last hearing -- you didn't testify in the last hearing that you were smoking pot on occasion?

A Yeah, but I never said he caught me doing it.

Q That was right before you left the house?

A No, it was actually a month or two before.

Q You previously testified that your dad had the impression -- you had the impression that your dad had the impression that there was a romantic relationship developing between you and [redacted], isn't that correct?

A Yes.

Q Do you admit or deny that you and [redacted] were placed on no trespass notice at K-Mart in North Augusta for shoplifting condoms?

Do you admit or deny that?

A We did about a year before, but they were for her and not

me. I didn't live there at the time. I hadn't never -- I didn't know anyone. I had no reason to get them. She was going to a party that Christmas and told me that she might be, you know, you never know. And, so, she wanted to be safe if something was gonna happen. So, we stole them.

Q But it's your testimony today that she also got placed on a no trespass notice?

A Yes.

Q You previously testified that [redacted], and I think you did this morning as well, at least an hour in the previous testimony, an hour and a half to get ready, isn't that correct?

A An hour.

Q And then you would take about five minutes to get ready?

A Yeah.

Q What time did you usually get in the bathroom?

A I don't remember the exact time, but it was -- I would estimate around probably about 6:50, 7:00.

Q You've previously testified, and I think you testified again this morning, that you noticed your dad spending an excessive amount of times in [redacted] room?

A Yes.

Q You said, in previous testimony, that it was excessive, awkwardly long, and abnormal?

A Yes.
Q And then you testified previously that you didn't tell anyone because you really didn't think nothing of it at the time?
A No, I didn't because when I -- when I get woke up in the mornings that early it takes me, a lot of times a lot of talking to me and just get up, get up, get up, and I will fall back asleep and just go back to sleep. So, I -- yes, I figured that there might be other people in this world that it takes a good amount of effort to wake up in the mornings.
Q Do you admit or deny, in previous testimony, you testified, when asked, did you raise that issue or comment on it in any way about it being awkwardly long?

Do you admit or deny that you said no, I really didn't think nothing of it at the time?
A I didn't think anything of it at the time.
Q So, you admit that's true?

MISS AGNEW: Your Honor, he's already testified to that.

THE COURT: He has.

MISS AGNEW: It's not impeachment. He's testifying consistently.

THE COURT: That's correct.

Move along.
Q Mr. Cartwright, do you admit or deny that there was

any issue that your father raised with you about you and [redacted] wanting to sleep in the boat together when you were at the shed?

A We never wanted to sleep in the boat together.

Q So, you deny that?

A If that's what it is, yes. But we never wanted to sleep in the boat together.

MR. ROUTZONG: I don't have any other questions, Your Honor.

THE COURT: Anything on redirect?

MISS AGNEW: No, Your Honor.

THE COURT: You may step down.

Next witness.

MISS AGNEW: The State calls Investigator Vicky Gaskins.

VICKY GASKINS, after being duly sworn, testified as follows:

THE CLERK: Take the witness stand and state your full name for the Court and spell your last.

THE WITNESS: My name is Vicky Gaskins. Last name spelling is G-A-S-K-I-N-S.

DIRECT EXAMINATION

BY MISS AGNEW:

Q Investigator Gaskins, I'm gonna ask you to speak loud so everybody can hear you.

Can you tell the jury where you work?
A I am employed with the Aiken County Sheriff's Office.
THE COURT: Speak up please.
Q And how long have you worked there?
A Fifteen years.
Q What's your job at the Sheriff's Office?
A I'm the lieutenant over the juvenile division.
Q And what does that mean that you do on a, on a daily basis?
A I supervise six investigators who conduct investigations involving abuse and neglect of children, elderly people, major criminal domestic violence cases. I assign cases and supervise the cases.
Q Do you get involved with cases yourself?
A Yes, ma'am, I do.
Q Were you working on February 24th of 2011?
A Yes, ma'am.
Q Did you have a chance to get involved in this case?
A Yes, ma'am, I was asked to speak to a female by the name of [redacted]. She was there speaking with another investigator, and the investigator said that she had some information that he felt like needed to be handled by juvenile.
Q To your knowledge, was [redacted] under suspicion of any criminal activity when you talked to her?

A I was not aware of any investigation at that time.
Q Do you have a system to check to see if people are suspects of criminal activity?
A We do. It's the in pursuit case management system that houses all reports.
MR. ROUTZONG: Your Honor, I'm sorry. But we can't hear anything she's saying.
THE WITNESS: Sorry.
THE COURT: Speak up please, ma'am.
MISS AGNEW: Your Honor, would you like me to repeat that last question?
THE COURT: Please.
Q Lieutenant Gaskins, do you have a system that y'all can check to see if people are suspects in criminal activity?
A Yes, ma'am, we have a case management system called the in pursuit and it houses all the data involving police reports.
Q Did you check to see if [redacted] was listed as a suspect in that system?
A I did and she has no police reports where she's listed as a suspect of any sort.
Q Did you actually speak with [redacted] that day?
A Yes, ma'am.
Q And after you spoke with [redacted], did that cause you

to do anything else?
A Yes, ma'am, I asked an investigator to go to Aiken High to meet with [redacted].
Q Did you personally speak with anybody else in this case, in this case?
A Not that particular day.
Q The next day, did you speak with anybody?
A Yes, ma'am, myself and Investigator Evensen interviewed [redacted] more at length, and then we met with [redacted] mother, Buffy, and Buffy's mother, Barbara.
Q Now, as a result of speaking with all these people, what did, what did you do next in your investigation?
A Myself and Investigator Evensen traveled to the home on [redacted] and we were given consent to search the home.
Q Was a search conducted of that home?
A Yes, ma'am.
Q What, if anything, was retrieved from that home?
A There were some clothing, some sheets, and---
THE COURT: I'm sorry. Clothing and what?
THE WITNESS: Clothing, some sheets, bed linens, and some computers.
Q Did you personally handle that evidence?
A Investigator Evensen, I helped fill out the log, but Investigator Evensen handled the evidence and placed it into the evidence.

Q Now, as a result of your investigation, did you make any criminal charges?
A The agency did, yes. Yes, ma'am.
Q And who did the agency get charges on?
A Harold Bennon Cartwright.
Q Do you know when those warrants were processed?
A The warrants were obtained on March 4th.
Q Did your investigation stop there?
A No, ma'am.
Q Well, what did you do after that?
A We had information that there possibly was another victim.
Q And who was that other victim?
A [redacted] Cartwright or [redacted]
Q Did you get a chance to speak with her?
A Yes, ma'am.
Q When did you go speak with her?
A Myself and Investigator Evensen traveled to Rome, Georgia I believe April 6th.
Q Now, did [redacted] call you?
A No, ma'am.
Q So, who initiated that contact?
A We contacted her.
Q Now, what, if anything, did you do as a result of your conversation with [redacted]?

A Based on the information from [redacted], more warrants were obtained for Mr. Cartwright.

Q And do you know when those were served?

A On April 13th, 2011.

MISS AGNEW: I beg the Court's indulgence.

(Pause.)

Q No further questions, lieutenant. Please answer any questions that Mr. Routzong has for you.

CROSS-EXAMINATION

BY MR. ROUTZONG:

Q In your report, you became -- at least you record that you were told that [redacted] had called her sister because she was in fear that the defendant was trying to assault her, isn't that correct?

A During my conversation with [redacted] she gave information that [redacted] had been in contact with her.

Q And it's your understanding that's prior to the disclosure at the school?

A Correct.

Q And in your report you recorded that [redacted] said she disclosed to her grandmother and her mother.

A I believe that is correct.

Q And she -- also in your report you say that she disclosed to her uncle, a Mr. Jackson?

A I believe that is correct also, yes, sir.

Q And all of that was before you spoke to her at the school, all of those disclosures?
A Yes, sir.
Q Just to be clear, are you, are you the person who collected all the items or was it Investigator Evensen?
A Investigator Evensen.
Q And there were about nine items collected all together?
A I'm showing 13.
Q How many of those items were actually submitted to SLED?
A On this form it is showing -- on this particular form dated March 9th it is showing that a pair of underwear was sent to SLED. There may have been more, but on that particular report that's showing one piece. I believe I have the SLED report. This is the SLED report and items submitted, fitted sheets, cutting from fitted sheets, swabs which were collected at different dates. That's on that report. And then on this one is a different one, and it's a pair of panties and a fitted sheet report.
THE COURT: Please speak up, ma'am.
Q Is it your understanding that the items they collected, and I'm reading from the laboratory report, Aiken County Sheriff's Office, is a t-shirt with a Bee The Moon?

MISS AGNEW: Your Honor, I'm gonna object. If he wants to keep testifying from reports, this is all hearsay evidence. He can ask the evidence custodian these type of questions. This isn't the proper person to be asked those questions.

THE COURT: She was there when the evidence was collected. She can ask what, to her knowledge, was collected. That's a simple question. It ought to be an easy answer.

THE COURT: What was collected, ma'am, that you know of?

THE WITNESS: On the evidence collection sheet form, the [redacted] is one navy blue t-shirt with Bee The Moon printed on the front, one navy blue t-shirt with Michigan printed on the front, a blue colored pair of pants with birds and stars printed on them, a blue in color jeans, brand 21, size 24, black in colored shorts, two white stripes in the legs, No Boundaries brand, black in color shorts single white line on legs, size 10/12, green in color women's underwear with gray trim size small, yellow in color women's underwear with pink and yellow trim size extra small, white in color women's underwear with blue trim, OP Brand, size small, one fitted sheet, Wal-Mart brand, Your Zone, black and white gray, blue sheet, Wal-Mart brand, Your Zone, black and white

gray, comforter, Wal-Mart brand, Your Zone, black and white gray, Dell laptop model PP29L with the serial number. Those were the items taken at [redacted]

Q And it's your understanding that [redacted] told you that when that alleged incident happened she was wearing either a Michigan t-shirt or a tank top and the pajama bottoms that have penguins on them?

Is that your understanding as well?

A I did not interview [redacted].

Q It's not in your report that she was alleging that that was what she was wearing?

A I don't have, I don't have any of the reports that I documented.

Q Well, let me ask you this then.

All those items of clothing that were collected, were any stains found on them that could be connected to Mr. Cartwright?

MISS AGNEW: Your Honor, I'm gonna object. This is the improper witness to ask these questions.

THE COURT: She's, she's not been qualified to do that. She's -- sustained.

MR. ROUTZONG: I don't have anything else, Your Honor.

THE COURT: Redirect?

MISS AGNEW: No, Your Honor.

THE COURT: You may step down.

MR. MOLONY: The State, the State calls Investigator Chris Evensen.

CHRIS EVENSEN, after being duly sworn, testified as follows:

THE CLERK: Have a seat in the witness box. State your full name for the Court and spell your last please.

THE WITNESS: First name is Kristopher. K-R-I-S-T-O-P-H-E-R. Last name Evensen. E-V-E-N-S-E-N.

DIRECT EXAMINATION

BY MR. MOLONY:

Q Investigator Evensen, where are you employed?

A Aiken County Sheriff's Office.

Q What do you do there?

A I'm an investigator in the juvenile section.

Q And how long you been with the Sheriff's Office?

A Thirteen years.

Q And prior to working as an investigator what did you do?

A I was a road patrol deputy from 2000 to 2002 and a school resource officer from 2002 to 2009.

Q And in what capacity were you working on February 24th, 2011?

A Investigator.

Q And explain to the jury how you became involved in

this case.
A I received a call from my supervisor to go to Aiken High School in reference to a possible assault.
Q And did you respond?
A Yes, sir.
Q Who did you speak with when you got there?
A Miss [redacted], [redacted] [redacted].
Q And prior to you going to speak with [redacted], did [redacted], did [redacted] ever contact you?
A No.
Q Did she contact the Sheriff's Office?
A Not that I'm aware of, no, sir.
Q And after speaking with [redacted] that day, did you have the opportunity to respond to [redacted] Drive in Aiken County on February 25th, the next day---
A Yes, sir.
Q ---2011?
A Yes, sir.
Q And what was the purpose of you going to that residence that day?
A We, we received information that there may be evidence of the sexual assault that I went to the Aiken High School the day before.
Q So, what did you do when you got to the residence?
A We got a consent to search signed by Mrs. Buffy

Cartwright.
Q Did you search?
A Yes, sir.
Q Where did you search?
A We searched the bedroom that we had information that [redacted] was sleeping in and also we obtained some other items out of, out of the house, but mostly the bedroom that Miss [redacted] had been sleeping in.
Q All right. Speak up for us if you can.
Your Honor, may I approach?
THE COURT: You may.
Q Investigator Evensen, I'm gonna show you what's been admitted as State's Exhibit 5, and ask if you know what this is.
A That's the bedroom that Miss [redacted] was sleeping in.
Q And is this the bedroom where you collected evidence from?
A Yes, sir.
Q Some of the evidence?
A Yes, sir.
Q Specifically what evidence did you collect from State's Exhibit 5?
A The bed linens off the bed in that room.
Q And explain what the situation was as far as the, the bed linens came from that room and the actual bedroom of

[redacted] [redacted].
A The rooms are next to each other. [redacted]s bedroom, if you will, has all her stuff in it, but she'd been sleeping in this room next to her "bedroom."
Q Did you actually collect the sheets from, from the bed in State's Exhibit 5 that day?
A Yes, sir.
Q And did you collect sheets or bed linens from any other bed in the residence that day?
A No, sir.
MR. MOLONY: Your Honor, may I approach?
THE COURT: You may.
Q Investigator Evensen, I'm gonna show you what's been previously marked for identification as State's Exhibit 7.
All right. Investigator Evensen, I'm gonna ask you to take a look at what's been marked as State's Exhibit 7 and ask if you recognize it.
A It's the fitted sheet I took off the bed in the room that Miss [redacted] was sleeping in.
THE COURT: I'm sorry. I can't hear you.
THE WITNESS: It's the fitted sheet off the bed that Miss [redacted] was sleeping in, in the room Miss [redacted] was sleeping in.
Q Is that the fitted sheet that you took from the residence on February 25th, 2011?

A Yes, sir.

MR. MOLONY: Your Honor, at this time the State would move to introduce Exhibit 7 into evidence.

THE COURT: Any objection?

MR. ROUTZONG: No, Your Honor.

(WHEREUPON, State's Exhibit No. 7 was received into evidence at this time.)

Q All right. So, Investigator Evensen, you, along with Lieutenant Gaskins, collected multiple pieces of evidence from the residence that day?

A Correct.

Q And what did you do with the evidence including those sheets?

A I took them to my office at the Sheriff's Office and secured them in my office.

Q Let's get this out of the way.

And you did that that day?

A Yes, sir.

Q Okay. What happened, what happened with the evidence next?

A Monday -- that was on the Friday. Monday morning I submitted them to our evidence custodian.

Q And where is that at?

A The Sheriff's Office.

Q And is that evidence room that custodians over

secure?
A Yes, sir.
Q Now, on June 21st, a couple of months later, of 2011, what, if anything, do you remember doing with that?
A I signed them out of evidence and myself and Investigator Watts ran tests on them.
Q Okay. And from that point on were they in Investigator Watts'---
A Yes, sir.
Q ---possession?
A Yes, sir.
Q Okay. Moving to October 19th of 2011.
Did you have the opportunity to respond to the Aiken County Detention Center that day?
A Yes, sir.
Q And did you meet with the defendant?
A Yes, sir.
Q Now, what, if anything, do you remember---
MR. ROUTZONG: Objection, Your Honor.
THE COURT: Sir?
MR. ROUTZONG: Can we have a side bar?
THE COURT: Yeah.
(WHEREUPON, a bench conference was held out of the hearing of the jury at this time.)
MR. ROUTZONG: That's my fault, Your Honor. I

thought we were going to talk about something else.

THE COURT: Very well.

Keep moving, counselor. He knows when to stop.

Q I'm sorry, investigator.

October 19th, did you respond to the detention center?

A Yes, sir.

Q And what was the purpose of that meeting?

A To obtain a buccal swab from Mr. Cartwright.

Q And what is a buccal swab?

A It is essentially a long Q-tip that we use to swab the inside of someone's mouth, the gumline under their tongue, to obtain a DNA sample, swab it to obtain a DNA sample.

Q And that's what you did?

A Yes, sir.

MR. MOLONY: May I approach, Your Honor?

THE COURT: Yes, sir.

Q Investigator Evensen, I'm gonna show you what's previously marked as State's Exhibits 8 and 9 and ask if you recognize them.

A State's Exhibit, State's Exhibit 9 is the consent to search that Mr. Cartwright signed on the 19th of October, 2011, and eight is the buccal swab I obtained from Mr. Cartwright that day.

Q And did the defendant sign this consent to search?

A Yes, sir.
Q And it's the same day that you did collect State's Exhibit 8?
A Yes, sir.
MR. MOLONY: Your Honor, at this time the State would move to introduce Exhibit 9 and 8 into evidence.
MR. ROUTZONG: Without objection, Your Honor.
(Whereupon, State's Exhibit Nos. 8 and 9 were received into evidence at this time.)
Q Now, on March the 1st of 2011, did you have the opportunity to meet with [redacted] again?
A Yes, sir.
Q And what was the purpose of that meeting?
A To obtain a buccal swab for Miss [redacted] so we'd have a sample for DNA.
Q The same type process you just described---
A Yes, sir.
Q ---with the defendant?
A Yes, sir.
MR. MOLONY: Your Honor, may I approach?
THE COURT: You may.
Q I'm gonna show you what's been marked as State's Exhibit 10 and ask if you recognize that.
A Yes, sir.
Q And what is it?

A It's the buccal swab from Miss [redacted]
Q Is this the buccal swab you took in March of that year?
A Yes, sir.
MR. MOLONY: Your Honor, at this time the State would move to introduce Exhibit 10 into evidence.
MR. ROUTZONG: No objection.
(WHEREUPON, State's Exhibit No. 10 was received into evidence at this time.)
Q Investigator Evensen, on March the 12th of 2012, did, did the defendant request to speak with you?
A Yes.
Q And did you go speak with the defendant?
A Yes.
Q Where did this meeting take place?
A At his attorney's office, Bob Harte.
Q Speak up please.
THE COURT: Speak up please.
THE WITNESS: I'm sorry.
I went to the jail myself. Investigator Trusdale picked him up and took him to his attorney's office, Bob Harte.
Q And what was the purpose of this meeting?
A He wanted to show us pictures that he found on the internet of Miss [redacted] pornography pictures.

Q And did he have the opportunity, at that time, to do so?
A Yes.
Q How long were you there with him?
A Approximately an hour.
Q And after he searched for an hour, did you do any further investigation into [redacted] being on these pornographic websites?
A No, sir.
Q Why not?
A I didn't believe any of the pictures that he showed me was [redacted]. They just were not her.
Q And lastly, Investigator Evensen, the residence that you retrieved those sheets from, that's in Aiken County?
A Yes, sir.

MR. MOLONY: Nothing further, Your Honor.

THE COURT: Mr. Routzong.

CROSS-EXAMINATION

BY MR. ROUTZONG:

Q Morning, sir.

You became aware of the existence of those sheets because Buffy Cartwright called you?
A I spoke with Buffy and obtained that information.
Q You testified that you collected a buccal swab from [redacted]

A Yes, sir.
Q The reason that you collected that was because she had been sleeping in those sheets where the State's alleging semen was found, and you would expect her DNA to be on those sheets as well?
A It's possible her DNA would be on those sheets.
Q And the pajama bottoms that you collected that had penguins on them, those were the same pajama bottoms she told you she was wearing when this, this alleged assault occurred?
A Correct.
Q And it's your understanding she hadn't washed those sheets?
She had been sleeping in those sheets for several days?
A Correct.
Q Just one other question, Investigator Evensen.
The Michigan shirt, shirt that you collected, that was the shirt she said she was wearing when that assault took place?
A She said she believed she was wearing that shirt the last, the last time the alleged incident occurred.
Q Thank you, sir.
THE COURT: Redirect.
MR. MOLONY: No, sir, Your Honor.

THE COURT: You may step down.

Next witness.

MR. MOLONY: The State calls Investigator Sage Watts.

SAGE O'GRADY-WATTS, after being duly sworn, testified as follows:

THE CLERK: Have a seat in the witness box. State your full name for the Court and spell your last please.

THE WITNESS: Mary Frances O'Grady-Watts.

O-'G-R-A-D-Y - W-A-T-T-S.

DIRECT EXAMINATION

BY MR. MOLONY:

Q Investigator O-Grady-Watts, where are you employed?

A I'm employed with the Aiken County Sheriff's Office.

Q And how long have you been there?

A Since January of 2005.

Q What are your duties at the Sheriff's Office?

A I am part of the forensics unit. I am one of the investigators.

Q What types of training did you undergo in order to work in that capacity?

A Basically you -- it's a continual process of learning, but I have 800 and over 16 hours of training in various types of areas concerning forensics in addition to normal law enforcement responsibilities.

Q And were you working in that capacity on June 21st of

2011?
A I was.
Q And what, if anything, did you do with regards to the evidence in this case on that day?
A We actually, Investigator Evensen and I, looked at some of the evidence that he had pertaining to the case. We wanted to see if there was anything in particular that stood out on the, the actual sheets or any clothing before we sent it to SLED for further analysis.
Q And did you perform any test on those items that day?
A We used a forensic light source to see and basically what certain substances will do. They'll either fluoresce on different types of fabrics, and that's what we were basically looking for was to see if anything actually was on the different types of fabrics.
Q And at that time do you know exactly what it is on the fabric?
A No.
Q What did you do with those items that did have some sort of shiny white stuff on them?
A We actually repackage them separately, and those were the items that were submitted to SLED for analysis.
MR. MOLONY: May I approach, Your Honor?
THE COURT: Yes, sir.
Q Investigator Watts, I'm gonna show you what's been

entered as State's Exhibit 7 and ask if you recognize it.
A It's one of the bed sheets that we actually looked at that day.
Q And would this have been the bed sheets that was one of the items sent to SLED?
A Yes.
Q Thank you. Please answer anything that Mr. Routzong has.
THE COURT: Mr. Routzong, any questions?
CROSS-EXAMINATION
BY MR. ROUTZONG:
Q Good morning.
A Good morning.
Q A couple of the items that you collected was a Michigan t-shirt---
A I didn't collect any of them.
Q ---or you looked at them rather. Excuse me.
The items that you looked at---
A No, that was not mine.
Q That was not one of them?
A The ones that I looked at I think were only -- are you talking about the ones we collected or the ones that I examined?
Q They collected, at least on one report, it's about nine items and apparently, I'm assuming it was you, did a

test with that light you were referring to and there were no stains indicated?

A Because there were two. There's two of us. There is Chris Johnson, who I believe actually went to the scene, and there is myself who actually looked at certain items, and the ones that looked at pertained to just this report right here.

Q Yes, ma'am.

Well, you deal with these kind of issues all the time. One of the important things you would want to look for would be hair?

A Yes.

Q And can you explain to the jury what touch DNA is?

A Any time -- depending on the substance that you would touch, whether it be wood, it could be fabric, it could be types of rope, what you will do is you will shed skin cells and inevitably, depending on how much you will deposit on the particular substance, you may or may not glean a DNA profile from that object or that fabric.

Q And sometimes just someone who's accused of a crime, if they're even touching the clothes, there's enough DNA off -- a sweat, maybe saliva?

It just takes a few skin cells to actually make a profile, is that correct?

A How many I do not know. But if there is enough, I'd say if you're talking about multiple people touching a certain

object, yeah, you may actually get different people identified on one particular object.

Q Would you say that the longer you touch something the more likely it is that touch DNA will result?

A Yes.

MR. ROUTZONG: I don't have anything else, Your Honor.

THE COURT: Redirect?

MR. MOLONY: No, sir.

THE COURT: You may step down.

Next witness.

MR. MOLONY: Your Honor, the next witness may take us a little while.

THE COURT: That's fine. Let's go.

MISS AGNEW: The State calls Doctor Alicia Benedetto.

MR. HAYES: Judge, I have an objection.

THE COURT: Well, she hasn't got up here yet.

MR. HAYES: Well, Judge, as to my memo earlier---

THE COURT: I understand.

MR. HAYES: ---I object to her being called as a witness.

THE COURT: But I don't know what she's gonna say.

MR. HAYES: Okay.

THE COURT: So, let her come on.

MISS AGNEW: Doctor Benedetto.

THE COURT: Everybody okay over there?
Bathrooms?
Everybody fine?
(Jurors respond affirmatively.)
MR. HAYES: Judge, just for clarity on the record---
THE COURT: You will be able to make your objection. I don't know what she's gonna be qualified as and what she's going to say. If she gets into some evidence that we did in a pretrial, we'll do a proffer and you'll be protected.
MR. HAYES: Just for clarity on the record, you're overruling, you're overruling my objection to her testimony period?
THE COURT: No, I am not.
MR. HAYES: For her being called as a witness.
THE COURT: Yes.
MR. HAYES: Thank you.
THE COURT: She can be called. I don't know whether she'll be allowed to testify.
DOCTOR ALICIA BENEDETTO, after being duly sworn, testified as follows:
THE CLERK: Have a seat in the witness box. State your full name for the Court and spell your last please.
THE WITNESS: My name is Alicia Benedetto. A-L-I-C-I-A. B-E-N-E-D-E-T-T-O.

DIRECT EXAMINATION

BY MISS AGNEW:

Q Now, Doctor Benedetto, where do you work?

A I work at the Assessment and Resource Center known as The ARC, which is a children's advocacy center, and a program of the South Carolina Department of Mental Health.

Q And where is The ARC?

A The ARC is in Columbia.

Q How long have you worked there?

A Since 2001. So, 12 years.

Q And can you tell the jury what your position is at The ARC?

A Sure. At present I'm the director of The ARC. I was made the director in December of 2012. Prior to that I was chief psychologist there for the 11 years preceding that.

Q And you recently became director.

Can you tell the jury kind of what you do on a daily basis?

A Sure. Most of what The ARC does is conduct forensic interviews when there are allegations of abuse. In addition, provide medical exams to children and we provide some therapeutic interventions. So, that's what I was doing, providing forensic interviews, training, and consultation on matters related to child abuse, and I still maintain all of those duties, and, in addition, have taken on some

administrative duties as the director.
Q And can you tell the jury about your educational background?
A Sure. I attended New York University and got my Bachelor of Arts there in psychology and then my Master's and my Ph.D are from St. Johns University, which is also in New York.
Q And do you have any professional licenses or certifications?
A Yes, I'm a licensed clinical psychologist in the State of South Carolina.
Q Now, being a psychologist, does that require any special training or continued training?
A Sure. Following my educational components at St. Johns University I had to complete a one year internship, which I completed at the William S. Hall Psychiatric Institute through the Department of Mental Health in South Carolina. That was a one year program. And, in addition, I have to maintain continuing education credits and participate in ongoing learning opportunities. So, I do that as well.
Q And what's the purpose of those continuing education?
A To make sure that, as a psychologist, I stay abreast of all the most current research in particular in the area of child abuse.
Q Now, do you actually conduct any trainings yourself?

A Yes, I do actually. The ARC provides a five day training to child abuse professionals statewide. It's known -- it was originally known as Finding Words and now it's called Child First, and it is a training for law enforcement professionals, DSS caseworkers, solicitors, and other professionals who may have occasion to come across instances of child abuse in their work, and we train them on all aspects of how to best question children, child development principles, dynamics of child sexual abuse, issues about memory and suggestibility. There -- as I said, it's a five day course. So, it's very intensive, and we do that three to four times a year.

Also we provide an advanced course where individuals who successfully completed that course, and it does require successful completion. You have to actually go through a test and pass it in order to complete the course.

In addition, for those individuals who do complete it, we provide an advanced training with ongoing training in best practices keeping those individuals up on the newest literature and research in the field of child abuse.

Q And, doctor, you've mentioned child abuse several times.

What type, what type of child abuse are we talking about here?

A Well, at The ARC we see all forms actually of, of child abuse. Cases come to us when they've been referred by other law enforcement or DSS, and the majority of what we see are child sexual abuse cases. We also see a fair amount of physical abuse and some psychological abuse and neglect as well.

Q And, doctor, are you a member of any professional organizations related to child sexual abuse?

A Well, I belong to the American Psychological Association, and I'm on the Richland County Multidisciplinary Team for child sexual abuse. That's a team that meets with local law enforcement and our solicitors and our physicians every three weeks to discuss open cases of child abuse and to coordinate efforts to provide services.

Q And have you had any practical experience actually working with children?

A Yes.

Are you -- do you mean in terms of my own role at The ARC?

Q Well, just in your career, I mean.

Is all of your experience based on books or have you actually worked with children?

A Oh, no, I, I interview children every day. That's basically what, what I do. So, at The ARC, I conduct forensic interviews on a daily basis. I've done that for the past 12

years. I also provide some therapeutic interventions and trained in various therapy modalities to work with children.

Q Doctor, do you have any idea how many children you've met with in your career?

A It is probably somewhere between 1,500 to 2,000 for forensic interviews.

THE COURT: I'm sorry. 1,600 to 2,000?

THE WITNESS: 1,500 to 2,000 I would estimate, Your Honor.

Q And, doctor, you mentioned the dynamics of child sexual abuse.

Have you ever testified in Court before regarding child sexual abuse dynamics?

A Yes.

Q How many times have you testified?

A I have not actually kept track of the number, but it is a considerable number. I would estimate that I do it about 10 or 12 times a year. So, it's in excess of 100 times.

Q Have you ever been qualified as an expert in child sexual abuse dynamics?

A Yes.

Q About how many times have you been qualified as an expert?

A All of the times that I've been called to testify I've been qualified as an expert.

Q Have you testified in different types of Court?
A Yes, Family Courts, Criminal Courts, Courts Marshal for the military as well.
MISS AGNEW: Your Honor, at this time the State would offer Doctor Alicia Benedetto as an expert in child sexual abuse dynamics.
THE COURT: All right. You want to cross-examine her on her qualifications?
MR. HAYES: Yes, sir.
THE COURT: You may do so.

CROSS-EXAMINATION

BY MR. HAYES:

Q Doctor Benedetto, you, you've said multiple times child abuse dynamics.
What exactly is that?
A Child abuse dynamics refers to how children experience abuse, and that's oftentimes what, what I'm qualified in.
Q And that's an empirical study?
A There are many empirical studies of it. Many -- there's a large body of research on various aspects of how children respond to abuse. So, yes, that's true. That's true.
Q So, there's been multiple studies.
You said you were a member of the American Psychological Association?
A Yes.

Q Are you familiar with their articles of disclosure of child sexual abuse and what research tells us about this weighs?

THE COURT: Mr. Hayes, at this point in the game your cross is limited to her qualifications. Not to the substance of her testimony.

MR. HAYES: Yes, sir.

THE COURT: So, if you are, if you are objecting to me qualifying her as an expert, you need to cross-examine her on her qualifications. When I make that determination, if I allow her to testify, then you can cross-examine her at the appropriate time on the science.

MR. HAYES: Yes, sir.

Q Doctor Benedetto, you said you've done studies and you've, you've watched over children.

How many studies have you done involving child abuse dynamics?

A I'm not a researcher. I'm a clinician. So, I conduct interviews. I don't conduct the studies.

Q So, you've never done any studies on child abuse dynamics?

A No, I've not conducted the research.

MR. HAYES: Nothing further, Your Honor. At this time I do have a motion.

THE COURT: Well, I'll be glad to hear from you.

MR. HAYES: Judge, at this time I would object to her being qualified as an expert. Child abuse dynamics is an empirical study that is based on the study of children and observing and watching their behaviors. She's testified today that she's done interviews in forensic settings. She has trained forensic examiners, officers and solicitors. And when I questioned her, I asked her if she had done any of the actual studies herself. She has indicated she has not. As to -- and that will go to the subject matter and expert qualification. And, again, Judge, she'd have to show that it is a reliable study, a reliable science.

THE COURT: All right. I will deny your motion. I find that, based on her training, education, clinical experience, her various memberships in organizations, that she will be qualified as an expert in the trial of this case. She'll be allowed to give opinion testimony dealing with sexual abuse dynamics.

Now, Mr. Foreman, ladies and gentlemen of the jury, what, what we're doing here is normally, under our rules of evidence, a witness, like all the witnesses we've had in this case, are only able to testify about things that they observed or they know firsthand knowledge of. They can't give opinions. That's being speculative.

Our rules of evidence has an, has an exception to

that allowing or not allowing opinion testimony. If someone, because of training, experience, education, is trained in a particular field or scientific field, medical field, psychological field, chemical field, engineering field, legal field, whatever, our rules allow that particular witness to render an opinion.

So, this witness has been qualified as an expert in clinical psychology, and she will be allowed to render opinions on sexual abuse dynamics. I will instruct you, at the end of the case, on how you handle or what you're allowed to do in handling an expert's testimony. So, she will be allowed to give opinions in this particular field.

You may move forward, ma'am.

CONTINUED DIRECT EXAMINATION

BY MISS AGNEW:

Q Doctor Benedetto, before we go any further I'm just gonna ask you to move that microphone right there, right in front of you so everybody can hear you.

Now, Doctor Benedetto, other than the fact that the allegations in this case involve sexual abuse, do you know anything about the facts of this case?

A No.

Q Have you talked to any witnesses or victims in this case?

A No, I have not.

Q Have you read any police reports or reviewed any documents in this case?
A None at all.
Q Now, doctor, are you familiar with Child Sexual Abuse Accommodation Syndrome?
A Yes.
Q And I know that's a lot of big words.
So, can you explain to the jury what that means?
A Sure. The whole area of child sexual abuse dynamics really comes down to trying to understand how a child experiences abuse because, as adults, we think like adults and we think that if something happened to us we might respond in a certain way. And, so, understanding child abuse dynamics helps us understand, from the child's perspective, what the experience is like.
Child Sexual Abuse Accommodation Syndrome is a descriptive syndrome, and that's important to understand that it's not a diagnostic syndrome. It doesn't diagnose child sexual abuse, but it's a pattern of behaviors that help us understand behaviors that a child may engage in that would otherwise seem to not make sense to us.
Q Now, doctor, do children always respond to sexual, sexual abuse in the same ways that adults do?
A No, children are not little adults. They have a different understanding of the world. They have a different

understanding of their power to make things happen in the world. And, so, they do not respond the same way that adults do.

Q If a child doesn't respond to sexual abuse the same way that an adult does, does that mean that the abuse didn't happen or that the child's untruthful?

A No. No.

Q Now, I want to go and ask you about a couple of the different phenomena identified in this syndrome.

Can you explain to the jury what grooming means?

A Sure. So one of the elements of Child Sexual Abuse Accommodation Syndrome is the idea of secrecy and that it's very important to the abuser that it remain a secret. It's done in secret, and the abuser is obviously very invested in keeping it a secret.

And, so, what we often see is a pattern of what we call grooming or gradually getting the child more comfortable with increasing levels of abuse. The abuser actually also grooms a family also, and what I'm talking about here is interfamilial abuse, abuse that takes place within a family. The abuser will often need to sort of groom other adults in the home as well to get them to trust him or her so that they can have continued access to the child and opportunity to abuse them.

Q Is it typical for abuse to get worse as time goes on?

A In interfamilial abuse I would say that that is the case. Not so much obviously in a case of a stranger assault. But if you're talking about interfamilial abuse where that individual wants to maintain that secrecy with the child, it is very common for there to be a gradual escalation.

Q And you talk about trying to or the abuser trying to keep things a secret.

Would that include making promises or giving gifts to the person being abused?

A Sure. It can include a range of things. It could certainly include giving gifts or bribes of various sorts, engaging in various kinds of tactics to manipulate the child. It can also be very subtle things. Like withholding affection can be a way that an abuser can manipulate a child as well.

Q Is it typical for an abuser to have a, like a favorite age?

MR. HAYES: Objection. Leading.

THE COURT: Overruled.

A It is. They're all different kinds of situations where, where children or teenagers are abused. But, yes, we do often see situations where there's a particular age range that an abuser is particularly interested in.

Q And how would that relate to an abuser targeting different children at different times?

A Well, sometimes a child will age out of the abuser's zone

of interest, and he may move on to another child in the family or that child may leave the home for some reason, and it may be a matter of opportunity with another child.

Q Now, what, if any, role does fear play in Child Sexual Abuse Accommodation Syndrome?

A Children are afraid of a range of things when they are being sexually abused. They are in a situation where they feel, where they may feel powerless and helpless to change the situation. They may be afraid for their own safety or the safety of siblings or the safety of the other parent in the home.

They may be afraid that the abuser will get in trouble and they may have a relationship with that person and not want him to get in trouble. They may fear that they will not be believed or that they themselves will get in trouble and abusers will often manipulate that particular fear to make the child feel as though he or she has been complicit somehow in the abuse, like he or she may get in trouble if somebody finds out, which further entrenches the idea of keeping it a secret.

Q Would threats or violence in the home have any effect on that?

A Certainly. What we often see is that there are different kinds of what we call adverse experiences taking place in a home, and obviously domestic violence or any other kind of

violence in the home against an adult or a, or a child would be something that a child might look to and think if I tell this might happen to me or if I don't keep it a secret he's going to get angry and hurt my mom.

Q What if the abuser makes threats to harm him or herself?

A That would also be a situation. I've certainly heard children tell me that they were very fearful that the---

MR. HAYES: Objection. Hearsay.

MISS AGNEW: Your Honor, it's not going -- I mean it's not a statement made---

THE COURT: To prove the truth of the matter asserted.

MISS AGNEW: True.

THE COURT: It is just what she's dealing with.

Overruled.

A In my experience I have heard children tell me that they were fearful that somebody that they cared about might hurt himself or herself because -- if, if, if they told. So, they would, again, keep it a secret.

Q Now, this syndrome that we're talking about, does it also acknowledge isolation?

A Yes. When I started I talked about the fact that children are not little adults and they experience things differently. As adults, we can think of all kinds of things

that we might do if someone sexually assaulted us. Lots of avenues we could take, and if one didn't work, we might take another.

Children, however, are in a situation where they are not very powerful and they don't really know the world and what they can do to change things. And, so, within the home, if they don't feel that they may be supported there, they may feel that they have no other way out. They may feel that, for some reason, this is happening to them, but all they can do is tolerate it, put up with it, make the best of it rather than try to seek a way out.

Q Now, doctor, I want to talk to you about the actual reporting of abuse.

Can you tell the jury what delayed disclosure means?

A Sure. Delayed disclosure is another important element of the Child Sexual Abuse Accommodation Syndrome. What we know is that children routinely delay reporting. They don't tell immediately.

Again, as adults, we think if somebody sexually assaulted us we would immediately say something, yell, seek out help, do something. What we know is that children don't. They think very carefully about what has happened, and this depends on the age of the child, the developmental level.

A young child may not even know that he or she has

been abused for a period of time. That grooming can go on for a long time until the child kind of realizes maybe this is not okay.

But children routinely do not tell. It is more than norm for a child not to tell immediately than it is for a child to, to immediately tell.

Q What are some of the reasons for a child to delay disclosure of sexual abuse?

A Well, again, with a young child, may not realize quite what's going on. Children may weigh the consequences depending on the age.

So, an older child may think about well, what might happen if I tell?

Am I going to be believed?

Am I gonna get in trouble?

If I'm not believed, and nothing happens, then I'm stuck here with the abuser and that could be very bad for me.

I've heard children worry about financial concerns as well. If the abuser isn't there, and the abuser is a bread winner in the home, they may worry about that. I've heard children talk about the fact that they are worried that the other parent cares about that person and loves them, and so that was one of the reasons they didn't tell because they didn't want to hurt that non-offending

parent.

It's a whole range of reasons, and each child has their own mixture of reasons, and part of what we try to do is help identify those in interviews.

Q If the abuser is a figure of authority in the child's life, how might that affect it?

A Certainly. If it's an individual to whom the child looks up or has been taught to respect or look up to, it makes it very difficult for a child to tell because there's a power differential and the child does not feel that his or her word may, you know, may not mean anything in comparison to that, the abuser's word because, of course, the abuser is going to deny it and then the child may not feel she's going to be believed.

Q How can -- and you, you talked about this a little bit earlier about another parent, another sibling, another relative.

How can other family members affect disclosure?

A Well, what we know is that if a child senses that they aren't going to be supported, that that can cause them to maintain the secret if they feel that they're not going to be believed or if they feel like the person to whom they would be going is not very powerful within the home, might not be able to do anything about it, that may cause them to, to keep the secret.

Q Now, what effect, if any, can physical or emotional abuse have on disclosure?
A Those would be other elements that would cause fear in a child. If a child is worried about the physical safety of anyone in the home, that would certainly be a, a strong motivator to keep something a secret and to try to keep the status quo to keep things calm in the home. So, that would, would be another motivation not to tell.
Q And how long can kids delay disclosing abuse?
A Children can delay for hours, days, weeks, months, or years. Many, many individuals do not disclose until they are adults out of the home and in a different setting where perhaps it comes out with either a therapist or with a very trusted friend or with a spouse or someone that's important to them. But many individuals do not actually tell during childhood at all.
Q If a child delays disclosure, does that mean that the abuse didn't happen?
A No, certainly not.
Q Now, we just talked about delayed disclosure.
Can you tell the jury what partial disclosure is?
A Sure. Partial disclosure is sometimes also called tentative disclosure, and that occurs when a child takes sort of the first tentative step to try to let somebody know what's been going on. And, so, they may tell a small part of it to

sort of we call it testing the waters to see what's going to happen.

How is the system gonna react?

Do all the bad things that the abuser said might happen actually transpire?

Do they get taken into foster care?

Do they -- does their mother not believe them?

So, they may tell just a little bit to see what's gonna happen.

Q Now, I guess my question is they tell a little bit to see what's going, what's going to happen.

How can the results of telling affect the partial disclosure?

A Well, if the child tells and they are supported and believed, they will often, at that point, go into what we call active disclosure and be able to tell more about their situation. If the child is not supported or believed or some of the negative repercussions actually transpire, the child may take back what they've said, may begin to, to deny it, or kind of back pedal from what they disclosed.

Q Okay. Now, do children always remember every detail of sexual abuse?

A No. As you might imagine, children are trying very hard not to remember the abuse as it's taking place. Unlike adults who might perhaps think this is important to remember so that

I can go to the authorities and tell them, children don't think that way at all, and they, they will go to elaborate lengths to avoid thinking about and remembering what happened to them, and some children are better at it than others. But they do make a conscious effort, most children, to avoid thinking about it and remembering it.

Q Now, how, if at all, can chronic or ongoing abuse affect a child's ability to remember all the details of abuse?

A Well, when we talk about memory, we, we think about abuse in terms of either episodic memory, which is when a child can describe a particular episode of, of abuse versus a more chronic or script memory kind of abuse, which is when it's been happening for years and it's kind of always the same sort of situation, and the child is just kind of -- goes into a script disclosure of well, this is what he would always do or he would always say this or he takes me in this room wherein you can hear that it's a multiple, multiple events are being described, and that they're talking about how things usually went.

Q Now, doctor, just a minute ago you were saying that if a child tries to tell and they're not believed or supported that they may try to take that back.

If a child takes back what they said or says that abuse didn't happen, does that mean that the child was

making this whole thing up?
A No. Neither, of course, does it mean that they weren't. But what we know to do, as professionals, is to investigate what were the circumstances of that recantation, what happened after the child made their initial disclosure, and try to assess whether there might be factors that had an impact on, on a child's willingness to maintain the disclosure.

Certainly we're open to the possibility that it is a true recantation, but we also know that many times a child recants because of what happens after they tell. And, so, we want to be sure not to miss those cases.
Q And what can cause a child to take back what, talking about the abuse?
A Sure. The, the biggest factors are not feeling supported by the other parent, not being believed by that parent, and then, to a lesser extent, any of the negative outcomes that, that may come with disclosing abuse. So, such as going into foster care, having to change schools. You know, anything that the child feels has affected their life cause, again, this is from a child's perspective. That can be a very big deal to a child, and anything that the child feels is just too high a cost to pay may cause a child to recant.
Q Now, if a child's been sexually abused, what, if any ways, can that affect the child's own behavior?
A There's a whole range of, of ways that child sexual abuse

can affect an individual. Not all individuals are affected in the same way. There's no one pattern of behaviors that is diagnostic of sexual abuse or no one pattern of behaviors that, that we can say is gonna be a definite outcome. But there are many many ways in which sexual abuse can affect a child both behaviorally, emotionally. A few examples, depression, anxiety, eating disorders, sexual reactivity or sexual withdrawal, sexual problems in general.

There can be health ramifications as well. Children can try to escape what is happening through means such as alcohol or drugs as, as adults often try to escape negative situations in their lives. So, there's a whole range of ways it could affect a child.

Q Is it unusual for a child to act out after being sexual abused?

A It is not unusual. Not all children necessarily act out. It depends on a number of factors. Again, with the support that they receive, the services that they receive. If a child has been particularly chronically sexually abused, and also particularly if it is by someone that they trusted, it's important to put interventions in place, therapy interventions to help that child process the incident so that it doesn't become something that overshadows the rest of their personality, and kind of shapes them in, in a very negative way.

Q Now, we were talking about the ways that children can react because as of sexual abuse. You mentioned reacting emotionally.

Do children that have been abused always react emotionally the same way?

A No, there's, there's a large range really of how children react. Quite often we see actually disassociation, which is when an individual can't escape a painful or difficult situation. Physically they will try to escape, emotionally, and that's called disassociation, and what it looks like is actually kind of a lack of emotions or what we call a blunted affect, which, you know, if you're not used to seeing that may look as though a child doesn't have any feelings about the incident, but really that's just a self-protective technique to, to just shield one's self from the, the very strong emotions that, again, do need to get processed at some point in therapy.

Q So, if a child doesn't get all upset, if a child shows a lack of emotion about being sexually abused, does that necessarily mean that this abuse didn't happen?

A No, it does not necessarily mean that, no.

MISS AGNEW: I beg the Court's indulgence.

(Pause.)

Q No further questions, doctor. Please answer any questions that the defense attorney has for you.

THE COURT: Mr. Foreman, ladies and gentlemen, we're gonna take our morning break right now. Please do not discuss the case. Do not deliberate.

I may have one of the bailiffs come back. I'm trying to be the most -- use our time most efficiently today. If I send y'all to lunch it takes us about an hour and a half or 45 minutes.

What if I order in today?

That would cut it down a little bit, and would that suit y'all to order in a sandwich, pizza?

Ms. Barbara will give you some choices, and y'all make that decision while you're back there on this break.

Ms. Barbara, if they want to order from the Bowery give them a menu. If they want a pizza, I don't know what else you got back there, but those are the two most efficient ways.

THE BAILIFF: I will.

(WHEREUPON, the following takes place outside the presence of the jury.)

THE COURT: Doctor, I'm gonna let you step down.

Mr. Hayes, your objection to the testimony of the doctor for her being allowed to testify at all was basically the same objection you made in your motion in limine.

Do you need to add anything to that to protect

yourself for the record?

MR. HAYES: Judge, I would ask to protect myself that I make a copy of my motion, memo in support of, a Court Exhibit because I have referred to it several times while we were making our argument --

THE COURT: You may.

MR. HAYES: -- as well as in my pretrial hearing.

THE COURT: You may make that a part of the record. Just give it to Mrs. Davenport at the break. But my ruling is, was basically the same as I told you I was going to rule on the motion in limine. But I think this type of testimony is clearly allowed under our case law. Particular the same case I quoted or cited in the motion in limine, State versus Weaberlig, W-E-A-B-E-R-L-I-G, has an excellent discussion on this type of case, this type of testimony, i.e., behavioral evidence testimony, behavioral characteristics of sexual assault victims, and the range of responses to sexual assault encounters.

They say that is admissible. They cite a number of cases, and I find and reiterate my reasonings which I expressed at the motion in limine relying on that case in particular, and I stand by my ruling. I just wanted to make sure you were protected. If you needed to do anything else to protect you, your client, and/or the record.

MR. HAYES: Thank you, Your Honor.

THE COURT: All right. When we come back, obviously you'll be allowed full cross-examination on her on the subject of her testimony.

(WHEREUPON, the memorandum was marked as Court's Exhibit No. 3 for identification purposes only at this time.)

(WHEREUPON, a short recess was taken at this time.)

THE COURT: All right. Anything for the record before we start back?

MR. MOLONY: No, sir, Your Honor.

MR. ROUTZONG: No, sir.

THE COURT: Bring the jury in please.

(WHEREUPON, the following takes place within the presence of the jury.)

THE COURT: All right. Everybody ready?

Mr. Hayes.

MR. HAYES: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. HAYES:

Q Doctor Benedetto, I forgot where I was going earlier. Child abuse dynamics, what exactly is it?

A As I said, it refers to how children experience abuse.

Q Okay. And we talked about that's an empirical study where people observe the children's behaviors?

A There are a number of studies of components of elements of child sexual abuse. Obviously we can't put children in a situation and watch them get abused and then, you know, look at their reactions. But there are a lot of studies of elements of child sexual abuse dynamics such as studies of memory and suggestibility, studies of how children keep secrets in various situations, that sort of thing.

Q And this is all based off of something that Roland Summit came out with it in 1983?

A Roland Summit was the originator of the term Child Sexual Abuse Accommodation Syndrome, that's correct.

Q And you, you said a little earlier that it was decided that it was solely a clinical or it's an empirical study?

It's not a diagnostic?

A What I said is it's not a diagnostic syndrome. It's a descriptive syndrome.

Q Are you familiar with Roland Summit's work in 1992?

A Yes.

Q Okay. On his article in 1992 that was published by the American Psychological Association and is referenced in the article disclosure of child abuse, what does the research tell us about the ways the child, about the abuse that children tell?

MISS AGNEW: Your Honor, is that a question?

THE COURT: I don't know.
MR. HAYES: It's referenced there.
Isn't it true though---
THE COURT: That's not how you use a---
MR. HAYES: I'm sorry.
THE COURT: That's not how you use a reference works.
Q Are you familiar with the American Psychological Association?
A I am familiar with it. I haven't read it for some time, but I have read it.
Q And are you aware that was published---
A Yes.
Q ---in 2005?
A I couldn't tell you the year it was published.
Q Okay. You said you are familiar with it?
A I have read it. If, if you're going to ask me specific questions I would want to review it again. But I am familiar with Roland Summit's subsequent article if that's what you're asking.
Q Okay. In this subsequent article, isn't it true that he said that it should be understood, without analogy, that the Child Sexual Abuse Accommodation Syndrome is a clinical opinion, not a scientific instrument cited at Page 156?
A If you're quoting from the article, I'm sure that's

accurate. I can explain perhaps what Doctor Summit was trying to, to point out.

THE COURT: You may.

A Doctor Summit was concerned that people were using it as a diagnostic instrument, and he wanted to be very clear that that was never what it was intended for. So, in other words, just because a child keeps something a secret and feels helpless in a situation and trapped and delays disclosure, just because all those elements you can see in a situation, that doesn't prove that a child was sexually abuse. But it does help describe a pattern of behavior. So, he was clarifying to make sure that his earlier article did not get misunderstood and misused.

Q So, what he was saying is he was concerned with, with the lack of, at the time, or the issue of not knowing whether children were being honest or dishonest when they were disclosing, and what the data was resulting in and somebody turning around and using that to diagnose or prove sexual assault?

A I don't believe he was so much -- he was concerned that his article or that his work not get misused and he wanted to clarify so that it got used correctly. So, it was often getting questioned in a way that made it sound like, like because somebody was talking about those elements they were saying that it proved sexual abuse, and he wanted to make it

clear that that was not the case.
Q So, in other words, it's not dispositive that there was a sexual abuse just because these elements are present?
A That is correct.
Q Isn't there also studies underneath child abuse dynamics where there are allegations and concerns of false allegations of abuse?
A Yes, certainly. As interviewers, one of the things -- the most important thing that we're trying to do is to help elicit what really happened. So, we're very concerned with the research on false allegations, what might a false allegation look like, what might cause one, how can we help differentiate the two. That's very much a part of what forensic interviewers do.
Q And that's part of what your actual training is, is how to question children?
A That is correct.
Q And that, that training is to help prevent false allegations or suggestibility in the questions?
A That's correct. It's -- our questioning process is meant to minimize the possibility that, that there would be a, an allegation that is untrue that gets investigated.
Q Isn't it not uncommon to find allegations of sexual assault in domestic disputes?

A It is -- certainly, certainly that happens, yes.
Q And in that situation there, the focus or concerns go to parental motives?
A Yes, there can be situations where there are adult motives to alleged abuse. That is true.
Q And, and some of those factors are when there is a child custody visitation issue?
A That can sometimes be a factor, yes.
Q Revenge?
A Pardon me?
Q Revenge would be another one?
A Yes.
Q A misguided or distorted belief?
A That's correct.
Q Are monetary issues?
A Sure. There would be a whole range of issues that, that, that would need to get eliminated in the forensic interviewing process to help determine what really happened.
Q And I believe you did testify earlier that you, you had not interviewed Mr. Cartwright --
A That's correct. I did not interview Mr. Cartwright.
Q -- or any of the victims or witnesses in this case?
A Correct.
Q And that you have absolutely no familiarity with anything involved with this particular situation?

A That's right.
Q Thank you.
Nothing further.
THE COURT: Redirect?
MISS AGNEW: No, Your Honor.
THE COURT: All right. You may step down.
May she be released from her subpoena so she can go back to Columbia, Mr. Hayes?
Any objection to that?
MR. HAYES: No, sir.
THE COURT: Next witness.
MR. MOLONY: Judge, the State calls Doctor Lilly Gallman.

LILLY GALLMAN, after being duly sworn, testified as follows:

THE CLERK: Have a seat in the witness stand. State your full name and spell your last name for the Court.
THE WITNESS: My name is Lilly Smalls Gallman. Gallman is G-A-L-L-M-A-N.

DIRECT EXAMINATION

BY MR. MOLONY:

Q Mrs. Gallman, where are you employed?
A I am employed with the South Carolina Law Enforcement Division.
Q And is that what we all commonly, commonly refer to

as SLED?
A Yes, it is.
Q Okay. How long have you been with SLED?
A Twenty-three years.
Q During that time that you've been employed at SLED, have you held any particular type of job?
A Yes. When I began working with SLED I, I was hired as a forensic DNA analyst.
Q And is that what you're doing today?
A Yes, it is.
Q Tell me about your educational background.
A I have a degree in biology from the University of South Carolina. Once I received my degree I continued working there in the area of molecular genetics, and in January of 1990 I began working with SLED as a forensic DNA analyst.

Since that time I've been trained by forensic serologists. Also trained in the area of forensic DNA, which is quite different than what you find in the laboratory. I've attended the FBI DNA typing schools for that purpose. I've taken advanced genetics courses and statistic courses since my time at SLED.
Q And do you have any estimate as to the number of DNA analysis that you've done during the course of your career at SLED?
A I've done thousands.

Q Okay. And after you do those DNA analysis, is there any review process done after your work is over?
A Yes, in each case, if a particular case is assigned to me, I will do the DNA on that, on that case, developed DNA profiles or whatever, and then that case will be reviewed -- would go through a technical review where the person looked at my results, and then we do an admin review where it's checked to see if all the T's are crossed and the I's are dotted.
Q And have you ever been qualified as an expert in Courts in this state?
A Yes, I have.
Q In what field?
A In the field of forensic DNA analysis.
Q And do you have an estimate as to how many times you've been qualified as an expert in that field?
A Between 50 and 60.
Q And you've testified in Courts?
A Yes, I have.
MR. MOLONY: Your Honor, at this time I move to have Agent Lilly Gallman declared an expert in the field of forensic DNA testing.
MR. ROUTZONG: Without objection, Your Honor.
THE COURT: Thank you.
All right. Mr. Foreman, ladies and gentlemen of the jury, like the last witness, Mrs. Gallman will also be

allowed to give her opinion testimony concerning DNA analysis.

Q Mrs. Gallman, tell me -- us a little bit about what DNA is.

A DNA -- excuse me. DNA stands for deoxyribonucleic acid. It's considered to be the blueprint of the body. Each person received part of their DNA from their mother and part from their father.

Everyone's DNA is unique except for identical twins. And since this is the case, we're able to compare evidence that's taken from a crime scene or that's given to us with standards. And when I say from standards, it would be from the victim and the subject.

Like in this particular case, it could be a blood standard or it could be what we call a buccal swab, which is swabbing the inside of the, the cheek and you use that as a standard. We compare the evidence and the standards, and by developing a DNA profile from each, and we determine whether we have a match or we do not have a match with those items.

Q How do you develop these DNA profiles?

A In this particular case, since it's a semen case, the sample is placed in the tube and the DNA is extracted from that sample. A DNA profile is then developed from that particular sample and then compared to the standards. The

same type of procedure basically is done on the standards also in order to develop a DNA profile.

Q And when you actually develop this profile, what, what is it?

A It's -- the DNA profile, we're looking at the chromosome. We look at 16 areas on the chromosome, and then we do a comparison between that.

Q And what are those 16 areas called?

A They're called loci.

MR. MOLONY: Okay. And may I approach, Your Honor?

THE COURT: You may.

Q Mrs. Gallman, I'm gonna show you what has been entered as State's Exhibit 8 and 10.

They've been entered?

THE COURT: Eight and ten?

MR. MOLONY: Yes, sir, judge.

THE COURT: Those are the buccal swabs.

MR. MOLONY: Yes, sir.

Q I'm gonna ask if you recognize what those are.

A Yes, there's a SLED label that's here. The last number, like on this particular one is three, and the SLED number three is the buccal swab from [redacted] [redacted]. This item is item number four, as you can see on the label, and it is the buccal swab from Harold Cartwright, III.

Q And these are the items that, in this case, you're

able to develop a profile from?
A Yes, these are the standards that were given to me to use to compare to the evidence.
Q Okay. And did you receive evidence in this case?
A Yes, I did.
Q Where did you receive that from?
A Oh, our evidence processing area processed the evidence and made a cutting and that cutting was given to me.
MR. MOLONY: Okay. May I approach, Your Honor?
Q I'm gonna show you what's been marked for identification as State's Exhibit 11, and ask if you recognize that.
A Okay. As I said before, there's, there's a label here, it's a SLED label, and it's State's Item 2.1 and Item 2.1 is the cutting from the fitted sheet.
Q All right.
THE COURT: I'm sorry. It is what?
2.1 is what?
THE WITNESS: Cutting from the fitted sheet.
THE COURT: Cutting from the fitted sheet?
THE WITNESS: Yes, sir.
Q And is this the, is this the cutting that you performed tests on in this case?
A Yes, this cutting was given to me first to check if there was the presence of semen there, and then once I established

that semen was there, I developed a DNA profile from this particular cutting and compared it to the standards.

MR. MOLONY: Okay. Your Honor, at this time the State would move to introduce Exhibit 11 into evidence.

MR. ROUTZONG: Without objection, Your Honor.

(WHEREUPON, State's Exhibit No. 11 was received into evidence at this time.)

Q Okay. So, you compared what you get from the two buccal swabs, the defendant's and victim's, to the cutting you get from the sheets, is that correct?

A That's correct.

Q And you look to see if it's a match?

A That's correct.

Q And explain what your comparison in this case, what the results of that comparison were, were?

A Once I did the comparison between the DNA profile developed from the standard from [redacted], the standard from Harold Cartwright, and the DNA profile developed from the cutting from the fitted sheet, it was established, and I'm reading from my report, that the DNA profile developed from the semen on Item 2.1 matches the DNA profile of Harold Cartwright, III, and has been entered into our database.

Excuse me. And then once you establish that you have a match between evidence and a, and a standard, we're required to apply a statistical value to that particular

DNA profile. What, what -- basically what you're telling everyone is how rare is this DNA profile.

And, so, my next, next sentence is DNA profile -- the probability of randomly selecting an unrelated individual having a DNA profile matching this item, and I'm talking about Item 2.1, is approximately one in 16 trillion.

Q One in 16 trillion.

Now, were you able to find any profiles of [redacted] in that cutting?

A No, I was not.

Q Specifically what were you testing and what was being tested on those sheets in this case?

A The submitting agency request was for DNA/semen and that's what we were looking for, the presence of semen on that particular fitted sheet.

Q So, you weren't looking specifically for the presence of any touch DNA?

A No, we were not.

Q And is there a different test done to determine if there's DNA from touch DNA as opposed to DNA from body fluids such as semen?

A Once the, the person in the evidence processing is processing that item, every request there is for touch DNA or for ownership to place someone on a particular item, instead of using the alternative light source to look for body fluids,

that item would be either swabbed, scraped, or a cutting made for that purpose.

Q But you didn't -- that wasn't done in this case?

A No, it was not.

Q Because the intent was to look for semen?

A That's correct.

Q And how do you know it's semen that was on the sheet and not sweat or saliva or anything else, any other body fluid?

A The first test that -- the first thing that's done is, like I said, with an alternative light source. You check that item to see if it fluoresces. Semen fluoresces. Saliva and urine also fluoresces. Semen more so than any of the other body fluids.

A cutting would be made, and then there's a -- the first test that's done is called an acid phosphate test to check and see if it could possibly be semen. The cutting is made and given to the DNA analyst and we do another test that confirms the fact that we have semen on the item, and then we go on into doing the DNA on that particular cutting.

Q Okay. And were there other, other items submitted other than the sheets in this case?

A Yes, a pair of panties were submitted also.

Q Okay. And did, did you do any tests on the pair of

panties?
A No, the person that's in the evidence processing who processed the panties checked that for the presence of semen and there was not any semen on the panties. So, I didn't never get any cuttings from that.
Q Okay. Now, you stated one in 16 -- what was it?
A Trillion.
Q I'm not a math guy, but do you know how many people are, they are, they're estimated are alive right now in the world?
A Approximately 7 billion.
Q And is that less than 16 trillion?
A Yes, it is.
Q Thank you. Please answer any questions that Mr. Routzong may have.

CROSS-EXAMINATION

MR. ROUTZONG:

Q Good morning.
A Good morning.
Q Help me out with touch DNA again.
What kind of things can cause DNA to transfer on to clothing or sheets or anything like that?
A Handling, handling or, like in particular, like in this particular case, like with a sheet, like laying on it. Just lying down on it. And it also depends on how many cells this

person sheds during the time when they're on, on the sheet, and also if the particular area that you're looking at, that you made a cutting from, if this person came in contact with it.

Q So, if, if there, if there were -- well, I won't ask that question.

Tell me about cells.

How many cells does it take to develop a profile?

A I got too much knowledge going on here. It depends on what type test you're doing as to how many cells you need. For example, if you only got one sperm head, it's a possibility, depending on what test you're doing, in order to develop -- you can develop a DNA profile from that.

Q Let's suppose it's skin cells.

How many cells would it take?

A It's flushing off. I don't know exactly. I wouldn't want to say exactly.

Q It's -- it's not -- it doesn't take a pound. It doesn't take anything like that.

It can -- it would be a very small amount?

A It can be and that also come into play as whether something -- if someone else's DNA is masking it or not, and you just don't pick it out.

Q That's an interesting question because when -- if you're developing, if you're developing a DNA profile I

guess they call it, you're looking at it to see well, is this someone's DNA and you're comparing it to someone else, you're comparing, you're comparing it to a known buccal swab, let's say for example, and you develop DNA off the buccal swab, and now you're gonna compare whatever you're looking at to the DNA on -- and develop the DNA out of the cutting, let's say. Now you're gonna compare it to the buccal swab.

Is that correct?

A Yes.

Q I'm sorry. I said that very---

THE COURT: Move along.

A No, I'm just trying to follow you.

Q Basically, basically that's how it's done. You start out with a known buccal swab and you develop DNA from the other item and you compare the two?

A I normally start with the evidence and then the buccal swab.

Q Oh, it's the other way around.

A Yes.

Q Okay. And no matter what, when you develop -- are you looking at developing the DNA off of that cutting, let's say for example, the evidence.

If somebody else's DNA is on there, you'll come, you'll come up with what's called a mixture, isn't that

true?
A That's correct. And it depends on how much of that person's DNA is there also. Like I said that if you got quite a bit of one person's DNA or it could mask, mask the minor contributor, and then the minor contributor could possibly only be a very small quantity there, and you don't -- you just don't pick it up.
Q So, it really -- there's no way of knowing that, in this particular case, his DNA masked it?
A No, there's not.
Q You're not testifying to that?
A No, I'm testifying to the fact that there were semen on the fitted sheet and that the semen on the fitted sheet matched Mr. Cartwright.
Q And that there was no mixture?
A No, there was not a mixture.
Q And the test that you conducted, looking at -- the test that you conducted relative to this, this item of evidence, you still would have known there was a mixture if, if there was other DNA in there?
A If it was enough to detect I would know that it was a mixture.
Q Okay. Well, thank you very much.
MR. MOLONY: Briefly, Judge.
REDIRECT EXAMINATION

BY MR. MOLONY:

Q Mrs. Gallman, can DNA be destroyed?

A Yes. Well, it could be degraded, yes.

Q Okay. And, for instance, in the case like this, these sheets, if you wash these sheets, would that have any effect on the DNA?

A Yes, it would.

Q What, what effect would it have?

A It -- well, what are you doing, you're watching. You want to get your sheets clean. So, anything that's there you would like to get it off.

Q And what about the dryer?

A Yes, that would help the process.

MR. MOLONY: I don't have anything further, Judge.

THE COURT: You may step down.

Next witness.

MR. MOLONY: Your Honor, we may need to proffer some testimony.

THE COURT: Is this your last witness?

MR. MOLONY: Yes, sir.

THE COURT: Mr. Foreman, ladies and gentlemen, we got one last witness. This is one of the issues I had to deal with in the pretrial on Monday. I got to do a little bit of work outside your presence. Probably about ten minutes at the most.

Step back out. Don't discuss. Don't deliberate. We'll do that witness. Your food is supposed to be here. We'll just see where we are about that time and see where we go.

(WHEREUPON, the following takes place outside the presence of the jury.)

THE COURT: All right. This is the jail witness concerning the alleged suicide attempt?

MR. MOLONY: Yes, sir, Your Honor.

THE COURT: All right. Call him please.

MR. MOLONY: Yes, sir, Your Honor.

The State calls Deputy Hettich.

JAMES HETTICH, after being duly sworn, testified as follows:

THE CLERK: Have a seat in the witness box. State your full name for the Court spelling your last.

THE WITNESS: My name is James Carl Hettich. Last name is H-E-T-T-I-C-H.

DIRECT EXAMINATION

BY MR. MOLONY:

Q Where do you work at, Mr. Hettich?

A I work for the Aiken County Detention Center.

Q And were you working there on April 13th of 2011?

A Yes, I was.

Q In what capacity?

A As a detention deputy.
Q What pod were you assigned to that day?
A C-pod.
Q And what is a pod?
A A pod is a housing, a housing area for inmates that's currently incarcerated.
Q Okay.
THE COURT: Mr., Mr. Solicitor, just go straight to the point on a proffer. I mean---
MR. MOLONY: It's the next one, Judge.
Q What happened that day at pod, at C-pod?
A Deputy Bramlet called the---
THE COURT: Who?
Who?
THE WITNESS: Deputy Bramlet. He's our pod tour deputy that works the machine. The inmates that was in the cell pushed the intercom and advised Deputy Bramlet that Cartwright was trying to hurt, hurt himself. Deputy Bramlet notified me and Deputy Santos and responded and investigated the cell, and I saw Cartwright hanging in the cell.
Q Speak up please for us.
A Sure.
Q What, what did you see?
A Cartwright was inside the cell. The bunk is on the back

wall. He had a sheet tied around his neck, tied to the top of the bunk, and he was like hanging himself.

THE COURT: Was hanging or was getting ready to?

THE WITNESS: No, was hanging. He was hanging himself. He was -- he had the rope tied on the bunk and he was, had -- the rope was tight. The sheet was tight, and he was draped over unresponsive hanging from the neck.

Q Who got him down?

A Me and Deputy Santos secured the other inmate that was inside the cell. We entered -- I lifted up Cartwright, and Deputy Santos untied the knot and we laid him down on the ground.

Q And explain what his condition was?

What was his body condition at that time?

A His touch was cold and clammy. He was unresponsive. He wasn't speaking. He was breathing however.

THE COURT: I'm sorry. Cold, clammy, and what?

THE WITNESS: His skin was like cold, clammy.

THE COURT: And you said something next.

THE WITNESS: He was breathing, unresponsive. He wasn't talking.

MR. MOLONY: That would be the nature of the questions, Your Honor, and we would have two pictures we would try to move into evidence just of the cell.

THE COURT: Well, what did y'all do as a result of

that?

THE WITNESS: Well, of course, medical emergency was called. Our nurse responded and sent him, Cartwright out to the hospital. At the time that he was sent out to the hospital he was breathing. He was not speaking.

THE COURT: All right. And, and he was arrested on what date and put into --?

MR. MOLONY: He was arrested I think on March the 12th, sometime around there. This day is when warrants were served on him for the third victim, [redacted]. They go -- they spoke with her April 6th of 2011. April 13th is the date they go and serve the additional warrants.

THE COURT: On him in the jail?

MR. MOLONY: In the jail and the same day is when the suicide attempt --.

THE COURT: Is that, is that evidence been put into the record already?

MR. MOLONY: It has. Investigator Gaskins testified---

THE COURT: All right. Any cross-examination on the proffer?

MR. ROUTZONG: No, sir.

THE COURT: All right. You may step down.

All right. Mr. Routzong, what's your position on

this testimony?

MR. ROUTZONG: Your Honor, I don't have any additional arguments as to what I argued in limine, Your Honor.

THE COURT: Okay. Well, I am going to allow it. I, once again, as I stated on the motion in limine, I believe that the case that is controlling is the State versus Juan Orozco, that's O-R-O-Z-C-O, which goes through the first impression case where it was decided in South Carolina back in 2011 when our Court of Appeals found that their analysis allowed evidence of attempted suicide. They went through and showed other states that had, majority of the states had generally allowed this type of evidence.

They find it to be relevant as to possibly indicating consciousness of guilt and it's admissible for trial for whatever weight the jury chooses to assign it.

They further state that you must show some nexus between the suicide and the event and in that case they were found that the nexus was the close proximity from the time the defendant learned of the accusations and the time that the, of the alleged attempted suicide.

Obviously, in this case, he was served with warrants, as stated by the solicitor, very close in proximity to the time he was found hanging unresponsive, cold, not breathing, which required emergent medical attention in

his cell very shortly thereafter. I will allow it.

Anything else for the record before we call the jury back?

MR. MOLONY: Nothing from the State.

MR. ROUTZONG: No, sir.

(Pause.)

THE COURT: Jimmy says we got one juror out smoking and they have gone to get the juror.

While we're waiting on that juror, Mr. Molony, Mr. Routzong, on Indictment 1682, 12-GS-02-1682, the victim is noted as [redacted]. On all the other indictments dealing with [redacted] it is spelled [redacted] I don't know if that's a scribner's error, how she spells her name or what. We need to correct it one way or the other.

MR. MOLONY: It is a scribner's error, Your Honor.

THE COURT: How does she spell her name?

MR. MOLONY: It's, it's with an I at the end.

THE COURT: Well, the I's correct then. Then the other ones that are spelled Y -- there are a number of those---

MR. MOLONY: Yes, sir.

THE COURT: ---would have to be changed.

MR. MOLONY: Yes, sir, Your Honor.

THE COURT: I mean there are a number of them. I'm

looking at 316, 315.

MR. MOLONY: There should be six total indictments.

THE COURT: Sir?

MR. MOLONY: There should be six total indictments for that victim, 314 through 18, and then that 1682 you just referenced.

THE COURT: Well, how does she spell it, with an I or Y?

MR. MOLONY: With an I.

THE COURT: All right. We're gonna go through and correct all the Y's to I. Correct the scribner's error.

Mr. Routzong, any objection to that?

MR. ROUTZONG: No objection, Your Honor.

MR. MOLONY: Thank you, Judge. Sorry about that.

(Whereupon, a short recess was taken at this time.)

(Whereupon, the following takes place within the presence of the jury.)

(Whereupon, a bench conference was held out of the hearing of the jury at this time.)

THE COURT: You may call your next witness, Mr. Solicitor.

MR. MOLONY: Thank you, Judge.

The State calls Deputy James Hettich.

JAMES HETTICH, after being duly sworn, testified as follows:

THE CLERK: Have a seat in the witness box. State your full name for the Court and spell your last.

THE WITNESS: My name is James Carl Hettich. Last name is H-E-T-T-I-C-H.

DIRECT EXAMINATION

BY MR. MOLONY:

Q Deputy Hettich, where are you employed?

A Aiken County Detention Center.

Q And how long have you been there?

A About two years.

Q And prior to working at the detention center here in Aiken where did you work?

A Orange County Corrections.

Q And what did you do there?

A Correctional officer.

Q Now, were you working as a correctional officer here at the Aiken County Detention Center on April the 13th, 2011?

A Yes, I was.

Q In what capacity?

A As a housing deputy.

Q And what pod were you assigned to that day?

A C-pod.

Q And what is a pod?

A A pod is an inmate housing area where all of the inmates

are housed. There's like a total of five housing units in the jail.

Q Explain to the jury what happened on April the 13th of 2011 in C-pod.

A The inmate inside the Cartwright cell hit the intercom. We have an intercom to let the inmates and the tower communicate what's going on in the cell. The inmate pushed the button and let Deputy Bramlet know that Inmate Cartwright was trying to hurt himself.

Me and Deputy Santos responded to the location, and once we got to the door I saw Inmate Cartwright hanging from the top bunk. He tied a sheet to the top of the bunk, tied it around his neck, and was hanging by his neck on the cell.

I went ahead and secured the other inmate that was inside that cell, and me and Santos entered the cell. I lifted Cartwright up and Deputy Santos untied the knot from the bed sheet and then we laid him on the ground.

Q Okay. And what was the defendant's condition whenever you laid him on the ground?

A Well, he was not speaking. He was breathing. His skin was cold and clammy -- like cold and clammy like a sweat.

Q Okay. And what was he hanging by?

A A bed sheet. A blue bed sheet that was issued.

MR. MOLONY: Your Honor, may I approach?

THE COURT: You may.
Q Deputy, I'm gonna show you what has been marked for identification as State's Exhibits 11 and 12 and ask you if you recognize those.
A Yes, I do.
Q And what are those?
Q That's the sheet. That looks like an inmate uniform and that's the cell.
Q And the, the sheet would be State's 13, the cell 12?
A Yes.
Q Is that correct?
A Correct.
Q And are these fair and accurate pictures of how the sheet looked and how the defendant's jail cell looked on April the 13th of 2011?
A Yes, it does.
MR. MOLONY: Your Honor, at this time the State would move to introduce Exhibits 12 and 13 into evidence.
MR. ROUTZONG: Without objection.
THE COURT: Sir?
MR. ROUTZONG: No objection, Your Honor.
(Whereupon, State's Exhibit Nos. 12 and 13 were received into evidence at this time.)
Q Deputy, after he's laying on the ground and he's cold to the touch, what, what did you then do?

A Medical, of course, was notified due to the medical emergency. She evaluated him and had to recommend an outside medical transport. So, EMT's arrived and transported him out to the hospital.

MR. MOLONY: I don't have any further questions, Judge.

THE COURT: Mr. Routzong.

CROSS-EXAMINATION

BY MR. ROUTZONG:

Q Good morning, sir.

A Morning, sir.

Q There was no note found?

A That's correct.

Q What happens to folks after an event like this?

What happens -- how do you dispose of them in the jail for the future?

A Well, once they return back from the hospital and they're medically cleared, they're placed on a suicide watch, and our Nurse Penny, our medical and mental health person, talks and decides what their status will be.

Q And what exactly does suicide watch mean?

A It's pretty much where we take all the clothing and bedding and everything away from them so they can't hurt themselves with it. They are issued a garment and it's made of a special material where it can't be destroyed or ripped apart.

Q Any other problems with Mr. Cartwright since that time --

A Not that I'm aware of.

Q -- as far as something along these lines?

A Not that I'm aware of.

Q Thank you, sir.

THE COURT: Redirect?

REDIRECT EXAMINATION

BY MR. MOLONY:

Q The man that was hanging from the jail cell that was cold and non-responsive, do you see him in the courtroom today?

A Yes, I do.

Q And where is he?

A Mr., Mr. Cartwright. Harold Cartwright, the defendant.

THE COURT: What's he got on?

THE WITNESS: He's wearing a black suit with blue shirt and blue tie.

THE COURT: Thank you.

MR. MOLONY: That's all I have.

THE COURT: I assume it's the one on the far right because we got two of them over there with the same thing.

THE WITNESS: Yes, Your Honor.

MR. MOLONY: Let the record reflect that the witness has identified the defendant.

THE COURT: All right. You may step down.

Next witness.

MR. MOLONY: Your Honor, at this time the State would rest.

THE COURT: All right. Mr. Foreman, ladies and gentlemen of the jury, that will conclude the evidence that the State will present. I need to spend a few minutes with the defendant to go over some matters. I'll let you step back in there. I think this is what we're gonna do.

I've been told that there will be a couple of witnesses by the defense. Our meal should be here about a quarter 'til. If it's okay with y'all, we'll keep on going. When the meals get here we'll take a break and eat those. I'm gonna try to -- we will finish the testimony probably more early than late afternoon.

Since there are 20 some odd indictments, there's about an hour or an hour and a half worth of work that I have to do with the lawyers dealing with the instructions, the charge, the verdict forms, those sorts of things. I don't want y'all sitting back there twiddling your thumbs for an hour and a half.

I think what we're going to do is probably, once the testimony is over, I'll let you go home and we'll decide whatever time you want to come back tomorrow. The only

THE WITNESS: My name is Vernon Carter. C-A-R-T-E-R.

DIRECT EXAMINATION

BY MR. ROUTZONG:

Q Good afternoon, Mr. Carter.

A Good afternoon, sir.

Q Where do you live at?

A [redacted], North Augusta, South Carolina.

Q Where are you employed?

A At Bridgestone working for Brassfield.

Q What relationship are you to Mr. Harold Cartwright?

A Stepbrother.

THE COURT: You're what?

THE WITNESS: Stepbrother.

Q What relationship are you to the complainants in this case?

A Nieces, nephews, and sister-in-laws.

MR. ROUTZONG: I'd like to approach, Your Honor.

THE COURT: Yeah.

Q I'm going to show you what has been previously marked as Defense Exhibit No. 8. I'd like to ask you if you recognize that.

A Yes, sir, that's a picture of my brother's trailer on my, my land.

THE COURT: That's what?

THE WITNESS: A picture of my brother's trailer on my

land.
Q How did I come into possession of that?
A I gave it to you.
Q Have I changed---
MR. MOLONY: Your Honor, may the State see this picture?
I just want to see what he's talking about.
THE COURT: Go ahead.
Q How did I get -- how did I come into possession of that, Mr. Carter?
A I, I took the picture and give it to you.
Q Did I change or alter it in any way?
A No, sir.
Q Is it a fair and accurate representation of the defendant's trailer?
A Yes, sir.
MR. ROUTZONG: Your Honor, at this time I'd ask Defendant's Exhibit No. 8 be admitted into evidence.
THE COURT: Any objection?
MR. MOLONY: No objection, Your Honor.
(WHEREUPON, Defendant's Exhibit No. 8 was received into evidence at this time.)
MR. ROUTZONG: I'd like to publish this to the jury, Your Honor.
THE COURT: You may.

Q Mr. Carter, can you read out loud what is spray painted on the side of that?
A Yes, sir, it says [redacted] with a money sign at the end, and to the left of it it looks like something is blacked out or whatever.
Q Did you paint that?
A No, sir.
Q Was that painted after -- let me put it this way.
Do you know when it was painted?
A No, sir.
Q Where was Mr. Harold Cartwright at when, when you discovered that?
A He was incarcerated.
Q Had you seen -- had an opportunity to see the trailer before he was incarcerated?
A No, sir.
Q After Mr. Cartwright -- oh, by the way, who is [redacted]
Who is [redacted]
A [redacted] We call her [redacted].
Q Is she in the courtroom?
A Yes, sir.
Q Can you point her out?
A She's in the first row here, the second---
Q What's she wearing?

A ---to the left.

THE COURT: He pointed her out.

Go ahead. Go ahead. He's already pointed her out.

Q After Mr. Cartwright was charged, who was living in that trailer?

A Buffy.

Q Is she still there?

A No, sir.

Q When did she move out?

A I don't know the exact date of when she moved out exactly. I, I know she got sick and she moved out after she got [redacted] back, and I think [redacted] was with her at, at that time, and then I think she moved to her mom's house when she got sick.

Q It was after -- she moved out after she got sick?

A Yes, sir.

Q Where was Mr. Cartwright?

A He was still incarcerated.

Q Who, if anyone, lived in that trailer after Buffy moved out?

A [redacted] and her boyfriend moved in to that, in, into the doublewide in Trenton.

Q How do you know that?

A I've rode by there and seen them living there.

Q When did she move out?

A She moved out 2011 right about Christmas time.
Q Okay.
A Right around in that area.
Q Have you been inside the trailer after [redacted] moved out?
A Yes, sir.
Q I'd like to ask you if any of these items are still in the trailer?
A Yes, sir.
Q You've been in there?
A Yes, sir.
Q Is there a coin collection in there?
A No, sir.
Q A stamp collection?
A No, sir.
Q Raw diamonds?
A No, sir.
Q Any rubies?
A No, sir.
Q Gold?
A No, sir.
Q Antique radio?
A No, sir.
Q What is in there?
A It's basically a shell of a trailer. There's a few old

clothes in there, and some real old furniture. I wouldn't, I wouldn't call it antique. It is stuff that ain't worth nothing at this point.

Q What was your relationship with the accusers in this case in terms of -- I know you're their uncle.

Did you ever get a chance to babysit them or any of that kind of stuff?

A Yes, sir, several occasions.

Q Ever been alone with them while you were babysitting them?

A Yes, sir.

Q When, when was the first time you'd ever heard about any of these accusations against Mr. Cartwright?

A The first time I heard about these accusations was the first time we went to Court.

Q Did you feel like you had a good relationship with your nieces?

A Yeah, real good. I mean I felt like they -- I mean I loved them. I mean I bought them Christmas, spent time with them, talked to them. You know, I mean, been to the houses, their houses many a time.

Yes, sir, I remember cooking breakfast for them. I remember one occasion [redacted] and [redacted] bragged on many a time I just whipped up -- it was like -- about like an omelette. I mean they loved it, and I remember them

bragging about that many a time. That made me feel good.

It's just something I cooked up for them, and it was a conversation come up, you know, they, they missed their dad, you know, and we got to talking, you know. They said they missed their dad and wished he would come home.

MR. MOLONY: All of this is hearsay as to what these girls allegedly said to him.

THE COURT: Hold on. Hold on.

Sustained.

Move along, Mr. Routzong. It is not -- anything you want to ask him?

Hold on a second.

Q Mr. Carter, how would you characterize your relationship with the accusers in this case now?

A I'm stunned. I mean I really am. I'm stunned you know.

Q Yes, sir. Thank you very much. Please answer any questions that Mr. Molony may have.

CROSS-EXAMINATION

BY MR. MOLONY:

Q You're the defendant's brother?

A Yes, sir.

Q And you love the defendant, don't you?

A Yes, sir.

Q You talk to him all the time even while he's been incarcerated?

A Yes, sir.
Q Okay. And do anything in the world for him?
A We both do anything in the world for each other. Yeah, we're brothers.
MR. MOLONY: I don't have anything else.
THE COURT: All right. You may step down.
Next witness.
MR. ROUTZONG: Defense calls Harold Cartwright.
HAROLD CARTWRIGHT, after being duly sworn, testified as follows:
THE CLERK: Have a seat in the witness box. State your full name for the Court and spell your last.
THE WITNESS: My name's Harold Cartwright. C-A-R-T-W-R-I-G-H-T.
DIRECT EXAMINATION
BY MR. ROUTZONG:
Q Mr. Cartwright, I'd like to take you back to 1989 and probably even before that.
Let's talk about how did you meet [redacted] mom, Melinda?
A Oh, well, I lived in Florida originally. I used to shrimp whenever I was younger and whenever I, I -- matter of fact, I was the youngest American in Cuba in the Mario Boat Lift. My father owned shrimp boats and stuff, but the government took them away when the Mario Boat Lift. Carter

called us back.

But at any rate, I moved to Tampa, and I was building Interstate 75 from Sarasota to Tampa, and whenever I moved to Tampa I started living, you know -- I lived in Tampa for a while building that piece of interstate, and I met Melinda, and my relationship started there, and it wasn't long after we were together we had [redacted]. Melinda had horrible complications having [redacted]. She was in labor 21 days. [redacted] was born at Tampa General Hospital, which I'm thankful because it's a baby hospital.

THE COURT: Mr. Routzong, ask him to please respond to your question. You didn't, you didn't ask him about the baby and complications.

THE WITNESS: Well, it---

THE COURT: Just answer the question, please.

THE WITNESS: Could you repeat the question, sir?

THE COURT: How did you meet your wife.

THE WITNESS: I met her whenever I moved to Tampa, Florida.

THE COURT: Thank you.

Q How long were you with her?

A Oh, all together about 11 years.

Q When you met her, how long after you met her did you actually get married?

A It was probably close to eight years.

Q What year did you get married?
A I believe we were married in '93, late '93 or '94. I'm not sure. Right in there somewhere.
Q At what point -- when, when is it that the, I guess, so to speak, the wheels started to come off and you decided you were gonna separate.

When was that?

A It was after -- we was having -- well, we was having a lot of trouble in our relationship without getting into a lot of details on it. I mean it was a bad relationship at that point. I had caught her sleeping around, me and her were having a lot of trouble.

My mother come over to the house. Her and my mother got into a fight and she hit my mother three times in the chest, and it's the only time I ever really got physical. I grabbed her and throwed her off of my mom, and my mom -- it stunned her. I could see the shock in her face when she was hit.

I was sitting on one side of the living room and Melinda was sitting on the other, my mom was in front of her, and she come up out of the chair and hit my mother like this in the chest.

Q Mr. Cartwright, let me ask you, let me ask something.

That's the point in time that the wheels really came off I guess and you decided to get a divorce?

A At that point in time, no. That wasn't the, the end of it. My mother had to go to the hospital. She was having trouble with her heart. She had a big bruise on her chest, and she went to Aiken Regional and she come back -- they sent her back home. They had checked her out and they sent her back home. She came back to the house and she was hurting, and I told her, I says, you know, if anything happens to you, I says I'm gonna see to it that the world knows what happened. My mother loved Melinda like a daughter, and she told me, no, that she didn't, she was okay. She would be all right even if something did happen to her.

Q What year did you---

A Not to say anything. Excuse me.

Q I didn't mean to interrupt you, but what, what year did you actually separate?

A Well, we separated in '95, but the divorce, I don't think, was final until like '96.

Q And you had -- did you make any kind of agreement with her as far as visitation rights?

A Yes, sir, I had visitation for the kids two weeks in the summer and every other weekend, which I'd end up getting them all summer long most of the time and every other weekend that I was able to make it due to work schedule.

Q Where were you working at at that time?

A I work all over. I do construction work. I was a

construction superintendent. I've built River Watch Parkway, River Walk, Woodside Plantation. I built the Aiken Mall. I built Laney Loosey. I built Church Hill Commons, all the Wal-Mart Super Centers and the CSRA just about. Even the Sam's Club and Target Center in Augusta, Stone Crest Mall in Atlanta. Built landfills in Washington.

Q How -- I'm sorry.

A I worked all over the place, all over the southeast.

Q How long have you been working?

A I've been working since I was eight years old.

Q So, in '96 you got divorced and the, the -- I believe your testimony can be summed up that it was an amicable agreement and she didn't complain about visitation rights?

A Let me clarify. I've been working since I was eight years old in the summertime. I started full time when I was 15.

THE COURT: He asked you another question. You want to answer it?

THE WITNESS: I'm sorry. I just---

Q And the, and the divorce separation agreement, it was amicable?

A Yes, sir.

Q Where was Melinda and [redacted] -- where were they at when you got divorced and after you got divorced?

A They were living in Rome, Georgia. Well, they moved

around right in that area several different little towns.
Q Where were you living?
A I was living here.
Q And that's in Aiken?
A At [redacted]
Q Where were you living in 1999?
A In 1999 I was living in Warrenton. I was redoing the water system up in Warrenton, Georgia, and that's when mine and [redacted] relationship started changing. She started acting a lot different, aggressive, rebellious. She didn't want to do anything she was told to do. She got real rebellious, as a matter of fact, at that time.
Q But Melinda had the custody, right?
A Yes, sir, she was -- [redacted] was getting where she didn't actually, at the age of 13 and 14, she started getting to where she didn't want to come visit any more. She'd rather stay in Rome and before that she was talking about moving in and living with me and Buffy. She wanted to.
Q You'd already met Buffy by that time?
A Yes, sir, I met Buffy in the end of '96.
Q At the end of '96.
Not soon after you---
A No, I'm sorry. End of '95.
Q End of '95?
A Yes, sir.

Q What, if anything, happened in 1999 to, to cause you to seek out some assistance from the Family Court in Aiken?

A In 1999 I went to get my children for visitation on the weekend. It was in I'd say somewhere in the fall, close to the -- yeah, it was about the end of summer. I went to go get the kids for the weekend to spend time with them.

Whenever I got there I walked up to the trailer. I knocked on the front door, and when I knocked on the front door it eased open. Well, I -- it was early. I'd been driving since three o'clock in the morning to get there to see them on visitation.

The door kind of opened up, and I stepped in, hollered if everybody was up. When I did, I noticed movement on the couch. There was two people on the couch, and then I noticed one of them was my daughter [redacted], and the other one was a young man.

Q Is that young man her, the man she's married to today?

A Yes, sir, it is.

Q What, if anything, did you do when you saw that?

A I almost went ballistic because he was close to ten years or ten years older than her. She was 14 years old at the time. I walked into the house. They jumped up. [redacted] said she just, had just run out there and jumped on him and laid

down. He, come to find out, Melinda tells me he had been babysitting the children whenever she was at work and stuff.

Q Did she ever -- excuse me. Let me stop you right there for a second.

Who asked him to babysit?

A I presume she did. She hired him.

THE COURT: Mr. Routzong, you know we don't do speculation. If he knows an answer, answer it. If he doesn't, don't speculate.

Mr. Solicitor, y'all object to those speculation type of questions and answers.

Q So, you don't really who -- you don't really know if Melinda asked him to babysit?

A Well, she stated that she felt more comfortable---

MR. MOLONY: That's hearsay, Your Honor.

THE COURT: Come on. You can't testify about what somebody said.

Please, Mr. Routzong.

Disregard that, ladies and gentlemen.

THE WITNESS: Well, I understand.

At any rate, I went nuts pretty much, and started to anyhow, but I noticed that my younger children were up, Hoss and Jamie, waiting on me. So, when I saw them I calmed down and I told Melinda, at that point, I said you need to take her to the doctor and have her checked. I

said if she's been touched, I said he's got problems, and---

Q Let me ask -- let me stop you right there, and let's fast forward a little bit.

What, if anything, did you do in terms of making sure that this didn't happen again?

A I went to the law enforcement, to the DFCS.

Q What law enforcement agency did you go to?

A It was up there in Rome, Georgia. I think -- I'm trying to remember. I think that's Fulton County if I'm not mistaken. But I had to go through DFCS.

Q Are you aware of anyone else contacting law enforcement about this issue?

A No, sir.

Q What happened as a result of you contacting law enforcement?

A [redacted] kidnapped my daughter, took off to Alabama for about six months. They finally found her and he ended up being incarcerated, put in jail, went to prison.

Q And when he got out of prison, to the best of your knowledge, what did he have to do?

A He had to register as a sex offender.

Q When was the last time you spoke to your daughter, Casie?

A That day, for a, for a good many years she didn't have

anything to say to me other than that day she said that if I had him locked up she would never talk to me again.

Q Don't, don't tell---

A I'm sorry.

Q ---what someone else said.

A I'm sorry.

THE COURT: Disregard that, ladies and gentlemen, please.

Q And during this period of time you said that -- you've already testified that you were already -- you'd already met Buffy?

A Uh-huh. (Affirmative).

Q And who's Buffy?

A She's my ex-wife, second ex-wife.

Q What relationship is she to the accusers?

A The -- she's the mother of two of them and the stepmother of one. Well, not actually stepmother to one, I guess, cause [redacted] never lived with us.

Q Prior to you -- when you were still in -- when you were still with Melinda, did there come a time when you met somebody by the name of Sandra Parsons?

A Yes, sir.

Q What relationship is Sandra Parsons to you?

A Well, I actually had a relationship with her husband, me and him were friends. We were close friends. I knew Frank

Parsons. We had a car lot, ventured into a car lot together. We repossessed cars together there for a little while right after my mother died. I couldn't handle the stress of the construction, being a superintendent, and the type of work I do. It's a lot of -- you got five or six million dollar jobs you're over, and 40 or 50 men. It's a lot of stress on you, and I---

MR. MOLONY: Your Honor, he asked him how he met Sandra Parsons.

THE COURT: That's exactly right.

Please listen to the question and respond to the question.

THE WITNESS: Yes, sir.

THE COURT: If he wants to know about the stress on your job he'll ask you.

THE WITNESS: Okay.

THE COURT: Thank you. That's the third time I told you.

THE WITNESS: Yes, sir.

THE COURT: Please. It is very easy to get along. Just answer the question.

Q Did there come a, did there come a time when your relationship with Sandra Parsons soured?

A Yes, it did.

Q What caused that?

A My relationship with her husband. Me and him used to spend a lot of time together, like I said, and we would drink, be gone a lot, and we were drinking buddies at that time. She thought that I was the reason that she got a divorce.

Q When did you actually marry Buffy?

A I married Buffy in ninety -- it's either Winter of '99 or 2000. I think it was 2000.

Q Where did Sandra Parsons live about that time?

Where was she living?

A Sandra Parsons lived up the road.

Q Not far from where you lived at?

A No, sir, not far, probably a block.

Q What relationship did Sandra Parsons have with Buffy?

A They become best friends. They were, they were smoking buddies.

Q Yes, sir.

Now, the State's alleging that there's a period of from 2000 to 2001, 2002, 2003, four, five, six, seven, eight, nine, ten, there's a long period of time there that you were molesting your stepdaughter.

A No, sir, I was not.

Q You moved -- let me, let me rephrase that question.

In, in 2000 or 2001, [redacted] made a charge against you.

MR. MOLONY: Your Honor, that's not a question.

THE COURT: Hold on.

MR. MOLONY: That's not a question, and if it is, it's not a direct examination type of question. It's completely leading.

THE COURT: What's your objection?

MR. MOLONY: It's a leading.

THE WITNESS: In, in talking---

THE COURT: Sustained.

Hold on.

Rephrase your question, Mr. Routzong, in a direct manner.

Q What happened in 2001 between you and [redacted]

A In 2001 Buffy come to me. I was working in Charlotte.

THE COURT: Don't testify about what she said.

THE WITNESS: Okay. I come home. I was at the house. And Buffy -- I was told that---

THE COURT: Sir, what did I just tell you?

We're going to play by the rules in here.

THE WITNESS: Okay.

THE COURT: The rules are that you can't testify about what somebody else told you. That's the third time.

THE WITNESS: Okay. Yes, sir. Yes, sir.

THE COURT: Don't interrupt me when I'm talking.

Now, you think you can play by the rules?

THE WITNESS: Yes, sir.

THE COURT: Thank you.

Ask the question again.

Q What did, what did you -- what did you become aware of that [redacted] did, [redacted] did?

A Whenever they come to -- the police officer come to me and -- well, actually the first time a lady come to the house to speak with [redacted]. She asked [redacted]---

THE COURT: Sir, answer the question what happened. Not what everybody told you.

THE WITNESS: [redacted] made an accusation against me I guess. I mean --.

Q Was it true?

A No, sir.

Q What happened with that accusation?

A Well, they -- I moved out of the house. They let [redacted] and Buffy and them stay at the house and eventually, after three years, almost two and a half years, I -- the charges were dropped.

Q And who, who recanted those charges?

A [redacted] did.

Q About when did you move back into the house?

A I moved back in the house probably around -- it was right there at -- let's see. [redacted] turned 12. Right before [redacted] 12th birthday. So, that would of been in 2000, late 2002 I believe. 2003. I'm sorry.

Q Let me fast forward to 2010. Now, you've already testified that you, you didn't molest any of these children during that period of time.

A No, sir, I have not molested them children.

Q What, if anything, happened with [redacted] in 2010?

A In 2010 [redacted] had a boyfriend and she called me up.

THE COURT: Careful.

THE WITNESS: In 2010 with [redacted]---

Q Was she living with you?

A She came to live with me, yes, sir.

Q Did she move back out?

A Yes, sir.

Q When did she move back in?

A She moved back in -- she didn't move back in until after I was incarcerated.

Q Did she live with anybody else during 2010?

A She lived with Chris Falkner.

Q In 2010, what happened in the Fall and your relationship with [redacted]

A In 2010, my relationship with [redacted], I discovered pictures on the internet that I thought were her. I immediately went to her about it, and when I did she denied it. But it was her and the picture of her and four of her friends. I recognized all of them.

I went to one of her friends's parents and notified

them, but the -- I didn't know the girl's names that were in the picture other than [redacted] and the one that took the picture, which I couldn't see. [redacted] later on disclosed to me---

THE COURT: Sir.

THE WITNESS: I'm sorry.

Q What, if anything---

A But---

Q What, what, if anything, other than notifying a parent, what did you do about that?

A I went to Channel 12 News and I went to North Augusta Police Department.

Q Were you pretty upset?

A Yes, sir, I was.

Q Why were you upset?

A I was upset because she was on the Internet. My son was living there at the house and I found this stuff going on. They had previously had been, got in trouble for stealing these condoms, and I was worried that things were going on in the house.

Q And who were you, who are you talking about?

What two people?

A Hoss and [redacted]

Q What are you, what are you saying that you believed was going on?

A I was afraid that they may be doing things inappropriate with one another. Hoss, I had found pot in his room, cigarettes. With the issue of the, the stuff on the Internet, and it caused me to, to get to the point to where I was accusing my son and my stepdaughter. They were getting angry with me. They -- I was having a lot of problems out of them.

Q Mr. Cartwright?

A Yes, sir.

Q There's been testimony that your semen was found on these sheets that they presented, the State has presented to SLED and they were tested.

A Uh-huh. (Affirmative).

Q Tell us how that semen got on those sheets.

A Well, on February 24th Buffy was washing clothes and she tried to pull me into -- she come out of the laundry room, and I come walking out of the kitchen toward the laundry room. She tried to pull me into [redacted] room, and I pulled back and the doors of the rooms are right next to one another. And when I pulled back onto the door around the corner to Hoss's room, she took me and pushed me back onto the bed and masturbated me with some panties. And after she done so, proceeded to immediately, probably not even an hour later, me and her get into a confrontation because things were bad at the house.

I had been arguing with [redacted] Buffy didn't want to

do anything about it, told me I was pushing her away. It got to the point to where even her aunt and her uncle, they all come over to the house.

THE COURT: Sir, be careful. I'm not gonna warn you again about saying what other people said. You just did it with Buffy.

THE WITNESS: Yes, sir.

THE COURT: Please, the rule is -- can't you follow the rules?

THE WITNESS: Yes, sir, I wasn't gonna say anybody said anything.

THE COURT: Sir.

THE WITNESS: I'm sorry.

THE COURT: You just testified about what Buffy said. Now, please don't make me get testy with you. I'm trying. Just play by the rules.

Okay. Is that fair?

THE WITNESS: I was just trying to---

THE COURT: Isn't that fair?

THE WITNESS: Yes, sir.

Q What was your relationship like with Buffy before that incident happened?

A We had a great relationship.

Q And the incident I'm referring to is the incident you just testified to about being masturbated by her.

What was your sexual relationship like with her?
A We didn't have much of one. She had had a hysterectomy. She said that it---
THE COURT: Sir.
THE WITNESS: She had had a hysterectomy, complained of problems, and we didn't have it that often.
Q How often would you have sex?
A Probably, in the last five years of our relationship, probably a couple of dozen times at most.
Q Right before that incident, what was going on in the house?
Did you -- what did you -- did you suspect anything or was it a normal day?
What kind of day was it?
A It was a, it was a good, a good -- could you rephrase that?
I don't understand what you're asking me.
Q Well, what I'm trying to get at is -- let me put it this way.
Is it fair to say that was an unexpected---
MR. MOLONY: Your Honor, leading.
THE COURT: Gentlemen?
THE WITNESS: I, I---
THE COURT: Hold on.
Rephrase the question, please.

Q You testified that you didn't have -- you had infrequent sexual encounters with your wife for several years.
A Yes, sir.
Q And the relationship was somewhat strained. You testified to that.
Was this a good day before that incident?
Did anything give you an indication that it was a good day?
A Yeah, it was a good day. I was out cleaning my boat when she come home.
Q And what did y'all -- without saying what she said, what were the kind of things you were talking about?
A Well, we were talking about selling my boat. I had gotten -- we got into it about the, the stuff going on with [redacted] after she had masturbated me, and we got into an argument, and I was fed up with the way things were going on at the house, and---
Q Well, what did you think -- what did you think was the -- I mean what did you think was going on when she did that?
Was it, was it a surprise?
A Yes, sir, it was a surprise.
Q But it was a -- was it a welcomed surprise?
A No, sir.

Q Now, all these charges, Mr. Cartwright, there are 28 of them. They span about 20 years period of time.
A Uh-huh. (Affirmative).
Q And the State says that -- and the accusers say that you are guilty of all those charges.
What do you have to say about that?
A I say that I'm not guilty of them. I haven't molested my children. I've done everything that a good father's supposed to do. When I thought something was going wrong with my children's lives I went straight to law enforcement. I went straight to try to get custody of my children whenever I thought that they was in danger. I've had a great relationship with my children up until that point, and now they all hate me because I love them.
Q The, the State's elicited testimony about a suicide attempt at the jail.
Why did you try to kill yourself?
A Well, I committed -- tried to commit suicide. I've been told -- well, I had to go through counseling afterwards, and I haven't never really disclosed it, but I'm gonna try to explain it the best that I can.
I'm gonna do this. I, I found out that there was charges against me. So, I came and turned myself in. I thought that the charges were about the stuff on the Internet because I had -- me and Buffy had gotten in an

argument and that's what it was about and I left. I left her. I was leaving. That was that. It was over with us.

I couldn't go through the stress of the kids. They was all grown. They didn't need me any more. I had done run my only son off that I hadn't never got a chance to be with, and I finally got him in my life, and because of what was going on with that stuff, I run him out of my life being too strict I guess.

We was even fighting. We got to where we were fighting about what [redacted] was wearing. I'd get on to her about what she was wearing, and he'd be telling me well, I don't see anything wrong with it. So, I'm sorry.

MR. MOLONY: Your Honor?

THE COURT: Sir, hold on.

MR. MOLONY: It is obviously hearsay, and I don't know if that's in response to the question that he even asked.

THE WITNESS: It, it---

THE COURT: All right. Hold on. Hold on.

This is the last time. Please fly by the rules. That's all we ask you to do.

THE WITNESS: Yes, sir.

THE COURT: I make everybody else do the same thing. Why should I not make you?

THE WITNESS: I understand, sir.

THE COURT: You don't understand. You keep doing it. Now please.

Okay?

THE WITNESS: Yes, sir.

THE COURT: Thank you.

A I was -- like I said, I turned myself in. I'd been there for 30 days. I couldn't get a bond. I was charged with some of the most heinous crimes that somebody could ever think about being charged with. I've never heard of anybody being charged with that many crimes even on TV, and I'm in my cell with all these things on my mind, and then the daughter that I loved, my biological daughter, hates me so much because I had her husband or her lover, whatever, locked up, the man that raped her when she was 14 years old, and she held a grudge against me, and they come and served me ten warrants. And, yes, sir, at that time I didn't feel I wanted to live any more.

THE COURT: Cross examination.

MR. ROUTZONG: I don't have any other questions, Your Honor.

CROSS-EXAMINATION

BY MR. MOLONY:

Q Mr. Cartwright, how are you doing?

A All right.

Q That was a lot. I'm gonna go back through just some

of it. Not all of it.

[redacted], let's start with her. She's your oldest biological daughter, isn't that right?

A Yes, sir.

Q And you would agree with me that you live with, with [redacted] and Melinda here in Aiken right off [redacted] in 1989?

A In 1989, yes, sir, I did.

Q Okay. And you also agreed with me that Melinda moved with [redacted] and the others sometime in 1995 when y'all separated?

A Yes, sir.

Q And at some point after that -- in the separation, you stated on direct, was basically because Melinda had killed your mother, isn't that right, what you said?

A My mother died three days later after she had beat her in the chest, yes, sir.

Q Okay. So, she moves off and your testimony is that you walk in and see her with her husband and they're wrestling around on the couch in Georgia or something, is that right?

A No, not with her husband. With a man that had molested her.

Q She's not married to that man?

A She is now. She was 14 years old then.

Q Okay.

A He was 24. He was molesting her.
Q And that's your, that's your baby, wasn't it?
A That's my daughter.
Q That's your girl, yeah.
A My daughter.
Q So, at that point you play investigator and you call the police, right?
A Yes, sir.
Q All right. And with [redacted] you would agree with me that she was nine years old whenever you became aware of her allegations against you?
A Yes, sir.
Q And you became aware of that because you were arrested at that time, isn't that right?
A Not directly arrested at that immediate time. They put charges against me or the accusations were made. I continued working and they decided they were gonna put charges against me and I went and turned myself in to them.
Q Well, you just stated on direct you guess she told someone. The fact is she did tell someone because you did, you were in jail, you were arrested, isn't that right?
A Right.
Q And you bonded out, didn't you?
A Yes, sir.

Q The same day?
A Yes, sir.
Q And you went and moved in with the guy that, your brother that just testified, isn't that right?
A Yes, sir.
Q Okay. And after [redacted] goes to the, to the sheriff, I mean to the Solicitor's Office and recants, you move back in with them, isn't that right?
You testified in 2002, end of 2002?
A Yes, sir.
Q Okay. And you continued living there and that was at [redacted] isn't that right?
A Yes, sir.
Q Until she moved out ultimately?
A Yes, sir.
Q Isn't that what you testified to?
A Yes, sir.
Q Okay. Now, she was 15, 16 at that time?
A Well, she was 15, 16, yes, sir, when she moved out to her -- when she turned 16 she moved in with her grandmother.
Q Okay. And during the time she was 16 living with her grandmother, isn't it true that the previous statement under oath you stated that she didn't come back home. She wouldn't, she wouldn't stay at the house.
A Oh, she, yeah, she came -- she wouldn't stay with her

grandmother because her grandmother wanted her to pay---
Q No, before that.
A Before what?
Q Before she moved to her grandmother's house she was there, and isn't it true that you testified under oath in a prior proceeding that she would stay gone from your house when she lived with you for three or four days at a time?
A When she lived with us she went home three or four -- was gone three or four days at a time, yes, sir.
Q And isn't it true that you testified under oath that you would go find her?
Is that true?
A Yeah, I'd go find her.
Q And isn't it true that you testified under oath that you'd get her, isn't that true?
A I would go get her and bring her home to her mother because her mother was worried. Yeah, I testified that under oath.
Q And didn't you also testify under oath that ultimately she had to go. You kicked her out of your home because she was stealing jewelry from your wife at the time.
A Yes, sir.
Q And you testified that she had to go because she didn't want to live by the rules of your house, didn't

you?
A Yeah, she didn't want to live by the rules of the house. She didn't -- that was -- that testimony is---
Q Did you say, in a prior proceeding, she did not want to live by the rules of my house was the question?
A Yes, sir, but not when she lived at, in Trenton. That was when we lived at---
Q Right.
A ---[redacted] when she moved out to her grandmother's, and then after she moved out to her grandmother's she moved back in.
Q Yes, sir, I'm with you.
Now---
A And then she run away.
Q She---
A That was between the point in time that she says that I brutally raped her when she was 15. But when she turned 16, she moved out and then moved back in, and then she was raped says, when she was 16 and then she run away when she was 17. That's what the testimony says.
Q That's what your testimony says?
A That's what she verified in her testimony.
Q I didn't ask you what [redacted] said, did I?
THE COURT: Just ask the question please.
Q Moving on to Nikki. I'll move on.

You previously stated [redacted] that you and [redacted] had a wonderful relationship when she was a kid?
A Yes, sir, we did.
Q She was very good in school?
A Yes, sir.
Q She was, you testified, your pet pea, didn't you?
A Yes, sir.
Q And it all changed at some point in 2010 when you found porn on the Internet.
Isn't that what you just testified to?
A Yes, sir.
Q That you searched and found her and I believe in a prior proceeding you stated it took you within the first two clicks you found her, isn't that right?
A First couple of pages, yes, sir.
Q Out of all the porn on the Internet you found your daughter in the first two clicks?
That's your testimony, isn't that right?
A The picture that I give to the investigator, yes, sir.
Q And it didn't end there, did it?
You also found a bunch of movies, which you testified to under oath?
A I found movies. I found pictures of my nieces and nephews. I found -- not nephews. My nieces. I found pictures on the Internet. Yes, sir, of a bunch of kids. I

went to the police. Nobody would do anything about it.
Q The police didn't do anything about it at that time?
A No. No, sir.
Q And you went to the news station, too, didn't you?
A Yes, sir, to let people be aware that if they had teenage kids to check that site because it was teenage kids and it was not an adult site. Something needed to be done about it. If we could not police the Internet, we needed to shut it down was my statement to the public.
Q You told them at the news exactly what you told this jury sitting here today.

Your statement to the public was exactly what you're saying here today, isn't that right?
A My statement to the public, yes, sir.
Q So, you would deny that in that interview that you told News Channel 12 that a friend basically called you up and said you needed to look at this website and that he wasn't sure but he thought he found your daughter?

Would you deny that?
A He thought it looked like my daughter, yes, sir.
Q But now you just testified under oath that you found this picture and in a previous testimony you stated that after watching Tyra Banks TV show?
A I did watch Tyra Banks TV show. That's what got me asking about it at work.

Q Yeah.
A And my friend told me about this site.
Q And then you put your investigator hat on again and you go and you found this picture on the Internet after they give you the name of the site.
Isn't that what you---
A Right.
Q Prior to today, isn't that what you said?
A Yes, sir, I had to look for it.
Q Okay. And in this News Channel 12 video you told the public a friend told you he found her, and then that's how she ended up getting---
A No, I said a friend told me -- when I had asked about it because I had seen the Tyra Banks show. I mean but, yes, a friend is the one that told me about the name of the site. All Tyra Banks had me questioning was she said that over half the children are on porn sites.
THE COURT: Half the children?
THE WITNESS: Of a, of a certain age. It was -- that's what her show said. It got me concerned, yes, sir.
Q Are you denying that you told the news that a friend called you and told you he found your daughter on a porn site?
He wasn't sure, but he thought it was your daughter, and so then you go and check it?

A I just said that he thought it looked like her, yes, sir.
Q No, you said he give you the name of the site.
A And he thought it looked like her.
Q Is that right?
A That's right. He gave me the name of the site. He said he thought he saw a girl that looked like her, yes, sir.
MR. MOLONY: Judge, I don't have anything else.
THE COURT: Anything on redirect?

REDIRECT EXAMINATION

BY MR. ROUTZONG:

Q Mr. Cartwright, the State just spent a lot of time asking you about that Internet site.
Why were you concerned about things like that?
A Because I love my children and I don't want to see them exploited on the Internet. I wanted to try to get the place shut down.
Q Why do you do that?
A Because I'm a responsible adult. Whenever I know something's happening with children I go to somebody about it immediately. I don't wait.
Q Thank you, sir.
THE COURT: You may step down.
Next witness, Mr. Routzong.
MR. ROUTZONG: That's all we have from the defense, Your Honor.

MR. ROUTZONG: No, sir.

THE COURT: All right. We are ready.

You're going to waive opening on the law?

MR. MOLONY: Yes, sir, Your Honor.

THE COURT: All right. Here's where we go now, Mr. Foreman, ladies and gentlemen.

The last thing to be presented to you, or the next to the last thing, will be the arguments, what we call the final arguments of the lawyers. You've heard all the testimony that will come in the trial of the case. So, what the lawyers do now is -- obviously they are adversaries for each respective side, and they'll be arguing the evidence in the light they deem it to be.

But you're the finders of the facts. You'll make your decision based on what you've heard. They'll just try to make an argument concerning their position and obviously it's, it's merely that. It's argument. You've already heard everything you're going to hear.

Once they complete their final argument, then I will charge or instruct you on the law, and then you'll be in a position to commence your deliberation, and we'll see how we go this morning, and I suspect we should have it to you within an hour, hour and a half, and then we'll see how we're going with deliberations about lunch. We'll, we'll order in, but we'll decide whether, what you want or you

may have enough fruit back there to carry you through.

Okay. Mr. Routzong, good morning. You may make your final argument.

MR. ROUTZONG: Thank you, Your Honor.

CLOSING STATEMENT

MR. ROUTZONG: Good morning, ladies and gentlemen.

I started out the other day by giving you a little head's up on what presumption of innocents means, and I want to reiterate that one more time, and that was -- for the presumption of innocence, as you're sitting there in those chairs, to have that viewpoint, that means that the State has their case wrong, and the accusers, the complainants in this case, are not telling the truth. That's the only thing the presumption of innocence means.

As you're sitting in your chairs right here, up until the time you go back to sit in those chairs in the jury room, you have to maintain that viewpoint. You have to maintain that presumption of innocence until you talk amongst yourself, argue amongst yourselves as to what you've heard, and you have to maintain that presumption of innocence as you go through that viewpoint as you go through each and every indictment.

Each and every indictment has elements of the crime. You have to find, beyond a reasonable doubt, on each and every indictment. Each and every element, you have to

find that the State has proven that beyond a reasonable doubt.

Judge Early will explain all of that to you.

You've heard a lot of witnesses in this trial. It's kind of gone up and it's kind of gone down sometimes, but I'd like to tell you now what I think we heard.

The first thing we heard was that Mr. Harold Cartwright was married to Melinda. That happened in '93. They got a divorce. After the divorce there was an agreement where no mention was made of any criminal sexual conduct towards [redacted]. Melinda agreed to give Harold visitation rights.

There was no problem. There's been no problem. There's no evidence that there was any problem up until 1999.

And what happened in 1999?

That's when Harold Cartwright discovered that [redacted] was becoming involved with a man who was about ten years older than she was, and, in fact, she got pregnant. Harold Cartwright, being Harold Cartwright, went to the police. He testified that he pushed for prosecution.

Ultimately what happened, the man that [redacted] married and has three children with now went to prison, and not only that, and maybe even worse than that, every year since he got out of prison he's had to register as a sex

offender.

You may wonder why I think that's important. It's important because year-to-year, and there's no evidence of this, but let's use our common sense, year-to-year he has to register. It's on the computer. Her children's friends can see it. The parents of her children's friends can see it. People who he may want to be employed with can see it.

What hardship has that brought upon that family?

[redacted] sat in that chair and said she wasn't mad about it. Basically it's okay. I'm not holding a grudge. But you also heard testimony that she hasn't spoken to her father in several years.

I think there was actually two kinds of testimony. One was 14 years I think or since she was 14, and one that I think Mr. Cartwright said has been several years.

The point is the relationship was broken and why?

It's not because of what she said. Because what [redacted] told you about the molestation was a lie.

And how do we know that?

We know that because all those years went by and nothing was said until he prosecuted her husband and accused her mom of being a bad mother. Now, suddenly, there's molestation issues.

Remember what Doctor Benedetto said. Child custody

issues, in her experience and training, are a reason that people bring false allegations.

I want to say one other thing at this point about what the State presented about Mr. Cartwright's suicide. Their argument is that that's an issue of flight. In other words, he feels guilty and he's trying to flee from the justice system. You have to presume that he's innocent.

And what does that mean?

That means that's not true.

Alternatively, Mr. Cartwright told you that the day he tried to kill himself was the day they served warrants, and the warrants that they served were on the charge that [redacted], his biological daughter, he said the daughter that I love, she made these allegations and that's the day he tried to commit suicide.

You have to presume that's true until collectively, after the arguments that you make back there, you decide unanimously that the State has proven that beyond a reasonable doubt. The opposite.

Let's also talk about the other things we know about what was going on right around 1999, 2000. You heard testimony from Melinda that she knew a lady named Sandra Parsons.

Now, if you'll recall, Sandra Parsons was the lady

that [redacted] said that she disclosed to. Not Buffy, her mom, but Sandra Parsons.

I would argue, ladies and gentlemen, that's a very important fact. It's important because Harold Cartwright testified that Sandra didn't like him very much. Sandra also knew Melinda.

We don't know what the connection is there exactly. We know there's a connection. I can't stand up here and say I know for sure that Sandra told [redacted] or maybe told Buffy or maybe told Buffy and, and Buffy kept asking her and asking her and asking her and she said finally, yeah it happened.

I don't know. I can't say what happened, but the one fact that we do know out of that whole situation right there is that [redacted] came to this courthouse, went down, and downstairs in the Solicitor's Office, and told Solicitor Brenda Brisbin that it didn't happen. That's a fact that we know, and that was back in 2002.

Around that same timeframe you have Buffy marrying Harold. They were living together. There's [redacted], and [redacted], Buffy, and Harold. They were living together in 2003. There's no allegations. 2004 there's no allegations. 2005 there's no allegations.

They said [redacted] and -- [redacted] probably a little bit later on, but [redacted] and [redacted] said, during that

period of time from 2003 to 2010 and actually up to 2011, the beginning, that he was molesting them three to seven times a day. That's two, two young ladies. Apparently that's six to fourteen times a week.

Ladies and gentlemen, that's not credible. That's not, that's not common sense. That's not reasonable to believe, and the other things are, during that whole period of time, you've got relatives, principals, teachers. He's not there all the time. You know, in that context, they said that he was a very violent man and that he threatened them and to blow them up and hold knives to them and guns and, and everything else. But during that whole period of time there's nothing.

Ladies and gentlemen, if you're under that kind of pressure with violence, you've got relatives. There are, there are people like Hoss Cartwright in the house during that period of time. It's not reasonable to believe. It's not common sense to believe that they didn't make any report to someone.

It's easy. Hoss said he knew how to dial 9-1-1. Obviously all of them do. Buffy's letting her children go through all this, this threats of physical violence for ten years and nobody says anything. Nobody sees anything. Just them. Fourteen times a week.

Ladies and gentlemen, I told you that [redacted] lied.

She told a lie and I just told you why. She's mad.

Let's go up to the point in time where the allegations that we're here today first began to surface to law enforcement. [redacted] testified that she was called into the Sheriff's Office because her ex-boyfriend was involved with drugs. She says it wasn't me. They just wanted to know what I thought about that situation.

Ladies and gentlemen, that's not reasonable. That's not common sense because she testified that she didn't know whether or not she was going to be arrested. That's one reason it's not reasonable.

But the other reason is your common sense will tell you, if you're staying with a person that is a target of a police investigation, and we're talking about drugs, what does that mean?

You're involved with drugs.

Either you're a user or a supplier. You don't live with drug dealers, and she was trying -- she testified, well, I did that because I was trying to get rid of, to get away from Harold.

Well, ladies and gentlemen, do you remember what else she said?

She moved in and out of that house a few times. She lived with her grandmother. She could have lived with an aunt, an uncle, but she went back, afterwards, back into

the house where somebody's threatening to kill, molesting them 14 times a week, all these vile things that they said happened in that house. That's where she went back to.

That's not reasonable. That's not common sense. And, you know, when you're thinking in light, in light of what Doctor Benedetto said about child sexual dynamics, you're talking about a person that's not a little kid anymore. She's out staying with her boyfriend who's involved with drugs.

So, she walked into the police station, the Sheriff's Department, and she played that victim card because she was worried that she was, she was in hot water.

And the police said, well, what else was going on?

Well, my sister, [redacted], also was molested.

[redacted] kind of an interesting case here as well.

What did [redacted] testify?

She said Harold -- she said her deceased father, the Social Security benefit from the government, she got a check for $20,000 and got monthly payments of $800, and she said Harold Cartwright took all that money. She didn't get it. Bought land, a trailer in his own name, and she didn't get it.

You know, the interesting thing I thought when I saw this, and you'll recall the testimony was this is the defendant's trailer, is, is his utility trailer?

It says [redacted] dollar sign. [redacted], dollar sign. [redacted] money.

Now, can I say that [redacted] painted this?

There's no testimony to that. But it does corroborate my argument. If you believe that [redacted] painted this -- if that's the most likely thing, she's telling you what it's about.

And what else was going on in that house?

We have Hoss Cartwright. He said, well, I would see my dad go into [redacted] room every morning and he was just in there for odd, bizarre periods of time, extended periods of time, and he testified that it, it was just unbelievably odd and yet he also testified or finally he had to admit that he testified in a prior proceeding that he didn't think anything about that at the time.

Ladies and gentlemen, that's not reasonable. That's not common sense. He was hardly in or he hardly had a relationship with the defendant. The defendant was hardly in his life at all. It's not because the defendant wanted it that way. But finally Harold came to live with him.

Now, here's the thing about why he came to live with his dad. You heard testimony from Hoss and Harold. Harold said I believe they were becoming romantically involved with, with each other, and Hoss said he had the impression that his dad believed it.

You know why?

His dad told him that.

That's the way Hoss -- I'm sorry. That's the way Harold Cartwright is. You know, when he saw that his daughter was with an older man, he went to the police. When he sees that there may be a romantic relationship blooming between [redacted] and her brother, he tried to put a stop to that. He probably, at least common sense would tell us, if we believe that that's true, they probably got mad about that.

And what is, what is the evidence?

How can I even say that?

That's all just kind of speculation, right?

Or is it?

Because Hoss sat right there and said, when I asked him, isn't it true that you and [redacted] were put on trespass notice at the K-Mart in North Augusta for shoplifting condoms, and he said yes, that's true.

Can I say that they were purchasing condoms with any amount of certainty so they could use them?

No, I can't sit up here and say that. There's no evidence of that. But use your common sense and it tells you. It helps to corroborate what Harold believed was, was happening and why Hoss is lying about what he saw.

And at the same time with [redacted], there's a five

month period there from October, the follow-up, I'm sorry, the Fall of 2010 up until February when these disclosures came out when Mr. Cartwright, when he saw or when he thought he saw his stepdaughter on the Internet posing in compromising, compromising pictures, and they were being placed on the computer for everybody to see, what did he do?

He went to the police department in North Augusta he said. He even went to the television station to try to alert everyone else.

Now, I don't know. That might have been extreme. I might have wanted just to keep all of that quiet and tell them not to do it anymore. But that's not Harold Cartwright. He's a guy, when he sees something wrong, he's gonna do something about it. Just to fill in the picture a little bit, you remember what he said. He told you about I was a construction supervisor and I did this, that, and the other. That's the person he is. He takes charge and he's going to be the person that, that does what's right. He's not gonna sit down when he sees that something is wrong.

So, at the time there, right before this disclosure, you've got Hoss and you've got [redacted] You've got [redacted]. You got Buffy living in a mobile home, all thin walls, stuff happening three to seven times a week times two, and

Buffy said, in the, in the testimony that we read, she said well, I guess I was just naive.

Ladies and gentlemen, that's not reasonable. It's not common sense. It just doesn't make sense.

So, [redacted] said well, [redacted] involved. She tells law enforcement she's being molested. So, law enforcement tells or goes, goes to the school and they talk to [redacted], and she says yeah, this, that, and the other thing happened.

But you remember what they talked about that there was some testimony about -- before the allegations came out they were going to get together and they were going to disclose and actually try to, you know, get this situation squared away finally. That was in December of 2010 I think or maybe January of 2011. It was a birthday party around that time.

So, law enforcement talks to [redacted]. They hear about [redacted], but they ask [redacted] well, what happened and [redacted] says, well, there was this time when he came into my room and that was within a very short period of time after her disclosure or, and during the time when, close to where she, when she disclosed, and she said he came into the room. I was wearing pajama bottoms with penguins on them and a Michigan shirt or a tank-top. She wasn't sure which one. He got on top of me. She never said he took her

clothes off. He got on top of me. He held me down. I couldn't get up.

So, she's got her clothes on and on these sheets that she says she's been sleeping in for a couple of weeks. He gets on her and she calls it humping. So, he's on top of her. He's humping her, she says. He ejaculates and then he leaves. I think she says he goes about his business.

Ladies and gentlemen, let's just pause right there and consider the evidence. When the police came and collected all those items of clothing, including the sheets -- well, it's not an item of clothing, but including the sheets, they did a, a test to see if there was any bodily fluids. The only thing that they actually sent to SLED was a pair of panties and the sheet, and the reason is there's no semen on the pajamas or the shirt or any other items of clothing there.

Ladies and gentlemen, that story was a lie. It's not reasonable to believe that he's holding her down. She can't get up. She's wearing these clothes on these sheets that she's been sleeping on for a couple of weeks. It's not reasonable to believe that there's no semen on any of the clothing. That's not common sense. That's how you know it's a lie.

On the same day that [redacted] and [redacted] disclosed to law enforcement, law enforcement called Buffy -- this is

on the 24th of February -- to the school to let her know what was going on. Remember, the testimony was they took Brandi and they put her in Helping Hands.

But the testimony that Buffy gave was that after that meeting she went back home, met with Harold Cartwright, drove all the way to Rance, Georgia with him so that he could borrow some money from a friend and then they came back and he left.

Ladies and gentlemen, that was a lie. That's not reasonable. That's not common sense. You've got these, these vial allegations made by two of your kids to law enforcement with a man that she, everyone says is extremely violent, going to blow them up, shoot them, whatever, what he's gonna do, and the only thing she knows to do is go back home, get in a car with him, and go to Rance, Georgia so he can borrow some money. Come on.

The next day, after the 24th, after going to Rance she says, she calls the Sheriff's Department and says I have some sheets, some articles of clothing. I think you'll find DNA on them. So, law enforcement comes out there. They gather all of them up. They test them, pretest them down here, and the ones that they actually wanted SLED to test for DNA, they send them up to Columbia and Doctor Gallman testified as to what she found.

And you remember I asked a couple of people what is

touch DNA. Touch DNA is the DNA that's transferred from one person to an object or something else from the skin cells. It can come off your sweat, saliva, bodily fluids, probably semen obviously. That's where touch DNA comes from. Semen is not so much that way, but usually it's when you touch something, you lay on it for two weeks, you're shedding skin cells, you're shedding hair. You haven't washed it in two weeks. It's gonna be there.

But when they tested it, ladies and gentlemen, the only DNA they found was Harold Cartwright, and you'll, you'll recall that I asked her well, what is a mixture. A mixture is when there's two kinds of DNA, two, two person's DNA. There was no mixture here. There was only Harold Cartwright's semen.

Let's back up for just a second and listen to what Harold Cartwright said happened. He testified that his marriage had not been very good for a while. She'd had a hysterectomy. She wasn't having sex with him all that frequently, and he said it was an okay day, and then suddenly she offers to masturbate him with a pair of panties on the bed in Hoss's bedroom. Coincidentally, that's where the sheets are supposed to be coming from.

Now, can I say to you is there really evidence -- there's some evidence. [redacted] said those are the sheets I was on, I was on. Buffy said she got it out of that room.

Can we say, beyond certainty or beyond a reasonable doubt, those were the same sheets?

All what we can say is Harold Cartwright's telling you that he got masturbated on the bed, Hoss's bedroom, with a pair of panties. Afterwards he said she immediately started getting in a fight with him, and at that point he actually left the house because he told you things hadn't been going very well for a while.

Ladies and gentlemen, Doctor Benedetto was an interesting witness because she testified to child sexual dynamics and what did she say?

She said, well, sometimes people disclose. Sometimes they don't disclose. Sometimes they recant. Sometimes they don't recant. Sometimes they delay. Sometimes they don't delay. In other words -- and she told you it's not diagnostic of anything.

But the important thing that she did say, and Mr. Hayes asked her, is revenge a motive for, for making a false allegation?

She said yes, in her experience.

Money?

She said yes, in her experience.

Child custody?

Yes, in her experience.

If you look at this picture, this story that I've

tried to tell you, ladies and gentlemen, and you follow it, you find all those things, but what you don't find are people, when they had the opportunity, they could have gotten away, they didn't. That's not reasonable. That's not common sense and you're not always talking about a little kid.

You're talking about young women, and you've got all these elements, ladies and gentlemen. You have revenge. [redacted] mad. She has to live with a sex offender maybe for the rest of her life, maybe until he gets off of it. It's an irritant.

[redacted] was in trouble. She lied to get herself out of trouble. [redacted] lied because she's mad because he took her money. She's mad because -- and she said it was wrong. She said -- that makes it worse. She said I wasn't on there and he called one of her friend's parents and broadcast it all over, all over the Augusta and Aiken area on television.

If you take all of those things into consideration, ladies and gentlemen, and you presume that the State has their case wrong, and they're lying, you have to give credit to the defendant's story, and you have to find him not guilty.

Thank you.

THE COURT: Mr. Foreman, ladies and gentlemen,

everybody okay?

THE JUROR: I need to be excused for just a moment if at all possible.

THE COURT: Sir?

THE JUROR: I need to be excused for just a moment if at all possible.

THE COURT: Why don't y'all all step back. Don't discuss the case. Don't deliberate. If you'll knock on the door and tell Mr. Bailiff when you're ready to come back out.

(WHEREUPON, a short recess was taken at this time.)

CLOSING STATEMENT

MR. MOLONY: Please the Court.

Ladies and gentlemen, I, I won't be up here all morning. I've got to touch on a couple of things you just heard from Mr. Routzong.

So, first of all, can you believe this poor man?

Everybody's lying. The cops are lying. Doctor Benedetto's lying. These three daughters are all lying.

[redacted], the oldest, the biological daughter, she's lying because 18 years ago there was a custody dispute between the defendant and her mother. Eighteen years. Fourteen years ago the defendant puts on his investigator hat, which is one of the many he wears, and he decides he's gonna go look for some child predators and he finds

them, her husband, 14 years ago, and that's 12 years after the defendant says he and [redacted] relationship ended, that law enforcement came to [redacted] Came to her. She didn't call them.

There was no motive to lie. She didn't go to them. She never said anything. She tried to move past it. She got three kids and a husband. She's in Rome, Georgia. She didn't want to be here, but she said she's got to do it. She's got to get it off her chest.

She's got 24 ears listening to it finally, and that goes for all of them.

But, golly, can you believe him?

I feel bad for him, huh?

Because then [redacted] comes up. [redacted], the nine year old, when it begins. But [redacted] was rebellious as a teenager. She was rebellious. She didn't want to go to his house. So, he went and got her, brought her home. Didn't want to play by the rules of his house. I wonder why. She went and is a drug dealer, drug something from Mr. Routzong said.

Investigator Gaskins is a liar. She tells you she's not being investigated for anything. She's there helping police against an ex-boyfriend from a year ago giving some information, if any she had, about drugs. And while explaining why she's not living with that guy anymore and

why she was living with him in the beginning because of the rules of his house.

And then [redacted] Tyra Banks television show. He decides to put on another investigator hat. This time into child porn on the Internet. He's going to find her. He talks to some young people at work. The young people at work tell him a name of a website.

So, he goes and the first two pages he finds his daughter out of all the porn. That's what he says. It's not what I'm saying. All the porn on the Internet, I find her -- I found her in the first two clicks.

But then, when I brought up this TV interview he did, well, I, I found her, but see my friend called me and said he found her, but really he just gave me the site and found her and then he just kind of moved on.

Golly. Credibility, ladies and gentlemen.

But he finds her on this porn site, and he says he confronts her, and he's, he's going after her and now she's embarrassed. So, that's why she's here.

DNA on the sheets. His wife, who testified through the little play type thing we did here because she can't be here, she's sick, his wife tells you we ain't had sex in years. He's saying it. They didn't have -- they weren't having sex. But that day when he walked out of that kitchen she couldn't resist him.

So, she pushes him, tries to, into [redacted] bedroom, but he fought back until she got a hold of him and threw him into the bed that just so happened [redacted] was staying in, the bed that these sheets are on. He grabs or she grabs a pair of panties against his will. Poor guy, golly, and ejaculates him on her bed with panties against his will.

Did you notice what day that was?

The day that he said that that happened, the same day that [redacted] and [redacted] got it off their chest to law enforcement and told them what happened. What a coincidence.

Golly, I feel bad for him, don't you?

You got to. That poor guy, and the suicide attempt.

Did you hear him say this?

They hate me because I love them.

Now, that's why he did it. I think, after you listened to exactly what the evidence showed, you might understand if they don't like him very much, but I don't think they got the same idea of love that he does, and I could keep going with his ridiculous stories including being the youngest American Cuban shrimper in Cuba, American shrimp. It's about what we said at the beginning, what the evidence was gonna prove, ladies and gentlemen.

The truth is in the details, and this third grade chart I made, it, it really could be helpful in one sense that you can actually see when you go back there, these are gonna be your indictments. These are gonna be your sentencing sheets.

[redacted], the oldest victim, I told you it started when she was four. You heard her say it started when she was four years old. At the house, in the bathroom, she's forced, she's forced to perform oral sex on him. He tells her to lick it up because it tastes like candy. I told you it would be disgusting, revolting, and it was.

Four and four, the lewd acts, the same thing basically, during the same time. He's doing it, touching her body, making her touch his body, and I think it was probably for his sexual desires. I doubt it was for his four year old or his five year old when it continued from '90 to '91 or his six year old, seven year old, eight year old, nine year old, ten year old. She stated it happened from when she was four until she was ten.

She gave you specifics. The truth is in the details. When she's six years old, she's fishing and he does it underneath -- she remembers an overpass not far from their house in Clearwater, and they fished for a little bit. They get back and they leave. Those are the little things.

When she's seven, she's in the bathroom. He performs oral sex on her in the bathroom. Seven year old. She said it seemed like forever, but it was about five minutes. He closes the glass back and leaves. Goes on with his business.

Eight, nine, and ten, she said the oral sex continued until finally some time in 1995 in-between these two dates she's able to get out because Melinda leaves, and during this time she tells Melinda. Melinda sits up here and tells you she told me as a four or five year old.

Should Melinda have done more?

Probably so.

She -- it's -- but don't blame [redacted] It isn't [redacted] fault, and the same with Buffy.

Should Buffy have done more for those two girls?

Absolutely, in my opinion. Absolutely.

But that doesn't mean he didn't do it, and that isn't their fault. These are children. These are children and you can see now. See CSC with a minor, sexual battery, which would be fellatio in this case, and also cunnilingus when she was seven, and the victim is under 11. It's four to ten. The lewd act we've been through.

And then [redacted], the rebellious one, didn't want to play by his rules. It starts when she's nine. And if you look at the years, this is 2000 and 2001. He just meets

Buffy. Buffy has two brand new targets already waiting on him, two, two daughters from a previous marriage. That's a perfect target for him. I married a woman who has two daughters, set up, waiting on him, and that's what he did. He started when she was nine years old, 2000 to 2001. You got your lewd act and your CSC with a minor.

In the computer room, underneath the computer desk. Told me that it was good for me. The details. Those are things you don't make up, and, ladies and gentlemen, it's corroborated.

I didn't hear why Michelle Prince is lying, the DSS caseworker. I don't guess he knew her very well. She got up here and told you, she told me, on July 17th of 2001, as a nine year old, that she was sexually abused in the computer room of her residence. You don't make that up. That's before she was running away, trying to stay away from him, trying to stay away from the house. That's, that's, that's when she's nine.

That's corroboration, ladies and gentlemen, and you don't even need that. You can listen to these victims, but you've got it. You've got it with Melinda. You've got it with her.

When she's nine years old, nine years old, I told you when she was ten, no indictments. I told you to listen why. He's in jail. Then he's out of jail and he's bonded

out and he's with the brother that you heard. I'll get to this in a little bit. The brother that put this picture in I believe. The money sign, spray painted, it looks like some storage trailer somewhere. But ten years old. Nothing happens. She gets a break because he is bonded out of jail basically, and as soon as he moves back in, in 2002, it's towards the end of 2002, it starts right back up, but this time it's not oral sex.

She's not claiming that continued. It's the humping starts. She called it -- she said that he called it scooching, the details. If you're going to lie, make it a whopper.

Why not say oral sex, oral sex, rape, rape, rape?

Because they're telling the truth, ladies and gentlemen.

That's how you know it. It starts right back here, but it's humping. It's less than it was. Here's your lewd act. It continues when she's 12, 13, and 14. Humping, humping, humping.

And then when, when [redacted] turns 15, the defendant buys her a tongue ring and forces her to perform oral sex on him and then later that same year, [redacted] not quite as young of a target, she's not quite as innocent of a target due to the abuse that's been occurring in the last six years, she's not quite as convenient of a target. So,

he ups the anti, and gets the buck knife with a black handle, and he throws her over the couch. She remembers hitting her toe on the coffee table. The details.

Not American and Cuban shrimper. Hitting my toe on the coffee table with a knife to my throat, that's your aggravated force, that's what he did, and he rapes her.

This adds up, ladies and gentlemen. The whole story adds up, the details, and it's in the details.

Finally [redacted] [redacted]. His pet pea.

Do you remember him saying that?

I didn't have any trouble with [redacted] She was a great student. She was just -- gave me no troubles up until this infamous Tyra Banks episode, and I found out she's a porn star. I think [redacted] told you a different story that before this porn star allegation came out from the defendant that basically half of North Augusta children were in porn he said, and his niece and then he kind of said his nephew, and he took that back.

Before all that occurred, when she was 16, I think [redacted] told you a little different story. That when she's 13 years old he starts with the humping. It's the same type humping that [redacted] was describing. The same type things, in the morning time, before school, he'd get up. He'd go about his day like nothing happened. She'd get up and go live like -- try to live like a normal 13 year old

at school the rest of the day.

Continues when they're 14, when she's 14 years old, the humping up until they moved to the shed.

What a target he had at the shed?

And he had a hand in it. I got an idea. Let me not work. Let me let my wife go to work. Let me homeschool my daughter. Let me put her on birth control, and let me rape her every morning, about every morning, and Mr. Routzong misquoted some of the facts that you heard. They didn't say three to seven times a day. It was three to seven times a week. Three to seven times a day really wouldn't be that implausible, but that's not what they said, and the raping occurred, which is what you got CSC with a minor, the sexual intercourse.

She was 14 years old and he was the stepdad, if you call it that. Fourteen, continued 15 years old when they moved from the shed back into the house. It breaks for a little bit when Hoss moves in which is when they get back. This is the lewd act, touching the private parts, her sexual desires again. Again, I assume it would probably have been for his sexual desires and only his sexual desires.

And lastly she turned 16. This is the time period she said the sex occurs again. Hoss moves out and you've got the CSC third, which is just the sexual intercourse

with force and coercion. He lays her down on the bed and does it in her room, the room where these sheets came from, the room she was staying in at the time.

You've got the DNA. You got exactly how it came. They took those sheets because he said go wash the sheets, my DNA is on them. You noticed he said we took one pair of sheets that day. They didn't collect sheets from every bed. They took those sheets because that's where he said his DNA was on it, and boy was it ever.

It wasn't his DNA. It was his semen. Lily Gallman told you they weren't looking for -- I love it. I love how things can come out sometimes. They weren't looking for this touch DNA. She says we're looking for semen. We're looking for specifically semen.

What good would it have done to look for her DNA when we knew she was sleeping there?

His semen would tell us a little something about what was going on with her sleeping there and it did. One in 16 trillion. I have no idea how many zeros that is, but it is a ton, and it ultimately means that there is one in 16 trillion chance that it's not his semen in that bed.

And then the suicide. The same day, April 13th, 2011, he thought, okay, I may can beat this thing with [redacted] and [redacted] I've scared them enough, recent enough, that maybe they'll back down. Maybe they'll go away.

April 13, they go to the jail. Here is your new warrants, you unlucky guy. Sorry, man. Here you go.

Oh my. I thought she was gone. I thought I didn't have to worry about her anymore.

All three of them?

How am I going to do this?

I got an idea. I'm gonna grab this sheet.

Ladies and gentlemen, the case comes down to what the evidence showed. It's not as all over the place as the defense wants you to think, and that's what they have to do. Otherwise you'd listen to what you heard. You'd listen to what the evidence proved.

Now, beyond a reasonable doubt is your burden and it's firmly convinced. Use your common sense. The judge will tell you. Mr. Routzong kept telling you. He's right. Use your common sense. All that means is the things we use everyday, judging, judging the credibility of the witnesses.

As Mr. Routzong said in his opening statement, if you believe the victims, the defendant's guilty. We got the victims. You got I may have messed with those girls. If I did, I'm sorry, I can't remember, from the poor, poor, poor guy's mouth. You got one in 16 trillion.

Find him guilty.

THE COURT: Mr. Molony, how about move that chart?

Mr. Foreman, my charge is about 15 to 20 minutes. I'm gonna give my court reporter and everybody else a little quick bathroom break. Y'all step back. Don't discuss the case. Don't deliberate. They'll knock on the door for you as soon as everybody stretches their legs.

(WHEREUPON, the following takes place outside the presence of the jury.)

THE COURT: We're going to take a bathroom break for everyone.

The defendant's in custody.

(Whereupon, a short recess was taken at this time.)

THE COURT: Is the State ready to proceed?

MR. MOLONY: Yes, sir, Judge.

THE COURT: Mr. Routzong.

MR. ROUTZONG: Yes, sir.

THE COURT: All right.

(WHEREUPON, the following takes place within the presence of the jury.)

JURY CHARGE

THE COURT: All right. Mr. Foreman, ladies and gentlemen of the jury, the first part of my instructions or charge deals with general propositions concerning criminal cases, and then once I finish that we'll go into the specific indictments in this case.

Let me start off by reminding you, obviously, in this

case, the defendant has multiple charges set out in over 28 indictments. Yeah, 28 indictments. If my count is correct, and I think it is, we have one charge of first degree criminal sexual conduct. We have eight charges of criminal sexual conduct with a minor in the first degree, two charges of criminal sexual conduct with a minor in the second degree, one charge of criminal sexual conduct with a minor in the third degree, and then 16 counts of lewd act.

Now, obviously, as I told you when we began, the fact that he has been arrested and charged and indicted, that is not evidence in the case. That's simply the manner in which this case is brought into the courtroom, the formal documents bringing it into the courtroom. So, please do not infer anything from the fact that he was simply indicted.

Now, you will be asked to consider each indictment, each indictment separate and apart from the others. In other words, you'll decide one indictment, and then you'll go to the next and to the next and to the next and to the next. You have 28 of them.

He can be found not guilty on some, guilty on others. He can be found not guilty on all, guilty on all. Any combination that you feel, if the evidence proves his guilt beyond a reasonable doubt. So, you have to look at

all 28 of them individually and decide whether or not the State has met their burden of proof on each indictment separate and apart from the others.

Does that make sense?

As to each of the 28 indictments, the defendant has pled guilt -- he has pled not guilty. He's pled not guilty, and a plea of not guilty obviously puts the burden on the State of South Carolina, through the Solicitor's Office, to prove each and every element of each and every offense of each and every indictment to you beyond a reasonable doubt.

A person charged with committing a criminal offense in South Carolina is never required to prove himself innocent. I charge and instruct you that there is an important rule of law, a constitutional rule of law that no matter how serious the charges may be, the defendant will always be presumed to be innocent of the crimes for which the indictments were issued unless guilt has been proven to you by evidence satisfying you of that guilt beyond a reasonable doubt.

The presumption of innocence does not end when you begin your deliberations, but it stays with a defendant throughout the trial until you reach a verdict of guilt based on evidence satisfying you of that guilt beyond a reasonable doubt.

Now, the presumption of innocence is not a mere legal theory. It's not a legal phrase. It is a substantial constitutional right to which every defendant is entitled unless you, the jury, are satisfied from the evidence of the defendant's guilt beyond a reasonable doubt.

Now, what is a reasonable doubt?

Our Appellate Courts have defined it basically two ways. They say that a reasonable doubt is the kind of doubt that would cause a reasonable person to hesitate to act. It's the kind of doubt that would cause a reasonable person to hesitate to act.

The State has the burden of proving the defendant's guilt to you beyond a reasonable doubt. Proof beyond a reasonable doubt is also said to be proof that leaves you firmly convinced of the defendant's guilt. There are very few things in the world that we know with absolute certainty, and, in criminal cases, the law does not require proof that overcomes every possible doubt.

If, based on your consideration of the evidence, you are firmly convinced that the defendant is guilty of the crimes charged, you must find him guilty. If, on the other hand, you think there's a real possibility that he is not guilty, then you must give him the benefit of the doubt and find him not guilty.

Let me remind you, once again, as I told you when we

started the trial of the case, that you and I have different duties to perform. My duty is mainly two fold. That is I instruct and charge you on the law. That's what I'm doing now, and I also rule on the admissibility of the evidence.

There was some evidence that we kept out such as hearsay and things of that nature, but, for the most part, everything's been admitted into the trial of the case. So, those are my two responsibilities.

Your responsibility, obviously, is much more important than mine because you are the finders of the facts. You're the judges of the facts.

So, by being the judges of the facts, that means I cannot have any opinion about the facts. I have to sit up here and have no opinion about the facts. So, if there's been any time during the trial of this case that I rolled my eyes or yawned or whatever, picked up my glasses and chewed on them or stretched or whatever, and you think I'm commenting on the facts, please don't, don't take anything that I've done in the trial to think that I have an opinion about the facts.

I can't do that. The law doesn't allow me to do it. I have to sit up here and rule on the law and the evidence and I have no opinion whatsoever about the facts. That is solely, solely your job. So, please don't believe or

think that I have any opinion on the facts because the law doesn't allow me to do so.

Now, I did tell you, when we started, that if this trial is like most of them that I'm involved in, you will hear testimony anywhere different from night and day, and this trial has been no different. You've got a version of facts by some witnesses and a complete different version of the facts by other witnesses.

So, to perform your job as the finders of the facts, obviously you must determine the credibility of the witnesses who have testified in the case. Credibility simply means believability.

Who do you believe?

Who was telling the truth?

What are the true facts are in the case?

It is your duty, as jurors, to analyze and to evaluate the evidence and determine which evidence convinces you of its truth. In doing so, I ask that you use your every day common sense. You deal, have dealt, throughout life, with wives, with husbands, children, employees, employers, friends, and you know how to determine, how to determine whether someone is telling the truth. Use that, in a sense, to determine what the true facts are in this case.

In determining the credibility or the believability