

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

Certiorari to Spartanburg County

Honorable Brian M. Gibbons, Circuit Court Judge

ANTHONY BRIGGS,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2023-000551

APPENDIX

SARAH E. SHIPE
Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

SUZANNE J. SHAW
Assistant Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201
(803)734-3372

ATTORNEY FOR PETITIONER

BARRY J. BARNETTE
Solicitor, Seventh Judicial Circuit
180 Magnolia Street, Third Floor
Spartanburg, SC 29306
(864) 596-2575

ATTORNEYS FOR RESPONDENT

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1 STATE OF SOUTH CAROLINA) IN THE COURT OF
2) GENERAL SESSIONS
3 COUNTY OF SPARTANBURG) OF THE SEVENTH
4) JUDICIAL CIRCUIT
5)
6 STATE OF SOUTH CAROLINA,)
7)
8 Plaintiff,) TRANSCRIPT OF RECORD
9 vs.) 2009-GS-42-02627
10) 2010-GS-42-04657
11)
12 ANTHONY NEIL BRIGGS,)
13)
14 Defendant.)
15)
16 -----

11 March 25-27, 2019
12 Spartanburg, South Carolina

13 B E F O R E:

14 HONORABLE R. KEITH KELLY, Judge.
15

16 A P P E A R A N C E S

17 WENDY HALLFORD, ASSISTANT SOLICITOR
18 For The State

19 HOPE COLEMAN, ASSISTANT SOLICITOR
20 For The State

21 JEREMY ADAM THOMPSON, ESQUIRE
22 For Defendant

23
24 Julie A. Cendroski,
25 Circuit Court Reporter
Seventh Judicial Circuit

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1	STATE'S EXHIBIT NUMBER 1,		
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1 THE STATE VERSUS ANTHONY BRIGGS

2 (Whereupon, jury panel qualification was
3 previously done.)

4 (Whereupon, jury panel enters courtroom at 11:45
5 a.m.)

6 THE COURT: Ladies and gentlemen, we are at the
7 point that we require your services. We need to pick a
8 jury at this time. There are several questions that I
9 am required to ask specifically to this particular case.

10 This is the matter of the State of South Carolina
11 versus Anthony Briggs, B-r-i-g-g-s. It is alleged in
12 the indictment ending in 4657 that he did commit the
13 crime of sex lewd act or attempt upon a child. It is
14 alleged that this occurred between the dates of July the
15 30th, 2008 and February 2 of 2009, and that the minor
16 was under the age of 16 years.

17 I tell you that he has entered a plea of not
18 guilty to this indictment and that puts the burden on
19 the State of South Carolina to prove his guilt beyond a
20 reasonable doubt. He is presumed innocent of the
21 allegations contained in the indictment. The indictment
22 is merely a piece of paper that brings him before the
23 court for trial.

24 In the other indictment ending in 2627, it is
25 alleged that he committed the crime of criminal sexual

1 conduct with a minor in the first degree and that it
2 occurred between the dates of July 30, 2008, and
3 February 2 of 2009.

4 Once again he has entered a plea of not guilty to
5 this indictment. The burden is on the State to prove
6 his guilt beyond a reasonable doubt. He is presumed
7 innocent of the allegations contained in both of these
8 indictments. And I will say that more than once today.

9 Now, ladies and gentlemen, I told you that
10 there's some questions that I'm required to ask at this
11 time. Is there any member -- let's do this.

12 Mr. Briggs, would you stand, please, and face the
13 jury for about 15 seconds. (Complies.) Thank you, sir.
14 You may be seated.

15 Is there any member of this jury panel who is now
16 or ever has been related by blood or marriage to Anthony
17 Briggs? Is so, please stand. Somehow or another you
18 were related to him at some point or you still are,
19 please stand.

20 (Whereupon, no person stood.)

21 Is there any member of this jury panel who has a
22 close, personal or social relationship with Mr. Briggs?
23 You know him from school, you know him from work,
24 recreation. Some way or the other you know Mr. Briggs.
25 If so, please stand.

1 (Whereupon, no person stood.)

2 I'm gonna read a list of potential witnesses.
3 And I say potential because we never know how many or
4 who will actually testify. B.R. Donna
5 Parker. Judy Petty. Danny Morgan, formerly of the
6 Sheriff's Department. Nikki Cantrell of SLED, formerly
7 of the Spartanburg County Sheriff's Department.
8 Michelle Maldonna -- give me that name again.

9 MS. HALLFORD: Maldonado.

10 THE COURT: Maldonado, formerly of the Child
11 Advocacy Center.

12 MS. HALLFORD: And, Your Honor, she used to go by
13 Michelle Aurora Stag when she lived here.

14 THE COURT: Okay.

15 MS. HALLFORD: Sorry.

16 THE COURT: Stag. Dr. Nancy Henderson. Shauna
17 Galloway-Williams. And Mike Jones.

18 Is there any member of the jury panel who is
19 related by blood or marriage to any of the potential
20 witnesses in this case? If so, please stand.

21 (Whereupon, no person stood.)

22 Is there any member of the jury panel who has a
23 social or personal relationship with any of the
24 potential witnesses? If so, please stand.

25 Yes, ma'am, your -- okay. Your number, please.

1 JUROR 104: 104.

2 THE COURT: 104. Which particular witness?

3 JUROR 104: Dr. Nancy Henderson.

4 THE COURT: Okay. The fact that you have some
5 relationship with Dr. Henderson, would that affect your
6 ability to be fair and impartial in the trial of this
7 case?

8 JUROR 104: No.

9 THE COURT: You may stay.

10 Yes, sir, your number, please.

11 JUROR 144: 144.

12 THE COURT: Yes, sir, which witness?

13 JUROR 144: Nikki Cantrell.

14 THE COURT: The fact that you have some
15 relationship with Nikki Cantrell, would that affect your
16 ability to be fair and impartial?

17 JUROR 144: No, sir.

18 THE COURT: Sir, you may stay.

19 Is there any member of this jury panel who has
20 testified in a case for the Seventh Circuit Solicitor's
21 Office? You testified in a case for the Seventh Circuit
22 Solicitor's Office, either voluntarily or under
23 subpoena. If so, please stand.

24 THE COURT: Okay. You've got a hand up, but
25 please stand.

1 JUROR 195: I'm not sure if it was the Seventh
2 Circuit, but I've testified before for part of my job.

3 THE COURT: Okay. Was that ---

4 THE CLERK: Tell them your jury number.

5 JUROR 195: Sorry. 195.

6 THE COURT: You testified at this courthouse or
7 Cherokee County Courthouse?

8 JUROR 195: I testified at Cherokee County
9 Courthouse.

10 THE COURT: Okay. That's the Seventh Circuit.
11 Cherokee County and Spartanburg are the Seventh Circuit.
12 The fact that you testified, would that interfere with
13 your ability to be fair and impartial?

14 JUROR 195: I don't think so.

15 THE COURT: I'm sorry, ma'am, I have to pressure
16 you. This has to be a definitive answer.

17 JUROR 195: No.

18 THE COURT: No. You may stay.

19 Yes, sir, your number.

20 JUROR 84: Number 84.

21 THE COURT: Yes, sir.

22 JUROR 84: I testified in a murder trial, I
23 guess.

24 THE COURT: Would that interfere with your
25 ability to be fair and impartial?

1 JUROR 84: No, sir.

2 THE COURT: You may stay.

3 MS. HALLFORD: Your Honor, may we approach
4 quickly?

5 THE COURT: Sure.

6 (Whereupon, a bench conference was held off the
7 record.)

8 THE COURT: Is there a member of this jury panel
9 who has been represented by the solicitor's office? In
10 other words, you were the victim of some crime and the
11 State represented you in that crime. Any member of the
12 jury panel a victim of a crime and the Seventh Circuit
13 Solicitor's Office prosecuted you for, well, anything?
14 Housebreaking or anything. Something stolen from your
15 car. Anyone testify?

16 (Whereupon, no person stood.)

17 Is there any member of this panel who has a
18 family member or a friend who is employed by the Seventh
19 Circuit Solicitor's Office? If so, please stand.

20 Yes, ma'am, your number?

21 JUROR 164: 164.

22 THE COURT: Was the employee a family member or
23 friend?

24 JUROR 164: Sister.

25 THE COURT: Sister's employed by the Solicitor's

1 Office?

2 JUROR 164: (Nods head up and down.)

3 THE COURT: Would that interfere with your
4 ability to be fair and impartial?

5 JUROR 164: No, sir.

6 THE COURT: You may stay.

7 Is there any member of this jury panel who has a
8 -- who has never been represented -- let me do this
9 before I do that. Let me have the lawyers introduce
10 themselves. Ladies first.

11 MS. HALLFORD: My name is Wendy Hallford, I'm an
12 assistant solicitor here in the Seventh Circuit.

13 MS. COLEMAN: And my name is Hope Coleman. I'm
14 also an assistant solicitor here in Spartanburg.

15 THE COURT: Okay.

16 MR. THOMPSON: My name is Jeremy Thompson. I'm
17 an attorney. I live in Columbia, grew up in Greenville,
18 and I'm in private practice, sole practitioner.

19 THE COURT: Is there any member of the jury panel
20 who has ever been represented by any of the, any of the
21 lawyers, three lawyers? Has anybody ever been
22 represented by any of the lawyers in this case in any
23 matter? Whether it was real estate transaction,
24 personal injury, criminal case, whatever it might be,
25 anyone ever hired any of these lawyers, please stand.

1 (Whereupon, no person stood.)

2 Any member of the jury panel who's ever sought
3 legal advice from any of these lawyers? You know, you
4 go through the grocery store, you see someone, you've
5 got a legal question on your mind, you didn't hire them,
6 but you just talked to them? Anyone ever talk to any of
7 these lawyers about a legal matter? If so, please
8 stand.

9 (Whereupon, no person stood.)

10 Any member of the jury panel ever been
11 represented by Jeremy Thompson or his law firm out of
12 Columbia? If so, please stand.

13 (Whereupon, no person stood.)

14 Any member of the jury panel have a family member
15 or friend who is employed by his law firm? If so,
16 please stand.

17 (Whereupon, no person stood.)

18 Any member of the jury panel, you, yourself, have
19 ever been a commissioned law enforcement officer,
20 whether that's state or federal? So it's military
21 police, local, municipal, county, state, federal, any
22 source, you, yourself, ever a law enforcement officer?
23 Please stand.

24 Your number, sir?

25 JUROR 50: Juror Number 50.

1 THE COURT: Number 50.

2 JUROR 50: U.S. Army military policeman from 1996
3 through January 2003.

4 THE COURT: Would that interfere with your
5 ability to be fair and impartial?

6 JUROR 50: No, sir.

7 THE COURT: You may stay.

8 Yes, sir.

9 JUROR 191: 191.

10 THE COURT: Yes, sir.

11 JUROR 191: Sheriff's office here.

12 THE COURT: Would that interfere with your
13 ability to be fair and impartial?

14 JUROR 191: No.

15 THE COURT: You may stay.

16 Yes, sir.

17 JUROR 86: 86. I was an Alaska Public Safety
18 Officer from '95 to '98.

19 THE COURT: Would that interfere with your
20 ability to be fair and impartial?

21 JUROR 86: No, sir.

22 THE COURT: You may stay.

23 Is there any member of this jury panel who has a
24 family member, a family member -- I'm talking immediate
25 family. Son, daughter, mother, brother, cousin, family

1 member who is currently employed as a law enforcement
2 officer? Please stand.

3 Your number, please.

4 JUROR 172: 172.

5 THE COURT: Would that -- what agency?

6 JUROR 172: Spartanburg County.

7 THE COURT: Would that interfere with your
8 ability to be fair and impartial?

9 JUROR 172: No, it won't.

10 THE COURT: You may stay.

11 Yes, ma'am, your number.

12 JUROR 41: 41. I have a brother who is a deputy
13 sheriff.

14 THE COURT: In Spartanburg County?

15 JUROR 41: Yes, sir.

16 THE COURT: Would that interfere with your
17 ability to be fair and impartial?

18 JUROR 41: No, sir.

19 THE COURT: You may stay.

20 Is there any member of the jury panel, either
21 yourself, a family member or a close friend, who has
22 been arrested for or accused or the victim of a violent
23 crime, such as -- and this is not inclusive. I mean,
24 it's inclusive to murder, manslaughter, armed robbery,
25 criminal sexual conduct, any such violent act. You,

1 yourself -- well, it wouldn't be you, but a family
2 member or a friend who had been convicted of a sexual
3 crime, a violent crime? Please stand.

4 Okay. Yes, ma'am, your number?

5 JUROR 119: 119.

6 THE COURT: Would that interfere with your
7 ability to be fair and impartial?

8 JUROR 119: No, it would not.

9 THE COURT: Yeah. I'm not gonna ask you any
10 details on that question. That's good enough.

11 Is there any member of this panel, either
12 yourself, a family member or a friend, who had been seen
13 at what's known as the Spartanburg Children's Advocacy
14 Center or a similar organization? Please stand.

15 Yes, ma'am.

16 JUROR 104: 104, and I'm contracted there.

17 THE COURT: Yes, ma'am. Would that interfere
18 with your ability to be fair and impartial?

19 JUROR 104: No.

20 THE COURT: You may stay.

21 They've handed another list of some potential
22 witnesses. Anthony Briggs. Is it Lake?

23 MR. THOMPSON: Lakla.

24 THE COURT: Lakla Miller, Lonnie Miller or Amber
25 Wofford. Is there any member of the jury panel -- those

1 are potential witnesses there. Is there any member of
2 the jury panel who is related by blood or marriage to
3 any of those potential witnesses? If so, please stand.

4 (Whereupon, no person stood.)

5 Any member of the panel have a social or close
6 personal relationship with any of those particular
7 witnesses? If so, please stand.

8 (Whereupon, no person stood.)

9 Is there any member of this panel who has such a
10 strong personal feeling regarding sex cases, how about
11 that, that you could not be fair or impartial? Please
12 stand. You have such strong personal feelings.

13 Your number, please, ma'am.

14 JUROR 79: 79.

15 THE COURT: 79?

16 JUROR 79: Uh-huh.

17 THE COURT: And you could not be fair and
18 impartial?

19 JUROR 79: No.

20 THE COURT: Ma'am, you will be excused in the
21 trial of this case. Stay with us. Keep the badge.
22 We've got some more cases. All right. Anyone else? Is
23 there any -- yes, ma'am, your number, please?

24 JUROR 171: 171.

25 THE COURT: You could not be fair in this case?

1 JUROR 171: Probably not.

2 THE COURT: Okay. Ma'am, you may be excused from
3 this trial, but we've got some more. Anyone else?

4 All right. Anything from the State?

5 MS. HALLFORD: Nothing from the State, Your
6 Honor.

7 THE COURT: From the Defense?

8 MR. THOMPSON: No, Your Honor.

9 THE COURT: I should ask this question. Is there
10 anyone -- is there any question I have not asked, does
11 anyone have a reason why he or she could not be fair and
12 impartial? Unable to be fair and impartial, please
13 stand.

14 (Whereupon, no person stood.)

15 All right. Now, ten and five, Madam Clerk. So
16 we need 35. Okay.

17 COURT REPORTER: Judge.

18 THE COURT: Yes. Oh, I'm sorry, do we have one?
19 Your number, ma'am?

20 JUROR 112: 112.

21 THE COURT: 112, yes, ma'am. You have a ---

22 (Whereupon, Juror 112 approached the bench.)

23 THE BAILIFF: Ma'am. Ma'am. She can't hear too
24 well, Your Honor.

25 THE COURT: Oh, okay. Am I not speaking loud

1 enough for you?

2 JUROR 112: I have trouble hearing.

3 THE COURT: Okay. If you're picked, I'll make
4 sure everyone speaks loud, okay? Thank you, ma'am.

5 JUROR 112: Okay, thank you.

6 THE COURT: Thank you, ma'am.

7 THE CLERK: Are you ready?

8 THE COURT: Yes, ma'am.

9 THE CLERK: Juror Number 40, Luya Chervinsky.

10 (Whereupon, a white male came forward.)

11 JUROR 40: Chervinsky.

12 THE CLERK: What say the State?

13 MS. HALLFORD: Please present the juror.

14 THE CLERK: What say the defense?

15 MR. THOMPSON: Please seat the juror.

16 THE CLERK: Juror Number 16, Justin Blackwell.

17 (Whereupon, a white male comes forward.)

18 What say the State?

19 MS. HALLFORD: Please present the juror.

20 THE CLERK: What say defense?

21 MR. THOMPSON: Please seat the juror.

22 THE CLERK: Juror Number 39, Diane Chapman.

23 (Whereupon, a white female comes forward.)

24 What say the State?

25 MS. HALLFORD: Please present the juror.

1 THE CLERK: What says defense?
2 MR. THOMPSON: Please seat the juror.
3 THE CLERK: Juror Number 78, Brandi Gowan.
4 (Whereupon, white female comes forward.)
5 What say the State?
6 MS. HALLFORD: Please present the juror.
7 THE CLERK: What say the defense?
8 MR. THOMPSON: What number was it?
9 THE CLERK: 78.
10 MR. THOMPSON: Please seat the juror.
11 THE CLERK: Juror Number 21, Scott Bradley.
12 (Whereupon, a white male comes forward.)
13 What say the State?
14 MS. HALLFORD: Please seat the juror.
15 THE CLERK: What says the defense?
16 MR. THOMPSON: Please seat the juror.
17 THE CLERK: Juror Number 46, Tiffany Crosby.
18 (Whereupon, a black female comes forward.)
19 What say the State?
20 MS. HALLFORD: Please seat the juror.
21 THE CLERK: What say the defense?
22 MR. THOMPSON: Please seat the juror.
23 THE CLERK: Juror Number 29, Robert Burton.
24 (Whereupon, a white male comes forward.)
25 What say the State?

1 MS. HALLFORD: Please present the juror.

2 THE CLERK: What say the defense?

3 MR. THOMPSON: Please seat the juror.

4 THE CLERK: Juror Number 92, Robert Humphries.

5 (Whereupon, a white male comes forward.)

6 What say the State?

7 MS. HALLFORD: Please excuse the juror.

8 THE CLERK: Juror 196, Rebecca Williams.

9 (Whereupon, a white female comes forward.)

10 What say the State?

11 MS. HALLFORD: Please present the juror.

12 THE CLERK: What say the defense?

13 MR. THOMPSON: Please seat the juror.

14 THE CLERK: Juror Number 123, Megan Mitchell.

15 (Whereupon, a white female comes forward.)

16 What say the State?

17 MS. HALLFORD: Please present the juror.

18 THE CLERK: What say the defense?

19 MR. THOMPSON: Please seat the juror.

20 THE CLERK: Juror Number 11, Laura Bell.

21 (Whereupon, a white female comes forward.)

22 What say the State?

23 MS. HALLFORD: Please present the juror.

24 THE CLERK: What say the defense?

25 MR. THOMPSON: Please excuse the juror.

1 THE CLERK: Juror Number 47, Jeffery Crow.
2 (Whereupon, a white male comes forward.)
3 What say the State?
4 MS. HALLFORD: Please present the juror.
5 THE CLERK: What say the defense?
6 MR. THOMPSON: Please excuse the juror.
7 THE CLERK: Juror Number 95, John Ingalls.
8 (Whereupon, a white male comes forward.)
9 What say the State?
10 MS. HALLFORD: Please present the juror.
11 THE CLERK: What say the defense?
12 MR. THOMPSON: Please seat the juror.
13 THE CLERK: Juror Number 184, Jonathan Toney.
14 (Whereupon, white male comes forward.)
15 What say the State?
16 MS. HALLFORD: Please present the juror.
17 THE CLERK: What say the defense?
18 MR. THOMPSON: Please present the juror.
19 THE CLERK: Juror Number 110, Mark Loftis.
20 (Whereupon, a white male comes forward.)
21 What say the State?
22 MS. HALLFORD: Please excuse the juror.
23 THE CLERK: Juror Number 81, Travis Greene.
24 (Whereupon, a white male comes forward.)
25 What say the State?

1 MS. HALLFORD: Please present the juror.

2 THE CLERK: What says the defense?

3 MR. THOMPSON: Please excuse the juror.

4 THE CLERK: Juror Number 179, Dorian Talley.

5 (Whereupon, a black male comes forward.)

6 What say the State?

7 MS. HALLFORD: Please excuse the juror.

8 THE CLERK: Juror Number 174, Margaret Smith.

9 (Whereupon, a black female comes forward.)

10 What say the State?

11 MS. HALLFORD: Please present the juror.

12 THE CLERK: What say the defense?

13 MR. THOMPSON: Please excuse the juror.

14 THE CLERK: Juror Number 42, Kathy Clemons.

15 (Whereupon, a black female comes forward.)

16 What say the State?

17 MS. HALLFORD: Please excuse the juror from
18 service in this case.

19 THE CLERK: Juror Number 104, Christy Lanford.

20 (Whereupon, a white female comes forward.)

21 What say the State?

22 MS. HALLFORD: Please present the juror.

23 THE COURT: What say the defense?

24 MR. THOMPSON: Please excuse the juror.

25 THE CLERK: Juror Number 130, Steven Motter.

1 (Whereupon, a white male comes forward.)

2 What say the State?

3 MS. HALLFORD: Please excuse the juror.

4 THE CLERK: Juror Number 160, Gary Shaw.

5 (Whereupon, a white male comes forward.)

6 What say the State?

7 MS. HALLFORD: Please present the juror.

8 THE CLERK: What say the defense?

9 MR. THOMPSON: Please seat the juror.

10 THE CLERK: Juror Number 161, Kevin Shaw.

11 (Whereupon, a black male comes forward.)

12 What say the State?

13 MS. HALLFORD: Please present the juror.

14 THE CLERK: What says the defense?

15 MR. THOMPSON: Please seat the juror.

16 THE CLERK: Juror Number 150, Teague Pupo.

17 (Whereupon, a white male comes forward.)

18 What say the State?

19 MS. HALLFORD: Please present the juror.

20 THE CLERK: What say the defense?

21 MR. THOMPSON: Please seat the juror.

22 THE COURT: Any matters from the State at this
23 time?

24 MS. HALLFORD: Nothing from the State.

25 THE COURT: From the defense?

1 MR. THOMPSON: No, Your Honor.

2 THE COURT: None from the defense, okay.

3 Ladies and gentlemen who were not selected, I can
4 see the disappointment on your faces. We have other
5 matters that we're gonna attend to this week. Today is
6 just Monday. You will have other opportunities, but you
7 were not selected, as you know, for this trial.

8 With that, we're all getting ready to break, but
9 I'm gonna release you and ask you to call that magic
10 number after 6 p.m. Please call that magic number.
11 Well, wait a minute. Let me see the lawyers.

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

14 All right. With that, we're going to release you
15 with the bailiffs. They're going to take you back,
16 you'll be excused from there for the rest of the day.
17 Call that magic number after 6 p.m., please. And it
18 will have some instructions on there for you. It may
19 say report tomorrow morning. It may say report tomorrow
20 afternoon, but there will be instructions on there for
21 you after 6 p.m.

22 Now, let me say this. I've been asked in the
23 past. You are allowed to stay in this courtroom, but
24 you're not gonna be required to. But this courthouse
25 and this courtroom belongs to you and to me because I'm

1 a Spartanburg County resident. Okay? So this
2 courthouse is our courthouse. You're already here. If
3 you want to come back and watch some of the trial, if
4 you want to come and watch everything else in this
5 courthouse, we have open courtrooms and I invite you to
6 do so, okay?

7 Sometimes I have jurors who will go and get a
8 grandchild, you know, maybe five or six or something and
9 bring them back to the courthouse and just sit in the
10 back. You are invited to come back, but you are not
11 required to come back. Please call after 6 p.m. With
12 that, you may take them out.

13 THE BAILIFF: Okay. Please be seated. We're
14 gonna go out orderly, please. We're gonna start with
15 this row here first.

16 (Whereupon, jury panel leaves at 12:26 p.m.)

17 (Whereupon, a bench conference was held off the
18 record.)

19 THE COURT: Juror number 78, Ms. Brandi Gowan,
20 ma'am, where are you?

21 JUROR 78: (Raises hand.)

22 THE COURT: Ms. Gowan?

23 JUROR 78: Yes.

24 THE COURT: Would you serve as our forelady of
25 this jury?

1 JUROR 78: Yes, sir.

2 THE COURT: Okay. I'm not forcing you to do so,
3 but I try to alternate between a forelady and foreman.
4 And if you'd be kind enough to serve, I would appreciate
5 it.

6 JUROR 78: Okay.

7 THE COURT: Thank you. You may be seated, thank
8 you. When we return, I'm gonna have the jury sworn and
9 I will formally appoint you the forelady. Madam
10 Forelady, if you would always sit on the very end where
11 the gentleman in the blue stripe -- you don't have to
12 switch now, but if you would always sit in that chair.

13 And my two alternates are seated exactly where
14 you need to be. If you would always be seated there on
15 the very end of my jury.

16 You've become my spokesperson, spokes lady, so
17 when I send the jury out, I always look to that chair.
18 Some judges use the chair at the far end over here, but
19 I use the chair that's on this end.

20 Everyone else can now move about. You can sit on
21 the front. You can sit on the back. You can change
22 chairs every time you come in the courtroom, It's fine
23 with me. But if you three would be in assigned seats, I
24 would very much appreciate it.

25 Again, you see that I stand and I stand a lot.

1 If you choose to stand, and I had some people last week,
2 I had one man in particular who had back problems, if
3 you want to stand please sit on the back row. I don't
4 care where, just sit on the back row. And you can stand
5 or sit as much as you'd like during the trial. It will
6 not affect me whatsoever.

7 And I had a juror, and I've forgotten which one,
8 I don't know if she's on here, that was expecting. It's
9 not here. Okay. All right. I told her if she would
10 raise her hand if she needed to take a break, we would
11 handle it, so...

12 And I will tell you, when we're in the trial, if
13 any juror has an issue, you need to take a break, if you
14 would kindly get my attention we can stop for you, okay?
15 With that, I'm gonna let you go to lunch. Please be
16 back and ready to work by 2 o'clock. We're all adults,
17 I'm not gonna tell you what time to be back, but be
18 assembled wherever the bailiffs tell you to be assembled
19 no later than 2 o'clock.

20 I bring my lunch, I don't go, I don't leave, so
21 I'm gonna throw it in the microwave and I'm gonna have
22 lunch here at the courthouse and I'll be ready to go,
23 the lawyers will be ready to go and we'll have this
24 thing called Elmo set up before 2 o'clock. I can
25 remember that because my granddaughter walks around with

1 little Elmo. So y'all have Elmo set up so we can have
2 that and we continue to work at 2 o'clock.

3 All right. Anyone have anything else before I
4 release the jury until 2 o'clock? State? Defense?

5 MR. THOMPSON: No, Your Honor.

6 MS. HALLFORD: No.

7 THE COURT: All right. If you'll take the jury
8 out and be released for lunch and be ready to work at
9 2 o'clock.

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

12 We'll be in recess until two.

13 (Whereupon, a lunch recess was had from
14 12:30 p.m. - 1:53 p.m.)

15 (Court's Exhibit Number 1, CD, was marked for
16 identification.)

17 (Court's Exhibit Number 2, Michelle Maldonado
18 Bio, was marked for identification.)

19 (Court's Exhibit Number 3, Shauna
20 Galloway-Williams Bio, was marked for identification.)

21 (Court's Exhibit Number 4, CD of Jail Calls, was
22 marked for identification.)

23 (State's Exhibit Number 1, CD of Anthony Briggs,
24 was marked for identification.)

25 (State's Exhibit Number 2, CD of Anthony Briggs,

1 was marked for identification.)

2 (State's Exhibit Number 3, Picture of Child
3 Drawing, was marked for identification.)

4 (State's Exhibit Number 4, Waiver of Rights, was
5 marked for identification.)

6 (State's Exhibit Number 5, Pre-Interrogation
7 Waiver Form, was marked for identification.)

8 (State's Exhibit Number 6, Voluntary Statement,
9 was marked for identification.)

10 (State's Exhibit Number 7, CD of Jail Calls, was
11 marked for identification.)

12 THE COURT: Okay. We're on the record of the
13 State versus Anthony Briggs in two separate indictments.
14 We had a pretrial, which is like a pretrial conference
15 with the lawyers. I understand we've got some
16 agreements on some matters. Solicitor.

17 MS. HALLFORD: Yes, sir, Your Honor. The defense
18 attorney is not challenging the qualifications or the
19 testimony of the child or use of a dynamics expert. We
20 are not being required to have an *in camera* hearing
21 regarding the admissibility of the Child Advocacy Center
22 video. We have addressed rape shield. He has nothing
23 for that and nothing for third-party guilt.

24 And regarding the issue of the defendant's
25 allegations that the victim's father had possessed child

1 pornography or had sex with underaged children, that is
2 also not coming in.

3 I have marked quite a few things as Court's
4 exhibits. I've got the original CAC video un-redacted.
5 I've got -- we're gonna have some jail calls, and this
6 is the original set of calls that was pulled back in
7 2010. Also, Michelle Maldonado's CD and resume and
8 Shauna Galloway-Williams' CD and resume. Even though
9 he's not challenging that, I'm just putting those in as
10 Court's exhibits.

11 THE COURT: Any objection?

12 MR. THOMPSON: No, Your Honor.

13 THE COURT: Okay. They are Court's exhibits.
14 They are not in evidence for the jury, but they are
15 Court's exhibits.

16 (Whereupon, Court's Exhibits 1-4 were entered
17 into the record.)

18 MS. HALLFORD: I think that covered everything.

19 THE COURT: Well, I understand that there's no
20 need for a Jackson v. Denno hearing.

21 MS. HALLFORD: Oh, correct.

22 MR. THOMPSON: That's correct, Your Honor.

23 THE COURT: Okay. I also have that there's gonna
24 be no reference to a polygraph.

25 MS. HALLFORD: Correct.

1 MR. THOMPSON: I hope not, Your Honor.

2 THE COURT: Also, the witness would be instructed
3 about there's no testimony about a prior trial. If it's
4 prior testimony, but it's not -- somebody has to be
5 challenged, but it's not prior trial, right?

6 MS. HALLFORD: Yes. I told them they can say
7 prior sworn testimony, but not to mention a prior trial.

8 THE COURT: Right. Prior sworn testimony. And
9 there was a drawing that was gonna be redacted.

10 MS. HALLFORD: Yes. And we redacted that and
11 he's seen it.

12 MR. THOMPSON: That's correct.

13 MS. HALLFORD: Would Your Honor like to see?

14 THE COURT: Okay. I just want to make sure, are
15 you satisfied with the redaction?

16 MR. THOMPSON: Yes, Your Honor.

17 MS. HALLFORD: There's writing there.

18 THE COURT: Okay.

19 MS. HALLFORD: So I just put whiteout on the
20 other side. Make sure --

21 THE COURT: Okay.

22 MS. HALLFORD: -- even if they tried --

23 THE COURT: All right. That's redacted.

24 MS. HALLFORD: -- they shouldn't be able to see
25 that.

1 THE COURT: Was there some -- was there an issue
2 about whether or not the trial would be -- the
3 complaining witness would be called victim or is there
4 -- that's come up before, I'm just asking.

5 MS. HALLFORD: Well, she is a victim from my
6 perspective and if I'm told not to do that, I will try
7 not to do it.

8 THE COURT: Yes.

9 MS. HALLFORD: But for the entire history of my
10 career, I've referred to them as victims so I may slip
11 up.

12 THE COURT: Defense counsel?

13 MR. THOMPSON: I would appreciate her not being
14 called the victim, but I understand, I understand the
15 Government's position.

16 THE COURT: Okay. I understand the Government's
17 position too, but in an abundance of caution, we will
18 refer to her as something else besides victim because I
19 don't want to put any issue in the record that doesn't
20 need to be there.

21 MS. HALLFORD: Well, I could understand from the
22 -- and I'm not challenging you at all, but I could
23 understand from the perspective that you should never
24 refer to her as the victim because you're supposed to be
25 neutral, but she is my victim and everything I'm putting

1 in front of the jury is to show that she is a victim, so
2 I don't see how that -- I mean, they're obviously gonna
3 know that she's a victim, so I don't see how that's
4 prejudicial at all to referring to her as that.

5 THE COURT: From the defense?

6 MR. THOMPSON: Your Honor, it's, it's not proven
7 that she is a victim. It's not been proven by a jury.
8 A jury hasn't convicted him that she is a victim. Not
9 as a matter of law is she a victim. So, again, it would
10 be my preference not to refer to her as a victim.

11 THE COURT: Okay. We're not gonna refer to her
12 as victim. If you slip up, you slip up, but let's try
13 not to do that.

14 MS. HALLFORD: Okay.

15 THE COURT: And I understand the State's
16 position, I do. But I understand defense's, but y'all
17 need to come up with whatever we're gonna refer to so
18 it's consistent. If y'all can agree on something.

19 MS. HALLFORD: I'm gonna refer to her as B.R.
20 or the child.

21 THE COURT: All right. B.R. or the child.
22 Refer to her by the name or the child. Okay. All
23 right.

24 I've got all 14 here, okay. Anything else? I
25 don't have anything else on my sheet.

1 MS. HALLFORD: Nothing from the State.

2 THE COURT: From defense?

3 MR. THOMPSON: No, Your Honor.

4 THE COURT: All right. Very good. We've got all
5 14 here, we'll bring them in. And, Madam Clerk, we will
6 swear them to try this case. I'll make some comments
7 and then we'll begin.

8 (Whereupon, jury enters the courtroom 2:09 p.m.)

9 THE COURT: Ready?

10 THE BAILIFF: Ready.

11 THE COURT: Okay. Madam Forelady, is the jury
12 ready to go to work?

13 FORELADY: Yes, sir.

14 THE COURT: Okay, Madam Clerk.

15 THE CLERK: Would you all please stand and raise
16 your right hands. (All comply.)

17 Do each of you solemnly swear or affirm in the
18 case about to be tried to truly try the issues joined in
19 this case and a true verdict rendered according to the
20 law and evidence so help you God?

21 THE JURY: (All answer in the affirmative.)

22 THE CLERK: Okay, thank you.

23 THE COURT: Thank you, please be seated.

24 Juror Number 78, Ms. Brandi Gowan, ma'am, you are
25 hereby appointed the forelady of this jury. Thank you

1 for agreeing to serve.

2 Ladies and gentlemen of the jury, the case we're
3 about to try is the matter of the State of South
4 Carolina versus Anthony Briggs. And the indictment
5 ending in 4657, he is alleged that he committed the
6 criminal act of sex lewd act committed or attempted on a
7 child over the age of 14 years, but less than 16, and
8 that this occurred in Spartanburg County, South Carolina
9 between the dates of July 30, 2008 and February 2 of
10 2009.

11 He has entered a plea of not guilty to this
12 indictment and he is presumed innocent of the
13 allegations contained in that indictment.

14 MS. HALLFORD: Your Honor.

15 THE COURT: In the ---

16 MS. HALLFORD: May we approach?

17 THE COURT: Yes, ma'am.

18 (Whereupon, a bench conference was held off the
19 record.)

20 THE COURT: Okay. Let me read that one time. In
21 that indictment 4657, it is alleged between the dates of
22 July 30, 2008 and February 2, 2009, he, Mr. Briggs,
23 being over the age committed this criminal act on a
24 minor under the age of 16 years of age. Again, he has
25 entered a plea of not guilty to the indictment and he is

1 presumed innocent of the charges made against him.

2 In the indictment ending in 2627, it is alleged
3 that he committed the criminal act of criminal sexual
4 conduct with a minor in the first degree in that he did
5 in Spartanburg County, South Carolina, between the dates
6 of July 30th, 2008 through February 2 of 2009, commit
7 this offense upon a minor who was under the age of 11 at
8 the time.

9 Again, he has entered a plea of not guilty and he
10 is presumed innocent of the allegations made against
11 him. Ladies and gentlemen, the burden of proof is on
12 the State of South Carolina to prove his guilt beyond a
13 reasonable doubt.

14 Now, my comments at this time are to tell you a
15 little bit about how this trial will proceed. Many
16 times jurors believe from reading books, watching
17 television or movies or otherwise that all trials are
18 full or filled with high drama and intense action. And
19 while some of that may be true at times, our trial here
20 is not for entertainment purposes. It is a fundamental
21 part of our democracy. And this process, ladies and
22 gentlemen, is sometimes slow, deliberate and repetitive,
23 just the opposite of what we have come to expect from
24 the entertainment industry.

25 I tell you that this courtroom is a place of

1 honor dedicated to the protection and preservation of
2 citizens' rights through what other countries have
3 referred to as the greatest justice system ever created.

4 I tell you that the lawyers are officers of this
5 court and they are sworn in as officers of this court.
6 They represent -- the parties that they represent, they
7 will do so zealously, but at the same time they are
8 officers of the court and you should expect them to be
9 professional and reasonable in their presentations to
10 you.

11 Now, my comments are not a charge on the law. I
12 will instruct you on the law at the end of this trial
13 before you retire to consider your verdict. My remarks
14 are merely an explanation of the procedures.

15 As I told you, this defendant is charged by two
16 separate indictments with two separate criminal
17 offenses. And Madam Forelady, and ladies and gentlemen,
18 you will be required to answer two different questions
19 and to sign two different verdicts in this case.

20 Your purpose as jurors is to find facts. You 12
21 under the law of this state are the sole judge of facts.
22 If at any time I make a comment regarding a fact, you
23 must disregard it. You are to determine the facts from
24 the testimony you hear and the evidence introduced in
25 this courtroom. It is up to you to determine the

1 inferences which you think may be properly drawn from
2 the evidence presented. It is especially important that
3 you perform your duty of determining the facts
4 diligently and conscientiously because ordinarily there
5 is no way to correct an erroneous determination of the
6 facts by a jury.

7 Now, ladies and gentlemen, the same law of the
8 state that makes you 12 the judge of all facts, makes me
9 the judge of the law, and you must accept it and follow
10 it even if you disagree with it. A trial judge cannot
11 tell you what the facts are and you cannot tell the
12 trial judge what the law is or ought to be or should be.
13 Your job would be to take the law as I give it to you,
14 apply it to the facts as you find them to be, and after
15 doing so render a verdict.

16 Now, until I tell you to begin deliberations, you
17 must not discuss this case with anyone, including your
18 fellow jurors. You must not discuss it with family
19 members or friends or anyone involved in this case. The
20 lawyers and the parties have been advised by me not to
21 speak to you. You are wearing those badges for a
22 reason. You are very special. You're special anyway,
23 but you're very special this week. That tells all of us
24 that you are sitting on a jury.

25 And if the lawyers walk by you or if I walk by

1 you and do not speak, we are not being rude, it's just a
2 simple comment could be misunderstood. You know, the
3 fix is in. The judge is talking to the juror or the
4 defense or prosecution. So we will not be -- we can't
5 speak to you during this week of term of court.

6 You must decide this case based solely on the
7 evidence presented in this room. During the trial you
8 must not conduct any independent research about this
9 case or any fact or any evidence presented or any person
10 involved. Please do not try to learn any information
11 from outside of this courtroom.

12 And that includes you must not look at
13 dictionaries or reference materials, search the
14 internet, web sites, blogs, or use any tool that has
15 electronic communication capability. You may not use
16 computers, telephones, cellphones, smart phones,
17 tablets, the internet or any tool of technology with
18 communication capability while you're in the courtroom
19 or during your deliberations.

20 Now, during breaks you may use those devices, but
21 you must not use them to communicate with anyone about
22 the case until the case is ended. Once the case is
23 ended, you can talk about the case as much or as little
24 as you desire, but not until then.

25 Please do not try to learn anything on social

1 media about this case or send or receive information.
2 And this means information about a party, a witness, a
3 news account about a case, any research or topics
4 raised, anything that you would think might be helpful
5 in deciding.

6 Do not read, listen to or watch any news reports
7 about this case, if any. I don't see any media, but if
8 there happens to be some, please set that aside. And
9 this includes anything that might be in a newspaper,
10 radio, television or internet. You must not consider
11 anything that you may have heard or read about this case
12 prior to today and during this trial because that
13 information might be wrong or certainly it might be
14 incomplete.

15 And, ladies and gentlemen, our judicial system
16 isn't for -- and you are not influenced by anything or
17 anyone outside of this courtroom. If you become aware
18 of a fellow juror's violation of my instructions, I ask
19 that you inform me immediately.

20 It is important that you keep an open mind and
21 not decide any issue until all evidence is presented,
22 the parties make their closing statements, and I have
23 instructed you on the law. It is your solemn
24 responsibility and duty to determine the guilt or
25 innocence of this defendant and your verdict must be

1 based solely on the evidence presented to you during
2 this trial.

3 Now, in just a moment the solicitor will make
4 what's known as our opening statement in which she will
5 explain to you the issues or what she perceives the
6 issues to be. The attorney for the defendant may also
7 make an opening statement, although he is not required
8 to do so.

9 But what the lawyers tell you during their
10 opening statements and closing statements is not
11 evidence, it is their contention as to what the issues
12 are. The evidence will be presented to you from the
13 witness stand right over there, along with any exhibits
14 that might be introduced.

15 Now, Madam Forelady, ladies and gentlemen, from
16 time to time during this trial you will hear one of
17 these lawyers that will say, Your Honor, I believe we
18 have a matter of law or a question of law or may we
19 approach. Sometimes I, myself, might reach out right to
20 the lawyers, and I have a habit of waving them here to
21 the bench here with my fingers.

22 And if we do that, we're gonna be discussing one
23 of these rules in one of our rule books here as to
24 whether or not a particular piece of evidence comes in
25 for you to consider. If that's gonna take just a matter

1 of seconds, ten seconds or less, I usually do that here
2 in the courtroom. But if we're gonna have to have a
3 discussion about it, then I'm gonna excuse you.

4 So I would ask you, Madam Forelady, to take your
5 jury to the jury room because remember the law of this
6 state does not allow me to make a comment on a fact and
7 I might find it necessary to comment about a fact in
8 this case as to whether or not it applies to a rule in
9 this rule book, so it will be improper for the jury to
10 be here at that time.

11 Now, in determining what the facts are, you 12
12 must decide whether the testimony of a witness is
13 believable. It is my responsibility to rule as a matter
14 of law as to whether certain testimony is admissible,
15 but once a testimony is admitted, whether or not you
16 believe it is solely for you 12 to determine.

17 In deciding whether to believe a witness, you
18 have the right to consider the interest of the witness
19 or any bias or prejudice of that witness. You have the
20 right to consider anything in the record that will help
21 you evaluate the testimony of the witnesses, and that
22 necessarily means it is your duty to pay close attention
23 to the witnesses, observe them and do not let your
24 thoughts wander, but give strict attention so that at
25 the end of the testimony you will be in position to

1 determine what the facts are.

2 Again, we thank you for being prompt in your jury
3 service. I'm often asked, and I was most recently in
4 another trial, as to whether or not you can take notes.
5 I don't have it in my notes here, but the answer is no.
6 The reason for that is we want you to pay close
7 attention to what the witness is testifying and not be
8 concerned with making notes. Just give all of your
9 attention, please, to the witnesses as they testify.

10 Madam Forelady, it will be your duty at the end
11 to write a verdict of the jury, but we'll talk more
12 about that at the close of this case. For the time
13 being, you are spokesperson of the jury and if there's
14 any issue whatsoever, if you will pass that to me
15 through a note to one of our bailiffs, we will address
16 any issue that might arise.

17 Anything from the State?

18 MS. HALLFORD: Nothing from the State.

19 THE COURT: From the defense?

20 MR. THOMPSON: No, Your Honor.

21 THE COURT: Are we ready?

22 MS. HALLFORD: The State's ready.

23 THE COURT: Yes, ma'am.

24 MS. HALLFORD: If it please the Court?

25 THE COURT: Yes, ma'am.

OPENING STATEMENT

BY MS. HALLFORD:

At the beginning of the school year of 2008, B.R. is a little four-year-old girl. She was starting K-4. She lived with her mother and her brother and her sister. And she lived with another person, Anthony Briggs, that man seated right there (indicating). Anthony Briggs was her mother's boyfriend.

In the mornings before school mom would go to work, brother and sister had to be to school earlier than she did, so she was left at home with Anthony Briggs. And she's going to tell you that in the mornings she would go out into the living room and they had a layout couch where mom and Anthony Briggs would sleep at night.

And on some of those mornings when B.R. was alone with a man she should have been able to trust, he used her for his deviant sexual desires. You're going to hear B.R. testify to what she remembers. She remembers that he would put his hand on her vagina. She remembers that he would put his mouth on her privates and lick her privates.

You're gonna hear from 15-year-old B.R. cause she's 15 now. But you're also going to hear from B.R.

1 as a five-year-old. Because after B.R. got the
2 courage to tell someone what Anthony Briggs was doing to
3 her in those mornings before she went to kindergarten,
4 K-4, after she told them law enforcement got involved
5 and she was taken to the Child Advocacy Center here in
6 Spartanburg where she had two interviews.

7 Those interviews were videotaped and you're going
8 to hear them. Now, there are portions that have been
9 taken out by agreement between the State and the
10 defense, to remove things that aren't relevant or aren't
11 admissible, but the meat of those tapes you're gonna get
12 to see. She was five at this time. You're gonna get to
13 see five-year-old B.R. talk about what happened to
14 her.

15 And five-year-old B.R. remembered more than
16 15-year-old B.R. does. And B.R. will tell you when
17 she takes the stand that she has tried to put this out
18 of her mind, and why wouldn't she? The worst thing,
19 one of the worst things that could happen to a child.
20 So she doesn't remember everything, but five-year-old
21 B.R. remembered much closer to the time when this
22 happened.

23 And what she said in the interview was that the
24 defendant would put his fingers inside of her. That he
25 would put his privates on her privates. That he would

1 lick her privates. And that he would stick his private
2 in her butt. And she said it hurt to go to the bathroom
3 after he did that. And you're gonna hear five-year-old
4 B.R. talk about that.

5 You're gonna hear from some other witnesses too.
6 You're gonna hear from Dr. Henderson. She's a child sex
7 abuse expert. She's a pediatrician. And she's gonna
8 tell you that contrary to what you might think, there
9 were no physical findings. And you know what, she's
10 gonna tell you that that is very, very common in a child
11 sex abuse case. There are rarely physical findings and
12 she'll explain to you why that is.

13 You're also going to hear from a child abuse
14 dynamics expert. Someone who will tell you why it is
15 that children delay disclosing because sometimes we
16 might think, oh, as soon as it happens you're gonna tell
17 someone, but that's not the reality, so you're gonna
18 hear from them.

19 You're also gonna hear from some of the people
20 that B.R. told when she first screwed her courage to
21 the sticking post and told somebody what that defendant
22 was doing to her. Now, they're limited in what they can
23 tell you, but what they are allowed by the Rules of
24 Evidence to tell you, they're going to share with you.

25 You're also going to hear some of the things that

1 the defendant said when he was interviewed by law
2 enforcement. He made some admissions and you're gonna
3 hear about that.

4 You're also gonna hear some jail calls. The
5 defendant would call the victim's -- or, excuse me,
6 would call B.R.'s mother and talk about this. And one
7 of the things he would tell her is no face, no case
8 because he wanted her to take the kids and move out of
9 state because if she wasn't here to testify, he was
10 gonna get away with this.

11 He also said you can't prove or disprove oral
12 sex. It's my word against hers. And he's right about
13 that. Most child sex abuse cases are the child's word
14 against the adult. They make great victims.

15 But the most important person you're gonna hear
16 from is B.R. herself. B.R. at 15 and B.R. at
17 five. Pay very close attention to what she says.
18 You'll get to take the videos in the back with you and
19 watch them again if you don't catch everything here.
20 You'll be able to listen to what she says.

21 After you have heard the evidence, I'm going to
22 ask that you return a verdict of guilty on lewd act and
23 guilty of criminal sexual conduct with a minor.

24 And just briefly to show you the difference, lewd
25 act is basically lewd and lascivious touching of a

1 child's body, either for the sexual pleasure of the
2 person who's touching the child or for the sexual
3 pleasure of the child.

4 Criminal sexual conduct with a minor in the first
5 degree is also touching a child's body in a sexual
6 manner, but that includes cunnilingus, which is oral sex
7 on a female, fellatio oral sex on a male. Vaginal
8 intercourse, anal intercourse or any intrusion, however
9 slight, of any object or any part of the body into the
10 child.

11 So that's the difference between lewd act and CSC
12 with a minor first degree. And he's charged with both
13 of them because, as you will hear from the testimony, he
14 did things that qualify for both of those.

15 But, ladies and gentlemen, after you hear the
16 testimony, we ask you to return a verdict of guilty
17 because Anthony Briggs is guilty. He's guilty of lewd
18 act. He's guilty of criminal sexual conduct with a
19 minor in the first degree. He is guilty.

20 MR. THOMPSON: May it please the Court?

21 THE COURT: Yes, sir.

22 OPENING STATEMENT

23 BY MR. THOMPSON:

24 Forgive me, I get a bit of cotton mouth when I
25 talk for an extended period so I'm gonna bring my water

1 bottle over here. Forgive me for taking a couple sips
2 here and there.

3 Good afternoon. My name is Jeremy Thompson. I
4 represent Anthony Neil Briggs, who you'll be -- you'll
5 hear referred to most frequently, I think, as Anthony,
6 but some people know him as Neil as well and so those
7 names are used -- will be used interchangeably
8 throughout the course of the next couple of days.

9 This is a bit of a weird experience, isn't it,
10 having to sit on a jury? And this is not how people
11 normally interact. You know, if I'm talking to you, I
12 expect you all to be able to talk back to me. That's
13 just how it works. It's how communication works. It's
14 how people are. But you don't get to do that, and this
15 is really an unusual experience. It's almost unique in
16 terms of, you know, kind of cause you -- it's obviously
17 not a day-to-day life kind of thing, but things that
18 you're gonna experience in your life, jury service is
19 almost unique.

20 I've heard one of my favorite kind of comparisons
21 was comparing it to a class. So imagine that you all
22 are taking a class. You all signed up to take a class,
23 except you didn't sign up for it. You were told that
24 you had to come. And it's a class you've got no
25 experience in whatsoever.

1 You know, let's say you're a mathematics major
2 and you don't care about literature but you're suddenly
3 brought in to do a class about 18th Century Victoria --
4 19th Century Victorian Literature. You don't know
5 anything about it. You're told not to form an opinion
6 about anything you hear throughout the course of the
7 entire class until you get to the very end.

8 You're told to remember everything that's said by
9 the teacher, by other people who come in throughout the
10 course of the entire class. You are not allowed to ask
11 questions. And then when you get to the end you're
12 gonna be given a test but you're not gonna know what
13 you're tested on until you get to the very end of the
14 class. That's really weird. And that's what you all --
15 that's the job that we're expecting you all here to do
16 this week.

17 And it's an unusual experience, but I think it's
18 a very valuable one. It's one that -- it's one that
19 dates back, at least for the English, you know, common
20 law system back to the Magna Carta in 1215, but it dated
21 -- the process of a jury dates back to Athenian times.
22 Socrates was tried by a jury. He was tried by 500
23 people. 500 Athenian citizens. You all are part of
24 that process.

25 It's a very valuable process. You all serve a

1 very valuable goal. A very valuable service to your
2 community, but it's unusual. And I thank you for being
3 willing to do it. For being willing to be here. For
4 being willing to take that class and to, and to listen
5 and to learn about this case.

6 Now, as he sits right now, Anthony is innocent.
7 If the case ended right now, you would have to find him
8 innocent. You'd have to find him not guilty because you
9 haven't heard any evidence in the case. It's only after
10 you've heard all of the evidence and then given the
11 judge's instructions on the law that you can deliberate
12 amongst yourselves and decide whether or not Anthony is
13 guilty or not guilty.

14 Now, I'm gonna come back to you at the end of the
15 case and I'm gonna tell you that it's our -- that you
16 should find him not guilty because he's not. It's very
17 difficult for, you know, kind of in our position because
18 we don't get to present the evidence first. The State
19 goes first. We have to wait and we have to wait until
20 they present all their witnesses until we get to present
21 our side of the case.

22 But recognize that there are two sides to every
23 story. I have a ten-year-old little girl and a
24 seven-year-old boy at home. And if my son comes crying
25 to me and says, Daddy, Sarah Grace hit me, I can't just

1 say Sarah Grace go to your room. I gotta ask Sarah
2 Grace what happened. I don't get -- you don't get to
3 make up your mind immediately until you've heard
4 everything. That's how it works here.

5 Please don't make up your mind until you've had a
6 chance to hear both sides of the story because you're
7 going to hear the defense side of the story. You're
8 going to hear the other side of what the State's
9 presenting this week.

10 Like I said, I know you all don't get to ask
11 questions. It's my job to ask questions. I hope I ask
12 the ones that you all -- and get the answers that you
13 all want to hear.

14 I'm gonna ask you again, and thank you again for
15 your service, please keep an open mind, wait until the
16 end, wait until you've heard all the evidence before
17 deciding whether or not Anthony is guilty or not guilty.
18 And I will submit to you that if you do that, the proper
19 conclusion you will come to is that he is not guilty.
20 Thank you so much.

21 THE COURT: Thank you.

22 Solicitor.

23 MS. HALLFORD: The State calls B.R.

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
3 you're about to give will be the truth, the whole truth
4 and nothing but the truth so help you God?

5 THE WITNESS: I do.

6 THE CLERK: Thank you.

7 THE COURT: Ma'am, pull that microphone up just a
8 little bit there and tell us your name and spell your
9 last name for my court reporter.

10 THE WITNESS: B.R. [REDACTED],
11 [REDACTED].

12 THE COURT: Okay. Now, Ms. B.R. [REDACTED], will you do
13 me a favor and pull up a little closer there. I'm hard
14 of hearing, so I'm told. Tell me again your name.

15 THE WITNESS: B.R. [REDACTED].

16 THE COURT: Is that mic working?

17 MS. HALLFORD: It does not sound like it is
18 because I can't hear her.

19 THE COURT: Check that mic. I'll tell you what,
20 Ms. B.R. [REDACTED], if you'll just be as careful as you can
21 and speak as loud as you can, how about that?

22 THE WITNESS: Okay.

23 THE COURT: Because these folks want to hear from
24 you. Solicitor.

25 B.R. [REDACTED]

1 having duly been sworn, testified as follows:

2 DIRECT EXAMINATION

3 BY MS. HALLFORD:

4 Q. B.R. how old are you?

5 A. Fifteen.

6 Q. Okay. You're gonna have to speak up because I
7 can hardly hear you. Let's try again. How old are you?

8 A. Fifteen.

9 Q. When's your birthday?

10 A. /03.

11 Q. Where do you currently live, B.R.

12 A. North Carolina.

13 THE COURT: Hang on a second. Julie can you
14 hear?

15 COURT REPORTER: Barely.

16 THE COURT: We've got to do something. My court
17 reporter's having trouble capturing her. Can we get
18 somebody?

19 BY MS. HALLFORD:

20 Q. B.R. where do you currently live?

21 A. North Carolina.

22 COURT REPORTER: They unplugged my recorder, can
23 I fix it?

24 THE COURT: Yeah.

25 BY MS. HALLFORD:

1 Q. Try this again. Where is it that you currently
2 live?

3 A. North Carolina.

4 Q. With whom do you live?

5 A. My grandma.

6 Q. Does anyone else live there besides you and your
7 grandma?

8 A. Yes. My great grandpa and my grandpa.

9 Q. Where do you go to school, B.R. [REDACTED]

10 A. [REDACTED] High School.

11 Q. What grade are you in?

12 A. Ninth.

13 Q. What's your mom's name?

14 A. Wendy.

15 Q. And tell us the name of your siblings.

16 A. M.R. [REDACTED] and ---

17 COURT REPORTER: I'm sorry?

18 BY MS. HALLFORD:

19 Q. Are they older or younger than you?

20 COURT REPORTER: It was M.R. [REDACTED] and what?

21 THE WITNESS: D.R. [REDACTED].

22 BY MS. HALLFORD:

23 Q. Are they older or younger than you?

24 A. Older.

25 Q. B.R. [REDACTED] do you know Anthony Briggs?

1 A. Yes.

2 Q. How do you know him?

3 A. He touched me sexually.

4 Q. But how did you know him before that?

5 A. He was my mom's boyfriend.

6 Q. Did he ever live with your family?

7 A. Yes.

8 Q. Were you guys living in Spartanburg County when
9 he lived with you?

10 A. Yes.

11 Q. Do you know what town it was?

12 A. Chesnee.

13 Q. Do you know the address?

14 A. No.

15 Q. Do you know the street?

16 A. Fairfield.

17 Q. And that was in Spartanburg County?

18 A. Yes.

19 Q. Who all lived at Fairfield Street when Anthony
20 Briggs lived with you?

21 A. My mom and my sister and my brother.

22 Q. Where -- I think you said your brother's name is
23 D.R. ?

24 A. Yes.

25 Q. Where did D.R. sleep in that house?

1 A. In his room.

2 Q. Where did you and M.R. sleep?

3 A. We shared a room.

4 Q. Where did your mom and the defendant sleep?

5 A. On the pullout couch in the living room.

6 Q. In 2008 did you start 4-K or K-4?

7 A. Yes.

8 Q. Do you know what month it was that you started?

9 A. No.

10 Q. How old would you have been around August,
11 September of 2008?

12 A. Four.

13 Q. Do you know what school you were going to?

14 A. Chesnee Elementary.

15 Q. And when you started at Chesnee Elementary, was
16 Anthony Briggs living with your family at that time?

17 A. Yes.

18 Q. Did you leave for school in the mornings at the
19 same time as D.R. and M.R.?

20 A. No.

21 Q. Was your mom still at the house when you would
22 leave for school?

23 A. No.

24 Q. Do you know where she was?

25 A. At work.

1 Q. When M.R. and D.R. were at school and mom
2 was at work, who would take care of you before you had
3 to go to K-4?

4 A. Anthony.

5 Q. Do you know what time exactly it was that you
6 left for school?

7 A. Not exactly.

8 Q. Do you know approximately what time?

9 A. The middle of the morning.

10 Q. From the time mom left to work, M.R. and
11 D.R. left for school, you and Anthony Briggs were
12 alone at that house before you went to K-4 in the
13 morning?

14 A. Yes.

15 Q. While you were alone with him in the mornings
16 before you went to kindergarten, four-year-old
17 kindergarten, did Anthony Briggs do something to you
18 that he should not have done?

19 A. Yes.

20 Q. What did he do B.R.

21 A. He touched me sexually.

22 Q. Where were you when he would touch you sexually?

23 A. On the pullout couch in the living room.

24 Q. Was it pulled out as a bed when this was going
25 on?

1 A. Yeah.

2 Q. So you said he touched you sexually. I need for
3 you to explain to the jury what you mean by that. Would
4 he do something with his hands?

5 A. Yes.

6 Q. What would he do with his hands?

7 A. He would touch my private.

8 Q. When he touched your private, was it over your
9 clothes, under your clothes or both?

10 A. Under.

11 Q. Under?

12 A. (Nods head up and down.)

13 Q. Speak up again because I'm having a little bit of
14 trouble, sorry. Did this happen more than one day?

15 A. Yes.

16 Q. Do you know how many times it happened?

17 A. No.

18 Q. Did he do anything to you with his private?

19 A. Yes.

20 Q. What did he do?

21 A. He touched me.

22 Q. Where did he touch you with his private?

23 A. Mine.

24 Q. Your?

25 A. Private.

1 Q. Okay. Did he do anything with his mouth?

2 A. Yes.

3 Q. What did he do?

4 A. He licked my private.

5 Q. Going back to touching your privates with his
6 private, did that happen just one time or more than one
7 time?

8 A. More.

9 Q. On more than one day?

10 A. Yes.

11 Q. And putting his mouth on your privates, did that
12 happen just one time or more than one time?

13 A. More than one time.

14 Q. And on more than one day?

15 A. Yes.

16 Q. When he would put his mouth on you -- and I'm
17 sorry that you have to say this, but when he would put
18 his mouth on your private, what was he doing to your
19 private?

20 A. Licking it.

21 Q. And, again, this happened the mornings before you
22 went to K-4?

23 A. Yes.

24 Q. Do you remember how you would end up getting to
25 school?

1 A. On the bus.

2 Q. How would you get to the bus?

3 A. He would walk me to the bus.

4 Q. So on the mornings after he touched your private,
5 put his privates on your privates and licked your
6 privates, he would then walk you to the bus?

7 A. Yes.

8 Q. And you would go to school?

9 A. Yes.

10 Q. Were there some mornings when you and the
11 defendant didn't stay at the house before you went to
12 school?

13 A. Yes.

14 Q. What would happen on those occasions, B.R.

15 A. He would take me to work on trailers with him.

16 Q. Would you -- would he go to work on a trailer
17 every morning?

18 A. No.

19 Q. When this first started happening, when he first
20 started touching you sexually, did you tell anybody
21 about it?

22 A. No.

23 Q. Why didn't you tell someone B.R.

24 A. Because I was scared.

25 Q. Did you finally get the courage up to tell

1 someone what Anthony Briggs had been doing to you
2 sexually?

3 A. Yes.

4 Q. Do you remember who it was that you first told
5 about this?

6 A. I remember telling Judy.

7 Q. Is there a possibility that you had told someone
8 besides Judy before and you just don't remember it?

9 A. Yes.

10 Q. Do you remember where you were when you talked to
11 Judy about this?

12 A. I was at her house.

13 Q. Do you know what room you were in?

14 A. The bathroom.

15 Q. Was your dad in the room or was somebody else in
16 the room with you when you were talking to Judy?

17 A. No.

18 Q. Do you remember specifically what you told her?

19 A. No. I remember telling her that he touched me
20 though.

21 Q. Do you know why it was you decided to tell
22 someone what he'd been doing?

23 A. No.

24 Q. At some point did your mom ask you if anyone had
25 ever touched you?

1 A. Yes.

2 Q. Did she ask you specifically about Anthony Briggs
3 or did she just ask in general did someone touch you?

4 A. She asked me generally.

5 Q. Was there anybody else there when your mom asked
6 you if someone had touched you sexually?

7 A. Yes.

8 Q. Who else was there?

9 A. Anthony.

10 Q. Where were you when your mom asked you about
11 this?

12 A. On the couch.

13 Q. And you said that Anthony was also there?

14 A. Yes.

15 Q. So when your mom asked you if someone was
16 touching you sexually, why didn't you tell her about
17 what Anthony had been doing?

18 A. Because he was right there and I was scared.

19 Q. Do you remember if your mom asked you about this
20 before or after you told Judy?

21 A. I don't remember.

22 Q. After you disclosed that Anthony Briggs was --
23 had been sexually abusing you, to your knowledge did
24 your mother continue to have contact with him?

25 A. Yes.

1 Q. How do you know that she was still having contact
2 with him?

3 A. I would hear her on the phone with him.

4 Q. You said you're living with your grandma. Did
5 you tell us what her name was?

6 A. No.

7 Q. Okay. Tell us what your grandma's name is.

8 A. Donna.

9 Q. At some point after you disclosed and after law
10 enforcement became involved, did you end up talking to
11 Donna about Anthony Briggs touching you?

12 A. Yes.

13 Q. Where were you when that happened B.R.

14 A. At her house in the kitchen.

15 Q. Were you living with Donna at the time or were
16 you still living with your mom?

17 A. I was still living with my mom.

18 Q. What, if anything, did Donna ask you?

19 A. She asked me what was wrong.

20 Q. What did you tell her?

21 A. That he touched me.

22 Q. And when you say "he", who are you talking about?

23 A. Anthony.

24 Q. Do you know why it was -- no, let me back that
25 off.

1 Do you know if it was when you told Donna it was
2 close to the time that you told Judy or not? Do you
3 have any memory of that?

4 A. I'm not sure.

5 Q. Do you remember being interviewed by Michelle
6 Stags or now Michelle Maldonado at the Child Advocacy
7 Center?

8 A. No.

9 Q. Did you recently in February of 2019 watch those
10 videos from those interviews?

11 A. Yes.

12 Q. And when you watched those videos, did that help
13 you remember anything that had happened, or did you just
14 retain the same memory that you had?

15 A. I had the same memory.

16 Q. When you were little, what did you call Anthony
17 sometimes?

18 A. Antsony.

19 Q. Say that again?

20 A. Antsony.

21 Q. Antsony?

22 A. (Nods head up and down.)

23 Q. When you watch the videos, the second time that
24 you went to the CAC in the second video that you
25 watched, did Michelle ask you if someone had told you

1 not to talk about what had happened?

2 A. Yes.

3 Q. What did you say?

4 A. Antsony told me not to.

5 Q. And, again, I'm having a hard time. I'm sorry.

6 What did you say?

7 A. I said Antsony told me not to.

8 Q. You said Antsony told you not to?

9 A. Yes.

10 Q. Okay. And then did Michelle repeat back to you
11 and said Aunt Cindy said not to tell?

12 A. Yes.

13 Q. Why didn't you correct her?

14 A. I don't remember.

15 Q. Do you actually have an Aunt Cindy?

16 A. No.

17 Q. Do you know someone that you would have called
18 Aunt Cindy?

19 A. No.

20 Q. So is what you said on the video Antsony?

21 A. Yes.

22 Q. And she misunderstood you?

23 A. Yes.

24 Q. After you watched those videos in February of
25 2019, did you end up talking to Investigator Markum and

1 myself on that day after you had watched the videos?

2 A. Yes.

3 Q. And is the same thing you told us then, when we
4 talked to you, the same thing that you're testifying to
5 today?

6 A. Yes.

7 Q. So are there things that you hear little B.R.
8 say in those videos that you don't actually have a
9 memory of now?

10 A. Yes.

11 Q. After you watched those videos and heard little
12 B.R. talk about him putting his private in your butt,
13 and talked about putting his fingers inside your
14 private, why -- when we talked to you, why didn't you
15 just say, yeah, that's what happened?

16 A. Because that would be a lie.

17 Q. And why would you consider that lying, because
18 you don't remember those things now?

19 A. Yes.

20 Q. B.R. what have you tried to do with the
21 memories of what Anthony Briggs did to you?

22 A. Forget them.

23 Q. Why do you try to forget them?

24 A. Because it was traumatic and who would want to
25 remember that?

1 Q. B.R. what kind of relationship -- let me back
2 up. What's your dad's name?

3 A. Neddie Richards.

4 Q. What kind of relationship do you have with him
5 now?

6 A. We aren't speaking.

7 Q. Do you have -- you said you're not speaking. Do
8 you have any kind of contact with him?

9 A. No.

10 Q. When you were little, B.R. did anyone tell you
11 to lie about Anthony Briggs messing with you sexually?

12 A. No.

13 Q. Did someone put little B.R. up to saying those
14 things about him?

15 A. No.

16 Q. Let's say for the sake of argument that someone
17 had and that you went along with it. If you had been
18 lying about this back then and he had not actually done
19 this to you, would you be testifying today that he did
20 molest you?

21 A. No.

22 Q. Why would you -- why would you not continue on
23 with that lie if it was a lie?

24 A. Because that would be putting an innocent man in
25 prison.

1 Q. B.R. why are you testifying today about
2 Anthony Briggs?

3 A. Because he did those things.

4 MS. HALLFORD: I have no further questions.

5 THE COURT: Yes, sir.

6 MR. THOMPSON: Just briefly, Your Honor.

7 CROSS-EXAMINATION

8 BY MR. THOMPSON:

9 Q. Good afternoon B.R.

10 A. Good afternoon.

11 Q. My name is Jeremy Thompson, I represent Anthony.
12 I'm gonna ask you a few questions, okay?

13 A. Okay.

14 Q. Now, do you recall how long you lived with
15 Anthony?

16 A. No.

17 Q. You don't know?

18 A. No.

19 Q. Do you recall taking any trips with him?

20 A. No.

21 Q. You don't recall going to, say, Tennessee with
22 him?

23 A. No.

24 Q. Do you recall, let's say, do you know what kind
25 of car he had?

1 A. No.

2 Q. Do you recall taking trips with him in his car?
3 Do you remember driving in the car with him?

4 A. No.

5 Q. You testified earlier that you went to work -- he
6 took you to work on some mobile homes; is that correct?

7 A. Yes.

8 Q. What would he do at those mobile homes?

9 A. I'm not sure.

10 Q. You don't remember?

11 A. No.

12 Q. These two folks sitting right here, do you
13 recognize them?

14 A. No.

15 Q. Do you remember -- do you remember his parents at
16 all?

17 A. No.

18 Q. Do you remember going to his parents' house at
19 all?

20 A. Yes.

21 Q. You remember going to the house, but you don't
22 remember them?

23 A. Yes.

24 Q. Okay. And you testified earlier you don't
25 remember when you started school.

1 A. Yes.

2 Q. Do you remember how long you'd be in school for?

3 A. No.

4 Q. Do you know -- how did you get home?

5 A. The bus.

6 Q. Did you ride with anybody on the bus?

7 A. No.

8 Q. You didn't ride with -- you didn't ride -- let me
9 rephrase that.

10 Do you know what school your brother and sister
11 went to?

12 A. No.

13 Q. Do you recall riding home on the bus with your
14 sister?

15 A. Not that I remember.

16 Q. But you do remember you took the bus home?

17 A. Yes.

18 Q. Do you remember Anthony going to work?

19 A. Can you repeat that?

20 Q. Do you remember Anthony going to work?

21 A. Whenever he would take me.

22 Q. Do you remember when he had a regular job?

23 A. No.

24 Q. You don't remember him ever having a regular job?

25 A. No.

1 Q. Do you remember who your 4-K teacher was?

2 A. No.

3 Q. Do you remember if you had any friends in 4-K?

4 A. Not that I remember.

5 Q. You don't remember. Is there anybody other than
6 Wendy, your mother, that you remember telling that
7 nothing happened between you and Anthony?

8 A. Yes.

9 Q. There are other people?

10 A. No. There's nobody else that I remember telling.

11 Q. There's nobody else that you remember telling.

12 A. Yes.

13 Q. Okay. Do you know who Amber Wofford is?

14 A. No.

15 Q. Would your mother take you to other people's
16 houses? Would you go see friends of your mother? Do
17 you remember?

18 A. No, I don't remember.

19 Q. You don't remember that?

20 A. (Shakes head back and forth.)

21 Q. Is it possible you did it and you just don't
22 remember?

23 A. Yes.

24 Q. Okay. Do you remember being in Amber Wofford's
25 home?

1 A. No.

2 Q. Do you remember in March of 2010 telling Amber
3 Wofford in her home that nothing had happened between
4 you and Anthony and that you didn't understand why
5 Anthony couldn't come home?

6 A. No, I don't remember that.

7 Q. And I just want to make sure I'm clear. You
8 testified that there are things that you say on the
9 video that occurred between you and Anthony that you
10 said back then.

11 A. Yes.

12 Q. That occurred between you and Anthony that you
13 don't remember occurring, correct?

14 A. Yes.

15 MR. THOMPSON: Beg the Court's indulgence.

16 THE COURT: Yes, sir.

17 BY MR. THOMPSON:

18 Q. Now, you testified earlier that you were --
19 you're certain that when your mother asked about your
20 allegations with Anthony that Anthony was present when
21 that conversation occurred.

22 A. Yes.

23 Q. Where was that?

24 A. At our house.

25 Q. Where in the house?

1 A. On the couch.

2 Q. On the couch. Everybody was present?

3 A. Me, my mother and Anthony.

4 MR. THOMPSON: I have no further questions of
5 this witness, Your Honor.

6 THE COURT: Anything at all as to that?

7 MS. HALLFORD: Nothing from the State.

8 THE COURT: Okay. Ma'am, you may step down.
9 Please be careful.

10 (Whereupon, witness leaves witness stand.)

11 MS. HALLFORD: The State calls Michelle
12 Maldonado.

13 (Whereupon, witness comes forward.)

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

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

19 THE WITNESS: I do.

20 THE CLERK: Okay, thank you.

21 THE COURT: Ma'am, tell us your name and spell
22 your last name. And speak up, we're having trouble with
23 that microphone.

24 THE WITNESS: Certainly. Michelle Maldonado.

25 THE COURT: Spelling?

1 THE WITNESS: M-A-L-D-O-N-A-D-O.

2 THE COURT: Thank you.

3 Solicitor.

4 MICHELLE MALDONADO,

5 having been duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MS. HALLFORD:

8 Q. Michelle, where are you currently employed?

9 A. I'm employed at Boston Children's Hospital,
10 Boston Massachusetts.

11 Q. Can you just briefly tell the jury what it is
12 that you do up there?

13 A. Yes. I'm a licensed clinical social worker, and
14 I work both in-patient with chronic severe ill patients
15 and their families, as well as in the primary care
16 clinic.

17 Q. Back in February of 2009 were you employed here
18 at the Spartanburg Child Advocacy Center?

19 A. That is correct, I was.

20 Q. How long did you work here at the CAC?

21 A. I worked at the Children's Advocacy Center from
22 2005 to 2009.

23 Q. Were part of your duties at the CAC -- did part
24 of your duties at the CAC include conducting forensic
25 interviews?

1 A. That's correct.

2 Q. Did you meet with B.R. and interview
3 her on February the 5th of 2009 and February 9th of
4 2009?

5 A. Yes, I did.

6 Q. How old was B.R. at the time you met with her?

7 A. She was five years old.

8 Q. Do you remember who referred her to you?

9 A. Yes, I do. Law enforcement.

10 Q. So the rules of evidence don't let you get into
11 the specifics of what she said or let you say who she
12 said did it, but did she disclose sexual assault to you?

13 A. Yes, she did.

14 Q. Did she tell you where sexual assault had
15 occurred?

16 A. She did, at her home on the lay-out pullout
17 couch.

18 Q. And did she tell you when this would occur?

19 A. When her mother would be at work and her brother
20 and sister would be at school.

21 Q. What was B.R.'s demeanor when she was talking
22 with you initially about this?

23 A. Shameful, timid, embarrassed.

24 Q. When you had the interview with her on February
25 5th, did you ask her to draw a picture for you?

1 A. I did.

2 MS. HALLFORD: Your Honor, may I approach the
3 witness?

4 THE COURT: (Nods head up and down.)

5 BY MS. HALLFORD:

6 Q. Do you recognize this?

7 A. I do.

8 Q. What is that?

9 A. This is a drawing that she did.

10 Q. Okay. And other than having some things that
11 were removed at the consent of both parties, is this in
12 substantially the same condition as it was when she
13 created that drawing?

14 A. It absolutely is the original.

15 Q. And other than what I've already addressed, it
16 has not been altered in any way?

17 A. That is correct. It has not been altered other
18 than those --

19 Q. Okay.

20 A. -- two things.

21 MS. HALLFORD: Your Honor, may I move into
22 evidence and publish?

23 MR. THOMPSON: No objection.

24 THE COURT: Okay, that's what?

25 MS. HALLFORD: It's probably -- I'm sorry, that's

1 State's Exhibit 3.

2 THE COURT: Did you get that already, Julie?

3 COURT REPORTER: Yes, sir.

4 MS. HALLFORD: He's already seen it.

5 THE COURT: State's 3?

6 MS. HALLFORD: Yes, sir.

7 THE COURT: Without objection, State's 3.

8 (State's Exhibit Number 3 was entered into the
9 record.)

10 BY MS. HALLFORD:

11 Q. All right. Michelle, what is this here?

12 (Indicating.)

13 A. That is a drawing that B.R. made and it is
14 showing where she was at the time, the pullout couch.

15 Q. And you've got some writing right here. Who put
16 that writing there?

17 A. That is my handwriting and I wrote what she said.

18 Q. And what does that say?

19 A. We was under two covers.

20 Q. Okay. And then we have a drawing up here.

21 (Indicating.) What is that?

22 A. That is correct. That is her drawing and those
23 are my words, my writing. His private, his hair.

24 Q. And she drew that?

25 A. That is correct.

1 Q. And then those words were from what she told --

2 A. That is correct.

3 Q. -- you the drawing was of? All right. I'm
4 handing you what's been marked State's Exhibit Number 2
5 for identification. Do you recognize that?

6 A. I do.

7 Q. And how do you recognize it?

8 A. I have initialed them.

9 Q. All right. And have you reviewed the contents of
10 this disc?

11 A. I have.

12 Q. And other than portions that were redacted or
13 taken out by agreement between the State and the
14 defense, does this video accurately depict the interview
15 that occurred with you and B.R. on February 5th of
16 2009?

17 A. It does accurately depict that.

18 MS. HALLFORD: Your Honor, at this time the State
19 would move State's Exhibit 2 into evidence and request
20 permission to publish.

21 THE COURT: Any objection?

22 MR. THOMPSON: Without objection.

23 THE COURT: State's 2 without objection.

24 (Whereupon, State's Exhibit 2 was entered into
25 evidence.)

1 MS. HALLFORD: We did work on this in advance and
2 we're having a little bit of trouble.

3 THE COURT: Mr. Alternate on the end, can you
4 see?

5 ALTERNATE JUROR: Yeah, I can.

6 THE COURT: You're good?

7 ALTERNATE JUROR: (Nods head up and down.)

8 THE COURT: Okay, thank you.

9 (Plays video.)

10 MS. HALLFORD: I put the wrong disc in the wrong
11 CD.

12 BY MS. HALLFORD:

13 Q. Again, do you recognize this?

14 A. I do.

15 Q. And how do you recognize that?

16 A. I've initialed it.

17 Q. Okay. And I told you the other one was 2/5/09
18 and it was not. This is the 2/5/09. You can see --

19 A. It's dated on there.

20 Q. -- 2/5/09. And I apologize for that.

21 A. That's okay.

22 Q. I was not trying to mislead you. And the
23 contents of this video, other than having portions that
24 we agreed upon redacted, does it accurately reflect the
25 interview that you conducted with B.R. on 2/5/09?

1 A. It does.

2 MS. HALLFORD: Okay. Your Honor, at this time
3 the State requests permission to publish State's Exhibit
4 Number 2, the interview from February 5th, 2009.

5 THE COURT: Okay, let's do this. Are you
6 substituting this as State's 2?

7 MS. HALLFORD: This is already marked as
8 State's 2. I just had the wrong disc in the wrong
9 envelope.

10 THE COURT: Okay. But whatever is on there is
11 being substituted with the correct one?

12 MS. HALLFORD: Okay. And State's 3 (sic) will be
13 the 2/9/09 interview.

14 THE COURT: Any objection?

15 MR. THOMPSON: No objection.

16 THE COURT: All right, no objection.

17 MS. HALLFORD: My apologies.

18 THE COURT: Julie, does that work for you?

19 COURT REPORTER: Yes, sir.

20 (Whereupon, contents of State's 1 and State's 2
21 have been switched to be in correct envelope.)

22 (Plays video.)

23 (Video ends.)

24 MS. HALLFORD: Your Honor, may we approach for
25 just a minute?

1 THE COURT: Yes.

2 (Bench conference was held off the record.)

3 Okay. Madame Forelady, and ladies and gentlemen,
4 I promised you we would not run more than about 90
5 minutes and we're at 95 minutes. And I think there's
6 another video, so we are gonna break for the afternoon.
7 You can generally count on about a 3:30 break. It's
8 3:35. This break, this will be our afternoon break.
9 It'll be about 20 minutes; 15, at least 15, about 20
10 minutes or so.

11 Refresh yourselves. There's water, there's
12 coffee. There might even be some soda back there, I
13 don't know. Whatever you require, if anyone needs
14 anything, one of these bailiffs will be happy to try to
15 scrounge around and find whatever they can to get it for
16 you. There might be some cookies somewhere, I'm not
17 sure. But anyway, whatever you might need. Restrooms
18 are available.

19 Let me ask you this, and I hope not. Is there
20 anyone who smokes?

21 (Two jurors raised their hands.)

22 And would you like to go smoke?

23 JURORS: Yes.

24 THE COURT: Okay. We have to escort you out,
25 sir, and someone will have to remain with you while

1 you're smoking and then bring you back in. And I hope
 2 you quit. It's personal for me. It killed my sister at
 3 48 years of age, so I wish you would quit. But
 4 nonetheless, we'll let you go out and smoke and they'll
 5 bring you back in.

6 With that issue, we'll have our afternoon break
 7 and I will see you very close to the top of the hour.
 8 Madam Forelady, don't talk about the case, don't discuss
 9 it. It's certainly not over, it's just beginning.

10 Madam Forelady, take the jury out.

11 (Whereupon, jury leaves the courtroom at 3:37
 12 p.m.)

13 THE COURT: Ma'am, you may leave the witness
 14 stand, refresh yourself but, please, at the top of the
 15 hour be sitting right there for me.

16 THE WITNESS: Certainly.

17 THE COURT: Be careful stepping down.

18 (Witness leaves witness stand.)

19 THE COURT: Okay. We need to see the lawyers up
 20 here. We've got a video issue. Y'all need to resolve
 21 this matter with the court reporter.

22 MS. HALLFORD: Okay.

23 (A recess was had from 3:37 - 4:04 p.m.)

24 THE COURT: Did y'all get things sorted out?

25 MS. HALLFORD: We did.

1 MR. THOMPSON: Yes, Your Honor.

2 THE COURT: So when the jury comes back you're
3 gonna play a second video?

4 MS. HALLFORD: Yes. And that will be State's
5 Exhibit Number 1.

6 THE COURT: Okay. Ready for the jury?

7 MR. THOMPSON: Yes, Your Honor.

8 THE COURT: All right. Have them in.

9 (Whereupon, witness resumed witness stand.)

10 (Whereupon, jury enters the courtroom at 4:06
11 p.m.)

12 THE COURT: Madame Forelady, any matters from the
13 jury? Ready to go?

14 FORELADY: Yes.

15 THE COURT: No matters, everything's good?

16 FORELADY: Everything's good.

17 THE COURT: Everything is good. Okay.

18 Solicitor.

19 MS. HALLFORD: If it please the Court.

20 BY MS. HALLFORD:

21 Q. Michelle, since I messed this up, let's go back
22 through this again. I'm handing you what's marked
23 State's Exhibit Number 1. It contains this disc.
24 What's the date on this one?

25 A. February 9th, 2009.

1 Q. And are those your initials?

2 A. They are.

3 Q. And have you reviewed this disc?

4 A. I have.

5 Q. And when you reviewed it and its contents, other
6 than what had been removed by agreement from the State
7 and the defense, were its contents accurate as far as
8 that you met with B.R. on 2/9/2009?

9 A. That's correct, it was.

10 MS. HALLFORD: Okay. Your Honor, State moves --
11 and I may have already done this, State's Exhibit Number
12 1 into evidence.

13 MR. THOMPSON: No objection, Your Honor.

14 THE COURT: Okay. State one is in. And I don't
15 think it was in, was it?

16 COURT REPORTER: (Shakes head back and forth.)

17 THE COURT: It was not in. It's now in evidence.
18 (Whereupon, State's Exhibit Number 1, CD Dated
19 2-9-2009 was entered into the record.)

20 (Whereupon, plays video.)

21 MS. HALLFORD: I have no further questions of
22 this witness.

23 THE COURT: Yes, sir.

24 MR. THOMPSON: Just briefly, Your Honor?

25 THE COURT: Yes, sir.

1 CROSS-EXAMINATION

2 BY MR. THOMPSON:

3 Q. Is it Maldonado?

4 A. That's correct.

5 Q. Just out of personal curiosity, are you from
6 Massachusetts originally?

7 A. No. I was born and raised in Connecticut,
8 originally.

9 Q. Okay. But you reside in Massachusetts now?

10 A. That's correct.

11 Q. You have no personal knowledge of what occurred
12 in this case other than what B.R. told you; is that
13 correct?

14 A. That's correct. I was not there when it
15 happened.

16 MR. THOMPSON: I have no further questions of
17 this witness, Your Honor.

18 THE COURT: Anything at all as to that question?

19 MS. HALLFORD: No, sir, Your Honor.

20 THE COURT: Thank you. You may step down.
21 Please be careful.

22 (Whereupon, witness leaves witness stand.)

23 THE COURT: Is she released or is she ---

24 MS. HALLFORD: Oh, yes. May she be excused?

25 MR. THOMPSON: No objection, Your Honor.

1 THE COURT: Ma'am, you've been released from your
2 subpoena. You may stay or go, whichever you choose.

3 Solicitor, let's see the lawyers.

4 (Whereupon, bench conference was held off the
5 record.)

6 MS. HALLFORD: The State calls Donna Parker.

7 THE COURT: Ms. Parker, come up and be sworn,
8 please, ma'am.

9 (Whereupon, witness comes forward.)

10 THE CLERK: Place your left hand on the Bible and
11 raise your right. (Complies.)

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

15 THE WITNESS: I do.

16 THE CLERK: Thank you.

17 THE COURT: Ms. Parker, tell us your name,
18 please. Adjust that microphone and tell us your name
19 and spell your last name, please.

20 THE WITNESS: Donna Parker, P-A-R-K-E-R.

21 THE COURT: Thank you.

22 Solicitor.

23 DONNA PARKER,
24 having been duly sworn, testified as follows:

25 DIRECT EXAMINATION

1 BY MS. HALLFORD:

2 Q. Ms. Parker, where do you live right now?

3 A. North Carolina.

4 Q. How long have you lived there?

5 A. Nineteen years.

6 Q. Are you working anywhere?

7 A. Yes.

8 Q. Where do you work?

9 A. Jackson Hewitt.

10 Q. How long have you been there?

11 A. Two years.

12 Q. All right. You said you live in North Carolina.

13 Who lives with you there?

14 A. B.R. my husband and my step-dad.

15 Q. How long has B.R. lived with you?

16 A. Since September of last year.

17 Q. Going back to late August, September of 2008,
18 were B.R. and the other two children living with Wendy
19 at that point, 2008?

20 A. 2008, yes.

21 Q. What town were they living in?

22 A. Chesnee.

23 Q. Do you know what street they lived on?

24 A. Fairfield.

25 Q. When they were living on Fairfield Street, was

1 anybody else living with them to your knowledge?

2 A. Anthony.

3 Q. Do you know how many bedrooms that residence had?

4 A. It had two.

5 Q. Did you ever visit there --

6 A. Yes.

7 Q. -- with the kids? Do you know where the kids
8 slept in that residence?

9 A. Yes.

10 Q. Where?

11 A. D.R. had his own room. And then B.R. and
12 M.R. had their own room that they shared together.

13 Q. Do you know where Wendy and Anthony slept?

14 A. They slept in the living room. They had a
15 pullout sofa and they slept on it.

16 Q. How do you know that that is where they slept?

17 A. Because I've been there when they were still in
18 bed and I woke them up.

19 Q. Was there any other bed in that residence where
20 Wendy might have slept?

21 A. Not that I know of.

22 Q. Are you familiar with when B.R. started K-4,
23 4-K?

24 A. Yes.

25 Q. When would that have been?

1 A. Likely to begin in September.

2 Q. Of what year?

3 A. 2007.

4 Q. 2007 or 2008?

5 A. 2008.

6 Q. Okay. How old was B.R. when she started K-4?

7 A. Four.

8 Q. Do you know where she was going to school?

9 A. Chesnee Elementary.

10 Q. Are you familiar with where M.R. and D.R.
11 were going?

12 A. M.R. was going to Chesnee Elementary and
13 D.R. was going to Chesnee Middle School.

14 Q. Do you know what time they had to go to school in
15 the morning?

16 A. They had to be there before eight.

17 Q. Was that earlier than when B.R. had to go?

18 A. Yes.

19 Q. Do you know what time B.R. actually had to be
20 to the 4-K?

21 A. I think it was like 11, 11:30. It was later in
22 the morning.

23 Q. Do you know how she got to school?

24 A. She rode the bus.

25 Q. To your knowledge, when B.R. started K-4, was

1 Wendy working at the time?

2 A. Yes.

3 Q. Do you know if she left for work before or after
4 B.R. went to school?

5 A. Before.

6 Q. And to your knowledge, who watched B.R. when
7 Wendy was gone to work and the other two kids had
8 already left for school?

9 A. She stayed there with Anthony.

10 Q. How do you know that he was the one watching
11 B.R.

12 A. Because I've been there and know that he was the
13 one watching her.

14 Q. Did you and Anthony ever talk about him keeping
15 B.R.

16 A. Yes.

17 Q. To your knowledge, was Anthony working anywhere
18 at that time?

19 A. He did some odd jobs for his mom.

20 Q. How do you know about that?

21 A. Because he had talked to me about it. They have
22 a lot of rentals and he was doing maintenance on them.

23 Q. Did he tell you how often that would occur that
24 he would do odd jobs for his mom?

25 A. No.

1 Q. Did, when you had conversations with him, did it
2 seem like he was doing it a lot or did it seem like he
3 was doing it just a little?

4 A. Sometimes it was a good bit and other times it
5 would be like a day or two in between before he would
6 have something to do.

7 Q. What, if anything, did he tell you about what he
8 did with [B.R.] while he was doing odd jobs with his
9 parents?

10 A. I do know he has taken her with him some because
11 he had told me that he was taking her.

12 Q. In early February of 2009, did you become aware
13 of the allegations that [B.R.] had made against Anthony
14 Briggs?

15 A. Yes.

16 Q. How did you find out about this?

17 A. Wendy had called me and told me.

18 Q. And you can't get into any specifics about what
19 would be said because that would be hearsay.

20 A. Okay.

21 Q. To your knowledge, did Wendy continue to have
22 contact with Anthony Briggs after [B.R.] disclosed the
23 sexual abuse?

24 A. Yes.

25 Q. How do you know that they continue to have

1 contact?

2 A. Because she was at my house sometimes and be on
3 the phone with him.

4 Q. How did you know it was him on the phone?

5 A. Because she had it on speaker sometimes and
6 sometimes she would hand me the phone and say, here,
7 talk to Anthony.

8 Q. Would you somehow talk to him?

9 A. Yeah. When she threw the phone at me, yeah.

10 Q. After you found out about these allegations, did
11 you continue to spend time with B.R. and the other
12 kids?

13 A. Yes.

14 Q. Where would you see them?

15 A. They would come to my house, I would go to her
16 house. They'd come and spend the weekend with me.

17 Q. After B.R. disclosed what the defendant had
18 been doing to her, did Wendy tell you not to talk to
19 B.R. about the allegations?

20 MR. THOMPSON: Objection, hearsay.

21 MS. HALLFORD: It's not offered for the truth of
22 the matter asserted, Your Honor.

23 THE COURT: Let me see the lawyers.

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

1 MS. HALLFORD: So don't get ---

2 THE COURT: Wait a minute. Wait a minute. The
3 objection is overruled. Overrule the objection. Go
4 ahead.

5 MR. THOMPSON: Thank you, Your Honor.

6 BY MS. HALLFORD:

7 Q. So you can't get into anything that Wendy told
8 you, other than you can answer this question. Did she
9 ask you not to talk to B.R. about the allegations?

10 A. Yes.

11 Q. And based on what you were told, did you talk to
12 B.R. about what she said Anthony had done to her when
13 she first disclosed this?

14 A. No.

15 Q. And why didn't you do that?

16 A. Because I didn't want to hurt the case any.

17 Q. In the weekend of February 19th and 20th of 2010,
18 was B.R. staying with you in North Carolina?

19 A. Yes, she was.

20 Q. How do you remember that specific date?

21 A. Because my birthday is on the 19th and she come
22 spent the weekend with me.

23 Q. How was B.R. acting that weekend?

24 A. Real timid and clingy and scared. And that's why
25 at that point in time as a grandmother I had to sit down

1 and ask her what's bothering you, are you okay.

2 Q. Where were you when you talked to B.R. about
3 this?

4 A. We were at the kitchen table.

5 Q. Was anyone else with you?

6 A. My husband was there, but he was in the living
7 room.

8 Q. What did you tell B.R. when you sat her down to
9 talk with her?

10 A. I just told her that she could talk to Nana about
11 anything and whatever was scaring her she could tell me.
12 And she just dropped her head and she didn't want to say
13 nothing because she was like she was embarrassed.

14 Q. Did you ask her any specific questions?

15 A. Yes. I asked her had anybody been messing with
16 her and she said yes. And I said, can you tell me who?

17 Q. And you can't say who she said did it. You can't
18 get into the specifics of the allegations, but where did
19 she say this was happening to her?

20 A. On the pullout couch.

21 Q. At what location?

22 A. At her house.

23 Q. When you were talking to her about this, what was
24 her demeanor?

25 A. Well, I said she was very shy, timid, real clingy

1 to me. And you could tell she was just scared to death.

2 MS. HALLFORD: I have no further questions.

3 THE COURT: Yes, sir.

4 MR. THOMPSON: Just briefly, Your Honor.

5 CROSS-EXAMINATION

6 BY MR. THOMPSON:

7 Q. Good afternoon, Ms. Parker.

8 A. Good afternoon.

9 Q. My name is Jeremy Thompson. I represent Anthony.
10 I have just a couple of questions for you. You were not
11 present in the home. You didn't go to the home very
12 frequently, did you?

13 A. I went on several occasions.

14 Q. On several occasions over the course of several
15 years?

16 A. Yes.

17 Q. Okay. And you can only talk about what **B.R.**
18 told you, correct?

19 A. Yes.

20 MR. THOMPSON: No further questions of this
21 witness, Your Honor.

22 THE COURT: Okay. Anything at all?

23 MS. HALLFORD: Nothing, Your Honor.

24 THE COURT: Ma'am, you may step down. Please be
25 careful.

1 (Whereupon, witness leaves witness stand.)

2 THE COURT: Next witness?

3 MS. HALLFORD: May we approach?

4 THE COURT: Yes.

5 (Whereupon, a bench conference was had off the
6 record.)

7 THE COURT: Madam Forelady and ladies and
8 gentlemen, I'm told that the witness who would testify
9 would be longer than 20 minutes. We're 20 minutes till
10 five. On the first day I try very hard not to run past
11 five or close to that because you don't know, but unless
12 someone on the jury has a childcare issue or whatever, I
13 sometimes let it go to about 5:30, but I don't want to
14 get into that on the very first day and you not being
15 aware of that.

16 So having said that, we're going to recess for
17 the evening. I'll have you come back in the morning at
18 9 o'clock. Anything -- I don't have anything else,
19 Madam Clerk?

20 THE CLERK: No.

21 THE COURT: Okay. Sometimes I have something.
22 I'm also the admin judge. Sometimes I have a little
23 something to deal with first thing, but I don't in the
24 morning. So 9 o'clock a.m. tomorrow morning. Please be
25 in place. The courthouse opens at 8:30. You can get in

1 at 8:30, anytime between 8:30 and 9.

2 Please be reminded not to bring a cellphone, a
3 smart pad or one of those wristwatches that has
4 communication capability on it. They're not allowed in
5 the courtroom, they're not allowed in the jury box or
6 jury room.

7 So with that, don't talk about the case this
8 evening with your spouse or significant other or family
9 member. It's not proper for you to do that. In fact,
10 it's improper for you to do that. So don't try to learn
11 anything about this case whatsoever. We must learn
12 everything we learn in this courtroom, you and I.

13 So with that, I'm gonna release you for the
14 evening. I hope you have a really good evening and be
15 back in the morning sometime before 9 a.m. and ready to
16 go to work.

17 Madam Forelady, if you'll take the jury out and
18 be dismissed for the evening.

19 (Whereupon, jury leaves the courtroom at 4:42
20 p.m.)

21 THE COURT: Okay. Any matters from the State or
22 defense for the evening?

23 MS. HALLFORD: Nothing from the State.

24 MR. THOMPSON: No, Your Honor.

25 THE COURT: Okay. We'll see everyone in the

1 morning. If you need me, I'll be near the courthouse
2 roughly at 8 a.m., and if the lawyers will come forward,
3 I'll let you have my cellphone number.

4 (Whereupon, a bench conference was held off the
5 record.)

6 We'll be in recess until the morning.

7 (Whereupon, court concluded at 4:43 p.m.)

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9 --- THIS ENDS DAY ONE OF TRIAL ---

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1 THE STATE VERSUS ANTHONY BRIGGS, DAY 2 OF TRIAL

2 (Whereupon, jury enters the courtroom at 9:19
3 a.m.)

4 THE COURT: Good morning, ladies and gentlemen.
5 Everybody good?

6 THE JURY: Yes.

7 THE COURT: Okay. I hate to do this, but Madam
8 Forelady, I have a matter that's come up that I need to
9 address. And I already sent for you, I couldn't stop
10 you from coming in. This one is on me. But can you go
11 back out just for a minute or two here.

12 MADAM FORELADY: Yeah.

13 THE COURT: Thank you.

14 (Whereupon, jury leaves the courtroom at 9:20
15 a.m.)

16 THE COURT: Were you able to ID?

17 MR. THOMPSON: Yes, Your Honor. He's wearing the
18 blue and green striped shirt. Horizontal stripes with
19 glasses and tennis shoes, Your Honor.

20 THE COURT: Blue and green stripe. The gentleman
21 was wearing glasses and blue and green stripe,
22 horizontal stripe shirt.

23 THE BAILIFF: Bring him into the courtroom?

24 THE COURT: Bring him in. I'm not aware of the
25 circumstances. Was it a fleeting moment or was it a two

1 or three minute thing? I don't ---

2 THE DEFENDANT: Well, the officer, he was at the
3 door. The officer was telling him to get away from the
4 door, so I could come on in.

5 THE COURT: Okay.

6 (Whereupon, Juror Number 29 came into the
7 courtroom.)

8 Sir, come on in, please.

9 THE COURT: Tell me your name, sir.

10 JUROR 29: Robert Eric Burton.

11 THE BAILIFF: 29.

12 THE COURT: I'm sorry?

13 THE BAILIFF: He's 29.

14 THE COURT: 29, yes, sir. Mr. Burton, this
15 morning when you were coming into the courthouse, did
16 you happen to see the defendant before you came into the
17 courthouse or when you got to the courthouse?

18 JUROR 29: He came in about the same time that I
19 came in.

20 THE COURT: About the same time you saw him?

21 JUROR 29: Yes, sir.

22 THE COURT: Have you shared that information with
23 anyone else?

24 JUROR 29: No.

25 THE COURT: Okay. He wasn't dressed as he's

1 dressed now?

2 JUROR 29: No.

3 THE COURT: Okay. We're gonna have to excuse you
4 from this jury. You didn't do anything wrong, but we
5 did and we're gonna have to replace you with an
6 alternate. But you have not shared that with anyone
7 else?

8 JUROR 29: No.

9 THE COURT: All right. Any objection to that by
10 the State or defense?

11 MS. HALLFORD: Nothing from the State.

12 MR. THOMPSON: No, Your Honor.

13 THE COURT: Okay. We're gonna excuse you for the
14 trial of this case and move an alternate in. So you'll
15 be free to go. You can stay with us if you like,
16 certainly. It's open court here in South Carolina, but
17 you're not gonna be required to. But I'm gonna have to
18 replace you. We didn't have him dressed properly and
19 that might prejudice him, so I'm sorry, we're gonna have
20 to dismiss you from the jury.

21 JUROR 29: Okay.

22 THE COURT: Okay. You can stay or go, whichever
23 you choose.

24 JUROR 29: Leave.

25 THE COURT: All right.

1 (Whereupon, Juror 29 leaves the courtroom.)

2 Any objection from me moving 161?

3 MR. THOMPSON: No, Your Honor.

4 MS. HALLFORD: Nothing, Your Honor.

5 THE COURT: Okay. Anybody want to put anything
6 on the record? Let's do put something on the record on
7 that. Counsel.

8 MR. THOMPSON: Your Honor, we had gone back in
9 chambers and I had alerted the Court to the situation.
10 I had requested the exact relief Your Honor granted and
11 the questions that Your Honor asked be asked. I am not
12 moving for a mistrial. My concern was that he might
13 have shared that information with the jury if he had
14 seen it, and since he said he did not, I don't believe
15 any further remedy is needed.

16 THE COURT: Anything from the State?

17 MS. HALLFORD: I agree that that is what we
18 discussed and I'm fine with it.

19 THE COURT: Okay. And let me finish making this
20 record clear in case it is necessary. I was informed by
21 defense counsel that juror -- a juror, we did not know
22 who it was, but it's Juror 29, Robert Burton, was coming
23 into the courthouse at the time that the defendant was
24 coming into the courthouse. The defendant was not
25 properly dressed. In fact, he was in custody, still in

1 orange?

2 MR. THOMPSON: Yes.

3 THE COURT: Still in orange. We have now
4 replaced that juror. Anything further?

5 MR. THOMPSON: No, Your Honor.

6 THE COURT: Okay. All right. We're ready to go.

7 MS. HALLFORD: Thanks, Judge.

8 THE COURT: We'll have our jury.

9 (Whereupon, jury enters the courtroom at 9:26
10 a.m.)

11 THE COURT: Juror Number 161. Sir, Mr. Kevin
12 Shaw, you are one of my alternates. Sir, you are now
13 one of the 12, okay? You are now one of the 12. And
14 Juror Number 150, sir, you are now the alternate, okay?

15 JUROR 150: Yes, sir.

16 THE COURT: Okay, thank you.

17 Solicitor.

18 MS. HALLFORD: The State calls Judy Petty.

19 (Whereupon, witness comes forward.)

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: Yes, ma'am.

1 THE COURT: Get yourself situated to that
2 microphone, pull your chair up and tell us and spell
3 your last name, please.

4 THE WITNESS: Judy Petty, P-E-T-T-Y.

5 THE COURT: Thank you. Solicitor.

6 JUDY PETTY,
7 having been duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MS. HALLFORD:

10 Q. Judy, where are you employed?

11 A. Enterprise Specialty Products.

12 Q. Do you live here in Spartanburg?

13 A. Yes, ma'am, Chesnee.

14 Q. Um -- go ahead, sorry.

15 A. Chesnee.

16 Q. How long have you lived here?

17 A. All my life.

18 Q. Judy, do you know B.R. [REDACTED]

19 A. Yes, ma'am.

20 Q. How do you know B.R. [REDACTED]

21 A. She's a -- my daughter and her were friends and
22 her dad.

23 Q. Did you know B.R. [REDACTED] and her father back in 2009?

24 A. Yes, ma'am.

25 Q. On the evening of January 30th, 2009, did you

1 talk with B.R. about something that had happened to
2 her?

3 A. Yes, ma'am.

4 Q. And how is it that you happen to remember that
5 date?

6 A. I don't remember that exact date, but I had a
7 statement that I had wrote on it that I know that was
8 true because that was the day I wrote the statement.

9 Q. And the statement that you wrote had the date of
10 January 30th? Just so we're clear, had the date of
11 January 30th, 2009, as the date this incident occurred?
12 As the time when you talked to B.R. excuse me.

13 A. Yes, ma'am.

14 Q. Okay. And that would have been accurate at the
15 time you wrote that statement?

16 A. Yes, ma'am.

17 Q. Can you tell the jury how it was that you ended
18 up talking with B.R. that night?

19 A. I was on my way home from work and my daughter
20 called me. My daughter's name is [REDACTED] too.

21 Q. Okay.

22 A. And my daughter, [REDACTED] called me and said she
23 had something she wanted to talk to me about and that
24 she was real upset. And I said, well, what's going on?
25 And she told me that ---

1 MR. THOMPSON: Objection, Your Honor.

2 BY MS. HALLFORD:

3 Q. Okay. Don't say what she said, but based on what
4 she told you, where did you end up going?

5 A. I went home. I was gonna talk to the other

6 [REDACTED]

7 Q. Okay. So by other [REDACTED] you mean B.R.

8 [REDACTED]

9 A. Yes, ma'am.

10 Q. Okay. When you got home did you, in fact, talk
11 to B.R. [REDACTED]

12 A. Yes, ma'am.

13 Q. Where did you go to talk to her?

14 A. Off in my bedroom.

15 Q. Was anybody else with you when you were talking
16 to B.R. [REDACTED]

17 A. No, ma'am.

18 Q. And you can't say exactly what she said because
19 that's hearsay, and you can't say who she said did it,
20 but did she tell you she had been sexually messed with?

21 A. Yes, ma'am.

22 Q. Did she tell you where this had happened?

23 A. Yes, ma'am.

24 Q. What did she tell you?

25 A. At her house on a pullout couch.

1 Q. And did she tell you when this would happen?

2 A. In the mornings or when her Sissy and Bubba was
3 at school.

4 Q. Did she say anything about where her mother was
5 when this would happen?

6 A. At work.

7 Q. Okay. After B.R. told you what had happened to
8 her, how was she acting?

9 A. I really can't remember now. She was, I mean,
10 she was just so young she was just acting funny. She
11 didn't want anybody to know anything.

12 Q. After you talked to B.R. what did you do?

13 A. I went back out and told him that he needed to
14 call the police and record it.

15 Q. When you were talking with her father, what was
16 his demeanor?

17 A. He was really upset, but he didn't really know
18 what to do.

19 Q. Did you guys end up calling the police that
20 night?

21 A. Yes, ma'am.

22 Q. And what happened?

23 A. They told him he had to go report it in Chesnee.

24 Q. So did law enforcement actually respond to your
25 residence?

1 A. Yes, ma'am.

2 Q. Okay. So after he was told he needed to report
3 it to Chesnee, what did you tell him?

4 A. What did I tell who?

5 Q. Neddie.

6 A. I told him -- he said he was gonna go take care
7 of it.

8 Q. Okay. And what did you tell him you were going
9 to do if he didn't?

10 A. I told him if he didn't I would have to.

11 Q. Did you end up reporting what B.R. had
12 disclosed to you?

13 A. Yes, ma'am.

14 Q. And why did you end up having to do that?

15 A. Because he didn't.

16 Q. Do you remember who it was that you called?

17 A. I'm gonna say I just called somebody at the
18 office where I was a foster parent first. I asked them
19 what to do because I never really had to deal with that.

20 Q. Okay.

21 A. But they told me -- I ended up calling 9-1-1, is
22 what it come down to.

23 Q. Okay. So after you called 9-1-1, what happened?

24 A. They just wanted statements from me.

25 MS. HALLFORD: Okay. I have no further

1 questions.

2 CROSS-EXAMINATION

3 BY MR. THOMPSON:

4 Q. Just briefly. Ms. Petty, my name is Jeremy
5 Thompson, I represent Anthony Briggs. I just have a
6 couple of questions for you, okay?

7 A. Yes, sir.

8 Q. How -- so your foster daughter, she's also named
9 [REDACTED] as well, correct?

10 A. Yes.

11 Q. So to try and distinguish between the two, I'm
12 gonna call -- I'm gonna use her full name, B.R.

13 [REDACTED] okay?

14 A. Okay.

15 Q. How often did you see B.R. [REDACTED] during that
16 time?

17 A. They used to come over about every weekend or
18 sometimes even during the week.

19 Q. Every weekend. So how old -- so she was friends
20 with your, your daughter?

21 A. Well, B.R. [REDACTED] (sic) was friends with my
22 youngest daughter. [REDACTED] Stapleton was friends with
23 Neddie.

24 Q. Okay.

25 A. They were more the same age.

1 Q. Okay. So your youngest daughter was friends with

2 B.R. [REDACTED]

3 A. Yes.

4 Q. And she would come over, you say, about every
5 weekend or so?

6 A. Well, when their dad would have them, yes.

7 Q. Okay. So it wasn't -- would you say it may be
8 twice a month? Would that be fair to say?

9 A. I can't remember, but I know he was there a good
10 bit with him.

11 Q. Okay. And obviously have you -- let me rephrase
12 that. Have you ever been to the house of Anthony Briggs
13 and Wendy Richards?

14 A. No, sir.

15 MR. THOMPSON: Beg the Court's indulgence.

16 THE COURT: Yes, sir.

17 MR. THOMPSON: No further questions, Your Honor.

18 THE COURT: Anything at all?

19 MS. HALLFORD: Nothing from the State. May this
20 witness be excused?

21 MR. THOMPSON: No objection, Your Honor.

22 THE COURT: No objection. Okay. Ma'am, you may
23 step down. Please be careful. You can stay or go,
24 whichever you choose.

25 THE WITNESS: Okay, thank you.

1 THE COURT: Thank you.

2 (Whereupon, witness leaves witness stand and the
3 courtroom.)

4 MS. HALLFORD: The State calls Danny Morgan.

5 (Whereupon, witness comes forward.)

6 THE CLERK: Place your left hand on the Bible and
7 raise your right. (Complies.)

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

11 THE WITNESS: I do.

12 THE CLERK: Thank you.

13 THE COURT: Sir, tell us your name and spell your
14 last name for my court reporter, please.

15 THE WITNESS: My name is Danny Morgan. The last
16 name is M-O-R-G-A-N.

17 THE COURT: Thank you. Solicitor.

18 DANNY MORGAN,

19 having been duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MS. HALLFORD:

22 Q. Danny, where are you currently employed?

23 A. I'm currently employed as an adjunct professor.
24 I teach history and political science at several
25 colleges in the Upstate.

1 Q. Where were you working in February of 2009?

2 A. I was employed at the Spartanburg County
3 Sheriff's Office.

4 Q. What was your position there?

5 A. I was a detective sergeant in the detective
6 division.

7 Q. At that point how long had you been in law
8 enforcement?

9 A. Approximately 18 years, around that time.

10 Q. On February 3rd, 2009, did investigator Nikki
11 Cantrell ask you to assist with an interview of Anthony
12 Briggs?

13 A. Yes, she did.

14 Q. Did you end up talking with him on February 3rd
15 of 2009?

16 A. I did.

17 Q. Where did that interview take place?

18 A. It occurred in my office.

19 Q. Was anyone else present while you were talking
20 with Anthony Briggs?

21 A. No.

22 Q. What time did your interview with him begin?

23 A. Right at 10 a.m.

24 Q. To your knowledge, did he come to the sheriff's
25 office voluntarily?

1 A. Yes, he did.

2 Q. Was he in cuffs or restrained in any way?

3 A. No, ma'am.

4 Q. Danny, have you ever dealt with someone who's
5 under the influence of drugs or alcohol?

6 A. Yes, ma'am.

7 Q. Did he appear to be under the influence of drugs
8 or alcohol?

9 A. He did not.

10 Q. Did you ask him if he had had any alcohol within
11 the last 24 hours?

12 A. I did.

13 Q. And what was his response?

14 A. He said that he had some alcohol or beer, I
15 believe, the night before, the night before coming in to
16 talk with me. I asked him if he was feeling any effects
17 from the alcohol the night before and he said no, he
18 wasn't.

19 Q. Did you ask him if he was taking any medications?

20 A. I did.

21 Q. And what was his response to that?

22 A. I don't, I don't recall any specific medications,
23 any other source that would have triggered, you know,
24 something like narcotics or anything like that. I don't
25 recall either.

1 Q. So based on your conversation with him, did you
2 have any concern that he would not be able to have a
3 free and voluntary conversation with you?

4 A. None at all.

5 Q. Did he appear to have any physical or mental
6 disability which would impair his ability to understand
7 any questions you would ask him?

8 A. No, ma'am, he didn't.

9 Q. And was he able to respond appropriately to
10 questions when you were talking to him?

11 A. Yes, he was.

12 Q. Did you make him any threats or promises in
13 exchange for him talking to you?

14 A. No, ma'am, I did not.

15 Q. And, again, was he under arrest while you were
16 talking to him?

17 A. No, he wasn't.

18 Q. Would he have been free to leave at any point
19 during that conversation?

20 A. Yes, he was. And I even reminded him during the
21 course of the interview that he was free to leave at his
22 own discretion.

23 Q. So even though he was not in custody, did you
24 still read him his Miranda Rights?

25 A. I did.

1 Q. And typically if someone is in custody, Miranda
2 is not required, correct?

3 A. It's not required.

4 Q. But you read it anyway?

5 A. It was a standard policy that I would always do
6 that.

7 Q. Okay. So I'm handing you what's been marked
8 State's Exhibit Number 4 for identification. Do you
9 recognize that?

10 A. I do.

11 Q. And how do you recognize it?

12 A. This is the rights form with the waiver of rights
13 at the bottom of it that we used at the sheriff's
14 office.

15 Q. And whose signature is that?

16 A. That's Mr. Briggs'.

17 Q. And whose signature is that?

18 A. That's mine.

19 Q. Did you witness Mr. Briggs signing that?

20 A. I did.

21 Q. And just go ahead and tell the -- explain to the
22 jury how you used that form to give him his rights.

23 A. Okay. This is the Miranda warning that you hear
24 routinely on TV and the movies.

25 Q. Oh, excuse me. Your Honor, at this time the

1 State moves State's Exhibit, was that three?

2 THE WITNESS: Four.

3 MS. HALLFORD: Four into evidence. I apologize.

4 MR. THOMPSON: No objection.

5 THE COURT: Without objection, State's 4.

6 (Whereupon, State's Exhibit Number 4 was entered
7 into the record.)

8 THE WITNESS: What I would do is I would turn the
9 form in the direction of the person I'm talking with and
10 I read -- and I would read the form out to them. Excuse
11 me, now I would have to use these. (Puts on glasses.)

12 BY MS. HALLFORD:

13 Q. I feel you.

14 A. I know they're colorful, but this is the only
15 pair I had in the car. I returned the form to them and
16 read it to them.

17 It says: Before I ask you any questions, you
18 must understand your rights. You have the right to
19 remain silent. Anything you say can and will be used
20 against you in a court of law.

21 You have the right to talk to a lawyer for advice
22 before we ask you any questions, and to have him or her
23 present with you during questioning. If you have no
24 money -- if you have no money for lawyer's fees, the
25 court will appoint one to represent you without cost to

1 you if you wish. If you decide to answer questions now
2 without a lawyer present, you still have the right to
3 stop answering questions at any time.

4 I have read the statement of my rights and I
5 understand what my rights are. And then there's a block
6 for a person to sign, which he did.

7 Q. Okay. And after he signed that portion of it,
8 what did you then do?

9 A. I read the next portion of it which is called the
10 Waiver of Rights. It says: I am willing to make a
11 statement and answer questions. I do not want a lawyer
12 at this time. I understand and know what I am doing.
13 No threats or promises have been made to me and no
14 pressure or coercion of any kind has been used against
15 me. Again with a signature block where he signed that.

16 Q. Okay. So after you read him his rights, did you
17 start talking to him?

18 A. Yes, we talked.

19 Q. And when you started the interview with him
20 initially, did you go immediately to the allegations?

21 A. No, ma'am. As a matter of course, I would
22 generally try to talk with the person first to talk
23 about various other things before diving right into
24 accusations.

25 Q. And what were some of the various other things

1 that you would talk about?

2 A. I would talk with him about his life, his
3 upbringing, childhood. Talk with him about how he was
4 raised. Talk with him about his education, his work
5 history. Just life in general things.

6 Q. So what's the purpose of asking him the kind of
7 general let's get to know each other kind of questions
8 in the beginning?

9 A. Well, it's to establish a measure of rapport with
10 a person so that you can talk to them and they can talk
11 to you. So it's a matter of just trying to become more
12 comfortable with a person.

13 Q. During the course of your interview with Mr.
14 Briggs, did you allow him to take a smoke break?

15 A. Yes. We had several smoke breaks, restroom
16 breaks.

17 Q. At some point did you, in fact, allow him to
18 smoke in your room, your interview room?

19 A. Yes, I did. He smoked several cigarettes in
20 front of me.

21 Q. Did you also allow him to take restroom breaks?

22 A. Yes, he did.

23 Q. Was he allowed to have a phone with him?

24 A. Yes, ma'am, he had a phone with him.

25 Q. Did you let him use it?

1 A. Yes, he did. He used it several times to call
2 Wendy, his girlfriend, and to call his mother.

3 Q. At some point did you end up talking to him about
4 living with Wendy and the kids?

5 A. Yes, we did.

6 Q. Did you specifically talk to him about their
7 sleeping arrangements?

8 A. I did.

9 Q. Did he tell you where he and Wendy slept at that
10 residence?

11 A. Yes, ma'am. He said that they slept on a pullout
12 couch in the living room.

13 Q. Did he tell you how many bedrooms were in that
14 residence?

15 A. It was a two-bedroom.

16 Q. What did he say about where the kids slept?

17 A. Wendy's son, [D.R.], slept in one room and the
18 two, Wendy -- excuse me, [B.R.] and her sister slept in
19 the other room.

20 Q. At some point, then, did you ask him about their
21 morning routine?

22 A. I did.

23 Q. What did he tell you about when the two older
24 kids would leave for school?

25 A. They would leave for school around 7 to -- or,

1 excuse me, around 7:15, I believe he said.

2 Q. Did he tell you when Wendy would leave for work?

3 A. She would leave for work sometime between 8 and
4 8:15.

5 Q. What did he tell you about what [B.R.] would do
6 in the morning after everybody else was gone?

7 A. It was [B.R.]'s routine to get up in the mornings
8 and come into the living room and lay down on the love
9 seat. There was a love seat in the living room.

10 Q. And he had told you the living room was also
11 where he was sleeping?

12 A. That was where he was sleeping, on the pullout
13 couch.

14 Q. And what time did he tell you that he would get
15 up?

16 A. He said that he would get up around 10 to 10:15.

17 Q. So he and [B.R.] would be in the living room
18 together, then, in the mornings, according to him?

19 A. For a period of like, from 8:15 till he got up.

20 Q. What did he tell you about how [B.R.] got to
21 school?

22 A. He said that around -- around 10 to 11 or so, he
23 would walk her down the driveway to the bus stops where
24 she would catch the bus to go to school.

25 Q. Did he tell you that this was their everyday

1 routine?

2 A. Yes. And I believe he said -- referred to it as
3 a never-ending process.

4 Q. According to him, were there ever any changes to
5 this never-ending process of a routine?

6 A. Yes. He said that sometimes occasionally he
7 would get -- pick up some side work, little side jobs
8 and he would do those.

9 Q. At some point while you're talking to him, did
10 you start addressing the issues of the sexual abuse?

11 A. Yes, I did.

12 Q. Did you ask him if he touched [B.R.] 's vagina or
13 put his fingers in her vagina?

14 A. Yes, I did.

15 Q. What was his response to that?

16 A. His initial response was I think that, I think
17 that's sick, is what he said.

18 Q. Did you specifically ask him did you do it?

19 A. I did because he didn't initially actually deny
20 it. He just said I think that's sick. And then I had
21 to ask him did you do it.

22 Q. What was his response?

23 A. His response was sort of -- I viewed it as sort
24 of a flippant. He said, nope.

25 Q. Did you ask him if he put his mouth on [B.R.] 's

1 vagina?

2 A. Again, his initial response was I think that's
3 sick too.

4 Q. So his initial response is not to deny?

5 A. Right.

6 Q. As the interview progressed, did his responses
7 regarding whether he had sexually abused B.R. begin to
8 change?

9 A. Yes. He stopped. Even though he hadn't
10 initially come right out and said no, I had to kind of
11 get him to give me a yes or a no answer. As I continued
12 talking with him, he stopped giving me verbal notes.

13 Q. Did you and he have a discussion about whether
14 Wendy, B.R.'s mother should be told about what had
15 happened?

16 A. Yes, I did. As I was talking with him and he
17 kind of stopped, you know, verbalizing no and things
18 such as that, he would start to just kind of nod his
19 head with me as I would talk with him about things. And
20 it became very apparent -- he kept asking, saying that
21 he wanted to talk to Wendy, he wanted to talk to Wendy.

22 Q. At some point did you tell him, hey, Wendy might
23 be on your side?

24 A. I did. Because he had -- so as this progressed
25 through, we got to a point where he started to become,

1 the first time I determined to be sort of a very
2 genuinely emotional. He started to cry. I could tell
3 he was getting emotional now and saying that he really
4 wanted to talk to Wendy and but he was afraid of how
5 things were going to turn out, that everybody was gonna
6 be against him.

7 Q. So when you specifically said, hey, Wendy might
8 be on your side, what was his reaction to that?

9 A. He said she's gonna be mad.

10 Q. What did you tell him about whether or not he was
11 going to be allowed to talk to Wendy?

12 A. I told him that he would have the opportunity to
13 talk to Wendy. And as he continued, he kept saying he
14 wanted to talk to Wendy. And I told him that I could
15 get Wendy if that's what he wanted.

16 Q. What did he tell you about who Wendy needed to
17 hear this from?

18 A. He said that before he was -- before he was
19 willing to say anything to me or tell me anything, that
20 -- his words were: If anything is going to come out,
21 it's going to come to her first.

22 Q. Okay. What did you tell him that Wendy's
23 reaction would be when he would tell her?

24 A. I told him that, you know, it was likely she was
25 going to be mad.

1 Q. What, if anything, did he tell you about whether
2 or not he was going to admit anything to you?

3 A. Like I said, he said that he was not going to
4 tell me -- he was not going to say that he did, but I'm
5 not gonna say that I didn't, but he wanted to talk to
6 her first.

7 Q. So he said: I'm not gonna say that I did it, I'm
8 not gonna say that I didn't, I want to talk to her?

9 A. That's correct.

10 Q. Okay. When he said that, did you tell him you
11 already knew what he was gonna say to Wendy?

12 A. I did. I told him, I said: Look, I know what
13 you're gonna tell Wendy and you know what you're gonna
14 tell Wendy. And then he said: I just want to talk to
15 her first.

16 Q. At some point later on in the interview, did the
17 defendant make a statement, something along the lines
18 of, this is admitting to something I didn't do?

19 A. From that point where he had been a bit emotional
20 and I left to go and get Wendy, unfortunately it was an
21 unavoidable break of about 20 minutes that occurred
22 before I was able to get back in to speak with him.
23 During that time, you know, his emotion had changed.

24 And so when I came back in to talk with him, he
25 was saying -- I was telling him, you just need to go

1 ahead and tell the truth now. And he said -- and that's
2 when he said, but that would be admitting to something I
3 didn't do.

4 Q. And when he said that, what did you say to him?

5 A. I said: Are you saying now that you didn't touch
6 her?

7 Q. What was his response to that?

8 A. His response to that was, well, I'm not gonna say
9 -- I'm not gonna tell you that because you know, and
10 there was a pause, you know different.

11 Q. After you finished interviewing him, what did you
12 do?

13 A. When I was finished interviewing with him, I got
14 in touch with Detective Cantrell and turned him over to
15 her.

16 MS. HALLFORD: I have no further questions.

17 THE COURT: Yes, sir.

18 MR. THOMPSON: Just briefly.

19 CROSS-EXAMINATION

20 BY MR. THOMPSON:

21 Q. Good morning, Mr. Morgan. My name is Jeremy
22 Thompson, I represent Anthony Briggs.

23 A. Good morning, Mr. Thompson.

24 Q. How are you doing?

25 A. Good to meet you.

1 Q. Good to meet you. So you prepared a report in
2 this case, correct?

3 A. Yes, I did.

4 Q. And your report, correct me if I'm wrong, your
5 report says that Anthony did not make an admission of
6 guilt to you; is that correct?

7 A. That's correct. He did not make it verbally.

8 Q. And he also denied having touched [B.R.] for any
9 sexual purpose, correct?

10 A. That's correct.

11 Q. How long did you spend with Anthony that day?

12 A. Over the course of the whole thing with breaks,
13 lunch break, all of that, I believe it was somewhere in
14 the range of like six hours.

15 Q. And, again, your report says that he did not
16 admit to having touched [B.R.]

17 A. That's correct.

18 MR. THOMPSON: No further questions, Your Honor.

19 THE COURT: Anything at all?

20 MS. HALLFORD: Yes.

21 REDIRECT EXAMINATION

22 BY MS. HALLFORD:

23 Q. What would you consider an admission that would
24 trigger you putting in the report, yes, he admitted it?

25 A. Well, he would have actually had to on paper

1 write out an admission, confession before I would put it
2 in my report that he had actually admitted to something.
3 Or separate from that is what would have had to have
4 been actually verbally coming out and saying I did it.

5 Q. But he did make several statements that were
6 admissions that he had done things.

7 A. That's correct. Over time there were several
8 nods of the head. Him saying things like I'm not gonna
9 say I -- I'm not gonna sit here and say I did it. I'm
10 not gonna say I didn't. Others like, I'm not gonna tell
11 you that because you and I know different.

12 MS. HALLFORD: No further questions.

13 THE COURT: Anything?

14 RE CROSS-EXAMINATION

15 BY MR. THOMPSON:

16 Q. So that's an admission, by your standards,
17 correct?

18 A. That is what I had determined was non-verbal
19 admissions.

20 Q. Okay. But you put in your report he did not make
21 an admission, correct?

22 A. That's correct.

23 MR. THOMPSON: No further questions.

24 THE COURT: All right. Sir, you may step down.
25 Please be careful. Is this witness excused?

1 MS. HALLFORD: Yes, may he be excused?

2 MR. THOMPSON: No objection.

3 THE COURT: Sir, you may stay or go, whichever
4 you choose.

5 THE WITNESS: Thank you, sir.

6 THE COURT: Good to see you.

7 (Whereupon, witness leaves witness stand and
8 courtroom.)

9 MS. COLEMAN: The State calls Mike Jones.

10 (Whereupon, witness comes forward.)

11 THE CLERK: Place your left hand on the Bible and
12 raise your right. (Complies.)

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

16 THE WITNESS: I do.

17 THE COURT: Sir, adjust that microphone and then
18 tell us who you are and spell your last name, please.

19 THE WITNESS: Lieutenant Mike Jones, J-o-n-e-s.

20 THE COURT: Thank you. Solicitor.

21 MS. COLEMAN: May it please the Court, Your
22 Honor?

23 THE COURT: (Nods head up and down.)

24 LIEUTENANT MIKE JONES,

25 having been duly sworn, testified as follows:

1 DIRECT EXAMINATION

2 BY MS. COLEMAN:

3 Q. Lieutenant Jones, where are you currently
4 employed?

5 A. Spartanburg County Detention Center.

6 Q. And how long have you been employed there?

7 A. Since 1984.

8 Q. And what are your general duties and
9 responsibilities?

10 A. I'm a logistics officer and one of them is the
11 inmate phone calls/recordings.

12 Q. Are jail inmate recordings made a part of your
13 duties?

14 A. Yes, ma'am.

15 Q. Is that the regular practice at the Detention
16 Center to report all calls made by inmates?

17 A. Yes.

18 Q. Are these recordings of the jail calls kept in
19 the regular course of business?

20 A. Yes.

21 Q. How long are the recordings maintained?

22 A. About a year, a little less.

23 Q. Okay. And what happens to them after a certain
24 period of time?

25 A. The system records over them.

1 Q. As part of your duties, are you responsible for
2 responding to subpoenas requesting a jail call
3 recording?

4 A. Yes.

5 Q. When you receive a subpoena, how do you retrieve
6 those calls?

7 A. I record that. Again, we put it on a CD and
8 record all the calls on the CD and take them to the --
9 and give them to the solicitor's office or whoever's
10 requesting it.

11 Q. Okay. In early 2010, did you receive a subpoena
12 requesting jail calls related to this case?

13 A. Yes.

14 Q. I'm going to show you what's been marked as
15 Court's Exhibit 4. Do you recognize this list?

16 A. Yes.

17 Q. And how do you recognize those?

18 A. It's got my initials on it.

19 Q. Okay. When you pull jail calls, do you edit them
20 or change them in any way?

21 A. No.

22 Q. Are they recorded just exactly as they were
23 retained at the Detention Center?

24 A. Yes.

25 Q. Did you review the contents of this disc

1 recently?

2 A. I did.

3 Q. Were you asked to review specific calls on the
4 disc?

5 A. Yes, I did.

6 Q. Were those calls from January 3rd of 2010;
7 January 7th of 2010; February 5th, 2010; and February
8 6th, 2010?

9 A. Yes, ma'am.

10 Q. And when you reviewed those calls, were you able
11 to determine that they had not been edited or changed?

12 A. Yes, they have not.

13 Q. And how were you able to determine that?

14 A. Because I listened to them all the way through.

15 Q. Okay. Is there a date listed on the disc? When
16 you pulled the call up, does it have a date that they
17 were taken?

18 A. Yes.

19 Q. And did that date show that they had not been
20 modified?

21 A. Yes, ma'am.

22 Q. I'm now going to show you -- may I approach?

23 THE COURT: Yes, ma'am.

24 BY MS. COLEMAN:

25 Q. This is what's been marked as State's Exhibit 7.

1 Do you recognize this?

2 A. Yes, ma'am.

3 Q. And how do you recognize that?

4 A. My initials.

5 Q. Did you listen to the calls on that disc as well?

6 A. Yes.

7 Q. After you listened to the calls on the disc that
8 you originally pulled, were you asked to listen to the
9 calls on this disc?

10 A. Yes, I was.

11 Q. And other than admitting portions that were not
12 admissible or relevant, are those the same calls that
13 were contained on the disc marked as Court's Exhibit 4?

14 A. Yes.

15 Q. Your Honor, at this time the State would move to
16 enter State's 7 into evidence.

17 MR. THOMPSON: Which one, seven?

18 MS. COLEMAN: Seven.

19 MR. THOMPSON: No objection, Your Honor.

20 THE COURT: Without objection, State's 7 is
21 admitted.

22 (Whereupon, State's Exhibit Number 7 was entered
23 into the record.)

24 MS. COLEMAN: No further questions.

25 CROSS-EXAMINATION

1 BY MR. THOMPSON:

2 Q. Lieutenant Jones?

3 A. Yes.

4 Q. My name is Jeremy Thompson. I represent Anthony
5 Briggs. How are you doing this morning?

6 A. I'm fine.

7 Q. Thank you for being here. How many -- how many
8 phone calls did you provide as, as a result of the
9 subpoena?

10 A. I don't remember how many it was originally.

11 Q. You don't remember how many it was?

12 A. No, I really don't. I thought I wrote it on the
13 tape. I may not have.

14 Q. Would it have been hundreds of phone calls?

15 A. It could be.

16 Q. It could be.

17 MR. THOMPSON: No further questions, Your Honor.

18 THE COURT: Anything at all?

19 MS. COLEMAN: No, Your Honor.

20 THE COURT: Okay.

21 MS. COLEMAN: May this witness be excused?

22 THE COURT: Any objection?

23 MR. THOMPSON: No objection.

24 THE COURT: Sir, you may stay or go, whichever
25 you choose.

1 THE WITNESS: Thank you, sir.

2 THE COURT: Thank you.

3 (Whereupon, witness leaves witness stand and
4 courtroom.)

5 MS. HALLFORD: Your Honor, may we approach?

6 THE COURT: Certainly.

7 (Whereupon, a bench conference was held off the
8 record.)

9 THE COURT: Madam Forelady, and ladies and
10 gentlemen, we're going to take a quick break at this
11 point in time. Don't talk about the case, it's
12 certainly not at the end, okay? Madam Forelady.

13 (Whereupon, jury leaves courtroom at 10:57 a.m.)

14 THE COURT: We'll be in recess until 15 past the
15 hour. How about that?

16 MS. HALLFORD: Thank you.

17 MR. THOMPSON: That's great, Your Honor.

18 (Whereupon, a recess was had from 10:57 a.m. -
19 11:16 a.m.)

20 THE COURT: Are we ready for the jury?

21 MR. THOMPSON: Yes, Your Honor.

22 THE COURT: Ready for the jury?

23 MS. HALLFORD: Oh, yes, Your Honor.

24 THE COURT: All right.

25 (Whereupon, Jury enters the courtroom at 11:17

1 a.m.)

2 THE COURT: Is the jury ready to return to work?

3 FORELADY: Yes, sir.

4 THE COURT: All right. Solicitor.

5 MS. HALLFORD: The State calls Nikki Cantrell.

6 (Whereupon, witness comes forward.)

7 THE CLERK: Place your left hand on the Bible and
8 raise your right. (Complies.)

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

12 THE WITNESS: I do.

13 THE COURT: Officer, tell us who you are and
14 spell your last name for us, please.

15 THE WITNESS: Nikki Cantrell, C-A-N-T-R-E-L-L.

16 THE COURT: Thank you. Solicitor.

17 NIKKI CANTRELL,

18 having been duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MS. HALLFORD:

21 Q. Nikki, where are you employed?

22 A. With the South Carolina Law Enforcement Division.

23 Q. How long have you been with them?

24 A. Four years.

25 Q. What are you -- what's your job description with

1 them?

2 A. I investigate all child fatalities in about five
3 counties here in the Upstate.

4 Q. Prior to going to work for SLED, where were you
5 working?

6 A. Spartanburg County Sheriff's Office. I worked
7 there 13 years. I was a detective and investigated all
8 crimes against children. So physical abuse, sexually
9 motivated crimes, any crimes involving children.

10 Q. And were you, in fact, working at the Spartanburg
11 Sheriff's Office in February of 2009?

12 A. Yes, ma'am.

13 Q. On February 2nd of 2009, did you receive a report
14 regarding the allegations against that defendant,
15 Anthony Briggs?

16 A. Yes, ma'am.

17 Q. From whom did you intinally receive the report?

18 A. I received a call from the chief of Chesnee
19 Police Department.

20 Q. And after you talked with him, what did you do?

21 A. I went to Chesnee Elementary School.

22 Q. When you got to Chesnee Elementary School, did
23 you meet with anybody else with another agency?

24 A. Yes. I met with an investigator with the
25 Department of Social Services, DSS.

1 Q. Did you guys actually talk with [B.R.] at Chesnee
2 Elementary?

3 A. Yes, ma'am, we did.

4 Q. And tell us how that took place.

5 A. Vicky Cook with DSS and I met with [B.R.] in a
6 conference room at the school. [B.R.] did confirm
7 sexual abuse allegations during our conversation with
8 her. She appeared very nervous. In fact, she actually
9 had a, like a small wart on her finger and she was
10 biting on it so much that it started bleeding during our
11 conversation.

12 Q. After you talked with [B.R.] at Chesnee
13 Elementary, what did you end up doing?

14 A. We -- I left the school and went to [B.R.]'s
15 residence at [REDACTED] Fairfield Street in Chesnee.

16 Q. What was your purpose in going to the residence?

17 A. To see if anyone was home.

18 Q. Was there anybody there when you got there?

19 A. No, ma'am.

20 Q. So after you attempted to locate somebody at
21 [B.R.]'s residence, what did you do at that point?

22 A. I went to another residence in Chesnee, which was
23 an address we had for [B.R.]'s father, because her
24 mother and father do not live together. So we went to
25 that address. No one was home. So I returned back to

1 the school. And while I was returning to the school, I
2 called B.R.'s mother, Wendy Richards, and asked her to
3 come to the sheriff's office and to bring Anthony Briggs
4 with her.

5 Q. Prior to talking to Wendy, were you actually able
6 to get Neddie on the telephone? Neddie Richards,
7 B.R.'s dad, on the telephone.

8 A. Yes, ma'am. That's how we were able to obtain a
9 working number for Wendy Richards.

10 Q. Okay. And what did Neddie tell you about whether
11 B.R. had told him about the abuse?

12 MR. THOMPSON: Objection, hearsay.

13 THE COURT: Solicitor?

14 MS. HALLFORD: I'll withdraw it.

15 BY MS. HALLFORD:

16 Q. After you -- so you said after you spoke with
17 Neddie, got a phone number for Wendy, what did you do
18 after you talked to Wendy?

19 A. I went to the school and got B.R. her
20 sister, and then we went to the middle school and got
21 her brother and then transported all the children to the
22 sheriff's office.

23 Q. At some point did Wendy and Anthony Briggs come
24 to the sheriff's office on February 2nd?

25 A. Yes, ma'am.

1 Q. Did you talk to Wendy when she got there?

2 A. Yes, ma'am.

3 Q. What did you talk with her about?

4 A. I explained the allegations to her and DSS was
5 present while we spoke with her as well. And we
6 explained to her that during the course of the
7 investigation we -- the children could not have any
8 contact with Anthony Briggs while this case was under
9 investigation and she signed a safety plan with DSS
10 indicating that she would not allow any contact.

11 Q. So after she signed the safety plan, was she then
12 allowed to keep custody of the kids?

13 A. At that time, yes, ma'am.

14 Q. After you spoke with Wendy on February 2nd, did
15 you then end up talking with Anthony Briggs?

16 A. Yes, I did.

17 Q. Where did you talk with him?

18 A. At my desk.

19 Q. Had he come to the sheriff's office voluntarily?

20 A. Yes, ma'am.

21 Q. Was he free to go at that point?

22 A. Yes, ma'am.

23 Q. Did he appear to be under the influence of drugs
24 or alcohol?

25 A. No, ma'am.

1 Q. Did he appear to have any mental or physical
2 infirmity that would impair his ability to understand
3 questions that you might ask him and his ability to
4 respond?

5 A. No, ma'am.

6 Q. Did you make him any promises or threaten him in
7 any way to get him to talk with you?

8 A. No, ma'am.

9 Q. The conversation that you had with him on
10 February 2nd of 2009, did that appear to be free and
11 voluntary?

12 A. Yes, ma'am.

13 Q. After you talked with him on February 2nd, did he
14 in fact then leave the sheriff's office?

15 A. Yes, ma'am.

16 Q. On February 2nd when you talked to him, did you
17 read him his Miranda Rights?

18 A. No, ma'am.

19 Q. And why did you not do that?

20 A. He was not in custody at that point.

21 Q. While you were talking to him, did you explain to
22 him why he was there?

23 A. Yes, ma'am.

24 Q. What did you tell him?

25 A. The allegations that were made to DSS, the DSS

1 worker read the specific allegations, sexual abuse
2 allegations to Anthony.

3 Q. And when you all told him what he was being
4 investigated about, what was his immediate reaction?

5 A. His immediate reaction was to talk about drama
6 between him and Neddie, B.R.'s father, and ongoing
7 drama that had been occurring between the two of them.

8 Q. So when he started talking about this drama
9 between him and Neddie, what did you end up having to
10 tell him?

11 A. I explained to him that, yes, we understand there
12 is drama between the two of you; however, we're here for
13 a sexual abuse allegation and to get to the bottom of
14 that. And that this allegation didn't even come to our
15 attention through Neddie Richards, who he wanted to keep
16 talking about.

17 Q. And when you told him that, hey, we need to focus
18 on sex abuse allegations, what was his response?

19 A. To continue talking about Neddie Richards.

20 Q. Did he deny the allegations that he had sexually
21 abused B.R.

22 A. Yes. Once he was specifically asked. That
23 evening he did deny it once he was specifically asked.

24 Q. And do you remember who it was that specifically
25 asked him that question?

1 A. Yes, ma'am.

2 Q. So prior to him drilling down, his response to
3 finding out he's being investigated is to complain about
4 Neddie Richards and not to deny?

5 A. Yes, ma'am.

6 Q. Did you ask him at that point where he slept in
7 the house?

8 A. Yes, ma'am.

9 Q. What did he tell you?

10 A. He sleeps on the pullout couch in the living
11 room.

12 Q. What, if anything, did he tell you about what
13 B.R. would do when her mom left for work and the other
14 kids left for school?

15 A. He stated she would come into the living room
16 with him and she would watch cartoons.

17 Q. Did he indicate to you whether or not he was at
18 home alone with B.R. at that point?

19 A. Yes, ma'am, he was home alone with B.R.

20 Q. When you were telling him about the accusations,
21 did you, did y'all tell him the timeframe in which they
22 were occurring, the mornings before school?

23 A. Yes, ma'am.

24 Q. At that point did he tell you anything about it
25 couldn't possibly be me because I'm always working?

1 A. No, ma'am. In fact, no. There was a
2 conversation later that I had with him about
3 specifically that.

4 Q. Okay. About how much time would you say you
5 spent with him on February 2nd?

6 A. Half an hour maybe.

7 Q. Did you, in fact, ask him if he would come back
8 to the sheriff's office the next day on February 3rd to
9 have a formal interview?

10 A. Yes, ma'am, I did.

11 Q. Did he, in fact, come back that day?

12 A. Yes. He came back the next day at 9 a.m.

13 Q. Was anybody with him when he arrived?

14 A. Yes. Wendy Richards was with him.

15 Q. Did you talk to Anthony Briggs when he first
16 showed up?

17 A. I went down to the lobby and escorted him up to,
18 they call it CIV, the Criminal Investigation Division,
19 to our lobby up there and sat him down on the couch.

20 Q. Did you talk to Wendy at all that morning?

21 A. Briefly. Not, not like an interview. Just
22 hello. She provided me with her and Anthony had some
23 audiotapes and handwritten notes they made about some
24 conversations they had recorded between themselves and
25 Neddie.

1 Q. Did you ever listen to those?

2 A. I attempted to. The audio was horrible and you
3 couldn't understand them, so to just go off of their
4 handwritten notes, when I couldn't corroborate the
5 notes, to me it wasn't of evidentiary value.

6 Q. Did you end up giving those tapes back to them?

7 A. Yes, ma'am.

8 Q. Because they were of no use to you?

9 A. Yes, ma'am.

10 Q. Did you hear anything damning on those tapes at
11 all?

12 A. No, ma'am. I couldn't understand them.

13 Q. The morning of February 3rd, did you actually
14 interview him to begin with or did somebody else do it
15 initially?

16 A. No. Sergeant Morgan initially interviewed him.
17 I had to leave the office on a separate case.

18 Q. Around 1:30 that afternoon, did you end up
19 getting a call from Danny Morgan?

20 A. Yes, ma'am, I did.

21 Q. And based upon the phone call, what did you end
22 up doing?

23 A. I returned to the sheriff's office.

24 Q. What did you do when you got back?

25 A. When I got back Anthony was hungry and he wanted

1 to talk to Wendy. So we took Anthony downstairs and he
2 sat out in the parking lot of the sheriff's office with
3 Wendy in their car. I asked him what he would like to
4 eat. He and Wendy both gave me their order from
5 McDonald's. Sergeant Morgan also requested something to
6 eat from McDonald's, so I drove to McDonald's and got
7 Wendy, Anthony and Sergeant Morgan lunch.

8 Q. Where were Wendy and Anthony while you went to
9 get lunch?

10 A. Sitting in the car in the parking lot together.

11 Q. And where were they when you got back?

12 A. Still sitting in the car in the parking lot
13 together.

14 Q. As you got back with the food, did -- what did
15 you do with Wendy?

16 A. I gave Wendy her food. She had to go to DSS to
17 talk to them. So I told her that would be fine for her
18 to go ahead and go to DSS. I gave Anthony his food. He
19 took his food up there, back to Danny Morgan's office.
20 He and Danny Morgan, Sergeant Morgan, ate lunch
21 together.

22 Q. While they were eating lunch or after they ate
23 lunch did they continue their interview?

24 A. Yes, ma'am.

25 Q. Did you seek portions of that interview?

1 A. Yes, ma'am.

2 Q. You were able to observe them?

3 A. Yes, ma'am.

4 Q. While he was talking with Mr. Morgan, what was
5 Anthony Briggs' demeanor?

6 A. He was very calm, cooperative.

7 Q. Did Danny talk to him about the abuse allegations
8 while they were eating lunch?

9 A. Yes, ma'am.

10 Q. Did you ever hear Anthony Briggs deny the abuse
11 while Danny was talking to him about it?

12 A. No, ma'am.

13 Q. What, if anything, did you hear Anthony Briggs
14 tell Danny about Wendy?

15 A. He just was very insistent that he needed to talk
16 to Wendy before he said anything about the allegations,
17 he wanted to tell Wendy first. He said Wendy had to
18 hear it from him first and then he would talk to us.

19 Q. Did you hear anything that Anthony Briggs was
20 asking Danny related to these charges?

21 A. Yeah. He was asking -- he was asking Danny about
22 what he could be looking at, what the -- what charges
23 could he be charged with. What kind of sentence do they
24 carry, things like that.

25 Q. At any point during the conversation that you

1 were observing, did you hear Danny promise Anthony
2 Briggs any leniency if he would confess?

3 A. No, ma'am.

4 Q. Did you ever hear Danny telling, confess
5 something he didn't do to get a lighter sentence?

6 A. No, ma'am. In fact, he was told to only tell us
7 what he did. Only tell the truth, we only want to know
8 the truth.

9 Q. So after he and Morgan were finished talking, did
10 you end up talking to the defendant again yourself?

11 A. I did.

12 Q. Where were you when you talked to them?

13 A. I spoke to him in an interview room.

14 Q. And to your knowledge, had he been read his
15 Miranda Rights at that point?

16 A. I knew he had been read them by Sergeant Morgan
17 and my interview was still a continuation. It was the
18 same day, same time. No lengthy breaks.

19 Q. And, again, he agreed to talk without an attorney
20 present?

21 A. Yes, ma'am.

22 Q. Was he in custody at that point?

23 A. No, ma'am.

24 Q. No threats or promises from you?

25 A. No, ma'am.

1 Q. You didn't tell him, confess to something I'll
2 help you get a sweet deal?

3 A. No.

4 Q. After you talked to him, was it your plan to let
5 him go and talk to Wendy?

6 A. Yes, ma'am.

7 Q. But before you let him talk to Wendy, what did
8 you do in relation to the charges?

9 A. I just -- well, he wanted to talk to Wendy and he
10 wanted to go home that night. So I talked to my
11 sergeant at the time, and based on evidence we had at
12 that point, he felt it would be a liability to let him
13 leave at that point. So I had to explain to Anthony he
14 was under arrest. And Anthony was talking to me as well
15 about the charges, the possible sentences of different
16 charges and things like that. So I explained to him
17 what certain sex charges are and what punishments they
18 can carry.

19 Q. Specifically what did you tell him he was likely
20 going to be charged with?

21 A. I explained that he could be charged with Lewd
22 act with a minor, which is more of a touching, a sexual
23 touching. Or he could be charged with criminal sexual
24 conduct with a minor and the degrees are based on the
25 age of the victim. And criminal sexual conduct

1 typically is some sort of a penetration.

2 Q. Does it also include cunnilingus or oral sex --

3 A. Yes, ma'am.

4 Q. -- on a female?

5 A. Yes, ma'am.

6 Q. Did you end up getting warrants against him
7 eventually?

8 A. Yes, ma'am, I did.

9 Q. Did you get a warrant for him for lewd act?

10 A. No, ma'am.

11 Q. Why didn't you get a warrant for that?

12 A. I got a warrant for the criminal sexual conduct
13 with a minor due to the oral sex. And typically while
14 the investigation was still ongoing we'll get one
15 warrant, usually for the highest of whatever we have
16 probable cause for. And due to the oral sex, the
17 criminal sexual conduct charge would have been the
18 appropriate charge.

19 And then when the investigation's complete,
20 typically with sexual assault cases, there's several
21 incidents. There's different types of sex acts that
22 take place. So once the child's completed a forensic
23 interview process and we have more details of the case,
24 then the solicitor's office will indict additional
25 charges.

1 Q. To your knowledge, was there a -- and there's --
2 let's back up for a second.

3 When the solicitor's office indicts for
4 additional charges, that's called a direct indictment;
5 is that right?

6 A. Yes, ma'am.

7 Q. Okay. To your knowledge, was there direct
8 indictments issued for lewd act against Anthony Briggs?

9 A. Yes, ma'am.

10 Q. Okay. And going back just a second, you said
11 that CSC with a minor first degree was based on the oral
12 sex, but there were other things that B.R. discussed
13 that would also warrant a CSC with a minor first degree,
14 correct?

15 A. Yes, ma'am. There's digital penetration as well.

16 Q. And was there also -- did she also say anal
17 penetration?

18 A. Yes, ma'am.

19 Q. Okay. And those would all satisfy the
20 requirements for CSC with a minor first degree?

21 A. Yes, ma'am.

22 Q. After you talked to your supervisor and -- let me
23 back up for a second.

24 So initially when you started talking to him
25 after he met with Danny he was not under arrest?

1 A. Correct.

2 Q. And then you talked with your supervisor and your
3 supervisor told you that, no, he was not gonna be
4 allowed to go home?

5 A. Yes, ma'am.

6 Q. Based on your conversations. Okay. And then it
7 was at that point you told him he was going to be
8 arrested?

9 A. Yes, ma'am.

10 Q. Okay. After that did you ask him if he wanted to
11 tell you what had happened?

12 A. Yes, ma'am, I did.

13 Q. What was his response to that question?

14 A. At that point he got tearful. He told me that he
15 was sick and that he needed help. And then he also was
16 continuing to talk about Wendy and needing to tell her
17 and talk to her and talk to his mother before he could
18 tell me anything.

19 Q. So when he says he was sick and he needed help,
20 did he ask you for any aspirin?

21 A. No, ma'am.

22 Q. Did he tell you he had a tummy ache?

23 A. No, ma'am.

24 Q. He needed to talk to a doctor?

25 A. No, ma'am.

1 Q. Based on the conversations you had just been
2 having, what did you take him to mean when he said he
3 was sick and needed help?

4 A. That he was referring to the sexual abuse of
5 B.R.

6 Q. After that conversation where he starts crying,
7 he says I'm sick and I need help, did you end up letting
8 him talk with Wendy again?

9 A. Yes, ma'am, I did.

10 Q. Why did you decide to let him talk to Wendy
11 again?

12 A. Because sometimes when, when something like this
13 occurs, it's difficult for people to admit the sexual
14 abuse, so we thought maybe if he was able to admit it to
15 her, it would be easier to admit it to us.

16 Q. Where did the conversation with him and Wendy
17 take place this time?

18 A. We brought Wendy upstairs to the detective
19 division and she talked to him in Sergeant Morgan's
20 office.

21 Q. Did you let them speak privately while they were
22 talking?

23 A. Yes, ma'am.

24 Q. At some point while they were having another
25 conversation, did you let them go downstairs and smoke

1 again?

2 A. Yes. We escorted them. There's a back stairway,
3 so they went down the back stairway so they weren't out
4 in the main part of the sheriff's office.

5 Q. While he was talking to Wendy, did you also let
6 him use the telephone?

7 A. Yes, ma'am.

8 Q. To your knowledge, who did he talk to?

9 A. He called his mother.

10 Q. Did you end up talking to his mom also?

11 A. Yes, ma'am.

12 Q. What did you tell her?

13 A. She wanted to know the details of the case, and I
14 told her that her son wanted to talk to her and if she
15 would come down to the sheriff's office, then I would
16 allow her to speak to him.

17 Q. After he and Wendy were done smoking and talking,
18 did you take them back inside?

19 A. Yes, ma'am, I did.

20 Q. While you were taking them back inside, did you
21 ask him anything?

22 A. Yes. I asked him if he had told Wendy yet.

23 Q. What was his response when you asked him if he
24 had told Wendy?

25 A. He said, no, he hadn't told her yet and he needed

1 a few more minutes.

2 Q. Did you end up letting him talk with Wendy again
3 at that point?

4 A. Yes, ma'am, I did.

5 Q. And where were they talking that time?

6 A. Again, in Sergeant Morgan's office.

7 Q. After they were done talking, what did Anthony
8 want to do?

9 A. He wanted to talk to his mother at that point.

10 Q. Did you agree to let him talk to his mom?

11 A. I did.

12 Q. To your knowledge, was she at the sheriff's
13 office at that point?

14 A. Yes, ma'am, she was.

15 Q. Where did he go to talk to his mother?

16 A. I escorted him downstairs to the lobby of the
17 sheriff's office. Wendy was escorted by someone else
18 out the back of the sheriff's office due to a hostile
19 relationship between his mother and Wendy.

20 Q. While you were taking him downstairs, did you ask
21 him again if he had told Wendy about what he did to

22 B.R.

23 A. I did.

24 Q. What did he say?

25 A. He told me he had told her.

1 Q. What did he say her reaction was?

2 A. He said that they were gonna be able to work
3 through this.

4 Q. While you were talking with Anthony Briggs and
5 while you were around him when he was with Wendy, what
6 was his demeanor?

7 A. When he was with Wendy he was calm. He was
8 remorseful and he was tearful and he cried several
9 times.

10 Q. And up to that point had he been belligerent or
11 aggressive in any way?

12 A. No, ma'am.

13 Q. When you were taking him to talk to his mom, did
14 you ask him if he was gonna tell his mother what he had
15 done to B.R.

16 A. I did.

17 Q. And what was his response?

18 A. He chuckled and said no, that he was not gonna
19 tell his mom because she is a fireball and I would see
20 what he meant in just a minute.

21 Q. What happened with Anthony Briggs' demeanor when
22 he saw his mother?

23 A. He started getting more loud, a little more
24 boisterous and his mom started yelling. He got almost
25 whiny. His voice got loud and very whiny.

1 Q. What did he tell his mom about what had been
2 going on during his interview?

3 A. That he had been lied to. That he had been told
4 to say things that he had done it even though he hadn't
5 done it and that he had been telling us all day long
6 that he hasn't done it.

7 Q. When he said I've been telling him all day long
8 that I haven't done it, what was your response?

9 A. I explained to him and his mother at that point
10 that that's not the truth, that he hadn't been telling
11 us all day long he hadn't done it.

12 Q. And you said that he told her he was told to
13 confess to --

14 A. Yes.

15 Q. -- something to get a more lenient sentence. Had
16 anybody made him any promises if he confessed to
17 something?

18 A. Absolutely not.

19 Q. Would y'all even have the authority to make a
20 promise and make a deal with him on what he would get if
21 he confessed to something?

22 A. No.

23 Q. So after you talked to his mom and he told his
24 mom they've been lying to me all day, I didn't do this,
25 did you tell him that's not what you said to us?

1 A. Correct.

2 Q. When he's done with mother, where did you go?
3 Did you take Anthony somewhere again?

4 A. Yes. I took him back upstairs.

5 Q. Did you end up talking to him upstairs?

6 A. I did.

7 Q. And did you Mirandize him at that point?

8 A. Yes, ma'am.

9 Q. Did he make a statement to you about whether or
10 not he had met with B.R. at that point?

11 A. Yes, we did.

12 Q. And what did he say then?

13 A. At that point he said no.

14 Q. Did you take a written statement from him?

15 A. I did. I gave him the statement form and allowed
16 him to write a statement.

17 Q. And what he put in his statement, was that
18 different from what he had been saying to you guys
19 before he met with his fireball mom?

20 A. Yes, ma'am.

21 Q. After you took the written statement from him,
22 did you have him talk to Morgan again?

23 A. I did.

24 Q. And what was the purpose of that?

25 A. Because while he was talking to his mom, he was

1 saying things that Detective Mor -- or Sergeant Morgan
2 had said and done and was twisting a lot of what
3 Detective Morgan said, so Detective Morgan wanted to
4 clarify that with him.

5 Q. After you talked to him again when he finally
6 said, no, I didn't do this, did you end up arresting him
7 for sexually abusing B.R.

8 A. Yes, ma'am.

9 Q. Did he end up being taken to jail that day?

10 A. Yes, ma'am.

11 Q. Did you go with him?

12 A. Yes, ma'am.

13 Q. On the way out of the sheriff's office, what did
14 Anthony Briggs tell you?

15 A. He told me he wanted to talk to me and he wanted
16 to tell me the truth this time.

17 Q. He wanted to tell you the truth this time?

18 A. Yes, ma'am.

19 Q. Did you take a statement from him after he told
20 you that he wanted to tell you the truth?

21 A. No, ma'am. I told him that I would have to come
22 back the following day because when he had been talking
23 to Detective Morgan he was indicating that he was tired
24 and hungry again and saying things like that, so I told
25 him that it would be best for me to take his statement

1 the following day.

2 Q. And why would you not just want to go ahead and
3 take a statement from him if he's saying I'm exhausted,
4 I'm tired, I'm hungry?

5 A. Because those are all reasons for his statement
6 to be thrown out later on.

7 Q. After he was booked in at the jail, did you end
8 up talking to him again?

9 A. No. Well, not the following day.

10 Q. No, that day.

11 A. Yes. That day I presented the case to a judge
12 and once the warrant was issued and I was walking back
13 through the jail, he motioned for me to come speak to
14 him.

15 Q. And what did he tell you at that point?

16 A. He at that point, again, he wanted to speak
17 again. And I told him that it was never too late to
18 tell the truth, but he would need to call me the
19 following day.

20 Q. Did he ever get in touch?

21 A. No, ma'am.

22 Q. On February 5th of 2009, did you attend B.R.'s
23 interview at the Child Advocacy Center?

24 A. Yes, ma'am.

25 Q. Where were you while Michelle was interviewing

1 B.R.

2 A. I was in a separate observation room.

3 Q. Were you able to see and hear the interview as it
4 was taking place?

5 A. Yes, ma'am.

6 Q. And you can't get into any of the specifics and
7 you can't say who she said did it, but did she expose
8 the sexual assault that you heard?

9 A. She did.

10 Q. Where did she say it happened?

11 A. At the home where she lives with her mom, Anthony
12 Briggs and her two siblings.

13 Q. And where in the residence did she say it
14 occurred?

15 A. In the living room on the pullout couch.

16 Q. When did she say this had happened?

17 A. In the mornings when her siblings were at school
18 and her mom was at work and she was alone with Anthony
19 Briggs.

20 Q. Was she able to give specific dates when the
21 abuse would occur?

22 A. No, ma'am.

23 Q. Would you expect a child of her age to be able to
24 pinpoint specific dates like that?

25 A. Absolutely not.

1 Q. Were you guys able to determine roughly the dates
2 that this would have happened?

3 A. Yes. We would just use the school calendar as
4 far as when school started that year up until the date
5 the investigation began.

6 Q. So from a law enforcement perspective, what would
7 be considered a verbal statement of admission that would
8 have resulted in an officer saying, yes, the defendant
9 made an admission?

10 A. For them to say it was a true admission would
11 require someone to give us details as far in a sexual
12 abuse case where the acts took place, where they took
13 place at, who was present, just a lot of details of the
14 crime.

15 Q. As part of your investigation did you end up
16 listening to some jail calls?

17 A. Yes, ma'am.

18 Q. And who were those calls between?

19 A. Anthony Briggs and Wendy Richards.

20 Q. About how many calls did you end up listening to?

21 A. Hundreds. Hours and hours.

22 Q. To your knowledge are those jail calls also
23 provided to the defense?

24 A. Yes, ma'am.

25 Q. So they would have those calls in their

1 possession?

2 A. Yes, ma'am.

3 Q. Okay. I am handing you what's been marked as
4 State's Exhibit Number 7. Do you recognize that?

5 A. Yes, ma'am.

6 Q. And how do you recognize that?

7 A. These are the jail calls from Anthony Briggs to
8 Wendy Richards because I initialled them after listening
9 to them.

10 Q. Okay. And I'm showing you what's been marked
11 Court's Exhibit Number 4. Have you ever seen that disc
12 before?

13 A. Yes, ma'am.

14 Q. And is this the disc that contains jail calls
15 that you originally listened to in 2009 -- 2010?

16 A. Yes, ma'am.

17 Q. Okay. And did you compare the calls that are on
18 this disc with the calls that are on that disc?

19 A. Yes, ma'am.

20 Q. Okay. And other than having some of this stuff
21 removed because it's not relevant or it's not
22 admissible, are the calls, the portions of the calls
23 that are contained on this disc the same as on the disc
24 that was originally pulled?

25 A. Yes, ma'am.

1 Q. And has any of the conversation that appeared on
2 that disc been edited or altered in any way?

3 A. No, ma'am.

4 MS. HALLFORD: Your Honor, we're gonna publish
5 that for the jury now. It's already been moved into
6 evidence.

7 THE COURT: Well, I'm gonna ask that. Is it
8 already in evidence?

9 MS. HALLFORD: It came into evidence through ---

10 THE COURT: State's 4? All right.

11 MS. HALLFORD: State's 7.

12 THE COURT: State's 7, I got ya. Yes, it is.

13 Okay. Yes, ma'am.

14 BY MS. HALLFORD:

15 Q. Are the calls that are on this disc made from
16 January 3rd, January 7th, January 5th, and February --
17 excuse me, February 5th and February 6th of 2010?

18 A. Yes, ma'am.

19 Q. So approximately a year after this investigation
20 started?

21 A. Yes, ma'am.

22 Q. Do you know Anthony Briggs' voice?

23 A. I do.

24 Q. How do you know it?

25 A. From spending time with him, interviewing him.

1 Q. Do you know Wendy Richards' voice?

2 A. Yes, ma'am.

3 Q. How do you know that?

4 A. I also interviewed her several times during the
5 course of the investigation.

6 Q. The male voice on this disc, who is that?

7 A. That's Anthony Briggs'.

8 Q. The female voice on this disc, who is that?

9 A. Wendy Richards.

10 Q. And, again, does this disc contain all of the
11 calls that you listened to?

12 A. No.

13 Q. And were a lot of the calls that you listened to,
14 would those contain things that would not be admissible?

15 A. Yes, ma'am.

16 Q. Were they also sometimes difficult to hear?

17 A. Yes, ma'am.

18 Q. During the calls that you listened to, did
19 Anthony Briggs ever make a comment regarding oral sex on
20 the child?

21 A. Yes, ma'am.

22 Q. What did he say?

23 A. That you can't prove or disprove oral sex.

24 Q. And what did he say about his word?

25 A. That it's his word versus B.R.'s words.

1 Q. During the conversations that you listened, did
2 he ever say anything to Wendy Richards about whether she
3 should take B.R. or the other kids to the Child
4 Advocacy Center? And I think he refers to it as that
5 advocacy place.

6 A. Yes. He was telling her do not take the children
7 there. Do not let them be interviewed.

8 Q. Did he ever say anything about whether B.R.
9 should be involved in any court proceedings?

10 A. Yes. He said that -- he said a number of times
11 over the jail tapes that not to bring her to court. His
12 saying was no face, no case.

13 Q. Did he ever say anything to Wendy about what he
14 should do to keep B.R. from being involved in any
15 court proceeding?

16 A. Yes. He would tell her that she needed to move
17 out of state, to enter the children in a different
18 school, to put the power bill -- put the utilities in
19 someone else's name so he couldn't look at the Duke
20 Power bills to find out where she was living at.

21 There was some conversations where she didn't
22 want the children to be removed from their school and he
23 would explain to her that if you don't, they're just
24 gonna come and take the kids from the school like they
25 did the last time, so you've got to put them in a new

1 school.

2 Q. Does this disc contain all the conversations
3 between the defendant and Wendy related to these
4 charges?

5 A. No.

6 Q. How many hours would we have to sit here to
7 listen to all those?

8 A. A few days probably.

9 Q. Did he ever tell Wendy what they would do if she
10 followed his instructions to leave?

11 A. Yes. He talked to her that if he got out of jail
12 he would be able to go to work and provide for her
13 financially. He also said that they would get married
14 and they could live happily ever after.

15 MS. HALLFORD: Okay. At this point we're gonna
16 play those.

17 (Plays audio.)

18 MS. HALLFORD: Your Honor, we apologize, we made
19 these as clear as we could, but...

20 (Plays audio.)

21 BY MS. HALLFORD:

22 Q. And, again, this doesn't purport to be all of the
23 calls between Wendy and Anthony regarding these
24 allegations?

25 A. No, ma'am.

1 MS. HALLFORD: No further questions.

2 THE COURT: Yes, sir.

3 CROSS-EXAMINATION

4 BY MR. THOMPSON:

5 Q. Agent Cantrell?

6 A. Yes.

7 Q. Good morning.

8 A. Good morning.

9 Q. We met a little bit earlier. I'm Jeremy
10 Thompson, I represent Anthony and I've just got a couple
11 of questions for you. So when did Anthony tell you that
12 he had engaged in oral sex on B.R.

13 A. He did not.

14 Q. When did Anthony tell you he had engaged in
15 digital penetration with B.R.

16 A. He did not.

17 Q. When did Anthony tell you that he engaged in Anal
18 penetration with B.R.

19 A. He did not.

20 Q. When did he tell you that B.R. touched him in a
21 sexual manner?

22 A. He did not.

23 Q. And when you left in -- when he gave a statement,
24 his statement, his written statement was that he did not
25 do anything to B.R. correct?

1 A. Yes, sir.

2 Q. What time did you leave the sheriff's office that
3 day after you had arrested Anthony?

4 A. To take him to --

5 Q. To the jail.

6 A. -- to the jail? If you can hold on one second.
7 The photo copy is dark. Can I give you we left -- I can
8 give you a close time.

9 Q. A close time is fine.

10 A. He completed his written statement at 8 p.m. and
11 he left shortly thereafter.

12 Q. Okay. So his -- so it was somewhere around 8 to
13 9 p.m.?

14 A. Yes, sir.

15 Q. Would that be fair to say?

16 A. Yes, sir.

17 Q. And he'd been there since 9 o'clock that morning,
18 correct?

19 A. Yes, sir.

20 Q. He'd been there for 12 hours. You said when,
21 when you talked with Anthony and he went and talked with
22 his mother, he said that Detective Morgan had been lying
23 to him; is that correct?

24 A. Yes, sir.

25 Q. Didn't you, in fact, tell Anthony that the

1 constitution permits Detective Morgan to lie to him?

2 A. Later on during our conversation, yes, sir.

3 Q. And you said you listened to hundreds of phone
4 calls, correct?

5 A. Yes, sir.

6 Q. Between Anthony and Wendy?

7 A. Yes, sir.

8 Q. If I said, if I just put it on an average, and I
9 say 40-hours worth of phone calls, would that be too
10 much or too little between the two?

11 A. Probably too little. I just remember spending
12 weeks. But, obviously -- listening to them all, but
13 obviously I was at work, so I was being pulled.

14 Q. I understand.

15 A. And it was separate ---

16 Q. And you weren't keeping track.

17 A. Right.

18 Q. You weren't totaling the length of time, I
19 understand. Would you say over 40 hours worth of phone
20 calls between the two?

21 A. Absolutely.

22 MR. THOMPSON: Beg the Court's indulgence.

23 THE COURT: Yes, sir.

24 MR. THOMPSON: No further questions of this
25 witness, Your Honor.

1 THE COURT: Anything at all?

2 MS. HALLFORD: Yes.

3 REDIRECT EXAMINATION

4 BY MS. HALLFORD:

5 Q. You did tell him that the constitution permits an
6 investigator to lie to him, but are you aware of anybody
7 actually lying to him?

8 A. No, ma'am.

9 Q. Was he promised anything if he would confess to
10 something?

11 A. No, ma'am.

12 Q. Was he encouraged to confess to something that he
13 did not do?

14 A. Absolutely not. In fact, I told him I would
15 never want him to confess to something he didn't do.

16 Q. And you said that he never admitted engaging in
17 oral sex and that's correct, isn't it?

18 A. Correct.

19 Q. And he never admitted digital penetration?

20 A. Correct.

21 Q. And he never admitted anal penetration?

22 A. Correct.

23 Q. But he did get tears in his eyes and say: I'm
24 sick and I need help, didn't he?

25 A. Yes, ma'am.

1 Q. And he did say he wanted to tell you what he did
2 to B.R. but he needed to tell Wendy first, didn't he?

3 A. Yes, ma'am.

4 MS. HALLFORD: No further questions.

5 THE COURT: Anything at all?

6 RE CROSS-EXAMINATION

7 BY MR. THOMPSON:

8 Q. If he told anybody that he did it, he told Wendy,
9 right?

10 A. I don't know. I walked him down. Wendy was
11 taken out the back door.

12 Q. But he never confessed to you, correct?

13 A. Correct.

14 MR. THOMPSON: No further questions.

15 THE COURT: Agent, you may step down. Please be
16 careful.

17 (Whereupon, witness leaves witness stand.)

18 MS. HALLFORD: The State calls Nancy Henderson.

19 (Whereupon, witness comes forward.)

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

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

25 THE WITNESS: Yes, ma'am.

1 THE COURT: Doctor, position that microphone and
2 tell us who you are and spell your last name, please.

3 THE WITNESS: My name is Dr. Nancy Henderson,
4 H-e-n-d-e-r-s-o-n.

5 THE COURT: Thank you. Solicitor.

6 DR. NANCY HENDERSON,
7 having been duly sworn, testified as follows:

8 DIRECT EXAMINATION
9 BY MS. HALLFORD.

10 Q. Dr. Henderson, where are you currently employed?

11 A. It was formerly called the Greenville Health
12 Systems, now called Prisma Healthcare Upstate.

13 Q. I did not know that. Okay. And how long have
14 you been with what was formerly known as Greenville
15 Health System and is now Prisma?

16 A. Since 1982.

17 Q. Are you licensed to practice medicine here in
18 South Carolina?

19 A. Yes, ma'am.

20 Q. Can you tell the jury a little bit about your
21 educational background?

22 A. Yes. I graduated from Ruckers College of
23 Pharmacy with a BS in pharmacy. And then I attended
24 Bowman-Gray School of Medicine in Winston-Salem, North
25 Carolina and graduated in 1984 with my medical degree.

1 And then went to Tc Thompson Children's Hospital where I
2 did my pediatric residency and completed that in 1987.

3 Q. Do you have a field in which you specialize?

4 A. Yes. I am board certified in pediatrics and
5 sub-boarded in child abuse pediatrics.

6 Q. What particular training have you had in the
7 field of child abuse pediatrics?

8 A. Well, in the field of child abuse pediatrics, as
9 I mentioned, I'm sub-boarded in that. You had to --
10 it's a fairly new sub-board. It began in 2009. And so
11 be able to take the exam for that, you had to have at
12 least 50 percent of your practice dealing with child
13 abuse and then you had to take an exam which has to be
14 recertified every ten years with 40 hours of continuing
15 education credits every two years.

16 Q. How many years have you practiced in the area of
17 child abuse pediatrics?

18 A. I've really have been practicing in it not
19 exclusively since I came to South Carolina in 1992.

20 Q. Do you have any special training concerning child
21 sexual assault examinations?

22 A. Well, the child abuse sub-board includes child's
23 sexual abuse, child physical abuse, neglect, emotional
24 abuse, so all the forms of child abuse, including child
25 sexual abuse.

1 Q. How many years experience do you have conducting
2 sexual assault examinations on children?

3 A. I've been doing those exams as part of my job
4 since really I came to Greenville since 1992.

5 Q. Can you estimate how many cases you've seen
6 involving sexual abuse of children?

7 A. I don't have a running total of that, but I'd say
8 approximately 300 hundred children a year. Some of that
9 is physical abuse, but early on in my career was child
10 sexual abuse.

11 Q. Have you previously testified in court as an
12 expert in the area of child abuse pediatrics?

13 A. Yes, I have.

14 MS. HALLFORD: Your Honor, at this point I move
15 to have Dr. Henderson qualified as an expert in child
16 abuse pediatrics.

17 MR. THOMPSON: No objection, Your Honor.

18 THE COURT: Okay. Ladies and gentlemen of the
19 jury, normally a witness must testify as to something
20 that they see, hear, sense it by smell or something of
21 that nature, but an exception exists when somebody is
22 qualified due to their education, experience and skill
23 or training. That person can be qualified as what's
24 known as an expert witness.

25 This witness is now qualified as an expert

1 witness in the field of child abuse pediatrics. That
2 does not mean that you must accept any opinion that she
3 has, even if it's uncontroverted, but she is qualified
4 as an expert. You must give whatever weight and
5 credibility you believe is appropriate.

6 Solicitor.

7 BY MS. HALLFORD:

8 Q. Can you briefly explain to the jury the procedure
9 you would follow when a child is brought to you for a
10 sexual assault examination?

11 A. Right. So in the advocacy arena, children are
12 referred to the Children's Advocacy Center for
13 evaluation. It could be a forensic interview and it
14 also could be a medical exam. It could be counseling or
15 referrals can come from either Department of Social
16 Services. It could come from law enforcement. It could
17 come from other pediatricians who have concerns about an
18 exam. And if it is referred for a medical exam, then
19 that is where I step into that.

20 Q. When you are meeting with a child, would you ever
21 allow an alleged perpetrator to be present with that
22 child?

23 A. Usually at the advocacy centers they really, they
24 do not allow the perpetrator sort of enter into the
25 building, so the only time that would happen is if we

1 didn't know, you know, who did something and then later
2 on it turns out they did. But for the protection of the
3 child and the ability for them to feel safe, in talking
4 about what's happened, the exam, they are not allowed in
5 the building.

6 Q. Did you, in fact, examine B.R. [REDACTED] on
7 February 13th of 2009?

8 A. Yes, I did.

9 Q. What was the purpose of examining her?

10 A. The purpose was because there were concerns about
11 child sexual abuse and law enforcement had referred the
12 case to the Advocacy Center for me to do a medical
13 evaluation of her.

14 Q. Prior to examining her, did you get her medical
15 history?

16 A. Yes. As part of that evaluation, I do talk with
17 the guardian who is bringing in the child, in this case
18 it was mom, and get medical history as part of my
19 evaluation.

20 Q. Did you also get details regarding the specific
21 allegations of abuse?

22 A. I get limited information about what the referral
23 is for. Unlimited information about the forensic
24 interview, but that is a part of some of the information
25 that I do have.

1 Q. In [B.R.] 's case, what history were you given
2 regarding the allegations of abuse?

3 A. That there were concerns about abuse by someone
4 in the home. She did have a forensic interview and had
5 shared information limited to that.

6 Q. Okay. Before you examined [B.R.] did you ask
7 her if anyone had touched her private?

8 A. So as part of my evaluation, I do talk to the
9 children by themselves if they are able to separate from
10 the caretaker to try to understand what their worries
11 are about their body, what their concerns are about what
12 happened, and I did do that in this case as well.

13 Q. And, again, you can't say who she said did
14 something, but what was her reaction when you asked her
15 if someone had touched her private?

16 A. She became very quiet and put her head down as
17 she started to share about that.

18 Q. Did she confirm then that, yes, someone had?

19 A. Yes, she did.

20 Q. Did you press her for specific details about what
21 had happened?

22 A. She did not want to talk about it anymore. We
23 ended the conversation at that point and she wanted her
24 mom to come back to the room and we did.

25 Q. Before you get into the specifics of [B.R.] 's

1 exam, can you just explain to the jury the vaginal area
2 of a child from a medical perspective?

3 A. Sure. So the, the evaluation that I do is sort
4 of a head-to-toe checkup, including looking at the
5 genital area. And so when we -- in my evaluation we
6 look at the genital area.

7 We use what's called a Colposcope, which is not
8 anything that touches the child, but allows for
9 magnification and a really good light source of the
10 area. The children, we show that ahead of time so that
11 they're comfortable with the exam and they know exactly
12 what's gonna happen. And we're able to see the outer
13 part of the genital area, which is called the labia.

14 And then with what we call really just gentle
15 traction, putting my thumb and forefinger on the labia
16 and just gently pull out. We're able to get a good look
17 at the area where you go to the bathroom or pee from the
18 urethra and also look at the vaginal area.

19 Children have a partial covering over the vaginal
20 area which is known as the hymen, which you can very
21 easily see during this evaluation and can see in the
22 vaginal canal as well, so it's not a complete covering
23 over there. And you can see if there's discharge,
24 tears, scars. And those are the things that we look at
25 during the genital exam, as well as looking at the

1 rectal area as well.

2 Q. Is it true that when there is a penetration of
3 the vaginal area, the hymen is broken or no longer
4 intact?

5 A. You often hear that, those kind of statements,
6 but it is fairly common to still -- or teenagers or
7 adults to still have their hymen intact when even
8 there's been consensual sex. So it doesn't necessarily
9 have to tear when you are sexually active.

10 Q. When a child's vaginal area is penetrated by,
11 say, a finger during a sexual assault, would you
12 necessarily expect to find physical evidence in the
13 vaginal area?

14 A. The majority of times when I examine children for
15 evaluations for child sexual abuse their exams are
16 normal.

17 Q. Would that be the case even if the vaginal area
18 was penetrated over the course of multiple incidents?

19 A. Yes. It would not matter with it being multiple
20 incidents. The exam could still be normal.

21 Q. If a child's vaginal area was penetrated by a
22 penis during a sexual assault, would you necessarily
23 expect to find physical evidence?

24 A. There are lots of reasons why children have
25 normal exams where there are disclosures of child sexual

1 abuse. There often is a delay in disclosing. The
2 genital area has an amazing way to heal. It has a
3 really amazing vascular supply.

4 A lot of times children, when they disclose
5 penetration, it might not necessarily be into the vagina
6 itself, but sort of into that outer area between the
7 labia and the vagina, what we call the vulva area. And
8 so the child often will disclose penetration, but not
9 necessarily across the hymen. But even with attempted
10 penetration with a penis into a vagina, you still could
11 have a normal exam.

12 Q. Do you base this opinion solely on your
13 experience or is there medical literature that supports
14 your position that you would not necessarily find
15 physical trauma in cases of penetration of the vaginal
16 area?

17 A. The literature clearly supports that. The latest
18 was by Dr. Joyce Adams, which was sort of a consensus
19 over the last now 20 years of evaluations of child abuse
20 pediatricians across the country. And about only two
21 percent of children have positive findings on their
22 genital exams when the exam is not done acutely, which
23 would be done within the first 72 hours of an
24 evaluation. So what we call more of a chronic picture
25 most of these children have normal exams.

1 Q. Now, are those studies of children where the
2 sexual abuse has been confirmed?

3 A. There has been studies, yes, where they're coming
4 in, where there is confirmation of some type of
5 penetration. And now that we have colposcopes and can
6 have pictures of that, it can be reviewed independently
7 and the majority of those evaluations are normal.

8 Q. In your medical opinion, would you expect to find
9 any physical evidence in a case that involved oral sex?

10 A. It is very uncommon to find findings on a genital
11 exam related to oral sex.

12 Q. So uncommon to have findings when there's been
13 digital penetration; is that correct?

14 A. That is correct.

15 Q. Uncommon to have findings if there had been
16 penile penetration?

17 A. That is correct.

18 Q. Very uncommon to have findings if there's been
19 oral sex?

20 A. Right. You may see symptoms early on, like
21 burning, irritation and things like that, but actual
22 lingering findings on a physical exam is very rare.

23 Q. And the redness and burning, that would then be
24 found in what you describe as an acute exam, correct?

25 A. Correct.

1 Q. Where it would -- it happened yesterday, I see
2 her within 72 hours kind of thing?

3 A. Not very specific for abuse, but certainly if you
4 evaluate the children much more promptly, you may see
5 some of those findings on your exam.

6 Q. During your examination of B.R. did you also
7 conduct a rectal exam?

8 A. Yes, I did.

9 Q. In the case of rectal penetration, would you
10 necessarily expect to find evidence of physical trama?

11 A. Again, just like the genital exam, the rectal
12 area has an extremely great blood supply so tears can
13 heal very, very quickly if they existed at all. The
14 rectal area is enlarged during bowel movements. Fairly
15 large things come out often without any trauma at all,
16 so penetration from the outside in to the rectal area
17 often does not cause any trauma as well.

18 Q. So would it be consistent or inconsistent with a
19 child who disclosed someone put his penis in my butt,
20 that she would have a normal exam?

21 A. A normal exam is quite common when there is a
22 disclosure of penile anal penetration.

23 Q. When you examined B.R. what was the
24 result?

25 A. Her exam, her genital exam was normal. She did

1 have some digital warts, but other than that her exam
2 was normal.

3 Q. And her rectal exam?

4 A. Was normal as well.

5 Q. In your medical opinion and based on accepted
6 medical literature and studies, can [B.R.]'s normal
7 physical exam of both her vaginal and her rectal area
8 still be consistent with her history of sexual assault?

9 A. A normal genital exam, both the vaginal and
10 rectal area still can be very consistent with a
11 disclosure of digital or penile penetration.

12 MS. HALLFORD: No further questions.

13 THE COURT: Yes, sir.

14 MR. THOMPSON: Just briefly.

15 CROSS-EXAMINATION

16 BY MR. THOMPSON:

17 Q. Good morning, Dr. Henderson. My name is Jeremy
18 Thompson, I represent Anthony Briggs.

19 A. Yes, sir.

20 Q. Do you work at the main Greenville hospital or...

21 A. Yes, sir.

22 Q. Okay. Do you work up in the pediatric wing with
23 the, like with fish, the giant fish tanks?

24 A. I don't work -- I don't work in the inpatient
25 setting as far as the hospital is. They do consults,

1 mostly when there's concerns of physical abuse, up on
2 the floors of the main hospital at Greenville.

3 Q. I used to work at the hospital myself and so I
4 thought I might have been able to run into you at one
5 point or another. So you just testified that your
6 professional opinion is that a normal exam is consistent
7 with abuse occurring; is that correct?

8 A. A normal exam could be consistent with abuse
9 occurring, yes, sir.

10 Q. Is it also true that a normal exam is also
11 consistent with no abuse occurring?

12 A. A normal exam could be, obviously, consistent
13 with nothing happening to a child.

14 MR. THOMPSON: Beg the Court's indulgence. No
15 further questions of this witness, Your Honor.

16 THE COURT: Anything at all with the couple of
17 questions?

18 MS. HALLFORD. No, Your Honor. May this witness
19 be excused?

20 MR. THOMPSON: No objection, Your Honor.

21 THE COURT: Doctor, you may step down or you may
22 stay with us or leave, whichever you choose.

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

25 THE COURT: Solicitor.

1 MS. RICHBURG: May we approach?

2 THE COURT: Yes, ma'am.

3 (Whereupon, a bench conference was held off the
4 record.)

5 THE COURT: Madam Forelady, ladies and gentlemen,
6 it's quarter to 12, noon. The next witness is coming,
7 is traveling to get here and will not be here until two
8 p.m. That witness is scheduled to be here at two p.m.
9 we're going to go ahead and break for lunch.

10 It'll be a little bit longer lunch for you. I
11 gotta a couple things I can do. Nothing on this case,
12 but I got a couple things I could fill in the rest of
13 the morning with. And so I'll allow you to go to lunch
14 and be back at two. Again, anytime between 1:30 and 2,
15 please be back in place. And the lawyers will be here,
16 I'm sure that that witness will be here by two and we'll
17 be ready to start back and get that testimony in.

18 Don't talk about the case. Don't try to learn
19 anything about it. Again, we have to learn everything
20 here in this courtroom. And with that, Madam Forelady,
21 if you'll take the jury out and be excused for lunch.

22 (Whereupon, Jury leaves courtroom at 11:46 a.m.)

23 THE COURT: Okay. We're gonna stand aside on
24 this case. I think we have a restitution matter or
25 something on another case that I've been asked to hear,

1 so we'll be in recess on this until two.

2 (Whereupon, a recess was had from 11:46 a.m. -
3 2:16 p.m.)

4 THE COURT: Okay. I think we have a matter we
5 want to put on the record before we bring the jury in.

6 MS. HALLFORD: Yes, sir, Your Honor.

7 THE COURT: Okay.

8 MS. HALLFORD: Your Honor, our investigator,
9 Chrystal Markum came to us and said that she recognized
10 one of the jurors. It is the brother of her sister's
11 husband. She has not had any contact with him in 14
12 years or so. Doesn't think he would have any reason to
13 have recognized her or had realized that she works at
14 the solicitor's office when you asked that question.
15 Doesn't know that he even recognized her, but we wanted
16 to bring it before the Court out of an abundance of
17 caution and also notify the defense attorney. So I
18 don't think he has any objections or further questions.

19 MR. THOMPSON: Yeah, Your Honor, I don't believe
20 so. I don't know if you seen this baseball skit, but it
21 reminds me of the comment, you know, what you know, I'm
22 your brother's sister's husband's former roommate. And
23 what does that mean to us? Absolutely nothing.

24 You know, he didn't -- if he hasn't stepped
25 forward to say that he recognizes her and they haven't

1 seen each other in 14 years, then I don't think it's an
2 issue. And I wouldn't have struck him, you know, had I
3 known the precise nature of the relationship. It's too
4 tenuous.

5 THE COURT: Yeah. And she's not a testifying
6 witness --

7 MS. HALLFORD: No.

8 THE COURT: Or involved in the case?

9 MS. HALLFORD: She's been in the courtroom most
10 or all of the time, but she's not gonna testify.

11 THE COURT: In fact, I'm not even sure that even
12 if she had been in the courtroom, she's been seated on
13 this side of the bar, but I'm not sure that that would
14 lead anyone to believe that she worked with the
15 solicitor's office or what have you.

16 MS. HALLFORD: Okay.

17 THE COURTROOM: We have open courtrooms, she can
18 be in the courtroom. So, okay. All right.

19 MS. HALLFORD: Thank you, Your Honor.

20 THE COURT: Well, thank you for the information.
21 It's always good working with good lawyers.

22 MR. THOMPSON: Thank you, Judge.

23 THE COURT: Anything else before we bring the
24 jury in?

25 MS. HALLFORD: Nothing from the State.

1 MR. THOMPSON: No, Your Honor.

2 THE COURT: And our witness is here?

3 MS. HALLFORD: Yes, she is.

4 THE COURT: Okay. And we all know what the
5 parameters are? We all know where the boundaries are?

6 MS. HALLFORD: Oh, for the expert witness? Oh,
7 yes.

8 THE COURT: Okay. All right. We'll have our
9 jury.

10 (Whereupon, jury enters the courtroom at 2:18
11 p.m.)

12 THE COURT: Madam Forelady, is the jury ready?

13 THE FORELADY: Yes, sir.

14 THE COURT: Solicitor.

15 MS. HALLFORD: That State calls Shauna
16 Galloway-Williams.

17 (Whereupon, witness comes forward.)

18 THE CLERK: Place your left hand on the Bible and
19 raise your right. (Complies.)

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

23 THE WITNESS: Yes, I do.

24 THE CLERK: Thank you.

25 THE COURT: Ma'am, adjust the microphone as you

1 make yourself comfortable. Tell us your name and spell
2 your last name for my court reporter.

3 THE WITNESS: Okay. Shauna Galloway-Williams.
4 S-h-a-u-n-a G-a-l-l-o-w-a-y - W-i-l-l-i-a-m-s.

5 THE COURT: Solicitor.

6 SHAUNA GALLOWAY-WILLIAMS,
7 having been duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MS. HALLFORD:

10 Q. Shauna, where are you currently employed?

11 A. I'm the executive director of the Julie Valentine
12 Center.

13 Q. Can you just explain to the jury what that is?

14 A. Sure. We are the child abuse and sexual assault
15 recovery center that serves Greenville and Pickens
16 County. That means that we provide services related to
17 investigation, advocacy, therapy and education for
18 anyone that's been impacted by child abuse or sexual
19 assault.

20 Q. How long have you worked there?

21 A. I've been executive director there for ten years.
22 Prior to that I served as clinical director. Prior to
23 that I was forensic interviewer. So I've been an
24 employee of the center for 12 years. Then I worked as a
25 contract employee for them through my employment with

1 the Department of Mental Health at the Greenville Mental
2 Health Center.

3 Q. Can you tell the jury what your educational
4 background is?

5 A. Sure. I have a Bachelor's degree in psychology
6 from Winthrop University and a Master's degree in
7 counseling from Clemson University.

8 Q. Do you have any specialized training beyond your
9 bachelors and your masters?

10 A. I do. I am licensed as a professional counselor
11 in the state of South Carolina. Additionally, my area
12 of specialization is the area of child abuse and sexual
13 assault. Most of my continuing education and training
14 beyond my graduate degree has been specifically in that
15 area. I have over 150 skills-based hours, specifically
16 in the area of assessing children where there are
17 allegations of some type of child maltreatment. In
18 addition to that, my general continuing education
19 requirements are typically in the area of child abuse
20 and sexual assault.

21 Q. Do you have any teaching experience in the area
22 of child abuse sexual assault?

23 A. I do. I'm currently an adjunct faculty member at
24 USC Upstate in their Child Advocacy Studies Program. I
25 teach two undergraduate courses there. I teach one

1 three-hour undergraduate course in child maltreatment.
2 I teach another undergraduate course in child gender
3 society. And that again falls under the child
4 maltreatment curriculum there.

5 I also do training locally, statewide and
6 nationally. Last year I presented at three national
7 conferences. The National Children Alliance Leadership
8 Conference, the Zero Abuse Project Conference, as well
9 as the Gunderson National Child Protection Training
10 Center Conference.

11 Q. Do you have any publications in the field of
12 child abuse and sexual assault?

13 A. I have not been published.

14 Q. Okay. And do you have experience counseling
15 victims of sexual assault?

16 A. Yes, I do.

17 Q. Can you estimate how many victims you've
18 counseled?

19 A. Over the time that I've been doing this work,
20 which has been well over 20 years, I have worked with
21 over a 1,000 children and their families throughout that
22 time. I've also conducted over 900 forensic interviews
23 or assessments of children.

24 Q. And the method you rely on in your teaching and
25 counseling, are they uniformly accepted and recognized

1 in your field?

2 A. Yes, they are.

3 Q. And are those methods subject to a peer review?

4 A. Yes, they are.

5 Q. Can you just explain to the jury what that would
6 mean?

7 A. Peer review means that your work, particularly
8 the research in our field, is reviewed by other
9 professionals in the field. And not just any
10 professional generally to be published in a peer review
11 journal, your research has to be reviewed by experts in
12 that particular area. We also, as professionals,
13 particularly as an interviewer, I have to participate in
14 peer review where my work is reviewed by my peers and I
15 review my peers as well in terms of actual clinical
16 work.

17 Q. And can you find the methods that you rely upon
18 in articles, journals and textbooks?

19 A. Yes.

20 Q. Have you previously qualified as an expert in
21 child abuse dynamics?

22 A. I have been.

23 Q. And can you explain to the jury what child abuse
24 dynamics means.

25 A. Those are the -- it's the subject area that's

1 specifically related to any type of child abuse that can
2 be physical or sexual abuse, neglect. And it is its own
3 subject area because there are specific dynamics that
4 are sometimes harder to understand or explain unless
5 you've actually studied that, experienced that or had
6 some reason to know that information.

7 Q. And going back to having been qualified as an
8 expert, do you know how many times you've qualified as
9 an expert?

10 A. I don't have an exact number, but it's been over
11 40 times in general sessions.

12 Q. And how many times have you actually ended up
13 testifying? Would it be the same amount?

14 A. Those are the times that I've been qualified and
15 testified --

16 Q. Okay.

17 A. -- in General Sessions.

18 MS. HALLFORD: Your Honor, at this time the State
19 moves to qualify Shauna Galloway-Williams as an expert
20 in child abuse dynamics.

21 MR. THOMPSON: No objection, Your Honor.

22 THE COURT: Ladies and gentlemen, as I previously
23 said, a person who is giving an opinion usually does so
24 by something that they have seen, heard or sensed, but
25 an exception does exist where somebody's qualified due

1 to their education, experience, knowledge, training or
 2 skill. This witness is now qualified as an expert in
 3 child abuse dynamics. That does not mean you must
 4 accept her opinion. You must give it whatever weight
 5 that you deem sufficient and appropriate.

6 Solicitor.

7 BY MS. HALLFORD:

8 Q. Have you had any personal involvement with the
 9 victim in this case?

10 A. No, I have not.

11 Q. Have you had any involvement in the investigation
 12 of this case at all?

13 A. Not at all.

14 Q. Have you reviewed any of the documentation?

15 A. I haven't seen any reports or assessments, no
 16 documentation.

17 Q. Watch the forensic video?

18 A. No.

19 Q. Other than talking with me in general terms about
 20 you coming to testify today, do you know anything about
 21 this case?

22 A. No, I do not.

23 Q. And is that something that is required before you
 24 can testify as an expert in child abuse dynamics that
 25 you not be familiar with the specifics?

1 A. Correct.

2 Q. Can you explain to the jury what is meant by the
3 term delayed disclosure?

4 A. So disclosure in general is when a child -- is a
5 term we use when a child shares information about an
6 abuse incident that may have occurred. Delayed
7 disclosure refers to what is very common in terms of
8 disclosure with children when a child does not tell
9 right away. That can be hours, days, years, essentially
10 meaning that the first opportunity that a child has to
11 tell a safe person, they don't take that opportunity, so
12 it's delayed. That's that.

13 Q. In your training and experience, is it common or
14 uncommon for a child to delay disclosing when that child
15 has been sexually abused?

16 A. It's far more common for children to delay
17 disclosing abuse. There are multiple reasons for that.
18 And we know that many adults who are survivors of
19 childhood sexual abuse live into their adult lives
20 without having ever shared that information as well.

21 Q. Can you explain to the jury what could be some of
22 the reasons why a child might not feel comfortable
23 enough saying immediately after they've been molested,
24 hey, this happened to me?

25 A. All right. One of the most common reasons that

1 children delay disclosure is fear. They're afraid of
2 what's gonna happen to themselves. They're afraid of
3 what's gonna happen to the person that may have done
4 this to them. They're afraid of what may happen to
5 their family.

6 Many times children are abused by someone that
7 they know, they love and they trust, and so that
8 relationship in and of itself is another reason why
9 children may delay disclosure. This may be someone that
10 they have a very close and loving relationship with, in
11 addition to the fact that this person may also be
12 abusing them.

13 This person may also be very close to the child's
14 mother, father, other extended family members and may be
15 loved and trusted even by the community. Those
16 relationships can be very powerful in keeping a child
17 from being able to feel comfortable to disclose.

18 A child's age may be a reason for delaying
19 disclosure. Very young children just may not have the
20 words to describe that. And children without a real
21 sexual knowledge or sexual context may not have the
22 words to describe what's happened to them.

23 Sometimes children have been threatened. They
24 may have been told that if you tell or if someone finds
25 out about this that something will happen to you or

1 someone you love. Those threats are very real for
2 children. Those threats can be direct or indirect.

3 For children who are growing up in households
4 where they're being maybe abused, but they're also
5 witnessing some type of violence, that would be an
6 indirect threat, meaning that they may fear that if they
7 tell that this violent behavior maybe then enacted upon
8 them. Those are some of the general reasons why
9 children may not tell.

10 Q. Do children sometimes feel guilty or think that
11 they have done something to cause this?

12 A. Yeah. So that's another reason why a child may
13 disclosing as well. They may feel responsible for what
14 happened. They may feel responsible because they've
15 been told that they were a party to it. They may feel
16 responsible because their bodies may have responded to
17 the abuse. And they may feel responsible just because
18 this was something that they did with someone else.

19 Children are also very egocentric, so they think
20 that everything really evolves around them. That they
21 -- that everything is about them, that the decisions
22 that are being made, that they in some way influenced
23 those or had something to do with those. And that's
24 really a developmental stage that children go through.

25 Q. Can you explain to the jury what is meant by the

1 process of disclosure?

2 A. Yeah. So disclosure is not -- we don't consider
3 disclosure a one-time event. We consider that a
4 process, meaning that we don't expect that a child or an
5 adult is going to tell every single detail of the abuse
6 that they may have experienced.

7 And in particular, if a child has experienced
8 more than one episode or more than one incident of that
9 abuse, we don't expect that they're gonna tell us every
10 single detail. So what we mean by that is that they may
11 share information, little pieces of information with
12 different people over different periods of time.

13 Disclosures may be accidental, meaning that a
14 child doesn't make an intentional effort to share
15 information or make a disclosure. Someone may have
16 observed a behavior or asked the child a question or
17 found a note or a diary and that would be an accidental
18 disclosure. The child was not consciously making an
19 effort to say this happened to me.

20 A purposeful disclosure would be one in which a
21 child makes a conscious effort to tell someone. But
22 even with that, they may not share every single detail
23 because what -- the details that may be important for an
24 investigator or for a parent or someone else, may not be
25 the details that a child feels are important or that

1 they share. So that's where that process comes in.

2 Children are also sort of testing the waters or
3 waiting to see how others are gonna respond to that
4 disclosure, particularly if a child has delayed a
5 disclosure, they may have delayed that for some of those
6 reasons that I shared with you earlier. And when they
7 do disclose or someone asks them questions, they may be
8 waiting to see how others are gonna respond. And that
9 response is not always a positive one. And that may
10 impact the child's disclosure as well.

11 Q. Is it common or uncommon for a child not to
12 remember every detail of abuse?

13 A. So we refer to abuse as a traumatic incident. An
14 incident where -- traumatic incidents are those in which
15 we really feel that our life is just threatened.
16 Examples of that would be child abuse, physical abuse,
17 sexual abuse. Other than that might be a car accident
18 or being involved in a natural disaster.

19 And when we experience traumatic incidents, that
20 impacts how we remembered events. It does -- it can
21 work either way. It may mean that some pieces of that
22 information or some pieces of that incident would be
23 very, very clear to us and we may lives those over and
24 over again.

25 So, for example, if you were in a car accident,

1 you may remember the impact of that airbag and that can
2 be very, very powerful and you're able to remember that,
3 but you may not remember exactly what the vehicle looked
4 like or the driver of the other vehicle hit you. What
5 that was like.

6 The same for abuse scenarios. When a child has
7 experienced trauma, they may not remember everything in
8 the sequence that it happened, and they may not remember
9 every single detail. They may not remember -- in
10 general, the children have a really hard time with time
11 because time's a really abstract concept. So for us to
12 expect that a child could remember the day and dates and
13 time of day that something happened is really beyond the
14 scope of what developmentally they might be able to give
15 us.

16 But when we start asking them questions about,
17 you know, what people's clothes are like, what position
18 they were in in the room, what things looked like in the
19 room, they may be able to remember some of those things
20 because those are the things that are the really
21 powerful memories that they have and other pieces of
22 that information they may not remember.

23 In particular, if a child has been abused more
24 than one time or if this is a recurrent type of abuse.
25 It's really somewhere to the experience of an adult who

1 has had multiple sexual -- consensual sexual
2 experiences.

3 If someone were to ask you to recall every single
4 detail of those experiences, how your clothes were, how
5 your partner's clothes were, what color the room was,
6 what the bedspread looked like, what time of day that
7 happened, that's what we're kind of asking children to
8 do, except that those are not consensual experiences
9 that they've gone through. So it may be difficult to
10 remember some of those details that we may think are
11 important, but they may not have been as important for
12 them because of the trauma and the experience they're
13 having.

14 Q. What would the passage of time -- what affect
15 would the passage of time have on the ability of a child
16 to recall?

17 A. Well, again, you know the impact of trauma on our
18 memories is gonna be one thing that's gonna impact that
19 and time might be another. Over the course of time we
20 do tend to forget details. Details that are more
21 peripheral.

22 Details that may have not been as important as
23 others; whereas, those core details, the who, the what
24 of what has happened we would expect would remain the
25 same or any of those sort of traumatic details, those

1 things that they really encoded as memorable to them for
2 whatever reason that was. Those details may remain with
3 them.

4 Q. In your experience, as children who have been
5 sexually abused get older, do they try to suppress those
6 memories?

7 A. You know, in general most of the survivors -- my
8 experience in working with survivors is that they, they
9 would like to not remember what happened to them or to
10 remember it less or to remember it in a different way,
11 which is part of the therapeutic experience is changing
12 how you, how you feel or experience those memories.

13 Q. In your experience is it common or uncommon for a
14 child to be abused by a family member or a person in the
15 position of authority or trust in a child's life?

16 A. It's far more common. Like I said, the vast
17 majority of children are abused by someone that's known,
18 loved and trusted to them; Known, loved and trusted to
19 their caregivers; and also known, loved and trusted by
20 the community.

21 Q. In a case where the child has a relationship with
22 the individual who has abused them, would, based on your
23 experience, would that make the child conflicted about
24 what they want to happen, whether they even want there
25 to be a response to this?

1 A. Right. So that is again one of the reasons why
2 children may delay disclosing. They may, they may want
3 the abuse to stop, but may not want these other things
4 that they hear or that they know will happen to happen.

5 So, for example, not every child wants the person
6 who's doing this to them to go to jail. Not every child
7 wants to have to go through the experience of an
8 investigation. Now, some do, but some don't. And so
9 those types of concerns, again, worrying about what may
10 happen to them or what may happen to other people have a
11 very powerful effect on whether or not they tell and who
12 they tell and how that information's shared.

13 Q. Do children who have been abused all cope with
14 that trauma in the same way?

15 A. No. There can be a wide array of reactions. You
16 might have one child who, who you see no behavior
17 changes with. They may be star students in school,
18 continue to be active in their extracurricular
19 activities and you may see nothing externally different
20 with them.

21 Some children, on the other hand, may experience
22 depression and anxiety, suicidal ideation where they may
23 think about suicide or even commit -- attempt to commit
24 that act. They may abuse substances, depending on how
25 old the children are. And there may be some kind of in

1 between that where children are either internalizing or
2 externalizing through behaviors or, or their mood
3 symptoms.

4 Q. While a child is disclosing, do they necessarily
5 have the same emotions that go along with the
6 seriousness of what they're talking about?

7 A. Very often when children are talking about the
8 abuse that's occurred, their emotions don't match what
9 we would expect that their emotions would be. So in
10 other words, many children or adults that are survivors
11 of sexual abuse have learned to disassociate, meaning to
12 sort of separate themselves or their feelings from what
13 they're talking about. Sort of like daydreaming where
14 you may be saying one thing, but you're thinking
15 something else in your mind and so your affect may not
16 match the words.

17 And so very often when children are interacting
18 with professionals who are interviewing them or talking
19 with them or even their caregivers, the emotions that we
20 would expect to see from them are often incongruent with
21 the words that are coming out of their mouth.

22 Q. Can you explain what a non-offending caregiver
23 is?

24 A. Sure. So a non-offending caregiver would be a
25 caregiver who is not the alleged offender in an abuse

1 scenario. So if, if -- for example, if mom and dad were
2 in a household and one of the individuals was the abuser
3 and the other one was not actually committing the
4 offense, then that would be a non-offending caregiver.

5 Q. What are some of the reasons why a non-offending
6 caregiver may not support the child in his or her
7 disclosure?

8 A. Right. So the initial response of a
9 non-offending caregiver or really anyone who finds out
10 that -- or who is told that their child is being abused,
11 the initial response for almost anyone is denial,
12 meaning that you just can't believe this happened
13 because this is usually someone that you know and love
14 and trust that's done this and it's really hard for you
15 to believe that this has happened.

16 So that's just the initial response that we see
17 that individuals have. And that may be an initial like
18 five-minute response or ten-minute response or some --
19 you know, the idea is that a supportive and protective
20 caregiver would move beyond that denial and be
21 supportive and report and take the child to appointments
22 and do all the things that they're supposed to do to
23 support their child.

24 However, not every caregiver does that. Some
25 caregivers stay in that state of denial for a while for

1 multiple reasons. Again, they may have a loving,
2 trusting relationship with the person that may have done
3 this. They may have a financial relationship with this
4 person.

5 They may have other really basic needs that are
6 being met by this person that may make the choices that
7 they have to make really sort of impossible choices at
8 times where they're having to choose between, you know,
9 providing basic needs for themselves and their family
10 versus being a protective caregiver and doing exactly
11 what they're doing. So they don't always make the first
12 -- the right choice initially in these cases.

13 Q. If the child is aware that the non-offending
14 caregiver is still having contact with the abuser, what
15 effect can that have on the child?

16 A. It could have a negative effect on a child. You
17 know, we know that one of the single most important
18 factors in healing for a child is to have, you know, a
19 loving, trusting caregiver for an adult in their lives,
20 supportive person. Whether that be their parent, their
21 extended family member or a teacher or someone else.

22 When the one person, if that happens to be the
23 one person who is the non-offending caregiver is not
24 supportive of them, that could have a negative effect on
25 the child in how they feel about what they've done in

1 terms of a disclosure. It could make them feel even
2 more responsible and guilty, particularly if changes
3 have happened in the household.

4 For some children that leads them to change their
5 story or take their story back because not having that
6 love and support of others, as well as some of the life
7 changes that may have come along with that, may be much
8 harder than, than living with the abuse and the, the way
9 that their family was previously.

10 MS. HALLFORD: I have no further questions.

11 THE COURT: Yes, sir.

12 MR. THOMPSON: Just briefly.

13 CROSS-EXAMINATION

14 BY MR. THOMPSON:

15 Q. Ms. Galloway-Williams?

16 A. That's correct.

17 Q. Am I correct? All right. I apologize. It's a
18 bit of a mouthful, but I just have a couple of questions
19 for you. My name is Jeremy Thompson. I represent
20 Anthony Briggs.

21 A. Uh-huh.

22 Q. So I want to start, you testified, I want to make
23 sure I got this correct, you would expect core details
24 about the incident, about the abuse to remain the same
25 over time?

1 A. Yes.

2 Q. Is that accurate? That's accurate?

3 A. (Nods head up and down.)

4 Q. Okay. Now, you also testified that you don't
5 expect a child to tell every single detail about an
6 incident. Is that also -- that's also correct? That's
7 fair to say?

8 A. The expectation would not be that the first time
9 they make their disclosure that they would tell every
10 single detail about that the first time.

11 Q. Excellent.

12 A. That's really sort of the process, but there
13 might be other details over time.

14 Q. And you were, you were talking about kind of
15 changes that people, people go through, you know, I
16 guess when they, when they experience abuse. And so you
17 said there were a wide array, if I'm stating that
18 correctly; is that right?

19 A. Uh-huh.

20 Q. So you could have someone who was introverted
21 become extroverted, right?

22 A. That's correct.

23 Q. And you can have someone who's extroverted become
24 introverted, correct?

25 A. Well, yeah, someone who was really social

1 becoming more isolated or vice versa, yes.

2 Q. And you could have someone who was introverted
3 stay introverted, right?

4 A. Yes. Someone who is more isolated and to
5 themselves, yeah.

6 Q. And you could have someone who was extroverted
7 stay extroverted, correct?

8 A. Yes. So someone who's very social and outgoing
9 might stay that way.

10 Q. And, of course, not every, not every change needs
11 to be a key to abuse, correct? Changes in personality
12 don't necessarily need to be key to abuse, do they?

13 A. Correct. Yeah. So changes in mood or behavior
14 may not be directly related to the abuse. And in some
15 cases where, you know, where the abuse, there's
16 disclosures coming out and there's an investigation,
17 some of those changes of behavior may be related to all
18 those other peripheral things that are going on, rather
19 than the abuse itself.

20 Q. And sometimes people just change. They haven't
21 been abused, they just change, right?

22 A. Sometimes people experience depression, anxiety,
23 behavior changes without having experienced abuse. Is
24 that what you're asking me?

25 Q. Yes.

1 A. Yes.

2 Q. Sometimes are introverted and become extroverted
3 without experiencing abuse, right?

4 A. Yes, I would say -- well, I probably wouldn't use
5 the word introverted and extroverted. So I would say
6 that someone might be more social and outgoing and
7 become more isolated or vice versa, using those words.

8 Q. So hypothetically, someone who basically doesn't
9 say a word to anybody throughout school turning out to
10 be an attorney who speaks in the courtroom for a living,
11 that person may not necessarily be abused even though
12 they changed the way they approached handling of people,
13 correct?

14 A. I'm not sure I understand. Can you say it again?

15 Q. Yes. So if you have someone who is normally
16 quiet and does not speak to other people.

17 A. Uh-huh.

18 Q. Start with that. And that person, that's what
19 they did all throughout school and that person decides
20 to become an attorney and that person decides to speak
21 in front of a courtroom full of people for a living, it
22 does not necessarily follow that that person was abused
23 to make that change, correct?

24 A. So if I understand what you're asking me, so if
25 someone who's introverted could be an attorney or

1 someone who's introverted could, could have a job where
2 they are more in an extroverted role?

3 Q. Right.

4 A. Yes. And that's introversion and extroversion
5 are more of those core personality traits rather than
6 behaviors.

7 Q. Right. So they don't necessarily need to be
8 abused in order to make changes. People don't need to
9 be abused to make changes in their approaches to life,
10 do they?

11 A. No.

12 MR. THOMPSON: Okay. Beg the Court's indulgence.
13 No further questions of this witness, Your Honor.

14 THE COURT: Anything at all as to that?

15 MS. HALLFORD: No, sir, Your Honor. May this
16 witness be excused.

17 THE COURT: Thank you.

18 MR. THOMPSON: No objection.

19 THE COURT: Ma'am, you may step down. Please be
20 careful. You may stay or go, whichever you choose.

21 THE WITNESS: Oh, thank you.

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

24 MS. HALLFORD: State rests, Your Honor.

25 THE COURT: Madam Forelady, ladies and gentlemen,

1 the State has now rested its case which means it does
2 not intend to call another witness in what's known as
3 its case in chief or put any other evidence before.
4 That necessarily brings us to what's known as a matter
5 of law that I have to take up with the lawyers outside
6 of your presence.

7 So I'm gonna ask you to go to your jury room.
8 This will take about 20 minutes and then we'll have you
9 back in the courtroom. Don't talk about the case, it's
10 not over. It's just that they've rested and I need to
11 talk about something to one of these folks, okay? Thank
12 you.

13 (Whereupon, jury leaves the courtroom at 2:48
14 p.m.)

15 THE COURT: Matters from the State.

16 MS. RICHBURG: Nothing from State, Your Honor.

17 THE COURT: From the defense?

18 MR. THOMPSON: Your Honor, in the long tradition
19 of defense attorneys rising to give and make motions for
20 a directed verdict, knowing with almost certainly that
21 they are to be denied, I would at this point in time
22 move for a directed verdict on both counts.

23 Your Honor, in particular, Ms. B. R. [REDACTED], when she
24 testified, was very uncertain and did not remember much
25 regarding the incidents at issue in this case. Did not

1 remember much details in terms of abuse. Did not
2 remember much, to be quite frank.

3 And that based on that we understand that the
4 evidence -- the standard is any direct evidence of abuse
5 or any direct evidence of guilt is enough to send the
6 case to the jury. Understanding that, we would ask Your
7 Honor for a directed verdict, not guilty on both counts.

8 THE COURT: Thank you. Solicitor.

9 MS. HALLFORD: Your Honor, the State has
10 presented evidence both to support a lewd act and also
11 to support criminal sexual conduct with a minor in the
12 first degree. The victim testified that he touched her
13 vagina. Lewd act. She testified that he performed oral
14 sex on her. Criminal sexual conduct with a minor in the
15 first degree. Established the necessary ages. There's
16 more than adequate evidence to send this case to the
17 jury. We'd ask that the directed verdict be denied.

18 THE COURT: Well, of course, the Court does not
19 weigh the evidence. The Court has to consider whether
20 there is any evidence and has to do so in the light most
21 favorable to the non-moving party, which is the State.
22 So with that, there is evidence, some evidence in this
23 case and enough to support it and, therefore, it will go
24 to the jury. It's denied.

25 MR. THOMPSON: Thank you, Your Honor.

1 THE COURT: All right. Other matters from the
2 defense?

3 MR. THOMPSON: No, Your Honor. We are ready to
4 proceed. I don't -- I know it's typical to advise the
5 defendant on his right to testify. I don't know if Your
6 Honor would like to do that now or...

7 THE COURT: I can do that now. We did talk
8 *in chambers*. I understood he might be tomorrow, if
9 that's ---

10 MR. THOMPSON: That is correct. That would be my
11 plan. If he were to testify, it would come tomorrow
12 morning.

13 THE COURT: Okay. Let's see the lawyers.

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

16 THE COURT: Ready for the jury?

17 MR. THOMPSON: Yes, Your Honor.

18 THE COURT: Okay. We'll have the jury.

19 (Whereupon, jury enters the courtroom at 2:54
20 p.m.)

21 THE COURT: Thank you, ladies and gentlemen.
22 Give your attention to counsel.

23 Yes, sir.

24 MR. THOMPSON: Your Honor, the defense would call
25 Amber Wofford.

1 (Whereupon, witness comes forward.)

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

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

7 THE WITNESS: Yes, ma'am.

8 THE CLERK: Thank you. Please have a seat.

9 THE COURT: Good afternoon.

10 THE WITNESS: Good afternoon.

11 THE COURT: Yes, ma'am, get situated and pull
12 that microphone up.

13 THE WITNESS: That's what I was saying.

14 THE COURT: Okay. So we can hear you. Tell us
15 your name and spell your last name for my court
16 reporter, please.

17 THE WITNESS: My name is Amber Wofford and it's
18 W-o-f-f-o-r-d.

19 THE COURT: Thank you. Yes, sir.

20 AMBER WOFFORD,

21 having been duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MR. THOMPSON:

24 Q. Amber, how are you doing this afternoon?

25 A. I'm good, how are you?

1 Q. I'm doing well. Thank you for being here. Where
2 do you currently reside?

3 A. Myrtle Beach, South Carolina.

4 Q. And did you make the trip up here today?

5 A. I did.

6 Q. Thank you for making it. I know it's a bit of a
7 haul to get all the way up from Myrtle Beach. Who lives
8 with you in Myrtle Beach?

9 A. My husband and two children.

10 Q. And how old are your children?

11 A. Nine and eleven.

12 Q. Nine and eleven. And do you have a boy and a
13 girl? Two boys? Two girls?

14 A. I have a boy and a girl.

15 Q. One of each. I know the feeling. Do you know
16 Anthony Briggs?

17 A. I do.

18 Q. And do you also know Wendy Richards?

19 A. I do, yes, sir.

20 Q. How did you -- how did you come to meet them?

21 A. My husband worked with Anthony for two or three
22 years.

23 Q. And where were you living at the time?

24 A. Cooley Springs, South Carolina off of River
25 Bluff.

1 Q. And you're gonna have to help me out with that.
2 I am from the Upstate but not from this area. Where
3 specifically is that?

4 A. Most people call it Fingerville.

5 Q. Now, you say your husband was working with
6 Anthony for a couple of years?

7 A. Yes, sir.

8 Q. Where did they work?

9 A. Johnson Electric.

10 Q. And so what timeframe was that, like in terms of
11 the years, do you remember?

12 A. Almost three years because my husband worked
13 there four and Anthony come in after my husband.

14 Q. When did your husband start working there?

15 A. Ooh, 2006.

16 Q. And so your husband worked with Anthony for about
17 three years you said?

18 A. Yes, sir.

19 Q. So that would be from about 2006 to 2009?

20 A. Uh-huh, yes, sir.

21 Q. Now, and so, again, how did you meet Anthony?

22 A. We just all hung out after work during lunch.

23 Q. And would Wendy be there too?

24 A. Yes, sir.

25 Q. And would her children be there?

1 A. Yes, sir.

2 Q. And would it be uncommon for y'all to go to each
3 other's houses?

4 A. Oh, we were there all the time.

5 Q. You were at Anthony and Wendy's house all the
6 time?

7 A. Yes, sir.

8 Q. Did they come to your house too?

9 A. Yes, sir.

10 Q. And would Wendy's children come to your house
11 too?

12 A. Yes, sir.

13 Q. That was not an uncommon experience?

14 A. No.

15 Q. How frequently would you say you saw Anthony and
16 Wendy on a weekly basis?

17 A. Well, I seen Anthony and Wendy five times a week
18 at least. And with the children usually we seen them in
19 the evenings after usually the weekends.

20 Q. Now, did there come a time when you had the
21 opportunity to speak to B.R. alone regarding the
22 allegations in this case?

23 A. I did. They had come over for tacos.

24 Q. They had come over for tacos. And was Anthony
25 present during -- at that time?

1 A. No.

2 Q. So Wendy had brought the children over to the
3 house?

4 A. Yes.

5 Q. And how did you come to talk to B.R. [REDACTED]

6 A. I was cleaning my son's room and B.R. [REDACTED] had come
7 in there to watch cartoons.

8 Q. And so were you and B.R. [REDACTED] alone at that point in
9 time?

10 A. Yes, sir.

11 Q. And did B.R. [REDACTED] say something to you?

12 A. Yes. She was saying that she was sad, she wanted
13 Anthony to come back home and she really missed him.

14 Q. And did she say anything regarding whether or not
15 Anthony had abused her?

16 A. She said she couldn't understand why Anthony was
17 gone because he didn't do it.

18 Q. And was Wendy in the room when this occurred?

19 A. No, sir.

20 Q. And Anthony wasn't even in the house when that
21 occurred?

22 A. No, sir.

23 MR. THOMPSON: Beg the Court's indulgence. No
24 further questions of this witness. Please answer any
25 questions the State may have for you.

1 THE COURT: Solicitor.

2 CROSS-EXAMINATION

3 BY MS. HALLFORD:

4 Q. So let me make sure I've got this timeframe
5 right. You said initially that your husband worked with
6 Anthony for two years, but then a couple sentences later
7 you said he worked with Anthony for three years, so help
8 me understand, was it two years or was it three years?

9 A. I said two to three cause ---

10 Q. Two to three?

11 A. Yeah, cause when they wasn't working at Johnson
12 Electric, they always had some side gigs going on or
13 something, but at Johnson Electric.

14 Q. Okay. So is it your -- I'm sorry. Is it your
15 testimony that Anthony was working at Johnson Electric
16 in 2008?

17 A. I think that's when he left Johnson Electric.

18 Q. Okay. So when you said that he was working with
19 your husband at Johnson Electric from 2006 to 2009, that
20 was inaccurate?

21 A. I mean if it's ---

22 Q. Because if he left in 2008, then he obviously was
23 not working in 2009, correct?

24 A. I don't recall that.

25 Q. Okay. But your testimony was they worked

1 together from 2006 to 2009, but now you're saying you
2 don't recall. It's very important that you be
3 completely accurate when you're testifying, wouldn't you
4 agree?

5 A. Yes, ma'am.

6 Q. So let's drill down on this.

7 A. Okay.

8 Q. Did Anthony work at Johnson Electric in 2008?

9 A. Yes.

10 Q. Did Anthony work at Johnson Electric in 2009?

11 A. I think parts of 2009.

12 Q. Really? And was that ---

13 A. I can't be sure.

14 Q. Was that a full-time job?

15 A. I'm not positive. I was only -- I only picked
16 everybody up. I was just a person to get everybody back
17 and forth to work.

18 Q. But y'all were really good friends and hung out
19 together --

20 A. Yeah.

21 Q. -- all the time? But you don't know if he was
22 working full-time or not?

23 A. My husband had, they had the job at, I think, it
24 was Academy -- not Academy, it was HH Gregg by Westgate
25 when it was there. They were working out at HH Gregg.

1 Q. Okay. So basically your testimony is you don't
2 really know when Anthony was working in --

3 A. No, ma'am.

4 Q. -- 2008 or in 2009?

5 A. I mean, I'm not saying that I didn't know that he
6 wasn't working. I mean, I'm just saying as far as
7 in ---

8 Q. Okay. I'm not understanding you here. I'm not
9 trying to be obtuse, but your original testimony was
10 that you knew them to be working together from 2006 to
11 2009. And now your testimony is I don't know if they
12 were working together in 2008/2009.

13 A. I mean, even when they wasn't working at Johnson
14 Electric, they always did side jobs together, even for
15 Lonnie's mom and dad.

16 Q. Okay. That's not what you testified to
17 originally though. You originally said in front of this
18 jury that they worked together at Johnson Electric from
19 2006 to 2009. Listen, the truth and to be accurate is
20 very important, so I just want you to help me to
21 understand do you know for sure or not, not I think, not
22 I'm speculating, not I'm guessing, but what you know for
23 sure.

24 A. I don't recall.

25 Q. You don't recall?

1 A. Yes, I don't recall.

2 Q. Okay. So you don't have any idea when Anthony
3 and your husband worked together at Johnson Electric?

4 A. Not Johnson Electric, no, ma'am.

5 Q. Okay. So your initial testimony before this jury
6 that you knew your husband and Anthony worked together
7 at Johnson Electric from 2006 to 2009 was not the truth,
8 correct?

9 A. That's not what I said.

10 Q. Are you sure about that?

11 A. Yes, ma'am.

12 Q. Okay. Tell me what you did say then.

13 A. I said that my husband and Anthony worked for two
14 to three years. I never said that they worked exactly
15 at Johnson Electric. They always had some jobs coming
16 together.

17 Q. No, that's not what you said. You said they work
18 together at Johnson Electric. The side job issue didn't
19 come up until I started questioning you about the
20 Johnson Electric. You never said a word about side jobs
21 when you were on direct examination. You will agree
22 with that, won't you?

23 A. Yeah. But that -- I mean, I didn't know that
24 that was an issue.

25 Q. The truth is very, very important. The question

1 was did you know where they were working and you said
2 Johnson Electric. When I grilled down on you and made
3 you admit that no, you didn't know for sure where they
4 were working, that's when the side job issue came up. I
5 get that he's your friend. I get that you want to help
6 him, but it's very important to be truthful. You did
7 not say, did you, Johnson Electric and side jobs when he
8 was questioning you. You said Johnson Electric. Isn't
9 that accurate?

10 A. Yes, ma'am, I said Johnson Electric.

11 Q. Okay. All right. The side job, we did side jobs
12 together or they did side jobs together didn't come up
13 until you had to admit that what you initially told this
14 jury was not accurate; isn't that right?

15 A. Yes, ma'am.

16 Q. Okay. So B.R. -- you said that you guys spent
17 a lot of time with Wendy and Anthony.

18 A. Yes.

19 Q. So B.R.'s experience with you around Wendy and
20 Anthony would be that you and Anthony were friends,
21 correct?

22 A. Yes.

23 Q. Would B.R. have ever seen you and Anthony
24 exchanging harsh words?

25 A. No.

1 Q. Would B.R. have ever thought or seen anything
2 that would make her think that you and Anthony weren't
3 great friends?

4 A. No.

5 Q. Did you and Anthony ever argue in front of
6 B.R.

7 A. No.

8 Q. Did you ever shove Anthony in front of B.R.

9 A. No.

10 Q. Did he ever shove you in front of B.R.

11 A. No.

12 Q. Y'all got along like gangbusters, right?

13 A. Yeah.

14 Q. So to B.R.'s mind, you would be a great friend
15 of Anthony's, correct?

16 MR. THOMPSON: Objection. Calls for speculation,
17 Your Honor.

18 THE COURT: Solicitor?

19 MS. HALLFORD: I'm asking her -- I'll withdraw
20 it.

21 BY MS. HALLFORD:

22 Q. Did you and Wendy always get along?

23 A. Yeah.

24 Q. So B.R.'s experience with you and Wendy would
25 be that the two of you never argued?

1 A. Yeah.

2 Q. Y'all did stuff together?

3 A. Yes.

4 Q. Y'all had fun together?

5 A. Yes.

6 Q. So as far as B.R. would know, there was not
7 problem between you and Wendy?

8 A. Correct.

9 Q. As far as B.R. would know, there was no problem
10 between you and Anthony?

11 A. Correct.

12 Q. So your testimony was that you and B.R. were in
13 a room together and she said she was sad about Anthony?

14 A. Yes.

15 Q. Okay. Tell me, do you remember exactly what she
16 said or were you paraphrasing?

17 A. I was paraphrasing.

18 Q. Okay. Do you -- and I know it's been a long
19 time.

20 A. Yeah.

21 Q. And it's reasonable not necessarily to remember,
22 but as much as you can, in her little five-year-old
23 words, tell me what she said.

24 A. Well, she come in there and I was cleaning the
25 room. And I said what ya doing Turd Nugget, that's just

1 what I called all the kids. And she said nothing. And
2 I said, what's wrong? She said, I'm just sad. And I
3 said, why are you sad? She said, I'm ready for Anthony
4 to come home. And I said, I know, Baby. I said, I
5 think we all are. She said, I miss Anthony. I said, I
6 know you do.

7 She said, so are you -- I said -- hold on, I'm
8 trying to think. She said that Anthony -- she was ready
9 for Anthony to come home and she had speculated that
10 Anthony had not done it.

11 Q. She speculated that Anthony had not done it? Had
12 not done what?

13 A. Messed with her.

14 Q. Did she say the words "Anthony didn't mess with
15 me" or did she say he had not done it?

16 A. He had not done anything.

17 Q. He had not done anything, okay. Okay. Did you
18 ask her any questions about what she meant by he has not
19 done anything?

20 A. No, ma'am.

21 Q. So you don't know really what she meant?

22 A. No, ma'am. I mean, I'm not -- I wasn't there to
23 pressure her.

24 Q. But I assume since you're testifying today that
25 you, you believe that she and Anthony had not done

1 anything sexual.

2 A. To her, yes, ma'am.

3 Q. That would be something really important,
4 wouldn't it?

5 A. Yes, ma'am.

6 Q. I mean, that's an important fact to know, if it
7 really happened, isn't it?

8 A. Yes, ma'am.

9 Q. Okay. So tell me, when did you call Nikki
10 Cantrell and tell her about this bombshell of
11 information that you had gotten from B.R.

12 A. Nikki Cantrell?

13 Q. The investigator right there.

14 A. I haven't -- I never spoke to Nikki Cantrell.

15 Q. Okay. Well, did you make an effort?

16 A. No. I spoke with Wendy about it.

17 Q. Okay. But you have this information, you heard
18 it. Why didn't you call law enforcement and say, hey,
19 this is what B.R. told me?

20 A. Because I had no idea.

21 Q. Where did you live now? You lived here in
22 Spartanburg?

23 A. Yes, ma'am.

24 Q. You've never driven by the sheriff's office? You
25 don't know where it is?

1 A. No. I didn't say I didn't know where the
2 sheriff's office were. I said I had no idea that Wendy
3 would not take care of it.

4 Q. Oh, okay. So you're gonna rely on somebody else
5 to take care of this super important piece of
6 information you had?

7 A. Yes, ma'am. I mean, if it's a child's mother,
8 yes.

9 Q. If a child really said that to you, would it be
10 reasonable for you to count on somebody else to do it?
11 You already know that she's hanging out with Anthony and
12 still having contact with him, don't you?

13 A. Yes, ma'am.

14 Q. Why didn't you do something about it?

15 A. Because it wasn't -- I was told it would be
16 handled.

17 Q. You were told by whom it would be handled?

18 A. Wendy.

19 Q. Okay. Did you follow-up with Wendy and ask her
20 if she had handled it?

21 A. No.

22 Q. Why not?

23 A. Because Wendy quit speaking with us.

24 Q. Okay. So when Wendy quit speaking with you, why
25 didn't you then call law enforcement?

1 A. Because I thought it had been handled.

2 Q. So you were just gonna think that it had been
3 done and not make sure it had been done? Because you
4 have to admit that would be a very critical piece of
5 information, if she actually said that, for the
6 investigator to know. Don't you admit that?

7 A. Yeah.

8 Q. You and Wendy have a falling out, correct?

9 A. Correct.

10 Q. You never ask Wendy, hey, did you go tell law
11 enforcement that B.R.'s now saying this didn't happen?

12 A. I didn't speak with Wendy anymore.

13 Q. Okay.

14 A. Wendy would not answer --

15 Q. Okay. Did you try?

16 A. -- calls.

17 THE COURT: Okay. Hang on, hang on. I've got
18 the best court reporter ever, but she can only get one
19 voice at a time. Ask a question, you answer and then
20 she'll wait for you to finish.

21 MS. HALLFORD: Sorry.

22 BY MS. HALLFORD:

23 Q. Look at me. Did you follow-up with anyone?

24 A. No, ma'am.

25 Q. Wendy's not reliable, is she?

1 A. No, ma'am.

2 Q. Okay. And you knew that about Wendy, didn't you?

3 A. Not at that time.

4 Q. Really? Well, when you figured it out about
5 Wendy not being reliable, then did you call somebody and
6 say this didn't happen or B.R. told me it didn't
7 happen?

8 A. We're here.

9 Q. Is that an answer to my question? Because it
10 wasn't a response to my question. I said, when you
11 realize that B.R. is -- that Wendy is not responsible
12 did you do anything to call and say I've got this
13 information?

14 A. I spoke with a lawyer.

15 Q. Who?

16 A. I spoke with a lawyer.

17 Q. And I asked you who?

18 A. Max.

19 Q. Okay. That, that was his attorney. You needed
20 to let law enforcement know. I want to know why you
21 didn't make sure law enforcement was notified that
22 B.R. had supposedly recanted to you.

23 A. Because I was told it would be handled. I
24 figured ---

25 Q. The real reason why you didn't call law

1 enforcement is because that never happened, isn't it?

2 A. No, ma'am.

3 Q. B.R. never told you that, did she?

4 A. Yes, ma'am, she did.

5 Q. And you have come in here and said that she did
6 because you wanted to help your really good friend.

7 A. No, ma'am.

8 Q. Isn't that right?

9 A. No, ma'am, that is not it.

10 Q. Aren't you the same person who just admitted that
11 you misled the jury when you first took the stand?

12 A. No, ma'am.

13 MS. HALLFORD: I have no further questions.

14 THE COURT: Yes, sir, anything?

15 MR. THOMPSON: Can we approach, Your Honor?

16 THE COURT: Yes, sir.

17 (Whereupon, a bench conference was held off the
18 record.)

19 THE COURT: Madam Forelady, ladies and gentlemen,
20 I'm gonna have an issue here and I've got to talk the
21 lawyers outside your presence, but we're gonna take our
22 afternoon break here. It's just after three, so I'm
23 gonna give you a little longer this time, so you'll be
24 back here maybe 20 minutes or more. Okay. Madam
25 Forelady, don't talk about the case.

1 (Whereupon, jury left the courtroom at 3:12 p.m.)

2 THE COURT: Yes, sir.

3 MR. THOMPSON: Your Honor, what I had said up at
4 the bench was that I was trying to handle this
5 delicately. What had been reported to me by Amber was
6 that Anthony -- what B.R. had said to her was that
7 Anthony did not abuse her and that it was D.R., who is
8 B.R.'s brother, who had abused her.

9 Now, she, pursuant to my instructions, was not
10 about to testify to that, but I'm trying to figure out a
11 way to clear it up with the jury because I don't want to
12 bring that issue up at this point in time, but she gave
13 an awkward response. I speculated that Anthony didn't
14 do it, based on what she told me. And I'm trying to
15 formulate a way to ask a question where I don't get into
16 it. And I don't want her to bring third-party guilt
17 into it because that wasn't my intention with this case.

18 THE COURT: Solicitor, we got -- I mean, she's,
19 she's ---

20 MS. HALLFORD: Well, she only can bring
21 third-party guilt into it if it is inconsistent with his
22 own guilt. And B.R. denied ever remembering having
23 said any of this. And there has been no allegation at
24 all that it was D.R.. If she had been told that it
25 was D.R., then she should have notified DSS or

1 somebody and that never happened.

2 THE WITNESS: I tried to speak this one ---

3 THE COURT: Ma'am.

4 THE WITNESS: Sorry.

5 THE COURT: Well, let's take a little break here
6 and let's the lawyers come back here because I've got a
7 pretty good thing on third-party guilt.

8 MS. HALLFORD: Oh, Your Honor. Was the witness
9 instructed not to talk to anyone?

10 THE COURT: I'm sorry. I'm sorry.

11 MS. HALLFORD: I was wondering.

12 THE COURT: I'm sorry. Ma'am, I didn't mean to
13 do that. You can leave the witness stand, but you
14 cannot, you cannot talk to anyone about your testimony,
15 okay?

16 THE WITNESS: That's fine.

17 THE COURT: You may step down.

18 MS. HALLFORD: Thank you, Your Honor.

19 (Whereupon, a recess was had from 3:16 p.m. -
20 3:44 p.m.)

21 THE COURT: Counsel.

22 MR. THOMPSON: Your Honor, we went to the -- or
23 we had a conference after Ms. Wofford's testimony on
24 cross because she testified that she speculated that my
25 client had not abused -- that my client had not abused

1 B.R. She answered in that way because I had
2 instructed her not to adventure into third-party guilt.
3 The answer that she has provided to me is that it was
4 actually D.R. , B.R. 's brother, who had abused her
5 and that B.R. disclosed that to her. And so I felt,
6 based upon the nature of the questioning and the answers
7 that were given, that I should be allowed to explore
8 that on redirect.

9 THE COURT: Solicitor.

10 MS. HALLFORD: Your Honor, I object. And I was
11 unaware that there was any issue of third-party guilt.
12 We had a discussion with Your Honor prior to the
13 beginning of this case and I was not advised that that
14 was even a possibility. This is the first I've ever
15 heard of it, that B.R. supposedly said that someone
16 else did this to her other than Anthony, so I think that
17 this should not be admissible. I don't think it meets
18 the standard for admissibility of third-party guilt
19 under State v. Gregory and it's prodigy, but I
20 understand what your ruling is.

21 THE COURT: Okay, thank you. Yes, I want to say
22 that I have taken the time to look at State v. Cooper.
23 Also, per the State, the Logan citation for those who
24 might care later, 334 SC 540. State v. Gregory, which
25 is at 198 SC 98, 1941 case. The Cooper case is a 1999

1 case. Also State v. Beckham, which is at 334 SC 302, a
2 1999 case.

3 Unlike, unlike Beckham, and also especially
4 Mansfield, we're not having a mere suspicion here. We
5 have what's been determined and not asked and the State
6 provided the age of D.R. . It's my understanding that
7 D.R. was about 12 years of age at that time. He could
8 or he may or may not have been going through puberty at
9 the time that he was a boy of about 12 years of age.

10 And we all mature at different times in our
11 lives, so we can't say that he was not. But in this
12 particular case, I think it's important to know the
13 statement here is that the defendant is not the person
14 saying this. The defendant is not casting a fair
15 suspicion on anyone else or pointing out third-party
16 guilt. It is alleged to have come from the -- from
17 B.R. is that right? I'm sorry, B. R. .

18 MS. HALLFORD: Yes.

19 THE COURT: From B.R. herself to Ms.
20 Wofford. So it didn't come from this man. He's not
21 casting a bare suspicion or something. This is
22 something that was said by Ms. B.R. to Ms. Wofford.
23 So I understand from our conversations that Ms. Wofford
24 was told specifically to stay away from third-party
25 guilt and she did, but she was -- and rightly so, she

1 was tested by the State on her testimony in
2 cross-examination and so she didn't -- complying with
3 instructions of legal counsel, she complied with that
4 and did not say [D.R.], so the only thing she knew to
5 say or did say was speculation.

6 So I'm going to allow the defendant to enquire
7 and name [D.R.]. And like I said *in chambers*, I don't
8 want a parade of questions on this, but I'm certainly
9 gonna allow the defendant an opportunity, defense
10 counsel, to straighten that up just a little bit. And
11 then if you want to ask her a question or two, I want to
12 move quickly through that, okay?

13 MS. HALLFORD: Your Honor, there's a series of
14 questions that I need to ask her. Are you limiting me
15 to questions too? I'm gonna ask her only questions
16 related to her allegation that [B.R.] told her that
17 [D.R.] did this, but there are questions that I want to
18 ask probing that issue.

19 THE COURT: Okay. You can do that, but it won't
20 take a lot. Just like it won't take a lot of questions
21 to put [D.R.]'s name in evidence here so that the finder
22 of fact, the jury, is not left thinking that she is just
23 speculating. She had a reason and she was told by
24 counsel not to say that and she complied.

25 MS. HALLFORD: Right. But if this issue had come

1 up in -- if we -- if it had come up in direct, I would
2 have been allowed to ask as many questions as I felt was
3 necessary, so I just -- I don't want to tip my hand, but
4 there are some questions I want to ask to challenge the
5 veracity of this.

6 THE COURT: I understand the challenge of
7 veracity and you did that on cross-examination. And the
8 State's entitled to do that, just as he's entitled to do
9 that with your witnesses. But I'm just saying this
10 issue about this third-party, who that person is --

11 MS. HALLFORD: Uh-huh.

12 THE COURT: -- if that's the person who told her
13 that is Ms. Richards herself or B.R. that
14 takes out the speculation things. You can ask, you
15 know, you can ask two, three, four -- do whatever you
16 think you need to do, but I don't think it would take a
17 lot to do that.

18 MS. HALLFORD: Okay. I just wanted to make sure
19 I wasn't limited to one or two questions.

20 THE COURT: Maybe two or three. We don't need a
21 whole host of questions about it. You've already tested
22 her veracity and you can test it on that particular
23 statement, okay? Test it on that statement, just when
24 it was said and how it was said, whatever you want to
25 do, as to that statement.

1 MS. HALLFORD: May we approach?

2 THE COURT: Yes.

3 (Whereupon, a bench conference was held off the
4 record.)

5 THE COURT: Are we ready?

6 MS. HALLFORD: Yes, sir.

7 MR. THOMPSON: Yes, Your Honor. Should I put
8 Amber back up on the witness stand?

9 THE COURT: Yes. Ma'am, come on back up.

10 (Whereupon, witness resumes witness stand.)

11 (Whereupon, jury enters the courtroom at 5:52
12 p.m.)

13 THE COURT: Give your attention to counsel.

14 Yes, sir.

15 REDIRECT EXAMINATION

16 BY MR. THOMPSON:

17 Q. Amber, when you were asked on cross-examination
18 by the prosecutor that -- about what B.R. told you,
19 you testified that you speculated that Anthony did not
20 abuse B.R.

21 A. Correct.

22 Q. That's correct?

23 A. Yes, sir.

24 Q. Why were you -- why did you choose the phrase
25 speculating? What -- did B.R. tell you that someone

1 else had abused her?

2 A. Yes, sir.

3 Q. Who is that individual that B.R. told you?

4 A. D.R. .

5 Q. And who is D.R. ?

6 A. D.R. was her older brother.

7 Q. And so B.R. told you that D.R. was the person
8 who abused her and not Anthony?

9 A. Yes, sir.

10 Q. I just have a couple other questions for you
11 regarding some of the issues brought up by the State on
12 its cross-examination. You were asked a number of
13 serious questions regarding Anthony's work history with
14 your husband.

15 A. Correct.

16 Q. Were you keeping tabs as to when exactly Anthony
17 was going to work and working for the company that your
18 husband and you both work for?

19 A. No, sir.

20 Q. Did Anthony do odd jobs on the side as well?

21 A. Yes, sir.

22 Q. What kind of work did Anthony do?

23 A. He would either be helping his mom, helping with
24 repair of mobile homes, cutting grass. They took off
25 scrap metal a few times. Just odd-end jobs that needed

1 to be done they could get.

2 Q. And would your husband accompany Anthony from
3 time to time on some of these?

4 A. From time to time, yes.

5 Q. So you were not trying to mislead the jury in
6 your testimony in any way?

7 A. No, sir.

8 Q. It's been ten years?

9 A. Yes, sir.

10 Q. And you're not exactly sure at what point in time
11 if your husband and Anthony stopped working at the
12 company together?

13 A. Correct. Yeah.

14 Q. But they continued to work together off and on
15 even after Anthony stopped working with the company?

16 A. Yes, sir.

17 MR. THOMPSON: Beg the Court's Indulgence.

18 THE COURT: Yes, sir.

19 MR. THOMPSON: No further questions.

20 THE COURT: Yes, ma'am.

21 RE CROSS-EXAMINATION

22 BY MS. HALLFORD:

23 Q. How close to Anthony's arrest was the
24 conversation, the alleged conversation, with B.R. Do
25 you get what I'm getting at? How soon --

1 A. No.

2 Q. -- after Anthony was arrested for this, did you
3 and B.R. have that conversation?

4 A. This was, I want to say, like three months.

5 Q. Three months?

6 A. Uh-huh.

7 Q. So he was arrested in February 2009, around
8 April-ish?

9 A. Yes, ma'am.

10 Q. Of 2009. Okay. When did you and Wendy end up
11 having the falling out?

12 A. It wasn't long after that. It wasn't very long
13 after that at all.

14 Q. Okay. And to your knowledge, at that time was
15 B.R. D.R. and M.R.?

16 A. Yes.

17 Q. Still living with Wendy?

18 A. No, ma'am.

19 Q. With whom were they living at that point?

20 A. D.R. and M.R. were living with the
21 grandmother. B.R. was going between the grandmother
22 and the father at the time, is what I was told.

23 Q. Who told you that?

24 A. Wendy. And that was -- that's how I knew when
25 she was coming back and forth to the house.

1 Q. Did you have any concerns that B.R. might be
2 around D.R. again?

3 A. No.

4 Q. None?

5 A. No.

6 Q. You didn't think they would visit each other?

7 A. No.

8 Q. When B.R. told you that D.R. -- or allegedly
9 told you that D.R. had molested her, did you contact
10 DSS to let them know this?

11 A. No. I spoke with Wendy and I spoke with Max, the
12 lawyer, and they said they both would handle it.

13 Q. Okay. And when you found out supposedly that
14 D.R. was molesting her, did you call law enforcement?

15 A. No, ma'am.

16 Q. But you would agree that it would be very
17 important for DSS to know about that and law enforcement
18 to know about that, wouldn't you?

19 A. Yes, ma'am. I figured the lawyer would handle it
20 in this.

21 Q. Okay. But you took no direct action yourself --

22 A. No, ma'am.

23 Q. -- to notify them? Okay. No further questions.

24 THE COURT: Thank you. Ma'am, you may step down.
25 Please be careful.

1 THE WITNESS: Yes, sir.

2 MR. THOMPSON: May she be excused, Your Honor?

3 THE COURT: Any objection?

4 MS. HALLFORD: Oh, no.

5 THE COURT: Ma'am, you may stay or go, whichever
6 you choose.

7 (Whereupon, witness leaves witness stand and
8 courtroom.)

9 MR. THOMPSON: Your Honor, the defense would call
10 Lonnie Miller.

11 (Whereupon, witness comes forward.)

12 THE CLERK: Place your left hand on the Bible and
13 raise your right. (Complies.)

14 Do you solemnly swear or affirm the testimony
15 you're about to receive will be the truth, the whole
16 truth and nothing but the truth so help you God?

17 THE WITNESS: I do.

18 THE CLERK: Okay, thank you.

19 THE COURT: Sir, tell us who you are and spell
20 your last name, please.

21 THE WITNESS: Lonnie Miller, M-i-l-l-e-r.

22 THE COURT: Thank you. Yes, sir.

23 LONNIE MILLER,

24 having been duly sworn, testified as follows:

25 DIRECT EXAMINATION

1 BY MR. THOMPSON:

2 Q. Lonnie, how are you doing this afternoon?

3 A. I'm doing good.

4 Q. How do you know Anthony?

5 A. He's my stepson.

6 Q. And who is his mother?

7 A. Lakla Miller.

8 Q. And is she here in the courtroom?

9 A. Yes, she is.

10 Q. And how long have you and Lakla been together?

11 A. Seventeen years.

12 Q. Congratulations.

13 A. Thank you.

14 Q. Do you -- so Anthony's your stepson?

15 A. He is.

16 Q. Do you look at him as your son?

17 A. Oh, yeah.

18 Q. And do y'all have kind of a father/son
19 relationship?

20 A. Oh, yes.

21 Q. Does he call you Lonnie or does he call you by
22 something else?

23 A. Pops.

24 Q. Now, you and Lakla, do you have a business
25 together?

1 A. We do.

2 Q. What kind of business do you own?

3 A. I own a construction business and realty.

4 Q. Construction --

5 A. Rental property.

6 Q. -- and realty. And what's the nature of that
7 business? What kind of -- what kind of realty do you
8 have?

9 A. It's rental. It's just rental property and
10 mobile homes and houses.

11 Q. Mobile homes and houses?

12 A. Yeah.

13 Q. And do you handle -- what side -- I guess, there
14 are two sides to the business.

15 A. Yeah.

16 Q. Construction and realty?

17 A. Right.

18 Q. Which side do you handle?

19 A. I handle the construction and Lakla handles the
20 paperwork into it. And I handle the maintenance end of
21 the rental properties. She manages the -- she does all
22 the paperwork.

23 Q. And do you know what kind of work Anthony does?

24 A. Well, he did have to work some construction work
25 and a little mechanical.

1 Q. And for most of the time you've known Anthony,
2 has he been regularly employed?

3 A. When he could get underneath. He liked
4 electrical work but, you know, in construction
5 everything sort of went south and he had to get out of
6 that, so I needed help so he would help me whenever I
7 needed it.

8 Q. And that was in 2008?

9 A. Yes.

10 Q. And you said "everything went south", are you
11 referring to the economy tanking?

12 A. The economy, everything went under and I just --
13 realty pretty much kept us going.

14 Q. Now, so Anthony would work with you?

15 A. Oh, yeah.

16 Q. That's correct to say?

17 A. He'd work with me and his mother. He worked with
18 both of us.

19 Q. And what kind of work would he do for you?

20 A. Well, as far as remodeling the mobile homes when
21 people move out, you know, they destroy them. And he
22 helped me do the remodeling on them. We had some
23 dilapidated mobile homes at that time and we tore -- he
24 tore one down, disposed of it or helped me do so.

25 Q. And what -- when you tear a mobile home down,

1 what do you do?

2 A. Well, you just have to dismantle it piece by
3 piece. However we would with one place and then with
4 another. And then I just give him the metal.

5 Q. So he'd come, he'd come work with you?

6 A. Oh, yes.

7 Q. And do that kind of -- how frequently would it
8 occur?

9 A. Well, with a rental property some, some weeks you
10 have more than others, but usually two or three days a
11 week.

12 Q. Now did you have the opportunity to see Anthony
13 interact with B.R. [REDACTED]

14 A. Yes, sir.

15 Q. And did you have the opportunity to see Anthony
16 interacts with B.R. [REDACTED]'s children?

17 A. Yes.

18 Q. Did you also know Wendy and Wendy's children?

19 A. Yes.

20 Q. How often would you see them, Wendy or her
21 children?

22 A. Quite often.

23 Q. Would it be multiple times a week?

24 A. Oh, yes.

25 Q. And did Anthony appear to have a loving

1 relationship with Wendy and their family -- her
2 children?

3 A. Yeah, he did.

4 Q. And did that appear to be reciprocated? Did they
5 appear to care for him?

6 A. Oh, yeah. They did care. The daughter would
7 help on it. He would help some of them.

8 Q. And you anticipated my next question. Would the
9 children come along on some of these take downs?

10 A. Yeah, [D.R.] would. The girls would stay with my
11 wife.

12 Q. And so [D.R.] would come out with y'all on jobs
13 and the girls would stay with Lakla; is that fair to
14 say?

15 A. Uh-huh. That's correct.

16 Q. And where did y'all live?

17 A. [REDACTED] Albertson Road, Inman, South Carolina. Just
18 down from Cooley Springs.

19 Q. And how far away was that from Anthony's house,
20 Anthony and Wendy's house?

21 A. About eight miles.

22 Q. So y'all were pretty close together?

23 A. Pretty close.

24 Q. On days -- well let me rephrase that. Were you
25 aware if the children went to school?

1 A. Yeah, I knew they went to school.

2 Q. And during the school year, did you know, did you
3 know what -- did you know what B.R.'s school situation
4 was? Do you know if she was in 4-K?

5 A. I knew she had to be in school in, I think,
6 mid-morning because sometimes when I'd pick him up we'd
7 have to -- he'd come to work and then he'd have to go
8 take her back to school.

9 Q. So he'd come to work with you --

10 A. Yeah.

11 Q. -- and he'd bring her along?

12 A. Bring her along, yeah.

13 Q. And would she stay with your wife?

14 A. Yes, sir.

15 Q. And would there be times where he would go back
16 and take her back to school?

17 A. Yeah.

18 Q. Do you know if he would drive her to school?

19 A. Yeah.

20 Q. And he would drop her off physically at school?

21 A. Right.

22 Q. I'm just checking my notes here. When the kids
23 were in school, how frequently would Anthony be bringing
24 B.R. with him?

25 A. Well, I don't remember exactly. It's been a

1 while back. I can remember two or three times that she
2 had to come with him and then had to leave to go back.

3 Q. So it wasn't an infrequent occurrence?

4 A. Not real frequent, no.

5 MR. THOMPSON: Beg the Court's indulgence.

6 THE COURT: Yes, sir.

7 MR. THOMPSON: I have no further questions, Your
8 Honor.

9 THE COURT: Okay. Solicitor.

10 CROSS-EXAMINATION

11 BY MS. HALLFORD:

12 Q. Mr. Miller, it's not your testimony that Anthony
13 worked for you guys every day, is it?

14 A. No. He didn't work for us every day.

15 Q. Okay. I think you told him that you told the
16 attorney on direct examination that he -- it was two or
17 three times a week. Did I get that right? Two or three
18 days a week?

19 A. Some weeks more. It just depended on what we had
20 to do.

21 Q. And some weeks less?

22 A. Some weeks were less.

23 Q. Okay. What would your opinion be of someone who
24 molested a child?

25 A. Sick.

1 Q. So if Anthony was molesting B.R. he certainly
2 would not let you know about it, would he?

3 A. I don't know. He don't know how I feel, but...

4 Q. He doesn't?

5 A. (Witness shakes head back and forth.)

6 Q. Okay. Do you think that he would let you know
7 that he was molesting a child? Do you think that's
8 something someone would share with others?

9 A. Huh-uh. I don't know of any -- I've never had a
10 child molester admit to me, so I can't answer that.

11 Q. So but you were asked about the relationship
12 between him and B.R. you wouldn't expect him to do
13 anything in front of you that would make you suspicious
14 of that, would you?

15 A. No, I wouldn't expect him to.

16 Q. You would expect him to act like a loving, caring
17 person?

18 A. He just act normal.

19 Q. Okay. And he could, in fact, be a loving, caring
20 person, right?

21 A. He is. Ain't no doubt he is.

22 Q. But he --

23 A. I witnessed that.

24 Q. -- could also be a loving, caring person who when
25 he was alone with B.R. did things he wouldn't admit to

1 you, couldn't he?

2 A. It's possible.

3 Q. Cause you weren't there in the mornings, were
4 you?

5 A. Oh, no.

6 Q. So you don't know what happened on the layout
7 couch, do you?

8 A. No.

9 Q. And there were mornings when Anthony didn't work
10 with you guys, correct?

11 A. That's correct.

12 Q. So there were mornings where he was at home alone
13 with B.R. as far as you know.

14 A. As far as I know.

15 Q. And you don't have any idea what he was doing.

16 A. No.

17 Q. Okay. Now, I think that you said, and correct me
18 if I'm wrong, you said he sometimes did work with your
19 wife too?

20 A. Oh, yeah.

21 Q. And you would be aware when that was taking
22 place?

23 A. Not always.

24 Q. But would you say most the time you would be
25 aware of it?

1 A. Most of the time, yeah. She would let me know
2 that.

3 Q. So I just want to make sure that I'm
4 understanding this. You are not trying to tell this
5 jury that he was never home alone in the mornings with
6 B.R. because he was with you guys?

7 A. No, I'm not telling anybody that --

8 Q. Okay.

9 A. -- because that wouldn't be the truth.

10 Q. Okay, thank you.

11 THE COURT: Anything?

12 MR. THOMPSON: Just briefly.

13 REDIRECT EXAMINATION

14 BY MR. THOMPSON:

15 Q. Again, to reiterate on that point, you are not
16 testifying that Anthony was with you every single
17 morning.

18 A. No, sir.

19 Q. There were times when he would bring B.R. with
20 him, correct?

21 A. That's correct.

22 Q. And he would be there, correct?

23 A. Uh-huh.

24 Q. And she would not be in his presence.

25 A. No.

1 MR. THOMPSON: Anything?

2 RECROSS-EXAMINATION

3 BY MS. HALLFORD:

4 Q. She, B.R. knew you as Anthony's dad, correct?

5 A. Yes.

6 MS. HALLFORD: Okay. No further questions.

7 THE COURT: Sir, you may step down. Please be
8 careful.

9 THE WITNESS: Thank you.

10 (Whereupon, witness leaves witness stand.)

11 MR. THOMPSON: Can I have just a moment, Your
12 Honor?

13 THE COURT: Yes, sir.

14 MR. THOMPSON: Your Honor, we would call Lakla
15 Miller.

16 THE COURT: Okay.

17 (Whereupon, witness comes forward and puts left
18 hand on the Bible and raises the right.)

19 THE CLERK: Do you solemnly swear or affirm the
20 testimony you're about to give will be the truth, the
21 whole truth and nothing but the truth so help you God?

22 THE WITNESS: Yes, ma'am.

23 THE COURT: Ms. Miller, please tell us your name
24 and spell your last name for my court reporter.

25 THE WITNESS: Lakla Miller, M-i-l-l-e-r.

1 THE COURT: Thank you.

2 COURT REPORTER: Can I get the spelling of her
3 first name?

4 THE COURT: How do you spell your first name?

5 THE WITNESS: L-a-k-l-a.

6 THE COURT: Thank you, Ms. Miller.

7 LAKLA MILLER,

8 having been duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. THOMPSON:

11 Q. Lakla, I apologize. In my mind I had read your
12 name so many times as Lackla (phonetic), because that's
13 how it looks to me. So if I slip up and call you
14 Lackla, I do apologize. I do know that your name is
15 Lakla.

16 Lakla, I know your husband just testified, but
17 just for the purposes to make the record clear, how do
18 you know Anthony?

19 A. He's my son.

20 Q. And how do you know Lonnie?

21 A. He's my husband.

22 Q. And what -- I know obviously Lonnie just
23 testified, but what kind of work do you do with your
24 husband?

25 A. We own a construction business and a realty

1 business. He run the construction business until 2008
2 when the economy went down. And I run the realty
3 business. I'm manager of the realty business. And I do
4 all of the planning. He does the remodeling. As he
5 says, he's a high-dollar maintenance man. That's
6 basically what he does with them.

7 Q. And you do the cleaning of the ---

8 A. The cleaning and the inspections and everything
9 that goes along with the realty business.

10 Q. And how many mobile homes would y'all say y'all
11 maintain?

12 A. About 21.

13 Q. About 21? That's ---

14 A. Yeah, 21. Yeah. Well, there's houses in with
15 them. Let me clarify. There's houses and mobile homes
16 in with that.

17 Q. Okay. Fantastic. Now, in 2008, prior to 2008,
18 are you aware -- does your son work?

19 A. Yes.

20 Q. What kind of work did he do?

21 A. He did electrical work and he also worked for me
22 as well as Lonnie.

23 Q. And was that something he's done for a long time?

24 A. Yes. He's always been interested in electrical.
25 But it's just Lonnie and I that do all the mobile homes

1 and the rentals. And at the time he was booming in the
2 construction business and I was doing everything by
3 myself basically except for maintenance on the realty
4 business. And I always got Anthony to help me do the
5 cleaning and do the yard work and do the leaves and
6 stuff like that. He always helped me do that kind of
7 stuff.

8 Q. And would some of that occurred in the
9 afternoons, in the evenings and mornings, all times of
10 day?

11 A. Yes.

12 Q. Whenever he wasn't working he'd come over and
13 help you?

14 A. Yes.

15 Q. Did he come over to help you?

16 A. Yes. Not all the time but, you know, if I had
17 something major that I had to do, I would come in and
18 say, Son, you need to come and help me do this today.

19 Q. And y'all live close together, so it was easy for
20 him to come over?

21 A. Close enough, yeah, to where he could come.

22 Q. Now, after Anthony lost his job in 2008, did he
23 work with y'all more frequently?

24 A. Yes.

25 Q. Now, I'm not saying every day, but would he be

1 frequently with either you or Lonnie most, most weeks?

2 A. Yes, but not every day.

3 Q. Now, are you familiar with Wendy Richards?

4 A. Yes.

5 Q. Are you familiar with her children?

6 A. Yes.

7 Q. How frequently would you see Wendy and her
8 children?

9 A. Well, I had to feed them so much because they
10 didn't have food in the house. I saw them, you know, I
11 can't say an exact date, but I saw maybe four or five,
12 maybe even six times a week.

13 Q. And you saw all of them?

14 A. Yes.

15 Q. You would see Wendy and B.R. --

16 A. Yes.

17 Q. -- and D.R. and M.R. ?

18 A. Yes.

19 Q. And would they come stay with you sometimes?

20 A. What do you mean?

21 Q. Did the children come stay with you sometimes?

22 A. B.R. did.

23 Q. B.R. did.

24 A. Yes.

25 Q. And when would that occur? Why, why would B.R.

1 come stay with you?

2 A. Because Wendy would be working and Anthony would
3 be working with Lonnie or I would need something for him
4 to do for me. And [B.R.] would just hang out with me.

5 Q. And so Anthony would bring her to you?

6 A. Yes.

7 Q. And would Anthony be around when, when you were
8 watching after [B.R.]

9 A. If he's working with Lonnie, no. But if he was
10 working with me, [B.R.] and I would be out there working
11 with him.

12 Q. And so y'all would go out and clean together.

13 A. Yes.

14 Q. And you would take [B.R.] to do that?

15 A. Yes.

16 Q. What kind of a relationship did, did Anthony
17 appear to have with Wendy's children?

18 A. Wendy's children loved him to death.

19 Q. And did he love them back?

20 A. He did. He took care of them.

21 Q. And, again, you saw this four or five, six times
22 a week?

23 A. Yes.

24 Q. You saw him interact with her?

25 A. Yes.

1 MR. THOMPSON: Beg the Court's indulgence.

2 THE COURT: Yes, sir.

3 MR. THOMPSON: No further questions, Your Honor.

4 THE COURT: Okay. Solicitor.

5 CROSS-EXAMINATION

6 BY MS. HALLFORD:

7 Q. So it's not your testimony that you knew where
8 Anthony was every morning during the week.

9 A. No, that's not my testimony.

10 Q. Okay. So you don't have any idea what was
11 happening at home on the layout couch on the mornings
12 that B.R. and Anthony were alone together, do you?

13 A. I would have no idea if they wasn't at my house,
14 you know, what they would be doing.

15 Q. And you would agree that Anthony could have a
16 loving relationship with B.R. and still be molesting
17 B.R. couldn't you?

18 A. I don't know how to answer that because I've
19 never dealt with anything like this before. But I know
20 that Anthony is a loving person. He is a good person
21 towards those children and they loved him.

22 Q. And part of loving her could have included loving
23 her in a physical way, couldn't it have?

24 A. If you say so.

25 Q. Do you know what month it was that he lost his

1 job in 2008?

2 A. No, I don't.

3 Q. Okay. So let me go back a minute. So they asked
4 you about B.R. hanging out with you, spending a lot of
5 time with you. B.R. would know you as Anthony's
6 mother, correct?

7 A. Correct.

8 Q. Did B.R. ever see you and Anthony interacting
9 together? Was she around when -- was B.R. around when
10 you were around Anthony?

11 A. Yes.

12 Q. Okay. And would B.R. have ever seen anything
13 bad go between you and Anthony?

14 A. No. Other than me might be telling him what to
15 do.

16 Q. Uh-huh.

17 A. Other than that, I mean, I -- me saying, Anthony,
18 you need to go clean that bathroom for me or something
19 like that and I might -- I don't have a soft voice. I
20 have a big voice. And unless she would think that was
21 mean, you know. I mean, not, not that I know of.

22 Q. But essentially she would know you as Anthony's
23 loving mother?

24 A. Yes.

25 MS. HALLFORD: Okay. I have no further

1 questions.

2 THE COURT: Anything at all?

3 MR. THOMPSON: No, Your Honor.

4 THE COURT: Ma'am, you may step down. Please be
5 careful.

6 (Whereupon, witness leaves witness stand.)

7 MR. THOMPSON: Your Honor, may we approach?

8 (Whereupon, a bench conference was held off the
9 record.)

10 THE COURT: Madam Forelady, and ladies and
11 gentlemen of the jury, we're at a good stopping point.
12 I'm told that the next witness might be a little
13 lengthy. And with that, I don't want to break up
14 testimony. I used to hate to have to do that. Have
15 somebody testify part of what they're gonna say and then
16 come back and try to pick up the morning. It's gonna
17 cause us to have to stop a little early today as well,
18 but I'd just rather not do that. I think it flows
19 better if you hear it altogether.

20 With that, we're gonna break until nine in the
21 morning. Again, please be in place by 9 a.m. I'll be
22 here about eight or thereabouts and ready to go. And
23 the lawyers will be here and we'll make sure everything
24 is ready to go. Coffee will be ready somewhere around
25 8:30 or before. The courthouse opens. And they're

1 nodding their heads. They're gonna have you some good
2 coffee. And you can refresh yourselves and we'll start
3 at 9 o'clock tomorrow morning.

4 Please don't try to learn anything about the
5 case, do any research, it's not proper. But we're
6 getting close to where we can give the case in your
7 hands. And after you decide it, then you can talk about
8 it all you'd like, but not until then.

9 Madam Forelady, if you'll take the jury out to be
10 dismissed.

11 (Whereupon, jury leaves the courtroom at 4:18
12 p.m.)

13 THE COURT: Anything from the State?

14 MS. RICHBURG: Nothing from the State, Your
15 Honor.

16 THE COURT: From the defense?

17 MR. THOMPSON: No, Your Honor.

18 THE COURT: Okay. We are off the record, Julie.

19 (Whereupon, Court concluded at 4:18 p.m.)
20
21

22 --- THIS ENDS DAY TWO OF TRIAL ---
23
24
25

1 THE STATE VERSUS ANTHONY BRIGGS, DAY 3 OF TRIAL

2 THE COURT: Okay. Yes, sir.

3 MR. THOMPSON: Your Honor, as we discussed
4 yesterday, I would ask the Court to go over my client's
5 right to testify before he makes his final decision. It
6 is my understanding that he does intend to testify this
7 morning.

8 THE COURT: He does intend to testify?

9 MR. THOMPSON: He does, Your Honor.

10 THE COURT: Sir, would you stand to be sworn,
11 please.

12 THE CLERK: Raise your right hand. (Complies.)

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

16 THE DEFENDANT: I do.

17 THE COURT: Sir, you are Mr. Anthony Briggs?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Mr. Briggs, at this time I'm gonna
20 explain certain rights that you have. If you don't
21 understand something I say, I hope you can literally
22 stop me because it's very important that you have all
23 your questions by your lawyer, okay?

24 THE DEFENDANT: Okay.

25 THE COURT: We have reached the stage of this

1 trial where you may present a defense. You have the
2 right to claim the defenses given to you by the Fifth
3 Amendment of the Constitution of the United States,
4 which says in part: No person shall be compelled in any
5 criminal case to be a witness against himself.

6 Additionally, you have the right to claim
7 protections given to you by Article 1, Section 12 of the
8 South Carolina constitution which states in part: No
9 person shall be compelled in any criminal case to be
10 against himself. This means that you cannot be
11 required to testify. You have the right to do so, but
12 no one can make you testify. This is a personal right
13 and no one can waive it except you.

14 If you decide to testify, you'll be subject to
15 the same rules that govern other witnesses and you may
16 be examined and cross-examined on any relevant issue in
17 this case. Additionally, if you have any convictions
18 involving dishonesty or a false statement, or if a crime
19 is punishable by imprisonment for more than one year.
20 And this court determines the probative value of
21 admitting this evidence outweighs it's prejudicial
22 claims to you, or will be able to use your record to
23 attack your credibility.

24 If you decide to testify, the decision on your
25 part will be freely, intelligently and voluntarily made

1 with the knowledge of protections given to you by the
2 constitutions of our country and state, and the
3 consequences of your decision.

4 Q. If you decide not to testify, I will instruct the
5 jurors that you can't use the fact that he did not
6 testify any consideration and there will be no credit to
7 you because you did not testify. It is entirely your
8 decision as to whether or not you decide to testify. Do
9 you understand what I have explained to you?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Do you have any questions about what
12 I have explained?

13 THE DEFENDANT: No, sir, I don't.

14 THE COURT: Have you discussed this matter with
15 your lawyer?

16 THE DEFENDANT: I have.

17 THE COURT: Do you wish to speak to your lawyer
18 any more about this decision?

19 THE DEFENDANT: I have one question to ask him.

20 THE COURT: Please do so. Take whatever time you
21 need, sir.

22 MR. THOMPSON: Your Honor, his question is about
23 his prior record. I would enquire as to whether or not
24 the government intends to ask him that.

25 THE COURT: I'll do that right now. Does he have

1 a prior record?

2 MS. HALLFORD: He does, Your Honor, but it falls
3 way outside of the ten years. And the only ones that
4 would have been admissible was the 2001 Grand Larceny
5 and 2003 Fraudulent Check time three. I did not file a
6 motion to be able to use them outside of the ten years
7 because they were so far outside the ten years.

8 THE COURT: Okay.

9 MR. THOMPSON: I think that resolves that, Your
10 Honor.

11 THE COURT: I'm very serious. You take all the
12 time you need to talk with that man, okay? Do you need
13 some more time.

14 THE DEFENDANT: No, sir.

15 THE COURT: Okay. What is your decision, sir?

16 THE DEFENDANT: I wish to testify.

17 THE COURT: All right. Are you under the
18 influence of any medications or substance that
19 interferes with your ability to think clearly?

20 THE DEFENDANT: No, sir.

21 THE COURT: Do you know what you're doing here
22 this morning?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Anyone pressure you to testify?

25 THE DEFENDANT: No, sir.

1 THE COURT: Anyone promise you anything to got
2 you to testify?

3 THE DEFENDANT: No, sir.

4 THE COURT: Sir, is it true that it's your
5 decision to testify?

6 THE DEFENDANT: It is.

7 THE COURT: Thank you, sir. You may have a seat.
8 Do you have anything further?

9 MR. THOMPSON: Nothing from the defense.

10 THE COURT: From the State?

11 MS. HALLFORD: Nothing from the State.

12 THE COURT: Okay. Are we ready for our jury?

13 JUROR: Yes.

14 THE COURT: This will be the last witness for the
15 defense. Just as a housekeeping, we have a reply as one
16 of the witnesses?

17 MS. HALLFORD: We have two.

18 THE COURT: Okay.

19 MS. HALLFORD: Nikki Cantrell and the victim -- I
20 mean, excuse me **B.R.**

21 THE COURT: Okay. Very good. We'll have the
22 jury.

23 (Whereupon, jury enters the courtroom at 9:17
24 a.m.)

25 THE COURT: Good morning, Madam Forelady and

1 ladies and gentlemen. Any matters for the jury?

2 THE FORELADY: No.

3 THE COURT: Ready to work?

4 THE FORELADY: Ready.

5 THE COURT: Yes, sir.

6 MR. THOMPSON: Your Honor, the defense would call
7 Anthony Briggs.

8 THE COURT: Mr. Briggs, come up and be sworn,
9 sir.

10 (Whereupon, witness comes forward.)

11 THE CLERK: Place your left hand on the Bible.
12 (Complies.)

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

16 THE WITNESS: Yes, ma'am.

17 THE CLERK: Thank you, have a seat.

18 THE COURT: Mr. Briggs, tell us your full name
19 and spell your last name for my court reporter, please.

20 THE WITNESS: Anthony Briggs, B-r-i-g-g-s.

21 THE COURT: Thank you, sir. Counsel.

22 MR. THOMPSON: Thank you, Your Honor. May it
23 please the Court?

24 THE COURT: Yes, sir.

25 ANTHONY BRIGGS,

1 having been duly sworn, testified as follows:

2 DIRECT EXAMINATION

3 BY MR. THOMPSON:

4 Q. Anthony, I'm gonna ask you a couple of questions
5 about your background, okay, to get started.

6 A. Yes, sir.

7 Q. Where were you born?

8 A. I was born in Spartanburg County.

9 Q. Where did you grow up?

10 A. I grew up in Greenville, Tennessee for half my
11 life.

12 Q. Half your life?

13 A. Half there, half here.

14 Q. And so whereabouts is Greenville, Tennessee?

15 A. It's probably about -- it's between Bristol and
16 Knoxville.

17 Q. And so you spent some of your time growing up in
18 Greenville and you then you spent some of the time here
19 in Spartanburg; is that fair to say?

20 A. Yes, sir.

21 Q. Where did you go to school?

22 A. In elementary I was at Fair Forest. In third
23 grade I went to Chesnee Elementary School. And then I
24 moved back to Greenville, Tennessee. Did my ninth and
25 tenth grade there. And then I moved back to South

1 Carolina and went to Chesnee High School my junior and
2 senior year.

3 Q. Now, who did you live with when you were growing
4 up?

5 A. My mother.

6 Q. Was your father in the picture?

7 A. No.

8 Q. So is it fair to say you didn't grow up with a
9 father-figure in your life?

10 A. That's right.

11 Q. Who would you say is the father-figure in your
12 life now?

13 A. Lonnie Miller.

14 Q. And I believe he's here in the courtroom.

15 A. He is.

16 Q. And you call him pops, right?

17 A. Pops.

18 Q. But as they testified to yesterday, he wasn't in
19 your life while you were growing up, was he?

20 A. No, sir.

21 Q. Was that something that you missed?

22 A. It is.

23 Q. Now ---

24 A. I wish he would have been there a lot earlier.

25 Q. Would it be fair to say that your primary

1 occupation is as an electrician?

2 A. Yes, sir.

3 Q. Do you also do other kinds of work?

4 A. All kinds.

5 Q. What other kinds of work do you do?

6 A. Well, my mother had a boyfriend when I was
7 younger. I basically grew up in a body shop. When I
8 went to school, you know, coming up she used to teach me
9 how to cut grass. I remember being knee-high to a
10 grasshopper. You know, the lawn mowers got the little
11 middle thing. I used to walk between her legs and help
12 her cut grass. You know, so I went to Spartanburg Tech
13 to continue my career as electrician. Lonnie, he helped
14 me.

15 You know, Lonnie is an outstanding guy who
16 doesn't mind teaching. He's taught me how to work on
17 lawnmowers, weed eaters. A lot of construction. Me and
18 him used to do electrical work together. All kinds of
19 stuff.

20 Q. And would it be fair to say that you regularly
21 work with Lonnie and your mother on lots of different
22 projects?

23 A. Oh, yeah.

24 Q. Did you also work for Johnson Electric?

25 A. I did.

1 Q. What kind of work did you do for Johnson
2 Electric?

3 A. We mainly did schools. I have done a couple
4 stores, hospitals, doctor's office with them.

5 Q. And what would you -- what kind work were you
6 doing with them?

7 A. When we did schools, it's called Mason Chasing.
8 As the bricks are laid, you run underground pipe. It's
9 PVC pipe. And in case that gets cut off you've got to
10 have a back door in getting your receptacles in and
11 stuff like that. So we would what is called Mason
12 Chasing, we, as the blocks laid up, we would extend our
13 pipes up to the height of the ceiling and we'd stove
14 them out over the ceiling. That way we can get our
15 wires in case the underground was messed up or anything
16 like that.

17 Q. Now, when you did work for Johnson Electric?

18 A. I've actually worked with them twice. One time
19 when I first started it was back in the early 2000. I
20 did the new Chapman High School in Inman and I was laid
21 off then. And I went to other different electrical
22 companies. And then around 2007 -- it was at the time
23 that the new Chesnee Elementary was built.

24 Q. That's when you started working back with them
25 again?

1 A. Yes, sir.

2 Q. And were you laid off in 2008?

3 A. Yes, sir, in the fall.

4 Q. And that was due to primarily the economic
5 conditions of the time?

6 A. It was.

7 Q. Is that fair to say?

8 A. It is.

9 Q. Now, do you know Wendy Richards?

10 A. I do.

11 Q. Where did you first meet Wendy?

12 A. We went to school together, middle school.

13 Q. You went to middle school together. I believe
14 you said that was Chesnee Middle?

15 A. Yes, sir.

16 Q. And you also testified that you then went to
17 Greenville --

18 A. Tennessee.

19 Q. -- Tennessee after completing your ninth and
20 tenth grade years.

21 A. Yes, sir.

22 Q. So did you lose touch with Wendy at that point?

23 A. I did.

24 Q. And did you end up seeing her again later on?

25 A. I did.

1 Q. Around what time would you say you met back up
2 with Wendy?

3 A. Well, when I worked for IB Electric, she worked
4 for McDonald's. I used to stop by McDonald's in Boiling
5 Springs and pick up a chicken sandwich and an iced tea.
6 You know, she would be at the window and I would say,
7 hey, Wendy, how's the kids? How's your old man doing?
8 You know, great, great. We've always talked, you know,
9 throughout the years.

10 When she worked at Spinx I would go in there.
11 Hey, Wendy, how you doing? You know, how's your old man
12 doing? How's the baby doing? Great. And, you know, it
13 was just -- we got to seeing more and more of each other
14 later on in life and it just happened.

15 Q. And so did y'all eventually begin a romantic
16 relationship?

17 A. We did.

18 Q. And did you end up moving in with Wendy?

19 A. I did.

20 Q. When did that happen?

21 A. That happened around 2007. I would say in the
22 summer, in the early summer 2007.

23 Q. You just testified that you talked to her and
24 you'd asked her about the kids. So you knew she had
25 kids?

1 A. Oh, yes, sir.

2 Q. Were they living with you at the time?

3 A. Not at the time.

4 Q. When you moved in with Wendy, they did not live
5 with you?

6 A. No.

7 Q. Did the children move in at a later date?

8 A. At a later date.

9 Q. How much later would you say?

10 A. It was, it was early winter. And the reason
11 being is she had came to me and she said if we're going
12 to be together and we're gonna get our own place ---

13 MS. HALLFORD: Objection, hearsay.

14 THE COURT: Yeah.

15 BY MR. THOMPSON:

16 Q. You can't say what she said to you.

17 A. Okay.

18 Q. But she ended up, the kids, the children ended up
19 moving into the home?

20 A. I did, yes.

21 Q. And you say in the winter of 2007?

22 A. Yes.

23 Q. And would you say it was before or after
24 Christmas?

25 A. That was before Christmas.

1 Q. Before Christmas. Okay. So probably very early
2 winter 2007?

3 A. (Witness nods head up and down.)

4 Q. Now, were the children always in the home?

5 A. No, sir.

6 Q. Did they always stay there everyday?

7 A. No.

8 Q. Where else would they live?

9 A. With their father.

10 Q. Were -- was Wendy going through a divorce at that
11 point in time?

12 A. She was.

13 Q. And were you allowed to remain in the home with
14 the children during the divorce?

15 A. I was not by court order. The paramour could not
16 stay. When she had visitation with her children, it was
17 set up the paramour cannot be on an overnight basis. So
18 I could have went to my parents, but I didn't. She had
19 it set up to where she would go to her Grannies' house,
20 which was a couple miles away, but I didn't want her to.

21 I feared for her safety because of the situation
22 in her divorce at the time. And the children's safety.
23 So I would let them stay in the house and before the
24 kids would go to bed, I would go out and I would sleep
25 in the woods beside the house and get up the next

1 morning and go to work.

2 Q. So you would sleep in the woods so Wendy would
3 not have to leave her home and the children would not
4 have to leave her home.

5 A. Yes. But I considered that our home.

6 Q. Now, at a certain point in time did the children
7 end up moving into the home?

8 A. Yes.

9 Q. How would you describe your relationship with
10 Wendy's children?

11 A. It was loving and caring. We had a blast.

12 Q. Was it important to you to have a good
13 relationship with her?

14 A. It was. Growing up without a father, I know what
15 it's like to know that there is no male figure in the
16 home. Like I said, I had a wonderful stepfather. Thank
17 you. And he doesn't mind teaching you. He gives
18 everybody a chance. He doesn't discriminate. He don't
19 care. You know, he gives everybody a chance.

20 And I wanted to be like that to her children. No
21 matter what we did, whether it was homework, whether it
22 was trips, I always tried to teach them something.
23 Whether it was in the front yard practicing football
24 with her son. Whether it was going to Tennessee riding
25 horses, stopping by the dairy.

1 I grew up on a dairy -- grew up on a farm and
2 beside our farm there was a dairy farm. On the way to
3 ride horses and everything, I would stop by and show the
4 children how cows were milked. You know, where the milk
5 comes from. Different processes and stuff like that.

6 And at the time we was getting milk from their
7 grandfather who lives right there in Chesnee also. And
8 he hand milks the cow, so that was the same process but
9 a different way to show them also. You know, when it
10 come to homework we did -- math was great. And, you
11 know, we would count Cheerios or spaghetti or something
12 like that. You know, everything that I did I tried to,
13 I tried to teach them because I've never had a father to
14 teach me until this man came in my life.

15 Q. So you tried to be a father to those children?

16 A. I did.

17 Q. And, again, you'll loved all three of those
18 children?

19 A. I did.

20 Q. Would you also take them to work on mobile homes?

21 A. Of course. That was part of the teaching
22 process.

23 Q. And you took them to your parents's house?

24 A. I did.

25 Q. And would they stay with your parents from time

1 to time?

2 A. They would. And had not only that, at that time
3 in the winter of 2008, you know, when I couldn't take
4 the children -- me and Wendy both was out of work, okay?
5 She soon lost her job after I got laid off. And she
6 moved into the house with the children some of the time
7 and I would take them with me some of the time. Or we
8 would switch out. You know, she would keep the girls
9 and I would take D.R. and vice versa, you know what
10 I'm saying?

11 Q. Now, I want to talk to you a little bit about
12 kind of the fall and winter of 2008.

13 A. Okay.

14 Q. As you just mentioned, you were laid off from
15 your job at Johnson Electric.

16 A. Yes, sir.

17 Q. Wendy working at the time?

18 A. She was working at HH Gregg. I actually did a
19 job at HH Gregg when I finished up at Chesnee Elementary
20 School I did a very short job at Boiling Springs High
21 School stadium. And then from there I was moved to HH
22 Gregg in Spartanburg, Westgate side.

23 And as the building was coming to an end and they
24 started moving in, I was able to speak to some of the
25 supervisors there and get Wendy a job there, so there

1 would be times when we would go to work together because
2 the building hadn't been completed yet and she would
3 come in and help set the building up.

4 Q. Now, were Wendy's hours regular? Did she always
5 -- she always worked first thing in the morning or late
6 in the afternoon?

7 A. Yeah. She would be like on some swing shift.
8 She was a customer service representative. There would
9 be times when she would go in 9 o'clock in the morning
10 and get off, it would vary, three, four, five. There
11 would be times when she'd go in and work second shift
12 and get off late.

13 Q. And that happened all the time. She didn't
14 always consistently work first thing in the mornings?

15 A. No.

16 Q. Now, were the children in school?

17 A. Not at that point, no.

18 Q. Later on, obviously as the seasons ran on, the
19 children did start to go to school?

20 A. Uh-huh.

21 Q. And what was the morning routine at the house to
22 the extent there was a routine? Wendy did not always go
23 to work first thing in the morning?

24 A. No.

25 Q. So on a day where Wendy was not working in the

1 morning, what was the routine in the house?

2 A. I mean, I would get up around 9, 9:30, somewhere
3 in there. Get B.R. ready for school. She would wake
4 up around 10, 10:15. Get her ready for school. Wendy,
5 she would help the children, all three children get
6 their clothes out for the day before and, you know, she
7 put her clothes on.

8 At that time when she was going to school -- when
9 she got to school it was basically lunch time, but she
10 was offered breakfast when she got there, so it was
11 really up to her if she ate breakfast at the house or
12 breakfast at the school.

13 Q. And did B.R. ride the bus?

14 A. Uh-huh.

15 Q. Did the other children ride the bus to school as
16 well?

17 A. They did.

18 Q. Did B.R. ride the bus home?

19 A. Yes.

20 Q. Did she ride the bus home with any of her
21 siblings?

22 A. (Nods head up and down.)

23 Q. Who? Which of her siblings?

24 A. M.R. .

25 Q. They went to the same school?

1 A. Yes.

2 Q. Now, you would also do work for your parents at
3 the time?

4 A. I would.

5 Q. And so would you just go out and help them with
6 whatever they needed?

7 A. Whatever they needed.

8 Q. And would that go in the morning, that go in
9 afternoon, just depending on what was going on?

10 A. Yeah.

11 Q. Now, on mornings when Wendy left for work in the
12 morning, would you be alone in the house with B.R.

13 A. I would.

14 Q. And you don't deny that you would be alone in the
15 house with B.R.

16 A. No. In the fall of -- in the fall of 2008, she
17 lost her job and she tried to draw unemployment. So I
18 think it's, what, five weeks that you get penalized if
19 you get fired. Somewhere four or five weeks. Somewhere
20 in there. So she was actually October, November,
21 December she was at home with the children for a big
22 part of time. She didn't start work -- back to work at
23 Better Homes cleaning houses until right before
24 Christmas. I believe it would be December the 20th.

25 Q. But still there were times where you would be

1 alone in the house with B.R.

2 A. Yes.

3 Q. And would you be responsible for getting her
4 ready and taking her to school?

5 A. I would.

6 Q. Would you take her to your mother's on occasion?

7 A. On occasion.

8 Q. Would you take her to other people? Would you
9 take her to other relatives?

10 A. Yes. Like I said, her grandfather and her
11 grandmother lived maybe within two miles of us. So when
12 my parents were busy and I didn't take her with my
13 parents, I would drop her off at her grandfather's. And
14 they would make sure that she would get back and forth
15 to school, you know, if I couldn't and things like that.

16 Q. So other people would be responsible for taking
17 her to school from time to time?

18 A. Yes, sir.

19 Q. Now, during the times when you were alone at the
20 house with B.R. did you sexually assault her in any
21 way?

22 A. I did not.

23 Q. And I hate to have to get specific about this,
24 but I've got to. Did you digitally penetrate with your
25 fingers on her vagina?

1 A. I did not.

2 Q. Did you engage in oral sex on her? Perform oral
3 sex on her?

4 A. I did not.

5 Q. Did you penetrate her anus with your penis?

6 A. I did not.

7 Q. Did you have her touch your penis?

8 A. I did not.

9 Q. Did you love B.R. [REDACTED]

10 A. With all my heart.

11 Q. Would you have ever done anything like that to
12 her or anyone else?

13 A. No, I would not.

14 Q. I believe Detective Morgan testified yesterday
15 that you told him that the allegations made you sick.

16 A. I did.

17 Q. Do they make you sick?

18 A. They do.

19 Q. Do you recall your day at the Sheriff's
20 Department on the 3rd of February, 2009?

21 A. Oh, very much so.

22 Q. When did you arrive at the Sheriff's Department
23 that day?

24 A. It was roughly around 9 a.m.

25 Q. When did you leave that day?

1 A. Around 9 p.m.

2 Q. And you were under arrest when you left that day?

3 A. I was.

4 Q. But you came that day voluntarily?

5 A. Voluntarily, yes, sir.

6 Q. And you met with then Detective Morgan for
7 several hours to begin the day.

8 A. Yes, sir.

9 Q. Is that fair to say?

10 A. (Witness nods head up and down.)

11 Q. What was your impression of Detective Morgan's
12 questioning of you?

13 A. He was nice at first. You know, but as we
14 continued speaking, it was -- he turned into like a good
15 cop/bad cop all in one. You know, he appeared to want
16 to be my friend, but then at the same time he's accusing
17 me of something and he's telling me I'm going to jail if
18 I don't confess and things like that. Then he'd go back
19 to being a friend and then he'd turn into this monster.

20 Q. Did it become apparent to you that Detective
21 Morgan thought you were guilty?

22 A. Yes, sir.

23 Q. And what do you think his goal was in talking to
24 him?

25 A. To get me to confess.

1 Q. Did you confess?

2 A. I did not.

3 Q. Did you tell him that you had admitted -- did you
4 tell him that you had assaulted B.R.

5 A. I did not.

6 Q. And you spent several hours with him.

7 A. I did.

8 Q. And then you met with Detective Cantrell.

9 A. Yes, sir.

10 Q. Now Agent Cantrell.

11 A. Yes, sir.

12 Q. How was your conversation with her? Was it
13 similar to how it was with Detective Morgan?

14 A. Yes, sir. It was good at first, you know, but
15 then she was pointing a finger and telling me what I'm
16 looking at and things like that.

17 Q. Did it become apparent to you quickly as well
18 that Detective Cantrell thought your were guilty?

19 A. Yes, sir.

20 Q. And was she also trying to get you to confess?

21 A. Yes, sir.

22 Q. Did you admit -- did you tell Detective Cantrell
23 that you assaulted B.R.

24 A. I did not.

25 Q. And you ultimately wrote a statement. You wrote

1 a physical statement denying the allegations?

2 A. I did.

3 Q. Was that true?

4 A. The whole truth.

5 Q. Now, she testified that you told her that you are
6 sick and needed help.

7 A. Yes.

8 Q. Do you deny making that statement?

9 A. I do not deny that.

10 Q. What did you mean when you said that?

11 A. Well, as it came out, the allegations, I was at
12 the sheriff's office the day before, me and Wendy both.
13 Later on after everything got settled. Wendy did come
14 over that night. We didn't have a -- or I did have a
15 couple of beers, you know, try to calm down and
16 everything. Sleep was impossible that night because
17 these are very serious allegations.

18 The next morning I had to be there at the
19 sheriff's office early. I took a big cup of coffee and
20 that's all I had. You know, the detective did get us
21 something to eat from McDonald's.

22 So I was not drunk or under the influence when I
23 went to the Sheriff's Department, but after hardly any
24 sleep that night and nothing to eat, I was shot. My
25 nerves were shot. You know, my insides felt like they

1 were being pulled out.

2 I love -- the accusation, I love these children.
3 I love Wendy. And for something like this to come up,
4 it really tore me in two, so...

5 Q. So when you said you were sick, you weren't
6 trying to say you were sick because you had abused

7 B.R.

8 A. Not in the head, no. I did not say -- I was not
9 meaning I'm sick in the head, but I --

10 Q. You mean physically?

11 A. -- was sick, physically sick, yes.

12 MR. THOMPSON: I apologize. I don't mean to talk
13 over him, Madam Court reporter.

14 BY MR. THOMPSON:

15 Q. You were physically ill?

16 A. Yes.

17 Q. And you had been at the Sheriff's Department at
18 that point in time for the better part of a day, is that
19 fair to say?

20 A. Yes, sir.

21 Q. Now, you were also -- were you afforded the
22 opportunity to talk to Wendy at the Sheriff's
23 Department?

24 A. Several times.

25 Q. Did you tell Wendy at the Sheriff's Department

1 that you had assaulted B.R.

2 A. No, I did not.

3 Q. Detective Cantrell testified yesterday that you
4 told her that you had said -- what you had done to her;
5 is that accurate?

6 A. No.

7 Q. You did not tell Detective Cantrell?

8 A. I've never confessed something like this to
9 anyone ever.

10 Q. Because you haven't done it?

11 A. That's right. I have not done it.

12 Q. And at the end of that long day, you've been
13 there for several, about 12 hours, and you've been
14 questioned continuously for about 12 hours, did you
15 confess, did you admit to touching B.R.
16 inappropriately?

17 A. No.

18 Q. Because it didn't happen.

19 A. It did not happen.

20 Q. Now, there were also some phone calls played
21 yesterday that you made to Wendy. Did you talk on the
22 phone a lot to Wendy?

23 A. A lot. Every day.

24 Q. Would you say you talked to her probably more
25 than one time a day?

1 A. Oh, yeah.

2 Q. And specifically why did you tell Wendy not to
3 take B.R. to the sessions?

4 A. Well, there were several phone calls, not just
5 one or two. There were several phone calls that would
6 lead into other conversions that we've had previously.
7 So the reason I told Wendy not to take B.R. back to
8 the, to the therapist is because one time I had called,
9 Wendy's cussing, cussing at B.R. I was like, baby,
10 what's wrong? And she was like ---

11 Q. You can't testify to what Wendy said.

12 A. Okay. I heard B.R. crying, screaming. She
13 didn't want to go. She had hit her mother, smacked her
14 mother, kicked her mother. She just didn't want to go
15 see them people, so I told her -- yeah, I did tell her,
16 if this is what you've got to go through to get her up
17 there and she doesn't want to go see these people, don't
18 take her. Stop taking her. There's nothing like -- you
19 don't have to go through this.

20 Q. Now, there were a couple of other phone calls
21 played.

22 A. Yes, sir.

23 Q. Were you at a low point in your life at that
24 point in time when you made those statements?

25 A. I was.

1 Q. Were you afraid?

2 A. I was.

3 Q. Because you did not do this to B.R.

4 A. That's right.

5 Q. Do you regret making those phone calls?

6 A. I do.

7 Q. Do you regret making those statements?

8 A. I do.

9 Q. You still did not tell Wendy or admit that you
10 abused B.R.

11 A. No, sir, I did not.

12 Q. Because you did not abuse B.R.

13 A. I did not.

14 Q. Did you have lots of other conversations with
15 Wendy?

16 A. Many, many conversations.

17 Q. Would you say the vast majority of those
18 conversations were loving and supporting?

19 A. Yes, sir.

20 Q. And these were hundreds of phone calls?

21 A. Yes, sir.

22 Q. For hours and hours and hours on end?

23 A. Yes, sir.

24 Q. Did you sexually abuse B.R.

25 A. I did not.

1 Q. Do the allegations make you sick?

2 A. They do.

3 Q. They did then?

4 A. They did then, they do now.

5 MR. THOMPSON: No further questions.

6 THE COURT: Solicitor.

7 CROSS-EXAMINATION

8 BY MS. HALLFORD:

9 Q. The allegations should make you sick, shouldn't
10 they?

11 A. Yes, ma'am.

12 Q. It is disgusting to molest a child, isn't it?

13 A. For anyone to do that, yes, ma'am, it is.

14 Q. Yes, it is. What kind of sex life did you have
15 with Wendy?

16 A. It was, I reckon, normal.

17 Q. Did y'all have sexual intercourse fairly often?

18 A. How often is often?

19 Q. I don't know, you tell me.

20 A. I mean, are you referring to ---

21 Q. How often did the two of you have sex?

22 A. I mean, that was then. I can't remember ten
23 years.

24 Q. You can't remember?

25 A. (Witness shakes head back and forth.)

1 Q. Well, I mean, you should be able -- you
2 remembered a lot of details about things you've done ten
3 years ago and you and Wendy were in a relationship, so
4 you should be able to remember if you guys had a good
5 sex life or you didn't have a good sex life. It's not
6 that hard of a question. Did you guys have a good sex
7 life?

8 A. Yes, ma'am.

9 Q. You had a good sex life?

10 A. Yes, ma'am.

11 Q. Okay. So sorry I have to do this, but y'all
12 regularly engaged in sexual intercourse?

13 A. Yeah.

14 Q. Did y'all enjoy it?

15 A. Yeah.

16 Q. You were turned on by Wendy?

17 A. Yes.

18 Q. Wendy was turned on by you?

19 A. Yes, ma'am.

20 Q. You're sure about that?

21 A. Yes, ma'am.

22 Q. Okay. So when you talked to Danny --

23 A. Yes, ma'am.

24 Q. -- and this would have been on February 3rd of
25 2009, do you remember those conversations?

1 A. Not all of them.

2 Q. Are you aware that -- let me go back for a
3 second. Are you aware that your attorney has the disc
4 of that entire interview?

5 A. Uh-huh.

6 Q. Okay. You said: I can't get it up like I'm
7 supposed to. That's one of me and Wendy's problems. We
8 did it a lot when we first got together, but now it's
9 like it's broken.

10 So it doesn't sound like you were having a very
11 good sex life with Wendy, were you?

12 A. Well, I mean, I was also on medication, so it
13 would have been because of the medication.

14 Q. That's not what you said a minute ago. You said
15 y'all had a good sex life; that you found her
16 attractive, she found you attractive, that y'all
17 regularly engaged in sexual intercourse.

18 I'm not a very sexually active person. Wendy can
19 tell you that. Did you make that statement?

20 A. I don't know. I mean, it's been ten years. If
21 it's on the disc then, yes, ma'am.

22 Q. Okay. You didn't prep for this? Y'all didn't go
23 over what you said previously?

24 A. I mean, not on the Danny Morgan. I've never seen
25 the disc.

1 Q. No?

2 A. No.

3 Q. Okay. But you're not denying, though, you made
4 that statement?

5 A. I do not remember that statement.

6 MS. HALLFORD: Okay. Your Honor, beg the Court's
7 indulgence.

8 THE COURT: (Nods head up and down.)

9 MS. HALLFORD: May we approach for a moment?

10 THE COURT: Yes.

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

13 BY MS. HALLFORD:

14 Q. So let's make sure we're clear on this.

15 A. Okay.

16 Q. Are you denying having said to Danny Morgan I
17 can't get it up like I'm supposed to, that's one of me
18 and Wendy's problems, we used to do it a lot when we
19 first got together? And this is somewhat of a
20 paraphrase because when I'm highlighting these
21 transcripts, I put the big stuff, but not sometimes the
22 conjunctions and that kind of stuff.

23 So knowing that we're gonna pull it off that disc
24 and play it, are you denying this?

25 A. I'm not denying it and I'm not admitting it.

1 Q. Okay.

2 A. We had a very long day. I mean, I can't sit here
3 and say everything that was said in that interrogation
4 room. I don't remember. That's been a very long time.

5 Q. But what you did remember a few minutes ago was
6 that y'all had a good and active sex life.

7 A. Yeah.

8 Q. So that was apparently not true.

9 A. I mean, like to me it was.

10 Q. Okay.

11 A. To me I thought we did.

12 Q. Okay. So you said that while Danny Morgan was
13 talking to you that he turned into this monster.

14 A. Uh-huh.

15 Q. Give me some examples of how he was being
16 monstrous to you.

17 A. Admit. I mean, you've got to admit. I know what
18 you did.

19 Q. How is that being --

20 A. He would be ---

21 Q. -- monstrous?

22 A. He would be good cop, bad cop. He would try to
23 appeal to my emotions one time. Trying to be there for
24 me as a friend. Try to get me to open up to him. And
25 then at the same time, you know, a little bit later on

1 he'll turn in and say that, you know, I know you did
2 this, just admit to it. That's all you've got to do.

3 Q. Okay. So how is that monstrous? Because he's
4 interviewing you and the purpose of the interview is to
5 have you confess. That's what his job is. That's not
6 being monstrous. You said he turned into a monster.
7 What did he do that made him turn into a monster? Did
8 he scream at you?

9 A. No, he didn't scream.

10 Q. Did he pound his fist on the table?

11 A. No, he did not.

12 Q. Did he threaten you in any way?

13 A. No, he didn't.

14 Q. Did he get right in your face and yell?

15 A. No, he did not.

16 Q. No. He didn't do any of that, did he? In fact,
17 he let you smoke in his office, didn't he?

18 A. He did.

19 Q. Even though he wasn't supposed to. He let you
20 have a phone in there. He let you call people, didn't
21 he?

22 A. He did.

23 Q. They made sure you got to go outside, didn't
24 they?

25 A. They did.

1 Q. They let you talk to Wendy repeatedly, didn't
2 they?

3 A. They did.

4 Q. They let you go downstairs and smoke, didn't
5 they?

6 A. Even brought me something to eat.

7 Q. Uh-huh. They sure did.

8 A. But whoever makes a statement like this against
9 someone who didn't do anything is monstrous.

10 Q. Well, we'll get into that in a second. So you
11 said that you had not gotten very much sleep, that you'd
12 only gotten about four hours.

13 A. Somewhere roundabout.

14 Q. Okay. So do you remember when you talked to
15 Danny and he was asking you about your health and about
16 your sleep and everything you had done and you told him
17 that your normal amount of sleep was four to six hours?

18 A. Uh-huh.

19 Q. And that the night before you had gotten right at
20 four to four-and-a-half hours. So that was your normal
21 amount of sleep, wasn't it?

22 A. Roundabout.

23 Q. Okay. But what you told the jury was that you
24 didn't get enough sleep and that that contributed to
25 your feelings of sickness. Isn't that what you told the

1 jury?

2 A. I said I didn't get a lot of sleep that night
3 because it was a stressful night, yes, ma'am.

4 Q. But you got exactly the same amount of sleep as
5 you usually do. A normal amount of sleep. But what you
6 were trying to tell this jury is that that's why it
7 contributed to you saying I'm sick, I need help.

8 A. It's not just ---

9 Q. Isn't that right?

10 A. It's not just the sleep that contributed to that.
11 It was the allegations, my nerves --

12 Q. Uh-huh.

13 A. -- not just the sleep --

14 Q. Uh-huh.

15 A. -- the lack of food.

16 Q. Except you told the jury that you did not get
17 enough sleep. That's what you were implying to them,
18 wasn't it?

19 A. I said I --

20 Q. And that's not true --

21 A. -- I did not get a --

22 Q. -- is it?

23 A. -- a lot of sleep.

24 Q. That's not -- a lot of sleep for you was four to
25 four-and-a-half hours.

1 A. That was my normal.

2 Q. So if you got four to four-and-a-half hours, then
3 how are you defining that now as not enough sleep? If
4 that is your normal amount of sleep, then that was
5 enough sleep because that's what you normally sleep,
6 wasn't it?

7 A. Roundabout.

8 Q. So you were trying to mislead this jury.

9 A. I was not.

10 Q. Okay. So you want the jury to believe that when
11 you started crying and said, I'm sick and need help,
12 that it was because you weren't feeling well physically?

13 A. Yes, ma'am.

14 Q. Okay. Did you ask for an aspirin?

15 A. No, ma'am.

16 Q. Did you ask to go to the doctor?

17 A. No, ma'am.

18 Q. Did you ask for them to take you to the doctor?

19 A. No, ma'am.

20 Q. Did you ask for them to get you some Mylanta for
21 your tummy?

22 A. No, ma'am.

23 Q. Did you tell her you felt faint?

24 A. No, ma'am.

25 Q. No. What you said was I'm sick and I need help.

1 A. Yes, ma'am.

2 Q. And you have already described someone who
3 molested a child as sick, so you were being completely
4 truthful right there because you were sick and you
5 didn't need help. This wasn't -- isn't that right?

6 A. (No response given.)

7 Q. This wasn't about your tummy hurting. This
8 wasn't about your head hurting. This was about you
9 being honest and saying I'm sick and I need help; isn't
10 that right?

11 A. As in physical, yes, ma'am.

12 Q. Really?

13 A. Yes, ma'am.

14 Q. Okay. So if it was something physical, then why
15 didn't you go on with that line? Why didn't you tell
16 her I feel like I'm gonna vomit? Why didn't you tell
17 her I had the diarrhea? Why didn't you tell her I need
18 an aspirin? Why didn't you tell her I need some
19 Mylanta?

20 A. I ---

21 Q. You didn't do any of that.

22 A. I did not think that she was gonna take sick and
23 needed help out of context of what she did.

24 Q. Well, if you were literally sick and needed help,
25 if your stomach was upset or you needed to go to the

1 bathroom or you had a headache, you didn't ask for any
2 help. She was talking to you about sex abuse
3 allegations and you said I'm sick and I need help.

4 And she made it clear from the stand that that's
5 what you were talking about, the allegations. She
6 testified that you didn't ask for any physical
7 assistance and you're admitting that you didn't ask for
8 any physical assistance. And y'all continued to talk.
9 You talked with Wendy again, didn't you?

10 A. Yes, ma'am.

11 Q. You went downstairs and smoked some more, didn't
12 you?

13 A. Yes, ma'am.

14 Q. You got to talk to your mom, didn't you?

15 A. Yes, ma'am.

16 Q. Tell me where you threw up or went to the
17 bathroom and had the diarrhea or had a headache, any of
18 that stuff. That's not what was happening, is it?

19 A. Oh, I kept a headache.

20 Q. Did you?

21 A. Yes, ma'am, I did.

22 Q. Okay. So why --

23 A. When it first started.

24 Q. -- didn't you ask her for an aspirin? Because
25 that's not what you were talking about because you were

1 getting close to admitting that you were sick and you
2 needed help. And you were talking about the sickness of
3 wanting to touch a little girl. This had nothing to do
4 with a headache. This had nothing to do with a tummy
5 ache. This had nothing to do with drinking the night
6 before. This had nothing to do with the fact that you
7 got plenty of sleep, even though you tried to mislead
8 this jury. This had to do with you being a man who
9 likes to mess with little girls. That's what you were
10 talking about and you know it; isn't that right?

11 A. That's incorrect, ma'am.

12 Q. Okay. So if you hadn't messed with **B.R.** then
13 why all the drama about needing to talk to Wendy?

14 A. That was my way out of getting help.

15 Q. That was your way out of getting help for what?

16 A. When I said I was sick and needed help, she was
17 my help. I needed to talk to her. That's the person
18 who I confided in.

19 Q. Oh, so Wendy brought you aspirin?

20 A. No, she did not. But she did talk to me and I
21 did explain to her what these people were trying to do
22 to me to get me to confess to touching her daughter.

23 Q. Okay. So when Wendy talks to you that makes you
24 feel better physically?

25 A. Yes, it does.

1 Q. You really want the jury to believe that you
2 wanted to talk to Wendy about the fact that your stomach
3 hurt or your head hurt?

4 A. Yeah.

5 Q. Did you ask Wendy to go get you some aspirin?

6 A. I did not.

7 Q. No? Did you ask Wendy to go get you some
8 Mylanta?

9 A. I did not.

10 Q. No, you didn't ask for that because that's not
11 what that was about. You wanted to confess. You wanted
12 to tell Wendy. You wanted to be the one to tell her so
13 you could put your spin on it because you've been
14 sexually molesting her daughter. That's what this is
15 about. Your statements make that clear, don't they?

16 A. No, they do not.

17 Q. Yes, they do.

18 A. I've never admitted to it.

19 Q. Okay. So let's talk for a minute about your
20 relationship with B.R. When Danny was talking to
21 you, he asked you what kind of relationship you had with
22 her, and you said it was great. She was calling me
23 daddy at one point. And that's true, isn't it?

24 A. At one point, yes, ma'am.

25 Q. Yeah. And she would tell you that she loved you

1 too, wouldn't she?

2 A. She would.

3 Q. Because she did love you, didn't she?

4 A. As far as I know, yeah.

5 Q. Yeah. And you did do nice things for her, didn't
6 you?

7 A. I did.

8 Q. In fact, you tried to get money to buy them
9 Christmas.

10 A. I did.

11 Q. You would take them places.

12 A. I would.

13 Q. You watched her in the morning.

14 A. I did.

15 Q. She loved you like a dad, didn't she?

16 A. As far as I know she did.

17 Q. Because she did love you. And your routine in
18 the mornings was that Wendy would get up and go to work;
19 is that correct?

20 A. Not all mornings but, yes, ma'am.

21 Q. Okay. So but when Danny asked you about your
22 routine, this is what you told him. This is what you
23 said. Let's make sure we're understanding it.

24 A. Okay.

25 Q. You said: That Wendy would get up and go to

1 work. Is that true?

2 A. Yes.

3 Q. Okay. The kids, meaning the two older, they get
4 up for school at 6:30 and the two oldest leave about
5 7:15. Was that correct?

6 A. Yes, ma'am. Somewhere roundabout.

7 Q. Okay, so they're gone. And you said Wendy goes
8 to work between 8 and 8:15, and I'll stay asleep until
9 about 10.

10 A. Somewhere roundabout, yes.

11 Q. Okay. And then you talked about the girls sleep
12 in one room and D.R. sleeps in another room and you
13 and Wendy sleep on the pullout couch, right?

14 A. Yes, ma'am.

15 Q. Okay. And then you said that B.R. would come
16 in and wake you up; is that right?

17 A. Yes, ma'am, some mornings.

18 Q. Okay.

19 A. Other mornings I'd stay asleep, she would be on
20 the love seat watching Sponge Bob. She loved Sponge
21 Bob.

22 Q. Okay. Why were you sleeping until 10 a.m.?

23 A. Me and Wendy would be up half the night.

24 Q. Half the night? Okay. So do you remember
25 telling Danny that me and Wendy take a bath together,

1 our bedtime's around eight and then we're asleep by ten
2 or 10:30?

3 A. I don't remember that.

4 Q. Okay.

5 A. The children's was around 8, 8:30, between 8 and
6 10. But we usually set up. We like to watch First 48
7 and things like that.

8 Q. Okay. And then you said -- he asked you: And
9 the next day the same thing? And you said: The same
10 thing. It's a never ending process except for when I do
11 pick up side work. So you had lots of time with **B.R.**
12 didn't you?

13 A. For the most part, yeah.

14 Q. And you -- and she'd come into the living room in
15 the mornings and you're asleep on the pullout couch.
16 And you and she are alone in there.

17 A. Yes, ma'am.

18 Q. **B.R.** was a cute little girl, wasn't she?

19 A. She still is, yes, ma'am.

20 Q. Did she ever ask you if she could crawl into the
21 bed with you?

22 A. No.

23 Q. No?

24 A. Me and Wendy doesn't permit that.

25 Q. Okay.

1 A. In fact, there has been times when [B.R.] was
2 sick and I slept on the floor beside the bed.

3 Q. Okay.

4 A. Just so [B.R.] could sleep in the bed with Wendy.
5 Because at that time, you know, Wendy's going through a
6 divorce and we don't need things said from her
7 ex-husband's point of view. It would just look bad in
8 court for her.

9 Q. Okay. So if you were worried that Neddie -- and
10 that's his name, correct, Neddie?

11 A. Yes. Yes, ma'am.

12 Q. And if you -- what I just gathered from what you
13 said is that you were worried that Neddie was gonna make
14 some kind of false sexual allegations. Is that what
15 you're saying?

16 A. He has in the past, yes, ma'am.

17 Q. Oh, he's accused you of sex abuse in the house?

18 A. He has accused me of other crimes in the past.

19 Q. Okay.

20 A. And he's accused Wendy of crimes in the past day
21 on when she got out of jail and went to court, that was
22 dropped and he was charged with false information to the
23 police. And when I went to jail and got out and took it
24 to court, that was also -- he was charged with false
25 information to a police. So he had been charged twice

1 for false information to a police to get me out of the
2 picture.

3 Q. Uh-huh.

4 A. To make Wendy pay for leaving him, to get custody
5 of the children and to make her pay child support.

6 Q. Uh-huh. He's a jerk. You agree with that, don't
7 you?

8 A. I mean, that's your opinion, yes, ma'am.

9 Q. Well, it sounds like it's your opinion too. He's
10 not a nice guy.

11 A. He's not a nice guy.

12 Q. No. And he did despicable things. But if you
13 thought there was a chance that he was gonna accuse you
14 of molesting B.R. why would you be willing to stay at
15 home alone with her? I mean, if, if I thought that was
16 a possibility, it wouldn't be reasonable for me to put
17 myself in a situation where someone could say, ah ha,
18 you had time. You had a chance to do it, would it?

19 A. Well, I never thought that it would go this far.

20 Q. You never did?

21 A. No, ma'am.

22 Q. Just got through saying all these horrible things
23 he did and you implied initially that he had falsely
24 accused you of that before, but then you come off of
25 that, but you're saying he accused you of other crimes.

1 A. By using his own children to get me out of the
2 picture, to make Wendy payback?

3 Q. Yeah.

4 A. I never thought that he would drop down that low
5 and be that sick.

6 Q. And he didn't, did he?

7 A. Yes, ma'am.

8 Q. Because that's not what happened.

9 A. Yes, he did.

10 Q. What happened is that you actually molested that
11 little girl.

12 A. No, I did not.

13 Q. Neddie is not a nice person, but neither are you
14 because you used her as a sex toy. That's what was
15 happening in the mornings, wasn't it?

16 A. No, ma'am, it's not.

17 Q. So when Danny Morgan -- let me go back to that
18 for a second. Are we gonna hear anything like the tape?
19 Have y'all pulled anything off to show where Danny's
20 being a monster to you?

21 A. As far as my and Danny's --

22 Q. Yeah. Because --

23 A. -- conversation?

24 Q. -- you tell the jury that he was a monster and
25 there is a disc that contains the entire interview, some

1 of which would not be admissible, which is why we didn't
2 play the whole thing. But are y'all gonna pull anything
3 off? Is the jury gonna get to hear where Danny is being
4 a monster to you? Because if that exists, that would be
5 something they should probably hear from you, right?

6 A. I mean, I've not listened to the tape at all so,
7 I mean, I don't know.

8 Q. So you're not gonna play anything for the jury
9 about that?

10 A. I'm not.

11 Q. They're not gonna be able to see that?

12 A. I don't know.

13 Q. If you were given time, would you be able to find
14 it on there?

15 A. If I was --

16 Q. If you were --

17 A. If I was given time, I could show and prove where
18 he was being a good cop/bad cop. I could show that to
19 the jury, yes, ma'am.

20 Q. How is that being a monster though? I mean,
21 because you said he turned into a monster, which made it
22 sound like he's raging and railing at you. But now we
23 find out, no, that's not really what happened at all.

24 A. I also said a monster is someone who accuses
25 someone of these charges, too. So, yes, I could show

1 that he's being a monster by accusing me of these
2 charges, ma'am.

3 Q. You know who's really a monster? Somebody who
4 licks a four-year-old's vagina and somebody who sticks
5 their penis in a four-year-old's butt.

6 A. You're exactly right.

7 Q. Uh-huh. So that would be --

8 A. That would be the monster.

9 Q. -- you because that's what happened; isn't that
10 right?

11 A. No, ma'am, it's not.

12 Q. When did you find out that B.R. had supposedly
13 said D.R. molested her?

14 A. Me and Wendy was actually on the phone. I had
15 went back to jail on a home detention violation --

16 Q. Uh-huh.

17 A. -- for being around Wendy. We was actually
18 caught at the flea market.

19 Q. Uh-huh.

20 A. And Wendy had actually told me that one of her
21 close family members had seen Wendy and D.R. in the
22 bed together and they was messing around.

23 Q. That seen Wendy and D.R. in bed?

24 A. Oh, excuse me. I'm sorry. Had seen B.R. and
25 D.R. in the bed together and seen D.R.'s head up

1 B.R.'s skirt and they were messing around. So I got
2 Wendy, you know, because Danny ---

3 Q. Who was the relative that saw that?

4 A. During the divorce -- can I explain, please?

5 Q. Who's the -- I get to ask the questions.

6 A. Okay.

7 Q. Who's the relative ---

8 THE COURT: Wait a minute. Wait a minute. He
9 needs to finish his answer.

10 BY MS. HALLFORD:

11 Q. Okay, go ahead.

12 A. Okay. During the divorce, Wendy did have a close
13 relative who stated that.

14 MS. HALLFORD: Object; hearsay.

15 THE WITNESS: And during the divorce, different
16 police of Chesnee City would come by our house and check
17 on us because that's where I had got arrested in the
18 city. And me and the police and Wendy also had
19 developed a relationship with the Chesnee police. So
20 then they came by one time. And as a matter of fact, as
21 Officer Colby had stated, well, if it's illegal for
22 me ---

23 MS. HALLFORD: Objection; hearsay.

24 THE COURT: Sir, you can't be telling us about
25 what other people said, just tell us what had happened.

1 THE WITNESS: Okay. Well, we recorded a phone
2 conversation. Wendy recorded a phone conversation.
3 Wendy, I believe it was Wendy's aunt or something like
4 that. I'm really not sure. By now it's been a very
5 long time. Had stated you never ---

6 MS. HALLFORD: Objection; hearsay.

7 THE WITNESS: It's on, it's on the tapes, so if
8 you listen to the tapes ---

9 THE COURT: Sir, it doesn't matter what's on the
10 tape. Do you want to be heard on that?

11 MR. THOMPSON: No, Your Honor.

12 THE COURT: Okay. It doesn't matter what's on
13 the tape. You cannot say what someone else said, okay?
14 All right.

15 THE WITNESS: But I learned -- the answer to your
16 question, I learned that [D.R.] was messing with [B.R.]
17 when I went back to the jail on a home detention
18 violation.

19 BY MS. HALLFORD:

20 Q. Roughly when would that have been?

21 A. That would have been around June.

22 Q. Of?

23 A. 2009.

24 Q. So -- okay. So you got arrested. Let's make
25 sure we understand this right. So you got arrested in

1 February of 2009?

2 A. Yes, ma'am.

3 Q. And then you've made bond?

4 A. Yes, ma'am.

5 Q. You're out for a little while?

6 A. Yes, ma'am.

7 Q. And you violated the conditions of your bond.

8 A. I did.

9 Q. You got put back in.

10 A. Yes, ma'am.

11 Q. Do you know what month you got put back in?

12 A. It was -- I believe, I believe it was June 23rd.

13 Q. Right around in there.

14 A. Right around in there --

15 Q. So then --

16 A. -- give or take --

17 Q. -- so then ---

18 THE COURT: Hang on. Hang on. I've got the best
19 court reporter there is.

20 MS. HALLFORD: I'm sorry.

21 THE COURT: But we can only have one person at a
22 time. Let him finish before you ask another question.

23 MS. HALLFORD: I'm sorry.

24 THE COURT: Okay.

25 MS. HALLFORD: I'm sorry.

1 THE COURT: Go ahead.

2 BY MS. HALLFORD:

3 Q. Sorry. You were saying when you thought it was.

4 A. Yes, ma'am. It was, I believe, around June 23rd,
5 give or take a day or two.

6 Q. Okay. Of 2009?

7 A. Yes, ma'am.

8 Q. Okay. And it's your testimony that Wendy --
9 y'all had a conversation while you were in the jail?

10 A. Yes, ma'am.

11 Q. Okay. And that's when Wendy supposedly told you
12 that it was actually D.R. that was messing with her?

13 A. Yes, ma'am.

14 Q. Okay. Well, that would be really important for
15 people to know about, right?

16 A. Yes, ma'am.

17 Q. So did you get in touch with Nikki Cantrell?

18 A. I did not.

19 Q. Did you ask Wendy to get in touch with Nikki
20 Cantrell?

21 A. No. I had told her that she did need to take the
22 tape and give it to my attorney at that time. And she
23 said she was going to, but whether she did -- I don't
24 believe she did because it never -- my attorney never
25 said that that's what happened.

1 Q. Did you tell your mom and dad that it was
2 actually [D.R.] who messed with [B.R.]

3 A. I did.

4 Q. Did your mom and dad get in touch with Nikki
5 Cantrell? Because your mom knows who Nikki is. Did
6 your mom get in touch with Nikki?

7 A. I don't think so.

8 Q. Because that would be super important for her to
9 know, wouldn't it, that she's got the wrong guy and
10 there's someone else who did this. That would be
11 important, wouldn't it?

12 A. That's part of the role of a mother, yes, ma'am.

13 Q. Yeah. So did your step dad call Nikki Cantrell
14 with this super important information that somebody else
15 did it, not you?

16 A. To my knowledge, no.

17 Q. Can you fathom someone having that information
18 and not making that call? Leaving your son to sit in
19 jail when they know the truth?

20 A. All of that information was given to the
21 attorney.

22 Q. Yeah. That -- none of that happened. [B.R.]
23 never said that [D.R.] did this. No one ever saw [D.R.]
24 do this. This is you coming up with some pathetic
25 excuse for what you did and bringing a 12-year-old boy.

1 A. No, ma'am.

2 Q. Because if people really had that information
3 back then, they would have been burning the phone lines
4 up to her because your mom knew who she was, your mom
5 talked to her before, and your mom would have been here
6 banging on the door. The fireball, your mom, remember?

7 A. Yes, ma'am.

8 Q. You described her as a fireball. That fireball
9 would have been over there at Nikki Cantrell's, (knocks
10 knuckles on table), my son didn't do this, somebody else
11 did. But that didn't happen because D.R. didn't do
12 it, you did. No one ever called me. No one ever called
13 Nikki.

14 THE COURT: Let me see the lawyers a minute.

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

17 BY MS. HALLFORD:

18 Q. So was it your voice that said: Now remember
19 what I said no face no case, right?

20 A. Yes, ma'am. There was actually two voices on
21 there but, yes, ma'am, I did tell her that.

22 Q. And it was your voice that said: Move. I want
23 you to move.

24 A. I did. And can I explain that?

25 Q. Go ahead.

1 A. My fear was for the safety at the children at the
2 time. Wendy, we've already established, Neddie was not
3 gonna engage in that. But the State also said if you
4 don't testify against Anthony and you've got to do this,
5 you've got to do that or your children will be taken
6 from you. So what's a mother to do? What's a mother to
7 do?

8 She -- a mother's always gonna be there for her
9 children. So she's going to testify against me. And I
10 did tell her to move, just like I slept out in the woods
11 for the children. I was concerned for their safety.

12 Q. Okay. So you said that you're concerned for the
13 safety of the children, but the person who was really,
14 according to you, molesting B.R. was D.R., right?
15 D.R. is still living with B.R. correct?

16 A. I do not know. I haven't had contact with this
17 family in over ten years.

18 Q. No, no, no. I'm talking about back then.

19 A. Okay.

20 Q. D.R. was still living with B.R. So the
21 danger to B.R. would be in the house with B.R.
22 correct?

23 A. Yes.

24 Q. And you're asking her to move with the danger and
25 with B.R. to another state, so how does that protect

1 the children?

2 A. I also asked her to give the tape to my attorney
3 and DSS.

4 Q. Did you ask your mom to call DSS?

5 A. No. Because everything was supposed to go to my
6 attorney.

7 Q. There's -- and let's make clear of something.
8 That this was not your attorney back then?

9 A. No, ma'am, it was not.

10 Q. No. No. So there are conversations between you
11 and Wendy where you say I don't trust my attorney; isn't
12 that right?

13 A. Yes.

14 Q. And you said: That I should be able to trust my
15 attorney; isn't that right?

16 A. Yes. I should be able to.

17 Q. So if you don't trust your attorney, then why are
18 you trusting your attorney to get that information out
19 to the people who need to have it?

20 A. Because it's his job.

21 Q. But you don't trust him.

22 A. I don't trust a lot of people.

23 Q. You specifically said, I don't trust my attorney.
24 But you want the jury to believe that you trusted him
25 with this super important information.

1 A. Yeah.

2 Q. And that you were concerned about the children
3 and that's why you wanted Wendy to move, correct?

4 A. Yes.

5 Q. And that you believe that [D.R.] was molesting
6 [B.R.]

7 A. That's what was on the tape. That's what was
8 said.

9 Q. Okay. And so your solution to that to protect
10 the kids is that [D.R.] and [B.R.] and Wendy and [M.R.]
11 all move together to another state.

12 A. My solution is to get it taken to my attorney and
13 let my attorney handle the DSS and the State.

14 Q. The attorney that you did not trust? You trusted
15 him with that super important information; is that
16 right?

17 A. That's right.

18 Q. So did you also say, do not let them go back to
19 that advocacy place, I need you to disappear and I need
20 you to disappear today, no face no case?

21 A. I said those things, yes, ma'am.

22 Q. Uh-huh.

23 A. And like I said, when I would call and [B.R.]
24 would be pitching a fit and her mother's nerves would be
25 tore up because she didn't want to go and see those

1 people. Yes, I did tell her if this is what you gotta
2 go through, don't take her back.

3 Q. So will the jury hear that telephone call?

4 A. Like I said earlier, there's conversations that
5 lasted several telephone calls and we would have to sit
6 here several time (sic), you know, and listen to several
7 phone calls to find it. But, yes, ma'am, if, if we set
8 here and listened to the tapes, yes, the jury would hear
9 that.

10 Q. Tell me about the substance of that conversation.

11 A. The substance of which conversation?

12 Q. The conversation you said the jury would hear if
13 we had time to listen to all that.

14 A. They would hear B.R. crying.

15 Q. Okay.

16 A. They would hear B.R. pitching a fit.

17 Q. Okay.

18 A. They would hear Wendy cussing.

19 Q. Okay. What would they hear you say to Wendy?

20 A. What's going on, Baby? Please tell me what is
21 going on.

22 Q. Okay.

23 A. I mean, I can't remember verbatim, you know, what
24 I said in conversation ten years ago. But I do know the
25 situation. You know, it was along the lines of B.R.

1 getting out of the car seat, pulling the wheel out from
2 under Wendy and crying, bitching and screaming and
3 things like that.

4 Q. Well, is there at some point in that
5 conversation, do you say don't let her go back to the
6 Advocacy Center because she doesn't want to go there and
7 I'm concerned about her?

8 A. Yeah.

9 Q. I mean, is that conversation we'll hear?

10 A. I mean, if it -- yes. Right.

11 Q. And are you the one who said: It's important for
12 you to change schools and everything, put the bills in
13 someone else's name, if you just disappear they got
14 nothing?

15 A. But then again ---

16 Q. No, no, no. I asked you if you --

17 A. I did say --

18 Q. -- said that.

19 A. -- that, yes.

20 Q. Okay. Now you can go.

21 A. I mean, like I said, the main thing is the
22 children's safety. She was going through a rough
23 divorce. Her daddy wasn't great, but we're not gonna
24 talk about her daddy. The State is alleging that I did
25 something very sick and I didn't do so, yes, I did make

1 those comments. I was at a time in my life, you know,
2 fairly dark. I had been in jail. The allegations are
3 very sick. I didn't do this. And I didn't, I did not
4 trust my attorney. My attorney wasn't helping. He was
5 not coming and seeing me. I had no one to turn to, so I
6 did need help.

7 Q. So your idea to protect them was to take -- was
8 for them to go to a different state; is that correct?

9 A. Yes, ma'am.

10 Q. For you to rely on the attorney you don't trust
11 to get this important information out; is that correct?

12 A. Yes, ma'am.

13 Q. For you not to have anyone tell Nikki Cantrell
14 about this super important information we have; is that
15 correct?

16 A. I never told Wendy not to tell Nikki. Wendy said
17 she ---

18 Q. Did you tell her to?

19 A. No. Because this is the woman that's trying to
20 put me in jail. Why would ---

21 Q. Wendy's the woman or Nikki?

22 A. Nikki. Why would I need to call her and tell her
23 any information about me? That's Wendy's job. She is
24 the mother.

25 Q. Do you remember having a conversation about how

1 you didn't trust Wendy either and what she did to you
2 last time you were in jail? Do you remember that
3 conversation about how you didn't trust her to have your
4 car title because she was gonna take it and run? You
5 didn't want her to have access to that. Do you remember
6 that?

7 A. Well, she did that, yes.

8 Q. Yeah. So you couldn't trust Wendy either, could
9 you?

10 A. That was later on. That, that was ---

11 Q. No. She had done that before you went to jail
12 this time, correct?

13 A. No. No. No.

14 Q. No?

15 A. She did that after I came back to jail. These
16 conversations right here are when I first got locked up
17 on home detention around June 23rd, somewhere give or
18 take a day.

19 Q. Uh-huh.

20 A. She did not forge signature on my title and sell
21 my car until after February the next year.

22 Q. Okay. All right. So you trusted Wendy at that
23 point?

24 A. I did. She was coming and seeing me. She was
25 putting money on my book.

1 Q. Okay.

2 A. Put a little spent money on my books, yes. And I
3 trusted her to do the right thing and say let's take it
4 to my attorney so that he could handle the situation
5 with DSS and the State. I did trust Wendy. I love her.

6 MS. HALLFORD: Okay. I have no further
7 questions.

8 THE COURT: Yes, sir.

9 REDIRECT EXAMINATION

10 BY MR. THOMPSON:

11 Q. Anthony, I'm just going to ask you very clearly
12 again, did you abuse B.R.

13 A. I did not.

14 Q. Did you molest her in any way?

15 A. I did not.

16 Q. Did you actively seek out Wendy because you knew
17 she had children that you could abuse?

18 A. No, I did not.

19 Q. In fact, when you moved in with Wendy, she didn't
20 even have the children in the home with her, did she?

21 A. No, she did not.

22 Q. And whether or not you might have been going
23 through a rough patch with Wendy sexually, that still
24 did not -- you wouldn't have turned to a four-year-old
25 girl to satisfy your sexual urges, would you?

1 A. Never.

2 Q. Would you have gone to another woman, another
3 adult woman instead?

4 A. Instead, yes.

5 MR. THOMPSON: I have no further questions.

6 THE COURT: Anything at all on that?

7 MS. HALLFORD: No, sir, Your Honor.

8 THE COURT: Thank you. Sir, you may step down,
9 please be careful.

10 (Witness leaves witness stand.)

11 MR. THOMPSON: The defense would rest, Your
12 Honor.

13 THE COURT: Okay. Ladies and gentlemen of the
14 jury, believe it or not we're right on top of our break
15 for the morning. About five minutes early, but we're
16 not gonna call another witness or do anything with it
17 being that close.

18 So at this time, Madam Forelady, let's take the
19 jury out. And if someone needs to smoke, this would be
20 the time to do that. Don't talk about the case. It's
21 not at an end. It's getting close, very close, but it's
22 not at an end and I asked this before.

23 Madam Forelady, take the jury out, please.

24 (Jury leaves the courtroom from 10:22 a.m. -
25 10:23 a.m.)

1 THE COURT: Okay. The tapes are ready?

2 MS. HALLFORD: Yes. And it's like one minute
3 long.

4 THE COURT: Okay. Are you gonna put, are you
5 gonna put that in through the officer or it's already
6 in?

7 MS. HALLFORD: It's to impeach him.

8 THE COURT: Yes.

9 MS. HALLFORD: He denied making it, so it was my
10 understanding that I would just play it.

11 THE COURT: You can or you could, if you want to,
12 you can call him back to the stand if you want to do
13 that. Or whatever you think. Or you could put it in
14 through the officer. It's already in evidence anyway,
15 right?

16 MR. THOMPSON: No.

17 MS. HALLFORD: No.

18 THE COURT: It's not in evidence?

19 MS. HALLFORD: No, it's not because this is on,
20 this is on the polygraph.

21 THE COURT: Oh, okay.

22 MS. HALLFORD: So we can't play the video.

23 THE COURT: No.

24 MS. HALLFORD: We would --

25 THE COURT: Right.

1 MS. HALLFORD: -- just want the audio because
2 he's sitting there in the chair and everything.

3 MR. THOMPSON: Your Honor, not to help them out,
4 but if you wanted to, I'm sure if Nikki testified that
5 she watched the interview and is familiar with the
6 interview and...

7 MS. HALLFORD: I don't think she saw that part of
8 it. She didn't see that part of it, because that's the
9 first part of it and she was not there until after the
10 lunch. So, but it's extraneous evidence -- whatever the
11 word is, I can't think of it -- to prove he denied
12 making statements, so can't I just -- okay. We could
13 call him back to the stand.

14 THE COURT: You could even do that or if she
15 knows his voice, all you've got to do is authenticate it
16 through the voice.

17 MS. HALLFORD: Okay. Well, then when she gets
18 back up to testify, I'll ask her. Okay.

19 THE COURT: Is that his voice.

20 MS. HALLFORD: Okay.

21 THE COURT: If he challenges it, he's got a
22 lawyer that can challenge.

23 MS. HALLFORD: Okay.

24 THE COURT: Ready for the jury?

25 MS. HALLFORD: Yes, sir, Your Honor.

1 MR. THOMPSON: Yes, Your Honor.

2 THE COURT: Okay.

3 MR. THOMPSON: Your Honor, do I -- procedurally
4 I'm not sure about this. Do I need to renew my motion
5 for directed verdict again after their reply testimony?

6 THE COURT: It would be safe.

7 MR. THOMPSON: Okay. So do we want to send the
8 jury back and go ahead and ---

9 THE COURT: Well, what we would do is, you don't
10 intend to -- do you intend to call anybody after that?

11 MR. THOMPSON: I do not.

12 THE COURT: Okay. Then that will be an
13 appropriate time to send them out.

14 MR. THOMPSON: Okay.

15 THE COURT: It'll also be a time for you to
16 gather your thoughts before we charge the jury.

17 MR. THOMPSON: Okay. Fantastic.

18 THE COURT: Okay. So it may be -- this is gonna
19 take, what, just a couple minutes?

20 MS. HALLFORD: Not very long at all. I mean, my
21 part of it, probably five minutes for each witness. I
22 don't know how long his cross will go.

23 THE COURT: Probably not so ---

24 MR. THOMPSON: You know how rigorous my cross has
25 been so far and how lengthy I've been, so...

1 THE COURT: Well, let's get us a lunch order for
2 the jurors.

3 THE CLERK: Chick Fil-A or Jason's Deli?

4 THE COURT: Do Jason's. Do half turkey and half
5 ham. They can pick out what they want.

6 THE CLERK: Okay.

7 THE COURT: Because we'll do this. I'll send
8 them out. We can do motions. Then I'll give you guys
9 about 15, 20 minutes. We've already had our clerk bring
10 them back in. So maybe 11:45-ish we're ready to argue
11 and charge.

12 MR. THOMPSON: Yes, Your Honor. And one, one
13 final matter. Did -- has the verdict form been
14 prepared?

15 THE COURT: It has. Do y'all want to look at it?

16 MR. THOMPSON: Yeah.

17 (Whereupon, a bench conference was held off the
18 record.)

19 THE COURT: Okay. We'll have the jury.

20 Madam Forelady, give your attention to the
21 solicitor.

22 Yes, ma'am.

23 MS. HALLFORD: The State calls B.R. [REDACTED]

24 (Whereupon, witness comes forward.)

25 THE COURT: Ms. B. R. [REDACTED], you were previously

1 sworn in in this case. You remain under oath. Do you
2 understand?

3 THE DEFENDANT: Yes, sir.

4 B.R.

5 having been previously sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MS. HALLFORD:

8 Q. B.R. who's D.R.?

9 A. My brother.

10 Q. How much older is he than you?

11 A. He's 22.

12 Q. And you are 15, correct?

13 A. Yes.

14 Q. Sorry, I don't do math. Seven years?

15 A. Yeah.

16 Q. Okay. Did he live with you when you were growing
17 up?

18 A. Yes.

19 Q. Did D.R. ever touch you sexually?

20 A. No.

21 Q. Did D.R. ever put his mouth on your vagina?

22 A. No.

23 Q. Did D.R. ever put his penis in your butt?

24 A. No.

25 Q. Did D.R. ever put his fingers in your vagina?

1 A. No.

2 Q. After Anthony Briggs moved out of your house
3 after he was arrested, were you ever sexually molested
4 again?

5 A. No.

6 Q. Did you ever tell someone that D.R. molested
7 you?

8 A. Not that I remember.

9 Q. Would you have told them that if it were not
10 true?

11 A. No.

12 MS. HALLFORD: No further questions.

13 THE COURT: Yes, sir.

14 CROSS-EXAMINATION

15 BY MR. THOMPSON:

16 Q. B.R. you just said that you don't remember
17 telling anybody that D.R. molested you.

18 A. Yes.

19 Q. That's correct?

20 A. Yes.

21 Q. And you testified, I believe, on Monday that you
22 did not remember Amber Wofford; is that correct?

23 A. Yes.

24 Q. You don't remember talking to her?

25 A. Yes.

1 MR. THOMPSON: No further questions.

2 REDIRECT EXAMINATION

3 BY MS. HALLFORD:

4 Q. But you know your brother did not molest you,
5 correct?

6 A. Yes.

7 THE COURT: Anything?

8 MR. THOMPSON: No, Your Honor.

9 THE COURT: Ma'am, you may step down. Please be
10 careful.

11 (Whereupon, witness leaves the witness stand.)

12 MS. HALLFORD: The State calls Nikki Cantrell.

13 (Whereupon, witness comes forward.)

14 THE COURT: Agent, you were previously sworn and
15 you remain under oath.

16 THE WITNESS: Yes, sir.

17 THE COURT: Solicitor.

18 NIKKI CANTRELL,

19 having been duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MS. HALLFORD:

22 Q. Investigator Cantrell, we're gonna play a short
23 clip from the interview with Danny Morgan and tell me if
24 you can identify on this disc who this speaker is.

25 (Whereupon, plays audio.)

1 MS. HALLFORD: Your Honor, I apologize. I gave
2 her the wrong time. Your Honor, I apologize. I don't
3 know. I put the wrong time down, so we're not gonna be
4 able to play that audio.

5 THE COURT: Okay. Do you got any other
6 questions?

7 MS. HALLFORD: Yes, I do.

8 BY MS. HALLFORD:

9 Q. You said that you listened to all the jail calls.

10 A. Yes, ma'am.

11 Q. And I am handing you what's been marked State's
12 -- Court's Exhibit Number 4. Do you recognize that?

13 A. I do.

14 Q. Is that the original disk?

15 A. Yes, ma'am.

16 Q. We talked about that Monday, Tuesday when you
17 testified?

18 A. Yes, ma'am.

19 Q. So what are the dates on here for those calls?

20 A. February 18th, 2009 through February 18th, 2010.

21 Q. Okay. And how many calls are on this disc?

22 A. 487.

23 Q. Did you listen to all those calls?

24 A. Yes, ma'am.

25 Q. Who were those calls between?

1 A. Anthony Briggs and Wendy Richards.

2 Q. At any point during those conversations, did you
3 hear them talking about [D.R.] having molested [B.R.]

4 A. No, ma'am.

5 Q. Did you ever hear the defendant tell Wendy to let
6 her attorney know that [D.R.] had molested [B.R.]

7 A. No, ma'am.

8 Q. Did you ever hear the defendant tell Wendy to let
9 his parents know that [D.R.] had molested [B.R.]

10 A. No, ma'am.

11 Q. If you had ever heard anything in any of those
12 487 calls that implied or suggested that [D.R.] had
13 molested [B.R.] what would you have done?

14 A. We would have done an investigation.

15 Q. And why would you have done that?

16 A. Because if there's an allegation of sexual abuse,
17 that's our job to investigate that.

18 MS. HALLFORD: No further questions.

19 THE COURT: Yes, sir.

20 MR. THOMPSON: I don't have any questions.

21 THE COURT: Thank you. Agent, you may step down.

22 (Whereupon, witness leaves witness stand.)

23 Anything further?

24 MS. HALLFORD: Nothing from the State, Your

25 Honor.

1 THE COURT: Anything?

2 MR. THOMPSON: No, Your Honor.

3 THE COURT: Madam Forelady, ladies and gentlemen,
4 let me tell you where we are. We are now at the end of
5 the trial to where the lawyers are gonna make closing
6 statements to you, I'm gonna charge you on the law, and
7 the case will then be in the jury's hands to begin its
8 deliberations and decide the case.

9 I'm gonna excuse you back to your jury room at
10 this time. It is so easy when you are practicing law to
11 have a piece of evidence that belongs to you when you're
12 sitting over there at the table and it belongs up here
13 because it belongs to you. So the lawyers and I are
14 gonna talk just for a few minutes, and when you return
15 you should expect the lawyers to make what's known as
16 their closing statements to you, and then I will charge
17 you on the law, at which time you will then retire.

18 I am mindful of the hour. It is five minutes
19 after 11. I have ordered your lunch. I hope everyone
20 likes steak and lobster. It won't be that. But it is
21 coming from Jason's?

22 THE CLERK: Yes.

23 THE COURT: It is coming from Jason's Deli, okay?
24 So you will have a boxed lunch and we have sweet tea,
25 unsweet and water, but there will be a box lunch for you

1 somewhere at the end when you retire to deliberate and
2 should be here by the time that you do that.

3 All right. So this is gonna take us about -- I'm
4 gonna give the lawyers a few minutes to collect their
5 thoughts, so expect to be back about 25 past the hour,
6 no later than the bottom of the hour. We'll let them
7 collect their thoughts and get ready to make their
8 statements to you. And then we proceed right into that.
9 You will then retire and then you will have a working
10 lunch. However the jury wants to do that, it does not
11 matter to me, Madam Forelady.

12 We'll talk more about that momentarily. All
13 right. If you'll take the jury out. Please don't begin
14 your deliberations yet. It's close, but not yet.

15 (Whereupon, jury leaves the courtroom at 11:07
16 a.m.)

17 THE COURT: Matters from the State?

18 MS. HALLFORD: Nothing from the State, Your
19 Honor.

20 THE COURT: Matters from the defense?

21 MR. THOMPSON: Your Honor, I would just renew my
22 motion for a directed verdict a second time, just for
23 the purposes of preserving the record.

24 THE COURT: And anything from the State?

25 MS. HALLFORD: The same thing as last time, Your

1 Honor.

2 THE COURT: All right. And the motions are
3 denied for the very same reasons heretofore enunciated
4 by the Court. Sir, you are protected.

5 MR. THOMPSON: Thank you, Your Honor.

6 THE COURT: Okay. Now, I'm gonna give you about
7 -- anybody need more than about 15 minutes or so to
8 collect your thoughts?

9 MS. HALLFORD: No, sir.

10 THE COURT: We had our jury charge, but if
11 anybody wants to look at it I'm gonna leave it right
12 here. We talked about it. You have it on your e-mails
13 as well. She's getting the corrected verdict form. You
14 can look at that before anybody's sighed a word. And
15 here comes Mr. Spenser Smith, so we're gonna be in
16 recess right now. So if you want to get together, let's
17 find out where we are on the next trial.

18 MR. SMITH: I will contact the clerk. Thank you,
19 Judge.

20 THE COURT: Contact her. We'll be right back.
21 Come around to the visiting judge's chambers.

22 MR. SMITH: Okay. That was good timing.

23 THE COURT: All right, great. We'll be in recess
24 and we'll see where we are on this next trial.

25 (Whereupon, a recess was had from 11:07 a.m. -

1 11:34 a.m.)

2 THE COURT: Are we ready for the jury?

3 MS. HALLFORD: State's ready.

4 MR. THOMPSON: Yes, sir.

5 THE COURT: Okay, we'll have the jury.

6 (Whereupon, jury enters the courtroom at 11:34

7 a.m.)

8 THE COURT: Madam Forelady, is the jury ready?

9 THE FORELADY: Yes, sir.

10 THE COURT: Okay. Give your attention to these
11 lawyers.

12 Yes, ma'am.

13 CLOSING STATEMENT

14 BY MS. HALLFORD:

15 Anthony Briggs is charged with lewd act with a
16 minor and he's charged with criminal sexual conduct with
17 a minor in the first degree. The judge, at the end of
18 our closings, is going to read to you what the law is.
19 And I'm gonna go over it briefly, but if I say something
20 that contradicts him, he's the winner, you go with him.

21 Lewd act is a person over the age of 14 who
22 willfully and lewdly commits or attempts to commit a
23 lewd or lascivious act upon or with the body or its part
24 of a child under 12 with the intent of arousing,
25 appealing to or gratifying the passions or sexual

1 desires of the person or the child.

2 Basically, touching someone sexually, someone
3 under the age of 14 -- under the age of 16 and the
4 actor, the person who does it, is over the age of 14.
5 Willfully means that you voluntarily and intentionally
6 with a specific intent to do something. Lewd, of
7 course, is obscene, lustful, morally impure. And
8 Lascivious, tending to excite, lust, indecency,
9 obscenity.

10 Criminal sexual conduct with a minor in the first
11 degree requires a sexual battery with a victim who is
12 under the age of 11, so zero to ten years. Sexual
13 battery is sexual intercourse, anal intercourse,
14 fellatio performed on a man, oral sex performed on a
15 man, cunnilingus, oral sex performed on a woman, or any
16 intrusion, however slight of any part of the person's
17 body or any object into the genital or anal openings of
18 another person's body.

19 And, of course, there's an exception. If you're
20 a doctor you can do that and you're not guilty of a
21 crime. That's what sexual battery is. That's what the
22 defendant has been charged with. And I have to prove
23 each element of those crimes.

24 The judge is gonna tell you about reasonable
25 doubt. I'm gonna talk to you about that briefly, too.

1 He's gonna charge you that it's the kind of doubt that
2 -- it's the kind of proof that leaves you firmly
3 convinced of the defendant's guilt, or it's the kind of
4 doubt that would cause a reasonable person to hesitate
5 to act.

6 Now, sometimes defense attorneys will get up and
7 they'll say, if you can't go back into that jury room
8 and immediately say he's guilty, then you have hesitated
9 to act and, therefore, you must find him not guilty.
10 And that's ridiculous because we call it jury
11 deliberations for a reason.

12 Y'all are supposed to deliberate. One of you
13 might have caught something that someone else didn't
14 catch. One of you may have heard something and think,
15 wow, that's really significant. I need to bring that to
16 the other juror's attention.

17 So you are to deliberate. You are to discuss all
18 the evidence. You do hesitate to deliberate, but that's
19 not the kind of hesitation they're talking about. After
20 you have deliberated, if then you're still hesitating to
21 act, then you can find him not guilty.

22 But if at that point after you've talked about
23 everything and considered all the evidence and listened
24 to each other's opinions and you're firmly convinced of
25 the defendant's guilt, then you find him guilty because

1 we have met the burden.

2 So the judge told you that he is the arbitrator
3 of the law and you guys are the fact finders. And you
4 get to decide. You've heard the witnesses. You get to
5 decide the credibility of the witnesses. Whether you
6 believe every single thing they said, a little bit of
7 what they said, or nothing of what they said. And you
8 use your common sense and your life experiences.

9 You guys have been living longer than 18 years.
10 Some of us for much longer than that. And we all have
11 life experiences and we all know kind of how to read
12 people and we all know about people's motives and the
13 bias. And that's something else that you consider when
14 you're determining the credibility of the jury. Who has
15 a motive to lie?

16 So let's talk about lying for just a minute.
17 Now, there are people who are pathological liars and
18 they lie about everything. We're gonna set them aside,
19 we're not considering them. Typically will lie for two
20 reasons, to get out of trouble or to get some kind of a
21 benefit.

22 So B.R. was four and five when this -- the
23 timeframe when we know this was possibly going on. Of
24 course, she doesn't know the exact dates because she was
25 four and five, but she wasn't in any kind of trouble.

1 And the kind of lie you would tell to get out of trouble
2 is to blame somebody else for something. Like, oh, I
3 broke this, but my brother did.

4 Or you might lie to get a benefit. So what kind
5 of benefit did B.R. get from this? She got to talk to
6 multiple people about a sexual experience and she's a
7 little kid. And she tells about this and then she finds
8 out that her mom is still talking to her abuser. So she
9 got no parental support. She got to have a
10 gynecological exam, which none of you men have
11 experienced, but they are not fun at all. So she had to
12 go through that.

13 And you -- put you -- it's difficult for people
14 to talk in public. That's one of the number one fears.
15 When y'all came in and you sat down and you found out
16 that you were gonna have to stand up and you're gonna
17 have to talk about your name and who your spouse is and
18 where you work and where your spouse works, most of you
19 got a knot in the pit of your stomach.

20 And then when you realized it was going in
21 alphabetical order and it was getting closer to your
22 name, that knot probably got a little bit worse and your
23 heart starts pounding and your throat starts to
24 constrict because you're gonna have to stand up and talk
25 about you briefly in front of a bunch of strangers and

1 it was scary for most of you.

2 Imagine if what the clerk of court had said to
3 you is stand up and tell me about your worst sexual
4 experience. Think of what that would have been like.

5 Now, you heard from **B.R.** at two ages. You
6 heard from her in the CAC video when she was young, and
7 you heard from her on the stand. I'm not gonna talk
8 about every detail of the CAC video, but you're gonna
9 have both of those back there with you. And I ask you
10 to watch them again because it was hard to hear in here
11 and you can probably adjust the sound better in the room
12 and be able to catch things better.

13 But you'll notice at the very beginning when she
14 first gets in there, she's coloring and she's chatty and
15 she's happy. And then they start talking about what had
16 happened. And she gets timid and you can tell she
17 doesn't want to talk about it and she says she wants to
18 go to the bathroom.

19 Apparently the defense theory is that someone
20 else did it, **D.R.**, but Neddie talked **B.R.** into
21 actually saying that it was Anthony. If her dad had
22 told her to say this, then she would have no reason to
23 feel uncomfortable about talking about it because that
24 would then be a lie that your parent has told you to
25 tell and you would then think it was okay because you're

1 a little kid. My dad told me it was okay to talk about
2 it.

3 Watch that video and watch her demeanor and see
4 how that makes her feel and you can understand that this
5 was real to her. This wasn't something someone told her
6 to say. This was something she experienced.

7 She says it happened on the layout couch. She
8 says it happened when mom was at work, when the siblings
9 were at school and when she was home alone with Anthony.

10 Now, again, presumably it was -- the defense
11 wants you to believe it was **D.R.** who did this. So
12 here's a little girl who at five years old, cause she
13 gets interviewed at five, is sophisticated enough to
14 think my brother did this to me, but I'm gonna say
15 somebody else did it.

16 And she was clever enough to imagine a scenario
17 where the only person there was Anthony. In the morning
18 while everyone else was gone. On the layout couch,
19 which is where Anthony slept and laid in bed until
20 10 o'clock in the morning, right around in there. And
21 her brother is nowhere around. And that's what she
22 described as having happened to her, and that is what
23 she remained consistent with.

24 Now, the people she disclosed to, by rule, are
25 not allowed to tell you the specifics of what she

1 disclosed or who she said did it, but they are allowed
2 to tell you time and place. And from the very beginning
3 when this happened until a year later when she talks to
4 her grandma and tells her grandma about it, it's still
5 on the layout couch and it's when they were gone to
6 school, and it was when mom was at work, and it's when
7 she's home with Anthony.

8 And she stuck to the truth even though she knew
9 that her mother was still having contact with the man
10 who had done this to her. And she maintained that. And
11 Shauna Galloway-Williams talked to you guys about the
12 effect of it being a relationship kind of thing where
13 it's hard for a child to separate what's happened to
14 them to -- from the love that they have for that person.

15 So she says he put his hand on my privates. And
16 in the video, listen to this, she says: He kept on
17 doing it to me. That's what a kid would say who
18 experienced it, wanted it to stop, but he kept on doing
19 it to me. That's not something that you could convince
20 a child to say.

21 And she says, he kept pushing down on her
22 private. Now, think about this. She's a little girl
23 who has no sexual experience other than this. So she
24 doesn't know how to explain this. And I don't mean to
25 be gross, but if you put your finger inside, that's

1 gonna feel to her like pressing down on it. That is a
2 sensory detail that she would only know if she had
3 experienced it.

4 She says, I'm lucky I don't have to live with
5 him. I don't want to live with him. She said it hurt.
6 And then she talks about him putting his mouth on her
7 privates. And the forensic interviewer says, did
8 anything come out of his mouth and she said his tongue.

9 That is such a poignant and real moment and such
10 truth. Did anything come out of his mouth? His tongue.
11 And she said, did it feel like anything? She said, what
12 did it feel like? And she said, it didn't feel like
13 anything. Because when you ask a child what did
14 something feel like, they want to compare it to
15 something that they've experienced before.

16 And she's four or right at five-years-old. And
17 no one's ever licked her vagina before because she's a
18 little girl and she should never have had to experience
19 that, but she did.

20 She said that he put his private in her butt.
21 And then she says, I got up and used the bathroom and it
22 hurt. And the forensic interviewer says, what happened
23 when he used his private to stick it in your butt? And
24 she said, he stopped.

25 Again, that's what a child had experienced

1 because she does not understand what is going on to her.
2 But what happened is this was going on and then he
3 stopped. She drew a picture. She says, here was him.
4 We was under the cover. There was two covers when she
5 drew a picture of his penis. She says, it's white when
6 she draws. She puts what her drawing is for hair.

7 She's asked, did Anthony want you to touch him
8 anywhere and she said on his private, that I didn't
9 touch him there. I didn't touch him. And she makes a
10 motion to demonstrate.

11 Those are things that someone who actually
12 experienced this would say. That's not something
13 someone could talk her into saying you wouldn't even
14 think to say, oh, make sure that you say I didn't
15 actually touch and I make a gesture that you drew your
16 hand back. That, watch that. That is so real to that
17 child and it's real because it happened and she's
18 telling you about it. Little **B.R.**

19 So then she goes back for another interview. And
20 I toyed with whether I should play that, but I didn't
21 want to -- I don't want it to ever look that I'm not
22 showing everything. And so she was reluctant to talk.
23 And she's clearly not interested in talking about it.
24 She's done talking about it.

25 And the forensic interviewer has to say to her,

1 do you remember what you told me about the front part of
2 your body, no one's supposed to touch me there. Did
3 someone touch you there? My mom's boyfriend Anthony.
4 Do you remember telling me about the back part, no one's
5 supposed to touch me there, he touched her there.

6 The forensic interviewer asked her how that made
7 her feel when he went to jail and she said she felt sad
8 and that her mom felt sad. And remember, Shauna talked
9 about this. She is sad because he was like a father
10 figure to her. He was somebody that she cared about.
11 But this bad thing was happening to her.

12 The forensic interviewer says to her, did someone
13 tell you not to talk about this? She says, Antsony
14 (phonetic). Y'all focus in on that because the forensic
15 interviewer missed understood her and said, Aunt Sandy.
16 And she didn't correct her, but she told you from the
17 stand that she doesn't have an Aunt Sandy and she
18 doesn't know anybody that she would have called Aunt
19 Sandy. What she said is that Antsony told her not to
20 say that, but she did anyway because she got her courage
21 up.

22 Then in the second interview she goes through a
23 couple of rooms. Did anything happen here? And she
24 finally says I done tell y'all that, I'm hungry. She's
25 done.

1 I have a son. And when he was five-years-old
2 something really sad happened. I had to tell him about
3 it and he cried. It was appropriate for him to cry, it
4 was a real tragedy. But about an hour later he was
5 running around playing like it was nothing because
6 that's how kids deal with stuff.

7 But I felt like he was not processing this. And
8 I'm a mom and so I want to talk to him about it. And
9 his response to me was you already told me that. We
10 already talked about it. He didn't want to talk about
11 it anymore.

12 That doesn't mean that's the only thing that's
13 ever happened to him to date in his life, it was that he
14 was five and that's how kids like that roll.

15 I said it, we talked about it, I'm done. Why are
16 you even bringing this up again? Cause that's how they
17 are. And she says at one point, don't you remember what
18 I told you? So she's not interested in talking about it
19 anymore. But let me tell you and catch this because
20 she's asked if anyone ever touched you here, go through
21 the anatomy. Has anyone ever touched this, has anyone
22 ever touched that. She never says **D.R.**. She always
23 says Anthony.

24 And she's in a safe place at that point. There's
25 no one there to put undue pressure on her from the

1 outside. It's just her and the forensic interviewer.
2 But she never says [D.R.]. The reason she didn't say it
3 is because [D.R.] never touched her, Anthony did.

4 So [B.R.] testified, and she testified to you
5 about what she remembers. And she told you that she
6 watched those videos before she came and talked to
7 people in my office, so she remained consistent in what
8 she remembered.

9 She remembered him licking her private. She
10 remembered him touching her private. She remembered him
11 putting his private on her private, but she's tried to
12 forget. And she told you, why would I want to remember
13 something like that? Why would she? She wouldn't.

14 It's been over -- it's been ten years. Shauna
15 Galloway-Williams said you'd expect the core details to
16 remain the same, and they did. She did not remember some
17 things, but she remembered most of them. She remembered
18 where it happened. She remembered when it happened, and
19 she has tried to forget. If this were lie that she had
20 come up with as a five-year-old or that someone had put
21 in her head -- and from the defendant, we know that his
22 theory is that it was Neddie.

23 She told you she doesn't have a relationship with
24 Neddie anymore. So if Neddie put it up to her, there's
25 no gain for her to stick him with that now. There's

1 not.

2 And she told you, I wouldn't be testifying to
3 this, if it hadn't happened. I would not want to put an
4 innocent man in jail. But if that were her motivation,
5 if she still was wrong with this lie that someone put in
6 her head, then after she watched those videos and came
7 to talk to people in the solicitor's office, she would
8 have said, oh, yeah, I remember that he stuck his
9 private in my butt. I remember that he stuck his finger
10 inside me, because those are the two things she doesn't
11 remember.

12 But she is telling the truth, so she didn't try
13 to lie. She didn't try to say she remembered something
14 she didn't. She's just telling you what she remembered.

15 Shauna talked to you about delayed disclosure.
16 And a lot of times people think, man, if something bad
17 happens to a kid they're gonna run right to the first
18 person that they see and tell them. And that's just not
19 the reality. That is not how it happens at all.

20 And she talked to you about a lot of things that
21 can affect that. And I'm not gonna go through them
22 again, but I am gonna talk about the effect that it has
23 on a child when it's someone that they love and care
24 about.

25 And the defendant said that he loved B.R. and

1 that B.R. loved him. And I don't doubt that for a
2 minute. There are people who love their kids who do bad
3 things to them. And the kid still loved that person.
4 And he says, B.R. I do great things for B.R.
5 B.R. loved me.

6 You know, we love our children, but we spank them
7 and they don't like it and they want it to stop, but
8 that doesn't mean that they stopped loving us and that
9 they stopped wanting the good things from us, they just
10 don't want any pain from us. But they still want mom or
11 they still want dad.

12 So think of the conflict with B.R. who loved
13 him and he did good things for her, so why would she
14 falsely accuse this man that she cared about? She said
15 it happened because he was doing it. And then she felt
16 sad because he's out of her life.

17 And other than the bad thing that he had been
18 doing, he was apparently a great person to her. But
19 great people do bad things sometimes. You know, if you
20 watch the news you'll see these roundups of people and
21 they're like, oh, my gosh, that was my neighbor. He's
22 the most wonderful person in the world, I would have
23 never guessed he would have done something like that.
24 But it happens.

25 You can't look at someone and know who they are

1 on the inside. It would be great if we could, but we
2 can't.

3 So she disclosed to Judy a year later. Oh,
4 excuse me, she disclosed to Donna a year later, around
5 February 2010. She's kept to that, the truth of that.

6 Donna asked her what happened and she says: It
7 happened on the pullout couch. She knew her mom was
8 still having contact with him. How hard that must have
9 been for her to stick with that.

10 I don't believe for a minute that she actually
11 ever said that [D.R.] did this to her. I don't believe
12 it. Now -- and there's a lot of reasons I don't believe
13 that.

14 But if they actually had this information, they
15 would have not relied on an attorney he didn't trust.
16 They would have been banging the door to let Nikki know
17 or to let DSS know, particularly since she's still
18 around him. That's not what happened.

19 This is something -- this is a cynical and
20 disgusting ploy to blame somebody else. And who else
21 could they blame but the only other person who was
22 around her a lot. The only other male, a 12-year-old
23 boy. But [B.R.] told you from the stand that he had --
24 did not ever molest her. Then after he, Anthony Briggs,
25 moved out of the house, but she was never molested

1 again. And she lived with him, with [D.R.] for a long
2 time.

3 The defendant got interviewed and I'm not gonna
4 go through everything he said. Just gonna hit the high
5 points. He did say I think it's stupid and I think it's
6 sick, and that's true. It is stupid and it is sick.
7 And he told Nikki, I'm sick and I need help.

8 He wasn't talking about having a stomach ache.
9 He wasn't talking about having a headache. In the
10 context of that conversation, he was saying I'm sick and
11 I need help. I'm sick and I need help is not even in
12 your vocabulary when you have a stomach ache or when you
13 have a headache.

14 When I have a headache, I don't go to my friends
15 and say I'm sick and I need help. I say I have a
16 headache. When my stomach hurts, I don't go to my
17 friends and say my stomach hurts -- I mean, excuse me, I
18 don't go to my friends and say I need help. I say my
19 stomach hurts.

20 What he was talking about was the sickness of his
21 desire for a little girl. He was there in the mornings
22 with her. He said he doesn't have a good sex life with
23 Wendy. Said something different today, but when he
24 talked to Danny Morgan he said I didn't have a sex life.
25 I don't know what prompted him to do this.

1 I don't know if his entire focus is on little
2 girls, or if it was just that he and Wendy weren't
3 getting any, weren't doing any and here was this child
4 who was available and so he decided to take advantage of
5 that. Maybe that is how he wanted to show his love to
6 her. Maybe that's his perversion that he desires little
7 girls. But he used her and then he said I'm sick and I
8 need help.

9 And if his denial, if what he was gonna tell
10 Wendy was a denial, there doesn't need to be all that
11 drama. There doesn't need to be, oh, I haven't told him
12 yet, give me a little bit more time. If you're gonna go
13 to her and say I didn't mess with B.R. then you just
14 come out and say it. You don't need repeated
15 opportunities to talk to her about that.

16 He tells Danny Morgan, when Danny says, are you
17 trying to say you didn't touch her? He says, well I
18 can't tell you that because you know different. And he
19 says, I'm not gonna sit here and tell you I did, and I'm
20 not gonna sit here and tell you I didn't. Those are not
21 the words of an innocent person. If he didn't do it,
22 he'd say I'm gonna sit here and tell you I did not do
23 it. I did not do this, but he didn't. He didn't.

24 And when he first met with Nikki Cantrell, he
25 didn't even deny the allegations until the DSS worker

1 flat out asked him about it. He wanted to focus on
2 Neddie.

3 So he goes down, gets to talk to his mom and
4 after that things change. He's almost ready to tell
5 them what he'd done. And then he talked to his mom, who
6 by his own description is a fireball. And that
7 tightened him up a little bit. And he goes back
8 upstairs and he tells Nikki I never touched B.R. and
9 he gives a written statement.

10 But then on the way to jail he says, I want to
11 tell you the truth now. That means that statement that
12 I did not touch Nikki was not the truth. Because if
13 that was the truth, he wouldn't be saying I want to tell
14 you the truth now. That was not the truth.

15 And at the jail she says he wants to talk to her
16 again. And by that time he's saying I'm too tired. You
17 know, I haven't had enough to eat, I'm hungry again.
18 And so she doesn't take his statement from him. And
19 then he doesn't contact her again.

20 Heard the jail calls. The defense has them too.
21 If there was anything helpful to the defendant in those
22 jail calls, they could have pulled them and played them
23 to you. Same access to them as I do. And as Nikki told
24 you, there are hundreds and hundreds of calls. It's a
25 real pain to listen to them.

1 But he says, you can't prove or disprove oral
2 sex. It's my word against yours. That's not the
3 statement of an innocent man. No face, no case. Not
4 the statement of an innocent man. I need you to
5 disappear and I need you to disappear today. Not the
6 statement of an innocent man.

7 And do you know what's not on those calls?
8 There's not a single conversation between him and Wendy
9 about how [D.R.] did this.

10 And the time span would have certainly
11 encompassed that and months and months thereafter
12 because he said he found out about it in about June of
13 2009 and these calls go into 2010. Not a single
14 conversation about that. You know why? Because it
15 didn't happen.

16 Anthony Briggs is guilty. He's guilty of lewd
17 act with a minor and he's guilty of criminal sexual
18 conduct with a minor in the first degree. And we would
19 like to think that we live in a world where this does
20 not happen, but we don't. We do live in a world where
21 this happened, and it happened to [B.R.] The
22 person who did it was Anthony Briggs. And I ask you to
23 find him guilty because he is guilty.

24 MR. THOMPSON: May it please the Court?

25 THE COURT: Yes, sir.

1 CLOSING STATEMENT

2 BY MR. THOMPSON:

3 Again, I apologize for having my water with me,
4 but as I said, during my opening I get cotton mouth when
5 I talk for an extended period of time. And I thought I
6 would be running back and forth trying to get water, and
7 then I'll be spilling it on the table and making a mess,
8 so forgive me.

9 Ladies and gentlemen of the jury, thank you for
10 your service. Thank you for being here. Thank you for
11 listening, thank you for paying attention. Y'all have
12 been attentive throughout the entire course of the
13 trial.

14 I have, you know, obviously I have to watch what
15 the witnesses are saying. I have many duties here in
16 the courtroom, but I have done my best to try and
17 observe y'all and watch y'all as -- I apologize if that
18 sounds creepy. I've done my best to watch y'all and
19 observe y'all throughout the course of the trial. And I
20 really do appreciate your attentiveness because this is
21 a very serious matter. This is a very serious case.
22 This is a very serious situation that we're dealing with
23 and it requires your utmost attention. I appreciate you
24 upholding your duty and your obligation, your oath to
25 judge this case fairly.

1 Now, when I talked to y'all first when I had my
2 opening statement on Monday, I told y'all that there --
3 you know, I use the example of classroom, that y'all
4 didn't get to ask questions. That y'all didn't get to
5 have -- y'all didn't get to ask questions of the
6 witnesses and that I hope to be able to answer or to ask
7 the appropriate questions to get the answers that y'all
8 wanted. And I hope I was able to do that for you
9 throughout the course of this case.

10 The burden of proof in this case remains on the
11 State. The judge will instruct you that they must prove
12 every element of the crime charged beyond a reasonable
13 doubt. Now, as I see it, there are essentially three
14 outcomes in this case. You believe **B.R.** you believe
15 Anthony, you don't know who to believe. Okay?

16 I'm gonna go through those and I'm gonna tell you
17 right now that you should believe Anthony that he's not
18 guilty. That he's gotten up on this stand. He didn't
19 have to, but he got up on this stand this morning and
20 told y'all the truth that he didn't do this, okay? I'm
21 gonna come back to Anthony in a little bit.

22 In order to find Anthony guilty, you must believe
23 **B.R.** beyond a reasonable doubt. You must believe her
24 to the exclusion of Anthony. If you do not believe
25 **B.R.** you do not believe her testimony, that she's

1 telling the truth, she knows what happened, that she
2 remembers that his happened to her and that Anthony
3 Briggs did it to her, you have to find him not guilty.

4 If you don't know who to believe, he's not
5 guilty. Again, believe him. He testified. He didn't
6 have to. He could have sat over there and not said a
7 word and not been cross-examined. But he didn't want to
8 do that. He wanted to get up in front of you and tell
9 you the truth.

10 But the only way you can find him guilty is if
11 you believe [B.R.] beyond a reasonable doubt. And I
12 want to talk about [B.R.]'s testimony for a little. I
13 don't remember lots of things. She says it on the tape,
14 she said it in front of you. I lost track during her
15 testimony on Monday how many times she says she doesn't
16 remember things. She doesn't remember who people are.
17 She doesn't remember where she went. She doesn't
18 remember what happened.

19 Shauna Galloway-Williams testified that you
20 expect victims to remember the core details of what
21 happened. She does not. Okay? She testified that she
22 does not remember the things that she said on those
23 tapes. She made several allegations of specific sexual
24 conduct that happened between her and Anthony on those
25 tapes. And you can go back and watch them. I urge you

1 to go back and watch those tapes, okay?

2 She made several allegations that she doesn't
3 remember occurring now. That's not what happens. Their
4 own expert told you that. And y'all know it to be true.
5 Traumatic things you remember.

6 All right. When I was a kid. When I was three
7 years old I fell into a pool and almost drowned. I
8 carry that with me every time -- I still carry it with
9 me. Every time I go near a pool I think about that. I
10 didn't learn to swim until I was 13 years old. We had a
11 neighborhood pool and I wouldn't go near it because I
12 was terrified of drowning.

13 My grandmother jumped in and saved me. I
14 remember that. I just don't forget that. You don't
15 forget something like that. Even as silly -- her dad
16 told me -- we were outside -- I was born in Dallas and
17 moved out to Greenville when I was, when I was four.

18 And I remember I was younger than B.R. I was
19 out in Dallas and my dad told me to go and run and jump
20 in the bathtub. We were outside playing, told me to go
21 run and jump in the bathtub.

22 Guess what I did? I ran and jumped in the
23 bathtub. I literally went full speed into the bathtub.
24 And I was in so much pain because I did a full jump into
25 the bathtub. My dad came running upstairs and said,

1 what, why did you do that? Because you told me to run
2 and jump in the bathtub. I took him literally. I took
3 him at his word.

4 All right. I was younger than B.R. was and I
5 remember every detail of that. Now, I can't tell you I
6 remember every detail of when I was four. Of course you
7 dont, but you remember specific things about what
8 happened to you. Things that, things that are -- things
9 that cause pain. Things that cause hurt. You remember
10 those things. That's what the expert told you. And she
11 doesn't. She remembers some of it, but not all of it.
12 I don't remember lots of things, that's what she said.
13 She's consistent about that throughout. She's
14 consistent on that in the tape, she was consistent about
15 that here in the courtroom. She does not remember.
16 That's not enough to convict him of child molestation.

17 The expert said you would not expect the victim
18 of sexual assault to open up about everything that
19 occurred. Okay? Watch the video again. All right.
20 After she starts talking about what she says happened
21 between her and Anthony, she is just chatting up a
22 storm. All right? She's talking about all these
23 different things that occurred. Anal penetration, oral
24 sex, digital penetration. Talking about all these
25 things that occurred left and right and has no problems

1 talking about it whatsoever.

2 That's not someone who's been abused. You don't
3 do that. You don't go up and you don't talk like that.
4 You're supposed to feel ashamed. You feel bad that this
5 happened, right? That's what the expert said you're
6 supposed to do. You're supposed to feel bad about what
7 happened. You're the -- you did something wrong.
8 You're the kid and you did something wrong.

9 I don't know how many of y'all have kids. I
10 don't know if you've ever tried to get a kid to admit
11 they did something wrong. It's like pulling teeth. I
12 told you I have a daughter. My daughter is ten. When
13 she was five, so when she goes to school, when she was
14 in kindergarten, they had this point system.

15 So if you had a good day you got five points. If
16 you had kind of a good day, you got four points. You
17 had a bad day, you got three points. And if you did
18 even worse you actually got two or more. They didn't
19 have ABC or whatever.

20 My daughter got a three, and it wasn't her first
21 three. She didn't get too many of them, but that was
22 kind of the worst you would see at the school. And I
23 asked my daughter when I picked her up, I said, why did
24 you get a three today? I don't know why. Why did you
25 get a three today? I was talking. That can't be it.

1 You can't just, you can't just lose. You don't just
2 lose two points from your score because you were talking
3 that day.

4 I sat her in the car. We were outside my house
5 right in my driveway and I sat her at the car and I
6 said, you are not getting out of this car until you tell
7 me what happened. It took 30 minutes. It took 30
8 minutes for her to finally fess up as to what she did,
9 because she knew she had done wrong.

10 She felt shame about what she had done and it
11 took her that long to fess up about it. It takes B.R.
12 two minutes, three minutes when she's asked about it to
13 start rattling stuff off. That's not the actions of
14 someone who's actually been abused.

15 And, again, go back through and you remember her
16 trial testimony. She doesn't remember. She doesn't
17 remember. She doesn't remember. She doesn't remember.
18 Can you convict somebody of these crimes based upon
19 someone who doesn't remember, who doesn't remember what
20 happened to her? I submit that you can't.

21 By my count there are four people who testified,
22 Judy, Donna, Ms. Maldonado, and Detective Cantrell, that
23 they were disclosed abuse by B.R. They're all just
24 repeating to you what B.R. told them. All right? It
25 all goes back to B.R. whether or not you can believe

1 B.R. and whether or not you can believe her
2 allegations against Anthony.

3 I want to talk for a second about the detectives
4 and the interviews. You heard Anthony testify. All
5 right? You heard Anthony explain. And you heard the
6 detectives testify about their conversations, about the
7 lengths of their conversations. All right? It's darn
8 near impossible to sit in the room with detectives for
9 12 hours and not say something that looks kind of
10 incriminating. All right? Especially when they're
11 hounding you.

12 And as Anthony told you, he thought that they
13 felt he was guilty almost immediately. They started out
14 nice and then they turned around and became -- excuse
15 me. And started accusing him of molesting B.R. and
16 that he was guilty. They knew he was guilty of
17 molesting B.R.

18 And through it all what, you know, they bring up,
19 you know, detective, Detective Morgan, things that he
20 said to Detective Morgan. You heard Detective Morgan,
21 heard the questions I asked him. At the end of the day
22 what does his report say? Anthony denied it. Anthony
23 made no admissions to me. That's what his own report
24 says.

25 And at the end of the day, Detective Cantrell,

1 what did she get out of Anthony? She got a written
2 statement from Anthony that says that he did not do
3 anything to B.R.

4 You heard his testimony about his experience with
5 them. You heard Detective Cantrell say Anthony said he
6 needed to go talk to Wendy. Now, he told Wendy what he
7 had done. Where's Wendy? All right? If he confessed
8 to Wendy, you better believe she'd be up here
9 testifying. She didn't. If that was true, wouldn't she
10 be up here taking the stand? But she's not.

11 The jail calls. 487 phone calls. 487 phone
12 calls. And y'all heard a minute. A minute out of all
13 that. Now, they said if there was anything helpful that
14 I would be up here presenting it, okay? Do you think if
15 there was more damage and stuff, you would have heard
16 that too? It's because they just talked about stuff.
17 They talked about their lives. They talked about cars
18 and kids and what was going on. That's what those phone
19 calls were about.

20 Anthony, a man who did not do this, was in
21 trouble and at the lowest point in his life made a
22 couple of stupid comments to Wendy. And he admits it.
23 He came in front of you and admitted he did it.

24 I'm not up here saying he didn't make those phone
25 calls. I'm not up here saying he didn't make those

1 statements. I'm not saying he didn't make those
2 statements to Detective Cantrell. I'm not saying he
3 didn't make those statements to Detective Morgan.

4 The only thing that he disagrees with is the
5 statement by Detective Cantrell that he went out and
6 told Wendy what he had done. He denies making that
7 statement. That's it. All right? There's not much
8 dispute here.

9 Now, you got over 40 hours of phone calls and
10 y'all got to hear one minute of it. That's because
11 that's not representative of what he did. That's not
12 representative of his communications with her.

13 And I want to talk about the experts for a couple
14 minutes. I talked about Shauna already, but it bears
15 repeating. So did you expect to remember the core
16 details of what occurred? You don't expect somebody to
17 just open up to a stranger and just chat all about what
18 happened to you, okay?

19 Neither one of those things are present in this
20 case. And I submit to you it's pretty hard to tell when
21 someone's been abused, just by -- you know, just by
22 being an expert in the subject. I asked her all those
23 questions about whether or not someone changes or
24 someone doesn't change.

25 There are no tell tale signs. There's nothing I

1 can -- there's nothing she can tell you that's gonna
2 say, oh, yeah, she's abused or, oh, no, she wasn't
3 abused because it comes in all sorts and different
4 shapes and sizes.

5 And sometimes people change without being abused.
6 And I know that may be a roundabout way of making that
7 point, but you don't have to change or you can change
8 without being abused. That's just the long and short of
9 it.

10 Dr. Henderson testified that B.R. had a normal
11 exam. Now, the State wants to tell you that is
12 consistent with abuse occurring. Sure. It's also
13 consistent with no abuse occurring. And that's exactly
14 what Dr. Henderson testified to.

15 There's no scientific forensic proof anything
16 happened to B.R. Nobody can come in here and provide
17 you that. The only thing that you have is B.R.'s
18 testimony. And, again, it is not reliable. She,
19 herself, made that clear in all of her answers about not
20 remembering, not remembering.

21 Now, again, the burden of proof remains on the
22 State. They have to prove Anthony guilty beyond a
23 reasonable doubt. We don't have the obligation to
24 present any evidence, but we did anyway. We are not
25 trying to argue that Anthony was never alone with

1 B.R. Never heard me say that. Never heard me make
2 that argument. Been up front and clear. He had the
3 opportunity to abuse her. He did -- he didn't. He
4 didn't abuse her, but he had the opportunity. He was
5 alone with her. We're not hiding that fact, but he
6 loved that kid.

7 He did not seek her out. You heard Anthony
8 testify that he -- that the kids did not live with them
9 when he first moved in with Wendy. He wasn't targeting
10 her because she had children and he could molest them.
11 He loved her and he loved those kids. He would sleep
12 outside in the cold, in the woods, so those kids could
13 be at home with her mom -- with their mother.

14 He didn't have to testify, but he wanted to, to
15 tell you his side of the story. He's been waiting ten
16 years to tell his side of the story. And I told you
17 that from the very beginning, that you were gonna hear
18 both sides of the story. That's why he testified. He
19 wanted to tell you what happened. He wanted to tell you
20 he didn't do anything.

21 And he was accused of quite a lot on
22 cross-examination and never once did he say ah, ah, ah,
23 you know, or do something like that. He was consistent
24 throughout. No, I did not abuse her. Yes, the
25 allegations make me sick. That's what he told the

1 officers.

2 That's what Lonnie testified to. Lonnie said
3 that these make him sick. They use the same words.
4 They do. These are sickening allegations.

5 Now, the State has made a number of arguments
6 about I'm making this case all about [D.R.]. No, I'm
7 not. I've asked one question about [D.R.], and that was
8 only after the cross-examination that I had to bring it
9 up. All right?

10 But you didn't hear me come in and say in my
11 opening statement, you're gonna hear someone else did
12 this. You're gonna hear that [D.R.], that her brother
13 was really the one who was abusing her. That's not my
14 defense.

15 They're the one bringing [D.R.] up. They're the
16 one bringing [D.R.] into everything and asking Anthony a
17 question. I've asked Anthony the same question about
18 [D.R.], okay? He wouldn't know. He wouldn't know if
19 [D.R.] had done anything to her. He just knows he
20 didn't do anything.

21 I submit to you that when you review the
22 evidence, when you review the recordings, that when you
23 review the testimony that you heard from this witness
24 stand, that you're gonna come to the conclusion that you
25 cannot trust what [B.R.] said. She doesn't remember.

1 And the key components that you heard Shauna
2 Galloway-Williams testify she would expect in a sexual
3 abuse victim they're not present in this case. Anthony
4 told you he didn't do this. It's because he didn't. He
5 loved that kid. Loves all those kids.

6 The State tried to make a big deal about whether
7 or not Anthony and Wendy had a good sex life. Maybe
8 they did, maybe they didn't. You don't turn around and
9 abuse a four-year-old because you're having a
10 relationship problem with an adult woman. That doesn't
11 happen. Okay? That's not where you turn to.

12 You're not like, oh, let me go molest this child
13 because I'm having sexual difficulties with my partner.
14 Y'all know it. You don't check common sense at the
15 door. If you're having that much trouble, you go find
16 another adult woman to have a relationship with. You
17 don't go to a child. That's not what people do.

18 Because if that's what, if that's what people
19 did, we'd have a whole lot more child molesters because
20 there are plenty of people who have trouble with their
21 spouses or have trouble with their girlfriends or
22 trouble with their boyfriends or what have you.

23 The State was correct. I'm not gonna get up here
24 and tell you that you walk back in a jury room and say
25 hesitate to act and you're gonna hesitate the moment you

1 walk back there, that you gotta find him not guilty.

2 I'm not gonna make that argument to you.

3 What I am gonna argue to you is that when you get
4 back there and you've deliberated and you've talked
5 about the evidence amongst yourselves -- and I know it's
6 hard. You gotta sit here and listen to all this stuff
7 when I was talking about my opening statement. You
8 gotta listen -- excuse me. Excuse me, I'm sorry.

9 You have to listen to all this evidence and all
10 this testimony and you can't ask questions and you can't
11 talk to each other about it. I'm sorry, excuse me.

12 That's an unusual experience. And I'm not
13 telling you that the moment you walk back there you're
14 gonna hesitate and you're gonna say I can't find him
15 guilty and so I'm done. Deliberate. Talk amongst
16 yourselves. Review the evidence. I urge you to do it.

17 We're not hiding anything. I've not been hiding
18 anything in this whole case. Y'all have seen how few
19 questions I've asked, okay? It's because we know what
20 the allegations are. We know what they said, he said.
21 He admits to it. All right?

22 I'm not up here trying to hide anything. He's
23 not trying to hide anything. Review all the evidence.
24 And when you review the evidence that they've presented
25 and when you review the evidence that we've presented

1 and you've talked amongst yourselves and you've
2 deliberated, I submit to you that you will at that point
3 hesitate to convict Anthony because you will hesitate to
4 say I believe B.R. I believe that he abused her. I
5 believe beyond a reasonable doubt that he abused her.

6 And I submit to you that when you have that
7 experience and when you have -- when you come to that
8 realization, the appropriate verdict is not guilty. And
9 that is the verdict that we request, respectfully, that
10 you issue in this case. Thank you so much for your
11 service. Thank you so much for being here and I
12 appreciate all the hard work you've done. Thank you.

13 THE COURT: Briefly.

14 REBUTTAL CLOSING STATEMENT

15 BY MS. HALLFORD:

16 Sadly, people do turn to children for sex. If
17 you watch the news you know that. Not everybody who's
18 not having a good sex life with their wife turns to a
19 child, but some of them do. Sometimes it's because
20 that's what they desire, and sometimes it's because
21 that's what they have access to.

22 B.R. has no reason to lie. She didn't have a
23 reason to lie when she took the stand. She didn't have
24 a reason to lie when she was a little girl. Who's got
25 the motive to do it?

1 She does say she doesn't remember a lot of
2 things. She's also told you that she's tried to
3 suppress this. We all know how our memories work. The
4 same horrible thing that happened to my son happened to
5 me.

6 Here's what I remember of it. I remember someone
7 telling me and I remember falling to my knees. And I
8 remember nothing after that until I'm several rooms away
9 on a telephone. Don't remember dialing. I'm told that
10 I crawled down the hall. I don't remember that. But
11 that's the most traumatic thing I've ever experienced
12 too. I don't remember every detail.

13 That's how memory works. Sometimes our minds
14 protect us. And I think my mind protects me from that.
15 **B.R.** remembered core details. She remembered very
16 significant stuff. And she told you I tried to forget
17 this and she admitted to you that she didn't remember
18 things.

19 If she were trying to lie and buffalo y'all, she
20 would have said I remember every bit of this after she
21 watched that video. She is being truthful and that
22 shows you her credibility.

23 We talked about the interview process. Please,
24 by all means, watch that again because she does not get
25 up there and blurt that out. She does not talk about it

1 like she's talking about a day at Disney World.

2 And as far as whether Anthony told Wendy about
3 this, he may have lied to Nikki when he said that he
4 told her. I got no idea, but the defense has the power
5 of subpoena too.

6 Regarding the jail calls, I could have played a
7 lot more of them for you, but we have a rule, it's
8 called Rule 403. And one of the things you're supposed
9 to do under Rule 403 of evidence is to avoid the
10 needless presentation of cumulative evidence.

11 So I could have made you listen to call after
12 call after call that said basically the same thing, but
13 I didn't. It would be a waste of your time and I'm not
14 supposed to do it under the rules. So that's why you
15 didn't hear a whole lot more calls, but there were -- it
16 was much longer than one minute.

17 **B.R.** has no reason to lie to you. This
18 happened to her. Find him guilty.

19 JURY CHARGE

20 THE COURT: Madame Forelady, and ladies and
21 gentlemen of the jury, you have seen and heard the
22 evidence presented as well as the arguments of the
23 lawyers. And it is now my duty and my obligation to
24 instruct you on the law in this case. Afterwards it
25 will be your duty and obligation to begin your

1 deliberations, through which process you will decide the
2 facts, apply the law as I now give it to you, and render
3 a fair and impartial verdict.

4 I'm sorry, will somebody move that please.

5 MS. HALLFORD: Sorry.

6 THE COURT: It's okay. It is your exclusive
7 duty, ladies and gentlemen, to determine what the facts
8 are in this case. And you will do that based on your
9 common sense, evaluation and examination of the
10 testimony and the evidence received during the trial.

11 You 12 alone will decide what effect, value, and
12 weight is to be given to the testimony and evidence
13 received. Quite simply, your obligation as jurors is to
14 give both the State and this defendant a fair and
15 impartial trial based on the evidence presented and the
16 law in this case.

17 I remind you that during this trial you and I
18 have certain duties. It is my duty to preside over the
19 trial. And, additionally, I have the duty to rule on
20 admissibility of evidence. You are to consider only the
21 competent evidence before you. You are to consider only
22 the testimony which has been presented and the exhibits,
23 which have been made a part of the record and any
24 stipulations by lawyers.

25 Additionally, I have the duty to charge you on

1 the law in this case. As the presiding judge, I am the
2 sole judge of the law, and it is your duty to accept it
3 and apply it as I now state it to you. If you have any
4 idea as to what the law is or what the law ought to be
5 or should be and it does not agree with what I tell you
6 the law is, you must abandon your idea because you are
7 sworn to accept it and apply it as I state it to you.

8 In every case in this court tried before a jury,
9 you 12 are the sole and exclusive judge of all facts in
10 this case. A trial judge cannot make a comment or a
11 statement to a jury about a fact in a case. You 12 are
12 the sole judge of the facts, and you are not to infer
13 from anything I have said during this trial in ruling
14 upon admissibility of evidence, that I have any opinion
15 about a fact in this case. I remind you that the law of
16 this state does not allow a trial judge to have an
17 opinion about a fact in a case. That matter is solely
18 for you 12 to determine.

19 There are two types of evidence, ladies and
20 gentlemen. They are generally referred to as direct
21 evidence and circumstantial evidence. Direct evidence
22 is testimony of a person who claimed to have actual
23 knowledge of a fact, such as an eyewitness.
24 Circumstantial evidence is proof of a chain of facts and
25 circumstances which indicate the existence of a fact.

1 I tell you and charge you, the law makes
2 absolutely no distinction between the weight or value to
3 be given either direct or circumstantial evidence, nor
4 is a greater degree of certainty required of
5 circumstantial evidence. You should weigh all evidence.
6 And after doing so, if you are not convinced of the
7 guilt of this defendant beyond a reasonable doubt, you
8 must find him not guilty.

9 Now, the indictments in this case allege two
10 separate and distinct offenses against him. The first
11 indictment charges this defendant with criminal sexual
12 conduct in the first degree. The second indictment
13 charges him with committing a lewd act upon a child
14 under 16 years of age.

15 Each indictment charges a separate and distinct
16 offense, and you must decide each indictment separately
17 on the evidence and the law uninfluenced by your
18 decision as to the other indictment. He may be
19 convicted or acquitted on all or any of the offenses
20 charged. And, Madam Forelady, you will be asked to
21 write a separate verdict of guilty or not guilty for
22 each indictment whatever the verdict of the jury is.

23 Now, the indictment ending in 2627 charges
24 Anthony Briggs, with the criminal sexual conduct with a
25 minor in the first degree. Specifically, it alleges

1 that he did, in Spartanburg County, South Carolina
2 between the dates of July 29, 2008 through February 2 of
3 2009, commit a sexual battery upon the minor, **B.R.**
4 **[REDACTED]** who was under 11 years of age at the time of
5 the incident in violation of state law.

6 The other -- it's Code Section for that
7 indictment is 16-3-655(1) which provides: A person is
8 guilty of criminal sexual conduct in the first degree if
9 the actor engages in sexual battery with a victim who is
10 less than eleven years of age. Section 16-3-651 of the
11 same code of law provides: That an actor is defined as
12 a person accused of criminal sexual conduct, and the
13 victim is defined as a person alleged to have been
14 subjected to criminal sexual conduct.

15 Now, sexual battery is defined as sexual
16 intercourse, cunnilingus, fellatio, anal intercourse, or
17 any intrusion, however slight, of any person's body or
18 with any object into the genital or anal openings of
19 another person's body except when accomplished for
20 medically recognized treatment.

21 Cunnilingus, in its plain and ordinary meaning,
22 is defined as oral stimulation of the vulva or clitoris.
23 It is a type of oral genital sexual activity, the sexual
24 offense is complete when the cunnilinguist licks or
25 kisses the female genitalia.

1 Now, the indictment ending in 4657 charges this
2 defendant, Anthony Briggs, with committing a lewd or
3 lascivious act upon a child. Specifically, it alleges
4 that he did, in Spartanburg County, South Carolina,
5 between the dates of July 30, 2008 and February 2, 2009,
6 he being over the age of 14 years, willfully and lewdly
7 committed or attempt to commit a lewd or lascivious act
8 upon or with the body of B.R. [REDACTED] who was a
9 minor under the age of 16 years, with the intent of
10 arousing, appealing to, or gratifying the lust,
11 passions, or sexual desires of himself or the child, in
12 violation of state law.

13 Now, Section 16-15-140 provides: It is unlawful
14 for a person over the age of 14 years to willfully and
15 lewdly commit or attempt to commit a lewd or lascivious
16 act upon, or with the body, or its parts, of a child
17 under the age of sixteen years, with the intent of
18 arousing, appealing to, or gratifying the lust or
19 passions or sexual desires of the person or the child.

20 An act is willfully done, if it's done
21 voluntarily and intentionally and with the specific
22 intent to do something the law prohibits or, yeah,
23 forbids. Lewd act means obscene, lustful, indecent, or
24 morally impure. It means tending to excite lust,
25 indecency, obscenity, or tending to deprave the morals

1 in respect to sexual relations.

2 Now, in order to convict the defendant of
3 committing or attempting a lewd act upon a child, the
4 statutory provisions must be proven beyond a reasonable
5 doubt. The State must prove beyond a reasonable doubt
6 that, one, the defendant is over fourteen years of age;
7 two, that the defendant willfully and lewdly committed
8 or attempted a lewd or lascivious act; three, upon or
9 with the body, or its parts, of a child under 16 years
10 of age; and, four, with the intent of arousing,
11 appealing to, or gratifying the lust or passions or
12 sexual desires of himself or of the child. The State
13 must prove all four elements beyond a reasonable doubt
14 before you can convict this defendant of this charge.

15 I remind you again that the fact that this
16 defendant was arrested, charged and indicted is not
17 evidence and cannot be considered by you as evidence of
18 guilt, nor does it create any presumption or inference
19 of guilt. The indictments are simply the written
20 instruments which contain the charges made against this
21 defendant. They are the formal documents which bring
22 this case to court.

23 Now, criminal intent is a necessary element of
24 each crime that must be proved by the State beyond a
25 reasonable doubt.

1 Criminal intent is a matter that must be
2 determined by you 12 from the circumstances surrounding
3 the situation. There is no way to prove intent to a
4 mathematical certainty. Medical science cannot dissect
5 a person's brain and determine what he had in mind, so
6 our law says that criminal intent may be inferred from
7 the circumstances which are shown to exist.

8 Intent is a state of mind which when operated
9 jointly with an act is the commission of a crime.
10 Criminal intent is a mental state. It is a conscious
11 wrongdoing. So it is up to you 12 to determine what
12 this defendant intended to do based on the circumstances
13 shown to have existed. I tell you that the State must
14 prove criminal intent beyond a reasonable doubt, just as
15 it must prove every element beyond a reasonable doubt.

16 It is not necessary to establish intent by direct
17 and positive evidence, but it may be inferred and
18 established by inference in the same way as any other
19 fact, taking into consideration the acts of the parties
20 and the facts and circumstances of the case. Now, while
21 the State may prove a motive, it is unnecessary for the
22 State to do so, but they must prove criminal intent.

23 This defendant has pled not guilty to the
24 indictments, and that plea puts the burden on the State
25 of South Carolina to prove his guilt beyond a reasonable

1 doubt. A person charged with committing a criminal
2 offense in South Carolina is never required to prove
3 himself innocent.

4 I charge you as a cardinal, important, and vital
5 rule of law that in a criminal trial, no matter what the
6 seriousness of the charge may be for which he stands,
7 the defendant is always presumed to be innocent of the
8 crime for which the indictment was issued unless guilt
9 has been proven by evidence satisfying you of that guilt
10 beyond a reasonable doubt. The presumption of innocence
11 does not end when you begin your deliberations, but it
12 accompanies this defendant throughout the trial until
13 you reach a verdict of guilt based on the evidence
14 satisfying you of that guilt beyond a reasonable doubt.

15 The presumption of innocence has been described
16 as being a robe of innocence placed about the shoulders
17 of this defendant which remains with him from the moment
18 of his arrest and continues until it has been stripped
19 from his shoulders by evidence satisfying you of his
20 guilt beyond a reasonable doubt.

21 The presumption of innocence is not mere legal
22 theory, nor a legal phrase, but a substantial right to
23 which every defendant is entitled unless you 12 jurors
24 are satisfied from the evidence of his guilt beyond a
25 reasonable doubt.

1 Now, the State has the burden of proving the
2 defendant beyond -- guilty beyond a reasonable doubt.
3 Proof beyond a reasonable doubt is proof that leaves you
4 firmly convinced of his guilt. There are very few
5 things in this world that we know with absolute
6 certainty. And in criminal cases, the law does not
7 require proof that overcomes every possible doubt.

8 A reasonable doubt may also be described as the
9 kind of doubt that would cause a reasonable person to
10 hesitate to act. If you have such a doubt as to the
11 guilt of this defendant, he is entitled to a verdict of
12 not guilty. Reasonable doubt may arise from evidence in
13 the case, or it may arise from the absence or lack of
14 evidence in a case.

15 Based on your consideration of the evidence, if
16 you are firmly convinced that this defendant is guilty
17 of the crimes charged, you must find him guilty. But on
18 the other hand, if you think there is a real possibility
19 that he is not guilty, you must give the defendant the
20 benefit of the doubt and find him not guilty.

21 You 12 alone must make the determination of
22 whether or not reasonable doubt exists as to the guilt
23 of this defendant.

24 Now, under the constitution of our state, you 12
25 are the finders of the facts. And, necessarily, that

1 means you must determine the credibility of witnesses
2 who have testified. Ladies and gentlemen, credibility
3 simply means believability. It is your duty as jurors
4 to analyze and evaluate the evidence and determine which
5 evidence is convincing to you.

6 In determining believability of witnesses who
7 have testified, you may believe one witness over
8 several, you may believe several witnesses over one.
9 You may believe all of a witness' testimony, you may
10 reject all the witness' testimony. You may consider
11 whether a witness has any interest in the case, bias or
12 prejudice or a motive.

13 Quite simply, ladies and gentlemen, whatever your
14 good judgment and common sense tells you is the most
15 believable testimony, it is the testimony you should
16 accept and reject testimony you find not to be credible
17 or believable.

18 Now, the rules of evidence ordinarily do not
19 permit witnesses to testify to opinions or conclusions.
20 An exception to this rule exists for witnesses we call
21 "expert witnesses". A witness who, by education,
22 experience, skill or training, may state an opinion as
23 to relevant and material matters in which that witness
24 claims to be an expert. And they also may state the
25 reasons for the opinion.

1 You should consider any expert opinion received
2 in evidence in this case and, like all other evidence,
3 give it the weight you think it deserves. If you decide
4 that the opinion of an expert is not based on sufficient
5 education, experience or training, or if you conclude
6 the reasons given in support of the opinion are not
7 sound, or that the opinion is outweighed by other
8 evidence, you may disregard that opinion in its
9 entirety.

10 I tell you and charge you, an expert witness'
11 testimony is not to be given greater weight than that of
12 other witnesses simply because they testified as an
13 expert. You are not required to accept an expert's
14 opinion, even if it's not contradicted.

15 Ladies and gentlemen, you 12 have been selected
16 as fair and impartial jurors. You have been sworn to
17 impartially try and determine the facts of this case,
18 and you are to decide this case according to the
19 testimony you have heard, along with the evidence
20 introduced.

21 Madam Forelady and ladies and gentlemen, I am
22 often sent a note or asked by the jurors for additional
23 evidence; however, you may only consider the evidence
24 that is before you in this trial. There can be no other
25 -- there cannot be any other evidence introduced or a

1 question answered about a particular evidence or lack
2 thereof.

3 Now, ladies and gentlemen, your verdict must be a
4 unanimous verdict. Madam Forelady, when the jury agrees
5 on the verdict, you will indicate the verdict on a space
6 provided on the verdict form. And I'm gonna explain it
7 to you. Knock on the jury room door, inform the bailiff
8 you have reached a verdict and we will return all the
9 jurors to the courtroom to receive your verdict.

10 During deliberations, you may only discuss the
11 case in the jury room and only in the presence of all
12 12. In the event that a juror needs to refresh himself
13 or herself, if a juror needs to smoke, for whatever
14 reason that all 12 are not together, Madam Forelady, all
15 deliberations must cease.

16 All 12 must be together and participating in some
17 or fashion before you can continue deliberations.
18 Again, someone who removes themselves for a restroom
19 break, lawyer break, smoke break, whatever it might be,
20 must stop until all 12 are together.

21 Madam Forelady, these are two verdict forms that
22 are made by my law clerk who has been sitting with me
23 all week. These are verdict forms we make in every case
24 that we try. It has the caption of a case and it has a
25 number up here. And the only thing that means is that

1 one of these goes with one indictment and the other one
2 goes with the other indictment. That's all it is.

3 The verdict form ending in 4657 says: We, the
4 jury, unanimously find the defendant, Anthony Briggs, on
5 the charge of committing a lewd act upon a child not
6 guilty or guilty.

7 I tell you that there is absolutely no
8 significance as to whether or not not guilty comes first
9 or guilty comes first. They have to be put on the paper
10 in some order and I always put them in this order.
11 Whatever the verdict of all 12, it must be unanimous,
12 whatever the verdict of all 12 is, if you'd be kind
13 enough to mark it so it's unambiguous.

14 I don't care if you put a checkmark, an X, an
15 initial, somehow indicating so that I clearly understand
16 what the verdict is. And then it says: I certify this
17 decision was a unanimous decision of a jury. It has a
18 place for the foreperson to sign and to put a date.

19 The other jury form is for the other indictment.
20 Remember the jury has two separate indictments. We, the
21 jury, unanimously find the defendant, Anthony Briggs, on
22 the charge of criminal sexual conduct with a minor in
23 the first degree not guilty or guilty. And then it says
24 in bold print: If you answered guilty to question one,
25 answer question two. If you respond not guilty to

1 question one, stop here and sign below.

2 So if it's not guilty to the question, sign your
3 name. Do not go to question two. Put a date, knock on
4 the door.

5 But if you get to question two it says: Indicate
6 which act or acts you unanimously found was or were
7 committed by the defendant. And it lists anal
8 intercourse, cunnilingus, any intrusion however slight
9 of any object into the genital or anal opening. You can
10 answer one, two or all three, if you get to that.

11 Okay. Then it says: I certified this decision
12 was a unanimous decision of the jury. Again, foreperson
13 and a date. Again, it could be a checkmark, X mark,
14 initial, just as long as it is unambiguous.

15 Madam Forelady, I'm getting ready to send all 13
16 jurors to the jury room. I'm gonna ask the lawyers,
17 then, to come -- I'm gonna ask the lawyers to come
18 forward and ensure, meet with my court reporter. You
19 have seen her put stickers and State's this, State's 1,
20 State's 4, whatever it might be. There's not much.
21 Sometimes in a murder case we have several hundred
22 pieces. We don't have a lot in this one. I want to
23 make sure it's all here because it belongs to you. I'm
24 gonna send that evidence back with the bailiff, along
25 with the verdict forms.

1 Sir, Mr. Alternate, when the bailiff comes back
2 with the evidence for the jury and with these two forms,
3 the bailiff will leave with you. They will have a place
4 for you to be segregated. At that point you cannot be
5 with the 12, okay?

6 And that will be you 12 juror's time to start
7 deliberations. So deliberate. You get the evidence and
8 you get the two forms. My bailiff will retrieve the
9 alternate from the room, have a place for you to be
10 comfortable, sir, and then begin your deliberations.
11 The food is on the way.

12 THE CLERK: It's here.

13 THE COURT: It's here. The food is here.
14 Whatever the jury wants to do. If you want a working
15 lunch, if you want to break for lunch, it is totally up
16 to you. It's here for you. Enjoy it at your pleasure.

17 All right, with that I am going to ask the jury,
18 all 13 to go back to the jury room and I'll be with you
19 momentarily.

20 (Whereupon, jury leaves the courtroom at 12:52
21 p.m.)

22 THE COURT: Okay. Any matters from the State?

23 MS. HALLFORD: I'm concerned about the Court's
24 exhibit, the one disc that we put in for the record,
25 because they may think that disc of 487 calls should

1 come back to them. Is that something you can just tell
2 them?

3 THE COURT: You didn't put it in as a State's
4 exhibit?

5 MS. HALLFORD: No, it's not, but I'm worried that
6 they're gonna think their entitled to it.

7 THE COURT: Yes, sir.

8 MR. THOMPSON: Your Honor, I don't know exactly
9 how to handle it. They're gonna have the exhibits. You
10 just told them they're gonna have the exhibits that were
11 entered. They're gonna go back. If they have a
12 question about it, then I'm sure they'll send a note.

13 MS. HALLFORD: Okay.

14 MR. THOMPSON: And then we'll tell them.

15 THE COURT: That's exactly right. I'm not gonna
16 make a comment on it. It would draw attention to it,
17 number one. And if they send a note about that, then we
18 can send a note back that says you have all of the
19 evidence that is in this case.

20 MS. HALLFORD: Okay.

21 THE COURT: Anything from defense?

22 MR. THOMPSON: No, Your Honor.

23 THE COURT: Okay. Ladies and gentlemen, if you
24 will make sure everything is here.

25 (Whereupon, a recess was had from 12:53 p.m. -

1 2:58 p.m.)

2 THE COURT: Okay. I'm told that we have a
3 verdict in this case. And this is not a time for a
4 celebration. It is not a time for any kind of outburst,
5 so if you want to leave now, please do so because if I
6 have a celebration in my courtroom, I'm gonna take the
7 people in custody. Anyone who wants to leave, anyone
8 who wants to leave, please do so now.

9 Okay. Ready for the State?

10 MS. HALLFORD: The State's ready.

11 THE COURT: Defense?

12 MR. THOMPSON: We'll have the jury, all 13 of
13 them.

14 (Whereupon, the jury enters the courtroom at 3:07
15 p.m.)

16 THE COURT: Madam Forelady, has the jury reached
17 it's verdict?

18 THE FORELADY: Yes, sir.

19 THE COURT: Would you hand it to the bailiff,
20 please. (Complies.)

21 The clerk will publish.

22 VERDICT

23 THE CLERK: The State of South Carolina, county
24 of Spartanburg, in the court of General Sessions, State
25 of South Carolina versus Anthony Briggs, Indictment

1 Number 2010-GS-42-4657, we the jury unanimously find the
2 defendant, Anthony Briggs, on the charge of committing a
3 lewd act upon a child guilty. Signed today by the
4 foreperson, which is Brandi Gowan, on today's date,
5 March the 27th, 2019.

6 And on Indictment 2009-GS-42-2627, we the jury
7 unanimously find the defendant, Anthony Briggs, on the
8 charge of criminal sexual conduct with a minor in the
9 first degree guilty. Indicted -- which act or acts of a
10 sexual battery be unanimously found was or were
11 committed by the defendant. Anal intercourse, cunn --
12 how do you say that? Cunnilingus, any intrusion,
13 however, slight or any object into the genital or anal
14 opening. Signed the foreperson, Brandi Gowan. Today's
15 date, March the 27th, 2019.

16 Ladies and gentlemen of the jury, is this your
17 verdict and still your verdict? If so, please raise
18 your right hand. So say you all.

19 THE COURT: Polling of the jury by the State?

20 MS. HALLFORD: Nothing by the State.

21 THE COURT: From the defense?

22 MR. THOMPSON: No, Your Honor.

23 THE COURT: Other matters for the jury from the
24 State?

25 MS. HALLFORD: Nothing from the State?

1 THE COURT: From the defense?

2 MR. THOMPSON: No, Your Honor.

3 THE COURT: Madam Forelady, if you would come
4 forward and meet madam clerk, you have to sign the
5 indictments, please. (Complies.)

6 Madam Forelady, and ladies and gentlemen of the
7 jury, thank you so much for your service. I have picked
8 another jury for the next case. They came in earlier
9 today and they're waiting and the lawyers are waiting on
10 that, so we're gonna continue to work this afternoon and
11 the rest of the week.

12 I'm gonna ask you to call after 6 p.m. this
13 evening. Call that number after 6 p.m. this evening.
14 You'll go back into the pool with the other brothers and
15 sisters who are not serving on the other jury that's
16 been selected. It might well say that your jury service
17 is ended this week because we are in the next case.

18 If it does, thank you for your service. Again,
19 if you see me on the street somewhere, please flag me
20 down and speak to me. Again, thank you for your
21 service.

22 Madam Forelady -- and let me do this. I'm often
23 asked, so I try to remember to say it. Sometimes jurors
24 want to see -- we're gonna proceed to sentencing.
25 Sometimes jurors want to complete the process.

1 If that's the case, once you turn your badges in,
2 if you'll come back around to the public entrance, you
3 are welcome in my courtroom if you want to do that, but
4 you're not gonna be required to do that, okay?

5 If you'll take the jury out and be dismissed for
6 the day.

7 (Whereupon, jury leaves the courtroom at 3:12
8 p.m.)

9 THE COURT: Matters from the State?

10 MS. HALLFORD: Nothing from the State, Your
11 Honor.

12 THE COURT: From the defense?

13 MR. THOMPSON: Your Honor, I'm not generally in
14 the habit of making motions for a new trial that I know
15 will be denied so, no, Your Honor.

16 THE COURT: Yes, sir. You are moving for a new
17 trial; that there's insufficient evidence for it to go
18 to the jury; is that correct?

19 MR. THOMPSON: Yes, Your Honor.

20 THE COURT: Okay. Anything from -- does the
21 State want to be heard on that?

22 MS. HALLFORD: Your Honor, the jury has spoken
23 and there's lots of evidence. We'd ask that the motion
24 be denied.

25 THE COURT: The Court denies the motion, but

1 you're protected, sir. The Court denies the motion.
2 There is sufficient evidence to go to a finder of fact
3 and the jury has spoken.

4 All right. Anything from else?

5 MR. THOMPSON: Not from us in that regard, Your
6 Honor.

7 THE COURT: Okay. Anything from either side? I
8 need some sentencing sheets.

9 Solicitor, do y'all want to come up?

10 Anything from the State?

11 SENTENCING

12 MS. HALLFORD: Yes, Your Honor. This is the
13 second time that Mr. Briggs has been found guilty by a
14 jury. And we do not punish people for exercising their
15 right to a trial; however, we reward them when they
16 plead guilty, and he has opted not to do that. He
17 previously received a sentence of life without parole.
18 He performed oral sex on a four-year-old girl, anally
19 penetrated her, and digitally penetrated her. I believe
20 they also found that.

21 And she has to live with that for the rest of her
22 life. She will never be who she was before he opted to
23 make her his sexual toy. And I don't believe he's safe
24 around children and I would ask that he receive a
25 sentence of life without parole.

1 THE COURT: Thank you. Yes, sir.

2 MR. THOMPSON: May it please the Court, Your
3 Honor. Obviously we would be requesting a sentence on
4 the low end of the -- obviously it's very stiff, 25 to
5 life range. This is the second trial. He did receive a
6 life without parole in one of the first incidents with
7 Judge Coal. Obviously that sentence was overturned and
8 that conviction was overturned to a PCR.

9 Your Honor, as a personal matter, just perhaps
10 it's philosophical. As Your Honor knows, I do a lot of
11 work in prisons and I've seen -- let me just put it this
12 way, there is a difference between individuals who have
13 a life sentence and individuals who don't. And I think
14 you can see that day in and day out in the prisons and
15 the way individuals behave inside the prisons.

16 Someone who has a life sentence with nothing,
17 essentially, to lose. While we're in the Department of
18 Education, I would ask Your Honor to consider a sentence
19 that is a life or death row sentence.

20 Anthony is the same age as I am. I'm about six
21 months older than he is. He has spent the last, oh
22 what, about ten years in jail and then prison. He has a
23 very loving and supportive family. They've been here
24 throughout -- I've had so many conversations with Lonnie
25 and like that they have been with him every step of the

1 way, and I know they'll continue to be with him as he
2 moves forward.

3 Obviously Anthony has denied these allegations.
4 I understand the jury's verdict. But, Your Honor, even
5 if they end up on the last trial, if you look back at
6 the transcript he says: I did not do this, I did not do
7 this. It's what he has maintained the moment I got it.

8 So with all that in mind, Your Honor, I would ask
9 a sentence, if not 25 years, at least that's something
10 where he has a max out date at some point in time in the
11 future.

12 Finally, Your Honor, and I told Anthony I was
13 going to do this. Anthony has expressed a very strong
14 desire not to return to the Department of Corrections
15 and that he would rather die before he goes to the
16 Department of Corrections.

17 I would ask that whatever steps need to be taken
18 to put him on suicide watch at the jail will be taken
19 from this point forward until he can be deemed to be
20 safe to himself. So I take that for the benefit of the
21 -- I say that for the benefit for the officers here, as
22 well as whatever monitoring you do.

23 THE COURT: Mr. Briggs, I'll be happy to hear
24 from you, sir. Would you like to speak?

25 THE DEFENDANT: Please, sir. Please, if you can,

1 give me a chance. I've got a loving family. I did not
2 do this. I don't know what to say, Your Honor. Just
3 please give me. Please just give me the minimum,
4 please.

5 THE COURT: Mr. Briggs, you got a lawyer that did
6 a fine job for you. Everyone in this courtroom knows
7 that this Court has never, ever failed to deal harshly
8 for people who molest children.

9 THE DEFENDANT I have understand that, sir.

10 THE COURT: 2009-GS-42-02627. You are confined
11 to the Department of Corrections for life. It is
12 concurrent with the other indictment. I'll give you
13 credit for any time you have served.

14 2010-GS-42-04657. You are confined to the
15 Department of Corrections for a maximum 15 years
16 concurrent, credit for time. Best of luck to you, sir.

17 MR. THOMPSON: Thank you, Your Honor.

18 MS. HALLFORD: Thank you, Your Honor.

19 (Whereupon, Court concluded at 3:17 p.m.)
20
21

22 --- THIS ENDS REQUESTED TRANSCRIPT ---
23
24
25

1 COURT REPORTER CERTIFICATE

2
3 I, the undersigned Julie A. Cendroski, Court
4 Reporter for the Seventh Judicial Circuit Court of the
5 State of South Carolina, do hereby certify that to the
6 best of my ability the foregoing is a true, accurate,
7 and complete transcript of record of all the proceedings
8 and evidence introduced in the hearing and/or trial of
9 the captioned case, relative to appeal, in the court of
10 General Sessions for Spartanburg County, South Carolina,
11 for the 25th-27th days of March, 2019.

12 I do further certify that I am neither of kin,
13 counsel, nor interest to any party hereto.

14
15
16
17
18 s/Julie A. Cendroski
19 Julie A. Cendroski
20 Circuit Court Reporter
21 Seventh Judicial Circuit
22
23
24
25

FORM 5

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

County of Spartanburg

Anthony Neil Briggs # 5000 342419
 Full name and prison number (if any) of Applicant

2021-CP-42-03954

v.

APPLICATION FOR

State of South Carolina

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Broad River Corf. Inst. Murrey dorm
cell 260
2. Name and location of Court which imposed sentence Spartanburg County
7th Judicial Circuit
3. Name(s) of co-defendant(s) (if any) NONE
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2009-GS-42-2627 CSC 1st (LWOP)
 - (b) 2010-GS-42-4657 Penal Act 1541
Concurrent

(c)

NON5. The date upon which sentence was imposed and the terms of the sentence: March 27, 2019

(a)

Life in prison for 1st degree

(b)

15 yr. concurrent sentence for Lewd Act

(c)

None

6. Check whether a finding of guilty was made:

(a)

after a plea of guilty

(b)

after a plea of not guilty

(c)

after a plea of nolo contendere

7. Did you appeal from the judgment of conviction or the imposition of sentence?

Yes

8. If you answered "yes" to (7), list:

(a)

the name of each Court to which you appealed:

i.

South Carolina Court of Appeals

ii.

iii.

(b)

the result in each such Court to which you appealed:

i.

Affirmed

ii.

iii.

(c)

the date of each such result:

i.

November 3, 2021

ii.

iii.

(d)

if known, citations of any written opinion or orders entered pursuant to such results:

i.

N/A

ii.

N/A

iii.

N/A

9. If you answered "no" to (7), state your reasons for not so appealing:

(a)

None

(b)

None

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SPARTANBURG COUNTY
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- (c) NONE
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) ineffective Assistance of Appellate Counsel - failure to raise new trial motion
 - (b) ineffective Assistance of Trial Counsel (failure to raise a directed verdict issue)
 - (c) I was denied counsel at a critical stage. (by failing to object to inadmissible hearsay, hearsay that exceeded the bounds of 801 & R.C.P. 2)
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) Appellate attorney failed to raise the "speculation" standard to add strength to directed verdict issue
- (b) By failing to object to improperly admitted hearsay
- (c) Counsel failed to adequately investigate, prepare, failed to object to sentencing, failed to present a defense.
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? NO
 - (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
 - (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO
 - (d) any other petitions, motions or applications in this or any other Court? NO
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
 - i. None
 - ii. None
 - iii. None
 - iv. None
 - (b) the name and location of the Court in which each was filed:
 - i. None
 - ii. None
 - iii. None
 - iv. None

(c) the disposition thereof:

- i. None
- ii. None
- iii. None
- iv. None

(d) the date of each such disposition:

- i. None
- ii. None
- iii. None
- iv. None

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. None
- ii. None
- iii. None
- iv. None

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

- None
- None

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

- i. None
- ii. None
- iii. None

(b) the proceedings in which each ground was raised:

- i. None
- ii. None
- iii. None

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SPARTANBURG COUNTY
ALY V. COX

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16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) None
 (b) none
 (c) none

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? YES
 (b) your trial, if any? YES
 (c) your sentencing? YES
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? YES
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? YES

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you: SCJD
 i. Robert M. Dudek, Chief Appellate Defender
P.O. Box 11589, Columbia, SC 29211-1589
 ii. Jeremy A. Thompson, Esquire
Law Office of Jeremy A. Thompson, LLC
P.O. Box 12891, Columbia, SC 29211
 (b) the proceedings at which each such attorney represented you:
 i. Direct Appeal - Mr. Dudek
 ii. Trial - Jeremy A. Thompson
 iii.

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 A.M.V. COX

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19. State clearly the relief you seek in filing this application:

Both Charges, sentences, and convictions vacated,
reverse, and remanded

20. Are you now under sentence from any other court that you have not challenged?

NO

STATE OF SOUTH CAROLINA

County of Spartanburg

VERIFICATION

I, Anthony Briggs, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Anthony Briggs

SWORN to and subscribed before me this 19th
day of November, 2021.

Kongra Kolman (L.S.)
Notary Public

My Commission Expires: 8/4/2024

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SPARTANBURG COUNTY
AMY W. COX

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, Anthony Briggs #342410, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Anthony Briggs
Applicant

SWORN or affirmed to and subscribed before me this

19th day of November, 2021.

Korena Robinson
Notary Public

My Commission Expires: 8/4/2024

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SPARTANBURG COUNTY
AMY W. COX

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STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

Anthony Briggs, #342410,
Applicant,

v.

State of South Carolina,
Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE SEVENTH JUDICIAL CIRCUIT

Case No. 2021-CP-42-03954

**RETURN AND MOTION FOR A
MORE DEFINITE STATEMENT**

NOW COMES Respondent, moving for a more definite statement and making its return to the post-conviction relief (hereafter "PCR") application filed on November 23, 2021, by Anthony Briggs (hereafter "Applicant"). Respondent respectfully offers the following in support of its return:

I. Procedural History

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Spartanburg County Clerk of Court. During its May 2009 term, the Spartanburg County Grand Jury indicted Applicant for first degree criminal sexual conduct with a minor (2009-GS-42-2627). During its August 2010 term, the Spartanburg County Grand Jury indicted Applicant for sex/lewd act committed/attempted upon a child under the age of sixteen (2010-GS-42-4657). The underlying facts include that Applicant was the victim's mother's boyfriend and, some mornings when the two were alone, Applicant would sexually abuse her by putting his hands and mouth on her genitals. (Tr. 46-47).

Applicant was represented by Max B. Singleton, Esquire. Assistant Solicitors Susan S. Reese and Jennifer A.J. Jordan of the Seventh Circuit Solicitor's Office prosecuted the case. On August 23-26, 2010, Applicant proceeded to trial before the Honorable J. Derham Cole, circuit

court judge, and a jury. Judge Cole sentenced Applicant to life imprisonment.

Applicant filed a timely notice of appeal that was perfected on by Elizabeth A. Franklin-Best Esquire, who made a brief on January 11, 2012, raising the following issue:

Did the trial court err when he denied appellant's motion for a directed verdict for criminal sexual conduct with a minor, 1st degree, when the accuser never testified that any penetration occurred?

The South Carolina Court of Appeals dismissed Applicant's appeal by unpublished opinion. *State v. Briggs*, 2012-UP-323 (S.C. Ct. App. filed May 30, 2012). The remittitur was issued on June 19, 2012.

First PCR Action: (2012-CP-42-2674)

Applicant subsequently filed his first PCR application on June 26, 2012, alleging:

1. Ineffective assistance of trial counsel.
 - a. Failure to present a defense.
2. Ineffective assistance of appellate counsel.
 - a. Perjured testimony.
3. Prosecutorial misconduct.
 - a. Vindictive prosecution.
4. Lack of subject matter jurisdiction and personal jurisdiction.

Respondent made its return on June 26, 2013. Applicant amended his application, alleging twelve different allegations of ineffective assistance of trial counsel on October 30, 2013. An evidentiary hearing into the matter was convened on November 12, 2013, at the Spartanburg County Courthouse. Applicant was present at the hearing and was represented by Jeremy A. Thompson, Esquire. Suzanne H. White, Esquire, of the South Carolina Attorney General's Office, represented Respondent. On February 1, 2014, the Honorable Robin B. Stilwell, circuit court judge, issued the order of dismissal granting Applicant's PCR application, finding:

1. Defense Counsel was ineffective for failing to object to testimony by the forensic interviewer which vouched for the credibility of the victim.

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2. Defense Counsel was ineffective for failing to object to the trial court's failure to charge the jury regarding expert witnesses.

The State made a motion to alter or amend the order granting relief pursuant to Rule 59(e), which was denied by Judge Stilwell on February 28, 2014.

The State filed a notice of appeal on March 31, 2014. On January 29, 2015, Suzanne White, Esquire filed a petition for writ of certiorari in the Supreme Court of South Carolina on behalf of Petitioner-Respondent, alleging:

1. The PCR court erred when it recognized the doctrine of cumulative error in the order granting relief, which the State of South Carolina has not found to be proper in post-conviction relief matters.
2. The PCR court erred when it found Counsel ineffective for failing to object to the qualification of Arroyo-Staggs as an expert witness, when she was qualified in the area of child abuse assessment, failing to object to improper vouching by Arroyo-Staggs, and for eliciting improper vouching testimony, when the finding was based upon improper consideration of the facts and an error of law.
3. The PCR court erred in granting Respondent's application where no evidence of probative value supports the PCR court's finding that Counsel was ineffective for failing to request a jury charge regarding expert testimony.

Respondent-Petitioner made its return to petition for writ of certiorari and its petition for writ of certiorari on June 1, 2015. Petitioner-Respondent filed their return to the petition for writ of certiorari on October 7, 2015. By order filed July 18, 2016, the Supreme Court of South Carolina granted State's petition for writ of certiorari concerning counts two and three and denied concerning count one. Respondent-Petitioner's petition was denied. Briefing concluded March 20, 2017. On October 25, 2017, by written order the Supreme Court of South Carolina affirmed the circuit court's granting of relief. *Briggs v. State*, Op. No. 27745 (S.C. S. Ct. Oct. 25, 2017). The remittitur was issued on November 13, 2017.

Re-trial and Direct Appeal (2019-000632)

Applicant was re-tried on the same indictments. Applicant was represented by Jeremy A. Thompson, Esquire. Assistant Solicitors Wendy Hallford and Hope Coleman of the Seventh Circuit Solicitor's Office prosecuted the case. On March 25-27, 2019, Applicant proceeded to trial before the Honorable R. Keith Kelly, circuit court judge, and a jury. Applicant was found guilty on both charges Judge Kelly sentenced Applicant to life imprisonment for criminal sexual conduct and fifteen years' imprisonment for lewd act upon someone under sixteen years old, sentences running concurrently.

Applicant filed a timely notice of appeal on April 10, 2019, that was perfected by Robert Dudek, Esquire, through filing a brief pursuant to *Anders v. California*, 386 U.S. 738 (1967). The South Carolina Court of Appeals dismissed Applicant's appeal by unpublished opinion. *State v. Briggs*, 2021-UP-380 (S.C. Ct. App. filed Nov. 3, 2021). The remittitur was issued on November 24, 2021.

II. Current Action before the Court

In his *pro se* PCR application, Applicant alleges he is detained unlawfully for the following reasons (excerpts verbatim):

1. Ineffective assistance of appellate counsel:
 - a. Failure to raise a new trial.
 - b. Failure to raise a directed verdict issue.
2. Ineffective assistance of counsel:
 - a. Failure to object to inadmissible hearsay, hearsay that exceeded the bounds of 801 SCR Cr. P.
 - i. Failure to object to hearsay that improperly bolstered the victim's credibility.
 - b. I was denied counsel at a critical stage.
 - c. Counsel failed to subject the prosecution's case to meaningful adversarial testing.
 - d. Numerous circumstances prevented counsel from affording effective representation.
 - e. Failure to adequately investigate and prepare.

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- f. Failure to object to sentencing.
- g. Failure to present a defense.

Attached to and incorporated herein are Applicant's Spartanburg County Clerk of Court Records, Applicant's South Carolina Department of Corrections Records, the trial transcript, prior PCR, PCR appeal, re-trial, and direct appeal records, and the current PCR application. Respondent reserves the right to amend this return upon receipt of additional relevant information.

III. Argument

Ineffective Assistance of Counsel

In a PCR action, the applicant bears the burden of proving allegations contained in the application. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). Effective assistance of counsel does not mean perfect or mistake-free representation. *See Weaver v. Massachusetts*, 137 S. Ct. 1899 (2017) (“[A] defendant has a right to effective representation, not a right to an attorney who performs his duties ‘mistake-free.’” (citation omitted)); *Burt v. Titlow*, 571 U.S. 12, 24 (2013) (“[T]he Sixth Amendment does not guarantee the right to perfect counsel; it promises only the right to effective assistance[.]”); *Yarborough v. Gentry*, 540 U.S. 1, 8 (2003) (“The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight.”). Instead, it simply means assistance that was objectively reasonable under prevailing professional norms. *Strickland*, 466 U.S. at 687-688.

When an applicant asserts ineffective assistance of counsel as a ground for relief, the applicant must show “counsel’s conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result.” *Strickland v. Washington*, 466 U.S. 668, 686 (1984); *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. Ineffective assistance of counsel is governed by the Sixth Amendment, as explained by the United States

Supreme Court in *Strickland v. Washington*.

Pursuant to the first prong of the *Strickland* analysis, the applicant must prove defense counsel's performance was deficient. *Id.* at 686; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). To show deficiency, the applicant must prove by a preponderance of the evidence that counsel's actions fell outside of the zone of "reasonableness under prevailing professional norms." *Strickland*, 466 U.S. at 688. *See also* Rule 71.1(e), SCRCP ("The applicant has the burden of establishing his entitlement to relief by a preponderance of the evidence."). Reasonableness is determined by the "variety of circumstances faced by defense counsel or the range of legitimate decisions regarding how to best represent a criminal defendant," and the scope of the reasonableness inquiry is limited to facts counsel had available at the time of representation. *Id.* at 689. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." *Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690); *see Dunn v. Reeves*, 141 S. Ct. 2405, 2410 (2021) (noting counsel's strategic decisions are to be afforded a "'strong presumption' of reasonableness that the defendant must overcome); *Cullen v. Pinholster*, 563 U.S. 170, 189 (2011) (explaining a defendant must show defense counsel failed to act reasonably considering all the circumstances in order to overcome the presumption of adequate representation). Judicial scrutiny of counsel's performance remains highly deferential towards defense counsel with a strong presumption that counsel acted competently, because competent representation may be executed in virtually "countless" ways. *Strickland*, 466 U.S. at 688-89.

Second, counsel's deficient performance must have prejudiced the applicant so that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the

proceeding would have been different.” *Cherry*, 300 S.C. at 117-18. “A reasonable probability is a probability sufficient to undermine confidence in the outcome.” *Strickland*, 466 U.S. at 694. The court makes this determination based upon the totality of the evidence. *Id.* at 695. Importantly, “[t]he likelihood of a different result must be *substantial*, not just conceivable.” *Harrington v. Richter*, 562 U.S. 86, 112 (2011).

The standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. *Strickland*, 466 U.S. at 696. A court need not first determine whether counsel’s performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies; if it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. *Id.* at 696-97.

Failure to Investigate

Applicant alleges ineffective assistance of counsel for “failure to investigate.” *Strickland* makes clear that Defense counsel “has a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary.” 466 U.S. at 691. When highlighting failure to investigate as a ground for a larger ineffective assistance of counsel claim, judicial determination of this claim’s validity is evaluated for “reasonableness [under] all the circumstances” with “a heavy measure of deference to counsel’s judgments” applied. *Id.* That said, counsel is required to, at minimum, “interview potential witnesses and make an independent investigation of the facts and circumstances of the case”, *Ard v. Catoe*, 372 S.C. 318, 331-32, 642 S.E.2d 590, 597 (2007) (quoting *Troedel v. Wainwright*, 667 F.Supp. 1456, 1461 (S.D.Fla.1986), *aff’d*, 828 F.2d 670 (11th Cir.1987)), including aggressively re-examining all the government’s forensic evidence and conducting analyses of all other available forensic

evidence.” *Id.* (quoting *American Bar Association Guidelines For The Appointment And Performance Of Defense Counsel In Death Penalty Cases*, reprinted in 31 Hofstra L.Rev. 913, 1015 (2003) (emphasis added)).

Counsel is not obligated to “investigate lines of defense that he has chosen not to employ at trial.” *Strickland*, 466 U.S. at 682 (quoting *Washington v. Strickland*, 693 F.2d 1243, 1255 (5th Cir. 1982)). Further, “[w]hen counsel focuses on some issues to the exclusion of others, there is a strong presumption that he [or she] did so for tactical reasons rather than through sheer neglect.” *Yarborough*, 540 U.S. at 5 (citing *Strickland*, 466 U.S. at 690).

Here, Applicant shows no facts indicating that any failure to investigate on the part of Counsel occurred, let alone was unreasonable. Counsel had no obligation to investigate every conceivable defense available in the case; only to engage in reasonable investigation. The Applicant has made no showing that Counsel’s inaction regarding investigations fell outside the zone of reasonableness, nor has Applicant specifically stated what exactly Counsel failed to investigate. Thus, Respondent requests a more specific statement regarding this claim to ascertain the merit, or lack thereof, of the allegation.

Failure to Object to Hearsay

Applicant claims Counsel was ineffective for failure to object to hearsay. Whether failure to object constitutes deficient performance generally hinges on whether or not a valid trial strategy was utilized. *See Thompson v. State*, 423 S.C. 235, 241, 814 S.E.2d 487, 490 (2018) (finding Counsel was deficient because the failure to object was not related to an otherwise valid trial strategy); *Stokes v. State*, 308 S.C. 546, 548, 419 S.E.2d 778, 779 (1992) (where “counsel articulates a valid reason for employing certain strategy, such conduct will not be deemed ineffective assistance of counsel”).

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Applicant fails to show what exactly should have been objected to, how Counsel was deficient, or how he was prejudiced by the alleged deficiency. Accordingly, Respondent contends the allegations are likely without merit, but still requests an evidentiary hearing on this matter.

Failure to Object to Improper Bolstering

Applicant claims Counsel was ineffective for failure to object to improper bolstering.

“Improper bolstering is ‘testimony that indicates the witness believes the victim, but does not serve some other valid purpose.’” *Chappell v. State*, 429 S.C. 68, 75, 837 S.E.2d 496, 499-500 (Ct. App. 2019) (quoting *Briggs v. State*, 421 S.C. 316, 325, 806 S.E.2d 713, 718 (2017)).

“Improper bolstering also occurs when a witness testifies for the purpose of informing the jury that the witness believes the victim, or when there is no other way to interpret the testimony other than to mean the witness believes the victim is telling the truth.” *Id.* “However, an expert’s testimony is not improper bolstering ‘when the expert witness gives no indication about the victim’s veracity[.]’” *Id.* (quoting *State v. Perry*, 420 S.C. 643, 663, 803 S.E.2d 899, 910 (Ct. App. 2017)).

“In an ineffective assistance case, ‘trial counsel’s failure to object to [improper bolstering] testimony does not remove a [] [PCR] applicant’s burden to prove prejudice.’” *Chappell*, 429 S.C. at 80, 837 S.E.2d at 502 (quoting *Thompson*, 423 S.C. at 246, 814 S.E.2d at 492). “The determination of whether a bolstering error is harmless depends on whether the case turns on the credibility of the victim.” *State v. Chavis*, 412 S.C. 101, 110, 771 S.E.2d 336, 341 (2015). “The outcome of a trial turns on the credibility of the victim when the State presents no physical evidence or ‘relie[s] solely upon the victim’s testimony to establish the details of the crime’” *Chappell*, 429 S.C. at 80, 837 S.E.2d at 502 (quoting *Thompson*, 423 S.C. at 248,

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814 S.E.2d at 494).

Applicant has not met his burden of proof concerning this allegation. Specifically, he has not stated with any specificity what the State did that constituted improper bolstering, why Counsel was deficient for not objecting, whose testimony was improperly bolstered, or how he was prejudiced. Accordingly, because Applicant cannot meet his burden of proof, relief should be denied on this ground.

Failure to Object at Sentencing

Applicant claims Counsel was ineffective for failure to object at sentencing. However, Applicant fails to show what exactly should have been objected to, why, how Counsel was deficient, or how he was prejudiced by the alleged deficiency. Accordingly, Respondent contends the allegations are likely without merit, but still requests an evidentiary hearing to fully resolve the matter.

Failure to Present a Defense

Applicant claims Counsel was ineffective for failure to present a defense. Whether failure to assert a defense constitutes deficient performance ultimately hinges on whether failure to explore the decision was a strategic decision. *Strickland*, 466 U.S. at 680. If there is only one line of defense, counsel must conduct a “reasonably substantial investigation” into that line of defense. *Id.* (quoting *Washington v. Strickland*, 693 F.2d at 1252). However, if there are several lines of defense, counsel may still be effective even if every single line is not explored. *Id.* “[W]hen counsel's assumptions are reasonable given the totality of the circumstances and when counsel's strategy represents a reasonable choice based upon those assumptions, counsel need not investigate lines of defense that he has chosen not to employ at trial.” *Id.* at 681 *Id.* (quoting *Washington v. Strickland*, 693 F.2d at 1255). Further, “[w]hen counsel focuses on some issues to

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the exclusion of others, there is a strong presumption that he [or she] did so for tactical reasons rather than through sheer neglect.” *Yarborough*, 540 U.S. at 5 (citing *Strickland*, 466 U.S. at 690).

Regarding failure to alert the Applicant of a defense specifically, Counsel will not be found ineffective if there was inadequate evidence to support the defense, if the defense did not exist at the time of trial, or another avenue of defense existed. *See McCray v. State*, 317 S.C. 557, 455 S.E.2d 686 (1995) (stating that failure to state an entrapment defense was not ineffective when the applicant denied any wrongdoing); *Arnette v. State*, 306 S.C. 556, 413 S.E.2d 803 (1992) (stating that failing to inform of a defense was not ineffective when there was no evidence at trial that supported the defense); *Robinson v. State*, 308 S.C. 361, 417 S.E.2d 361, 417 S.E.2d 88 (1992) (stating that Counsel was not ineffective when failing to state a defense that was not recognized by the Court until six years later and was just recently acknowledged by the scientific community). Respondent contends that Applicant likely cannot meet his burden of proof on this ground. Still an evidentiary hearing is requested to fully resolve the matter.

Failure to Subject State to Adversarial Testing

Applicant claims Counsel was ineffective for failure to subject the State to adversarial testing. However, Applicant fails to show what exactly Counsel should have done, how Counsel was deficient, or how he was prejudiced by the alleged deficiency. Accordingly, Respondent contends the allegations are likely without merit, but still requests an evidentiary hearing to fully resolve the matter.

Ineffective Assistance of Appellate Counsel – Failure to Raise New Trial and Directed Verdict Issues

Applicant claims Appellate Counsel was ineffective for failing to raise new trial and directed verdict issues. A defendant is constitutionally entitled to effective assistance of appellate

counsel. *Evitts v. Lucey*, 469 U.S. 387 (1985). “Generally, in analyzing a claim of ineffective assistance of appellate counsel, this Court applies the *Strickland* test just as it would when analyzing a claim of ineffective assistance of trial counsel. *Bennett v. State*, 383 S.C. 303, 309, 680 S.E.2d 273, 276 (2009). Applicant must show appellate counsel’s performance was deficient, and he was prejudiced by the deficiency. *Gilchrist v. State*, 364 S.C. 173, 612 S.E.2d 702 (2005); *Anderson v. State*, 354 S.C. 431, 581 S.E.2d 834 (2003); *Thrift v. State*, 302 S.C. 535, 537, 397 S.E.2d 523, 525 (1990).

Appellate counsel has a professional duty to choose among potential issues according to their merit. *Jones v. Barnes*, 463 U.S. 745 (1983). Where the strategic decision to exclude certain issues on appeal is based on reasonable professional judgment, the failure to appeal all trial errors is not ineffective assistance of counsel. *Tisdale v. State*, 357 S.C. 474, 476, 594 S.E.2d 166, 167 (2004) (quoting *Jones v. Barnes*, 463 U.S. 745, 754 (1983) (“For judges to second-guess reasonable professional judgments and impose on . . . counsel a duty to raise every ‘colorable’ claim suggested by a client would dissuade the very goal of vigorous and effective advocacy. . . .”)).

When a claim of ineffective assistance of counsel is based upon neglecting to file a merits-based brief, Applicant must show that appellate counsel unreasonably failed to discover non-frivolous issues and file a merits brief raising them, and a reasonable probability that, but for his counsel’s unreasonable failure to file a merits brief, he or she would have prevailed on his appeal. *Smith v. Robbins*, 528 U.S. 259, 285 (2000). Applicant must show that a reasonably competent attorney would have found one non-frivolous issue warranting a merits brief, and that the issue identified would have won on appeal. *Id.* at 288.

Applicant has failed to show why the new trial and directed verdict issues would have

allowed him to prevail on appeal or why Counsel was unreasonable in failing to raise these issues. Accordingly, Respondent contends that Applicant likely cannot prevail on this issue.

Still, the ineffective assistance of counsel allegations probably raise questions of fact that the record does not conclusively refute. Accordingly, Respondent respectfully requests an evidentiary hearing to fully resolve this issue. *See Sharper v. State*, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (“Where an application for post-conviction relief alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record before the lower court, a question of fact is raised which can only be resolved by an evidentiary hearing.”).

IV. Motion for a More Definite Statement

Respondent moves for a more definite statement regarding Applicant’s allegations. Applicant alleges that trial and appellate counsels were constitutionally ineffective. However, he does not explain exactly what Counsel did that constituted ineffective assistance of counsel. Applicant fails to set forth with specificity any facts and circumstances upon the claim is based. The Uniform Post-Conviction Procedure Act requires that applicants must “specifically set forth the grounds upon which the application is based.” Section 17-27-50 of the Code of Laws of South Carolina (1976). In a PCR application, it is incumbent upon applicants to make at least a *prima facie* showing which would entitle him to relief before an evidentiary hearing will be scheduled and held. *Welch v. MacDougall*, 246 S.C. 258, 143 S.E.2d 455 (1965); *Blandshaw v. State*, 245 S.C. 385, 140 S.E.2d 784 (1965). The Supreme Court of South Carolina has provided that:

[M]ere allegations of incompetency or ineffectiveness of counsel will not ordinarily suffice as grounds for a new trial under the Post-Conviction Procedure Act. The bare assertion by the appellant that he was deprived of counsel is insufficient.

Coardes v. State, 262 S.C. 493, 497, 206 S.E.2d 264, 265 (1974).

Furthermore, Rule 8(a), SCRCP, requires all civil pleadings include “a short and plain statement of the facts showing that the pleader is entitled to relief.” Respondent moves pursuant to Rule 12(e), SCRCP, to require Applicant to provide a more definite statement of his claims. Respondent moves to require Applicant to file an additional amended application well in advance of any evidentiary hearing concerning this matter. If Applicant fails to file a timely and responsive amended application setting forth specific allegations for relief, Respondent reserves the right to move to dismiss the allegation.

V. Other Allegations Denied

Each and every other allegation in Applicant’s PCR application not explicitly admitted, qualified, or explain in this return is hereby denied by the Respondent.

VI. Assertion of Rights to Notice of Amendments, Experts

Applicant should raise any claims he intends to raise at the PCR evidentiary hearing well in advance of the hearing. Here, Applicant’s court-appointed attorney is the only individual authorized to file amendments to this application, given his representative capacity, Rule 11(a), SCRCP and *pro se* filings will not be considered at the PCR hearing. *State v. Devore*, 416 S.C. 115, 123, 784 S.E.2d 690, 694 (Ct. App. 2016) (*Pro se* filing is a nullity where person was represented by counsel); *Miller v. State*, 388 S.C. 347, 697 S.E.2d 527 (2010) (“Since there is no right to ‘hybrid representation’ that is partially *pro se* and partially by counsel, substantive documents, with the exception of motions to relief counsel, filed *pro se* by a person represented by counsel are not to be accepted unless submitted by counsel.”).

Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent or, in the alternative, continue the

matter to permit adequate time to investigate and address the claims. *See Mangal v. State*, 421 S.C. 85, 805 S.E.2d 568 (2017) (“In most PCR cases . . . we have refused to excuse the pleading and issue-preservation requirements that apply in all civil cases.”); *Love v. State*, 428 S.C. 231, 242, 834 S.E.2d 196, 201 (2019) (“When analyzing the substance of a proposed amendment and any prejudice the State might suffer, a PCR court should consider all relevant circumstances, including, but not limited to, the timing of the motion, the complexity of the new issue, the degree of surprise to the State, the need for and availability of necessary witnesses to defend against the claim, and whether the substance of the proposed amendment is readily apparent from the underlying plea or trial record.”); *see also* Rules 15(a)-(b), SCRCP (explaining how to amend a pleading). Pursuant to Section 17-27-150 of the South Carolina Code of Laws, Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless the Court grants leave upon good cause shown. Furthermore, Respondent requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to Respondent well in advance of the evidentiary hearing. Respondent reserves the right to request a continuance and oppose witness testimony and exhibits withheld until the last minute resulting in undue prejudice to Respondent.

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ALY W. COX

VII. Conclusion

WHEREFORE, Respondent requests that the Court require Applicant to provide a more definite statement and then hold an evidentiary hearing regarding Applicant's allegations.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

CHELSEY F. MARTO
Assistant Attorney General

By:  & 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
Telephone: (803) 734-0386

January 25, 2022

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 CLERK OF COURT
 SPARTANBURG COUNTY
 207 W. 1ST ST.
 SPARTANBURG, SC 29301

STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSIONS
COUNTY OF SPARTANBURG	)	2021-CP-42-3954
	)	
	)	
	)	
	)	
ANTHONY BRIGGS,	)	
	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
THE STATE OF SOUTH CAROLINA,	)	
DEFENDANT.	)	
	)	

October 18, 2022
Spartanburg, South Carolina

B E F O R E:

THE HONORABLE BRIAN M. GIBBONS, JUDGE.

A P P E A R A N C E S:

CHELSEY MARTO, ESQ.
Assistant Attorney General

RODNEY RICHEY, ESQ.
Attorney for the Applicant

AMBER PAYNE, CVR
Circuit Court Reporter

I N D E X

(SW) - Denotes State's Witness

(AW) - Denotes Applicant's Witness

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There were no exhibits entered during this hearing.

P R O C E E D I N G S

(Whereupon, the hearing began at
12:04 p.m.)

THE COURT: All right. Madam A.G., if you'll call
the case.

MS. MARTO: Afternoon, Your Honor. May it please
the Court.

THE COURT: Yep.

MS. MARTO: We are here today in the case of
"Anthony Briggs vs. The State of South Carolina,"
2021-CP-42-3954. He was confined to the Department
of Corrections in May 2009. He was indicted for
first-degree criminal sexual conduct with a minor,
and then was indicted in August 2010 for a sex and
lewd act committed or attempted upon a child under
16.

He was represented by Max Singleton and Susan
Reese and Jennifer Jordan prosecuted the case. He
proceeded to trial before Judge Cole on August 23rd
through the 26th, 2010, and was found guilty and
sentenced to life imprisonment. He filed a timely
notice of appeal, and that was dismissed. The
remittitur was issued on June 19, 2012. He filed
his first PCR application June 26, 2012, and he was
granted relief by Judge Stilwell on February 1st,

1 2014.

2 The State filed a notice of appeal March 31st,
3 2014, and on October 25th, 2017, the circuit court's
4 findings were affirmed by written order. The
5 remittitur issued November 13th, 2017. Applicant
6 was retried on the same indictments and represented
7 by Mr. Jeremy Thompson. He proceeded to trial March
8 25th through the 27th, 2019, before Judge Kelly. He
9 was again found guilty and sentenced to life
10 imprisonment (verbatim.)

11 He filed a timely notice of appeal and was
12 represented by Mr. Duda who filed an Anders brief.
13 The South Carolina Court of Appeals affirmed the
14 convictions, and the remittitur was issued on
15 November 24th, 2021. This application was filed
16 November 23rd, 2021. The State's return made on
17 January 25th, 2022 (verbatim.)

18 And with that, I'll turn it over to Mr. Richey.

19 THE COURT: All right. Mr. Richey?

20 MR. RICHEY: Thank you. We'll call Mr. Briggs.

21 THE COURT: All right. Sir?

22 (WHEREUPON, the Applicant was sworn.)

23 THE COURT: Have a seat there. Make sure you speak
24 loudly. Pull that mic -- there you go. All right.

25 DIRECT EXAMINATION OF ANTHONY BRIGGS

1 BY MR. RICHEY:
2 Q Okay. Sir, will you state your name, please?
3 A Anthony Briggs.
4 Q And, Mr. Briggs, are you currently in the South Carolina
5 Department of Corrections?
6 A Yes, sir.
7 Q And what are you in there for?
8 A Criminal sexual conduct with a minor, first degree.
9 Q Okay. And you filed an application for post-conviction
10 relief; is that correct?
11 A Yes, sir.
12 Q You've got to speak up.
13 A Yes, sir.
14 Q Okay. And -- and who represented you at your trial?
15 A Jeremy Thompson.
16 Q Okay. And you have -- you believe that his
17 representation was not effective; is that correct?
18 A Yes, sir.
19 Q And you believe that had he effectively represented you,
20 that the outcome would have been different; is that
21 correct?
22 A Yes, sir.
23 Q And you have a series of issues that -- that you want to
24 bring to the Court's attention. Now, let me kind of give
25 kind of a brief -- a brief summation of it.

1 This is an alleged incident that involved a child
2 that you were dating her mother; is that correct?

3 A Yes, sir.

4 Q And -- and you are not the father or the --, use the
5 phrase, "stepfather," of the child, right?

6 A Right.

7 Q Okay. And -- and these allegations arose out of a
8 Department of Social Services issue?

9 A Yeah.

10 Q You got to speak up.

11 A Yes, sir. Yes, sir.

12 Q Okay. All right. And you went to trial and you actually
13 have gone to trial twice on this case; is that correct?

14 A Yes, sir.

15 Q And the -- and so what type of sentence did you receive?

16 A Life without parole.

17 Q Okay. All right. You -- and did -- in this trial, you
18 believe that your lawyer did not preserve the discovery
19 in your case? In this case, the allegations made by --
20 started from the father, correct?

21 A Correct.

22 Q And y'all had some tapes that the father outlined what he
23 wanted to do in the case, right?

24 A Yes, sir.

25 Q And you presented those tapes to who?

1 A I gave them to Detective Nicki Cantrell at the
2 Spartanburg County Sheriff's Department.

3 Q Okay. And -- and were those tapes preserved to your
4 knowledge?

5 A No, sir.

6 Q Did the lawyer -- did your lawyer, at any point, ask for
7 those tapes?

8 A Not -- no, sir.

9 Q Okay. Did -- and so -- so those tapes were not available
10 at your trial?

11 A No, sir.

12 Q And is that a piece of evidence that you wanted to have
13 available?

14 A Yes, sir.

15 Q Did you talk to your lawyer about that?

16 A I did.

17 Q And what was his position on that?

18 A He said that he didn't want to attack the trial that way.
19 He didn't want to make this trial about the daddy.

20 Q Okay.

21 A And I couldn't understand that because the accusation
22 came from the daddy. It never came from the alleged
23 victim. It came from the daddy, because he didn't want
24 to pay child support.

25 Q Okay. So it's your position of dad, in a -- for lack of

1 a phrase, put the child up to this?

2 A (No response.)

3 Q You gotta speak. You gotta --

4 A Yes, sir.

5 Q Okay. All right. And -- and what -- so he took no

6 actions on those tapes at all?

7 A No, sir.

8 Q Okay. And you believe those tapes could've benefitted

9 you?

10 A Yes, sir.

11 Q Okay. In the -- in the trial, there were several

12 witnesses; is that correct?

13 A Yes, sir.

14 Q Okay. And -- and they had an expert, Ms. Galloway,

15 testify; is that correct?

16 A Yes, sir.

17 Q Did -- did you -- did you have any issues with that

18 testimony?

19 A Yeah. She -- just bolstering, going on the credibility

20 of the alleged victim, things like that.

21 Q Okay. Do you have your information with you up there?

22 A (Nods head up and down.)

23 Q You do?

24 A I do.

25 Q Okay. Okay. This -- this lady was called as a -- as an

1 expert; is that correct?

2 A Yes, sir.

3 Q Do you recall what type of expert she was called as?

4 A No. Not right off.

5 Q A dynamic? Was she --

6 A Dynamic, yeah.

7 Q Yeah. Okay. And did she interview the child?

8 A No.

9 Q Did she -- do -- did she review the paperwork?

10 A No. No, sir.

11 Q Okay. And she just gave a general opinion on what

12 happens in these cases --

13 A Uh-huh.

14 Q -- correct?

15 A Yes, sir.

16 Q Did your -- did you want your lawyer to object to all of

17 that testimony?

18 A Yes, sir.

19 Q You wanted an objection that your lawyer objects to her

20 testimony?

21 A Yes, sir.

22 Q Okay. Okay. But -- you don't -- let me ask the question

23 again: You wanted your lawyer to object to that

24 testimony --

25 A To the -- yeah.

1 Q -- right? And you -- is it because you didn't think the
2 testimony is relevant; is that correct?

3 A Yes, sir.

4 Q Okay. And do you know whether he objected to it?

5 A No. He didn't.

6 Q Okay. And did -- what -- why do you believe that this
7 testimony should've been objected to?

8 A Because she was putting the alleged victim in a class of
9 persons that many -- many children are sexually abused by
10 the people they love, care about, respect in the
11 community, and things like that. And Ms. Shauna
12 Galloway-Williams put that into a class of persons.

13 Q And -- and was it a way of bolstering the
14 testimony --

15 A Uh-huh.

16 Q -- of the child?

17 A Yes, sir.

18 Q Okay. And -- and so you believe that that testimony
19 should've been objected to because of bolstering, and it
20 laid a premise about this child in a group of people?

21 A Yes, sir.

22 Q Okay. And was this testimony used by the State in any
23 way?

24 A Yes, sir. In the closing argument, the State went back
25 to this testimony and pretty much brought it to the

1 jury's attentions (as spoken) in closing argument.

2 Q And it's your position that your attorney should've
3 objected every time this reference --

4 A Every time.

5 Q -- was made to the expert?

6 A Yes, sir.

7 Q And -- and because why?

8 A That it was just a bolstering -- bolstering the
9 credibility of the alleged victim at the time.

10 Q So it's your position the State was using -- using an
11 expert to never talk to the child? never did
12 investigations? using that to -- to get around the
13 bolstering rules?

14 A Yes, sir.

15 Q Okay. And you felt like your lawyer should've objected
16 to that?

17 A Yes, sir.

18 Q And let me -- let me make sure this is clear. Do you
19 believe that everywhere that the prosecutor refers to as
20 expert and pose an argument, your lawyer should've
21 objected?

22 A Yes, sir.

23 Q Did you have an issue with the testimony of Nancy
24 Henderson?

25 A I did.

1 Q Okay.

2 A On Nancy Henderson, it was that she was referred to by
3 law enforcement. She had already had her forensic
4 interview, and that, "The alleged victim confirmed the
5 abuse and normal exam was consistent with sexual abuse.
6 This testimony conveys to the jury that the forensic
7 interviewer, law enforcement, and medical doctor believes
8 that the alleged victim and their beliefs led to Briggs's
9 arrest and these charges and his trial. And this
10 informissably (phonetic) bolstered the minor's
11 testimony."

12 Q Okay. And what are you referring to?

13 A This would be Page 187, Line 8 through 19 -- or 178, Line
14 8 through 19.

15 Q Okay. And so you believe your counsel should've objected
16 to that testimony?

17 A Yes, sir.

18 Q Okay.

19 A And Page 179, Line 6 through 25 and 180, Line 1 through
20 24.

21 Q And -- and, also, the -- the alleged victim testified in
22 this case; is that correct?

23 A Yes, sir.

24 Q And you believe that -- well, let me -- before I ask you
25 that. In this -- when this incident occurred, you -- you

1 got some notice about what the child was saying, correct?

2 A (Nods head up and down.)

3 Q You got to answer.

4 A Yes, sir.

5 Q You got to --

6 A Yes, sir.

7 Q Okay. And y'all -- you and along with the mom took steps
8 of -- towards this allegation, right.

9 They -- y'all took the child to Mary Black, correct?

10 A Yes, sir. When the allegation was made, I was asked
11 about it. The child was taken alone in the house,
12 questioned about it. She denied anything happened. We
13 then took her to Mary Black Hospital where she had a full
14 urinalysis done. She was talked to by several doctors. I
15 was made to stay out in the waiting room in case law
16 enforcement had to get involved and she was later on --
17 several hours later she was released back to our custody
18 and we was allowed to go home with her.

19 Q Okay. And was that introduced into your trial?

20 A No, sir. It was not.

21 Q Did you talk to your lawyer about the -- about the --
22 about introducing it?

23 A Yes, sir.

24 Q And what was those conversations like?

25 A That he didn't want to put a -- a -- that the State was

1 gonna have their expert witness and he didn't want a lot
2 of -- lot of expert witnesses up on the stand to testify
3 about the same thing.

4 Q Okay.

5 MR. RICHEY: Can I approach, Your -- Your Honor?

6 THE COURT: Yes, sir.

7 Q Is this the report -- the report that you're referring
8 to? This is -- is this the -- well, go ahead and look
9 through those papers. Tell me if that is the report
10 you're referring to.

11 A Yes, sir.

12 Q And -- and does that say anything about the child being
13 sexually abused?

14 A No. It says she was not.

15 Q Okay. And so -- so you -- you had this information and
16 your counsel did not put that in the trial?

17 A Correct.

18 Q Okay. And you talked to him about it, and you discussed
19 it?

20 A I did.

21 Q Okay. And do you believe that was helpful in your case?

22 A I do.

23 Q Okay. And tell me how it was helpful.

24 A Because the whole thing is the daddy got mad at child
25 support hearing because he didn't want to pay child

1 support on his kids, okay. That's when the accusation
2 came about --

3 Q Right.

4 A -- okay. A week later, that's when law enforcement got
5 involved after the children went to their daddy's, then
6 the -- the story changes --

7 Q Right.

8 A -- okay. So how could a little girl know what the story
9 was a week beforehand when the daddy made the accusation?
10 Now, she goes to her daddy --

11 Q Uh-huh.

12 A -- now this is the story when she comes from her daddy's.

13 Q Okay.

14 A And when she's interviewed at the school, she doesn't
15 even say that anything happens. It's the DSS people --

16 Q All right.

17 A -- that tell her that this happened. That someone
18 contacted him and that, "Anthony lays on a pull-out couch
19 and does certain things to her." She never states
20 verbatim in her -- in her own little girl words anything
21 happens.

22 Q Okay.

23 MR. RICHEY: We're gonna offer this as Applicant's
24 1, Your Honor.

25 MS. MARTO: No objection.

1 THE COURT: Without objection, introduced.

2 (WHEREUPON, Mary Black Hospital patient
3 records, is entered into evidence as
4 Applicant's Exhibit 1.)

5 Q So -- so what has been marked as Applicant 1, where in
6 here where you have this document that -- that the party
7 says that the child was not abused, you discussed this
8 with your attorney?

9 A Yes, sir.

10 Q And after your discussion with this attorney, you, him,
11 somebody made a decision not to admit this into evidence;
12 is that correct?

13 A Yes, sir.

14 Q Okay. And you wanted this in evidence?

15 A Yes, sir.

16 Q Okay. And you -- oh, I'm sorry -- and you discussed that
17 with him?

18 A Yes, sir.

19 Q Okay. All right. Okay. In terms of the lawyer, it is
20 your position under Number 7 up there that the lawyer did
21 not properly investigate and prepare a defense for you;
22 is that correct?

23 A Yes, sir.

24 Q Okay. Can you tell me what --

25 A What --

1 Q What --

2 A What issue is this?

3 Q Seven. So you believe that the lawyer did not properly
4 investigate the case, right?

5 A Yes.

6 Q Or prepare a defense?

7 A Yes, sir.

8 Q Okay. Can you tell me what exactly that you want him to
9 do?

10 A Okay. On Issue Number 7, this was Judy Petty's -- Judy
11 Petty had committed perjury on the stand, and Mr.
12 Thompson would've been able to cross-examine her if he
13 had investigated her prior sworn testimony. The
14 testimony in the second trial, she states that law
15 enforcement was called to her residence that night; that
16 she was made aware by the alleged victim. And there's no
17 law enforcement ever responded to her residence. In the
18 first trial, she goes to say that law enforcement never
19 came. That the daddy and the children let -- left her
20 house to come to Spartanburg. Well, in her second trial
21 testimony, she says that law enforcement did show up.

22 Q So it's your position that if he had prepared that
23 testimony, he could've brought out those differences?

24 A Yes, sir.

25 Q Okay. Go ahead.

1 A It's just -- she -- she's just going back and forth, back
2 and forth, "Yeah. They came." "No. They didn't come."
3 And there's no 911 calls. There's no incident reports.
4 There's none of that showing that any law enforcement
5 showed up at Judy Petty's house that night as she's
6 saying in trial.

7 Q Okay. And you -- and you believe that your counsel
8 should've objected to the child's testimony; the -- the
9 videotape?

10 A Yes, sir.

11 Q And can you tell me why?

12 A Let's see. What is that? Number 3.

13 Q Three.

14 A Number 3. All right. There was no -- the reason he
15 should've objected to the testimony under 17-23-175 is
16 because there was no particularized guarantees of
17 trustworthiness. This happened during -- the accusation
18 came about during a very stressful, stressful, stressful
19 divorce situation between my girlfriend and her ex-
20 husband. And all of these factors should've been taken
21 into account, you know, for the particularized guarantees
22 of trustworthiness (as spoken.) She -- she couldn't
23 remember anything. She couldn't remember no date. She
24 knew her birthday. She knew who her favorite teachers
25 was. She knew what school she went to. She knew her

1 address. She knew her phone number. She knew all of
2 this, but she couldn't pinpoint a date or a time that
3 said act supposedly happened.

4 Q Okay.

5 A I mean, the video -- the video should've -- should've
6 been objected to. It just don't have no particularized
7 guarantees of trustworthiness.

8 Q And -- and that's the video of her at a younger age?

9 A At -- yeah.

10 Q Okay. All right. And so did your counsel object to
11 that?

12 A No, sir.

13 Q Okay.

14 A And in this trial, she was shown this video before trial
15 -- the second trial. She was shown this video again to
16 refresh her memory. She didn't remember any of this
17 stuff. But she was shown this video right before trial
18 to refresh her memory.

19 Q Okay. And at trial, she still could not remember a lot
20 of the stuff that happened --

21 A Correct, sir.

22 Q -- as well as it happening, correct?

23 A Correct.

24 Q And -- let's see.

25 A And, in fact, at one point in time, she says that it

1 didn't -- didn't even happen.

2 Q What?

3 A That at one point in time, she says that it didn't even

4 happen.

5 Q And that's the video?

6 A That's -- that's the -- that's during trial.

7 Q Right.

8 A Yeah.

9 Q Yeah.

10 A Yes, sir.

11 Q So -- so it's your position the State could not -- that

12 he should've objected to the -- to the admissibility of

13 the State because they couldn't -- nobody basically

14 objected to it, correct?

15 A Yes, sir. And -- and I just want to put in one more

16 thing.

17 Q Yeah.

18 A Right here, I just got a little side note. It says, "It

19 should be noted here that Section 19-1-180 and 17-23-175

20 are singular and should be construed -- and should be

21 considered pursuant to 17-23-175F. After considering

22 these factors -- additional factors the Court deems

23 important, the Court should make the determination, as

24 well as the statement is admissible pursuant to

25 provisions of this section."

1 And then you go to 19-1-180G, and it says, "It's set
2 up specifically to protect a parent from potentially
3 false accusations instigated by the other parent as part
4 of continuous divorce or custody battle."

5 So this is another consideration that should be
6 considered. That this whole divorce thing -- when a
7 child is being pulled between two parents in a divorce
8 like this, this is another factor that should be
9 considered with these videos.

10 Q Okay. And -- and did your lawyer raise any objections to
11 this?

12 A No, sir.

13 Q Okay. And -- and you wanted him to?

14 A Yes, sir.

15 Q Okay. Let me ask you about this juror in the case that
16 you said the -- the lawyer should've moved for a new
17 trial.

18 A Uh-huh.

19 Q Okay. And tell me about the issue with this juror.

20 A And that is, what, eight? Eight. All right. This juror
21 concealed information that they were kin to an
22 investigator at the solicitor's office.

23 In the transcripts, they're talking about, "After
24 you watch those videos in February of 2019, did you end
25 up talking to Investigator Marcum (phonetic) and myself."

1 And Marcum -- Investigator Marcum was kin to a juror, and
2 I believe that it should've been a mistrial or should
3 have had a hearing and let the juror speak. You know, we
4 had already spoke about a juror one time before. I was
5 wanting another hearing on this juror for concealing the
6 information that they were kin to an investigator at the
7 solicitor's office. They intentionally (as spoken)
8 concealed that information because the judge specifically
9 asked on Page 12, Line 17 through 19, "Is there any
10 members of this panel who has a family member or a friend
11 who is employed by the Seventh Circuit Solicitor's
12 Office? If so, please stand." And that juror didn't
13 stand. That juror didn't raise their hand or anything
14 like that.

15 Two days later, it was brought to the Court's
16 attention that this juror knows Investigator Marcum, that
17 was involved in this case, and when the solicitor is
18 asked specifically, "Is the" -- let's see. Page 189 --
19 see -- it says, "When the investigators are asked
20 involved" -- let's see -- "asked if the investigator is
21 involved in the case, the prosecutor misleads the judge
22 by not correcting herself when she tells the judge, 'No.
23 She's not involved.'" So the prosecutor misled the judge
24 by stating that, no. She wasn't involved in the case.
25 And this is the transcript's Page 190, Line 5 through 10.

1 And the prosecutor never corrected herself on misleading
2 the judge.

3 Q And you -- and you believe that your lawyer should've
4 asked for a mistrial?

5 A Yes, sir.

6 Q And did y'all have any conversations about that? About a
7 mistrial or --

8 A Not about a mistrial, no.

9 Q Nothing?

10 A Unh-unh.

11 Q Okay.

12 A No, sir.

13 Q And you had issues with the indictment; is that correct?

14 A Yes, sir. On the indictment issue, I understand clearly.
15 I'm not -- I'm not raising subject-matter jurisdiction
16 because I know, as you and I spoke, "Gentry" kills that.
17 And this is not an issue with "Gentry." This is an issue
18 that the grand jurors were not selected, drawn, or
19 impaneled or summoned in accordance with statutory law,
20 and that violates my due process rights.

21 Q Okay. In this -- and -- and that's the issue of the
22 indictments?

23 A That's the issue with the indictments, yes, sir.

24 Q Okay. In this case, you gave a statement to law
25 enforcement; is that correct?

- 1 A Yes, sir.
- 2 Q And -- and that statement was used at trial or a part of
3 your case; is that correct?
- 4 A Yes, sir.
- 5 Q Okay. Did y'all have any hearing -- pretrial hearing on
6 the admissibility of any of your statements?
- 7 A No, sir.
- 8 Q Okay. And when you went to law enforcement the first
9 time that you went and spoke to, I think, Cantrell, were
10 your Miranda rights read to you?
- 11 A No, sir.
- 12 Q And you talked to them?
- 13 A Yes.
- 14 Q And -- and was it extensive talk -- a lot?
- 15 A Yes, sir.
- 16 Q Okay. At any point, did they stop and give you -- give
17 you an opportunity to leave or do anything?
- 18 A No, sir.
- 19 Q So -- so do you believe your lawyer should've had a
20 hearing as to the admissibility of those statements?
- 21 A Yes, sir.
- 22 Q And did -- and did the State use those statements in your
23 trial?
- 24 A Yes, sir.
- 25 Q And -- and were you cross-examined by -- about those

1 statements?

2 A I was.

3 Q And -- and if you -- do you believe if those statements
4 were kept out, it would've been beneficial to you at
5 trial?

6 A To my -- yes, sir.

7 Q Okay. Did you have any discussions with your lawyer
8 about that? I mean, any at all about these statements
9 that you gave?

10 A No, sir.

11 Q Y'all didn't talk about it?

12 A No, sir.

13 Q Okay. And you know that the prosecutor used those
14 statements a lot in the case?

15 A Yeah.

16 Q A lot, right?

17 A Uh-huh.

18 Q And -- and you and your lawyer had no discussions about
19 how to help/hurt your case, whether they're gonna to be
20 admissible or not?

21 A No, sir.

22 Q None?

23 A Nope.

24 Q Okay. Well, you testified at trial --

25 A I did.

1 Q -- right? Tell me -- well, the preparation of you at
2 trial, did -- y'all did not go over your statement and
3 you were gonna testify?

4 A Yeah. It was just the way I wanted to go to trial,
5 Jeremy Thompson didn't want to go trial. I wanted -- I
6 mean, I'm like this right here: The accusation was made
7 by the daddy.

8 Q Uh-huh.

9 A Jeremy didn't -- Jeremy Thompson didn't want to make this
10 trial about the daddy. He wanted to make the trial
11 about, okay. Well, why is this little girl coming up
12 here ten years later saying this? I couldn't mention
13 anything about me being in prison, couldn't mention
14 anything about that. I had to go on why this little girl
15 was here, today, making this statement about me -- about
16 something that happened ten years ago at the time. I
17 couldn't bring up the daddy. I couldn't -- that's why
18 none of these doctor reports could've come in or anything
19 like that.

20 Q No. My -- my question is this: You -- you gave these
21 statements down at law enforcement --

22 A Law -- yeah.

23 Q -- okay? That you said whatever you said -- whatever you
24 said, right?

25 A Uh-huh.

1 Q You were going to testify at trial, correct?

2 A Yes.

3 Q Okay.

4 THE COURT: (To the applicant) You've got to
5 answer.

6 THE COURT REPORTER: I -- yeah. I can't
7 hear --

8 THE APPLICANT: Yes.

9 THE COURT REPORTER: -- him.

10 THE COURT: Okay.

11 THE APPLICANT: Yes.

12 Q Was there any discussion between you and the lawyers
13 saying, "Hey, when you testify, this stuff that you said
14 at law enforcement is gonna be used against you," put it
15 that way?

16 A I mean, yeah. He told me that.

17 Q Okay. He told you that.

18 A Yeah.

19 Q In preparing your testimony --

20 A Yeah.

21 Q -- he told you all that, okay?

22 A Yes.

23 Q All right. But he didn't tell you anything about any
24 strategy about trying to get those statements suppressed?

25 A No, sir.

- 1 Q Did you ask him about it?
- 2 A No, sir.
- 3 Q Okay. All right. And the solicitor -- let me make sure
4 I get all this stuff. Did -- Page 350 -- 350 and where
5 the solicitor's, I mean, closing her argument, this --
6 she says, "Imagine if what the Clerk of Court has said to
7 you is stand up and tell me your worst sexual experience.
8 Think of what that would be like." Is it your position
9 your counsel should have objected to that?
- 10 A Yes. Because to me that was asking -- the solicitor was
11 asking the jury to put themselves (as spoken) in the
12 alleged victim's shoes.
- 13 Q And Page 352, where the solicitor says, "And Shauna
14 Galloway-Williams talked to you guys about the effects of
15 being a relationship kind of thing where it's hard for a
16 child to separate what happened to them from the love
17 that they have for the person." You believe he should've
18 objected to that along with this expert that that was
19 bolstering; is that correct?
- 20 A Yes, sir. That goes back to the class of persons that I
21 was speaking about. Shauna Galloway-Williams was asking,
22 you know, that these things only happen to children in a
23 -- in a specific class, you know.
- 24 Q And, likewise --
- 25 A And they --

1 Q -- on Page 355, Lines 8 through 11, that's the same type
2 where she puts people in their class. You know, she --
3 Shauna talked about this, "She is sad, because he was
4 like a father figure and all." That was part of that
5 testimony she gave --

6 A Yeah.

7 Q -- right?

8 A Yes, sir.

9 Q Okay. And on Page 363, in her closing argument, Lines 20
10 to 23, where she says, "Heard the jail calls. The
11 defense has them, too. If there were anything helpful to
12 the defendant in those jail calls, they could have pulled
13 them and played them to you." You object to that because
14 that is the solicitor burden shifting?

15 A It is. And at that moment in time, Jeremy Thompson was
16 not ready for that, and I could not produce the evidence
17 that there is things on those jail audio tapes.

18 Q Well, hold on. I'm gonna ask you -- okay. The question
19 is --

20 A But --

21 Q -- you believe that should've been objected to? Yes or
22 no?

23 A Yes. Yes.

24 Q Okay. And -- and -- because do you believe that was a
25 problem --

1 A Yes.

2 Q -- improper burden shifting --

3 A Burden shifting.

4 Q -- is that correct?

5 A Yes, sir.

6 Q Okay. All right. Was there any -- this third-party
7 guilt in this case, was that an issue in the case?

8 A The solicitor -- yes. It was. The solicitor brought it
9 to the Court's attention. Jeremy Thompson was trying to
10 stay away from that, because that's not what we're basing
11 this case off of.

12 Q Well --

13 A We're not basing this case off of third-party guilt. The
14 solicitor brought it to the Court's attention through
15 another witness, and they had to clarify what that
16 witness was saying. I -- I think it was something about
17 -- I forget verbatim what Amber Wofford (phonetic) said,
18 but they had to clarify some of that, and third-party
19 guilt had to come in there.

20 Q Okay. Did y'all -- did y'all go over that and prepare
21 anything --

22 A No.

23 Q -- with that?

24 A Not a third-party guilt, no, sir.

25 Q Okay. And -- and so -- let me try to summarize this so

1 we can make sure we make it very clear.

2 One is, you wanted the video -- object to video,
3 right?

4 A Yes, sir.

5 Q Okay. Two, you wanted to object to the get -- the
6 Galloway-Williams and the Nancy Henderson testimony,
7 correct?

8 A Yes, sir.

9 Q Because it was improper bolstering --

10 A Yes, sir.

11 Q -- correct?

12 A Yes, sir.

13 Q Okay. You also wanted to object to the solicitor's
14 closing arguments where she referred to these two
15 witnesses because that is the carryover bolstering,
16 correct?

17 A Yes, sir.

18 Q The juror who knew someone in -- at the solicitor's
19 office, the investigator, that's 189 and 190, you wanted
20 your lawyer to move for a mistrial --

21 A Yes, sir.

22 Q -- because she withheld information during a jury voir
23 dire, correct?

24 A Yes, sir.

25 Q Okay. Next, "Jackson v. Denno," you made statements at

1 law enforcement. Your rights were not read to you,
2 correct?

3 A Yes, sir.

4 Q You wanted your -- it's your position you wanted Counsel
5 to have a hearing on the admissibility of those
6 statements?

7 A Yes, sir.

8 Q Okay. Next, burden shifting, where I referred to in the
9 transcript on Page 363, Lines 20 through 23, where the
10 solicitor says, "They had them. They were helpful. They
11 could bring them." Do you want -- do you believe your
12 counsel should object to that for burden shifting?

13 A Yes, sir.

14 Q Okay. And you've talked about the indictments, correct?

15 A Yes, sir.

16 Q And about the video tapes, the -- the audio tapes that
17 Cantrell had, correct?

18 A Yes, sir. The exculpatory evidence?

19 Q Yes.

20 A Yes, sir.

21 Q And exculpatory, how?

22 A That on those tapes that I handed over to Nicki Cantrell,
23 the father specifically alleges how he's going to get me
24 out of the picture, what he's going to state, how he's
25 going to do it, when he's gonna do it, and if Wendy, my

1 girlfriend, at the time, his ex-wife, didn't comply with
2 the child support, not -- not suing him for child
3 support, making him pay child support, then that's what
4 he was gonna do. He was gonna get me out of the picture,
5 cough up charges on her, get her kids, make her pay him
6 child support, and make her life a living hell for
7 leaving him and making him pay child support.

8 Q Okay. And -- okay. And Page 349, Lines 4 through 6, do
9 you believe your lawyer should object to the solicitor
10 when she said, "Or you might lie to get a benefit, so
11 what kind of benefit did the minor get from this"?

12 A Yes, sir.

13 Q Okay.

14 MR. RICHEY: All right. (To the applicant) Answer
15 any questions the Attorney General will have for
16 you.

17 THE COURT: We're gonna take a recess at this point
18 in time for lunch. Let's reconvene at 1:30.

19 MR. RICHEY: Yes, sir.

20 THE COURT: All right?

21 MS. MARTO: Thank you, sir.

22 MR. RICHEY: Thank you.

23 THE COURT: Brief recess. Thank you very much.

24 (Off the record from 12:42 p.m. until 1:37
25 p.m.)

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AFTERNOON SESSION

THE COURT: All right. We're reconvening the hearing.

(To the Applicant) Sir, you can take the witness stand.

THE APPLICANT: All right.

THE COURT: (To the State) Did you have any questions for him?

MS. MARTO: Yeah. I have a few --

THE COURT: Okay.

MS. MARTO: -- Your Honor.

THE COURT: (To the Applicant) Sir, you're still under oath. Just have a seat up there.

Thank y'all. I hope everybody had enough time to grab a quick bite to eat. Thank you.

Ms. Marto, your witness.

MS. MARTO: Thank you, Your Honor.

CROSS-EXAMINATION OF ANTHONY BRIGGS

BY MS. MARTO:

Q So, Mr. Briggs, Mr. Thompson represented you at your trial, correct?

A Yes, ma'am.

Q And did you talk to him about the discovery in this case prior to the trial?

A I did.

1 Q Did you talk to your -- because you had a trial before
2 this one, right? So this was your second trial?

3 A Yes, ma'am.

4 Q And so you talked about the discovery before your first
5 trial and before your second trial, right?

6 A Yes, ma'am.

7 Q Did you talk to him about any videos that were entered in
8 preparation for trial? Whether they be, I believe, the
9 victim's interview was one of the videos? Did you talk
10 about that?

11 A With the forensic interview?

12 Q Yes, sir.

13 A No, ma'am.

14 Q You never talked to him about the forensic interview?

15 A Not to my knowledge, no, ma'am.

16 Q Did you know it existed?

17 A Yeah. I knew that it existed.

18 Q Okay. Did you -- did you ever ask him why he didn't want
19 to object to that video?

20 A No, ma'am.

21 Q Okay. Did you ever ask him why he wasn't going to be
22 objecting to Galloway and Nancy Henderson's testimonies?

23 A That didn't come -- that wasn't part of our
24 conversations.

25 Q Okay. Did you ever ask him why you didn't object to

1 closing statements by the solicitor?

2 A No, ma'am.

3 Q You ever ask him why you didn't pursue a "Jackson vs.
4 Denno"?

5 A No, ma'am.

6 Q And you pursued a "Jackson vs. Denno" on your first
7 trial, right?

8 A Yes, ma'am.

9 Q Okay.

10 A Yes, ma'am.

11 Q And that wasn't successful, correct?

12 A No, ma'am.

13 Q Okay. Did you ever talk to Mr. Thompson about the
14 indictments in this case?

15 A I did.

16 Q And what did he say in response?

17 A As every attorney tells me, "Gentry" kills it all.

18 Q Okay. So he said that challenging the indictments
19 wouldn't be successful?

20 A Yeah. He said that after "Gentry" I'd try to tell all
21 the attorneys I'm not raising a subject-matter
22 jurisdiction. What I'm raising is I wasn't indicted
23 pursuant to statutory law that Congress meets and votes
24 on. This has nothing to do with Gentry. This has
25 nothing to do with the evidence. This has nothing to do

1 with either one of those cases; they're landmark cases in
2 South Carolina. This has got to do with statutory law.

3 Q And concerning the juror, that was brought up at the
4 trial, right? Just not during qualifications?

5 A It was.

6 Q Okay. And --

7 A Two -- two days later, as a matter of fact.

8 Q And that was brought up by the State, right?

9 A I -- I'm not certain. I don't want to say yes or no.
10 I'd have to check the transcripts.

11 Q Do you recall the State saying that this person didn't
12 have any contact with the officer for the past 14 years
13 or so?

14 A I remember something like that, yes.

15 Q Now, prior to your first trial, did you talk to the
16 police and give a statement?

17 A Right before trial or right before I was arrested or --

18 Q Like -- well -- yeah. Right before you were arrested.

19 A Yes, ma'am.

20 Q And do you remember telling them that you were sick?

21 A I do.

22 Q Okay.

23 A I said I -- I was sick and needed help and, at that time,
24 I wasn't speaking "sick" mentally --

25 Q Yeah.

1 A -- off the deep end in the brain. I wasn't talking none
2 of that. I was talking bodily.

3 Q Sure.

4 A You know, I'd been up almost all night. The accusation
5 came a week before. It has already been a week this has
6 been drug out. The day before, I meet with the police.
7 Hardly any sleep the night before. Drinking a little
8 bit, alcohol. Just nerves upset, and I go in the next
9 day all upset. Yeah. I -- I was a pretty nervous wreck.
10 Anybody would be.

11 Q And the alleged victim, she testified at the trial,
12 right?

13 A Yes, ma'am.

14 Q She testified at both trials or just your second one?

15 A Both trials.

16 Q Okay. And jail calls were entered, correct?

17 A They were.

18 Q Do you recall what they said was discussed in those jail
19 calls?

20 A Yes, ma'am.

21 Q Included in that was that you told Wendy and the kids to
22 maybe move?

23 A Uh-huh.

24 Q Told them to find a new school?

25 A I did.

1 Q Told them not to be brought in for further interviews?

2 A I did.

3 Q Okay. And did -- do you recall saying that it was
4 basically just a he said/she said type of situation, and
5 that they can't prove or disapprove oral sex?

6 A I did. But you can't take just what I said out of
7 context. You've got to listen to the whole thing.
8 Because the reason I was saying don't take them back to
9 the therapy is because the little girl was -- she come
10 unbuckled. She tried to wreck the vehicle, you know.
11 And I was, "If she don't want to go, don't take her."

12 Q And you've effectively testified to that when you
13 testified at trial, right?

14 A Yes. Yes, ma'am.

15 MS. MARTO: (To the Court) Nothing further.

16 THE COURT: All right.

17 MR. RICHEY: No -- no other questions.

18 THE COURT: Thank you, sir. You can step down.

19 (To Mr. Richey) You can call your next
20 witness.

21 (WHEREUPON, the applicant was excused.)

22 MR. THOMPSON: (To Mr. Richey) Leave all this stuff
23 here?

24 MR. RICHEY: Yeah. That's fine.

25 MR. THOMPSON: Okay.

1 MR. RICHEY: If -- if you want to take it, you can.

2 MR. THOMPSON: I'll just keep the transcript. If I
3 need something on it for an answer.

4 (WHEREUPON, the witness was sworn.)

5 **DIRECT EXAMINATION OF JEREMY THOMPSON, ESQ.**

6 BY MR. RICHEY:

7 Q Sir, you're -- could you state your name, please?

8 A Jeremy Thompson.

9 Q And did -- the -- do you recall representing Mr. Briggs
10 in this case?

11 A Yes. I did.

12 Q Okay. And you represented him on the second trial,
13 correct?

14 A Yes. As well as the PCR -- his first PCR -- and his PCR
15 appeal prior to that.

16 Q Okay. I'm gonna go through the list of these issues and
17 -- and get a response from you if I could?

18 A Okay.

19 Q And -- and in the trial, the State called this Galloway-
20 Williams lady. Do you recall that?

21 A Yes.

22 Q And she was used as a dynamic; is what you call an
23 expert?

24 A I believe so, yes.

25 Q Did you believe it was proper to object to her whole

1 testimony?

2 A No. So, if I recall correctly with the first PCR, one of
3 the issues that was raised was pertaining to expert
4 testimony that was given at the first trial that was
5 bolstering.

6 Q Right.

7 A And it was my understanding at the time of Mr. Briggs's
8 trial that testimony could be provided by an expert/given
9 by an expert so long as they were not individuals who had
10 had direct contact with the -- with the victim who could
11 give general testimony about, like, delayed disclosures
12 and things of that nature, so I do not believe there was
13 anything objectionable to that testimony.

14 Q And -- and that testimony essentially is to bolster the
15 child's testimony, right? Would -- would you agree with
16 that statement?

17 A What testimony? The --

18 Q This -- this Galloway? It's basically a way to get
19 around the bolstering; is that --

20 A It's a -- it's a way to introduce the testimony I think
21 similar to what bolstering would have been previously,
22 but a way to do it permissibly, if that makes sense.

23 Q And -- and so the -- when the solicitor uses all that at
24 closing argument, did -- did you object to it then?

25 A I would not have objected to it during the closing

1 argument if I did not object to it previously.

2 Q Okay. As to the "Jackson v. Denno" hearing, Mr. Briggs
3 gave a statement to law enforcement; is that correct?

4 A Yes.

5 Q And that statement he was not read his Miranda on; is
6 that correct? For the initial one?

7 A Yes. That's correct as far --

8 Q And --

9 A -- as far as I recall.

10 Q And so did -- can you tell me why there was not a
11 "Jackson v. Denno" hearing done? Do you know?

12 A For a couple of reasons. One is that I believe there was
13 one done during the first trial, and it was unsuccessful
14 and I've seen this a few times and I -- I don't know that
15 it would've prevented it in this case, but sometimes you
16 have rulings from prior proceedings that carry over into
17 subsequent proceedings or is a South Carolina Rule of
18 Criminal Procedure about that. Regardless, I didn't
19 think that the challenge or argument to the voluntariness
20 of his statements would have been successful, so I did
21 not make the objection or move to exclude his statements
22 because I did not believe that such an objection would've
23 been successful especially considering that it had not
24 been successful previously.

25 Q Okay. In terms of this juror, did -- do you believe it

1 was proper to make a motion for a mistrial?

2 A No. If I had -- the, I guess, only other thing that I
3 could have done instead of a mistrial is ask to question
4 the juror, whether the juror knew the individual who
5 worked at the solicitor's office. However, it wasn't
6 exactly something that I wanted to bring attention to --
7 to the juror that they may have known somebody at the
8 solicitor's office unknowingly. If it's somebody that
9 they haven't spoken to in 14 years, they may not know
10 that they work at the solicitor's office. We could -- we
11 could've had the juror, I guess, questioned about that,
12 but I -- I wasn't -- since it wasn't something that the
13 juror had indicated they knew about, which is usually how
14 these sorts of things come about, I didn't really think
15 there was a need to address it further.

16 Q About this video that they played of the child's forensic
17 video, did you object to that?

18 A No. I did not.

19 Q Can you tell me why you did not object to it?

20 A The video was played during both trials. The first and
21 the second trial. I can't remember if there was an
22 objection raised to it at the first trial, but I believe
23 these videos are permitted by statute, and so I did not
24 object, because I believe the video was admissible under
25 the statute.

1 Q Do you have the trial transcript --

2 A Yes.

3 Q -- there? Can you turn to Page 363?

4 A Okay.

5 Q And let's go to Line 20 through 24. And this is Ms.

6 Hallford's closing argument, and where she says, "Heard

7 the jail calls. Defense hasn't" -- and those next two

8 lines. Would you -- would you agree that that's burden

9 shifting on the defendant?

10 A Yes. In the sense that the -- it's saying that that the

11 defense has the ability to bring forth evidence for the

12 jury when the defendant has no burden of proof; however,

13 when the defendant has introduced evidence and has the

14 ability to introduce evidence, it is my understanding it

15 is fair for the prosecutor to comment on the defense not

16 bringing forth the evidence --

17 Q But the --

18 A -- which is why I did not raise an objection.

19 Q Okay. But the purpose is the defense -- the defendant

20 does not have to produce any evidence in any case; is

21 that correct?

22 A That -- that is correct, yes.

23 Q Can you go to Page 350 of the transcript, please?

24 A Okay.

25 Q Lines 2 through 5.

1 A Yes.

2 Q Do you -- do you think that that there should've been an
3 objection to this remark by the solicitor in the closing
4 arguments?

5 A I don't. And Mr. Briggs testified about this. I don't -
6 - I didn't have a specific recollection of this comment
7 being made during the closing argument. I don't
8 necessarily agree that it's a Golden Rule argument that's
9 not asking the jury to put themselves in the shoes of the
10 victim -- alleged victim at the time of the offense,
11 which is generally what the Golden Rule is referring to.
12 Instead, this is what -- this is asking the jurors to put
13 themselves in the position of a witness, who is
14 testifying before them, which is more of a comment on the
15 witness's demeanor and testimony and that is permissible
16 closing argument. And so, looking at this, I don't
17 necessarily agree that that is a Golden Rule argument.

18 Q So -- so would you agree that -- that -- okay.

19 And I just want to make sure that in terms of all
20 the testimony to the Galloway and the closing arguments
21 that you are saying that you didn't believe it was proper
22 to object to all those -- to all of this in totality?

23 A No. I thought the testimony was admissible under the law
24 at the time. Now, it's possible the law has changed
25 since then, but I -- at the law -- at that time, my best

1 understanding of it was that it was permissible.

2 Q Okay. The -- the tapes that -- do you recall the tapes
3 that Mr. Briggs had of him -- them talking to the dad
4 about all this stuff that went down?

5 A I -- I am familiar with those tapes --

6 Q Okay.

7 A -- or his -- his allegation that those tapes exist, yes.

8 Q Those what?

9 A That they exist, yes.

10 Q Okay. All right. And did you -- did you try to use
11 those in the trial?

12 A Oh, I don't have them --

13 Q Okay.

14 A -- and never had them. I tried to get them. I believe I
15 contacted the solicitor to check to see if said tapes
16 exist. I believe, she went to her -- I believe Detective
17 Cantrell to verify that they no longer had or ever had
18 those tapes. I have never been able to verify that they
19 actually exist.

20 Q And is it something that Mr. Briggs wanted in his case to
21 be used?

22 A Yes. Yes. He definitely wanted them to be used if they
23 could be found and located.

24 Q Did he, at any point, tell you he took them to Cantrell
25 and those folks?

1 A Yes.

2 Q Okay. And did you talk to Cantrell and them about the
3 tapes?

4 A I did not talk to Detective Cantrell. I talked to the
5 solicitor assigned to the case about the tapes.

6 Q Okay. And in terms of the case -- how to pursue the
7 case, did -- did you -- did you talk with him about how
8 the case was going to be pursued? Was there any conflict
9 in the way you wanted to go and the way he wanted to go?

10 A I don't know. I guess, if you want to call it
11 "conflict," there -- there was certainly a -- a
12 discussion of ideas about how to present the case. Mr.
13 Briggs, as he testified to, was very keen on making the
14 case about the father's undo influence over the victim --
15 alleged victim to compel her statements against him in
16 terms of a custody battle. I told Mr. Briggs
17 consistently over the course of several months as we got
18 ready for trial that I did not believe that strategy to
19 be viable because what we -- it was a viable strategy at
20 his first trial when the child was younger. At this
21 trial, several years had passed, and it would not make
22 any sense to argue that the father was still trying to
23 lean on the victim to testify against him, because the
24 circumstances behind the initial disclosure did not
25 really matter all these years later at the subsequent

1 trial.

2 And so Mr. Briggs, again, definitely wanted to
3 pursue that argument. I thought that was a losing
4 argument. Instead, what I told him was that what I
5 wanted to do was to present -- and forgive me if I have
6 to appear in front of him ever one day -- the "Kavanaugh"
7 defense, which was essentially that the victim had made
8 an allegation that someone had abused the victim; that it
9 wasn't Mr. Briggs. Because I was not going to be able to
10 get around the fact that she had -- had told -- she had
11 told others about the abuse when she was a child and that
12 she was going to come forward and testify against him at
13 this second trial.

14 And so, what I tried to make the focus of our
15 defense was her inability to remember specific details
16 about what happened to her, about her -- about her
17 ability to have mixed up or not remembered precisely
18 because she was so young who had abused her. And so, I
19 try to use, for example, the expert testimony -- and I
20 thought I'd gotten very favorable testimony from their
21 expert that she would have remembered those details had
22 she -- she would have remembered specifics like had --
23 what had been done to her and who had done them to -- who
24 had done them to her. And -- and so that -- that was my
25 defense.

1 And quite honestly -- so when -- when I was trying
2 this case -- I'm from Columbia. My office was in
3 Columbia, but I spent -- I spent the week up here in
4 Spartanburg for the trial at a hotel and after every day
5 of court, I went to the jail to meet with Mr. Briggs at
6 Spartanburg County and I remember telling him after the
7 victim testified that I was very glad we had not pursued
8 the defense that he wanted to pursue, because she came
9 right out and said that she had no contact with her
10 father and had -- had no contact with him for years. So
11 if I had stood up during opening argument and said this
12 case is about the father trying to get her to say these
13 things and then she got right up and said, "I don't know.
14 I don't talk to him. I haven't said any -- I haven't
15 said two words to him in years," our entire defense
16 would've been sunk right out of the gate. So, yes, we
17 had a disagreement about the strategy, and I believe that
18 had we pursued Mr. Briggs' strategy it would have been
19 catastrophic at the trial.

20 Q And -- and it -- and in terms of the strategy, his whole
21 point was -- and -- that that's how this all got started.
22 And I -- and would it be fair to say that he wanted to
23 present -- not just present, she said, but present this
24 was how this initially got off the ground, and I want to
25 show that -- I want to show the jury that this is how

1 this got started? This -- the background of it so to
2 speak. And would you -- would you say that that was a
3 fair request by him just to say this is how these
4 allegations came about?

5 A But you have to the next question we went back and forth
6 on several times is, "Then what is your goal in doing
7 that? Why? Where do you go from there?" Yes. That's -
8 - that might be why she made the initial allegations;
9 that's your argument. She's still here testifying
10 against him all these years later. But that only impacts
11 her credibility, so to speak, as a -- as a child. It
12 doesn't impact her credibility during this trial and her
13 testimony before the jury.

14 Q Okay. Let me -- let me ask you this: During the course
15 of this second trial, was there any offers made to Mr.
16 Briggs at all?

17 A As I recall, I don't -- I don't remember if there was --
18 I know there was a 25-year-plea offer. And Mr. Briggs
19 had informed me very early on that the only offer he
20 would accept was a plea to time served for assault and
21 battery of a high and aggravated nature.

22 I remember speaking with the solicitor about the
23 plea offer -- about the 25-year plea offer. I told her I
24 did not believe that Mr. Briggs would accept it, but I
25 did inform him of it, and he did reject it.

1 Q Okay. If -- if he had a 20-year-plea offer, would you --
2 would -- would you -- would you determine that to be a
3 fair offer or not fair based on the case?

4 A Based on the case and the amount of time that he had
5 served, I -- I mean, I think it -- I think it might have
6 been fair. I mean, we went through the considerations
7 for what -- you know, the fact that he had a life
8 sentence before and had a second opportunity to come
9 back, and that he would be able to walk out of prison one
10 day. Mr. Briggs was not interested in pleading to
11 anything that required -- he -- he was adamant he was
12 not going back to the Department of Corrections. He --
13 he said he would not accept any plea deal that required
14 him to serve more time.

15 MR. RICHEY: One moment, Your Honor.

16 THE COURT: Yep.

17 Q Did you review the indictments in this case?

18 A I -- I'm confident I did in connection with the post-
19 conviction relief case.

20 Q Okay. Do you believe they were proper -- that they were
21 properly procured?

22 A Yes. Mr. Briggs is -- as I -- as I interpret -- is
23 presenting a variant of a defense -- or an argument that
24 I have heard dozen times which is an argument that the
25 terms of -- the terms of court for general sessions where

1 the grand jury can sit are authorized by statute, and so
2 that if the grand jury met on a date that was not
3 authorized by statute that makes the grand -- the
4 indictments invalid. That argument is not one that I
5 believe has any merit, and I did not make it and have not
6 made it consistently for years in post-conviction relief
7 cases.

8 Q Did you -- did you review the reports by Nicki Cantrell,
9 and did you find that these reports were not truthful?
10 Did you find anything about these reports that were not
11 truthful?

12 A What -- what about them?

13 Q Nicki, okay. You're familiar with Ms. Cantrell, right?

14 A Yes. Yes. The investigator.

15 Q She did some reports in the case. And do you know or
16 recall whether you reviewed these reports?

17 A I'm confident I did in anticipation of the trial. I had
18 a trial notebook with all the -- all the reports sorted
19 by witness, so I would have had her reports and gone over
20 them in preparation for her testimony.

21 Q And . . .

22 MR. RICHEY: (To the Court). No other questions.

23 CROSS-EXAMINATION OF JEREMY THOMPSON, ESQ.

24 BY MS. MARTO:

25 Q Good afternoon, sir.

1 A Hi, there.

2 Q So your representation of Mr. Briggs you said started
3 with the inception of his PCR application, right --

4 A Yes.

5 Q -- the first one? And so, you talked to Mr. Briggs about
6 this case really since the appeal ended, right, in
7 preparation for trial?

8 A I -- not -- not even since the appeal ended. So because
9 I represented Mr. Briggs at the post-conviction relief
10 hearing and because the post-conviction relief hearing
11 was successful, the -- we knew throughout the appeal that
12 the case would potentially be coming back for a retrial.
13 So these were discussions that we had basically as soon
14 as the PCR itself ended.

15 Q And so you reviewed the evidence in this case with Mr.
16 Briggs?

17 A Yes.

18 Q In broad strokes, what evidence did the State present
19 that led to conviction?

20 A Well, the primary evidence was the testimony of the
21 victim and then the -- the pattern of the -- I guess, the
22 -- the pattern of the State's case was trying to
23 introduce as much evidence as they could to support the
24 victim's allegations and -- and -- as well as to
25 discredit Mr. Briggs with his statements. And they --

1 again, of course, they had the expert testifying, things
2 of that nature.

3 Q So Mr. Briggs' statement to the police wasn't favorable,
4 correct?

5 A It was not. It was -- it was not favorable. I do
6 believe -- I do believe Investigator Cantrell testified
7 on cross-examination that it was not explicitly a
8 confession, either. So it -- it wasn't something -- it
9 wasn't something that was favorable. I, obviously, would
10 have preferred a world where it didn't come in, but it
11 was going to come in, so we knew we had to deal with it.

12 Q Did he effectively just say, "I'm not saying I did it.
13 I'm not saying I didn't do it"?

14 A Yes. As I recall.

15 Q And then the jail calls that did come in, they were not
16 favorable, correct?

17 A The jail calls came in, no, they were not favorable.

18 Q So concerning the points in the solicitor's closing that
19 Mr. Richey pointed out, did you think any of your
20 objections to those points would've been sustained?

21 A No. I don't. I -- I don't believe I could've
22 successfully lodged objections to those portions that he
23 has identified.

24 Q And, again, you didn't pursue a "Jackson vs. Denno"
25 because it failed the first time, right?

1 A Yes. I felt it would be futile and a waste of time and
2 resources to do it again the second time.

3 Q And, again, you didn't object to Galloway and Nancy
4 Henderson because you thought those testimonies were
5 admissible?

6 A Yes.

7 Q And you didn't object to the forensic interview video for
8 the same reason?

9 A Yes.

10 Q And, again, you didn't think that a mistrial because the
11 juror was appropriate?

12 A No. This -- again, as far as I knew, the juror didn't
13 know anything about it, so I wouldn't have had any reason
14 to question and/or ask for a mistrial, certainly.

15 Q And, again, you didn't see anything wrong with the
16 indictments?

17 A No.

18 Q And, again, you investigated the videos that Mr. Briggs
19 is talking about concerning the father and you found out
20 they didn't exist based upon that investigation?

21 A As -- as best I can tell the video do no -- no longer --
22 the -- the recordings no longer exist if they ever did.
23 I don't doubt that he turned videos over to the
24 investigator, but it is not something that I was able to
25 find throughout the course of the post-conviction relief

1 case. I don't think I looked for them during the appeal
2 or during the substantive retrial portion of the case.

3 Q And, again, Mr. Briggs was unwilling to accept any plea
4 offer that the State would have plausibly given him?

5 A Not that -- not that would have required prison time, no.
6 He -- and I'm glad to see that he has not. But he told
7 me he thought if he went back to prison he would die, and
8 so he was not going to accept any plea offer that
9 required him to go back to prison.

10 Q And, again, Mr. Briggs' chosen defense at trial would
11 have, in your opinion, resulted in a faster conviction?

12 A Yes.

13 MS. MARTO: (To the Court) No further questions.

14 THE COURT: Redirect?

15 MR. RICHEY: No questions.

16 THE COURT: Thank you, sir. You can step down.

17 (WHEREUPON, the witness was excused.)

18 THE COURT: All right. Call your next witness.

19 MR. RICHEY: No other witnesses.

20 THE COURT: All right.

21 MS. MARTO: No witnesses, Your Honor.

22 THE COURT: All right. Thank you. Arguments?

23 **CLOSING ARGUMENTS**

24 MR. RICHEY: Judge, we ask the Court to review all -
25 - all the -- the transcripts and all the issues in

1 the case, and we believe and ask the Court to grant
2 Mr. Briggs a new trial based off the testimony and
3 the evidence that's been presented today. We ask
4 the Court to review the whole record and make that
5 determination. Thank you, Your Honor.

6 THE COURT: I'll -- I'll do that. I don't -- I've
7 got three books here, but I'm gonna take them with
8 me and take the matter under advisement. Anything
9 the State wished to offer?

10 MS. MARTO: Nothing further, Your Honor.

11 THE COURT: Other than what's set forth in the
12 pleadings?

13 **CLOSING ARGUMENTS**

14 MS. MARTO: Your Honor, we would just highlight a
15 couple of cases concerning the Galloway testimony if
16 you --

17 THE COURT: Okay.

18 MS. MARTO: -- would like. That would be "State vs.
19 Jones," the Supreme Court case is 423 S.C. 631 and
20 Court of Appeals 417 S.C. 319. Beyond that, we
21 would just request you deny relief.

22 THE COURT: All right. Thank you. I'll take the
23 matter under advisement and let the attorneys know
24 what my ruling is. Mr. Briggs, your lawyer will be
25 in touch, okay? Thank you very much.

1 MS. MARTO: Thank you, sir.
2 (Whereupon, the within hearing was
3 concluded at 2:10 p.m.)
4 (*This transcript may contain quoted material.
5 Such material is reproduced as read or quoted by the
6 speaker.)

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

CERTIFICATE

I, Amber Payne, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and the evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina on October 18th, 2022.

I do further certify that I am neither of kin, counsel, nor interest to any party herein.



Amber J. Payne, CVR

Date: July 18, 2023

Notary public for South Carolina

My commission expires August 12, 2029



MARY BLACK
MEMORIAL HOSPITAL
SPARTANBURG, SC.

☐ PRELIMINARY

CHART

PHYSICIAN

CONSULT. PHYS.

☐ FINAL

ANES.

CASE MGT.

BUS OFF/REGIST.

PATIENT RECORD

DISCHARGE

ICD/CPT CODES	PRINCIPAL DIAGNOSIS - The reason, after study, to be chiefly responsible for the patient's admission.	DISCH. DATE	DISCH. TIME
	SECONDARY DIAGNOSES / COMORBID CONDITIONS / COMPLICATIONS		
	PRIMARY SURGICAL PROCEDURE		
	SECONDARY SURGICAL PROCEDURES		

PERSON(S) TO WHOM WE MAY RELEASE PROTECTED HEALTH INFORMATION (NAME AND PHONE #)

1 WENDY RICHARDS	2 ANTHONY BRIGGS
3	4

D/C INSTRUCTIONS / ALLERGIES / FOLLOW-UP / MEDS

M.D. SIGNATURE

ACCOUNT NO. 1991699	ADMIT DATE 1/26/09	TIME 15:21	ADMITTING DIAGNOSIS SEXUAL MOLESTATION	SERV. ER	TYPE E ER	MED REC # 657-16-7957
PATIENT B.R.	LAST	FIRST	MIDDLE	PATIENT'S SSN		
PAT. ADDRESS			STREET - CITY - STATE - ZIP CHESNEE SC 29323		COUNTY 42	SEX F
PATIENT PHONE	D	H	AGE 005Y	REL W	RACE W	PHYSICIAN'S NAME
PATIENT EMPLOYER NAME & ADDRESS			STREET - CITY - STATE - ZIP		DR. NO. 88888	PAT. BIRTH PLACE SOUTH CAR
CHILD			FATHER'S NAME (IF MINOR) RICHARDS, NEDDIE		MOTHER'S NAME (IF MINOR) RICHARDS, WENDY	
GUARANTOR NAME			LAST - FIRST - MIDDLE RICHARDS, WENDY JEAN		CITY - STATE CHESNEE SC	ZIP CODE 29323
GUAR. NO.	GUARANTOR'S EMPLOYER NAME AND ADDRESS			STREET - CITY - STATE - ZIP		FC Y
INSURANCE CO.		INSURANCE I.D. NO.		POLICY HOLDER		BILL TO
1		2		3		GUARANTOR'S PHONE
2		3				
3						
NOTIFY IN CASE OF EMERGENCY		NAME AND ADDRESS		STREET - CITY - ZIP		DEL. STATE

PLAINTIFF'S
EXHIBIT
Briggs
10-18-22 AP

492
INITIAL ASSESSMENT FORM

Mary Black Healthcare

PRIORITY: **3**

Patient: **B.R.**

Pt#: 1991699

DOB: AGE: 5YRS Sex: F

MR#: 657167957

EDP: *WATTS, THOMAS JAMES

Worker's Comp:

PCP: NONE, STATED

Emp: Referred:

DATE: 01/26/2009

Presentation Time: 15:23

Triage Time: 16:00

Arrival Mode: AMB - POV

Height: Weight: 45.0 lbs. 20.5 kgs. LMP:

Last Tetanus:

Acc By:

Chief Complaint: OTHER (NO HX ACCIDENT/INJURY)

Vital Signs

Brief Assessment: mother states they went to court for child support today and that father accused mother's boyfriend of molesting child and said that he was told that by child. mother said she questioned child alone if anyone had touched her private area" and she said no

T: 97.7 PO

P: 72 regular

R: 22 unlabored

BP: 000/000

O2: 99 % RA

Pain Intensity Scale: 0 / 10

Pain Location: denies pain

NIGHT SWEATS

NO

HEMOPTYSIS

NO

WEIGHT LOSS

NO

FEVER

NO

ANOREXIA

NO

DOMESTIC ABUSE SUSPECTED NO

PNEUMONIA VACCINE W/ 5 YRS NO

FLU VACCINE THIS SEASON NO

BEST NUMBER TO CALL YES 3846364

Sudden Onset:

Pre-Hospital

Treatment:

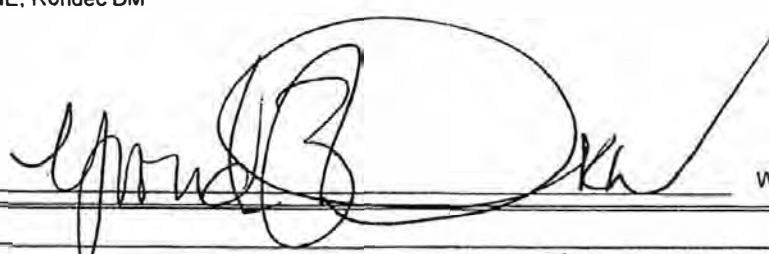
Pediatric Assessment: G&D App. for Age - YES, Immunization UTD - YES, Height ft. in., Head Circ. - Grade - K, with

Past Medical History: NONE

History:

Allergies: *NO KNOWN ALLERGIES

Medicines: NONE, Rondec DM

Nurse Signature: 

WRI

Additional Notes:

Patient: B.R. DOB: Patient #: 1991699 MRN: 657167957 Date In: 1/26/2009

Pediatric Assessment 01/26/2009 16:43 CLA

Room Assignment: Patient assigned to room 12. Time to room 16:43. The minor is accompanied by at least one parent.

Psychosocial: Child lives with single mother. States there are no religious or cultural beliefs that may impact the care delivered. The child has a history of no congenital abnormalities. Child appears to be appropriate for age and happy and playful and smiling with care giver(s). *

Safety: There is a responsible adult at the bedside. Bedrails are up to protect patient from fall. Call light is within reach and patient or family was instructed on use. Bed height is at the lowest position. At least one parent is with the child. Patient is not at risk for fall as evidenced by: being alert and oriented at presentation, no known physical impairments, normal gait observed, no predisposing medical history. Patient is not at risk for skin breakdown as evidenced by: being alert and oriented at presentation, no known physical impairments, normal gait observed, no predisposing medical history.

* **Pain:** The child denies presence of pain.

Growth and development: Child walks down stairs. Is able to hop on one foot. Dresses self with little or no assistance. Is able to tie own shoes. Child can speak full sentences. Child feeds self with finger foods, with a fork, with a spoon, cuts food with assistance, drinks from a cup. Frequency of meals every 2-3 hours. Child plays well with others, plays independently.

OB/GYN: Mother states here to prove that child has not been molested.

Disposition 01/26/2009 17:36 CLA

Discharge: Patient left the department at 01/26/2009 17:35. Patient's disposition is: DC - HOME. Discharge instructions were given to the parent(s). The patient verbalizes understanding of the discharge instructions. The condition at discharge is unchanged. , pain level is 0 on a 1-10 scale in the FLACC Vital signs taken at 17:34 were: T: 97.4 PO, P: 99 and is regular, R: 20 and unlabored, O2 Sat: 98, pain level is 0 on a 1-10 scale. Child discharged from ED. Happy, playful. Mother verbalizes understanding of instructions. Pain is unchanged. Extending teaching was moderate, focused on follow-up procedures.

NICOLE CLARK RN All text in this document clearly marked by CLA has been authored and legally signed by use of electronic device. 01/26/2009 17:40

Patient: B.R.

DOB: [REDACTED]

Patient #: 1991699 MRN: 657167957 Date In: 1/26/2009

CHIEF COMPLAINT/HISTORY OF PRESENT ILLNESS: HW3 01/26/2009 16:48

B.R. is a 5 year old F that presented to the Emergency Department at 15:23 by AMB - POV. The patient was triaged at 16:00 with the following vital signs: T: 97.7 PO, P: 72 regular, R: 22 unlabored, , SPO2: 99 Amt:RA, Pain: 0 denies pain. The patient's primary care physician is NONE, STATED.

Chief Complaint -- OTHER (NO HX ACCIDENT/INJURY)

Exam Time: 16:48.

History obtained from: mother.
today

Symptoms are present now.

* Symptoms located in the no complaints.

Patient describes quality of symptoms as --unable to describe.

Patient denies symptoms at this time.

Symptoms exacerbated by nothing.

Symptoms relieved by nothing.

Associated signs and symptoms: negative fever, negative vomiting, negative nausea, negative crying more, negative acting differently than his/her normal behavior, negative fussy, negative diaper rash.

Mother and her boyfriend are here with child. Boyfriend has been with the mother for 2 years now.

* Today over child support court appointment pts real father is saying child told him that mothers boyfriend is touching her. Mother pulled child aside alone and questioned her. Child denied this to mother. I aksed child in front of mother and she said no one touched her down there.

Mother and her boyfriend say that real father is trying to "start things" and all this started today at court.

Boyfriend and mother then brought her rightup here to get checked. mother states child is with father every other weekend.

REVIEW OF SYSTEMS: HW3 01/26/2009 17:14

Constitutional: negative chills, negative fever.

Respiratory: negative shortness of breath, negative cough.

Gastrointestinal: negative abdominal Pain, negative diarrhea, negative nausea, negative vomiting.

Genitourinary: negative dark urine, negative dysuria, negative hematuria, negative urinary incontinence, negative urinary urgency, negative urinary frequency.

Musculoskeletal: negative back pain.

No pain when she uses the bathroom

* All (other) systems have been reviewed and are negative.

PAST MEDICAL AND SURGICAL HISTORY: HW3 01/26/2009 17:14

Past Medical History: positive NONE.

Past Medical and Surgical histories reviewed.

Immunizations: up to date.

Patient: B.R. DOB: Patient #: 1991699 MRN: 657167957 Date In: 1/26/2009

FAMILY AND SOCIAL HISTORIES, ALLERGIES AND MEDS: HW3 01/26/2009 17:14

Allergies: *NO KNOWN ALLERGIES, Allergies reviewed.

Medications: NONE, Rondec DM, Medications reviewed.

Family History has been reviewed and is non-contributory as related to chief complaint.

PHYSICAL EXAMINATION: HW3 01/26/2009 17:14

General: WD, well nourished and in NAD. VS noted. Smiles.

Respiratory: No respiratory distress. Lungs clear with equal breath sounds bilaterally.

Cardiovascular: PMI normal. RRR. S1, S2 normal with no murmurs, clicks, gallops or rubs. All distal pulses 2+ and symmetric.

Abdomen: Bowel sounds are normoactive. Abdomen is soft, flat, non-tender, without organomegaly or palpable mass.

Skin: Skin is warm and dry with normal turgor, without lesions or rashes.

Psychiatric: appropriate for age

Genitourinary: Rectal Exam: Rectal exam is without pain or palpable mass. Vaginal exam-WNL. No erythema, discharge, or ecchymosis noted. Hymen looked intact. No abnormalities noted.

DIAGNOSTIC TEST RESULTS: HW3 01/26/2009 17:13

LABORATORY:

Additional lab review/interpretation:

Urinalysis within normal limits.

CLINICAL IMPRESSION: HW3 01/26/2009 17:22

1. Well child exam

DISPOSITION: HW3 01/26/2009 17:22

Disposition: Patient discharged to home.

Condition: Stable.

Disposition date/time: 01/26/2009 17:22.

Discussed care with parents. Explained findings, diagnosis, and need for follow-up care.

INSTRUCTIONS: HW3 01/26/2009 17:22

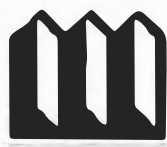
Discharge instructions given to caretaker. Discussed with caretaker who verbalizes understanding and willingness to comply. Prescription(s) written for: .

Patient agrees to follow up with BEAVERS, TROY L.. Instructed to obtain follow up care in five days.

Patient **B.R.** DOB: **[REDACTED]** Patient #: **1991699** MRN: **657167957** Date In: **1/26/2009**

HOLLY STOY PA All text in this document clearly marked by HW3 has been authored and legally signed by use of electronic device. 01/26/2009 17:28

THOMAS JAMES WATTS DO (Supervising physician) This document is legally signed by use of electronic device. 01/26/2009 17:32



MARY BLACK

MEMORIAL HOSPITAL

ORDER/RESULT FORM

ATT DR:ER PHY

TO	FROM	DATE/TIME OF REQUEST		CLERK	
ER RESULT		1/26/09	16:55	LIS	
ORDER #	ORDERING PHYSICIANS NAME	PRIORITY			
4488000	ERNST, LAURA LYN, PA.	STAT		1	
ACCOUNT #	NS ROOM BED	SEX	AGE	BIRTHDATE	MED.REC. NO.
1991699	ER -	F	005Y		657167957
PATIENT NAME		314-0011 UA W MICRO AUTO			
B.R. [REDACTED]					

SPECIMEN DATE 1/26/09 TIME 16:55

TECH.- LIS

(Printed: 1/26/2009 17:14:47)

URINALYSIS

URINE COLOR	YELLOW		
URINE APPEARANCE	CLEAR		
URINE GLUCOSE	NORMAL	(NORM)	mg/dL
URINE BILIRUBIN	NEGATIVE	(NEG)	mg/dL
URINE KETONES	NEGATIVE	(NEG)	mg/dL
URINE SPEC GRAVITY	1.010	(1.001-1.035)	
URINE BLOOD	NEGATIVE	(NEG)	
URINE PH	8	(4.6-8.0)	
URINE TOTAL PROTEIN	NEGATIVE	(0)	mg/dl
URINE UROBILINOGEN	NORMAL	(NORM)	mg/dL
URINE NITRATES	NEGATIVE	(NEG)	
LEUKOCYTES	* 25/uL	(NEG)	



MARY BLACK

MEMORIAL HOSPITAL

ORDER/RESULT FORM

ATT DR:ER PHY

TO	FROM	DATE/TIME OF REQUEST		CLERK
ER RESULT		1/26/09	16:55	LIS
ORDER #	ORDERING PHYSICIANS NAME	PRIORITY		
9800321	ERNST, LAURA LYN, PA	ROUTIN		1
ACCOUNT #	NS ROOM BED	SEX	AGE	BIRTHDATE
1991699	ER -	F	005Y	[REDACTED]
PATIENT NAME		MED.REC. NO.		
B.R. [REDACTED]		314-0012 UA MICRO ONLY		

SPECIMEN DATE 1/26/09 TIME 16:55

TECH. - LIS

(Printed: 1/26/2009 17:14:47)

URINE MICROSCOPIC

URINE WBC'S	3-5	(0-5)	/HPF
URINE RBC'S	0-2	(0-2)	/HPF
CAST	0	(0)	/LPF
EPITHELIAL CELLS	0-2	(0-2)	/hpf
BACTERIA	RARE		

STATE OF SOUTH CAROLINA)
 COUNTY OF SPARTANBURG)

Anthony Briggs, #342410,)
 Applicant,)

v.)

State of South Carolina,)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 FOR THE SEVENTH JUDICIAL CIRCUIT

Case No.: 2021-CP-42-03954

ORDER OF DISMISSAL

RECEIVED

APR 06 2023

S.C. SUPREME COURT

This matter comes before this Court by way of Applicant's post-conviction relief application filed November 23, 2021. Respondent made its return on February 22, 2022, requesting an evidentiary hearing be convened. An evidentiary hearing was held on October 18, 2022, at the Spartanburg County Courthouse. Rodney Richey, Esquire, represented Applicant. Assistant Attorney General Chelsey Marto represented Respondent.

Applicant testified on his own behalf at the evidentiary hearing. Counsel Jeremy Thompson also testified. After reviewing all records and evidence before this Court, this Court finds Applicant cannot meet his requisite burden of proof of establishing he is entitled to post-conviction relief and denies and dismisses this application with prejudice. Findings of fact and conclusions of law are set forth below.

Procedural History

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Spartanburg County Clerk of Court. During its May 2009 term, the Spartanburg County Grand Jury indicted Applicant for first degree criminal sexual conduct with a minor (2009-GS-42-2627). During its August 2010 term, the Spartanburg County Grand Jury indicted Applicant for sex/lewd act committed/attempted upon a child under the age of sixteen (2010-GS-42-4657). The underlying facts include that Applicant was the victim's

mother's boyfriend and, some mornings when the two were alone, Applicant would sexually abuse her by putting his hands and mouth on her genitals. (Tr. 46-47).

Applicant was represented by Max B. Singleton, Esquire. Assistant Solicitors Susan S. Reese and Jennifer A.J. Jordan of the Seventh Circuit Solicitor's Office prosecuted the case. On August 23-26, 2010, Applicant proceeded to trial before the Honorable J. Derham Cole, circuit court judge, and a jury. Judge Cole sentenced Applicant to life imprisonment.

Applicant filed a timely notice of appeal that was perfected on by Elizabeth A. Franklin-Best Esquire, who made a brief on January 11, 2012, raising the following issue:

Did the trial court err when he denied appellant's motion for a directed verdict for criminal sexual conduct with a minor, 1st degree, when the accuser never testified that any penetration occurred?

The South Carolina Court of Appeals dismissed Applicant's appeal by unpublished opinion. *State v. Briggs*, 2012-UP-323 (S.C. Ct. App. filed May 30, 2012). The remittitur was issued on June 19, 2012.

First PCR Action: (2012-CP-42-2674)

Applicant subsequently filed his first PCR application on June 26, 2012, alleging:

1. Ineffective assistance of trial counsel.
 - a. Failure to present a defense.
2. Ineffective assistance of appellate counsel.
 - a. Perjured testimony.
3. Prosecutorial misconduct.
 - a. Vindictive prosecution.
4. Lack of subject matter jurisdiction and personal jurisdiction.

Respondent made its return on June 26, 2013. Applicant amended his application, alleging twelve different allegations of ineffective assistance of trial counsel on October 30, 2013. An evidentiary hearing into the matter was convened on November 12, 2013, at the Spartanburg County Courthouse. Applicant was present at the hearing and was represented by

2013 NOV 12 10 52 AM
 92-16-144 62-2674-002
 11/12/13