

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Spartanburg County
Grace Gilchrist Knie, Circuit Court Judge

RECEIVED
JUL 30 2018
SC Court of Appeals

THE STATE,

RESPONDENT,

V.

NORMAN LANCE GARNER,

APPELLANT

APPELLATE CASE NO 2017-002268

RECORD ON APPEAL

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HONORABLE GRACE G. KNIE, Judge.

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1 THE STATE VERSUS NORMAN LANCE GARNER, DAY 1 OF TRIAL

2 THE COURT: Okay, good morning. Counsel are you
3 ready to proceed?

4 MR. GHENT: The State's ready, Your Honor.

5 MR. SHABEL: The Defense is ready, Your Honor.

6 THE COURT: All right, thank you. Good morning
7 members of the jury. My name is Grace Knie. I'm a
8 Circuit Court judge here for the Seventh Judicial
9 Circuit. We are getting ready to draw a jury this
10 morning. It's my understanding that you all have
11 already been found to be qualified by Judge Hayes
12 earlier in the week, so welcome this morning.

13 And I will tell you that the way that we will
14 work, I will introduce the case and then we will go over
15 a list of potential witnesses. I'm going to allow
16 counsel to introduce themselves and members of their
17 team to make sure that there's no conflict or prior
18 knowledge of the case. And then we will empanel our
19 first jury.

20 And so, first of all, this morning this is the
21 case of the State versus Norman Lance Garner. Mr.
22 Garner is the defendant in this matter. He has pled not
23 guilty, and by that plea he is denying the charge
24 against him. And so this is Indictment Number
25 2012-GS-42-2818. The indictment is for the offense of

JURY QUALIFICATION

1 lewd act upon a minor child under the age of 16 years in
2 violation of South Carolina Code Section 16-15-140.

3 And so now, Madam Clerk, Ms. Poole, if you will
4 swear the members of the jury with regard to the
5 questions that they are about to answer.

6 THE CLERK: Yes, ma'am. If you will all please
7 rise and raise your right hand. (All comply.)

8 Do you solemnly swear or affirm that the response
9 to the questions asked of you by the Court will be the
10 truth, the whole truth and nothing but the truth so help
11 you God?

12 THE JURY: (All responded I do.)

13 THE CLERK: Thank you.

14 THE COURT: Okay. I am going to begin by asking
15 you all some questions. And this is not to pry into
16 your personal life, but merely to ensure that there will
17 be a fair and impartial jury for this trial. In the
18 event that one or more of these questions applies to
19 you, I will ask you to please stand.

20 First of all, I would like to have counsel rise
21 and introduce themselves, please. We will start with
22 the Defendant and defense counsel.

23 MR. SHABEL: May it please the Court?

24 THE COURT: Yes, sir.

25 MR. SHABEL: Good morning ladies and gentlemen.

1 My name is Kenneth Shabel. I am an attorney here in
2 Spartanburg with the law firm of Kennedy and Brannon.
3 This is my client, Mr. Norman Lance Garner.

4 THE COURT: Okay. Mr. Ghent.

5 MR. GHENT: Thank you, Your Honor. I am Russell
6 Ghent and I am with Ms. Megan Moricle. Our case will be
7 presented on behalf of Barry Barnette's office from the
8 State. Thank you.

9 THE COURT: Okay. All right. So is any member
10 of the jury panel related by blood or marriage or have a
11 close personal or social relationship with either the
12 defendant, defense counsel, members of the law firm of
13 the defense counsel, or the Solicitor, the assistant
14 Solicitors in this matter? If so, I would ask you to
15 please stand at this time. And if you will, for the
16 benefit of the record, if you will give your juror
17 number please.

18 THE JUROR: 93.

19 THE COURT: Okay. Good morning, sir. Can you
20 tell me the nature of your relationship?

21 THE JUROR: Chris Kennedy is a personal friend.

22 THE COURT: Okay. And he is a, either a law
23 partner or associate with the law firm that Mr. Shabel
24 practices; is that correct?

25 THE JUROR: That's correct.

JURY QUALIFICATION

1 THE COURT: Okay. Sir, would that affect your
2 ability to be fair and impartial in this matter?

3 THE JUROR: No.

4 THE COURT: Okay. And your number again?

5 THE JUROR: 93.

6 THE COURT: Okay. Thank you, sir. Okay. Anyone
7 else?

8 (Whereupon, there was no response.)

9 Okay. Has any member of the jury panel ever been
10 represented by one of the attorneys involved in this
11 case or their law firms? If so, if you would please
12 stand. Let the record reflect there was no response.

13 I'm now going to go through a list of potential
14 witnesses in this matter. And if you will wait until I
15 am through with going through the entire list and then
16 stand and then you will give your juror number and state
17 the witness, the name of the witness that you are
18 familiar with.

19 All right. The list of potential witnesses are:
20 Norman Lance Garner, Cathy McKinney, Cathy Campbell,
21 Renee Dawkins, Catherine Dawkins, Chris Robinson, who is
22 formally with the Spartanburg City Police Department;
23 Lindsey McGraw, formerly with the Spartanburg County
24 Sheriff's Department; Nolita Davis, Tashma Garner,
25 Markel Davis, **Christian D.** and James Sparks. And

1 Renee Dawkins, a person that I previously named, also is
2 known as Marva Renee Dawkins.

3 Okay. If anyone knows those potential witnesses
4 or is related by blood or marriage or has a close
5 personal or social relationship with any of those
6 potential witnesses, if you would please stand at this
7 time. Okay. Let the record reflect that no one has
8 stood.

9 Okay. Counsel, if you all could approach for
10 just a moment.

11 (Whereupon, a bench conference was held off the
12 record.)

13 THE COURT: Okay. A general description of the
14 offense that Mr. Garner is charged with is that Norman
15 Lance Garner did, in Spartanburg County on/or about
16 February the 25th of 2012, willfully and lewdly commit
17 or attempt to commit a lewd or lascivious act upon the
18 body of one Tashma Garner, a minor under the age of 16
19 years.

20 And so now I ask if any member of the jury panel
21 has any prior knowledge from any source about the facts
22 of this case. If so, if you would please stand. Okay.
23 This is no response.

24 Does any member of the jury panel know of any
25 reason why he or she could not be fair and impartial to

1 the parties in this action? If so, if you would please
2 stand.

3 THE COURT: All right. I will start on this side
4 of the room. (Indicating.) Yes, ma'am, the lady in
5 blue. If you would state your number first, please.

6 THE JUROR: Juror 79. I was abused as a child
7 and I don't feel comfortable.

8 THE COURT: Okay. Ma'am, would that affect your
9 ability to be fair and impartial in this case?

10 THE JUROR: Yes.

11 THE COURT: Okay. Thank you, ma'am. Please be
12 seated.

13 Yes, ma'am.

14 THE JUROR: I'm 133. I'd like permission to
15 approach the bench, please.

16 THE COURT: Yes, ma'am.

17 (Whereupon, Judge comes down off the bench and
18 lawyers come up to do sidebar conference with jurors.)

19 THE COURT: Yes, ma'am. Just speak so the court
20 reporter can hear us.

21 THE JUROR: Good morning. I had a family member
22 that is set for trial, so I really don't think that I
23 could. I just don't think that I could do it.

24 THE COURT: Okay. Thank you, ma'am.

25 (Whereupon, discussion held off the record.)

1 THE BAILIFF: Number 180, Your Honor. 180.

2 THE COURT: All right.

3 (Whereupon, Juror 180 comes forward.)

4 Yes, ma'am.

5 JUROR 180: I was raped as a child.

6 (Whereupon, discussion held off record.)

7 Thank you for coming and for being here.

8 THE BAILIFF: 119. 119.

9 (Whereupon, Juror 119 comes forward.)

10 I was abused when I was young and my daughter and
11 my niece were abused.

12 THE COURT: Okay.

13 (Whereupon, discussion held off the record.)

14 THE BAILIFF: Number 51.

15 (Whereupon, Juror 51 comes forward.)

16 THE COURT: Yes, sir.

17 JUROR 51: I didn't know if this was going to be
18 an issue with me, but we know each other as I treat your
19 husband. And he's represented one of my children
20 before. (Indicating.)

21 THE COURT: I don't think they have any objection
22 unless you -- unless counsel thinks there's a problem.
23 Dr. Foster is an ENT doctor.

24 MR. SHABEL: I'm well familiar with him.

25 THE COURT: He's familiar with my husband.

1 MR. SHABEL: I appreciate the disclosure, but
2 it's okay.

3 THE COURT: Juror Number 93, ma'am -- I'm sorry,
4 79, you can come forward.

5 (Whereupon, discussion held off the record.)

6 COURT REPORTER: I could not hear what you said
7 to the jurors when you whispered to them. Do you want
8 that on the record?

9 THE COURT: Okay. I told her that we were going
10 to be releasing her, but that she needed to return to
11 sit with the other jurors until we could coordinate jury
12 efforts. That's Juror Number 79. Okay.

13 (Whereupon, Jurors 79, 119, 133 and 180 were
14 excused.)

15 THE COURT: Okay. Counsel, are there any other
16 questions that you all would like me to pose to the
17 potential jury panel?

18 MR. GHENT: None from the State, Your Honor.

19 MR. SHABEL: None from the Defense.

20 THE COURT: Okay. Can you all approach one more
21 time.

22 (Whereupon, a bench conference was held off the
23 record.)

24 THE COURT: We will now begin our jury selection
25 process and our clerk, Ms. Poole, will give you

1 instructions and be calling you forward. Thank you.

2 MADAM CLERK: At this time when I call your name
3 and your jury number if you'll gather your belongings
4 and come stand up here at the front and face the
5 attorneys. And if you're selected you'll need to have a
6 seat in the jury box to the left. If not, you can come
7 back and sit in your seat.

8 Juror Number 161, James Tillotson.

9 (Whereupon, a black male comes forward.)

10 What say the State?

11 MR. GHENT: Present the juror please.

12 THE CLERK: What say the defense?

13 MR. SHABEL: Please seat the juror.

14 THE CLERK: Juror Number 3, Ancia Anderson.

15 (Whereupon, a black female comes forward.)

16 What say the State?

17 MR. GHENT: Present the juror please.

18 THE COURT: What say the Defense?

19 MR. SHABEL: Please seat the juror.

20 THE CLERK: Juror Number 29, Myles Casey.

21 (Whereupon, a black male comes forward.)

22 THE COURT: What say the State?

23 MR. GHENT: Please excuse Mr. Casey for this
24 trial.

25 THE CLERK: Juror Number 168 Mary Ware.

1 (Whereupon, a white female comes forward.)
2 What say the State?
3 MR. GHENT: Please seat the juror.
4 THE COURT: What say the Defense?
5 MR. SHABEL: Please seat the juror.
6 THE CLERK: Juror Number 104, Charles McAfee.
7 (Whereupon, a white male comes forward.)
8 What say the State?
9 MR. GHENT: Please present him.
10 THE COURT: What say the Defense?
11 MR. SHABEL: Please seat the juror.
12 THE CLERK: Juror Number 166, Lily Waitsman.
13 (Whereupon, white female comes forward.)
14 What say the State?
15 MR. GHENT: Please excuse the juror for this
16 case.
17 THE CLERK: Juror Number 147, Erica Smith.
18 (Whereupon, a white female comes forward.)
19 What say the State?
20 MR. GHENT: Please present her.
21 THE COURT: What say the Defense?
22 MR. SHABEL: Please excuse the juror from the
23 trial of this case.
24 THE CLERK: Juror Number 48 Garrett Egan.
25 (Whereupon, a white male comes forward.)

1 What say the State?

2 MR. GHENT: Please present the juror.

3 THE COURT: What say the Defense?

4 MR. SHABEL: Please seat the juror.

5 THE CLERK: Juror Number 108 Kym McKinnon.

6 (Whereupon, a white male comes forward.)

7 What say the State?

8 MR. GHENT: Please present Mr. McKinnon.

9 THE CLERK: What say the Defense?

10 MR. SHABEL: Please seat the juror.

11 THE CLERK: Juror Number 107, Darrell McDowell.

12 (Whereupon, a white male comes forward.)

13 MS. MORICLE: Madam Clerk, would you please

14 repeat the number.

15 THE CLERK: 107. What say the State?

16 MR. GHENT: Present Mr. McDowell.

17 THE CLERK: What say the Defense.

18 MR. SHABEL: Please seat the juror.

19 THE CLERK: Juror Number 15, Gary Braja.

20 (Whereupon, a white male comes forward.)

21 What say the State?

22 MR. GHENT: Present the juror.

23 THE COURT: What say the Defense?

24 MR. SHABEL: Please seat the juror.

25 THE CLERK: Number 184, Trevon Clark.

1 (Whereupon, a black male comes forward.)

2 What say the State?

3 MR. GHENT: Please excuse Mr. Clark for this
4 trial.

5 THE CLERK: Juror Number 160, Jeanne Thompson.

6 (Whereupon, white female comes forward.)

7 What say the State?

8 MR. GHENT: Please present Ms. Thompson.

9 THE COURT: What say the Defense?

10 MR. SHABEL: Please excuse the juror in the trial
11 of this case.

12 THE CLERK: Juror Number 41, Michael Day.

13 (Whereupon, a white male comes forward.)

14 What say the State?

15 MR. GHENT: Please present the juror.

16 THE COURT: What say the Defense?

17 MR. SHABEL: Please seat the juror.

18 THE CLERK: Juror Number 5, Rebecca Anhari.

19 (Whereupon, white female comes forward.)

20 What say the State?

21 MR. GHENT: Please present Ms. Anhari.

22 THE CLERK: What say the Defense?

23 MR. SHABEL: Please seat the juror.

24 Juror Number 64, Caroline Gray.

25 (Whereupon, a white female comes forward.)

1 What say the State?

2 MR. GHENT: Please present Ms. Gray.

3 THE CLERK: What say the Defense?

4 MR. SHABEL: Please excuse the juror from the
5 trial of this case.

6 THE CLERK: Juror Number 114, Victoria Morgan.

7 (Whereupon, a white female comes forward.)

8 MR. SHABEL: Could you repeat the number?

9 THE CLERK: 114. What say the State?

10 MR. GHENT: Please present the juror.

11 THE CLERK: What say the Defense?

12 MR. SHABEL: Excuse the juror from the trial in
13 this case.

14 THE CLERK: Juror 178, Ashley Wright.

15 (Whereupon, a black female comes forward.)

16 What say the State?

17 MR. GHENT: Please present the juror.

18 THE COURT: What say the Defense?

19 MR. SHABEL: Please seat the juror.

20 THE CLERK: Juror Number 120, Kathrine Nowak.

21 (Whereupon, a white female comes forward.)

22 What say the State?

23 MR. GHENT: Please present her.

24 THE CLERK: What say the Defense?

25 MR. SHABEL: Please seat the juror.

1 Are we on alternates now, Your Honor?

2 THE COURT: Yes.

3 THE CLERK: Juror Number 181, Deborah Breland.

4 (Whereupon, a white female comes forward.)

5 What say the State?

6 MR. GHENT: Please excuse the lady for this
7 trial.

8 THE CLERK: Juror Number 165, Daniel Visser.

9 (Whereupon, a white male comes forward.)

10 What say the State?

11 MR. GHENT: Please present him.

12 THE COURT: What say the Defense?

13 MR. SHABEL: Please seat the juror.

14 THE CLERK: Juror Number 6, Patrick Bailey.

15 (Whereupon, a white male comes forward.)

16 What say the State?

17 MR. GHENT: Present the gentleman.

18 THE COURT: What say the Defense?

19 MR. SHABEL: Please seat the juror.

20 THE COURT: Okay. Counsel, if you all can
21 approach, please.

22 (Whereupon, a side bar conference was held with
23 counsel and the Court.)

24 THE COURT: We are on the record. I have
25 inquired of counsel as to whether they have any motions

1 with regard to the selection of the jury and they have
2 indicated that -- well, I'll let them put it on the
3 record.

4 MR. GHENT: I would simply -- Russell Ghent for
5 the State. I would like to simply say that every single
6 juror struck by Ken, by defense counsel, was a young
7 white female, which could raise a Batson issue.
8 However, on the record I will not require that he
9 justify it. I hereby waive any defense motion
10 expressly.

11 MR. SHABEL: I would state that at least one of
12 the strikes of the State was also a young white female.
13 And while I would be prepared to argue a justification
14 for striking the four that I struck, I will not do so in
15 so far as the State is waiving its motion.

16 THE COURT: Okay. So counsel, I will send the
17 jury out at this time for just a moment. We'll let the
18 rest of the jury panel go. And then we'll continue.

19 MS. GHENT: Yes, ma'am.

20 (Whereupon, side bar conference ended.)

21 THE COURT: Okay. Those members of our jury pool
22 who were not selected to serve on this jury, I can't
23 release you completely at this time. I would like to
24 thank you so much for being here. I have been informed
25 that you all need to return to the jury assembly room.

1 If you will follow the bailiffs, they will escort you --
2 they will escort you back there and then you can receive
3 further instructions as to whether or not you will be
4 needed for the remainder of the week. Thank you again
5 for being here. We so appreciate your service.

6 (Whereupon, jury panel leaves the courtroom at
7 10:23 a.m.)

8 THE COURT: Counsel, can you all approach. You
9 all are getting your exercise already.

10 (Whereupon, a bench conference was held off the
11 record.)

12 THE COURT: Okay. Members of the jury, and our
13 two alternates are right here, is that correct, sitting
14 up against the wall?

15 THE JURORS: (Nod heads up and down.)

16 THE COURT: Thank you so much for your service.
17 Just to give you an outline of how this will work, in
18 just a moment our clerk, Ms. Poole, is going to swear
19 you in and then you will go into the jury room, which is
20 just through this door. Ms. Self will take you just
21 through the door and then into your jury room, which is
22 just on the other side of that wall. There's a bathroom
23 in there. I think there's a water fountain. There's
24 water. And it'll be at that time that you all will go
25 ahead and decide on your foreperson for this jury, okay?

1 You'll be out about 15 minutes, and then we'll
2 come in. I will have some preliminary instructions for
3 you, and then the lawyers will begin with each of them
4 giving an opening. And then we will begin the day.

5 The -- what you need to understand for planning
6 purposes is that we will break for lunch in the middle
7 of the day, usually 12:30 or 1, and we will be out for
8 an hour to an hour and 15 minutes. We will conclude
9 each day, hopefully, right at 5 o'clock.

10 I know there are folks that have daycare issues
11 or other responsibilities and that they need to get home
12 for those. We are not trying to invade your personal
13 lives. But if we have a witness on the witness stand,
14 and I'm informed they may take another five or ten
15 minutes, and it might be five after five, we might do
16 that just as a common sense approach rather than
17 breaking up the witness. Okay?

18 If you all have any questions or concerns, if you
19 have an emergency, don't be shy about raising your hand
20 or letting these bailiffs know. This is Mr. Self. This
21 is Mr. Bogan. (Indicating.) And they are here to
22 assist you all and to give you guidance. I'm assuming
23 that the cellphones have already been taken or they have
24 been turned off.

25 THE BAILIFF: Yes, ma'am.

1 THE COURT: Okay. And so you can't begin
2 discussing this case at all. You will not begin
3 deliberating about this case until I tell you to do so.
4 And that will be at the conclusion of the entire case
5 when you have all of the evidence in front of you.

6 And so when you're on a break, at lunch, and I
7 know you want to check your cellphones or possibly call
8 a loved one and say guess what I got picked for jury
9 duty so that you'll get all the sympathy that someone
10 can give you in your household, but you should not
11 discuss this case. Right now you know nothing about it,
12 but you do not need to be researching on the internet.

13 You do not need to Google the lawyers, the
14 parties. You do not need to do your own legal research.
15 All of the information that you get in this case needs
16 to come from this witness chair and these lawyers, okay?

17 And so promise me that you will not be doing your
18 own research regarding anything that you have heard this
19 morning. All right. And so with that I will have our
20 clerk swear you in.

21 THE CLERK: Okay. If you all will please stand
22 and raise your right hand. (All comply.)

23 Do you solemnly swear or affirm in the case about
24 to be tried, to truly try the issues joined in the case
25 and a true verdict rendered according to the law in

1 evidence so help you God?

2 THE JURY: (All respond I do.)

3 THE CLERK: Thank you.

4 THE COURT: Okay, thank you. And now if you will
5 exit the courtroom, following Ms. Self and go into your
6 jury room, please. And you will be electing your
7 foreperson. And then, bailiffs, they will need to write
8 that down on a sheet of paper, date it. Print the name
9 of the foreperson and have the foreperson sign it, okay,
10 so we can make that a part of our record. Thank you.

11 (Whereupon, jury leaves the courtroom at
12 10:29 a.m.)

13 Okay. Counsel, anything else that we need to
14 take up before we break for 15 minutes?

15 MR. GHENT: Nothing from the State, Your Honor.

16 MR. SHABEL: Nothing from the Defense, thank you.

17 THE COURT: Okay. And as expected I don't want
18 to limit your time for the your openings or closings.
19 Thank you.

20 MR. GHENT: Thank you, Your Honor.

21 MR. SHABEL: Thank you.

22 (Whereupon, A recess was had from 10:30 a.m. -
23 10:48 a.m.)

24 THE COURT: Okay. Counsel, just to give you an
25 idea, my preliminary instructions are about ten minutes

JURY INSTRUCTIONS

1 and then you all will begin. They have chosen a
2 foreperson, a Mr. Gary Egan, Juror Number 48.

3 (Whereupon, jury enters courtroom at 10:50 a.m.)

4 THE COURT: Okay. It's my understanding that the
5 members of the jury have selected a foreperson, Garrett
6 Egan. That's you?

7 THE FOREMAN: (Nods head.)

8 THE COURT: You're sitting in the right chair.
9 That's great. If you will return to that seat, that
10 would be helpful. Okay.

11 THE FOREMAN: Yes, ma'am.

12 THE COURT: All right. I will tell you more
13 about your responsibilities in just a moment. Sir, you
14 did sign this; is that correct?

15 MR. FOREMAN: Yes, ma'am.

16 THE COURT: All right. Madam Clerk, I will have
17 this marked at Court's Exhibit Number 1.

18 (Whereupon, Court's Exhibit Number 1, Jury
19 Foreman Note, was marked for identification.)

20 (Whereupon, Court's Exhibit Number 1 was entered
21 into the record.)

22 JURY INSTRUCTIONS

23 THE COURT: All right. Before counsel starts
24 with their opening statements to you I have some
25 preliminary comments to make. And for your benefit I

1 think this takes about ten minutes. Okay?

2 Before we begin this trial I want to tell you
3 that this trial will probably be different from what you
4 might expect. Many people do not have the chance to
5 attend actual court sessions, as you all are doing now,
6 and may think from watching television or movies or
7 reading books that trials are always full of high drama,
8 intense action and riveting circumstances.

9 While all of these things may be true at times,
10 this trial is not for entertainment. It is a
11 fundamental part of our democracy to make sure that
12 justice is done between the parties before the court.
13 This courtroom is a place of honor dedicated to the
14 protection and preservation of citizens rights through
15 what many have called the greatest justice system ever
16 created.

17 The attorneys appearing before you are advocates
18 for the parties they represent. But first and foremost
19 they are officers of the court and they are sworn to
20 uphold the integrity and fairness of our judicial
21 system. You should expect them to be professional,
22 competent, ethical in the representation of their
23 client's interest.

24 You are also expected to be professional,
25 reasonable and ethical. Thank you for accepting the

1 important responsibility of jury service and for your
2 contribution today to our justice system.

3 What I will say now is intended to serve as an
4 introduction to the trial of the case. These remarks
5 are not a charge on the law in the case. I will
6 instruct you on the law in this case at the end of the
7 trial before you return -- before you retire to consider
8 your verdict. This is merely an explanation of the
9 procedure that we will follow in the trial of this case
10 so that you may better understand what may be happening.

11 As I stated to you earlier, the Defendant is
12 charged by an indictment filed in this court with the
13 crime of lewd act on a minor, the elements of which will
14 be explained to you later. The indictment is simply the
15 charge by which the case is brought into court, and it
16 is not in any sense evidence of any of the allegations
17 it contains.

18 The Defendant has pled not guilty to this
19 indictment. The State, therefore, has the burden of
20 proving each of the elements of the indictment beyond a
21 reasonable doubt. And it will be your duty, ladies and
22 gentlemen, to decide whether the State has met that
23 burden.

24 Your purpose as jurors is to find and determine
25 the facts. You are the sole judge of the facts. If at

1 any time I make any comment regarding the facts, you
2 must disregard those comments. You are to determine the
3 facts from the testimony that you hear and the other
4 evidence introduced in court. It is up to you to
5 determine the inferences which you feel may properly be
6 drawn from the evidence.

7 It is especially important that you perform your
8 duty of determining the facts diligently and
9 conscientiously because ordinarily there is no way to
10 correct an erroneous determination of the facts by a
11 jury. On the other hand, and with equal emphasis, the
12 same law that makes you the judges of the facts makes me
13 the judge of the law.

14 The law is given by the Court -- the law as given
15 by the Court is the only law you may consider. You must
16 accept and follow it even though you may disagree with
17 it. I cannot tell you what the facts are and you cannot
18 disagree with me about what the law is or what it should
19 be. Your job is to take the law as I give it to you and
20 apply it to the facts as you find them from the
21 testimony of the witnesses and any other evidence that
22 is introduced. After doing that, you will render your
23 verdict, a verdict under the solemn oath that you just
24 took as jurors.

25 Until I tell you that you may begin to

1 deliberate, you must not discuss this case with anyone,
2 including your fellow jurors, friends, family members or
3 anyone involved in the case. The attorneys and parties
4 in this case have been advised that they are not to talk
5 with you at all. So if you see someone involved in the
6 case and they do not say hello, they are not being rude
7 or unfriendly, they are following my instructions.

8 You must decide this case based solely on the
9 evidence presented here in this courtroom. This means
10 that during the trial you must not conduct any
11 independent research about the case, the facts of the
12 case, the evidence presented in the case or the people
13 or organizations involved in any way in the case.

14 Please do not try to find out information from
15 any source outside of this courtroom. In other words,
16 you must not look at dictionaries or other reference
17 manuals, search the internet or websites or blogs or use
18 any other electronic tools to get information about this
19 case to help you decide the case. You may not use
20 computers, telephones, cellphones, smart phones,
21 tablets, the internet or any other tools of technology
22 with communication capability at any time while you were
23 in the courtroom or during your deliberations.

24 During your breaks for meals, you may use these
25 devices. However, you must not use these devices to

1 communicate with anyone about the case until the case is
2 over. This means that you must not use phone calls,
3 emails, text messages or instant messages on Twitter,
4 blogs or chat rooms or websites to send or receive
5 information about this case. This includes information
6 about a party, a witness, an attorney or a court
7 officer, news accounts about the case, research on any
8 topics raised or any topics that you think would be
9 helpful in deciding the case or any testimony presented
10 by a witness.

11 During the trial do not read, listen to or watch
12 any news reports about this case. This includes
13 anything that may be in the newspapers or on the
14 internet, radio or television. You must not consider
15 anything you may have read or heard about the case
16 outside the courtroom, whether before or during the
17 trial.

18 Information on television, radio, the internet or
19 from other sources might be wrong or incomplete. In our
20 judicial system it is important that you are not
21 influenced by anything or anyone outside this courtroom.
22 If you become aware of another juror's violation of
23 these instructions, you need to inform me immediately.

24 It is important that you keep an open mind and
25 not decide any issue in the case until all of the

1 evidence has been presented, the parties -- until all
2 the evidence has been presented, the parties have made
3 their closing arguments and I have instructed you on the
4 law in the case. It is your solemn responsibility to
5 determine the guilt or innocence of the defendant and
6 your verdict must be based solely on the evidence as it
7 is presented to you in this trial and on the law as I
8 instruct it to you at the close of the trial.

9 In just a moment the solicitor will make what is
10 called an opening statement, in which the solicitor will
11 explain to you the issues in this case, or at least what
12 the solicitor thinks the issues are in the case. The
13 attorney for the defendant may also make an opening
14 statement, although he is not required to do so.

15 What the attorneys tell you during your opening
16 statements is not evidence in the case, it is only their
17 contention as to what the issues are. The evidence in
18 this case will be presented to you by the testimony of
19 sworn witnesses from this witness stand and/or by
20 exhibits that may be introduced into evidence during the
21 trial.

22 As you've already seen, from time to time you may
23 hear one of the lawyers say Your Honor may I approach or
24 I have a question of the law or a matter of the law to
25 discuss with Your Honor, or I may call them forward to

1 discuss some issue with me. I may also excuse you, find
2 it necessary to excuse you from the courtroom briefly
3 while we discuss issues.

4 The reason for this is because you are the judges
5 of the facts in the case and sometimes when I am
6 discussing matters of law with the attorneys, it may be
7 necessary for me to make some comment as to the facts in
8 connection with ruling or whether or not a particular
9 law applies. I'm not supposed to tell you what I think
10 the facts are, so I will excuse you from the courtroom
11 while these discussions take place so that in no way
12 will you be influenced by anything that I might say or
13 do in connection with the facts.

14 In determining what the true facts are in this
15 case, you must decide whether or not the testimony of
16 the witness is believable. It will be my responsibility
17 to rule as a matter of law as to whether certain
18 testimony is admissible, but once the testimony is
19 admitted whether or not you believe it is solely for you
20 to determine.

21 In deciding whether to believe a witness, you
22 have the right to consider the interest of any witness,
23 the bias of any witness, the prejudice of any witness,
24 The opportunity for the witness to have seen the matters
25 and things about which the witness may testify and the

1 way the witness acts on the witness stand.

2 You have a right to consider anything that is in
3 the record that will help you evaluate the testimony of
4 the witnesses. That means that it is your duty to pay
5 close attention to the witnesses, to observe the
6 witnesses, to listen to the witnesses and to pay close
7 attention to the attorneys and to the Court.

8 Don't let your thoughts wander, but give strict
9 attention to the testimony in this case so that at the
10 end of all the testimony, after the arguments of counsel
11 and the charge on the law by the Court, you will then be
12 in a position to determine what the true facts are and
13 to apply the law to those facts and thus render a
14 verdict.

15 Now, Mr. Foreperson, it is your added duty to
16 preside in the jury room and to be the jury's
17 spokesperson to the Court. It will also be your duty to
18 write the verdict, but I will give you further
19 instructions about that at the conclusion of the case.

20 In order to preserve everyone's rights, I will
21 give the parties now an opportunity to object to what I
22 have said. Are there any exceptions or objections to
23 any statements made by counsel -- I mean made by me?

24 MR. GHENT: No, Your Honor.

25 MR. SHABEL: No, Your Honor. Thank you.

1 THE COURT: Okay. Thank you very much. All
2 right. We will now begin the trial. Thank you.

3 Yes, sir.

4 MR. GHENT: May it please the Court?

5 THE COURT: Yes, sir.

6 OPENING STATEMENT

7 BY MR. GHENT:

8 Mr. Shabel, Mr. Foreman, ladies and gentlemen of
9 the jury. As you listened to Judge Knie talk to you
10 about what the courtroom, what a trial, what being a
11 judge, and what being a juror is all about, there was
12 one word you heard over and over, duty.

13 Two words as we begin this trial, thank you.
14 Thank you for honoring your duty to come here as a part
15 of your public service. I know it was a summons, it was
16 not an invitation, but you honored your duty and you
17 came and answered the cause. Thank you for answering
18 questions that you may have found intrusive. And
19 finally, thank you for now having taken your oath to
20 well and truly try this case.

21 People today in America you hear a lot of
22 complaining about the government, people saying the
23 government just can't get it right, why can't they get
24 it right, why can't they do something right. Why can't
25 people in the government work together and get things

1 right. Well, congratulations, ladies and gentlemen,
2 welcome to the government. You are now part of the
3 judicial system.

4 It is not just a term that you are judges of the
5 facts. Judge Knie is a judge of the law. She will
6 instruct you what law to apply to the facts, but when we
7 say you are judges of the facts, it's as simple as this.
8 It is your job to decide what happened. It is your job
9 to listen to the witnesses, look at the evidence, if
10 there was any presented, and then go back. And 12
11 individuals who came to this courthouse individually
12 must come together as one. Talk together about what you
13 heard, what you think, what you believe, and based on
14 that render a verdict.

15 The Latin term veredicto is where the word
16 verdict comes from. It means I speak the truth. You
17 don't have any enemies here to award -- to punish, no
18 friends to reward, but you do have a judgment to render.
19 The judge has told you and will tell you again, and I
20 will emphasize, with the witnesses you can look at them.
21 There are different ways you can determine whether you
22 want to believe them or not. Demeanor, attitude, what
23 they say. And I want to emphasize this at the very
24 first. You can believe all of what a witness says, none
25 of what a witness says or some of what a witness says.

1 I also want to emphasize and make it very clear,
2 the defendant has no burden of proof. We, I, the State
3 has the burden of proving that this defendant is guilty
4 of the offense charged beyond any reasonable doubt.
5 Now, whenever we say beyond a reasonable doubt, that
6 does not mean beyond any shadow of a doubt. We hear
7 that all the time. That's not the words. It's a
8 reasonable doubt. It's not just the word doubt, it's
9 reasonable doubt.

10 It is a doubt for which a juror seeking to find
11 what your ultimate goal and result should be. Truth can
12 give to another juror, can articulate I believe her or
13 him or whoever because I heard this. And if there's a
14 disagreement, you can ask to come back in and hear it
15 replayed.

16 So in working together I am emphasizing to you,
17 you came as individuals but your individuality is a part
18 of what makes you up. It's a part of what brings you,
19 what you've got to offer as jurors. But your ability to
20 work together and show common respect for one another is
21 essential for you to reach a verdict because you came as
22 12, but in the end you have to speak as one.

23 I emphasize once more that the burden of proof is
24 on the State. I say it again, on the State. The
25 defendant has to prove nothing. And I welcome that at

OPENING STATEMENT BY MR. SHABEL

1 all times.

2 The State will prove that on February the 25th,
3 2012, this defendant, Norman Garner, did, being over
4 40 years of age, fondle and basically commit lewd acts
5 on his niece, who was then under 16 years old, with the
6 intent of getting his own sexual gratification. We ask
7 for your attention. Again, the burden is on us. We
8 will prove the defendant is guilty and you will, I
9 believe, find at the end a verdict that reflects that he
10 is in fact guilty. Thank you.

11 THE COURT: Thank you Mr. Ghent.

12 MR. SHABEL: May it please the Court?

13 THE COURT: Yes, sir, Mr. Shabel.

14 OPENING STATEMENT

15 BY MR. SHABEL:

16 Mr. Ghent, Mr. Foreman, ladies and gentlemen,
17 good morning. I actually want to echo a lot of things
18 Mr. Ghent just said. The first of which is thank you.
19 Thank you for your time. As he stated, this is a
20 summons, this was not an invitation. You are here and
21 we thank you for your attention and your commitment to
22 this process.

23 I only ask two things of you. That you hear the
24 evidence presented, that you listen to the evidence
25 presented. Some of you are thinking here, isn't that

1 the same thing? Not exactly. When someone speaks you
2 hear noises, you hear words. When you listen to their
3 sentences, when you listen to what they are telling you,
4 when someone plays a note on a keyboard, several notes
5 on the keyboard, you hear sounds, you hear notes and
6 listen to music. They are two very different things.
7 They are as different as the number one and the number
8 two.

9 So you will hear a lot. I ask that you listen to
10 everything because in listening to everything, I'm
11 confident at the end of this process you will reach a
12 unanimous verdict of not guilty. Now, I'm not gonna try
13 to tell you that a concept of committing a lewd act on a
14 minor is something -- it's a horrible thing. It's a
15 horrible thing to even think about. But your duty today
16 is not to judge whether or not lewd act on a minor is a
17 terrible thing, but to determine whether or not Mr.
18 Garner committed that act.

19 Hear the evidence, listen to the evidence. When
20 you listen to the evidence, I believe the answer will be
21 clear. I look forward to the journey that we're about
22 to go on today. Thank you again.

23 MR. GHENT: May it please the Court?

24 THE COURT: Yes, sir. Thank you Mr. Shabel.

25 Yes, sir Mr. Ghent.

OPENING STATEMENT BY MR. SHABEL

1 MR. GHENT: The State calls Tashma Garner.

2 THE COURT: Good morning, ma'am. If you'll come
3 forward, the clerk is going to swear you, okay?

4 THE CLERK: Place your left on the bible and
5 raise your right. (Complies.)

6 Do you solemnly swear or affirm the testimony
7 that you're about to give will be the truth, the whole
8 truth and nothing but the truth so help you God?

9 THE WITNESS: I do.

10 THE CLERK: Thank you.

11 THE COURT: Okay, ma'am. Just make yourself
12 comfortable. You may need to adjust that microphone,
13 okay?

14 THE WITNESS: Sound good?

15 MR. GHENT: Tashma, just please remember to lean
16 forward or you can pull it up if you can do that, so
17 that the jury can hear you.

18 THE WITNESS: Got ya.

19 THE COURT: Okay. Mr. Ghent, I'm sorry. Ma'am,
20 if you will just state your name again and spell your
21 last name for the record.

22 THE WITNESS: My name is Tashma Garner and my
23 last name is spelled G-A-R-N-E-R.

24 TASHMA GARNER,
25 having been duly sworn, testified as follows:

1 DIRECT EXAMINATION

2 BY MR. GHENT:

3 Q. And, Tashma, do you live in Spartanburg County?

4 A. Yes.

5 Q. And were you living in Spartanburg County in
6 2012?

7 A. Yes.

8 Q. And what was your father's name?

9 A. Woodrow Wilson Garner, Jr.

10 Q. Did he go by a nickname of Buddy?

11 A. Yeah, they called him Little Buddy.

12 Q. And was he killed in an automobile accident?

13 A. Yes, he was.

14 Q. When was that?

15 A. In 2009.

16 Q. You were how old?

17 A. I believe he was 33 when he died.

18 Q. And how old were you?

19 A. I was 12.

20 Q. Okay. Did you know -- Norman Garner is your
21 uncle, correct?

22 A. That is correct.

23 Q. Did you know him well before that?

24 A. I did not.

25 Q. Had you ever really been around him much before

1 that?

2 A. I had not.

3 Q. Was he older than your father?

4 A. Yes, he was.

5 Q. Do you recall approximately how old?

6 A. Not approximately, but I would say over five
7 years.

8 Q. Okay. As much as ten?

9 A. Not as much as ten.

10 Q. But five years?

11 A. Could be, yeah.

12 Q. Is he -- are you presently in school?

13 A. I just graduated approximately a month ago.

14 Q. Okay. And how old are you now?

15 A. Twenty-one.

16 Q. And you just graduated from college, correct?

17 A. Yes, I graduated from Virginia College.

18 Q. And where did you go to high school?

19 A. I graduated from Dorman.

20 Q. And what did you major in in college?

21 A. Network technician.

22 Q. Did you get student loans and work?

23 A. I did.

24 Q. Do you have a job now?

25 A. I do.

1 Q. Who do you work for?

2 A. Denny's Corporate.

3 Q. And what do you do there?

4 A. I troubleshoot computers over the phone.

5 Q. Would it be fair to say you're tech savvy?

6 A. That's fair to say. I'm very tech savvy.

7 Q. That's an inside joke, correct?

8 A. Correct.

9 Q. All right. Your grades when you graduated ---

10 THE COURT: Counsel, just one second.

11 COURT REPORTER: One moment.

12 THE COURT: The court reporter was needing a
13 break.

14 MR. GHENT: Oh, I'm sorry.

15 (Whereupon, went off the record.)

16 THE COURT: Sorry to interrupt. Go ahead.

17 MR. GHENT: Thank you.

18 BY MR. GHENT:

19 Q. At Virginia College were your grades good?

20 A. They were great. I made president's list every
21 semester that I attended. On my last semester I did
22 make dean's list.

23 Q. Which is lower than ---

24 A. Yes. It was very disappointing for me to go from
25 president's list to dean's list.

1 Q. That's hard for some of us to understand. I hope
2 you can see that. You, in 2012, were living with your
3 mother?

4 A. Yes.

5 Q. And do you have a brother?

6 A. Yes.

7 Q. And is this your brother over here?

8 (Indicating.)

9 A. Yes.

10 Q. Is that Markel, is that the name?

11 A. Correct.

12 Q. And your mother is Nolita?

13 A. Correct.

14 Q. And would it be fair to say that you'd been a
15 daddy's girl?

16 A. Yes.

17 Q. So his death was a blow to you?

18 A. Yes.

19 Q. And Norman Garner was his older brother?

20 A. Correct.

21 Q. And you had never really known him?

22 A. Not at all.

23 Q. Do the Garners generally live in Spartanbrug, the
24 Spartanburg area of the county?

25 A. Yes.

1 Q. But you had not known him before?

2 A. No.

3 Q. All right. And just for the record, a statement
4 of the obvious, we're talking about this gentleman over
5 here. (Indicating.) That is your Uncle Norman?

6 A. Correct, that's him.

7 Q. Did your father have a sister named Renee?

8 A. Yes.

9 Q. That is Marva Renee Dawkins?

10 A. Correct.

11 Q. Did Renee have two children?

12 A. She does.

13 Q. And what are their names?

14 A. Christian and Mariah.

15 Q. And after your father died did you go through an
16 adjustment period with your mother?

17 A. We did.

18 Q. Did things get tough?

19 A. Very rough at the time.

20 Q. You were a teenager by 2012?

21 A. Yes, I was 15.

22 Q. That's a delightful time between parents and
23 children, isn't it?

24 A. Yes, it is.

25 Q. And did you and your mother have some tough

DIRECT EXAMINATION OF TASHMA GARNER BY MR. GHENT

1 times?

2 A. We did.

3 Q. But was Renee, or rather Marva, would either of
4 those due in referring to her?

5 A. Yes. No, that's fine. That's completely fine.

6 Q. Was -- is that the lady seated right over here?
7 (Indicating.)

8 A. Yes, that's my aunt.

9 Q. And the one here in the white jersey?

10 A. Yes, sir.

11 Q. And she appears younger. Is she younger than
12 your mother?

13 A. She's very beautiful, yes.

14 Q. And she, did you find that you related to her?

15 A. Yes, we were very close.

16 Q. Had you ever been close to her before?

17 A. Yes. We've always been pretty close.

18 Q. But did you become closer?

19 A. Yes, after my dad died.

20 Q. Did she more or less help with things between you
21 and your mother?

22 A. Yes.

23 Q. And did you stay over at Renee's house regularly?

24 A. Yes.

25 Q. Did you help with her children?

1 A. Yes.

2 Q. That would have been Christian and Mariah?

3 A. Correct.

4 Q. At that time how old was Christian?

5 A. I would say he was about eight or nine. I'm not
6 totally sure though.

7 Q. Did he go by a name?

8 A. Yes. His nickname is Juicy.

9 Q. All right. And you took care of them?

10 A. Yes.

11 Q. Over at the house when Renee would have something
12 else she had to do?

13 A. Correct.

14 Q. And did Juicy play sports?

15 A. He did.

16 Q. Was he a part of a basketball league?

17 A. Yes, he was.

18 Q. And when were their games?

19 A. They had games Saturday morning.

20 Q. And how would he get there?

21 A. Well, if my Aunt Renee couldn't take him, his
22 coach would come and pick him up for her.

23 Q. All right. And would this coach also drop him
24 back off?

25 A. Yes, if need be. Correct.

1 Q. And did they play on Saturdays?

2 A. Yes, in the mornings.

3 Q. Let's go to one of those Saturdays now.

4 A. Okay.

5 Q. And the Friday before. Saturday February 25th,
6 2012, do you remember that day?

7 A. Yes, I do.

8 Q. By then had the defendant, Mr. Garner, started
9 acting like a friend to you?

10 A. Yes.

11 Q. Did you believe that he was honestly trying to be
12 a friend?

13 A. No.

14 Q. Were you suspicious of him?

15 A. Yes.

16 Q. But at times did you trust him?

17 A. At times I did.

18 Q. He was your father's brother?

19 A. Correct.

20 Q. And you had not been close to him at all before?

21 A. Not at all.

22 Q. At some point did the defendant, Mr. Garner, your
23 Uncle, start behaving like more than a friend?

24 A. Yes.

25 Q. Did he start giving you -- well, did he start

1 giving you things that were age inappropriate for you?

2 A. Yes.

3 Q. Can you tell the ladies and gentlemen of the jury
4 some of the things he started getting for you or
5 offering you?

6 A. Well, he actually bought me a pair of, well a
7 pack, a whole pack of thongs. And prior to that he used
8 to offer me alcohol and tobacco products, stuff he knew
9 I wasn't supposed to have.

10 Q. And when you say thongs, you're talking about
11 underwear?

12 A. Yes, I'm talking about underwear.

13 Q. And is it fair to say fairly revealing underwear?

14 A. Yes.

15 Q. You felt that was not appropriate?

16 A. It was very inappropriate.

17 Q. Did you tell your mother about that?

18 A. I told my mother, yes, and I told Renee.

19 Q. All right. And did he on occasion call you at
20 night?

21 A. Yes, he did. About 12 o'clock in the morning,
22 precisely.

23 Q. This was on your cellphone?

24 A. Yes.

25 Q. Did he invite you -- well, no, just tell us what

1 the phone call was about.

2 A. Well, he wanted to know if I could on a school
3 night at 12 o'clock in the morning, maybe a little later
4 than that, come out to help him clean up a building. I
5 didn't even reply or anything because it was just
6 totally inappropriate.

7 Q. Going to the Friday of September -- of February
8 the 24th, 2012, who was -- first of all, were you at
9 Renee's house that Friday?

10 A. Yes, I was there.

11 Q. Who else was there?

12 A. Juicy was there, my Aunt Renee was there, Cathy
13 was there. Norman stopped by.

14 Q. Was Mariah there?

15 A. No, we dropped Mariah off to a babysitter.

16 Q. All right. And you said Norman was there. Did
17 he stay long?

18 A. He stayed a while, but he didn't stay the night.

19 Q. The -- who was Cathy?

20 A. Cathy is a friend of the family who's always just
21 been around.

22 Q. Is she the lady sitting over there on the end
23 next to your aunt?

24 A. That's correct. That's her.

25 Q. All right. And she was there, your aunt was

1 there, Juicy was there?

2 A. Right.

3 Q. You were there. And were you all just visiting?
4 It was just a Friday night?

5 A. Yeah. I would make routine to go over there
6 weekends. So, yeah, we were all just there.

7 Q. Was there something special ---

8 MR. GHENT: (Coughing.) My turn, Your Honor.

9 THE COURT: Take your time.

10 MR. GHENT: My apologies.

11 BY MR. GHENT:

12 Q. Was there something that came up in terms of
13 plans for the next day?

14 A. Yes. We, that Friday, had planned out the day
15 for Saturday.

16 Q. Were -- let me stop you and kind of -- were Renee
17 and Cathy leaving to go somewhere for the day the next
18 day?

19 A. Correct, they were.

20 Q. And was that discussed?

21 A. Yes, it was.

22 Q. Okay. And do you recall whether or not the two
23 of them talked about that when Norman was there?

24 A. I'm not, I'm not sure.

25 Q. All right. But at any rate that was the plan for

1 the next night -- next morning?

2 A. Correct.

3 Q. Were you feeling okay that night?

4 A. I was a little like coming down with a cold. It
5 hadn't sunk in or anything. I was okay, but I could
6 tell that I was coming down with something.

7 Q. All right. And where did you sleep when you
8 stayed over there?

9 A. I slept with Juicy in his room.

10 Q. And what sort of sleepwear did you generally
11 wear?

12 A. Like shorts and a t-shirt.

13 Q. Nothing too revealing or anything?

14 A. Nothing revealing at all.

15 Q. Like exercise shorts or something like that?

16 A. Yep. Like exercise shorts and a regular t-shirt.

17 Q. The defendant was not there long but he left?

18 A. Correct.

19 Q. Did not come back that night?

20 A. I don't remember. I don't think he did, but I
21 don't remember.

22 Q. Okay. And at some point you went on to bed?

23 A. Yes.

24 Q. Tell us about the next morning.

25 A. Well, the next morning I was woke up by my aunt.

1 She was just letting me know that whatever we had
2 planned for me to get him ready, that she was gonna get
3 ready to go. She was just waking me up and letting me
4 know that she was getting ready to leave. So when I
5 woke up it was me, Juicy, Renee, Cathy and Norman there.

6 Q. Norman, had he dropped by?

7 A. That morning, yes he had. Uh-huh.

8 Q. All right. And before she left did Renee give
9 you any instructions regarding something to eat or drink
10 for Juicy?

11 A. Well, not necessarily. The instructions
12 basically were how was I supposed to get him ready, what
13 all I need to look for to make sure that he was ready
14 properly. And she was basically just letting me know
15 that his coach was coming to pick him up.

16 Q. All right.

17 A. So those were just...

18 Q. Did Norman leave?

19 A. Yes, he did leave.

20 Q. And at some point did Renee and Cathy leave?

21 A. Yes, they did.

22 Q. That left you and Juicy; is that correct?

23 A. Yes. It was just me and him left in the house.

24 MR. GHENT: (Coughing.) Your Honor, may I state
25 for the record, this is not contagious, it's a spasm.

DIRECT EXAMINATION OF TASHMA GARNER BY MR. GHENT

1 THE COURT: Yes, sir, just take your time. Take
2 a moment.

3 MR. GHENT: (Coughing.) My apologies.

4 THE COURT: Mr. Ghent, while you're catching your
5 breath, let me -- I noticed some of the jurors look very
6 cold.

7 THE WITNESS: Yes.

8 THE COURT: Is the temperature cold or warm in
9 here for you all?

10 THE JURORS: Cold.

11 MR. SHABEL: It's cold.

12 MR. GHENT: It's cold.

13 THE COURT: Are you cold?

14 THE JURORS: Cold. It's cold.

15 THE COURT: Okay. Well, maybe one of our
16 bailiffs can help us. Mr. Bogan, is there a thermostat
17 back there?

18 THE BAILIFF: I can't control it, but I'll check
19 with someone.

20 THE COURT: Okay.

21 THE CLERK: I'll send an e-mail and let them
22 know.

23 THE COURT: Okay, thank you. Thank you, Madam
24 Clerk.

25 MR. GHENT: May it please the Court?

1 THE COURT: Yes, sir.

2 BY MR. GHENT:

3 Q. So did -- (coughing) -- Cathy -- let me move
4 away. I kind of feel her flinch when I -- (indicating.)

5 At some point did your aunt and Cathy leave?

6 A. Yes, they did.

7 Q. I'm asking you approximately, was it still
8 morning when they did?

9 A. Yes, it was still morning when they left.

10 Q. And they had gotten dressed up.

11 A. Uh-huh.

12 Q. They had put their clothes out, gotten dressed up
13 to go visit some people.

14 A. Correct.

15 Q. All right. And did, did the defendant come by?

16 A. Yes, he did. After they left he did stop by.

17 Q. Did he have anything for you to eat?

18 A. Yes. He provided me and Juicy with breakfast
19 from McDonalds.

20 Q. Did you tell him you had a cold?

21 A. Yes. I told him all my symptoms.

22 Q. And did he say he was going to go get some
23 medicine for you?

24 A. Yes, he did.

25 Q. And did he leave and come back?

1 A. Yes, he did leave and come back.

2 Q. What did he bring?

3 A. Well, when he came back I remember him bringing
4 sore throat medicine, a little cough syrup. He also
5 brought with him back baby oil, the kind -- I remember
6 precisely it being the Johnson & Johnson cocoa kind.

7 Q. Had you asked for baby oil to help you with a
8 cold?

9 A. I did not.

10 Q. Please tell the ladies and gentlemen of the jury
11 what happened. Just take it and tell them.

12 A. Okay. Well, after he had came back with the
13 medicine, I was by that time in the bed. Juicy had
14 left. I had sent him off to his basketball game with
15 his coach. I was in the bed. He came upstairs. He
16 woke me up. He gave me the medicine and he was like
17 just spray this on your throat twice. I did. I took
18 the medicine, laid back down.

19 To like in my mind like 20 minutes later he came
20 back and with the baby oil. This time he was like turn
21 over I'll give you a massage. And I didn't say
22 anything, I was just looking at him. Okay, so I did. I
23 turned over. I didn't say anything.

24 So he proceeds to get on top of me with me laying
25 on my stomach. And he pulled up my shirt and stuff. He

1 pulled it up to about where all of my sides and back was
2 exposed. I still had on my night clothes and things
3 like that, so...

4 He proceeded by rolling my shirt up and massaging
5 me. First he only massaged my back. After a while he
6 starts going down the sides of my breasts on the side
7 like right here. (Indicating.) So I started kind of
8 like getting a little shaky-ish and stuff like that. He
9 noticed. I could tell he noticed.

10 He then proceeds to go on from my top half of my
11 body to my lower half of my body. He had proceed to
12 roll down my shorts, maybe like twice. I remember him
13 doing it like rolling it down twice. Enough for the top
14 half of, if I may say, my butt was out. Enough for my
15 butt cheeks to be exposed. He proceed to continue to
16 massage my butt, along with the top half of my body.

17 Q. Was he standing then?

18 A. No. No, no. The whole entire time I was getting
19 my massage he was straddling on top of me.

20 Q. When you say straddling on top of you, where was
21 his crotch?

22 A. On my butt.

23 Q. Okay.

24 A. So continuing on, he -- I started crying. I
25 guess it just got the best of me. So I just feel after

1 the thongs and all of that it was just too much. So
2 immediately I'm just crying. And he's like are you
3 okay? I'm just shaking my head. And so he finally gets
4 up. And he's like, oh, well, I'm gonna go see -- by
5 this time Christian is home, I just don't know it. He's
6 outside actually playing.

7 When he leaves out the room, I immediately text
8 my brother and like call me ASAP. Because I called him
9 the first time, but it went straight to voicemail. So I
10 text him and I was like call me ASAP. But when my phone
11 started ringing I heard Norman. So my first, my first
12 instinct is to like start whispering. Apparently I
13 wasn't whispering low enough because he did hear our
14 conversation. But while I was on the phone with my
15 brother the only thing I could just say was Norman. You
16 know, I just could say Norman. And he automatically
17 knew ---

18 MR. SHABEL: Objection, Your Honor, calls for
19 speculation.

20 BY MR. GHENT:

21 Q. Don't say what he knew.

22 A. I'm sorry.

23 Q. Did you call your brother?

24 A. I called -- yes, I called him. And what I was
25 going to say was that he just knew to come.

1 Q. All right.

2 A. He was just coming. But he did come. He did
3 show up. But before they did show up, Norman had peeked
4 his head back in the room and then he started asking me
5 questions. He was like, oh, I have a friend girl who
6 was questioning me about tongue kissing. And I just
7 want to know would you like go all the way in for it or
8 -- he was trying to basically ask me was I gonna -- if I
9 was him, would I take it all or just kind of like peck.
10 I didn't even answer him. I was like whatever. That's
11 exactly what I said.

12 Then he proceed -- I guess I didn't give him the
13 answer, I'm not sure, that he wanted, but he proceeds to
14 say, well, do you know how to ride a stick shift? I
15 didn't quite get that. I just automatically assumed it
16 was perverted because I never heard that type of thing
17 before. So he left. He was like, well, I'm about to go
18 tell Juicy to come back in the house and he left.

19 Shortly after him leaving, he gave me a phone
20 call and he asked me straight and he said why did you do
21 that? I played dumb. I played dumb. I just said I
22 don't know what you're talking about.

23 Q. What did you think he was talking about?

24 A. He was talking -- I think that he was talking
25 about the phone call that I had with my brother, me

1 telling.

2 Q. Did your brother show up soon thereafter?

3 A. Yes, he did.

4 Q. Was somebody with him?

5 A. My mom. My mom and my brother both came.

6 Q. And did they take you out of there?

7 A. Yes. Me and Juicy was together.

8 Q. And did they take you back to your mother's
9 house?

10 A. Yes, we did make it back home.

11 Q. And did your mother -- where is your room in your
12 home?

13 A. Upstairs.

14 Q. Did your mother take you up to your room?

15 A. Yes.

16 Q. Did you tell -- don't say what she said.

17 A. That's fine.

18 Q. But did you tell your mother what had happened?

19 A. I did.

20 Q. In terms of her appearance, did she appear upset?

21 A. Very much so.

22 Q. All right. Did you immediately go to the police?

23 A. Not that night I did not.

24 Q. Was -- did you later also tell your Aunt Renee
25 what had happened?

1 A. Yes, I told her.

2 Q. Same day?

3 A. Same day.

4 Q. Was your mother present?

5 A. She was.

6 Q. And, again, not what Renee said, but I'm just
7 asking you what her appearances was. Did she appear
8 upset by this?

9 A. Very much so.

10 MR. SHABEL: Objection, calls for speculation.

11 THE COURT: Sustained.

12 MR. GHENT: Yes, ma'am.

13 BY MR. GHENT:

14 Q. The next day did you all go to the police?

15 A. No, sir.

16 Q. That was a Sunday?

17 A. Yes, it was.

18 Q. You waited until Monday; is that correct?

19 A. Yes, that is very much so correct.

20 Q. And you did go to City Hall?

21 A. Uh-huh, yes.

22 Q. And did you speak with somebody at the city
23 police department?

24 A. Yes.

25 Q. That would have been an Officer Robinson?

CROSS-EXAMINATION OF TASHMA GARNER BY MR. SHABEL

1 A. Sounds about right, yes.

2 Q. It was a male?

3 A. Yes, he was a male. A white male, yeah.

4 Q. And did you give him a statement?

5 A. I did.

6 Q. Did you tell him what happened?

7 A. Yes.

8 MR. GHENT: Your Honor, if I could have a moment.

9 THE COURT: Yes, sir, take your time.

10 MR. GHENT: Thank you, Tashma. Please answer any
11 questions that counsel may have.

12 THE COURT: Yes, sir, Mr. Shabel.

13 MR. SHABEL: May it please the Court?

14 THE COURT: Yes, sir.

15 CROSS-EXAMINATION

16 BY MR. SHABEL:

17 Q. When you woke up on the morning of February 25th,
18 2012, you came down the stairs and Norman was already in
19 the house?

20 A. I'm not sure when I first noticed he was there,
21 but I do know he was there.

22 Q. And he had already brought you breakfast before
23 you came down; is that correct?

24 A. Are you referring to the first time I see him or
25 the second?

1 Q. The first time you saw him that day.

2 A. The first time I saw him that was when everybody
3 was at the house with us.

4 Q. Right.

5 A. No, he had not brought me breakfast at that time.

6 Q. So I'm a little confused.

7 A. Okay.

8 Q. How many times that day did Mr. Garner come, did
9 Mr. Garner go?

10 A. He came first when I -- I seen him when I first
11 woke up. He left. He, from my understanding, he was
12 coming to grab something.

13 Q. Okay.

14 A. The second time I seen him was when he did bring
15 us breakfast.

16 Q. Okay. And at this point ---

17 A. Um.

18 Q. I'm gonna stop you right there. You're still
19 there.

20 A. Yes.

21 Q. Obviously. Juicy's still there.

22 A. Yes.

23 Q. Anybody else there?

24 A. Just us.

25 Q. Just the two of you?

1 A. Just the two of us.

2 Q. Please continue.

3 A. Okay. After Juicy left, when the coach came and
4 picked him up, Norman was still there.

5 Q. Okay.

6 A. And he left and came back.

7 Q. Okay.

8 A. Okay.

9 Q. So he -- your testimony today is he came to the
10 house a total of three times that day?

11 A. Yes.

12 Q. Okay. Now, the message that he gave you.

13 A. Yes.

14 Q. I want to make sure I understand your testimony.
15 If I misquote you, you tell me, okay?

16 A. (Nods head up and down.)

17 Q. After he leaves, Juicy leaves and then he leaves.
18 So juicy is at his basketball game, right?

19 A. Yes.

20 Q. Okay. You go back to your room.

21 A. Yes.

22 Q. You fall asleep.

23 A. Correct.

24 Q. He comes in.

25 A. Correct.

1 Q. Gives you the cough medicine, gives you the sore
2 throat spray.

3 A. Uh-huh.

4 Q. Proceeds to give you the massage.

5 A. No. He came -- he came back about 20 minutes
6 later.

7 Q. Okay.

8 A. I think. I'm not sure approximately how long he
9 was gone, but he came back. I was dozing off, so --

10 Q. All right.

11 A. -- he came back.

12 Q. So he came into your room a total of two times.

13 A. Correct.

14 Q. The first time he came into your room, the only
15 thing he did was give you the sore throat spray.

16 A. Right.

17 Q. He came back a second time and proceeded to give
18 you a massage with Johnson & Johnson's cocoa baby oil.

19 A. Correct.

20 Q. You're very specific. You're confident that it
21 was Johnson & Johnson's cocoa ---

22 A. The cocoa --

23 Q. I don't want to say flavor.

24 A. The cocoa scent.

25 Q. The cocoa scent. I almost said flavor, but I

1 don't think anybody eats baby oil. Now, so there was a
2 total of one massage.

3 A. Yes. He massaged my upper and lower half.

4 Q. All right. Two days after this --

5 A. Uh-huh.

6 Q. -- you go to City Hall, correct?

7 A. Correct.

8 Q. And you meet with Mr. Robinson, correct?

9 A. Correct.

10 Q. And you write a statement?

11 A. Correct.

12 Q. And like Mr. Ghent said, you told the officer
13 what happened, correct?

14 A. Correct.

15 Q. But in that statement ---

16 MR. GHENT: Objection. If he's gonna be
17 questioning her regarding the statement, she's entitled
18 to have it.

19 MR. SHABEL: I want ---

20 THE COURT: Counsel, do you have it?

21 MR. SHABEL: I have a copy. If I may have it
22 marked for identification purposes only.

23 THE COURT: Yes.

24 MR. SHABEL: Thank you.

25 THE COURT: Madam Court Reporter, that would be

1 Defendant's Number 1; is that correct?

2 MR. SHABEL: Yes.

3 COURT REPORTER: Yes, ma'am.

4 THE COURT: For identification only.

5 (Whereupon, Defendant's Exhibit Number 1,
6 Statement Of Tashma Garner Dated February 25, 2012, was
7 marked for identification.)

8 MR. SHABEL: May I approach with the witness,
9 Your Honor?

10 THE COURT: Yes, sir. What is the date of that
11 statement, please?

12 MR. SHABEL: February 27, 2012.

13 THE COURT: Thank you, sir. Yes, sir.

14 BY MR. SHABEL:

15 Q. Ms. Garner, I'm handing you a document that has
16 been marked for identification purposes only as
17 Defendant's Exhibit Number 1. Do you recognize that
18 statement?

19 A. Yes.

20 Q. Is that, in fact, a copy of the statement you
21 wrote and signed for Officer Robinson?

22 A. Yes.

23 Q. And did you, in fact, write that statement at
24 City Hall on February 27th of 2012?

25 A. Correct.

1 Q. That was two days after the Saturday?

2 A. Correct.

3 Q. I would like you, if you would please, to read
4 that statement in it's entirety and let me know when
5 you're done.

6 A. Read it to myself, correct?

7 Q. Yes, please.

8 A. Okay.

9 Q. Thank you.

10 A. Okay, I'm done.

11 Q. Thank you. Now, again, you testified earlier
12 that he came in and he lifted up your shirt.

13 A. Uh-huh.

14 Q. Is that correct?

15 A. Yes.

16 Q. In this statement to police that you made two
17 days after the massage you said he told you to lift up
18 your shirt.

19 A. Okay.

20 Q. Isn't that correct?

21 A. Yes. Yes, that's what it said on the statement,
22 yeah.

23 Q. Okay. He then, according to this statement, you
24 say he finished the massage and left, correct?

25 A. Okay.

1 Q. Is that correct?

2 A. Yes, that's what it says.

3 Q. And then you also say that you fell back to
4 sleep.

5 A. Uh-huh.

6 Q. Is that a yes?

7 A. Yes, it does.

8 Q. And that he woke you up another time.

9 A. Uh-huh.

10 Q. Is that correct?

11 A. Yes.

12 Q. And this time he massaged you a second time,
13 according to what you wrote in your statement, correct?

14 A. Correct.

15 Q. And this time he brought a lubricant or some type
16 of oil.

17 A. Correct.

18 Q. The first time he used, according to your written
19 statement --

20 A. Lotion.

21 Q. -- lotion.

22 A. Correct.

23 Q. So according to what you wrote to the police,
24 there were two massages.

25 A. Okay.

1 Q. Is that correct?

2 A. Yes.

3 Q. But your testimony today is there was only one.

4 A. Correct.

5 Q. You also testified earlier that he gave you a
6 package of thong underwear.

7 A. Uh-huh.

8 Q. Is that correct?

9 A. Yes.

10 Q. But according to the last statement of your
11 written statement to police --

12 A. Right.

13 Q. -- he only bought you three pair of underwear,
14 one being thongs. Is that what you wrote on the last
15 page of your statement?

16 A. Let's see. Yes.

17 Q. Okay.

18 A. But that's not what -- he bought me a pack of
19 thongs and three pair of regular underwear.

20 Q. But that's not what you wrote, is it?

21 A. Correct.

22 Q. You would agree that what you testified to today
23 and what you wrote on that police statement was very
24 different?

25 A. Memory wise, yes, it is. From 2012 to 2017, yes.

1 Q. Did you tell your mom what happened the day it
2 happened?

3 A. Yes.

4 Q. You didn't wait?

5 A. No, I did not.

6 MR. SHABEL: One moment, Your Honor.

7 THE COURT: Yes, sir.

8 BY MR. SHABEL:

9 Q. You also mentioned in your testimony that he
10 offered you -- strike that. One moment. Strike that
11 question. Nothing further for the witness, thank you.

12 THE COURT: Okay. Mr. Ghent, redirect?

13 MR. GHENT: Very briefly.

14 THE COURT: Yes, sir.

15 REDIRECT EXAMINATION

16 BY MR. GHENT:

17 Q. Tashma, counsel inserted the word very before
18 different. You testified that your uncle, the defendant
19 Norman Garner, gave you a massage using a lubricant and
20 described the lubricant, correct?

21 A. Correct.

22 Q. You testified that he got up, left, came back.

23 A. Yes.

24 Q. And the massage ensued, correct?

25 A. Correct.

1 Q. Counsel asked you about your saying he told you
2 to lift up your shirt as opposed to you lifted up -- he
3 lifted up your shirt?

4 A. Right.

5 Q. Would you agree that is very different?

6 A. That doesn't sound very too much different to me.

7 Q. Okay. You said that he finished and left, that
8 you woke up, according to your statement.

9 A. Uh-huh.

10 Q. And he massaged you. You said that he bought a
11 package of underwear. He said three pairs of underwear
12 and thongs, whether it's a package, a dozen, three pair,
13 a thong, a dozen thongs. Did you consider it
14 appropriate for a man who was your father's older
15 brother to be giving you underwear?

16 A. It wasn't appropriate at all regardless.

17 Q. Did you consider the manner in which he massaged
18 you to be appropriate?

19 A. No, it was not appropriate.

20 Q. Have you ever flinched, budged or backed off on
21 the fact that he included your breast in that massage?

22 A. He definitely did include my breasts in the
23 massage.

24 Q. Or your butt, have you ever backed off from that?

25 A. No, I have not.

1 Q. Or that he was straddling you with his crotch
2 over your rear?

3 A. He was definitely straddling me.

4 Q. Can you think of anything that would have to do
5 with treating a cold?

6 A. No.

7 Q. Thank you.

8 THE COURT: Okay. Anything further from this
9 witness?

10 MR. SHABEL: No, Your Honor.

11 MR. GHENT: No, Your Honor.

12 THE COURT: Okay. Miss Garner, you may step
13 down. Thank you very much.

14 THE WITNESS: Who do I give this to?

15 THE COURT: You will give that back to the court
16 reporter, thank you.

17 THE WITNESS: Okay, thank you.

18 (Whereupon, witness leaves witness stand and
19 stays in courtroom.)

20 THE COURT: Yes, sir.

21 MR. GHENT: Your Honor, we call Markel Davis.

22 THE COURT: Okay. You are Mr. Davis?

23 THE WITNESS: Yes, ma'am.

24 THE COURT: Sir, I'll ask you to come forward.
25 Our clerk, Ms. Poole, is going to swear you.

DIRECT EXAMINATION OF MARKEL DAVIS BY MR. GHENT

1 THE CLERK: Place your left hand and raise your
2 right. (Complies.)

3 Do you solemnly swear or affirm the testimony
4 that you're about to give will be the truth, the whole
5 truth and nothing but the truth so help you God?

6 THE WITNESS: Yes.

7 THE CLERK: Thank you.

8 THE COURT: All right. And, sir, you spell
9 Marquel, M-A-R-Q-U-E-L?

10 THE WITNESS: No, K-E-L.

11 THE COURT: M-A-R-K-E-L?

12 THE WITNESS: Yes, ma'am.

13 THE COURT: All right. And Davis, D-A-V-I-S; is
14 that correct?

15 THE WITNESS: Yes, ma'am.

16 THE COURT: All right. Sir, if you'll get
17 comfortable, pull your chair forward as needed.

18 Yes, sir, Mr. Ghent.

19 MR. GHENT: May it please the Court?

20 THE COURT: Yes, sir.

21 MARKEL DAVIS,

22 having been duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MR. GHENT:

25 Q. Markel, how old are you now?

1 A. I am 23.

2 Q. And you are Tashma's older brother?

3 A. Yes.

4 Q. And do you recall the events of February 25th,
5 2012?

6 A. Yes.

7 Q. That was a Saturday?

8 A. Yes, sir.

9 Q. Do you remember when Tashma called you?

10 A. I remember roughly the time.

11 Q. Okay. What was roughly the time?

12 A. Around 11-ish. Eleven, noon. Right between
13 that.

14 Q. Were you sleeping?

15 A. Yes.

16 Q. Are you easily woken up when you're sleeping?

17 A. No.

18 Q. Did Tashma text you?

19 A. Yes. I woke up to a text from her.

20 Q. And then she called you?

21 A. Yes.

22 Q. Based on that text and phone call, did you
23 immediately do something?

24 A. Yes.

25 Q. Did you get dressed?

DIRECT EXAMINATION OF MARKEL DAVIS BY MR. GHENT

1 A. Yes.

2 Q. Did you take off downstairs?

3 A. No. First I actually went to my mother's room,
4 which is like diagonal from my room to go grab the car
5 keys because when I got the text and the phone call I
6 immediately got up and I was going right over to get my
7 sister. And I asked my mom for her keys to the truck.
8 And then she was like, well, why? And I was like
9 something's wrong with Tashma, she said it was Norman.

10 MR. SHABEL: Objection, calls for hearsay.

11 THE COURT: Yes, sustained.

12 BY MR. GHENT:

13 Q. Just leave it at something's wrong with Tashma.

14 A. All right.

15 Q. And did you tell your mother what had happened?

16 A. Um, as far as in what I ---

17 Q. Don't, don't repeat it. Just did you explain to
18 your mother that you were needing the keys to go over to
19 Renee's house?

20 A. Yes.

21 Q. Were you moving pretty fast?

22 A. Very fast.

23 Q. Is that unusual for you when you first wake up?

24 A. Definitely.

25 Q. Did your mother in response to your excitement,

1 we'll say, and what you said, and don't repeat it, say
2 that she was going with you?

3 A. Yes.

4 Q. Did she?

5 A. Yes, she actually drove.

6 Q. Okay. Did it take you all long to get over to --
7 where did you go?

8 A. To Renee's house, my Aunt Renee's house.

9 Q. All right.

10 A. It only took like about 15, 15-plus minutes. No
11 more than 20 minutes.

12 Q. Okay. When you got over there, tell us what you
13 found.

14 A. When we arrived I was in the car. My mother got
15 out. Juicy and Tashma were standing like in the
16 doorway, kind of like the door was kind of cracked, but
17 they were standing right there. And then they came to
18 the truck after my mom went towards the doorway, got
19 them, and then they came back out and then they got in
20 the truck.

21 Q. When they got in the truck, again not what she
22 said, but describe her appearance as far as you could
23 see.

24 A. My sister's?

25 Q. Yes.

1 A. Oh, she was, she was crying a little bit. Well,
2 not necessarily crying but she was -- it's clear that
3 something was wrong with her, like she was upset.

4 Q. Have you ever clarified to me the way she was
5 crying as opposed to teenage drama queen crying?

6 A. Yes.

7 Q. Okay. And this was not teenage drama queen
8 crying.

9 A. Yes.

10 Q. Tashma, is she easy to make cry?

11 A. No, not at all.

12 Q. Even at 15?

13 A. No, sir, not at all.

14 Q. Where did you all go?

15 A. We went directly back to my mom's house.

16 Q. And do you recall what Tashma was wearing?

17 A. She had on like a white top, like, I think it was
18 like a regular white t-shirt or something like that and
19 then she had on some, like, some pink shorts, pink and
20 white shorts.

21 Q. Okay. Did she get in the backseat?

22 A. Yes. She got in the backseat behind my mother,
23 which was behind the driver's seat.

24 Q. Did you pretty much leave her alone, didn't try
25 to talk to her?

1 A. Oh, yeah, definitely.

2 Q. When you all got to you all's house, did you go
3 in?

4 A. Yes.

5 Q. Where did your mother and Tashma go?

6 A. They went immediately upstairs and me and
7 Christian, well Juicy, stayed downstairs and we went and
8 played a game.

9 Q. Did they close the door of the room they were in?

10 A. Yes.

11 Q. Whose room were they in?

12 A. Um, I honestly think it was my -- first they
13 stepped in my sister's room for a second and -- because
14 I heard the door, that's how come I know. And then they
15 went into my mother's room and then I heard that door
16 shut then lock.

17 Q. First Tashma's room, then your mother's room?

18 A. Yes.

19 Q. Door closed and locked?

20 A. Yes. I think they went into Tashma's room to
21 either grab something or something because it was like
22 real quick type thing.

23 MR. GHENT: Okay. If I may have just a moment,
24 Your Honor.

25 THE COURT: Yes, sir, take your time.

CROSS-EXAMINATION OF MARKEL DAVIS BY MR. SHABEL

1 MR. GHENT: No further questions, Your Honor.

2 THE COURT: Okay. Mr. Shabel.

3 MR. SHABEL: May it please the Court?

4 THE COURT: Yes, thank you.

5 CROSS-EXAMINATION

6 BY MR. SHABEL:

7 Q. Mr. Davis, before this Saturday --

8 A. Yes.

9 Q. -- were you living exclusively with your mother?

10 A. Yes.

11 Q. Was Tashma living exclusively with her mother?

12 A. Yes. She left on the weekends to go to Renee's.

13 Q. Okay. So she wasn't in and out, she was there?

14 A. No. She's a homebody, so yeah.

15 Q. How was her relationship with her mother before
16 this incident?

17 A. Like very rocky. Very much so.

18 Q. And how about afterwards?

19 A. Afterwards it kind of like, they got the real
20 close bond now. It helped build on their relationship
21 like it should.

22 MR. SHABEL: Nothing further, Your Honor.

23 THE COURT: Okay. Mr. Ghent?

24 MR. GHENT: No further questions, Your Honor.

25 THE COURT: Okay, Mr. Davis. Thank you, sir.

1 THE WITNESS: Oh, you're welcome.

2 THE COURT: You may step down. Is there a
3 request that Mr. Davis be excused?

4 MR. SHABEL: Without objection.

5 MR. GHENT: Request that he be excused.

6 THE COURT: Okay. Sir, if you would like to
7 leave you can.

8 THE WITNESS: Appreciate it.

9 THE COURT: Thank you for being here.

10 (Whereupon, witness leaves the witness stand and
11 the courtroom.)

12 Next witness?

13 MR. GHENT: The State calls Nolita Davis.

14 (Whereupon, witness comes forward.)

15 THE CLERK: Place your left hand on the bible and
16 raise your right. (Complies.)

17 Do you solemnly swear or affirm the testimony
18 you're about to give will be the truth, the whole truth
19 and nothing but the truth so help you God?

20 THE WITNESS: Yes.

21 THE COURT: Okay. Ma'am, please make yourself at
22 home. And I will ask you to spell your name for the
23 record, please.

24 THE WITNESS: First and last?

25 THE COURT: Yes.

DIRECT EXAMINATION OF NOLITA DAVIS BY MR. GHENT

1 THE WITNESS: Nolita, N-O-L-I-T-A. Last name
2 Davis, D-A-V-I-S.

3 THE COURT: Thank you, ma'am. Answer Mr. Ghent's
4 questions.

5 MR. GHENT: May it please the Court?

6 THE COURT: Yes, sir.

7 NOLITA DAVIS,
8 having been duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. GHENT:

11 Q. Ms. Davis, Tashma Garner is your daughter?

12 A. Correct.

13 Q. And what was your husband's name?

14 A. Excuse me?

15 Q. What was your husband's name?

16 A. I'm not married.

17 Q. What was his name?

18 A. Woodrow Wilson Garner.

19 Q. Yes.

20 A. Jr.

21 Q. I'm sorry, what was ---

22 A. Tashma's last name.

23 Q. Yeah.

24 A. Woodrow Wilson Garner, Jr.

25 Q. Was he a good man?

1 A. He was.

2 Q. Good father?

3 A. He was.

4 Q. How old was he when he died?

5 A. About 33 years old.

6 Q. Okay. And it was a car wreck?

7 A. Yes.

8 Q. And Tashma was 12 years old?

9 A. Uh-huh.

10 Q. February of 2012, Tashma would have been 15?

11 A. Yes, I think so. If I do the math correctly she
12 would have been about 15.

13 Q. And had you ever known -- strike that.

14 Had -- did you know the defendant, Norman Garner,
15 well before Buddy's death?

16 A. Yes.

17 Q. Did -- just yes or no, did he visit at you all's
18 home?

19 A. No.

20 Q. Not ever?

21 A. No.

22 Q. Even before Buddy's death?

23 A. No.

24 Q. So Tashma was not close to him?

25 A. No, ma'am -- no, sir.

1 Q. Do you remember a Saturday morning, February
2 25th, 2012, when Markel asked to use your car?

3 A. Yes.

4 Q. Did he appear upset?

5 A. Yes, he did.

6 Q. This was before noon?

7 A. Um, it was around noon.

8 Q. Noon-ish?

9 A. Yeah, noon-ish.

10 Q. Is Markel generally excitable in the mornings?

11 A. No, he likes to sleep in. He's irritable in the
12 mornings.

13 Q. Okay. He's not easy to wake up, so this seemed
14 unusual?

15 A. Yeah.

16 Q. After he told you what was going on, did you go
17 with him in the car or the truck?

18 A. Yes, we both left.

19 Q. And where did you go?

20 A. We went to Marva's house, Tashma's aunt, to pick
21 her up.

22 Q. And is Marva's house in Green -- Spartanburg
23 County?

24 A. It is.

25 Q. And how long did it take you to get there?

1 A. Um, roughly 15, 20 minutes.

2 Q. And did you and Markel pick up Tashma at your
3 sister-in-law's house?

4 A. We picked her up along with Marva's son.

5 Q. That would have been Juicy?

6 A. Yes.

7 Q. Was she upset?

8 A. Yes, she was.

9 Q. What was she wearing?

10 A. She had on a t-shirt and some shorts.

11 Q. Were either of those items of clothing
12 suggestive?

13 A. Were they what?

14 Q. Suggestive?

15 A. No.

16 Q. I mean they weren't -- it wasn't a cut-off
17 t-shirt?

18 A. No. No.

19 Q. And it was gym shorts?

20 A. Uh-huh.

21 Q. Did you notice the condition of the shirt and/or
22 the shorts?

23 A. Yes.

24 Q. Was there something on the shirt?

25 A. I didn't really notice anything on the shirt.

1 How the shorts, the material the shorts are made out of,
2 I could tell on the shorts because it was kind of like
3 silk --

4 Q. Yeah.

5 A. -- material and you can kind of see the stains on
6 the shorts.

7 Q. Stains?

8 A. Uh-huh. It looked like specks of oil or
9 something on her shorts or water or whatever. It was
10 spots on the shorts, which we found out was oil.

11 Q. All right. Did you and Tashma talk after you got
12 home?

13 A. We did.

14 Q. Upstairs?

15 A. We did.

16 Q. In whose room?

17 A. In my room.

18 Q. Did she appear to you to be upset when you picked
19 her up at the house of Ms. Dawkins?

20 A. Yes.

21 Q. Did she still appear upset when you spoke to her?

22 A. Yes, she was.

23 Q. Very upset?

24 A. Uh-huh. She was like, kind of like in a nervous
25 type of cry.

1 Q. All right. And not what she said, but did she
2 tell you why she was upset?

3 A. Yes.

4 Q. Did you try to reach Marva?

5 A. Yes.

6 Q. Were you able to reach her?

7 A. Not at first.

8 Q. Did you make a number of calls?

9 A. Yes, we all did.

10 Q. Did you finally talk to Renee on the phone later
11 that day?

12 A. Yes, she finally called back.

13 Q. And did you talk to her about what Tashma had
14 told you?

15 A. Yes, I did.

16 Q. Did she come to your house?

17 A. Yes.

18 Q. Did you and Renee and Tashma meet?

19 A. Yes.

20 Q. And talk?

21 A. Yes.

22 Q. At your house?

23 A. Yes.

24 Q. Would that have been in Tashma's room?

25 A. I can't recall where we were. I want to say we

1 were downstairs.

2 Q. All right. Was anybody else there at that time?

3 A. Just the kids and me and Marva.

4 Q. Did, did you include Markel in any of that
5 discussion?

6 A. No.

7 MR. GHENT: Thank you. Please answer any
8 questions.

9 THE COURT: Okay. Mr. Shabel, cross?

10 MR. SHABEL: May it please the Court?

11 THE COURT: Yes, sir.

12 CROSS-EXAMINATION

13 BY MR. SHABEL:

14 Q. Ms. Davis, without getting into specifics, how
15 would you describe your relationship with your daughter
16 prior to February 25th of 2012?

17 A. It was a little rocky at times.

18 Q. All right. Did the rockiness begin with the
19 death of your husband and her father?

20 A. Yes.

21 Q. How has your relationship been since
22 February 25th of 2012?

23 A. It's been good.

24 Q. You testified that your son got you to get the
25 keys around noon-ish.

1 A. Uh-huh.

2 Q. I think was your coin phrase. On that Saturday?

3 A. Yes.

4 Q. And didn't take you too long to get up, get
5 ready, get out the door?

6 A. I was already ready.

7 Q. You were already ready. How far of a drive is it
8 to Ms. -- I think we hear the word Marva, we hear the
9 word Renee, that's the same person, right?

10 A. Yes.

11 Q. I'm gonna call her Renee. If somebody else calls
12 her Marva, we're not trying to confuse anybody. But how
13 long did it take to get to Renee's house?

14 A. About 15 minutes, 20 minutes. Give or take, just
15 depending on traffic.

16 Q. Didn't stop along the way?

17 A. No.

18 Q. Okay. So 15, 20 minutes there, 15, 20 minutes
19 back. Would it be fair to say you were back home about
20 one-ish?

21 A. If my timing serves me correctly.

22 Q. Yeah, okay. What time did Renee come?

23 A. Late that evening.

24 Q. Now, again, this is Saturday?

25 A. Uh-huh.

1 Q. One o'clock?

2 A. Approximately.

3 Q. Yes, when you get home. And as you testified,
4 your daughter's upset?

5 A. Uh-huh.

6 Q. She's indicated some things to you; is that
7 correct?

8 A. Uh-huh.

9 Q. Tell the jury, tell the Court when you went to
10 City Hall the first time.

11 A. We went to City Hall that Monday.

12 Q. Two days later?

13 A. Two days later.

14 Q. You didn't go that day?

15 A. No, not that day.

16 Q. Despite that fact that your daughter had come
17 told you these things, right, you didn't go that day?

18 A. No, not the day that it happened, no.

19 Q. And you didn't go the next day, right?

20 A. No, we didn't.

21 Q. What time of day did you go on day three?

22 A. Um, I actually can't remember.

23 Q. Was it in the middle of the afternoon?

24 A. I know it was daytime. That's all I can tell
25 you.

1 MR. SHABEL: One moment, Your Honor.

2 THE COURT: Yes, sir.

3 MR. SHABEL: Nothing further for the witness.

4 THE COURT: Okay. Any redirect, Mr. Ghent?

5 REDIRECT EXAMINATION

6 BY MR. GHENT:

7 Q. You were asked about Buddy's death, his
8 relationship with his daughter and the fact -- was
9 Norman Garner his older brother?

10 A. He was.

11 Q. How old was Buddy when he died?

12 A. Thirty. About 30, 30 years old.

13 Q. Did you know from Buddy or otherwise about how
14 Norman was, how much older Norman was than him?

15 MR. SHABEL: I'm going to object to outside the
16 scope of cross.

17 MR. GHENT: He asked about the death of the man
18 and their relationship. The witness has testified as to
19 the closeness of the relationship.

20 MR. SHABEL: The relationship between her and her
21 daughter.

22 THE COURT: Counsel approach.

23 (Whereupon, a bench conference was held off the
24 record.)

25 THE COURT: Okay. Thank you, counsel.

REDIRECT EXAMINATION OF NOLITA DAVIS BY MR. GHENT

1 MR. GHENT: Yes, ma'am. No further questions.

2 THE COURT: Okay. Is there any objection to Ms.
3 Nolita Davis being excused if that is her wish?

4 MR. SHABEL: No objection, Your Honor.

5 MR. GHENT: No objection, Your Honor.

6 THE COURT: All right. Thank you. Thank you
7 Mrs. Davis, Ms. Davis.

8 THE WITNESS: Thank you.

9 THE COURT: Watch your step.

10 THE WITNESS: Thank you.

11 (Whereupon, witness leaves witness stand, remains
12 in courtroom.)

13 MR. GHENT: May it please the Court?

14 THE COURT: Yes, sir.

15 MR. GHENT: The State calls Jamie Sparks.

16 (Whereupon, witness comes forward.)

17 THE COURT: Okay. Mr. Sparks, sir, good
18 afternoon. If you'll raise your right hand for the
19 clerk.

20 THE CLERK: Place your left hand on the bible and
21 raise your right. (Complies.)

22 Do you solemnly swear or affirm the testimony
23 you're about to give will be the truth, the whole truth
24 and nothing but the truth so help you God?

25 THE WITNESS: I do.

1 THE CLERK: Thank you.

2 THE COURT: Sir, if you'll have a seat and spell
3 your name for the court reporter for the record, please.

4 THE WITNESS: J-A-M-I-E, S-P-A-R-K-S.

5 THE COURT: Thank you, sir.

6 Mr. Ghent.

7 MR. GHENT: Thank you, Your Honor.

8 JAMIE SPARKS,
9 having been duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MR. GHENT:

12 Q. Mr. Sparks, where do you work?

13 A. I am currently unemployed.

14 Q. And do you live in Spartanburg County?

15 A. I live in Spartanburg County, yes.

16 Q. Were you living in Spartanburg in February of
17 2012?

18 A. Yes.

19 Q. During that time, Saturdays did you regularly
20 coach kids in basketball?

21 A. Yes.

22 Q. Was -- if the young man would not mind standing.

23 A. Yes.

24 Q. Was Christian -- he's gotten a little bit bigger.

25 A. Yes, Christian, I know Christian.

DIRECT EXAMINATION OF JAMIE SPARKS BY MR. GHENT

1 Q. And was he one of your players?

2 A. Yes.

3 Q. Did he have a ride to the games?

4 A. Um, sometimes I would give him a ride to, to
5 games.

6 Q. Going now to a Saturday late in February, the
7 25th of that year, did you pick him up that day?

8 A. Yes, sir.

9 Q. And the games were always on Saturdays?

10 A. Yes, sir.

11 Q. Did you take him to the game and did you all have
12 a game?

13 A. Yes, we had a game.

14 Q. And what time was game time?

15 A. It's been a while, but I want to say it's around
16 a 10:00 a.m. game.

17 Q. Okay. And did you usually, when you were picking
18 him up, try to get there 30 minutes or so before?

19 A. Yes, sir.

20 Q. Did Christian, Juicy, come out to the car that
21 day?

22 A. Yes.

23 Q. Did you pick him up at his house?

24 A. Yes.

25 Q. And was anybody standing in the doorway?

1 A. Yes. He just come out to the car and the
2 gentleman just come out and waived and made sure he got
3 to the car and he got in the car with me.

4 Q. Was he a black man?

5 A. Yes, he was.

6 Q. And have you ever described him to me before?

7 A. I said he was an older fellow. I figured he was
8 an uncle or a cousin or something, but he was a little
9 younger than me, but about my size.

10 Q. All right. And you say a little younger. How
11 old are you?

12 A. I'm 59. I would have been 45 then.

13 Q. Okay. And you understood him to be -- you had
14 seen him before?

15 A. I had seen him before, yes.

16 Q. And you understood him to be, what, a cousin or
17 an uncle?

18 A. I assumed he was either a family friend, cousin,
19 uncle, something like that. He was there just to make
20 sure he got to the car.

21 Q. Did he wave to you?

22 A. Yes, sir.

23 MR. GHENT: Thank you. No further questions,
24 Your Honor.

25 THE COURT: Mr. Shabel.

CROSS-EXAMINATION OF JAMIE SPARKS BY MR. SHABEL

1 MR. SHABEL: May it please the Court?

2 THE COURT: Yes, sir.

3 CROSS-EXAMINATION

4 BY MR. SHABEL:

5 Q. Mr. Sparks, when you said you figured, that's
6 just based on your own instincts and guesses, right?

7 A. He was in the house.

8 Q. Okay. So no -- you didn't really have an exact
9 knowledge of what this gentleman's relationship was or
10 what this man did?

11 A. No, sir.

12 Q. Okay. How long were basketball games for
13 children of Juicy's age at this particular time? How
14 long of a timeframe did they last?

15 A. We would usually play a little less than an hour.

16 Q. Okay. And would you guys ever go anywhere
17 afterwards or ---

18 A. Normally I would take him, and I actually picked
19 up one or two other kids normally, and we would go eat
20 lunch after the games and I would take everybody back
21 home.

22 Q. And so you get back around 1 o'clock that day?

23 A. Yeah. Probably 12:30, 1 o'clock.

24 Q. Thank you. No nothing further.

25 THE COURT: Okay. Mr. Ghent?

1 MR. GHENT: No further questions, Your Honor.

2 THE COURT: Okay. Any objection to Mr. Sparks
3 being excused?

4 MR. SHABEL: No, Your Honor.

5 MR. GHENT: None from the State.

6 THE COURT: Okay. Thank you for being here, sir.

7 THE WITNESS: Yes, ma'am.

8 THE COURT: Watch your step. You may be excused.

9 (Whereupon, witness leaves witness stand and
10 courtroom.)

11 Counsel, can you all approach, please.

12 MR. GHENT: Yes, ma'am.

13 (Whereupon, a bench conference was held off the
14 record.)

15 THE COURT: Okay. Mr. Foreman and members of the
16 jury, we were trying to discuss the order of witnesses
17 and what might be best for a lunch break. We've been
18 going now for about an hour and 45 minutes, and so we
19 are going to break for lunch now. I will need for you
20 all to be back here at 1:30. And will they report to
21 the jury assembly room or to the jury room?

22 THE BAILIFF: Jury room.

23 THE COURT: Okay. So when you all return, you
24 will come to the jury room, but I'm assuming that there
25 will be a bailiff at one of the entrance -- at both

1 entrances to the court to make sure you all get back to
2 where you need to be. Folks in red jackets are who you
3 need to look for. There are places within walking
4 distance of the courthouse, restaurants nearby.

5 And so, again, just be reminded that you are not
6 to discuss this matter with anyone. You are not to do
7 any research. You're not to begin deliberations or make
8 comments to each other or anyone else regarding the
9 testimony that you have heard so far or any aspect of
10 the case because doing so would be highly improper and
11 unfair to the parties involved.

12 Thank you again. Have a nice lunch and I'll see
13 you at 1:30. We'll all please remain seated until the
14 jury leaves.

15 (Whereupon, jury leaves the courtroom at 12:29
16 p.m.)

17 THE COURT: Okay, thank you. We'll be in recess
18 unless there's something that the attorneys need to take
19 up with me before that time.

20 MR. SHABEL: No, ma'am.

21 MR. GHENT: No, ma'am.

22 THE COURT: Okay, thank you. Well return at
23 1:30.

24 (Whereupon, a lunch recess was had from
25 12:30 p.m. - 1:37 p.m.)

1 THE COURT: All right. We are back on the record
2 with regard to the matter of the State versus Norman
3 Lance Garner. And during the lunch break I was informed
4 that there is an issue with one of our members of the
5 jury. And so at this time, unless there is something
6 else that counsel needs for me to take up beforehand, I
7 will now allow that juror to come in and inform me of
8 whatever the problem may be. And the gentleman, the
9 deputy that's here, sir, if you could identify yourself.

10 MR. ROBINSON: Chris Robinson.

11 THE COURT: Hey, Chris, Mr. Robinson. If you
12 don't mind, if you could just step out while we take up
13 this matter.

14 MR. ROBINSON: Absolutely.

15 THE COURT: Since you weren't in the courtroom
16 earlier. Is that acceptable with everybody? I think
17 he's a potential witness in the case.

18 MR. GHENT: He is. He is, Your Honor.

19 THE COURT: Okay. Thank you, sir.

20 (Whereupon, Mr. Robinson steps out of courtroom.)

21 All right. Mr. Bogan, if you'll bring in the
22 juror, just that one juror.

23 THE COURT: Good afternoon, ma'am.

24 THE JUROR: Good afternoon.

25 THE COURT: Can you hear me all right?

CROSS-EXAMINATION OF JAMIE SPARKS BY MR. SHABEL

1 THE JUROR: Yes, ma'am.

2 THE COURT: All right. Ma'am, if you will please
3 identify yourself for the record, your juror number.

4 THE JUROR: My juror number is number three and
5 I'm Ancia Anderson.

6 THE COURT: Okay. Yes, ma'am. It's my
7 understanding that you had a matter that you needed to
8 take up with me.

9 THE JUROR: Yes, ma'am. At the start of this I
10 was not really aware that you had people who was seated
11 at the moment. When you called out names, they didn't
12 look out to me. When I approached this part right here,
13 when I approached I realized that I do know somebody,
14 this gal, as a witness. (Indicating.)

15 THE COURT: Okay. And you're pointing to -- are
16 you pointing to defense counsel's table or the State?

17 THE JUROR: The defense, yeah.

18 THE COURT: Okay. To where Mr. Shabel is
19 sitting?

20 THE JUROR: Uh-huh.

21 THE COURT: Okay. And, ma'am, who is that that
22 you think you know?

23 THE JUROR: I think her name is Treva.

24 MS. DAWKINS: Renee.

25 THE JUROR: Renee, okay. I don't know why I said

1 Treva.

2 MR. SHABEL: Stand up for me. Is this her?

3 THE JUROR: I only know her because of the
4 relationship of both of our baby fathers were the same.

5 THE COURT: The fathers of your children?

6 THE JUROR: The father to my children, yes.

7 They're mutual friends.

8 THE COURT: Okay. How often would you say that
9 you have contact with that person?

10 THE JUROR: Not very often.

11 THE COURT: Several times a year or a month or a
12 week?

13 THE JUROR: I would say several times a year.
14 And I'm her Facebook friend as well.

15 THE COURT: Okay. And, ma'am, is the person, is
16 that Ms. Marva Renee Dawkins?

17 THE JUROR: Yes.

18 THE COURT: Is that who that is, Mr. Shabel?

19 MR. SHABEL: It is, Your Honor.

20 THE COURT: Okay. And, ma'am, you are still
21 under oath from questioning earlier today. Would that,
22 your relationship with, as you have described it, with
23 Marva Renee Dawkins, would that affect your ability to
24 be fair and impartial in this case?

25 THE JUROR: I feel like it would, yes, ma'am.

CROSS-EXAMINATION OF JAMIE SPARKS BY MR. SHABEL

1 THE COURT: Okay. And are you certain that you
2 cannot fulfill your duties as a juror?

3 THE JUROR: Yes, ma'am.

4 THE COURT: Is there anything else from counsel
5 with regard to this juror?

6 MR. SHABEL: None from the Defense, Your Honor.

7 MR. GHENT: None from the State, Your Honor.

8 THE COURT: Okay. Counsel, if you all -- rather
9 than me having to send our juror back out and then
10 having her coming back in, if you all could just
11 approach for just a moment.

12 (Whereupon, a bench conference was held off the
13 record.)

14 MR. SHABEL: Thank you, Your Honor.

15 THE COURT: Okay. All right. Is it
16 Mrs. Anderson or Ms. Anderson?

17 THE JUROR: Ms.

18 THE COURT: Okay. Ms. Ancia L. Anderson, she is
19 juror number three, she is going to be excused as -- or
20 released as a juror and then we will begin a procedure
21 of replacing her with one of our two alternate jurors.
22 Ms. Anderson, thank you for your candor. Thank you so
23 much for your service.

24 THE JUROR: You're welcome.

25 THE COURT: And if you will, I think Mr. Bogan

1 will be able to give you instructions about how this
2 will be handled from -- you will need to get your things
3 out of the jury room. Ma'am, you cannot discuss this
4 with anyone on the jury. And then he will escort you
5 into the assembly room with further instructions.

6 Is that correct?

7 THE BAILIFF: Unless you just want to dismiss her
8 for the day. The jury has been dismissed. The jury
9 panel has been dismissed.

10 THE COURT: Okay. Who will instruct her about
11 her compensation as a juror?

12 THE BAILIFF: I'll talk to her about that and
13 I'll have her see Ms. Shaw.

14 THE COURT: Okay. Ma'am, it's further my
15 understanding that since you have been called to serve
16 as a juror that you cannot be called within the next
17 three years, if that is your wish.

18 THE JUROR: It's just this particular case, but I
19 don't care anytime.

20 THE COURT: Okay. Well again, ma'am, thank you
21 so much. Have a nice week.

22 THE JUROR: Thank you.

23 THE COURT: Okay. Madam Clerk?

24 THE CLERK: Yes, ma'am.

25 THE COURT: If you can approach.

1 THE CLERK: Yes, ma'am.

2 (Whereupon, a bench conference with the Court and
3 the Clerk was held off the record.)

4 THE COURT: Counsel, I have instructed the clerk
5 that with regard to our alternate jurors she is going to
6 write their name and number on separate sheets of paper.
7 Those sheets of paper will be placed in a cup and she
8 will draw out your alternate.

9 Counsel, if you all can approach.

10 (Whereupon, a bench conference was held off the
11 record.)

12 Mr. Visser is going to be our alternate, is going
13 to be our new juror. Okay, and we'll put that on the
14 record when they come in. All right.

15 THE COURT: And then, counsel, will you be ready
16 to proceed?

17 MR. GHENT: Yes, Your Honor.

18 MR. SHABEL: Yeah, we're ready, Your Honor.

19 THE COURT: Madam Bailiff, you can ask Mr.
20 Robinson, Deputy Robinson to come back in.

21 THE BAILIFF: Yes, Your Honor.

22 (Whereupon, jury enters the courtroom at
23 1:47 p.m.)

24 (Whereupon, Mr. Robinson enters courtroom.)

25 THE COURT: Okay. Mr. Foreman, is everything all

1 right?

2 MR. FOREMAN: Yes.

3 THE COURT: All right. I hope everybody had a
4 nice lunch. I hope it's a little warmer in here for you
5 this afternoon.

6 And we have had one change with regard our juror
7 makeup or the makeup of the jury. We had to excuse one
8 juror, and so we then -- the way this procedure works is
9 we put both of the names and numbers of our alternate
10 jurors in a cup and have Ms. Poole, our clerk, draw the
11 name. And so now Mr. Daniel Visser, Mr. Visser, Juror
12 Number 165 is an official member of the jury panel. So
13 you are seated in the correct chair. And we are ready
14 to begin with more testimony from the State, as I
15 understand it.

16 Counsel, are you ready?

17 MR. GHENT: Yes, your Honor.

18 THE COURT: Thank you.

19 MR. GHENT: May it please the Court, the State
20 calls Deputy Chris Robinson.

21 THE COURT: All right. Deputy Robinson, if you
22 will come forward, sir. You're going to be sworn by the
23 clerk.

24 (Whereupon, witness comes forward.)

25 THE CLERK: Place your left hand on the bible and

1 raise your right. (Complies.)

2 Do you solemnly swear or affirm the testimony you
3 are about to give will be the truth, the whole truth and
4 nothing but the truth so help you God?

5 THE WITNESS: Yes, ma'am.

6 THE CLERK: Thank you.

7 THE COURT: Okay. Deputy, watch your step. If
8 you will, spell your name for the court reporter,
9 please.

10 THE WITNESS: C-H-R-I-S, R-O-B-I-N-S-O-N.

11 THE COURT: Thank you.

12 DEPUTY CHRIS ROBINSON,
13 having been duly sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MR. GHENT:

16 Q. Deputy Robinson, were you employed with the
17 Spartanburg County Sheriff's -- Spartanburg County City
18 Police Department in 2012?

19 A. Yes, sir.

20 Q. That would be February of 2012?

21 A. Yes, sir.

22 Q. And by your uniform you are now a deputy with the
23 Greenville County Sheriff's office?

24 A. Yes, sir.

25 Q. February 2012, again, you were working as an

1 investigator?

2 A. Just a road patrol officer.

3 Q. Road patrol officer. Did you in February,
4 specifically February the 27th of 2012, meet this young
5 woman right here at City Hall? (Indicating.)

6 A. Yes, sir.

7 Q. And is that where the City Police Department is
8 located?

9 A. Correct.

10 Q. And did you interview her?

11 A. Yes.

12 MR. GHENT: May I approach the witness, Your
13 Honor?

14 THE COURT: Yes, sir.

15 MR. GHENT: This is -- you've already had it
16 marked.

17 BY MR. GHENT:

18 Q. I show you Defendant's Exhibit 1 marked for
19 identification only. Just simply yes or no, if you'd
20 look at it, does that appear to be a statement you took
21 from Tashma Garner?

22 A. Yes.

23 Q. Thank you. Deputy, as a result or subsequent to
24 that statement, was the defendant, this gentleman over
25 here, Norman Garner, was he arrested?

1 A. Correct.

2 Q. On a charge of lewd act on a minor?

3 A. Yes, sir.

4 MR. GHENT: Please answer any questions counsel
5 might have.

6 THE COURT: Mr. Shabel, cross?

7 MR. SHABEL: May it please the Court?

8 THE COURT: Yes, sir.

9 CROSS-EXAMINATION

10 BY MR. SHABEL:

11 Q. Deputy Robinson, in between your meeting with
12 Tashma Garner and Mr. Garner's arrest, what else did you
13 do in your investigation?

14 A. Well after I interviewed them on the initial
15 report, I went and signed warrants on Mr. Garner.

16 Q. Did you at any point execute or attempt to
17 execute a search warrant for any physical evidence?

18 A. No, sir.

19 Q. Ever do any searches for any clothing?

20 A. No, sir.

21 Q. McDonalds bags?

22 A. No, sir.

23 Q. Oil?

24 A. No, sir.

25 Q. And, again, this was on February 27th of 2012; is

1 that correct?

2 A. I believe so.

3 Q. To the best of your knowledge was that a Monday?

4 A. I ---

5 Q. If you don't remember ---

6 A. I couldn't tell you.

7 Q. I understand. I'm not, not trying to trick you.

8 MR. SHABEL: If I could see that. (Indicating.)

9 May I approach the witness?

10 THE COURT: Yes, sir.

11 BY MR. SHABEL:

12 Q. This document, which you previously identified as
13 Defendant's 1, that's not your handwriting; is that
14 correct?

15 A. No, but it is the case number at the top.

16 Q. Right. And so the initial stuff, the case
17 number, today's date and time, that's your handwriting?

18 A. Correct.

19 Q. Everything else is in the handwriting of Ms.
20 Garner with the exception of the witness's signatures?

21 A. Correct.

22 Q. Now there are two witnesses' signatures. One
23 appears to say Nolita Davis, but the other one below
24 that, is that you?

25 A. That is me.

1 Q. All right. So you were present for this entire
2 statement?

3 A. Correct.

4 Q. Okay. What time is listed on the time of the
5 statement?

6 A. 1629 hours, which is approximately 4:30.

7 Q. In the afternoon?

8 A. In the afternoon.

9 Q. Okay, thank you. And did she talk to you before
10 writing this statement?

11 A. Yes. So basically I talked to her and got like a
12 brief, just briefly what happened and then we went to a
13 different room and conducted a more thorough interview.

14 Q. To the best of your recollection, was there
15 anything different from what she told you versus what
16 she wrote in this statement?

17 A. I can't recall.

18 Q. Thank you, nothing further.

19 MR. GHENT: Briefly, Your Honor?

20 THE COURT: Yes, sir, redirect.

21 MR. GHENT: May I approach?

22 THE COURT: Yes, sir.

23 REDIRECT EXAMINATION

24 BY MR. GHENT:

25 Q. The details of this statement, did she go into

1 considerable detail regarding the actions that were
2 committed by Norman Garner?

3 A. I would have to read it but from what I --

4 Q. Please take your time and do so.

5 A. (Reads statement.) Yes, sir. As far as the
6 details of the question, yes.

7 Q. Okay. And this is a girl who on that date was
8 15 years old?

9 A. I believe so.

10 Q. Okay. Did you arrest Mr. Garner?

11 A. No, sir.

12 Q. Do you know whether he was arrested within a
13 short time of this statement?

14 A. From what I can recall, basically we'll sign
15 warrants. If we don't have them in our custody at the
16 time or can't locate them within that day, we give them
17 to our warrants division.

18 Q. Was it your understanding from this statement
19 that this -- and from your conversation with Tashma
20 Garner, that this incident occurred in Spartanburg
21 County?

22 A. Correct.

23 Q. Thank you.

24 THE COURT: Anything else of this witness?

25 MR. SHABEL: Nothing other than I would offer

1 Defendant's 1 into evidence at this time.

2 MR. GHENT: Matter of law.

3 THE COURT: Yes, okay. Stay up there, please.

4 THE WITNESS: Okay, sure.

5 THE COURT: Mr. Foreman, this is one of those
6 times when there is something that we need to take up
7 outside of your presence. If you will follow the
8 bailiff into the jury room. Thank you.

9 (Whereupon, jury leaves the courtroom at
10 1:58 p.m.)

11 THE COURT: Okay. Yes, sir.

12 MR. SHABEL: Who goes first?

13 THE COURT: Well, Mr. Shabel, you're offering to
14 move, as I -- if you will, sir, it is your motion to
15 move into evidence the written statement of the victim
16 in this matter that was given on February the 27th of
17 2012, to the Spartanburg City police.

18 MR. SHABEL: That is correct.

19 THE COURT: To Mr. Chris Robinson; is that
20 correct?

21 MR. SHABEL: That is correct.

22 THE COURT: Okay. And for the record, the
23 witness that gave the written statement has testified
24 today. Yes, sir, Mr. Ghent.

25 MR. GHENT: Your Honor, I'll admit I'm a little

1 bit surprised because this is the first time it's been
2 sought to put this into evidence. Your Honor's just hit
3 the nail on the head. She was cross-examined about it
4 by counsel. I was very sparse in whatever I asked by
5 way of redirect to either her or this witness.

6 I could only say -- and I'm sorry, I was taken
7 off guard or I would have had something more in detail,
8 but this is using a document that counsel has intended
9 to use to impeach a witness as substantiative evidence.
10 I cannot -- I know that the rule is either to be found
11 under 803, the rule on hearsay, or 609 or 8 on
12 impeachment of a witness.

13 But I seem to recall, and I'm sorry to put it
14 like that, but we now have Westlaw where you can just
15 type it in, but I seem to recall that you cannot put
16 into evidence a document that was used only for purposes
17 of cross-examination or examination of a witness. My,
18 my recollection, I could not -- I could not have offered
19 a document by Ms. Garner to further buttress her
20 testimony. And it would seem to me that the same logic
21 has held true.

22 Now, I concede I don't remember when I read those
23 cases, whether it was prohibited only because of
24 cross-examination, but it just seems like a backdoor to
25 get an extra witness into the jury room. That is the

1 converse position. And the thing I did bring out on
2 cross-examination is he preceded his description of that
3 document as very different from her testimony. That
4 concerns me more than anything because I did go back to
5 that.

6 I asked Miss Garner specifics about that, so this
7 is a question of law that I wish I could just simply
8 hand Your Honor a case which says don't do it. Usually
9 items are within the Court's discretion in terms of
10 admissibility. I'm concerned about the effect it will
11 have at this point sending it back to the jury. Thank
12 you.

13 THE COURT: Okay, thank you. Mr. Shabel.

14 MR. SHABEL: Your Honor, I tend to agree with a
15 lot of what Mr. Ghent said as far as the law. And I
16 think he's correct, under 99.99 percent of the
17 circumstances could not introduce that document into
18 evidence. All it would be limited to would be to be on
19 cross-examination from Ms. Garner.

20 What made this different, however, is his
21 redirect of this particular witness where he handed the
22 document back to the witness and said is this a thorough
23 detail of what she told you. And I think based on that
24 I can introduce the document into evidence at this time.
25 I would agree with Mr. Ghent that but for that line of

1 questioning I would have no shot, no attempt to bring
2 that document.

3 MR. GHENT: Your Honor, that's a little bit like
4 the converse of what I'm saying excludes it, but I
5 simply ask because the last time I said I didn't do it I
6 shot my foot off, but I don't recall asking him if it
7 was a thorough detail of what she told him. And even if
8 I did, it's still a question of fact in terms of what he
9 said it was very different.

10 And let's assume it, but could the court reporter
11 check and see if I asked him is this a thorough detail?
12 I thought I asked about the conference that she had, but
13 I'm not gonna argue it because I don't know. I am
14 concerned it allows an extra witness into the jury room.
15 So could I simply ask did I say the words thorough
16 detail? Last time I ---

17 MR. SHABEL: And if I'm mistaken I apologize.

18 THE COURT: Okay. Ms. -- Julie, can you -- what
19 we are asking is that if you can review the testimony.
20 This would be the redirect of Officer -- Deputy Chris
21 Robinson. And my notes show that at 1:55,
22 approximately, Mr. Ghent began his redirect of this
23 witness. Why don't we take about ten minutes and we
24 will allow the court reporter to review the testimony.

25 MR. GHENT: Your Honor, could I offer one thing

1 that Ms. Moricle has just found on Westlaw?

2 THE COURT: Yes.

3 MR. GHENT: Is Rule 83 -- excuse me, 613(b)

4 THE COURT: 613, right.

5 MR. GHENT: Your Honor, is far ahead of me.

6 Sorry about that.

7 THE COURT: I welcome that and would also welcome
8 any law that Mr. Shabel wishes to propose.

9 MR. SHABEL: Thank you, Your Honor.

10 THE COURT: Okay. So we'll be in recess until
11 2:15. We'll allow our court reporter, because she can't
12 type and research at the same time, she will review the
13 transcript.

14 MR. SHABEL: Your Honor, if it helps, I have no
15 questions for this witness on recross. I don't know if
16 the Court wants to excuse him. It feels like we can. I
17 don't want it to appear that I'm keeping him. I'm not.

18 THE COURT: Okay.

19 MR. SHABEL: I'll let you decide that.

20 THE COURT: Okay. But in that it is during his
21 testimony that this document is being offered as an
22 exhibit, I did not want to release him.

23 MR. SHABEL: I understand. I defer to the Court
24 on that issue.

25 THE COURT: Hopefully we won't keep you much

1 longer.

2 THE WITNESS: Okay, no worries.

3 THE COURT: Sir, you can be at ease but you can't
4 talk to either side, okay? But if you do need to step
5 to the restroom... I've got bottled water right here if
6 you need water, okay?

7 THE WITNESS: Okay, thank you.

8 THE COURT: All right. We'll be at ease until
9 2:15.

10 MR. GHENT: Thank you, Your Honor.

11 MR. SHABEL: Thank you, Your Honor.

12 (Whereupon, a recess was had from 2:06 p.m. -
13 2:16 p.m.)

14 THE COURT: All right. Thank you, please be
15 seated. All right. Madam Court Reporter, did you have
16 an opportunity to review the transcript?

17 COURT REPORTER: Yes, ma'am, I did.

18 THE COURT: If you can read the pertinent part of
19 the transcript that counsel -- that Mr. Shabel had
20 referred to in offering the victim's written statement
21 into evidence, Defendant's Exhibit Number 1 for
22 identification into evidence.

23 (Whereupon, court reporter read back Page 110,
24 Line 25 through Page 111, Line 6.)

25 MR. SHABEL: For the record, that is what I was

1 referring to. If I used a different word earlier, I
2 apologize. I was going by my own memory, but I agree
3 that's the question that brought up my motion.

4 THE COURT: Okay. Yes, sir, Mr. Ghent.

5 MR. GHENT: I have another concern. We're here
6 actually before Your Honor because of a PCR of
7 Mr. Garner's first attorney who, if I'm not mistaken, is
8 no longer practicing law. Mr. Shabel is an excellent
9 attorney. Before I read this -- well, can we approach?

10 THE COURT: Certainly. We are off the record?

11 MR. SHABEL: Yes.

12 MR. GHENT: I just would ask that Your Honor ---

13 THE COURT: Yes, we're off the record?

14 MR. GHENT: Yes.

15 (Whereupon, a bench conference was held off the
16 record.)

17 MR. SHABEL: I withdraw my motion, Your Honor.
18 Thank you.

19 THE COURT: All right. So as I understand it,
20 Mr. Shabel's motion to have Defendant's Exhibit
21 Number 1, which has been marked for identification only,
22 statement of Tashma Garner, dated February the 27th of
23 2012, at 1629 p.m., a statement that was given in the
24 presence of Chris Robinson, who was a Spartanburg City
25 police officer at the time, and her mother Nolita Davis

1 has been withdrawn; is that correct Mr. Shabel?

2 MR. SHABEL: That is correct, Your Honor. Thank
3 you.

4 THE COURT: Okay.. Thank you, Mr. Ghent.

5 MR. GHENT: Thank you, Your Honor.

6 THE COURT: If you'll just hand that back to the
7 court reporter.

8 MR. GHENT: Yes, ma'am.

9 THE COURT: All right. And so with -- unless
10 there is anything else, when the jury comes back in I
11 will then release officer or Deputy Chris Robinson. Is
12 there anything else counsel?

13 MR. SHABEL: No, Your Honor.

14 MR. GHENT: No, sir -- no, ma'am.

15 THE COURT: That's not the first time that's
16 happened.

17 Okay. All right. Sir, if you'll just bear with
18 us, all right?

19 THE WITNESS: No problem.

20 THE COURT: All right. Mr. Bogan, if you'll
21 bring the jury back in, please.

22 MR. GHENT: I apologize, Your Honor.

23 (Whereupon, the jury enters the courtroom at
24 2:23 p.m.)

25 THE COURT: Okay. Mr. Foreman, is everybody

1 back?

2 THE FOREMAN: Yes, ma'am.

3 THE COURT: And is everybody ready to go forward?

4 THE FOREMAN: Yes.

5 THE COURT: Thank you for your patience. We did
6 have a matter that we had to take up outside your
7 presence. We have resolved that matter now. And so we
8 are back on the record with regard to this matter of the
9 State versus Norman Lance Garner. And we were
10 concluding the testimony of former Spartanburg City
11 police officer Chris Robinson.

12 Counsel, is there anything else for this witness?

13 MR. SHABEL: No, Your Honor.

14 MR. GHENT: No, ma'am.

15 THE COURT: All right. Is there any objection to
16 having Deputy Robinson released at this time?

17 MR. GHENT: None from the State.

18 MR. SHABEL: None, Your Honor.

19 THE COURT: Okay. Deputy Robinson, thank you,
20 sir.

21 THE WITNESS: Thank you, ma'am.

22 THE COURT: Thank you for being here.

23 (Whereupon, witness leaves witness stand and
24 courtroom.)

25 Counsel, next witness?

1 MR. GHENT: The State calls **Christian D.**

2 (Whereupon, witness comes forward.)

3 THE CLERK: Place your left hand on the bible and
4 raise your right. (Complies.)

5 Do you solemnly swear or affirm the testimony
6 that you're about to give will be the truth, the whole
7 truth and nothing but the truth so help you God?

8 THE WITNESS: I do.

9 THE COURT: Okay. Good afternoon, sir.

10 THE WITNESS: Good afternoon.

11 THE COURT: I'm going to ask you to get
12 comfortable, and then if you will spell your name for
13 the court reporter and then answer the questions of Mr.
14 Ghent. All right?

15 THE WITNESS: C-H-R-I-S-T-I-A-N.

16 THE COURT: And what's your last name?

17 THE WITNESS: **D.**

18 THE COURT: **D.**

19 THE WITNESS: Yes, ma'am.

20 THE COURT: Okay. Thank you, Mr. **D.**

21 Answer the questions by the Solicitor, all right?

22 THE WITNESS: Okay.

23 **Christian D.**

24 having been duly sworn, testified as follows:

25 DIRECT EXAMINATION

1 BY MR. GHENT:

2 Q. Christian, how old are you?

3 A. Fourteen.

4 Q. And where are you in school?

5 A. Spartan High.

6 Q. Do you play sports?

7 A. Yes, sir.

8 Q. What do you play?

9 A. Football and basketball.

10 Q. Do you know Tashma Garner?

11 A. Yes, sir.

12 Q. Are you related to her?

13 A. Yes, sir.

14 Q. What about Norman Garner?

15 A. Yes, sir.

16 Q. Are you related to him?

17 A. Yes, sir.

18 Q. In 2012, would Tashma come over and care for you
19 and your sister um ---

20 A. Mariah.

21 Q. Mariah.

22 A. Yes.

23 Q. Is it Mariah?

24 A. Yes.

25 Q. And do you remember, were your games back then,

1 your basketball games, league games?

2 A. Yes.

3 Q. Were they played in February on Saturdays?

4 A. Yes.

5 Q. Do you remember a Saturday, February 25th when
6 you had a game?

7 A. Yes. Yeah.

8 Q. And how did you get to and from that game?

9 A. My coach.

10 Q. And that would be James Sparks, the gentleman who
11 testified earlier?

12 A. Yes.

13 Q. And you remember that day?

14 A. Yes.

15 Q. Did your mother leave you in Tashma's care?

16 A. Yes.

17 Q. And you were nine or ten?

18 A. Yeah.

19 Q. Did the coach come by and pick you up that day?

20 A. Yes, sir.

21 Q. Do you remember what time it was roughly?

22 A. Again, it starts like ten something so probably
23 around 8, 9:30, something like that.

24 Q. And when the game was over he brought you home?

25 A. Yes.

1 Q. When the coach picked you up, did someone watch
2 you to the car?

3 A. Yes.

4 Q. Who?

5 A. Well, Tashma was at the door and my coach watched
6 me get in the car.

7 Q. What about the defendant Norman Garner?

8 A. I don't remember seeing him.

9 Q. You don't remember or are you testifying he was
10 not there?

11 A. I didn't see him. I probably wasn't paying
12 attention. I didn't see him.

13 Q. Are you saying he could have been in another room
14 and you wouldn't know it?

15 A. Nope. I went to the car, got in the car and we
16 left.

17 Q. But you left the car (sic) and went to the car
18 and got in the car. You left from the house, right?

19 A. Yes.

20 Q. You've been in the house?

21 A. Yes.

22 Q. Had Norman Garner brought McDonalds by earlier?

23 A. Yes.

24 Q. So you saw him then?

25 A. Yes.

1 Q. And you're saying that you don't remember seeing
2 him when you went to the car?

3 A. He had left again though after he brought the
4 breakfast.

5 Q. Okay.

6 A. So then that's -- when he was gone, that's when
7 my coach had came and got me.

8 Q. Well let's ask it this way. When you went from
9 the front door to the car, do you know whether Mr.
10 Garner, your uncle, was standing in the doorway?

11 A. No.

12 Q. You don't know that?

13 A. Huh-uh.

14 Q. You don't know whether he was watching you walk
15 to the car?

16 A. No.

17 Q. You don't know whether he waved to your coach?

18 A. No.

19 Q. So you're not saying your coach didn't see
20 someone who looked like him wave to him, you're saying
21 you don't know?

22 A. Me personally I don't know. I didn't see him.

23 Q. But you had your back to the door, correct?

24 A. Yes, I walked to the car.

25 Q. And you walked to the the car. Did you see your

1 coach wave?

2 A. As far as I remember I didn't see him do anything
3 but just smile at me and say what's up Christian and
4 got in the car to go to the local church.

5 Q. Norman Garner did bring you all McDonalds earlier
6 that day?

7 A. Yes.

8 Q. What time was that?

9 A. I don't know. I just know it was before, kind of
10 before I left to go to my game. And Coach usually come
11 and get me before the game because they don't start to
12 like ten-something, so that probably could have been
13 like nine-something.

14 Q. Was your sister there?

15 A. No.

16 Q. Where was she?

17 A. With other people, like family. A babysitter --
18 well, dad. That's who was watching her.

19 Q. Okay. So she had been left someplace else?

20 A. Yes.

21 Q. The only people who were left there were you and
22 Tashma?

23 A. Yes.

24 Q. When did you find out your mother was gonna be
25 leaving with Cathy that morning?

1 A. The day before.

2 Q. The day before?

3 A. Friday.

4 Q. On Friday it was known?

5 A. I mean she told me sometime during the day.

6 Sometime in the day that she was gonna be leaving.

7 Q. Did you see Norman Garner at your house that

8 Friday evening?

9 A. Yes. He came and then did something and left.

10 Q. When you got home from basketball, who brought
11 you?

12 A. My coach.

13 Q. And dropped you off?

14 A. Yes.

15 Q. Was Norman Garner there?

16 A. No.

17 Q. Was Tashma there?

18 A. Yes.

19 Q. Was she upset?

20 A. Yes. But I wasn't really paying attention. I
21 was just doing me.

22 Q. So the answer is yes, but you weren't paying
23 attention?

24 A. Yeah. She look like upset, but then -- she look
25 upset but then I wasn't really like that focussed on

1 that. I was focussed on other stuff like, you know, a
2 book.

3 Q. Did you talk to her when she looked like a little
4 upset to ask what was wrong?

5 A. No.

6 Q. Did you stay in the same room with her?

7 A. No.

8 Q. Were you there with her when her mother and her
9 brother arrived?

10 A. Yes.

11 Q. Did you get into the vehicle with her mother and
12 brother and her?

13 A. Yes.

14 Q. In the backseat?

15 A. Yes.

16 Q. And you still couldn't tell if she was really
17 upset?

18 A. I mean she looked upset, but I mean my mind
19 wasn't really too focussed on that.

20 Q. Okay. And when you got over to your aunt's
21 house, what did you do?

22 A. Over at Nikki's house? Me and Markel started
23 playing a game, talking and stuff.

24 Q. All right. Where did Tashma go with her mother?

25 A. I was just focussed on I just want to play a

1 game. I wasn't paying attention.

2 Q. You -- in football your, if I'm not mistaken, I
3 think you're a wide receiver?

4 A. And a safety.

5 Q. And a safety. And in basketball what position do
6 you play?

7 A. Three, four and five. A small forward, power
8 forward and the center.

9 Q. Most sports involve balls, correct?

10 A. Say it again.

11 Q. Both of those sports involves balls.

12 A. Yes.

13 Q. Correct?

14 A. Correct.

15 Q. And you've heard the expression keep your eye on
16 the ball?

17 A. Yes.

18 Q. You managed to make it from early that morning
19 until later in the afternoon. And essentially your
20 testimony is you never really saw the ball, you weren't
21 paying attention to what was going around you; isn't
22 that correct?

23 A. That's correct.

24 MR. GHENT: Thank you.

25 THE COURT: Sir, remain seated for just a moment,

1 all right?

2 Mr. Shabel.

3 CROSS-EXAMINATION

4 MR. SHABEL: No questions.

5 THE COURT: Okay. Anything else of this witness?

6 MR. GHENT: No, ma'am.

7 THE COURT: All right, sir. Thank you for being
8 here. You may step down. May this witness be excused?

9 MR. SHABEL: Without objection from defense, Your
10 Honor.

11 THE COURT: All right. Mr. Dawkins, if it is
12 your wish you can leave or you can stay. Thank you,
13 sir.

14 (Whereupon, witness leaves witness stand, stays
15 in courtroom.)

16 THE COURT: Mr. Ghent?

17 MR. GHENT: May it please the Court, the State
18 calls Renee Dawkins.

19 (Whereupon, witness comes forward.)

20 THE COURT: Okay. Ms. Dawkins, good afternoon,
21 ma'am. You'll be sworn.

22 THE CLERK: Left hand on the bible, raise your
23 right. (Complies.)

24 Do you solemnly swear or affirm the testimony you
25 provide will be the truth, the whole truth and nothing

1 but the truth so help you God?

2 THE WITNESS: Yes.

3 THE COURT: Okay. Ma'am, watch your step. And
4 then if you will state your full name and spell it for
5 the court reporter, please.

6 THE WITNESS: Renee Dawkins. R-E-N ---

7 MR. SHABEL: Your Honor, if I may have just a
8 moment to confer with counsel.

9 THE COURT: Yes, sir.

10 Yes, ma'am. Just be at ease for just a moment.
11 Good afternoon.

12 THE WITNESS: Good afternoon.

13 MR. GHENT: May it please the Court?

14 THE COURT: Yes, sir, thank you.

15 MARVA RENEE DAWKINS,
16 having been duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MR. GHENT:

19 Q. Ms. Dawkins do you live in Spartanburg?

20 A. Yes, I do.

21 Q. You living at the same house you did in 2012?

22 A. No, sir.

23 Q. Where were you living in 2012?

24 A. Collins Avenue.

25 Q. And do you have a street address?

1 A. It's Collins Avenue. Collins Park Apartments.

2 Q. Okay. Did you at that time have your daughter
3 and son living with you?

4 A. Yes.

5 Q. Who else?

6 A. That's it.

7 Q. Was your address in Spartanburg County?

8 A. Yes.

9 Q. Did Cathy -- is it McKinney?

10 A. Yes.

11 Q. Did she stay with you or just visit with you a
12 lot like a friend?

13 A. Yeah, she just visited a lot.

14 Q. Okay. And you were living at that address, and
15 that is in Spartanburg County, in February of 2012,
16 correct?

17 A. Yes.

18 Q. February 25th of 2012, correct?

19 A. Yes, sir.

20 Q. Are you related to Norman Garner?

21 A. I am.

22 Q. How?

23 A. My brother.

24 Q. Older or younger?

25 A. Older.

1 Q. How old is he?

2 A. Forty-six.

3 Q. And Buddy Garner was your brother too?

4 A. Yes.

5 Q. Was he Norman's younger brother?

6 A. Yes.

7 Q. And are you the youngest?

8 A. I am.

9 Q. How old are you?

10 A. Thirty-six.

11 Q. Do you recall the weekend of February 25th, 2012?

12 A. Yes, sir.

13 Q. Do you recall it was a Saturday?

14 A. It was.

15 Q. Was Tashma Garner at your house?

16 A. She was.

17 Q. Was she going to be staying with your children
18 and taking care of them while you went somewhere?

19 A. Yes, Christian.

20 Q. And did you give her some instructions about
21 Christian and like, and having Gatorade, things like
22 that?

23 A. Yes.

24 Q. All right. Was it uncommon for Tashma to take
25 care of Christian?

/

1 A. No. I worked as well while she would be at the
2 house.

3 Q. And Mariah too?

4 A. Yes.

5 Q. Was she good to them?

6 A. She was.

7 Q. Did you feel comfortable in trusting her?

8 A. Yes.

9 Q. With them?

10 A. Yes.

11 Q. That particular morning, February 25th, 2012,
12 Tashma was in a basketball -- excuse me, Juicy,
13 Christian was in a basketball league, was he not?

14 A. Yes.

15 Q. Tashma had stayed over?

16 A. She did.

17 Q. Do you recall that she woke up feeling poorly?

18 A. She didn't tell me she was feeling bad that
19 morning.

20 Q. She had been there the night before?

21 A. Yes.

22 Q. And had you and she become close?

23 A. Yes. I thought you were asking me something
24 else.

25 Q. And had that been a recent development?

1 A. We kind of always, you know, she was smaller so
2 off and on. I would go visit at her mom's house and
3 she's there. You know, when she got a little older she
4 would hang out with me, but not as, you know, younger.

5 Q. As a matter of fact, are you still fond of her?

6 A. I am.

7 Q. Is she still fond of you?

8 A. She is.

9 Q. Okay. The time all this happened she was
10 15 years old?

11 A. Right.

12 Q. And how did her father Buddy die?

13 A. In a car accident.

14 Q. Would you agree that was a real trauma for her?

15 A. Yes.

16 Q. Was it during that period she started reaching
17 out even more for you?

18 A. Yes.

19 Q. Was it during that period that she first got to
20 know Norman Garner?

21 A. Yes.

22 Q. The night of February 24th, the Friday, who was
23 there at your house?

24 A. Tashma, Cathy, Norman and Christian and myself.

25 Q. The next morning did you have somewhere to go?

1 A. I did.

2 Q. And that evening had -- was everybody aware that
3 you all were going to be leaving the next morning to go
4 somewhere?

5 A. Yes.

6 Q. Without too much detail could you just tell me
7 the city or the county you were going to?

8 A. It was McCormick, South Carolina.

9 Q. Okay. And that's a fairly extended trip.

10 A. It is.

11 Q. And both you and Cathy were going together?

12 A. Well, I went alone. I dropped Cathy off at her
13 son's house before I went down the road.

14 Q. Okay. You all had been trying on clothes? You
15 had been trying on clothes?

16 A. Yes.

17 Q. Who were you going to see?

18 A. A friend.

19 Q. A close friend?

20 A. Yes.

21 Q. That particular morning did it get a little
22 hectic? I mean, you were getting dressed, did you and
23 Cathy go to buy some shoes and ---

24 A. Yeah. I had got some shoes the day before and
25 they didn't fit well, so I was gonna take them back that

1 morning when the store opened.

2 Q. And did Norman come by while you were there?

3 A. He did.

4 Q. How long did he stay?

5 A. About 15 minutes.

6 Q. What time did he come back?

7 A. Maybe like eight or so.

8 Q. Was that because he had left some boots?

9 A. Yeah. He had came to get some boots he left.

10 Q. All right. Did you leave to go to McCormick
11 while Mr. Garner was still there?

12 A. He had left. He was gone when I left.

13 Q. Who exactly was your daughter Mariah staying
14 with?

15 A. She was with her grandparents.

16 Q. Had she asked to go to her grandparents?

17 A. Yeah. She would go over to her grandparents, you
18 know, every other weekend or so or her aunt's house.

19 Q. All right. But she was not there --

20 A. No.

21 Q. -- when Norman was there that morning?

22 A. Huh-uh.

23 Q. And, again, about what time did you leave?

24 A. I left around 9:30.

25 Q. And it was just Christian?

1 A. And Tashma.

2 Q. And Tashma?

3 A. Yes.

4 Q. Was Tashma asleep in the bed?

5 A. She went to lay back down.

6 Q. But it's your testimony she didn't indicate she
7 was feeling bad?

8 A. No, she didn't tell me she was feeling bad.

9 Q. She didn't tell you ---

10 A. We were all up and just getting dressed. And we
11 went around and laying out clothes, just lying around.

12 Q. So is it possible that you might not really ---

13 A. It was possible that she could have been feeling
14 bad because she was laying around.

15 Q. Okay. And you did mention to her be sure that
16 Juicy gets some Gatorade?

17 A. Yeah. We just didn't ---

18 Q. I'm curious about ---

19 A. We just didn't have a conversation about her
20 being, you know, feeling bad.

21 Q. Right. I've gotta ask this because the Gatorade
22 thing, particularly, was that Juicy's favorite drink?

23 A. Yeah. I just usually have him some, like,
24 Gatorade drinks or stuff for his games.

25 Q. This is the only reason. Is that why he was

1 nicknamed Juicy?

2 A. Yeah, he liked juice.

3 Q. Okay. I've been dying to ask you that. And
4 Christian was in a basketball league and he was ten
5 years old or so?

6 A. Nine.

7 Q. Nine. He's a good football player, isn't he?

8 A. He is.

9 Q. He's a good basketball player, isn't he?

10 A. He is.

11 Q. And, again, the house you were living in at that
12 time was in Spartanburg County?

13 A. It was.

14 Q. Thank you. Please answer any questions counsel
15 might have.

16 THE COURT: Mr. Shabel.

17 MR. SHABEL: One moment, Your Honor.

18 THE COURT: Yes, sir.

19 MR. SHABEL: No questions, thank you.

20 THE COURT: Okay. Anything else of Ms. Dawkins,
21 counsel?

22 MR. GHENT: Nothing, Your Honor.

23 THE COURT: Any objection to Ms. Dawkins being
24 excused?

25 MR. SHABEL: None whatsoever.

1 THE COURT: Okay. Thank you, ma'am. Thank you
2 for being here.

3 THE WITNESS: Thank you.

4 THE COURT: Watch your step.

5 (Whereupon, witness leaves the witness stand,
6 stays in the courtroom.)

7 MR. GHENT: Your Honor?

8 THE COURT: Yes, sir.

9 MR. GHENT: May we approach?

10 THE COURT: Yes.

11 (Whereupon, a bench conference was held off the
12 record.)

13 THE COURT: All right. Mr. Foreman and members
14 of the jury, I have been advised that there are some
15 matters that counsel needs to discuss, and so if you
16 will retire to the jury room and we will be back at
17 3:10, which is 20 minutes from now. Thank you. And,
18 again, no deliberating, no discussing the evidence that
19 you've seen, no discussions about the case. Thank you.

20 (Whereupon, jury leaves the a courtroom at 2:50
21 p.m.)

22 We'll be a at ease, thank you.

23 (Whereupon, a recess was had from 2:51 p.m. -
24 3:07 p.m.)

25 (Whereupon, jury enters the courtroom at 3:07

1 p.m.)

2 THE COURT: Okay. Mr. Foreman, are we ready?

3 THE FOREMAN: Yes, ma'am.

4 THE COURT: I know it's a few minutes early, but
5 I didn't think you all would mind. Okay. We are ready
6 to proceed. Mr. Ghent?

7 MR. GHENT: Your Honor, at this time the State
8 rests.

9 THE COURT: Okay, thank you. Mr. Shabel?

10 MR. SHABEL: Your Honor, I think at this time I
11 do have a couple of matters of law that need to be taken
12 up outside the presence of the jury.

13 THE COURT: Okay. All right. Mr. Foreman, if
14 you will, lead your jurors back into the jury room.
15 Thank you.

16 (Whereupon, jury leaves the courtroom at 3:08
17 p.m.)

18 THE COURT: Yes, sir, Mr. Shabel.

19 MR. SHABEL: If it please the Court, on behalf of
20 Mr. Garner, I would ask at this time for a directed
21 verdict. In viewing the evidence in the light most
22 favorable to the State of South Carolina, I believe that
23 the State cannot meet it's burden of proof for the
24 elements of lewd act on a minor. And there's no
25 possible way a jury can convict him based on the

1 evidence presented. It's all been very speculative and
2 not any concrete evidence of any kind. We'd ask the
3 Court for directed verdict.

4 THE COURT: Thank you, sir. Mr. Ghent?

5 MR. GHENT: Your Honor, I will be brief. I think
6 we have clearly met the requirements for the matter
7 going to the jury. We're not concerned with the weight
8 of the evidence, merely with the existence. We've got
9 the victim, who has given first-hand testimony. We have
10 a string of witnesses afterwards who corroborate the
11 fact that she just happened to be very upset and other
12 matters that are consistent with what she said. I would
13 submit there is sufficient evidence to go to the jury
14 and ask that the motion be denied. Thank you.

15 THE COURT: Thank you, sir. Anything else
16 Mr. Shabel?

17 MR. SHABEL: No, Your Honor.

18 THE COURT: Okay, thank you both. Thank you Mr.
19 Shabel for your motion, Mr. Ghent for your response. My
20 ruling with regard to the defendant's Rule 19 of
21 criminal procedure for directed verdict, I will note
22 that in ruling on the motion I am to consider only the
23 existence or non existence of the evidence and on its
24 weight. And so with that I will respectfully deny your
25 motion, Mr. Shabel at this time.

1 MR. SHABEL: Okay.

2 THE COURT: Thank you, sir.

3 MR. SHABEL: Thank you, Your Honor. My client
4 does have a right to testify or a right not to testify.
5 It is my understanding he does not wish to testify under
6 the circumstances of the case. If the Court would
7 inquire of that at this time.

8 THE COURT: Okay. Good afternoon, Mr. Garner,
9 sir.

10 THE DEFENDANT: Good afternoon.

11 THE COURT: If you would please stand. Madam
12 Clerk, if you could swear Mr. Garner in.

13 THE CLERK: Sir, if you will please raise your
14 right hand.

15 Do you solemnly swear or affirm the testimony
16 that you're about to give will be the truth, the whole
17 truth and nothing but the truth so help you God?

18 THE DEFENDANT: I do.

19 THE COURT: Okay. As stated, sir -- oh, please
20 be seated, thank you. As stated, we have reached the
21 point in this trial where you have the right to present
22 your defense. In doing so, I would advise you that you
23 have the right to testify on your own behalf if you
24 choose to do so. I will also advise you, however, that
25 you do have the right to remain silent. And what I want

1 to do is make you aware of the provision of our U.S.
2 Constitution that provides for someone not to be
3 required to testify.

4 When I finish my discussion with you, I'll allow
5 you to ask questions about this right, if you wish to do
6 so. Also, I will explain that you have the right to
7 discuss it with others if you choose to do so. Do you
8 understand what I'm doing at this point, sir?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: All right. The right that I am
11 referring to is embodied in the Fifth Amendment of the
12 United States constitution. That amendment reads in
13 part that no person shall be compelled in a criminal
14 case to be a witness against himself. What that means
15 is that while you do have the right to testify, you also
16 have the right not to testify. And no one can make you
17 or force you to testify in this case.

18 I will advise you that if you decide to testify,
19 your testimony would be governed by the same rules that
20 govern the testimony of any other witnesses in this
21 case. You will be examined by your lawyer, and you will
22 also be cross-examined by the State's attorneys. I do
23 not know, sir, if there are convictions on your record
24 that they could use to impeach you. And maybe I need to
25 enquire of that at this time.

1 MR. GHENT: Your Honor, he has two 1987
2 convictions for criminal sexual conduct. I will say
3 that he also has a PCR pending. Although, the statute
4 of limitations is on one hearing, he recently filed one
5 on those two. That is pending. I just want to make
6 that clear on his behalf. He also has ---

7 THE COURT: He has a PCR pending with regard to
8 those?

9 MR. GHENT: Yes, those two.

10 MR. SHABEL: Yes.

11 THE COURT: Okay. All right, thank you.

12 MR. GHENT: That he recently filed. I will also
13 say that the -- anything else would be well beyond the
14 ten years. I think an argument could be made as to the
15 1987 convictions, but just because it can be made
16 doesn't mean it's going to get anywhere.

17 He was convicted, however, in 19 -- it was a gun
18 charge in Federal Court. It was in like 1997 or so.
19 And he received a sentence of 210 months, which is over
20 18 years. That charge -- that sentence was reduced
21 under the Federal rule pertaining to sentence
22 reductions, Rule 35, for substantial assistance to the
23 government. I will simply say euphemistically that
24 means substantial cooperation information to the
25 government.

1 I've never seen, even whenever I was doing
2 Federal criminal defense work or prosecutor, I've never
3 seen this size of a reduction. But it went from
4 18 years and, I think, four months to a little bit over
5 eight years. That is one heck of a reduction. I don't
6 know whether that led to picking up Noriega or what, but
7 it was a humdinger of a reduction. Those are the two he
8 had.

9 I would argue that the latter one, that when you
10 take the sentence, it still might fit within, but those
11 are the two I have arguments as to both. The '87 is
12 more of a stretch, but I still think I can argue it.
13 And the gun charge, I think, is more significant because
14 of the reduction of the original sentence. But those
15 are the two that we would argue. And I'm giving Mr.
16 Shabel notice and time to -- for him to be aware that
17 those are two that I would argue we would at least seek
18 to get use for impeachment. And I would ask that the
19 record note, I've gone nowhere near the -- under 404(b)
20 in the case in chief or res gestae or anything else.
21 I've stayed aware and away from those.

22 THE COURT: Okay, thank you.

23 MR. GHENT: Yes, ma'am.

24 THE COURT: Thank you Mr. Ghent. Okay. And so
25 Mr. Garner, sir, you would be cross-examined by the

1 State's attorney. Apparently they have indicated that
2 there are some convictions on your record. Whether that
3 would be admissible or not, we would have to take that
4 up at that time if you testified. Do you understand?

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: And so I guess to put it as broadly
7 as possible, there could be some consequences with your
8 testimony on cross-examination. All right? And so, if
9 you -- and your lawyer can discuss that with you
10 further. I'm going to, after we do this, after I finish
11 telling you and discussing this with you, I will give
12 you an opportunity to discuss this with Mr. Shabel,
13 okay?

14 THE DEFENDANT: Okay.

15 THE COURT: So your lawyer can talk to you about
16 the consequences if you do testify in the case, but that
17 you would be subject to cross-examination. Do you
18 understand?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: All right. I will also advise you
21 that if you decide not to testify, I will instruct the
22 jury that the jury cannot give that fact any weight or
23 could not even discuss that fact during their
24 deliberations. In other words, if you decide not to
25 testify, my instruction to the jury is that would have

1 no effect on their deliberations and should not have any
2 prejudice to your case.

3 Now, the decision as to whether or not to
4 testify, that is left entirely up to you and you alone.
5 You have the right to discuss the decision with your
6 lawyer. You have the right to discuss it with family
7 members. But in the final analysis the decision is
8 yours and yours alone.

9 So, again, first of all, do you understand this
10 right, this right not to testify in your case?

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: All right. Do you have any questions
13 about that right?

14 THE DEFENDANT: No, ma'am. I wish not to
15 testify.

16 THE COURT: (Indicating.)

17 THE DEFENDANT: I do not wish to testify, Your
18 Honor. Sorry.

19 THE COURT: Have you had an opportunity to
20 discuss that decision as to whether or not to testify
21 with your legal counsel?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: Have you discussed it with anyone
24 else or do you have someone else you'd like to discuss
25 it with?

1 THE DEFENDANT: No, ma'am.

2 THE COURT: Would you like any additional time to
3 talk this discussion over with your lawyer before making
4 any final decision?

5 THE DEFENDANT: No, ma'am.

6 THE COURT: And so, sir, I'll ask you more
7 formally is, in fact, do you intend to testify in your
8 case?

9 THE DEFENDANT: No, ma'am.

10 THE COURT: All right. Okay, thank you, sir.

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: Okay. So, counsel, do you all want
13 to approach one more time before we bring the jury in?
14 And I think I wanted to ask you before you ---

15 MR. SHABEL: Yes. Yes.

16 THE COURT: Thank you.

17 (Whereupon, a bench conference was held off the
18 record.)

19 THE COURT: Okay. If there's nothing else at
20 this time, then we will bring the jurors back in.
21 Right, counsel?

22 MR. SHABEL: Yes.

23 (Whereupon, jury enters the courtroom at
24 3:22 p.m.)

25 THE COURT: Okay. Mr. Foreman and members of the

1 jury, are we ready to proceed?

2 THE FOREMAN: Yes, ma'am.

3 THE COURT: Okay, thank you. All right. I
4 believe the State had rested. And Mr. Shabel?

5 MR. SHABEL: Your Honor, Defense rests.

6 THE COURT: Okay. All right. Mr. Foreman and
7 members of the jury, the Defendant has rested its case.
8 And so the next phase of the trial will actually be
9 closing arguments of counsel and the charge on the law
10 by me. And so there are matters that I need to take up
11 with the lawyers this afternoon regarding the law that
12 you all will be charged and they need to have an
13 opportunity to review that. And so -- and we have some
14 other matters that we need to discuss.

15 And so at this time I will release you all for
16 the day. And we'll have the jury return at 10:30 in the
17 morning. Does that meet everyone's schedule?

18 MR. SHABEL: Yes, Your Honor.

19 THE COURT: Okay.

20 MR. SHABEL: Thank you.

21 THE COURT: And so if you will, and our wonderful
22 bailiffs, they need to be in the jury assembly room or
23 in the jury room in the morning?

24 THE BAILIFF: Jury room.

25 THE COURT: Okay. And so if you all will now,

1 you will be excused for the day, but before you are let
2 me remind you again, you cannot discuss this with
3 anybody. You cannot do independent research. You can't
4 Google people. And I know that just seems so foreign to
5 what we do now with our lives with everything being on
6 the internet, but you must refrain from even discussing
7 the name of the defendant with anybody because in more
8 and more cases the spouse or the family member or the
9 friend Googles someone and tries to get some information
10 and that information more than likely is not accurate,
11 may not even pertain to this matter. And so I am asking
12 you all with the most sincerity and firmness that I can,
13 do not do any independent research. And don't discuss
14 this with anyone. Don't begin your deliberations or
15 even thinking about the last phase of the trial.

16 Go home, enjoy yourselves. And if you're asked
17 by your spouse, like I will be tonight by mine, what did
18 you do today, I'm gonna say I sat in on a very
19 interesting jury trial that's not yet concluded.

20 Thank you. Have a nice evening. Be here at
21 10:30 in the morning. And I think the bailiffs will
22 take your badge, okay? Thank you.

23 (Whereupon, the jury leaves the courtroom at
24 3:25 p.m.)

25 THE COURT: Okay. Mr. Shabel?

1 MR. SHABEL: I know it seems strange, but I think
2 I need to, under the rules, renew my motion for directed
3 verdict at this time even though I didn't put in any
4 additional evidence.

5 THE COURT: Okay, thank you, sir. Mr. Ghent?

6 MR. GHENT: Again, for the same reasons we would
7 ask that it be denied.

8 THE COURT: Okay. Counsel, Mr. Shabel, I think
9 that you are correct that out of an abundance of caution
10 to preserve your client's rights, that motion needs to
11 be made. And pursuant to Rule 19 of our rules of
12 criminal procedure, I will again deny the motion.

13 MR. SHABEL: Thank you, Your Honor.

14 THE COURT: The -- I am to consider only the
15 existence or non existence of evidence and not its
16 weight at this point. Thank you, sir. I am denying the
17 motion. And so with that we are reconvening in the
18 morning at 10:30. And if counsel wants to see me, we
19 are off the record, but if counsel wants to see me in
20 chambers we can discuss the other matters we need to.

21 MR. SHABEL: Great. Thank you, Your Honor.

22 THE COURT: Thank you.

23 MR. GHENT: Thank you, Your Honor.

24 (Whereupon, Court concluded at 3:27 p.m.)

25 --- THIS ENDS DAY ONE OF TRIAL ---

1 THE STATE VS. NORMAN LANCE GARNER, DAY TWO OF TRIAL

2 THE COURT: Counsel, before we begin this morning
3 is there anything that I need to take up with you before
4 you make your closing arguments?

5 MR. SHABEL: None from Defense, Your Honor.

6 MR. GHENT: None from the State.

7 THE COURT: Okay. And before the jury comes in,
8 I'll go ahead and ask and put on the record, yesterday
9 afternoon we had a lengthy conference regarding my
10 charge and instructions for the jury that will follow
11 your closings. Are there any objections or exceptions
12 to that as we discussed it on yesterday?

13 MR. GHENT: None from the State, Your Honor.

14 MR. SHABEL: None from Defense, thank you.

15 THE COURT: Okay. And I will ask you again after
16 I made it.

17 MR. SHABEL: Thank you.

18 THE COURT: All right. And with regard to the
19 verdict form, have both of you all had an opportunity to
20 review that?

21 MR. GHENT: Yes, ma'am.

22 MR. SHABEL: Yes, ma'am. Yes, Your Honor.

23 THE COURT: And are there any objections or
24 exceptions to the verdict form? And if you all want to
25 look at it again, I've got extra copies.

1 MR. SHABEL: None from the Defense.

2 MR. GHENT: None from the State.

3 THE COURT: Okay. All right.

4 (Whereupon, jury enters the courtroom at
5 10:48 a.m.)

6 THE COURT: Okay, good morning. Mr. Foreman, are
7 we ready to proceed?

8 THE FOREMAN: Yes, Your Honor.

9 THE COURT: Okay. I hope everyone had a nice
10 evening. And in just a moment we will commence. I do
11 need to ask the counsel to come forward for just one
12 moment.

13 (Whereupon, a bench conference was held off the
14 record.)

15 THE COURT: Okay. Mr. Foreman, sir, because we
16 are starting, it's 10 till 11, at this point I
17 anticipate that this will take you through the lunch
18 hour. And rather than releasing you, we will order
19 lunch for you. I'm informed the choices are Chick Fil-A
20 or Jason's Deli. If you all right now want to, just in
21 a very relaxed fashion, indicate to your foreman what
22 your preference would be, I'll have the clerk go ahead
23 and order something. That would be easier so we're not
24 delayed.

25 (Whereupon, jury confers off the record.)

1 THE COURT: Okay. Why don't we do this, the
2 clerk, who has the checkbook, is much more experienced
3 than I am with regard to this matter, she's going to --
4 she has requested if you all will step back into your
5 jury room, I think you can place your specific orders
6 rather than them ordering a tray or something. And
7 we'll get that going for you because it takes a while,
8 okay?

9 MR. FOREMAN: Thank you, Your Honor.

10 THE COURT: All right. Thank you so much.

11 (Whereupon, jury leaves the courtroom at
12 10:53 a.m.)

13 MR. GHENT: Your Honor, may I take the
14 opportunity to step to the restroom now if the water is
15 running again?

16 THE COURT: Yes, sir.

17 MR. GHENT: Thank you.

18 THE COURT: Yes, sir, you may. Okay. We'll be
19 at ease until 11?

20 THE CLERK: Yes, that's good.

21 THE COURT: Okay. Until 11 if anyone else needs
22 to step out.

23 (Whereupon, recess was had from 10:54 a.m. -
24 11:01 a.m.)

25 (Whereupon, jury enters the courtroom at 11:02

1 a.m.)

2 THE COURT: Okay. Mr. Foreman, are we ready to
3 proceed?

4 THE FOREMAN: Yes, Your Honor.

5 THE COURT: Okay. And thank you all. It makes a
6 lot more sense than you all adjourning to go to lunch
7 off the property and then come back and begin your
8 deliberations. Thank you so much.

9 All right. We are back on the record with regard
10 to the matter of the State of South Carolina, county of
11 Spartanburg versus Norman Lance Garner. And as I
12 explained yesterday, the parties have now concluded with
13 their presentation of evidence in the case and it is
14 time for the attorneys to make their closing arguments.

15 The arguments of the attorneys are not evidence
16 in this case. Their statements and arguments are meant
17 to help you understand the evidence and apply the law to
18 the evidence. You should disregard any remark,
19 statement or argument which is not supported by the
20 evidence presented during the trial or the law that I
21 will explain to you after the arguments.

22 And so now I will ask you to please direct your
23 attention to counsel, first for the State.

24 Mr. Ghent?

25 MR. GHENT: May it please the Court?

1 THE COURT: Yes, sir.

2 CLOSING STATEMENT

3 MR. GHENT: Mr. Shabel, Mr. Foreman, ladies and
4 gentlemen of the jury. Again, I want to thank you for
5 your service. I also want to thank you for the
6 attention you've given. I know it hasn't been a long
7 trial, but you have really been watching and listening
8 and that means the world to us because what now follows
9 is your decision.

10 As the judge has indicated, we are advocates.
11 Mr. Shabel and I are advocates. I am going to attempt
12 to summarize to you what I believe the State has proven.
13 You will sort through and decide whether or not you
14 believe that the State has proven guilt beyond a
15 reasonable doubt.

16 The judge will explain to you that a reasonable
17 doubt is not just any doubt, it's a doubt for which
18 someone is seeking in fairness to find the truth. Can
19 get -- I previously said, it's very important that you
20 recognize and understand that your verdict must be
21 unanimous. You came as 12, you act as one. Veredicto,
22 verdict. That is the result. You find the facts. It's
23 our job to prove the facts.

24 You can believe all of what a witness said. You
25 can believe some of what a witness said. You can

1 believe none of what a witness said. I would
2 respectfully submit that you will consider the evidence,
3 and that based upon the evidence you should make a
4 determination in your decision that we have proven the
5 defendant guilty beyond a reasonable doubt.

6 Here's why. To begin at the beginning, the
7 victim, Tashma Garner, is a young woman who has stood by
8 what happened to her, came forward with what happened to
9 her, and will not back down. A question that I think is
10 fair for you to ask one another, and in fact I invite
11 you to do so, what would be her motive in doing this?
12 Why would she in 2012 just out of the blue decide that
13 she was gonna make up something against her uncle, the
14 defendant, Norman Garner?

15 And she at 21 is standing by what she has said.
16 In 2012 Tashma was a young woman. She is now 21 years
17 old. She lost her father, her daddy. I emphasize that.
18 She lost her father, Buddy Garner, to a car wreck.
19 Mr. Garner was at that time 33 years old. Tashma was
20 12. That means she was on the cusp of becoming a
21 teenager. She had been a daddy's girl. It was a huge
22 loss for her.

23 You have seen her in the courtroom. You have
24 listened to her. You have been able to observe her.
25 You have listened to her story on both direct and

1 cross-examination. I would submit what you've seen is a
2 very poised, a very articulate, a very intelligent and a
3 very determined young woman who basically said this is
4 not gonna happen to me and I will not back down.

5 And, yes, she is a beautiful young woman.
6 Anybody can see that. I imagine she was beautiful at
7 15. I imagine that she was growing rapidly into the
8 appearance of a young woman. She was still a teenager,
9 though, she was not an adult. I reiterate, Tashma was
10 not an adult.

11 But as her brother said, and he did not, I would
12 submit, appear as someone who was anxious to say this or
13 that. You can form your own opinion about Markel, but I
14 would submit that he was testifying to you from his own
15 knowledge of what he recalled. He said his sister was
16 not a drama queen. He said that, just like she
17 testified to, he got a text that woke him up.

18 I'm not good at this text stuff. My wife's
19 thing-a-ma-jig does a song or something. Some people's
20 does a ding or something. I have gotten so frustrated
21 that I have almost broken the thing they gave me for the
22 office because my phone is one of these old things that
23 doesn't have a flipper and you can't do anything on it
24 because that's all I want.

25 Markel testified he is not somebody who is easy

1 to arouse in the morning. I think between he and his
2 mother it was pretty much established that between a
3 blow torch and a stick of dynamite, he is not someone
4 who's gonna jump out of bed unless something really gets
5 him up and going. Well, something did.

6 His sister texted him and then she called and she
7 sounded upset. Now, I would submit that Markel was kind
8 of playing it down, but he was upset. Markel didn't
9 want to sound like he was a teenage drama queen. But he
10 was clearly upset. He got out of bed and got dressed.
11 Comes running down to his mother's room. Tries to get
12 the keys from her, tells her something's happened to
13 Tashma.

14 Her mother gets dressed and they immediately get
15 into the truck and they drive over to Tashma's aunt's
16 house, which is in Spartanburg County. Took about 10,
17 15 minutes. And what had happened brings them to the
18 house. Now, this is the groundwork. Tashma had been
19 having some difficulties with her mother. Tashma was
20 15 years old, she had lost her daddy. Anybody who's
21 ever raised a teenage daughter, anybody who's ever been
22 a teenager knows that if you're a guy, you and your
23 daddy are gonna get into it. If you're a girl, you and
24 your momma are gonna get into it. That's just the way
25 it happens.

1 And if you looked at Nolita Davis, Tashma's aunt,
2 she's still, in my opinion, I can't believe the woman is
3 like 36 because she looks like to me, but I'm 66 so what
4 do I know, like she's about 16 or 17. She looks like a
5 kid. And she and Tashma related to one another. And
6 Tashma started staying over there.

7 Now, think about this. Tashma became close and
8 she started watching Nolita's children when Nolita would
9 go off to work or whatever. That particular Saturday
10 Nolita and Cathy had places to go. Tashma had stayed
11 over. They had all been visiting. Where was the
12 defendant? The defendant put in an appearance there.
13 And the testimony showed that he did not stay long. But
14 the testimony also showed that she's -- not Nolita but
15 Marva. My apologies, I confused -- my apologies, I
16 confused Marva and -- Marva's got -- it's Marva, Renee
17 and Malia (sic). So you all are shaking your heads like
18 we got it. You're old. We got ahold of it.

19 Okay. So the bottom line is this is what is
20 important. Marva and Cathy on that Friday night when
21 Tashma was there, when Juicy or Christopher was there,
22 the testimony of Marva was that the defendant, Norman,
23 did come by. And Marva, Renee and Cathy were talking
24 about the plans for the next day. Norman was there.
25 They were talking about the plans of going somewhere the

1 next day.

2 Marva established that Renee had been left with
3 her grandmother. Where was Juicy? The young boy who
4 played basketball, he was there. He was there that
5 night. He was there the next morning. Tashma woke up
6 feeling badly. Got up because Cathy and Marva were
7 running around to get ready and Marva was getting ready
8 to go to McCormick. Cathy had other things to do.

9 And I asked Marva about whether or not she had
10 told, whether or not she remembered to have the Gatorade
11 for Juicy. And I asked, and she confirmed, yes, that's
12 how he got his nickname was juice. Gatorade is his
13 drink.

14 He's now in high school. He plays wide receiver,
15 he plays basketball. Those require you to keep your eye
16 on the ball. Marva leaves with Renee. Norman had put
17 in an appearance earlier, according to what was said,
18 and then left.

19 Marva and Renee were gone. Excuse me, Marva and
20 Cathy were gone. Norman comes by. He comes by with
21 McDonalds. He comes by with McDonalds for two. He
22 comes by with McDonalds for Juicy. He comes by with
23 McDonalds for Tashma.

24 Now, by this time the testimony showed that the
25 victim, Tashma, was at first she had never known this

1 man. He was her father's older brother. He's in his
2 40's. But her father had died in a car wreck. She had
3 been a daddy's girl. She was comfortable and trusting.
4 She didn't know him.

5 And then some strange things started happening.
6 I asked about buying inappropriate things. You can
7 discuss among yourselves what the response was and you
8 can decide for yourselves was that inappropriate. She
9 says she talked about it with her mother, that's Nolita,
10 and her aunt, that's Marva.

11 She also said that he offered her cigarettes and
12 alcohol. And also that he called her one night to come
13 out and join with his work cleaning the building. That
14 is the man she was getting to know. That is the man
15 that she and Juicy, the son, were left alone for him to
16 come by. And, again, he brought breakfast for two.

17 The victim, Tashma -- and I hate calling her that
18 because she is a brilliant, hard working young woman who
19 deserves the respect of a person who will not back down
20 and has made something of herself and will continue to
21 do so. You can judge her credibility. But, again, what
22 would be the motive? She's not a drama queen. Her
23 actions speak for her character. She is exactly what
24 she appears to be, smart, intelligent, straightforward
25 and I am not backing down.

1 She woke up the next morning feeling bad. She
2 felt like she was getting -- because she wasn't feeling
3 that good the night before, but she was really feeling
4 it the next morning. She got up, everybody's running
5 around. She goes back to bed, that leaves her and Juicy
6 alone. And who should come by but Uncle Norman with
7 breakfast for two. And the question I'm sick. Well,
8 can I go get you some medicine? Well, I mean, sure,
9 yeah.

10 And he goes and he gets some medicine and he
11 brings it back. And throat spray is included in that.
12 And there's something else that's included, baby oil, to
13 give her a massage. What in the world does baby oil
14 have to do with a cold? I mean, what in the world is
15 going on with that, does common senses say?

16 And he has her lay down, or she may already be
17 laying on her stomach. She may already be getting
18 uncomfortable. Anybody who might ask why don't you just
19 get up and slap the crud out of him? Have you ever
20 heard the expression a deer frozen in the headlights?
21 This was a 15-year-old girl.

22 He then gets on top of her, pushes up the shirt,
23 and starts rubbing her. And then starts using the baby
24 oil. And I want to point out, I'm being facetious, but
25 none of this seemed to get on to her neck, her throat or

1 up onto her sinuses. It got onto her breasts and he
2 then moved down. Her shorts. And, of course, to make
3 someone with a cold feel better, you rub their breasts
4 and their buttocks. That's part and -- I mean, that's
5 in every commercial on television that has to do with
6 treatment for a cold. Common sense says no.

7 And she starts to cry, sobbing, but not -- he's
8 not going to make her boohoo. And he says that, hey,
9 maybe I've overplayed things and he gets up. And he's
10 asking you okay. And she's on the phone and he comes
11 back in and she gets off. He leaves.

12 The family gets there. A brother, a mother, a
13 daughter and a nephew she's caring for are there
14 waiting. Now, that was something that earlier confirmed
15 that he was there. So that this is not all a family
16 affair.

17 There was a basketball coach, good man, Jaime
18 Sparks. Teaches kids how to play basketball. If they
19 don't have a ride, he's gonna go pick them up, he's
20 gonna buy them lunch, he's gonna take them home. Now
21 that's a real, true good person. He said when he picked
22 up Christian that there was a man standing in the
23 doorway who he'd seen there before, who was black,
24 middle age, about his size, waving and watching as if he
25 was watching Juicy to the car, watching to make sure

1 that Juicy left. But it had the appearances to him of
2 watching to make sure that Juicy was safe, got safely
3 into the car. And he drove Juicy to the game and he
4 brought Christian back.

5 I questioned Christian. You can form your own
6 opinion. I do not, I cannot sit in judgment of a young
7 man, nor can I in his credibility in the
8 cross-examination. It is my job, my duty, my sworn
9 obligation to try to do everything I can to show you all
10 the facts of the case. And I questioned him about his
11 uncle. And he was as vague as he could be, straddling
12 the fence, much the same way the defendant had straddled
13 his niece.

14 He was trying to walk a very fine line. I do not
15 begrudge that. He was trying not to get in the middle
16 of what this is supposed to be and it is not. It is
17 supposed to be a family matter. It is not. It is a
18 crime. It is a criminal matter.

19 Juicy did his best. Christian did his best, but
20 Christian is an athlete and it just so happens that he
21 is a wide receiver and he plays basketball. And it gave
22 me the perfect metaphor and I ended my cross-examination
23 by asking him both those require keeping your eye on the
24 ball. Yes, sir, they do. And you're telling me that
25 with all this going on, with the ball being right there,

1 that being your Uncle Norman, you can't recall whether
2 he was there? No, sir. That to me explains a young man
3 who is trying to stay out of this but trying not to tell
4 a lie. I don't remember. I don't remember. I don't
5 remember.

6 The testimony of the State has to be beyond a
7 reasonable doubt. You look at the witnesses that we
8 have put up. Do you recall the calls that were made to
9 Renee? They couldn't get her. Calls and texts and
10 texts. And she finally calls, finds out, comes in just
11 like Nolita had taken her daughter up and talked to her.
12 The aunt, Renee, went upstairs and the three of them
13 talked.

14 The officer who they went to see on Monday,
15 again, it is a matter that could be talked about, can we
16 just keep this in the family? Sunday is the Sabbath.
17 It was a day to regroup, think, what are we gonna do.
18 And Monday Nolita and this brave young woman went to
19 City Hall.

20 They talked to a law enforcement officer, Chris
21 Robinson, who's very, very funny by not being called by
22 his Christian first name because that makes him
23 Christopher Robinson. But he told you that he met with
24 the victim and he met with her mother on that Monday.
25 He listened to what the victim had to say, what Tashma

1 had to say and that was it. They got a warrant, he
2 arrested the defendant. And so here we are.

3 I would submit that we have proven guilt beyond a
4 reasonable doubt. The defendant, we have proven,
5 committed an act on a young woman who was at that time a
6 minor beyond a reasonable doubt. Acts which are lewd,
7 and I love using this word, lascivious. You've got to
8 go to a dictionary to find out what that means. The
9 judge I think will explain it. But we have proven all
10 of this beyond a reasonable doubt. That is what I say.
11 We have met our burden.

12 Now it's up to you. The question, ladies and
13 gentlemen of the jury, is the judge told you at the very
14 first you were judges. You are judges of the facts.
15 You have sworn to do your duty, to do justice. I can
16 say what I want. The question is, as the judges of the
17 facts, what are you gonna say? Thank you.

18 THE COURT: Thank you, Mr. Ghent.

19 Mr. Shabel?

20 MR. SHABEL: May it please the Court?

21 THE COURT: Yes, sir.

22 CLOSING STATEMENT

23 BY MR. SHABEL:

24 Mr. Foreman, ladies and gentlemen, let me also
25 give my sincere thanks and Mr. Garner's sincere thanks

1 for your time and for your attention over the last two
2 days. I can only imagine that at certain points you're
3 thinking, okay, well sit down, go, come back, sit down,
4 come back and go. A little bit of exercise. And then
5 attorneys would get up and go and talk to the judge and
6 go back and sit down.

7 But in the middle of all that movement you heard
8 a lot. You heard a lot from multiple individuals who
9 came to testify before you. And now I want to summarize
10 what I hope you could listen from what was told.

11 Now, the judge in a few moments, Judge Knie is
12 going to instruct you on the law of this state and the
13 law that is applicable to this case. And it is your
14 duty to deliberate after hearing those instructions and
15 to reach a verdict guilty or not guilty.

16 In order to reach a verdict of guilty, you have
17 to determine guilt beyond a reasonable doubt.
18 Interesting choice of phrase I know. Reasonable doubt,
19 what is that? It's the kind of doubt that would cause a
20 reasonable person to hesitate to act. It's the kind of
21 doubt that would cause a reasonable person to hesitate
22 to act. If you do not believe beyond a reasonable doubt
23 that Norman Garner committed the act he's been accused
24 of, then the only verdict is not guilty.

25 As I said, you heard from a lot of different

1 witnesses, Markel, Nolita, Renee, Coach Sparks. And
2 what their testimony established was that on Friday
3 night Renee was at her home, Juicy was there, Tashma was
4 there and their friend Cathy was there. Norman came at
5 some point that night and he left. Everybody spent the
6 night, people woke up. At some point Norman came and
7 left, Renee and Cathy leave. Coach Sparks comes in,
8 picks up Juicy, Juicy leaves.

9 So Tashma's home, we know that. Later that day
10 we know Tashma makes a phone call. And after that phone
11 call, her brother and her mother come pick her up.
12 Later that day, later that afternoon, Tashma tells her
13 mother something. We know that. But I would submit
14 that those witnesses just established the timeline that
15 there was a period when Tashma was there at the house
16 with nobody else.

17 Now, Coach Sparks came by, picked up Juicy, saw a
18 man in the doorway. Don't know who it was. He thought
19 it was an uncle or a cousin or somebody, just making
20 sure Juicy's okay. But, again, Tashma's in the house.
21 We know that.

22 So now we come to Tashma's testimony. She told
23 you that Norman came by with breakfast for he -- for
24 her, excuse me, and for Juicy. McDonalds. Brought take
25 out. Tashma says Norman I'm sick. He offers to go get

1 medicine and he leaves. Tashma goes to bed.

2 And this is where Tashma tells you Norman comes
3 back and proceeds to massage my back, to touch my
4 breasts, and the upper portion of my buttocks. He then
5 leaves the room and doesn't touch her again.

6 That's what Tashma told you. That is not what
7 Tashma told Deputy Robinson. Tashma told Deputy
8 Robinson he came in, he massaged me and touched me and
9 he left and he came back and he did it again and he
10 left. He did it twice. That's what she told Deputy
11 Robinson. That's not what she told you. One time, two
12 times, very, very different accounts. Very different
13 statements. She told you that he bought her a pack of
14 thongs. She told Deputy Robinson he brought her a
15 thong. Two very different statements.

16 Mr. Ghent told you a few moments ago, and if
17 you'll forgive me, I have notes. She will not back
18 down. She stood by what happened to her. I find it
19 difficult to standby what happened to someone if they
20 say two very different things happened. Is she standing
21 over here or is she standing over here? Is she standing
22 by it happened once or is she standing by it happened
23 twice? I don't know. I'm hesitant.

24 Hesitation. Somebody else hesitated. Her mother
25 hesitated. Because we know that on the afternoon of

1 Saturday Tashma told her mother. They didn't go to the
2 police that night. They didn't go to the police the
3 next day. They didn't go to the police first thing
4 Monday morning. That statement came at 4:29 p.m., more
5 than 48 hours after Tashma told her mother what she says
6 happened to her and no one offered you an explanation as
7 to why. She hesitated. She hesitated.

8 What you have is the statements of Tashma of what
9 happened to her. Her mother doesn't know for sure. She
10 wasn't there. Her brother doesn't know for sure. Her
11 aunt doesn't know for sure. Her mother, her brother,
12 her aunt can only go by what she said. Unfortunately
13 somebody else only went by just what she said, Detective
14 Robinson.

15 Detective Robinson testified that he met with
16 Tashma, took down her statement and went to get a
17 warrant. That was his investigation. No search
18 warrants. No search for a McDonalds' bag, didn't even
19 try. No search for the oil, didn't try. By the way, if
20 you noticed, Tashma could identify not only that it was
21 oil, but it was Johnson & Johnson's cocoa scented oil.
22 She knew what was, what was the oil. She could identify
23 it. No search warrant for the oil. Didn't even try.

24 And there was then the testimony of her mother.
25 Her mother who picked her up from Ms. Renee Dawkins'

1 house wearing a t-shirt and shorts. Shorts that had
2 stains on it. And we knew later on that it was oil. No
3 shorts. No search warrant for the short shorts. Didn't
4 try. He took Tashma's word and went and got an arrest.
5 And the word she gave him wasn't the word she gave you.

6 You've heard a lot. You've listened a lot. And
7 now you're going to listen one more time. Judge Knie
8 will instruct you and your deliberations will begin.
9 Remember that to find Mr. Garner guilty you must find
10 him guilty beyond a reasonable doubt. Such doubt that
11 would make a reasonable person hesitate to act. Two
12 different statements, I'm hesitant. Thank you.

13 THE COURT: Thank you, Mr. Shabel.

14 JURY CHARGE

15 THE COURT: Okay. Mr. Foreman, members of the
16 jury, it is now time for me to give you what is called
17 the charge on the law. And I know it's hard to see me
18 over this. I'm not that short. So I'm gonna move over
19 here just a little bit for you, okay, because I want to
20 see you as much as I can as well. I think this will
21 take about 20 minutes. Would you all like to stand up
22 for a minute before I begin? You all okay?

23 (Jurors nod heads up and down.)

24 Okay. All right. Okay. Mr. Foreman and members
25 of the jury, the State of South Carolina charges the

1 defendant, Norman Lance Garner, with the crime of lewd
2 act on a minor. You will, of course, bear in mind that
3 the defendant has pled not guilty to this charge and by
4 that plea the defendant denies the charge alleged in the
5 indictment.

6 The defendant comes into this court clothed with
7 a presumption of innocence and this presumption of
8 innocence continues throughout the case and entitles the
9 defendant to a verdict of not guilty unless and until it
10 is dispelled by evidence satisfying you, the jury,
11 beyond a reasonable doubt that the defendant is guilty
12 of the offense charged and the State has proved each and
13 every element of the alleged crime beyond a reasonable
14 doubt.

15 The same constitution and law which makes you the
16 jury the finders of the facts and the evidence as I have
17 discussed with you, makes me as the judge the sole and
18 the only instructor of the law. You must accept as
19 correct the law which I instruct and apply to it the
20 evidence as you find it and reach a verdict.

21 For the purpose of this case today you must
22 accept the law as I instruct it to you. And in that
23 regard I tell you that neither you nor I, for that
24 matter, should be concerned about what we believe or
25 think the law ought to be, but only concern ourselves

1 with what I instruct you the law in fact to be.

2 In a criminal prosecution, the State has the
3 burden of proof. The defense has no burden as the
4 defendant is presumed to be innocent. In this state,
5 according to our constitution, prosecution must prove
6 their case to the standard of proof beyond a reasonable
7 doubt before a finding of guilty may occur. If the
8 State fails to meet this high burden, the defendant is
9 entitled to a verdict of not guilty.

10 Under the constitution and laws of South
11 Carolina, you are the sole finders of the facts in this
12 case. I am not allowed to suggest in any way what I may
13 think about the guilt or innocence of the defendant.
14 You also are the judges of the credibility and
15 believability of the witnesses who have testified in
16 this case.

17 Upon passing upon their credibility, you may take
18 into consideration many things, such as what was the
19 manner and appearances of the witness who testified.
20 Was he or she straightforward or was he or she hesitant
21 in answering? How did the witness come to know the
22 facts that he or she testified to, or what was his or
23 her ability to know these facts? Is there some reason a
24 witness would want to give testimony which would help or
25 hurt one side or the other? In other words, was the

1 witness biassed or prejudiced? And was the testimony of
2 a witness strengthened or weakened by other testimony or
3 evidence?

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

14 Now, in this case the defendant did not testify.
15 I instruct you and emphasize the fact that the defendant
16 did not testify or the fact that the defendant did not
17 testify is not a factor to be considered by you in any
18 way in your deliberation and in your consideration on
19 the question of the guilt or innocence of the defendant.
20 It must not be considered by you in any manner
21 whatsoever.

22 A defendant has the constitutional right to
23 remain silent, and the assertion of this right must not
24 be considered by you in your deliberations. I repeat,
25 under your oath you're to draw no conclusion whatsoever

1 from the fact that the defendant did not testify in this
2 case. The fact that this defendant did not testify
3 should not even be discussed in the jury room.

4 The burden of proof, as I have stated it to you,
5 is on the State. The defendant is not required to prove
6 his innocence. The burden of proof remains on the State
7 to prove guilt beyond a reasonable doubt. As the sole
8 fact finders you should have listened closely to the
9 evidence presented. Weighing the evidence is entirely a
10 mental process. You must weigh the evidence using your
11 good judgment and common sense. Weighing the evidence
12 is entirely a mental process. Evidence weighs with you
13 that which convinces you of its believability regardless
14 of from where it came, whether from the defendant or the
15 State. Your objective here is to find the facts or
16 answer the questions of fact.

17 There are two types of evidence which are
18 generally presented in a trial. There is direct
19 evidence and circumstantial evidence. Direct evidence
20 is the testimony of a person who asserts or claims to
21 have actual knowledge of a fact such as an eyewitness.
22 Circumstantial evidence is proof of a chain of facts and
23 circumstances indicating the existence of a fact. The
24 law makes absolutely no distinction between the weight
25 or value to be given to either direct or circumstantial

1 evidence, nor is a greater degree of certainty required
2 of circumstantial evidence than of direct evidence.

3 You should weigh all of the evidence in the case.
4 However, to the extent the State relies upon
5 circumstantial evidence, all of the circumstances must
6 be consistent with each other and when taken together
7 point conclusively to the guilt of the accused beyond a
8 reasonable doubt. If these circumstances merely portray
9 the Defendant's behavior as suspicious, the proof has
10 failed. After weighing all the evidence, if you are not
11 convinced of the guilt of the Defendant beyond a
12 reasonable doubt, you must find the Defendant not
13 guilty.

14 What is a reasonable doubt? It is simply this.
15 A reasonable doubt is the kind of doubt that would cause
16 a reasonable person to hesitate to act. Reasonable
17 doubt may arise from evidence which is in the case or
18 from the lack or absence of evidence in the case. Proof
19 beyond a reasonable doubt is proof that leaves you
20 firmly convinced of the Defendant's guilt. It is a
21 doubt to which one can assign a reason if the assignment
22 can be done reasonably, firmly and convincingly. A
23 reasonable doubt is the kind of doubt that would make a
24 reasonable, conscientious and honest person hesitate to
25 act in a matter of important to his own affairs.

1 I further charge you that a defendant is entitled
2 to every reasonable doubt that may arise in the case.
3 What that means is simply this. If any of you have had
4 a doubt about anything during this trial, you would be
5 required to resolve that doubt in favor of the
6 defendant.

7 The very fact, however, that the jury engages in
8 a full and free discussion of the issue of guilt or
9 non-guilt in this case does not automatically mean that
10 reasonable doubt exists in this case. You the jury will
11 find the determination of whether or not reasonable
12 doubt exists as to the guilt of the Defendant. If you
13 find that the State has met -- has not met the burden of
14 proof beyond a reasonable doubt, the Defendant is
15 entitled to a verdict of not guilty.

16 Criminal intent is a necessary element of each
17 crime that must be proved by the State beyond a
18 reasonable doubt. Criminal intent is always a matter
19 that must be determined by the jury from the
20 circumstances surrounding the situation.

21 There is no way to prove intent to a mathematical
22 certainty. There is no way medical science can dissect
23 a person's brain and determine what he or she had in
24 mind, so the law states criminal intent must be inferred
25 from the circumstances shown to have existed both before

1 and after the fact. This is how you the jury make a
2 determination of whether or not the element requiring an
3 intent was present.

4 Criminal intent is a state of mind that operates
5 jointly with an act or omission in the commission of a
6 crime. Criminal intent is a mental state of conscious
7 wrongdoing, so it is up to you the jury to determine
8 what the defendant intended to do based on the
9 circumstances shown to have existed. I tell you that
10 the State must prove criminal intent beyond a reasonable
11 doubt, just as the State must prove every element beyond
12 a reasonable doubt, as I have previously explained to
13 you.

14 Now, the defendant in this action, in this case
15 is charged with committing a lewd act on a minor. A
16 minor is a person under the age of 18 years. The State
17 must -- the State must first prove beyond a reasonable
18 doubt that the defendant was over the age of 14 years.

19 Next the State must prove that the defendant
20 willfully and lewdly committed or attempted a lewd or
21 lascivious act on or with a body or its part of a child
22 under the age of 16 years with the intent to arouse,
23 appeal to or gratify the lust, passions or sexual
24 desires of the defendant or the child.

25 Willfully means voluntarily and intentionally

1 with the specific intent to do something that the law
2 forbids. Lewd means obscene, lustful, indecent or
3 lecherous. Lascivious means tending to incite lust,
4 lewd, indecent, obscene or intending to deprave the
5 morals in respect to sexual relations. And that was
6 South Carolina Code 16-15-140, lewd act on a minor is
7 what the defendant has been charged with.

8 In conclusion, Mr. Foreperson and members of the
9 jury, as you retire to begin deliberations I wish to
10 express a hope that each of you will be mindful of the
11 importance of your responsibility. You are not called
12 upon to serve as jurors very often. You and I are
13 acting for the community and that is why we must see to
14 it that the trial is fair and the verdict is just.

15 It is my responsibility as the judge in this case
16 to see that every person tried here receives fair and
17 impartial justice. I am not trying to tell you how to
18 decide the case. As I have already told you, that under
19 the laws of the state of South Carolina, you the jury
20 are the sole judge of all the questions of fact. It
21 would be highly improper for me to influence you in the
22 performance of that duty.

23 Additionally, I am not trying to tell you what
24 your verdict should be, but as the presiding officer of
25 this court, I am vitally convinced whatever verdict you

1 find will be the result of your going into the jury room
2 and confining your consideration to the evidence and the
3 law that you have heard in this courtroom, weighing it
4 fairly and impartially. I am convinced and have every
5 confidence that you will.

6 There is one indictment in this case and the
7 defendant may be convicted or acquitted on the offense
8 charged. Mr. Foreman, you will be asked to write a
9 verdict. It's actually check a verdict, okay, not
10 guilty or guilty, all right?

11 MR. FOREMAN: Yes, ma'am.

12 THE COURT: And then you sign it and then you
13 date it, all right?

14 MR. FOREMAN: Yes, ma'am.

15 THE COURT: Now, you will be asked to write a
16 verdict of guilty or not guilty for the offense charged
17 on the verdict form. For there to be a verdict all of
18 you must agree. In other words, the verdict must be
19 unanimous. All 12 of you must agree and there is only
20 one possible verdict. That verdict would either be
21 guilty or not guilty.

22 I am going to ask our foreperson if on behalf of
23 the jury, if he would, when the jury reaches the
24 unanimous verdict, complete the verdict form as to the
25 guilty or not guilty and then you will sign the verdict

1 form. Once you do that, you will knock on the door and
2 let the bailiff or bailiffs know that you have reached
3 the verdict.

4 At this time I am going to ask you all to step
5 into the jury room, including our alternate juror, but
6 do not begin your deliberations until I tell you to do
7 so. Because when I do that I'm going to ask the lawyers
8 if they have any objections or exceptions to what I have
9 just said to you. And then before you start your
10 deliberations we will send the verdict form back to you,
11 Mr. Foreman, and we will then ask our alternate juror to
12 step out.

13 All right. So at this time thank you very much.
14 It took about 20 minutes. And I'm gonna ask you all to
15 follow your bailiff into your jury room.

16 (Whereupon, jury leaves the courtroom at 12:05
17 p.m.)

18 THE COURT: Okay. Counsel, are there any
19 objections or exceptions to the charge by the Court?

20 MR. GHENT: None from the State.

21 MR. SHABEL: None from the Defense, thank you.

22 THE COURT: Okay, thank you all. Then if there
23 is nothing else, then I will send the verdict form back.
24 And just to confirm, there is no evidence that will be
25 going back into the jury room?

1 MR. GHENT: Correct.

2 MR. SHABEL: Correct.

3 THE COURT: Okay. And I am not sending the
4 charge back.

5 MR. SHABEL: Correct.

6 MR. GHENT: Yes, ma'am.

7 THE COURT: Okay. All right. Here you go, Mr.
8 Bogan, thank you. And if would please ask the alternate
9 to step out. I guess, he can be informed that he can
10 remain if he wants to, eat his lunch, but he doesn't
11 have to, okay? And they will commence their
12 deliberations. Oh, Mr. Bogan, I don't know if there are
13 any smokers. If there are and they decide that they
14 want to take a break to go smoke, deliberations will
15 stop until they return, okay?

16 THE BAILIFF: Yes, ma'am.

17 THE COURT: Okay, thank you. Okay. We'll wait
18 on the alternate.

19 THE BAILIFF: I took him from the jury room to
20 the assembly room.

21 THE COURT: Okay. And we'll just be on the
22 record, Julie, that Mr. Bailey, our alternate juror, was
23 taken from the --

24 THE BAILIFF: From the jury room to the assembly
25 room.

1 THE COURT: From the jury room to the assembly
2 room. And have they commenced deliberations?

3 THE BAILIFF: Yes, ma'am. They have their lunch
4 too.

5 THE COURT: Okay.

6 THE BAILIFF: I've asked him to wait until we get
7 through.

8 THE COURT: Okay. But he's not in there with
9 them?

10 THE BAILIFF: No, ma'am.

11 THE COURT: Okay. All right. So we will be in
12 recess. I would stay close, though. I know, Mr.
13 Shabel, your office is real close. And, sir, if you'll
14 remain close by as well. Thank you.

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: And so, Mr. Ghent, and I know where
17 you are as well, so... All right, thank you.

18 MR. GHENT: Thank you, Your Honor.

19 THE COURT: And thank you all for a very
20 efficient trial.

21 MR. SHABEL: Thank you, ma'am.

22 MR. GHENT: Thank you, ma'am.

23 (Whereupon, a recess was had from 12:12 p.m. -
24 1:18 p.m.)

25 THE COURT: Okay. Counsel, we are -- we are back

1 on the record with regard to the State versus Norman
2 Lance Garner. I was notified by the deputy or by the
3 clerk that the jury has a question. And I think that
4 happened at about five after one or ten after one. The
5 question is, and it has been written, the jury would
6 like to know if they would be able to see a copy of the
7 written testimony Tashma Garner provided to Officer
8 Robinson. And that is signed Garrett Egan. Garrett
9 Egan, dated 10/19/17.

10 So first, we will bring them in and respond to
11 this. And the response that I have, that I am prepared
12 to give is as follows: You have received all evidence
13 that you are to consider. You are allowed to consider
14 the testimony given from the witness stand regarding the
15 witness statement. However, the written statement was
16 not admitted into evidence, therefore, you cannot review
17 it or see it. Any statements from counsel?

18 MR. SHABEL: None from Defense, thank you.

19 MR. GHENT: None from the State, Your Honor.

20 THE COURT: All right. You can bring in the
21 jury, please, Mr. Bogan.

22 Julie, I will mark this as a Court's Exhibit.

23 (Whereupon, jury enters the courtroom at
24 1:21 p.m.)

25 THE COURT: Okay. We are back on the record.

1 Madam Court Reporter, with regard to the State versus
2 Norman Lance Garner.

3 And, Mr. Foreman, it is my understanding that you
4 all have a question and it has been posed to me as
5 follows on a sheet of paper: The jury would like to
6 know if they would be able to see a copy of the written
7 testimony that Tashma Garner provided to Officer
8 Robinson. And that is signed Garrett Egan, dated
9 October the 19th, of 2017.

10 Madam Court Reporter, if we could have this
11 marked as Court's Exhibit Number 2, please, ma'am.

12 (Whereupon, Court's Exhibit Number 2, Note From
13 Jury, was marked for identification.)

14 (Whereupon, Court's Exhibit Number 2 was entered
15 into the record.)

16 My response to you: You have received all of the
17 evidence that you are to consider. You are allowed to
18 consider the testimony given from the witness stand
19 regarding the written statement. However, the witness
20 statement was not admitted into evidence, therefore you
21 cannot see it.

22 THE FOREMAN: Thank you, Your Honor.

23 THE COURT: All right. Thank you all. If you
24 all will now return to your jury room.

25 (Whereupon, jury leaves the courtroom at

1 1:23 p.m.)

2 THE COURT: Okay. Counsel, anything with regard
3 to the instructions given to the members of the jury?

4 MR. SHABEL: None from the Defense, thank you.

5 MR. GHENT: None from the State. Your Honor, are
6 you gonna put that other one into evidence too? I mean
7 as an exhibit? As a Court's exhibit.

8 MR. SHABEL: The question?

9 MR. GHENT: No, the other. The written.

10 MR. SHABEL: Oh, I'm sorry.

11 THE COURT: No. I just read it into the record.

12 MR. GHENT: That's fine.

13 THE COURT: That's okay with me, if that's okay
14 with you all.

15 MR. GHENT: That's fine with us.

16 MR. SHABEL: Thank you, Your Honor.

17 THE COURT: If I need to make it an exhibit I
18 will need to rewrite it to make it legible.

19 MR. SHABEL: I understand.

20 MR. GHENT: You don't. You don't.

21 THE COURT: All right. Thank you all. We will
22 be in recess, but again don't stray far away.

23 MR. GHENT: Yes, ma'am.

24 MR. SHABEL: Yes, ma'am. Thank you.

25 THE COURT: Thank you all.

1 (Whereupon, a recess was had from 1:24 p.m. -
2 2:01 p.m.)

3 THE COURT: Okay. Counsel, are we ready to
4 proceed?

5 MR. SHABEL: Yes, Your Honor.

6 MR. GHENT: Yes, your Honor.

7 THE COURT: It is my understanding from the
8 bailiff and from the clerk that there is a verdict; is
9 that correct?

10 THE BAILIFF: Yes, ma'am.

11 THE COURT: All right. Sir, if you will bring in
12 the jury.

13 (Whereupon, jury enters the courtroom at
14 2:02 p.m.)

15 THE COURT: Thank you, sir. Okay. We are back
16 on the record, Madam Court Reporter, with regard to the
17 matter of the State versus Norman Lance Garner.

18 Mr. Foreman, I have been informed by the bailiff
19 that you all have reached a verdict, is that true?

20 MR. FOREMAN: Yes, Your Honor.

21 THE COURT: Okay. If you would please pass the
22 verdict to the bailiff. And I'm assuming that you have
23 signed that and dated that; is that correct?

24 MR. FOREMAN: Correct, yes, ma'am.

25 THE COURT: Okay. Thank you, sir.

1 All right. Madam Clerk, will you please publish
2 the verdict.

3 THE CLERK: The State of South Carolina, County
4 of Spartanburg in the court of General Sessions,
5 Indictment Number 2012-GS-42-2818, the State of South
6 Carolina versus Norman Lance Garner. As to the charge
7 of lewd act on a minor, we the jury unanimously find the
8 defendant, Norman Lance Garner, guilty. Signed by the
9 foreperson, Garrett Egan on October 19th, 2017.

10 Ladies and gentlemen of the jury, if this is your
11 verdict and still your verdict, please raise your right
12 hand.

13 (Whereupon, all jurors raised their hand.)

14 So say you all.

15 THE COURT: Okay. Is there anything further from
16 the defense before I release the jury?

17 MR. SHABEL: None from Defense. Thank you, Your
18 Honor.

19 THE COURT: Anything else from the State?

20 MR. GHENT: I would ask some -- often Judge Cole
21 does this, he invites the jury if they would like to, to
22 remain for the sentencing to see basically so that they
23 know what has happened.

24 MR. SHABEL: I would oppose such a request for
25 the record.

1 THE COURT: All right.

2 MR. GHENT: But they are allowed to if they want
3 to.

4 THE COURT: No. Okay, thank you both.

5 Madam Clerk, it's my understanding that you do
6 need for our foreperson to sign the indictment.

7 THE CLERK: Yes, ma'am.

8 THE COURT: Okay. Sir, we will need for you to
9 also sign the indictment and date it today.

10 MR. FOREMAN: Okay.

11 (Whereupon, Foreman comes forward to sign
12 indictment.)

13 THE COURT: Okay. Members of our jury panel,
14 thank you so very much for your service. This has not
15 been a long trial, but it did take almost two days and I
16 appreciate your respectful attention that you have given
17 everyone in the case. And speaking on behalf of all the
18 court staff as well, thank you. You are now released.
19 You are not required to stay, but you may stay if that
20 is your wish.

21 And you will need to turn in your juror badge.
22 All right. And if they did not explain it to you
23 earlier, you will receive compensation. I don't know if
24 it's mailed to you or if you return to the court to get
25 it, but it is my understanding that they are no longer

1 needed for this week; is that correct?

2 THE BAILIFF: Yes, ma'am.

3 THE COURT: All right. Thank you so much.

4 (Whereupon, the jury leaves the courtroom at 2:07
5 p.m.)

6 THE COURT: Okay. Counsel, it is time that we
7 take up sentencing in this matter. And I believe that
8 when I was speaking with counsel earlier in the week I
9 explained that we would be taking a brief recess before
10 we start the sentencing process, and we will abide by
11 that and give each of you an opportunity to gather your
12 thoughts. And, Mr. Shabel, to speak with your client
13 before that process begins. So why don't we take --
14 well, Mr. Shabel, you tell me.

15 MR. SHABEL: Ten minutes.

16 THE COURT: Okay. Why don't we just say that we
17 will come back into the courtroom at 2:25. Is that all
18 right?

19 MR. SHABEL: Thank you, Your Honor.

20 THE COURT: All right, thank you.

21 MR. GHENT: Thank you, Your Honor.

22 THE COURT: Oh, and Mr. Shabel and Mr. Ghent, if
23 you all could approach for just one second, I have a
24 question.

25 (Whereupon, a bench conference was held off the

1 record.)

2 THE COURT: Okay, thank you. Okay. We'll be at
3 ease then until 2:25. And I'm assuming that Mr. Garner
4 will remain in the courtroom so that he can -- or where
5 does he confer with Mr. Shabel?

6 MR. SHABEL: We're good right here.

7 THE COURT: Okay.

8 MR. SHABEL: If we could -- if I could have a
9 moment alone.

10 THE COURT: All right, thank you.

11 (Whereupon, a recess was had from 2:10 p.m. -
12 2:32 p.m.)

13 THE COURT: Okay. I would now ask counsel and
14 the defendant if you would please approach the bar.

15 MR. GHENT: Your Honor, may the victim come with
16 me to the bar?

17 THE COURT: Certainly. Okay. To the defendant
18 -- well, we are back on the record with regard to the
19 matter of the State of South Carolina, County of
20 Spartanburg versus Norman Lance Garner.

21 And all right. Sir, you are Norman Lance Garner;
22 is that correct?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: All right. Sir, you have been found
25 guilty by a jury of your peers. At this time the Court

1 will consider sentencing.

2 Mr. Shabel, it is your opportunity to speak on
3 behalf of your client.

4 MR. SHABEL: Thank you, Your Honor. May it
5 please the Court. My client is 48 years old. As the
6 Court is well aware, this case does have a pretty
7 significant procedural history. He turned himself in to
8 police on February 28th of 2012. There was a note left
9 on his door saying the sheriff's office is looking for
10 you. He turned himself in immediately thereafter.

11 He spent two nights in jail, got out on home
12 detention on March the 1st of 2012. He was out on home
13 detention from March 1st of 2012 through April the 13th,
14 2012, for a total of 42 nights.

15 Picked up on a home detention violation and
16 stayed in jail until January the 10th of 2013, when he
17 was released from home detention -- to home detention
18 again. So he spent 272 nights in that period in the
19 Spartanburg County Detention Center.

20 From there he was picked up on a second violation
21 on July the 9th of 2013. He spent 180 nights on home
22 detention. Since July the 9th of 2013, he has spent his
23 nights either in the Spartanburg County Detention Center
24 or in a facility operated by the South Carolina
25 Department of Corrections.

1 THE COURT: Yes, sir. Again, that date was July
2 the 9th of 2013?

3 MR. SHABEL: Yes, Your Honor.

4 THE COURT: That he has been in house
5 incarcerated?

6 MR. SHABEL: That is correct.

7 THE COURT: Okay. And so there are 180 nights of
8 home detention?

9 MR. SHABEL: No, a total of 222 nights of home
10 detention in two different periods.

11 THE COURT: Okay.

12 MR. SHABEL: There are a total of 1,814 nights in
13 either the jail or the Department of Corrections. That
14 includes the two nights he spent after his first arrest.
15 A period of about a month and a half where he -- excuse
16 me, a period from April of 2012 to January of 2013 when
17 he was back in jail after his first violation, as well
18 as the lengthier period of time after his second. So he
19 has 222 to home detention, 1,814 in either jail or the
20 Department of Corrections.

21 All right. And I would note I have to state this
22 for the record, his time in the Department of
23 Corrections was related to these charges. He was
24 convicted the first time in August of 2013. He filed
25 and successfully received post-conviction relief and

1 went from the Department of Corrections back to the
2 Spartanburg County Detention Center where he has been
3 during the period of time where we've been awaiting this
4 particular trial.

5 We obviously ask that the Court give him credit
6 for the time served in the jail and/or the Department of
7 Corrections. We would ask the Court in its discretion
8 to also give him the additional credit for 222 days of
9 home detention.

10 Your Honor, I can tell you he received while he
11 was in jail just recently a summons and complaint in
12 Family Court where a relative of one of his former
13 girlfriends is trying to get custody of his
14 nine-year-old child. He's got two small children. It
15 appears that the mother of that child has cancer. This
16 is the first he knew about it. He'd obviously love to
17 be out in the workforce trying to support that child.

18 The jury has spoken. We now ask the Court for a
19 sentence of time served. I would note that the criminal
20 record that you're about to hear while lengthy is not
21 very recent. And I think the latest was -- I don't want
22 to speak. I know Mr. Ghent will speak for that. So we
23 stand at the mercy of the Court at this time. Thank
24 you.

25 THE COURT: Okay. And let me back up for just a

1 moment because I did break up the verdict and the
2 sentencing phase and that may have thrown you all off
3 your normal game. And, Mr. Shabel, did you have any
4 motions that you wanted to make?

5 MR. SHABEL: Thank you, Your Honor. I do think I
6 do need to make a motion for judgment notwithstanding
7 the verdict. We do not believe the evidence supports
8 the verdict designated. Thank you, Your Honor.

9 THE COURT: Okay. Thank you for your motion,
10 sir. While I respect the motion, the motion is denied.

11 MR. SHABEL: Thank you, Your Honor.

12 THE COURT: But I wanted to make sure that we put
13 that on the record.

14 MR. SHABEL: Yes, thank you.

15 THE COURT: All right. And, counsel, while
16 before Mr. Ghent, I'll let you address me, sir.

17 MR. GHENT: Yes, ma'am.

18 THE COURT: I do need to -- apparently on the
19 sentencing sheet that I am looking at, there is not an
20 address for Mr. Garner. I have two addresses on prior
21 documents that we will just need to complete an address
22 for him on the sentencing sheet. I have [REDACTED]
23 in Moore, South Carolina. And then I have [REDACTED]
24 [REDACTED] in Moore, South Carolina.

25 THE DEFENDANT: [REDACTED].

1 THE COURT: That is the address you wish?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: And, sir, and I think it was stated
4 you are still 48 years of age; is that correct?

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: All right. Yes, sir, Mr. Ghent.

7 MR. GHENT: May it please the Court. Your Honor,
8 I will try to move this. While counsel is correct the
9 defendant has an extended criminal record, I would
10 respectfully submit that it is not in part quite what it
11 may appear. First of all, he has two prior convictions
12 which I have marked as Court's Exhibits 3 and 4.
13 Indictments, guilty pleas to criminal sexual conduct
14 first degree. Indictments 87-GS-42-3366 and
15 88-GS-42-0032, for which he received a youthful offender
16 sentence. If I may pass that up to the Court. And I
17 have shown these previously to counsel.

18 THE COURT: All right. Mr. Shabel, have you seen
19 these?

20 MR. SHABEL: I've seen those, no objection.

21 THE COURT: Okay, thank you.

22 MR. GHENT: He has filed very recently an out of
23 time, very much out of time, according to the statute of
24 limitations, post-conviction relief action, which I have
25 marked as Exhibit Number 5, attempting to set aside

1 those two convictions for, I will simply say primarily
2 lack of subject matter jurisdiction and a claim that he
3 was unaware that he could appeal his conviction. I
4 would ask to have that offered up.

5 THE COURT: Okay. Mr. Shabel, have you seen
6 this?

7 MR. SHABEL: No, I've seen it. No objection to
8 the document, although I would state for the record I
9 think there are exemptions to the one-year statute of
10 limitations and there's been no ruling on that.
11 Although, I do not represent him, I know he intends to
12 fight that on those charges and that will rise or fall
13 on its own merits.

14 THE COURT: Yes, sir. Okay, thank you, sir.

15 MR. GHENT: I have spoken to the Attorney
16 General's office. They intend to adamantly oppose that
17 PCR.

18 Next is Indictment 94-GS-42-2899. Indictment for
19 driving under suspension. And these show a continuum of
20 continuing to violate and ignore the restraints of the
21 law.

22 MR. SHABEL: I've seen it without objection.

23 THE COURT: Okay. And that is driving under
24 suspension, is that what you said?

25 MR. GHENT: Yes, ma'am.

1 THE COURT: Yes, sir.

2 MR. GHENT: Next is Indictment 95-GS-42-2444,
3 Exhibit Number 7. Again, indictment conviction for
4 driving under suspension.

5 MR. SHABEL: Seen it and no objection.

6 MR. GHENT: Next is exhibit (sic) 96-GS-42-4574,
7 Exhibit Number 8. Failure to stop for a motor vehicle
8 when signaled by an officer. And, again, that is
9 offered to the Court for sentencing.

10 MR. SHABEL: Seen that too, no objection.

11 THE COURT: Thank you.

12 MR. GHENT: Next is Indictment 96-GS-42-4573,
13 indictment for habitual traffic offender, offered to the
14 Court as Exhibit Number 9.

15 MR. SHABEL: Seen it, no objection.

16 MR. GHENT: Next is exhibit (sic) 97-GS-42-1492,
17 indictment for driving under suspension. Exhibit Number
18 10 for the Court's consideration.

19 MR. SHABEL: Seen those, thank you.

20 MR. GHENT: Next is a matter that is from the
21 criminal history of the defendant. Exhibit Number 11.
22 I will represent to the Court that I have spoken to
23 assistant United States attorney Bill Watkins. Been
24 over with him what he has been able to confirm regarding
25 this indictment and sentence. And, again, all this I'm

1 interested in because of some past experience with
2 sentencing.

3 This is a federal indictment. Possession of a
4 firearm. A guilty plea that led to a sentence of 210
5 months. That was more than 18 years, Your Honor. That
6 sentence was reduced, however. In short, he would have
7 -- and this was 1997 -- he would have potentially,
8 depending upon whether or not he built off the 54 days a
9 year that one can build off for good time. He could
10 possibly have been in prison when this occurred, but he
11 wasn't. And the reason was that his lawyer filed what
12 is called a Rule 45 motion of the federal rules of
13 procedure. It's my understanding from talking to
14 Assistant Attorney General Watkins. And I'll be honest,
15 I've never seen this much of a reduction. He must have
16 done one heck of a job assisting the government because
17 you get that reduction for substantial assistance.

18 It went down from 18 -- over 18 years to just
19 over eight years. That is more than a 50 percent
20 reduction. So whoever he nailed, he nailed them good.
21 But the bottom line is that he still wound up, according
22 to the records, serving eight years.

23 MR. SHABEL: No objection to the document. I
24 think I do have to object to the Court considering the
25 sentencing and the reduction of the sentence for

1 purposes of sentencing in this case.

2 THE COURT: Yes, sir.

3 MR. GHENT: And finally, the mention of Ms.
4 Lawter recently having cancer. I have a statement she
5 gave July 9th, 2013, which had to do with an attack, a
6 particularly violent incident with this defendant, the
7 father of her child. It is Exhibit Number 12. It goes
8 into great detail. And supposedly Ms. Lawter back then
9 was suffering from cancer. At the last trial she was
10 suffering from cancer. At the one before that she was
11 suffering from cancer. So I have never made her come to
12 court. But I believe, if I'm not mistaken, his home
13 detention was revoked. I would ask counsel if he could
14 clarify that.

15 MR. SHABEL: Your Honor, I would object to the
16 Court's consideration of that document. It's not in the
17 prior criminal history. There's no evidence that he was
18 ever arrested or convicted of anything related to that
19 statement. I think it's prejudicial -- the prejudicial
20 effect is too high compared to any probative value it
21 may have for purposes of sentencing.

22 We know he was picked up on home detention on
23 July the 9th of 2013. That's not in dispute here. I
24 don't believe the reason for it is relevant unless
25 there's some criminal conviction that resulted from it,

1 there wasn't.

2 MR. GHENT: May I?

3 THE COURT: Yes, sir.

4 MR. GHENT: Your Honor, a revocation of home
5 detention or a bond does not require a conviction of
6 record. That routinely happens on the basis of
7 incidents that occur.

8 THE COURT: Yes, sir. And I'm aware that home
9 detention was revoked in this matter. And I am, I am
10 satisfied that with that information, without getting
11 into the written statement of a paramour or a romantic
12 -- a person with whom he has been romantically involved.

13 MR. GHENT: Your Honor, that's fine. Finally,
14 the only thing I would add is to avoid even the
15 appearances, because -- and I do want to say this. This
16 defendant is particularly fond of attacking others based
17 on his actions. I would like to make clear to avoid
18 even the appearance of prosecutorial vindictiveness in
19 refusing to back away from this until a final resolution
20 that we agree. Although the sentence at the time of the
21 incident could have been 15 years, the sentence that was
22 actually imposed was 12 years. We will agree to that
23 being the cap.

24 I'm not trying to tell Your Honor, Your Honor is
25 locked in. Your Honor has the discretion. All I'm

1 saying is for purposes and appearances of no
2 vindictiveness in vindicating this young woman, that we
3 do not ask that the sentence be anymore than that.

4 THE COURT: Okay. And I think for the purposes
5 of the record, Mr. Ghent, it is fine for you to place
6 that on the record. This is a little bit unusual, Mr.
7 Garner.

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: But from my understanding, your case
10 has come before me as though there had never been
11 another case, okay? So the sentencing is brand new with
12 me today, even though you're allowed to receive credit
13 for time that you have served up until this point, do
14 you understand?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: Okay. All right. So, Mr. Ghent,
17 with regard to sentencing, is there anything else that
18 you would like to present before I hear from Mr. Garner?

19 MR. GHENT: No, ma'am.

20 THE COURT: Okay.

21 MR. GHENT: Thank you, ma'am.

22 THE COURT: Okay. Mr. Garner, sir, now would be
23 your opportunity to tell me anything that you would like
24 to tell me, sir.

25 THE DEFENDANT: Okay. First of all, I want to

1 speak on the two CSC charges Mr. Ghent said I pleaded
2 guilty to. I did not plead guilty to CSC first. I was
3 indicted to CSC first and I plead guilty to CSC third.
4 That's the reason I'm appealing this subject to my
5 jurisdiction.

6 THE COURT: Okay. Now with regard to this
7 matter, sir, is there anything else that you would like
8 to say?

9 THE DEFENDANT: Yes, ma'am. I still maintain my
10 innocence and I intend to appeal it. I know that
11 everything is in your hands as far as my sentence is
12 concerned, so I put myself at your mercy. I also I'd
13 like -- like my attorney said, I have young children.
14 Mr. Ghent was also correct about my ex-fiancee having
15 cancer back in 2013. However, it was in remission until
16 I got this paper from last night when I got back to the
17 county. So she's in poor health. I don't know how bad
18 because I haven't talked to her. And that's the reason,
19 you know, her father is trying to get custody of our son
20 until I get out.

21 THE COURT: And so her father is attempting to --

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: -- obtain legal custody of your
24 child.

25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: All right.

2 THE DEFENDANT: He's basically her caretaker.
3 Well, a provider right now because of the cancer coming
4 back.

5 THE COURT: Okay. Counsel, is there a
6 requirement of a no contact order with regard to this
7 defendant and this victim?

8 THE DEFENDANT: No, sir -- no, ma'am.

9 THE COURT: So there have not been problems up
10 until this point with regard to ---

11 MR. GHENT: He's been in prison, but we would ask
12 that ---

13 THE COURT: Yes, but I understand there are still
14 ways that contact can be made. And he was on home
15 detention for part of that.

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: So were there any problems with
18 contact during the period that he was on home detention?

19 MR. SHABEL: I don't believe either of the
20 violations were related to this particular...

21 THE COURT: Okay. And -- I'm sorry, go ahead.

22 MR. GHENT: I understand from the victim that
23 there were some contacts sent while he was in jail.

24 MS. GARNER: He called me personally while he was
25 in jail and contacted me through my brother. And we all

1 had a conversation on the phone together, all three of
2 us, me, Markel and Norman.

3 THE COURT: Was that, ma'am, prior to a
4 conviction?

5 MS. GARNER: It was after. While he was in jail,
6 I guess is -- I guess I'm understanding what you're
7 saying.

8 THE COURT: Okay. All right.

9 MS. GARNER: It was after the trial, the first
10 trial.

11 THE COURT: All right. And then one more
12 question. Mr. Shabel, do you know how many days of home
13 detention Mr. Garner had prior to the violation in which
14 he became incarcerated? He may be able to give me the
15 information.

16 MR. SHABEL: I have the two days. There were two
17 sections of home detention. The first was 42 days, the
18 second was 180 days. So a total of 222.

19 THE COURT: Okay. And so he did have home
20 detention for 180 days on the second time he was on home
21 detention; is that right?

22 MR. SHABEL: That is correct.

23 THE COURT: Okay. With regard to the matter of
24 the State of South Carolina, County of Spartanburg
25 versus Norman Lance Garner, Indictment Number

1 2012-GS-42-2818, with regard to the offense of lewd act
2 upon a minor under the age of 16 years, this crime is
3 considered to be violent. The Defendant shall be
4 committed to the state Department of Corrections for ten
5 years. The Defendant will be given credit for time
6 served, and will be given credit for home detention for
7 a period of 180 days. Another special condition of his
8 confinement is that he will have no contact with the
9 victim, Tashma Garner. Good luck to you, sir.

10 MR. SHABEL: Thank you, Your Honor.

11 THE DEFENDANT: Thank you, Your Honor.

12 MR. GHENT: Thank you, Your Honor.

13 (Whereupon, Court's Exhibit Number 3, Indictment
14 Number 1987-GS-42-3366, was marked for identification.)

15 (Whereupon, Court's Exhibit Number 4, Indictment
16 Number 1988-GS-42-0032, was marked for identification.)

17 (Whereupon, Court's Exhibit Number 5,
18 2016-CP-42-4150 Post Conviction Relief, was marked for
19 identification.)

20 (Whereupon, Court's Exhibit Number 6, Indictment
21 Number 1994-GS-42-2899, was marked for identification.)

22 (Whereupon, Court's Exhibit Number 7, Indictment
23 Number 1995-GS-42-2444, was marked for identification.)

24 (Whereupon, Court's Exhibit Number 8, Indictment
25 Number 1996-GS-42-4574, was marked for identification.)

1 (Whereupon, Court's Exhibit Number 9, Indictment
2 Number 1996-GS-42-4573, was marked for identification.)

3 (Whereupon, Court's Exhibit Number 10, Indictment
4 Number 1997-GS-42-1492, was marked for identification.)

5 (Whereupon, Court's Exhibit Number 11, Criminal
6 History Rap Sheet, was marked for identification.)

7 (Whereupon, Court's Exhibit Number 12, July 9,
8 2013, Voluntary Statement, was marked for
9 identification.)

10 (Whereupon, Court's Exhibits 3-11 were entered
11 into the record.)

12 (Whereupon, trial concluded at 3:00 p.m.)

13

14 --- THIS ENDS REQUESTED TRANSCRIPT ---

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COURT REPORTER CERTIFICATE

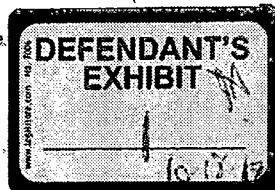
I, the undersigned Julie A. Ashbrook, Court Reporter for the Seventh Judicial Circuit Court of the State of South Carolina, do hereby certify that to the best of my ability the foregoing is a true, accurate, and complete transcript of record of all the proceedings and evidence introduced in the hearing and/or trial of the captioned case, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 18th and 19th day of January, 2017.

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

s/Julie A. Ashbrook.
Julie A. Ashbrook
Circuit Court Reporter
Seventh Judicial Circuit

PUBLIC SAFETY DEPARTMENT

CITY OF SPARTANBURG
P.O. BOX 1746 - 145 W. BROAD ST.
SPARTANBURG, S.C. 29304



CASE NUMBER

02-643-12

WITNESS INTERVIEW FORM

Name: Tashma Garner

Address: _____

Telephone Number: _____ Social Security Number: _____

Date of Birth: _____ Today's Date: 2-27-12 Time: 1629

25. I Tashma Monique Garner state that on ~~the~~ Saturday
Norman Garner tried to seduce me in little, but
dangerous ways. First he tried to 'butter me' up by
buying me food and offering me medicine for
my sore throat and aching body. He 1st told
me to roll over so that he could massage
my body to take away the soreness. He 1st got
on top of me with a body of lotion telling me to
lift ~~up~~ up my shirt so he can massage my
body. After he finish he offered me a bottle
of wine and I declined his offer, this was
at 12:00 PM. I went to sleep and he woke me
up ~~and~~ and asked/told me to put it (lubricant
or some ~~type~~ type of oil) on my chest. I asked
him why and he ignored my question and

Time Interview Began: 1629 .m. Time (Statement/Interview) was completed: _____ .m.

I have read this statement consisting of _____ page(s), and I swear or affirm that the facts contained therein are true
and correct.

I further state that I have received a copy of this statement.

SWORN TO AND SUBSCRIBE TO BEFORE ME

THIS _____ DAY OF _____, 20 _____

Signed: Tashma Garner

Witness: Norma Davis

NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: _____

Witness: _____

VOLUNTARY STATEMENT

PAGE 2 OF 3NAME: TASHMA Carter

CASE NUMBER

02-643-12

CC ^{me}
 said well do you want to do it for you? I
 said "no" and put it on myself after he
 left out the room. He came back in the
 room and got on top of me like he did
 the 1st time and lifted up my shirt and
 started to rub the oil on my back, he
 went as far as the side of my breast
 and low on my waist. He pulled down
 my shorts ~~down~~ and said he done it be-
 cause he didn't want my shorts to get oil
 on them. He kept awkwardly asking me
 was I comfortable and how was I feeling.
 I started tearing up and asked him was it
 all rubbing in he said "yes, I guess". So
 I said well thats enough. And he got up.
 But meanwhile while he was massaging
 me he told me he was going to pay me
 \$10. After he finished, he asked me do I
 know how to kiss and ride a "stick shift".
 After he heard me and my brother's
 conversation he called me after he left
 and asked me "why did I have to do
 that" (tell). He called me again later
 that day, but I didn't answer. There

WITNESS: Nate DavisWITNESS: [Signature]
[Signature]
 Signature of person giving voluntary statement

VOLUNTARY STATEMENTPAGE 3 OF 3NAME: TASHIMA GAZAR

CASE NUMBER

02-643-12

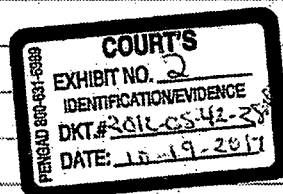
have been other incidents where he have tried to scare me, telling me he is a killer. Another time he texted me at 12:00-30 asking me to come help him work, plus he bought me 3 pair of underwear, one being thongs.

WITNESS: Abida DawoodWITNESS: C.A.

Signature of person giving voluntary statement

The Jury would like to know
if they would be able to see
a copy of the written testimony
Tajma Gardner provided to officer
Robinson.

Garrett Egan 10-19-17



WITNESSES

Spartanburg Public

CLERK

UND. 10.210

WITNESSES

CHECKED WARRANTS

CHECKED SIGNATURES

ATTORNEYS AND

FOR THE STATE

ARREST WARRANT NUMBER

M758089

ACTION OF GRAND JURY

John C. Leth

True Bill

Foreperson of Grand Jury
Date:

JUN 14 2012

VERDICT

Guilty

Burda Black

Foreperson of Petit Jury
Date: 8-8-13

DOCKET NO.

12-GS-42-2818

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

2012

TERM

THE STATE
VS.

Norman Lance Garner

Indictment for

SEX/LEWD ACT, COMMIT/ATTEMPT
UPON CHILD <16

SC Code: 16-15-0140
CDR Code: 2468
Class FEL-D

VERDICT

Guilty

Garner for 10-19-2017

FILED
CLERK OF COURT

2012 JUN 20 AM 10:08

CLERK: BLANKLEY

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

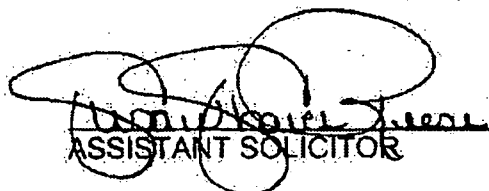
At a Court of General Sessions, convened on JUN 14 2017 the

Grand Jurors of Spartanburg County present upon their oath:

SEX/LEWD ACT, COMMIT/ATTEMPT UPON CHILD <16

That Norman Lance Garner, did in Spartanburg County, on or about February 25, 2012 he being over the age of fourteen (14) years, willfully and lewdly commit or attempt to commit a lewd or lascivious act upon or with the body of one Tashma Garner, a minor under the age of sixteen (16) years, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of himself or such child, of in violation of §16-15-0140, THE CODE OF LAWS OF SOUTH CAROLINA, (1976), as amended).

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


ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

217

COUNTY OF SPARTANBURG
STATE VS.

Norman Lance Garner

AKA:

Race: BLACK Sex: M Age: 48

DOB: SS#:

Address:

City, State, Zip: Moore, SC 29349

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

☐ CONVICTED OF or ☐ PLEADS

TO: Sex / Lewd Act, committing or attempting lewd act upon child under 16 (June 4, 1996)

in violation of § 16-15-0140

of the S.C. Code of Laws, bearing CDR Code # 2468

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☒ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: Russell D. Ghent 2439 SC Bar# Norman L. Garner Defendant Robert J. Lembo Attorney for Defendant 16136 SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center.for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. + Home Detention for period of 180 days and 1814 do☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135. incarcerated
Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

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

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100
§ 56-5-2995 (DUI Assessment)	\$12
§ 56-1-286 (DUI Breath Test)	\$25
Proviso 61.6 (Public Def/Probation)	\$500
§ 14-1-212 (Law Enforce. Funding)	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114 (BUI Breath Test Fee)	\$50
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea
3% to County (if paid in installments)	\$ 3.78

TOTAL

\$ 122.75

Clerk of Court/ Deputy Clerk

Court Reporter:

CCA-217 (07/2016)

INDICTMENT/CASE#: 2012GS4202818

A/W#: M758089

Date of Offense: 2/25/2012

S.C. Code § 16-15-0140

CDR Code #: 2468

SENTENCE SHEET

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other:

No contact with victim
TASHMA GARNER;☐ Appointed PD or appointed other counsel, Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge

Judge Code:

Sentence Date:

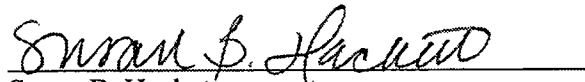
2760

10/19/17

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Susan B. Hackett
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 30th day of July, 2018.

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,


Susan B. Hackett
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 30th day of July, 2018.

RECEIVED
JUL 30 2018
SC Court of Appeals