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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Charleston County

Honorable William H. Seals, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

THOMAS HENRY BROWN, JR.

APPELLANT

APPELLATE CASE NO. 2023-000261

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STATE OF SOUTH CAROLINA	IN THE COURT OF GENERAL SESSIONS
	NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	IND. NOS.: 2018-GS-10-04815

State of South Carolina,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	TRANSCRIPT OF HEARING
	)	
Thomas Henry Brown, Jr.,	)	
	)	
Defendant.	)	
-----	)	

May 31, 2022
 Charleston, South Carolina

B E F O R E:

THE HONORABLE WILLIAM H. SEALS, JR., JUDGE PRESIDING

A P P E A R A N C E S:

Kelsy Davis, Esquire
 Debbie Herring-Lash
 Solicitor for the State

Rodney Davis, Esquire
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1 she has the education and background.

2 THE COURT: Okay.

3 MS. HERRING-LASH: Do you just want to
4 watch the interview?

5 THE COURT: Sure.

6 (Audio being played for the jury.)

7 MS. HERRING-LASH: Your Honor, at this time
8 the State would move under 17-23-175(B) to admit the
9 forensic interview of MINOR [REDACTED]. I've handed
10 up the CD that shows that the forensic interviewer,
11 in fact, had the week-long training back in 2014
12 that is required for someone to complete the
13 forensic interview. And she's also had, as you can
14 see, several renewals, and gone back to update her
15 forensic interview and training. That these
16 questions that the State was elicited by normal
17 questions, no leading questions were used, as Your
18 Honor could observe. The interviewer was trained.
19 The statements contained a detailed account of the
20 offense, and the statement has internal
21 cohesiveness. And so we would offer to enter that.
22 Now, the Defense has asked for several redactions,
23 and we agree to redact the first part of it where
24 the interviewer is going over the need to tell the
25 truth, and starting kind of when they start the

1 beginning of the interview. We have two prepared,
2 one interview without the second event in it, which
3 would be the 404b event that happened, so we have
4 two versions of that interview prepared. We also
5 have the headphones up there, it was a little bit
6 difficult to hear, but we do have the headphones,
7 and we have a transcript if it comes to that. You
8 having heard it the first time may have a better
9 idea of how clear it was than we do, since we've all
10 heard it before. I think there are -- there's
11 another part of the interview, I think one other
12 part that the Defense wants redacted, and that is
13 the end where she is asked if she would change any
14 -- when she says, "I'm afraid -- I wouldn't want him
15 to do it to anybody else." "Has he ever done it to
16 anybody else?" "No." I do not think that that is
17 prejudicial, obviously, but in an abundance of
18 caution we would agree to redact that upon the
19 Defense request. And I think that, if I'm not
20 mistaken, it won't -- the beginning and the end, so
21 it'll be a pretty seamless redaction, because it's
22 not like in the middle, except for the Colleton
23 County, and we have that prepared. I think our
24 investigator did that pretty seamlessly.

25 THE COURT: All right. Is that correct

1 from the Defense?

2 MR. DAVIS: Judge, yes, we were going back
3 and forth. I've heard both versions. It's pending
4 on your ruling on allowing the issue coming up. And
5 I appreciate the State, there is a line there at the
6 end that you've heard about, that she just doesn't
7 want any bad to happen to someone else. I
8 appreciate the State being willing to redact that.
9 With that being redacted, the only issue on
10 redaction will be whether the second offense is
11 admitted.

12 THE COURT: All right. So the statement is
13 agreed to, other than the Lyles issue?

14 MR. DAVIS: Correct, Judge.

15 THE COURT: All right. Sounds good. Do
16 you want to go over that now?

17 MR. DAVIS: Well, Judge, as to 17-23-175,
18 certainly, the State has gone through the factors in
19 subsection B, and for the record, if we could also
20 get this marked, the CV. May I approach?

21 THE COURT: You can use this one right
22 here.

23 MR. DAVIS: Okay. I'm sorry, they have
24 this, so I'm just asking that the CD that was played
25 be marked for purposes, so we can identify the full

1 interview was played and that the CV be marked.

2 COURT REPORTER: CV will be State's 4, the
3 original forensic interview is 3.

4 (State's Exhibit Number 4, CV, is marked
5 and entered into the record without objection.)

6 MR. DAVIS: Okay. So, Judge, I have no
7 doubts, no complaints, no questions as to the
8 training of the interview. But -- so, you know, one
9 through five under subsection B, the only part, out
10 of an abundance of caution, but I do think this is
11 more of a factual issue for the jury, that it's a
12 detailed account. Very briefly explained, I believe
13 -- I anticipate the State saying, "Yeah, but that's
14 all there was to it." You know, this is unlike an
15 online Internet minor solicitation, or even unlike
16 an actual CNC, where there's penetration or
17 something like that. So my only real dispute with
18 any of the factors in subsection B would be the --
19 there was a detailed account of the alleged offense,
20 but even if the State meets all five of those
21 factors, we have more now. And you may say, "Well
22 that'll be a question for the jury," when they
23 actually try to introduce it, but there's more under
24 A than C. So at this point, so far I don't have any
25 objections to what they've presented so far, I just

1 don't think the full foundation has been laid.

2 THE COURT: In other words, long story
3 short? No objections? Is that what you're trying
4 to say, you have no objections?

5 MR. DAVIS: No objections at this point,
6 but I don't think they've met all the foundation on
7 the requirements for it to be admitted in front of
8 the ---

9 THE COURT: If that is laid at trial, you
10 have no objection?

11 MR. DAVIS: Correct.

12 THE COURT: Other than the Lyles issue?

13 MR. DAVIS: Correct, Your Honor.

14 THE COURT: All right. All right. What's
15 your next motion?

16 MS. DAVIS: Judge, the next motion will be
17 the State's 404b motion. For this we would call
18 MINOR [REDACTED].

19 MR. DAVIS: And, Judge, just before we get
20 started on that, if I may step out, one of my
21 investigator knows to start bringing our witnesses
22 over so they will be here and ready? So I'll be
23 back in just a moment, Your Honor, thank you. Thank
24 you, Your Honor.

25 MS. DAVIS: the State calls MINOR [REDACTED].

1 MINOR [REDACTED], if you want to come around this way and sit
2 in this blue chair?

3 (State's 404b Motion)

4 * * * * *

5 MINOR [REDACTED],
6 having been duly sworn,
7 testifies as follows:

8 * * * * *

9 DIRECT EXAMINATION

10 BY MS. DAVIS:

11 Q. Good morning, MINOR [REDACTED].

12 A. Good morning.

13 Q. Are you related to Monique Williams?

14 A. Yes, ma'am.

15 Q. How are you related to her?

16 A. She's my aunt.

17 Q. Who are Monique's children?

18 A. They're my cousins.

19 Q. What are their names?

20 A. Z. S. [REDACTED], C. S. [REDACTED], we call the other ones
21 Batman and Cheeks.

22 Q. Okay. Would you do me a favor and just lean
23 the microphone a little closer to you? Did you
24 spend more time with your cousin Z. S. [REDACTED] in the past?

25 A. Yes, ma'am.

1 Q. Why is that?

2 A. We were just closer.

3 Q. Okay. Do you know Thomas Brown?

4 A. Yes, ma'am.

5 Q. How do you know him?

6 A. He's my aunt's ex-boyfriend.

7 Q. Do you see him in the courtroom today?

8 A. Yes, ma'am.

9 Q. Could you point him out with where he's
10 sitting, or describe a piece of clothing he's
11 wearing?

12 A. He's sitting to the right of me in a plaid
13 shirt.

14 MS. DAVIS: Let the record reflect the witness
15 has identified the Defendant.

16 BY MS. DAVIS:

17 Q. Did Thomas and your Aunt Monique live with
18 your family at one point?

19 A. For a little while, yes.

20 Q. What was that like?

21 A. It was just -- it was just very playful, you
22 know, it was good times.

23 Q. Okay. Did you get along with him?

24 A. Yes, ma'am.

25 Q. Did they eventually have their own place to

1 stay?

2 A. Yes, ma'am.

3 Q. Do you remember was there ever a time when
4 you went to spend a weekend with your cousins?

5 A. Yes, ma'am.

6 Q. Who else was there?

7 A. My aunt and Thomas.

8 Q. Was there a special occasion?

9 A. It was for my graduation.

10 Q. What grade?

11 A. Fifth.

12 Q. Had you ever been off with Thomas and your
13 Aunt Monique without your mom and dad before?

14 A. No, ma'am.

15 Q. Do you remember that weekend where you guys
16 went first?

17 A. I believe it was the beach.

18 Q. Okay. And who all went to the beach?

19 A. Me, my four cousins, Thomas, my aunt, as
20 well as my grandparents.

21 Q. Okay. Who are your grandparents?

22 A. Fannie Miller and John Lucas.

23 Q. And what did you guys do at the beach?

24 A. We was just playing.

25 Q. Did anything happen on the walk back from

1 the beach?

2 A. There was a snake, and we just all -- I
3 guess we were fantasized by it.

4 Q. You were what?

5 A. We were just looking at the snake.

6 Q. Was anyone afraid of the snake?

7 A. Me.

8 Q. You were? Was anybody else afraid?

9 A. Not sure.

10 Q. Were people looking at the snake?

11 A. Yes, ma'am.

12 Q. Were some people staying away from the
13 snake?

14 A. Yes, ma'am.

15 Q. Did you have sand on your feet from the
16 beach?

17 A. Yes, ma'am.

18 Q. Okay. So what did you do?

19 A. So I backed up, because I was afraid of the
20 snake anyway, so I just started brushing my feet
21 off, because I had sand on them.

22 Q. And where were you in relation to the car
23 when this happened?

24 A. On the right-hand back passenger side.

25 Q. Okay.

1 MS. DAVIS: May I approach, Judge?

2 THE COURT: Yes.

3 MS. DAVIS: I'm approaching the witness with
4 what's been marked as State's Exhibit 1.

5 BY MS. DAVIS:

6 Q. What is this?

7 A. A car.

8 Q. A car? Is this the exact car that you guys
9 went to the beach with?

10 A. I'm not sure.

11 Q. Is this a drawing or a photo?

12 A. I'm not sure. A drawing?

13 Q. A drawing? Would using this drawing help
14 you in your testimony today?

15 A. Yes, ma'am.

16 MS. DAVIS: May I publish?

17 THE COURT: Yes.

18 BY MS. DAVIS:

19 Q. All right, looking at State's Exhibit 1, do
20 you see it on that screen in front of you?

21 A. (Reviews drawing.) Yes, ma'am.

22 Q. Could you mark with your initials around
23 where you were standing at the car?

24 A. This?

25 Q. Yes, on the board.

1 A. (Draws on board.)

2 Q. Okay. And what happened when you were at
3 that part of the car?

4 A. Thomas was by me and a question was asked.

5 Q. A question was asked?

6 A. Yes, ma'am.

7 Q. Would it be easier if you wrote down what he
8 said?

9 A. Yes, ma'am.

10 Q. Okay. Can we give her just a blank screen?
11 I'll give you a different color so you can write --
12 and so you can write it on the board.

13 Can you write it on the board?

14 MR. DAVIS: Judge, if I may, at this point, I
15 don't use this as often as the State does, but I'm
16 concerned, especially with this, and, certainly, the
17 last exhibit was basically this, so we can keep a
18 record of it, because it's being marked on the TV
19 screen, and then erased. I'm not sure how we should
20 do that, but I think we need for future purposes ---

21 THE COURT: Why don't you just write it down on
22 a piece of paper?

23 MR. DAVIS: Certainly Judge, if she has a pen
24 and paper. Now, if they want to put it on the
25 screen, certainly, for all of us to see, but, yeah,

1 I think we should keep a record of that. And then I
2 would suggest --

3 MS. DAVIS: They can copy what's on the screen.

4 MR. DAVIS: -- but just so that we keep a
5 record, because, certainly, this testimony she's
6 about to give is very important, but also the
7 testimony about where she was standing, so will
8 you ---

9 THE COURT: Why doesn't she use a pen and just
10 mark the car as well instead of on the computer.

11 MS. DAVIS: Do you want her reading the form?

12 THE COURT: Yes.

13 MR. DAVIS: We want to keep a record of where
14 she ---

15 MS. DAVIS: Okay.

16 MR. DAVIS: -- marks the car to be. And then,
17 Judge, the final thing, obviously, you know, this
18 afternoon we'll deal with all this. You'll make
19 whatever rulings you will, then we will need a
20 pristine copy for testimony for the jury. So thank
21 you, Your Honor.

22 BY MS. DAVIS:

23 Q. So State's 1, we'll get you a marker.

24 MINOR, can you mark this like you marked it before,
25 where you were standing?

1 MR. DAVIS: Thank you.

2 BY MS. DAVIS:

3 Q. All right. Now I'm going to bring you a
4 blank sheet of paper marked State's Exhibit 5. Will
5 you write down what the Defendant said to you while
6 you were at that part of the car at the beach?

7 A. (Writes on document.)

8 MS. DAVIS: Let the record reflect State's
9 Exhibit 5, the victim has written, "Can you suck my
10 dick?"

11 BY MS. DAVIS:

12 Q. When the Defendant asked you this, did he
13 touch you at all?

14 A. Yes, he touched my shoulder.

15 Q. He touched your shoulder? Can you show us
16 how he touched you?

17 A. It wasn't very aggressive. It was like
18 this.

19 Q. It wasn't very aggressive?

20 A. No, ma'am.

21 Q. Okay.

22 MS. DAVIS: The Court's indulgence.

23 BY MS. DAVIS:

24 Q. What did you do after he said that to you?

25 A. I just pulled away.

1 Q. Okay. Do you remember if you got in the
2 car?

3 A. I'm sure we got in the car after that.

4 Q. Okay. Do you remember where you sat in the
5 car?

6 A. I'm not sure of the exact placement, but I
7 know I was in the back.

8 Q. The back? Did you tell your Aunt Monique or
9 your cousin Z. S. what he said?

10 A. No, ma'am.

11 Q. Why not?

12 A. It was really from the fear of my aunt
13 taking it rather than what I wanted it. I just
14 didn't want anything to escalate.

15 Q. Okay. Did you text your mom when you were
16 in the car?

17 A. No, ma'am.

18 Q. Why not?

19 A. My phone only worked on Wi-Fi.

20 Q. On Wi-Fi?

21 A. Yes, ma'am.

22 Q. What did you do when y'all left the beach?

23 A. I believe we went to the hotel. We all
24 washed up.

25 Q. Okay. And then did y'all go anywhere after

1 the hotel?

2 A. Yes, ma'am.

3 Q. Where did you go?

4 A. I think it was like a bonfire thing.

5 Q. Okay. And who was at the bonfire?

6 A. I don't know who exactly, but who all went
7 was me, my cousins and my aunt and Thomas.

8 Q. Okay. Your grandma and grandpa didn't go
9 there?

10 A. No, ma'am.

11 Q. Was there ever a time while you were at the
12 bonfire that you went back to the car that y'all
13 came in?

14 A. Yes, ma'am.

15 Q. Do you know why you went back to the car?

16 A. I had water in there.

17 Q. Okay. Do you remember if anyone went with
18 you?

19 A. Yes, ma'am?

20 Q. Who?

21 A. Z. S. .

22 Q. Is that Z. S. ?

23 A. Yes, ma'am.

24 Q. And did you and Z. S. walk together?

25 A. Z. S. went like ahead of me, and then that's

1 when I saw I had something there, too, so I went --
2 I went after her.

3 Q. You said you had something in there too?
4 Was Z. S. [REDACTED] getting something from the car?

5 A. Yes, ma'am.

6 Q. Okay. Do you remember what she was getting?

7 A. I think it was like candy.

8 Q. Okay. So you said that Z. S. [REDACTED] went to the
9 car first, and you followed her?

10 A. Yes, ma'am.

11 Q. What happened when you went to the car?

12 A. When I went to the car Z. S. [REDACTED] had already
13 grabbed her things, and she was going to the door.
14 I had to reach over to get what I went there for,
15 and Thomas touched my hand and asked the question of
16 me.

17 Q. He asked the same question?

18 A. Yes, ma'am.

19 Q. The same thing that you wrote down on the
20 piece of paper?

21 A. Yes, ma'am.

22 Q. Where was he in the car?

23 A. I believe he was on the passenger side -- I
24 mean on the -- in the driver's seat.

25 Q. In the driver's seat?

1 A. Yes, ma'am.

2 Q. And were you in the front or the back of the
3 car?

4 A. The back.

5 Q. Okay. And was Z. S. [REDACTED] in the car, too,
6 when he said it?

7 A. No, ma'am.

8 Q. No? Did she hear him?

9 A. No.

10 Q. After he said that to you in the car, what
11 did you do?

12 A. I grabbed my thing and I slammed the door,
13 and I just went back with my aunt.

14 Q. Okay. Did y'all go back to the hotel that
15 night?

16 A. Yes, ma'am.

17 Q. And did you speak with your mom at all that
18 night?

19 A. I had -- I texted her once I got there.

20 Q. Once you got where?

21 A. Back to the hotel.

22 Q. Do you remember what you told her?

23 A. I just had told her that I had to tell her
24 something, but I'd rather tell her in person.

25 Q. Did you tell her anything else?

1 A. No.

2 Q. Do you remember when you were supposed to go
3 home?

4 A. I think it was the day -- two days after,
5 but she told me to tell them to bring me home in the
6 morning.

7 Q. To bring you home when?

8 A. The following morning.

9 Q. Okay.

10 MS. DAVIS: No more questions, Judge.

11 THE COURT: All right.

12 MS. DAVIS: Thank you, MINOR, now just answer
13 any questions that Ms. Ringer has for you, okay?

14 **CROSS-EXAMINATION**

15 BY MS. RINGER:

16 Q. Hi, MINOR, my name's Lindsay, I'm just
17 going to ask you a few questions. Okay?

18 A. Yes, ma'am.

19 Q. MINOR, when you all went to the beach it
20 was afternoon?

21 A. It was like 4:00, yes, ma'am.

22 Q. Okay, it was bright outside. And you talked
23 a little bit about going to the car. Do you
24 remember sitting in the way back in the car, like
25 kind of in the trunk, almost the third row?

1 A. I'm not sure.

2 Q. Okay.

3 A. I mean I don't remember.

4 Q. You don't remember sitting directly behind
5 Z. S. ?

6 A. No.

7 Q. Okay. And going back to when Mr. Brown
8 touched you, I believe you just said it wasn't
9 aggressive?

10 A. No, ma'am.

11 Q. Do you remember telling Stephanie McKee that
12 he grabbed you?

13 A. I might have, but I didn't mean it in the
14 mannerisms of just like yanking me.

15 Q. Okay.

16 A. It was just like subtle.

17 Q. I'm sorry, you can finish.

18 A. Yeah, I was just saying it was subtle.

19 Q. So you didn't like almost fall or anything?

20 A. No, I -- no. If I -- I do remember somewhat
21 stumbling. It wasn't because he grabbed me.

22 Q. Okay. It was just a natural reaction. And
23 when you guys went to the bonfire that night, was
24 that still afternoon or it's dark now?

25 A. It -- on our way there it was like dusk

1 dark, so once we got there it was about dark.

2 Q. And that's a bonfire? And you were there,
3 you were playing with a bunch of kids?

4 A. I don't remember much of that.

5 Q. Okay. You don't remember the people that
6 were there. And when you went back to the car, you
7 went with Z. S. ?

8 A. Z. S. had went ahead of me, and then I went
9 -- I followed.

10 Q. So you were walking alone behind Z. S. ?

11 A. Somewhat.

12 Q. And Mr. Brown was in the car?

13 A. Yes, ma'am.

14 Q. And Mr. Jeremy was also in the car?

15 A. No, ma'am, not at that moment.

16 Q. When was Mr. Jeremy in the car?

17 A. I remember looking back after it happened
18 and he was in the car. I don't remember -- I mean I
19 don't recall when he got in the car, or anything
20 like that.

21 Q. But after it happened he was in the car?

22 A. Yes, ma'am.

23 Q. And you go back to your Aunt Monique's hotel
24 room that night?

25 A. Yes, ma'am.

1 Q. And that's when you text your mom, but you
2 don't tell her until the next day?

3 A. Yes, ma'am.

4 Q. And when you told your mom the next day, did
5 you tell her what he said, or did you write it down?

6 A. I don't remember.

7 Q. You don't? Okay, that's okay.

8 MS. RINGER: The Court's indulgence.

9 BY MS. RINGER:

10 Q. MINOR, do you remember playing with Nariana
11 at the bonfire?

12 A. I'm not sure.

13 Q. That's not one of your old friends?

14 A. It doesn't ring a bell.

15 Q. Okay. Do you remember playing with any of
16 your cousins, the boy cousins at the bonfire?

17 A. Much of it -- I don't remember much of the
18 bonfire.

19 Q. Okay. Do you remember that you went back to
20 the car to get your candy?

21 A. Yeah, that's another that I wanted to bring
22 up. I wasn't sure if it -- I know it was a water
23 and candy, but I'm not sure who had what.

24 Q. Okay, fair enough. Before you went to the
25 bonfire did you go eat anywhere?

1 A. I believe so.

2 Q. Do you remember where that was?

3 A. No.

4 Q. Okay. That's okay. Do you think all of you
5 went, like everyone that was in that car?

6 A. I don't think so.

7 Q. You don't think so? So when you got to the
8 bonfire it was already dark. Do you remember what
9 you guys did initially?

10 A. No.

11 Q. Did you make S'mores?

12 A. I'm not sure.

13 Q. Did you play soccer?

14 A. I don't recall.

15 Q. Okay. All you remember is that you went
16 back to the car for candy and/or the water bottle at
17 some point?

18 A. Yes, ma'am.

19 Q. And you remember that Mr. Brown was in the
20 driver's seat?

21 A. Yes, ma'am.

22 Q. But you don't know how or when Mr. Jeremy
23 got there?

24 A. No.

25 Q. And after that, after you left the car, do

1 you remember what you did?

2 A. I just think I went back to my aunt's.

3 Q. And you didn't say anything to her, did you?

4 A. No, ma'am.

5 Q. You didn't ask her to go home or anything?

6 A. I'm not sure. I don't think so.

7 MS. RINGER: The Court's indulgence.

8 BY MS. RINGER:

9 Q. MINOR, I just have one more question. If
10 we were to show you a photo on the ELMO of the car
11 that you were all traveling in that day, do you
12 think you would remember it, something similar?

13 A. I don't know. It's been a while, so I'm not
14 -- I can't say yes or no.

15 Q. Can I show you and you tell me if it looks
16 familiar?

17 A. Yes, ma'am.

18 Q. I'm putting Defendant's Exhibit 1 just on
19 the ELMO. MINOR, can you see that closely enough,
20 or do you need the hard copy?

21 A. I can see it.

22 Q. Okay. Does that look familiar at all?

23 A. (Shakes her head.)

24 Q. You don't remember? Okay. That's okay,

25 MINOR.

1 I have no more questions for you. Thank you.

2 A. You're welcome.

3 THE COURT: Anything further from the State?

4 MS. DAVIS: No, Judge. Can she be excused,
5 Judge, for the day?

6 THE COURT: Any objections from the Defense?

7 MS. RINGER: No objection.

8 THE COURT: You have a good day.

9 WITNESS: Thank you.

10 MS. DAVIS: Thank you, MINOR .

11 THE COURT: Any other witnesses for the State?

12 MS. DAVIS: No, Judge, I think we're ready to
13 argue.

14 THE COURT: How about the Defense? Do you want
15 to put up anything other than argument?

16 MR. DAVIS: Yes, Judge.

17 THE COURT: Okay.

18 MR. DAVIS: if I can check in the hallway and
19 see if my investigator.

20 MS. DAVIS: Judge, can we release the rest of
21 our witnesses for the 404b?

22 THE COURT: Do you want to release them for the
23 day? Is that what you're asking?

24 MS. DAVIS: Yes, for the day.

25 THE COURT: That's fine with me.

1 MS. DAVIS: Thank you.

2 MR. DAVIS: Just one moment, Your Honor. Your
3 Honor, we would call Rebecca Hernandez.

4 * * * * *

5 Rebecca Hernandez,
6 having been duly sworn,
7 testifies as follows:

8 * * * * *

9 MR. DAVIS: May it please the Court?

10 **DIRECT EXAMINATION**

11 BY MR. DAVIS:

12 Q. Ms. Hernandez, first of all, do you know my
13 client, Thomas Brown?

14 A. Yes, sir.

15 Q. Can you tell the Judge how long you've known
16 Thomas?

17 A. About five years.

18 Q. Did you know him when he and Monique were
19 dating?

20 A. Yes.

21 Q. I want to direct your attention to exactly
22 what this hearing is about. Did you attend a
23 bonfire at the river that Monique and Thomas showed
24 up at?

25 A. Yes.

1 Q. Can you tell the Judge why there was a
2 bonfire at the river?

3 A. It was our -- we did bonfires with our kids.

4 Q. And so where exactly is this location of it?

5 A. Cottageville, Good Hope Boat Landing.

6 Q. Now, do you remember the exact date that
7 we're talking about?

8 A. I don't remember the exact date.

9 Q. Okay. But do you recall a time when he,
10 Monique and several kids showed up?

11 A. Yes.

12 Q. If you recall, can you tell the Judge, other
13 than Monique and Thomas, who all showed up with
14 them?

15 A. It was Monique's niece and her -- I want to
16 say three other children that came with her.

17 Q. Did you hang out with them regularly?

18 A. I did.

19 Q. Including the niece?

20 A. Not really, mainly just Monique and Thomas.

21 Q. And then the kids also sometimes?

22 A. Well, sometimes, but they always stayed
23 outside with my kids.

24 Q. Okay. Speaking of that, who was there with
25 you?

1 A. It was me. It was my husband and my two
2 daughters and my mother.

3 Q. Okay. And what's your husband's name?

4 A. Jeremy Wheeler.

5 Q. Can you say it again?

6 A. Jeremy Wheeler.

7 Q. Okay. And your daughters?

8 A. Nariana Hernandez.

9 Q. And your second daughter?

10 A. Mina Hernandez.

11 Q. And then your mother?

12 A. Yes, Beverly Herring.

13 Q. And so were you there before or after Thomas
14 and the group ---

15 A. Before.

16 Q. -- arrived?

17 A. Before.

18 Q. How old back then do you think that your
19 daughters were?

20 A. My oldest would have been eight, and my
21 youngest would have been five.

22 Q. Can you tell the Judge when Thomas arrived,
23 let's focus, first of all, on Monique. What did
24 Monique do when she got there?

25 A. She came to where me and my mother was and

1 jumped up in the back of my vehicle and was sitting
2 with my mother.

3 Q. When you say jumped up in the back of the
4 vehicle, flatbed, tailgate down?

5 A. No, it was an Expedition, so we had the
6 liftgate up, but the whole back area was opened.

7 Q. And looking at the bonfire and the river?

8 A. Uh-huh.

9 Q. You need to say yes or no.

10 A. Yes.

11 Q. All right. Thank you. So when Monique came
12 and got with you, do you remember what Monique's
13 kids and her niece did?

14 A. They ran off with my two kids.

15 Q. Were they roughly the same age?

16 A. Nariana and her niece is about -- around the
17 same age.

18 Q. Nariana and her niece ---

19 A. Monique's niece.

20 Q. Monique's niece. Okay. What kind of
21 activities were the kids doing?

22 A. They were making sandcastles and dangling
23 their feet in the water.

24 Q. Okay. While there were kids there, was this
25 an kids' party, or an adult party, or how would you

1 describe it?

2 A. It was -- it's both, it was family-oriented.

3 Q. Okay. Were there adults drinking?

4 A. There was.

5 Q. Were there adults sharing family time -- or
6 adult time discussing things?

7 A. There might have been, but there was like
8 two sections. You had your ones that were drinking,
9 and you had your ones that weren't drinking.

10 Q. Let's go back to when they arrived, what did
11 Thomas do?

12 A. Thomas stayed in the car and my husband
13 walked over to him.

14 Q. Can you tell the Judge, if you recall, what
15 time they arrived?

16 A. I can't necessarily give you an exact time,
17 but it was dark.

18 Q. Fair enough. It was after dark because of
19 the bonfire?

20 A. Yes.

21 Q. Okay. Was this in the summertime?

22 A. Yes, it was.

23 Q. And you -- well, let me ask you, usually,
24 how long would these bonfires last?

25 A. They usually last until about 12:00, 1

1 o'clock in the morning.

2 Q. Did -- do you recall whether Thomas and the
3 group stayed until the end of the bonfire, or did
4 they leave sometime ---

5 A. They did not.

6 Q. -- before that?

7 A. They did -- left at like probably around
8 11:00, 11:30ish. They didn't stay the whole time.

9 Q. Okay. I'm going to show you what's been
10 marked as Defense Exhibit Number 1, and it should
11 pop up on the screen there.

12 A. Uh-huh.

13 Q. If you need a hard copy.

14 A. No, it's fine.

15 Q. Does that or does that not look something
16 like the vehicle that Thomas drives?

17 A. No.

18 Q. Okay. What was different -- what's
19 different from the vehicle in that picture?

20 A. I don't believe he was -- well, his had some
21 cosmetic damage. That looks -- well, his was a
22 little bit older than that.

23 Q. Can you tell if that is the same make and
24 model?

25 A. That is the same make and model.

1 Q. Oh. Okay. So same make and model, but his
2 didn't look that pristine, ---

3 A. Right.

4 Q. -- right? Okay. All right. When, if ever,
5 and I know you don't have it down to the minute, but
6 when, if ever, did Thomas come over to where you and
7 Monique were?

8 A. He didn't.

9 Q. Once Thomas arrived did Jeremy stay with him
10 the whole time, or did he come back over to where
11 you and Monique were?

12 A. He stayed with him the whole time.

13 Q. Focusing in on -- let me do it the other way
14 around. Did you ever go over near that vehicle
15 where ---

16 A. I did.

17 Q. -- the guys were?

18 A. I did.

19 Q. Okay. At any time that night, did you hear
20 Thomas say anything inappropriate to Monique's
21 niece?

22 A. I did not.

23 Q. At any time during that evening, did you see
24 Thomas do anything inappropriate to Monique's niece?

25 A. I did not.

1 Q. I don't want you to guess at anything, but
2 would you know why it was that Jeremy and Thomas
3 stayed over there kind of to themselves?

4 A. They were smoking.

5 Q. Were they drinking?

6 A. Jeremy was, Thomas did not.

7 Q. Did you ever see a time that Monique's niece
8 and Thomas were alone together?

9 A. No.

10 Q. You go by Becca, right?

11 A. Yes.

12 Q. Okay. Can you give me just one second?

13 A. Uh-huh.

14 Q. Thank you, I have no other questions. The
15 State may have some questions for you.

16 **CROSS-EXAMINATION**

17 BY MS. HERRING-LASH:

18 Q. I just have a few questions to ask. This
19 was your truck club? Is that right?

20 A. Yes.

21 Q. How many people were there?

22 A. There was a little bit of people. I can't
23 give you an exact count. There was a lot of people
24 out there.

25 Q. Right, several. More than just your family

1 and Mr. Brown's?

2 A. Right. There was at least maybe 40, 50
3 people out there.

4 Q. And a lot of children?

5 A. Yes.

6 Q. And were there -- did most people have their
7 own trucks since it was a truck club?

8 A. Yes.

9 Q. And how were the trucks parked? Were
10 they --

11 A. I believe most ---

12 Q. -- forward, or -- I'm sorry.

13 A. Most of them were facing the river.

14 Q. Facing the river?

15 A. Uh-huh.

16 Q. And where was the bonfire in relation to the
17 river?

18 A. Down by the river.

19 Q. And so when you were sitting, were you
20 sitting in a truck or ---

21 A. I'm sitting in a chair.

22 Q. In a chair. And what about Monique?

23 A. She was sitting in the back of the truck.

24 Q. With your mom?

25 A. Yes.

1 Q. In the back of your truck?

2 A. Right.

3 Q. And was she facing the river also?

4 A. Yes.

5 Q. And what about the trucks where people --
6 was everybody sitting on their truck, or were there
7 people sitting in chairs besides you?

8 A. There were people sitting in chairs. There
9 were people walking around. A lot of people in the
10 back of trucks.

11 Q. A lot of commotion ---

12 A. Right.

13 Q. -- or lots of people go?

14 A. Right.

15 Q. And about how many kids were out there?

16 A. Gosh, probably about 15 kids, maybe.

17 Q. And what were most of the kids doing?

18 A. Playing down by the river.

19 Q. And you had -- I think you said you thought
20 that Monique brought four children with her?

21 A. Right.

22 Q. And what were their ages; do you remember?

23 A. I don't know their ages.

24 Q. Do you know if they were close in age to
25 your children?

1 A. I know a couple of them were about the same
2 age as my oldest daughter.

3 Q. And that's eight?

4 A. Yes.

5 Q. You said eight? And what did those children
6 do?

7 A. They were playing in the sand and playing
8 with their feet in the water.

9 Q. And Thomas stayed by his car?

10 A. Yes.

11 Q. And were you watching his car?

12 A. I mean I didn't watch it like the whole
13 time, but, yes, I did keep my eye on it.

14 Q. And ---

15 A. I watch my surroundings.

16 Q. Right. And where was this car parked in
17 relation to your vehicle?

18 A. It was like -- mine was backed in and his
19 was parked in the front of mine.

20 Q. And so -- and where was the river in
21 relation to you?

22 A. Behind mine.

23 Q. So were you watching the river or his ---

24 A. I was watching everything.

25 Q. So you were watching both the river behind

1 you and his truck ---

2 A. Right, because there's kids down by the
3 water, and so I was watching everything.

4 Q. And were you -- you were able to see it
5 pretty well in the dark?

6 A. Well, I mean it wasn't that dark.

7 Q. But they were down by the river in the dark?

8 A. Right.

9 Q. And it was dark?

10 A. Not that dark. The fire lit it up real
11 well.

12 Q. But it was night?

13 A. Right.

14 Q. And the fire was between you and the river?

15 A. No, it was behind me ---

16 Q. Behind you?

17 A. -- near the river.

18 Q. Okay, so the fire was behind where you were
19 sitting ---

20 A. Right.

21 Q. -- and the river was ---

22 A. Beside me.

23 Q. -- beside you. And Thomas was?

24 A. To the right of me.

25 Q. To the right of you. And your husband

1 stayed with him?

2 A. Yes.

3 Q. What about when Thomas took a nap?

4 A. He stayed by the car he was in, probably
5 stayed beside the car.

6 Q. Okay. Your husband stayed beside the car?

7 A. Yes.

8 Q. And Thomas slept?

9 A. Right.

10 Q. And did Thomas ever get out of the car?

11 A. He did a couple times when he and Monique
12 got into it.

13 Q. And what did they get into it about?

14 A. I don't know. It was not my business.

15 Q. Did you say that you thought they got into
16 it about what happened at Isle of Palms?

17 A. Yes.

18 Q. So you thought that they were arguing
19 already about what happened at the Isle of Palms
20 that night?

21 A. Right.

22 Q. Did you hear the argument or are you just
23 assuming that?

24 A. No, they were -- they were kind of loud, but
25 I don't put my nose in other people's business.

1 Q. And so all this was going on, but like did
2 they get into it right in the beginning, or in the
3 middle, or at the end?

4 A. No, it was -- I'd have to say like towards
5 the end, right before they left. It happened before
6 they left. They left before everybody else did.

7 Q. All right. Did she go to the truck when
8 they got into it?

9 A. Yes, she did.

10 Q. And was Jeremy there then?

11 A. Yes, he was.

12 Q. So he heard what they got into?

13 A. Probably.

14 Q. Did he ever tell you?

15 A. Not really.

16 Q. Okay. And so they left and you -- you all
17 stayed there and ---

18 A. Yes.

19 Q. -- continued what you were doing?

20 A. Yep.

21 Q. And you don't know the names of any of these
22 children really?

23 A. Not really.

24 Q. Which one was the niece? Was she the older,
25 the younger, the bigger, the smaller one?

1 A. Well, of the girls she was the smaller of
2 the two. As far as her name, I'd be like I don't
3 even know.

4 Q. Yeah.

5 MS. HERRING-LASH: The Court's indulgence for
6 one moment.

7 THE COURT: Uh-huh.

8 BY MS. HERRING-LASH:

9 Q. I just -- I need to clarify one thing, and
10 it's probably my mistake. You were sitting in a
11 chair, and the fire was behind or in front of you?
12 I'm sorry.

13 A. Behind me.

14 Q. Behind you, and the river was in front of
15 you?

16 A. The river was to the left of me.

17 Q. And Thomas was to the right?

18 A. Right.

19 MS. HERRING-LASH: Those are all the questions I
20 have, thank you.

21 THE COURT: All right. Any redirect?

22 MR. DAVIS: Just on that. I apologize to
23 belabor this point.

24 **REDIRECT-EXAMINATION**

25 BY MR. DAVIS:

1 Q. You were sitting in a chair on the ground?

2 A. Right.

3 Q. Okay. So that's why we have -- what's to
4 the left of you?

5 A. The river.

6 Q. Okay. Bonfire?

7 A. Behind me.

8 Q. And where's your vehicle?

9 A. Catty to me, and then Thomas is to the right
10 of me.

11 Q. So did you point to your right ---

12 A. Yes.

13 Q. -- and it was diagonal ---

14 A. Right.

15 Q. -- to your car, and then ---

16 A. And then to the right is Thomas' in front of
17 mine.

18 Q. More out from you or back of the ---?

19 A. Okay. So the way the chair was sitting --

20 Q. Uh-huh.

21 A. -- you have the river, you have the bonfire,
22 you have Thomas' car, and then you have my vehicle.
23 And then straight in front of me was the grill.

24 Q. The what?

25 A. The grill.

1 Q. The grill? You were grilling out too?

2 A. Right.

3 Q. Okay. Thank you.

4 MR. DAVIS: No other questions, Your Honor.

5 THE COURT: You may step down. Any other
6 witnesses?

7 MR. DAVIS: Yes, Judge. We would call Jeremy
8 Wheeler.

9 * * * * *

10 **Jeremy Wheeler,**
11 **having been duly sworn,**
12 **testifies as follows:**

13 * * * * *

14 **DIRECT EXAMINATION**

15 BY MR. DAVIS:

16 Q. All right. You go by Jeremy?

17 A. Yes, sir.

18 Q. Okay. Jeremy, I want you to explain
19 something to stuff to the Judge.

20 A. Okay.

21 Q. Who is Rebecca Hernandez?

22 A. My woman.

23 Q. And -- and does she have children?

24 A. Yes, she does.

25 Q. How many?

1 A. She has two with her now.

2 Q. Okay. And what are their names?

3 A. Nariana and Nena.

4 Q. And could you spell the second one?

5 A. Nena?

6 Q. Yes.

7 A. N-E-N-A.

8 Q. Thank you. Okay. Do you know Thomas Brown,
9 my client?

10 A. Yes, I do.

11 Q. How long have you known Thomas?

12 A. I've known Thomas for over 13 years.

13 Q. Okay, okay. I'm going to move along and cut
14 to the chase of why we're here today. Do you
15 remember in the summer of 2018 being at a bonfire at
16 the river that ---

17 A. Yes.

18 Q. -- that Thomas and a group of people showed
19 up at?

20 A. Yes, I do.

21 Q. Okay. Can you tell the Judge why you were
22 having the bonfire at the river?

23 A. 'Cause we were pretty much all celebrating,
24 just as a truckload that we were having, we were in.
25 We all decided to go out there and hang out, and

1 play in the water, have a couple of cookouts, and
2 decided to burn a whole bunch of pallets that day.

3 Q. Back then, do you recall who all showed up
4 when Thomas arrived?

5 A. When Thomas showed up out there, it was him,
6 Monique and his niece. I think there was another
7 young woman with them. And when they showed up I
8 was walking out to them, approaching the vehicle.
9 Thomas hadn't got out, we backed up.

10 Q. Okay. Who else other than Monique, her
11 niece and Thomas, were there other kids of theirs
12 that ride with them?

13 A. No.

14 Q. What did Monique do when they arrived?

15 A. Monique went by and sat by my girl, she
16 didn't talk to nobody else out there. So when
17 Monique came, they stayed side-by-side sitting down
18 by the fire. Me and Thomas we practically walked
19 around, we were drinking, and Thomas ---

20 Q. What --

21 A. -- didn't talk to anybody else though, he
22 stayed by me.

23 Q. Okay. What did -- the children that arrived
24 with them, what did they do?

25 A. They were playing with my kids.

1 Q. Okay. What did Thomas do when they got
2 there?

3 A. Me and Thomas were pretty much side-by-side
4 the whole time.

5 Q. Okay.

6 A. Just talking and chilling.

7 Q. Okay. Did -- did he come join you, or did
8 you join him at the car?

9 A. I kind of like yelled at him when they were
10 pulling in.

11 Q. Okay. And then where did you go once you
12 met up with him?

13 A. We walked out -- walked towards the fire
14 where everybody else was.

15 Q. Okay. Was there a time that you went to
16 smoke at the car away from the kids and the bonfire?

17 A. Yeah.

18 Q. Where was that?

19 A. We walked up by the car. He sat in the car,
20 and he took a blunt out. We sat right there and we
21 smoked, and we walked around the -- the domain of
22 the area where we were at, pretty much in just like
23 a circle ---

24 Q. Okay.

25 A. -- apparently, it's -- it was around that

1 whole area walking around, just talking to him and
2 all that.

3 Q. Did you ever hear Thomas say anything
4 inappropriate to Monique's niece?

5 A. No.

6 Q. Did you ever see Thomas do anything
7 inappropriate to Monique's niece?

8 A. No. Thomas was nowhere near the niece at
9 all the whole time me and him had been out there.

10 Q. Was there ever a time where you saw Thomas
11 and Monique's niece alone?

12 A. There was only one time I'd seen Thomas and
13 Monique alone, and that's when they were, I guess,
14 arguing or fighting about something. I didn't know
15 what it was. Thomas came back to me and then he
16 went to the car, and he was kind of upset, so he
17 told me to give him a minute. I stepped outside. I
18 stayed outside of the car while he was sitting
19 inside of the car, and he decided to get another
20 blunt after that.

21 Q. So let me ask you again, was there ever a
22 time where you saw Monique's niece with Thomas
23 alone?

24 A. No.

25 Q. What's this area called? What's the name of

1 it?

2 A. The -- the lake we was at? I usually get it
3 wrong, but I think it was the hatchery we was at.
4 We -- we go to a lot of lakes, so ---

5 Q. Well, rather than the name of it, was this
6 in Cottageville?

7 A. I think it was in Cottageville, yeah.

8 Q. Do you remember the exact date, or just it
9 was the summertime?

10 A. I don't remember what the date was, no.

11 Q. Okay. Also, do you remember the exact time?

12 A. We were out there probably by ---

13 Q. Can you tell the Judge whether it was
14 daylight or dark when Thomas arrived?

15 A. It was between daylight and getting dark, so
16 it's -- it was -- it was falling, so it was in
17 between, probably I would say about eight o'clock.
18 We probably stayed out there for four or five hours,
19 so we left probably around like 1:00.

20 Q. All right, give me just one second, please.
21 Jeremy, thank you, that's all the questions that I
22 have. The State may have some questions for you.

23 A. All right.

24 **CROSS-EXAMINATION**

25 BY MS. HERRING-LASH:

1 Q. Hi, Mr. Wheeler.

2 A. Hi.

3 Q. You do not know how many children came with
4 Thomas and Monique?

5 A. I just know it was their niece and another
6 one, I don't know ---

7 Q. I'm sorry?

8 A. I think it was just his niece and another
9 child.

10 Q. Yes.

11 A. Just two.

12 Q. You just remember two kids coming?

13 A. Yeah.

14 Q. How many kids were out there altogether?

15 A. My two, plus -- I think Heather's niece was
16 out there, about four, five altogether.

17 Q. In the whole gathering there were five
18 children; is that right?

19 A. Yeah.

20 Q. So there wasn't a group -- a big group of
21 people out there that night?

22 A. There was a big group of adults that drove
23 trucks, yeah.

24 Q. Okay. And you don't remember when this was?

25 A. It's been four months, five months, six,

1 seven.

2 Q. Four or five months ago is when it was?

3 A. Yeah.

4 Q. And you said that Monique got there, and
5 went right away to sit with your wife?

6 A. Uh-huh.

7 Q. So she and your wife were sitting like in
8 chairs, or a truck?

9 A. Yeah, they were sitting in a chair. Like we
10 had brought a couple chairs out there for certain
11 people to sit down on. So my wife had sat in her
12 chair, and we had set one up for Monique.

13 Q. So you set a chair up for Monique to sit in?

14 A. Yeah, so her, her niece, kids. The kids --
15 the kids -- the majority of the kids are all on the
16 ground playing in the sand and everything.

17 Q. Well, did you set up chairs for the kids?

18 A. There was a whole bunch of lawn chairs that
19 we brought, so anybody could sit anywhere.

20 Q. And you stayed with Thomas the whole time?

21 A. Yeah.

22 Q. Except for he walked off by himself for a
23 bit?

24 A. Yeah. He and Monique had got in a little
25 small dispute, nothing big, and he kind of walked

1 off. One time I think he walked down the driveway.
2 I knew where he was at, pretty much nothing but open
3 road, a dirt road, there's trees and woods all
4 around us. He was back there, he went for a little
5 bit of a walk himself for like, ten, 15 minutes.
6 And he came back, I asked him if everything was
7 okay, he said, "Yeah." He just was gone. He didn't
8 really want to talk to me about it, what it was
9 about at the time being.

10 Q. Is that when you thought she was talking to
11 him about what happened at the Isle of Palms?

12 A. Like I said, at that time being I didn't
13 know what it was until ---

14 Q. Until later?

15 A. Until he -- we went to the vehicle, and he
16 kind of just told me about something that had
17 happened at Isle of Palms, that was it.

18 Q. And so is that -- when he got back, is that
19 when he wanted to be alone a moment in the car?

20 A. He was -- I mean he was -- when he came back
21 after walking, he went to the car. Actually, he
22 looked at me, "I'm going to go get another beer."
23 And then we advanced back to the car. He sat down
24 in the car, he grabbed the bag, and he twisted it
25 up, and I sat in the car with him at that time.

1 Q. And so he went to the fire with you at some
2 point?

3 A. Yeah. He walked halfway there, he didn't
4 want to get too close to Monique at the time being,
5 because he was still upset.

6 Q. I think you said a moment ago when he first
7 got there you and he walked up to the fire.

8 A. I had approached him ---

9 Q. Uh-huh.

10 A. -- but when they had came, we all walked
11 towards the fire, me, Monique and her ---

12 Q. Oh, when they first got there?

13 A. Yeah, me, Monique, his kids, I don't know,
14 her niece, the younger one that came with her. I
15 just don't -- I really don't remember the younger's
16 name, so I never actually ---

17 Q. All right.

18 A. -- paid attention to her, the younger child.

19 Q. And was it after the argument when he took
20 his nap?

21 A. He -- he -- yeah, he -- he kind of like took
22 a nap, but at that time I was still standing right
23 there outside of the passenger door.

24 Q. And you said it was about 20-minute nap or
25 so?

1 A. He took about a 15-minute nap or so, yeah.

2 Q. But you stood outside the door and watched
3 him sleep?

4 A. Yeah.

5 MS. HERRING-LASH: The Court's indulgence.

6 BY MS. HERRING-LASH:

7 Q. Did Jarod -- I mean did -- Jeremy, did
8 Thomas tell you what happened at the Isle of Palms.

9 MR. DAVIS: Your Honor, I'm going to object,
10 that is outside the scope of this hearing, which is
11 about the incident in Cottageville.

12 THE COURT: Sustained.

13 MS. HERRING-LASH: Those are all the questions I
14 have.

15 MR. DAVIS: Jeremy, no other questions.

16 THE COURT: You can step down. Is that it?

17 MR. DAVIS: For the purpose of this hearing,
18 yes, Judge.

19 THE COURT: All right. I'll be glad to hear
20 arguments on each of you's behalf regarding the 404b
21 motion.

22 MR. DAVIS: Your Honor, can I have just one
23 moment? Thank you, Your Honor.

24 THE COURT: Anything else the State want to add?

25 MS. HERRING-LASH: Are you ready for arguments

1 at this point in time, Judge?

2 THE COURT: I am.

3 **404b MOTION ARGUMENT BY MS. HERRING-LASH**

4 MS. HERRING-LASH: Your Honor, at this point in
5 time, the State would offer in the incident that
6 occurred at the cookout as 404b evidence. Your
7 Honor, as you've heard, if this would have been not
8 across the county line, this would have been
9 included in one indictment together. That is how
10 similar in nature, time and circumstances these two
11 events were. The second event was actually -- and
12 just for purposes of this, Your Honor, we are
13 arguing this as more of a continuous course of
14 conduct type of situation. We are not trying to get
15 in the 404b. There is a 404b issue with another
16 victim that Mr. Brown has been convicted of. We are
17 not trying to get in that information. This is just
18 a continuous course of conduct from that evening.
19 Generally, when continuous course of conduct is
20 applied and admitted, under common scheme, when a
21 prior or subsequent act to the act charged in the
22 indictment is shown to be a continuous course of the
23 illicit conduct between the same parties. With
24 cases dating back, and I have listed these in my
25 brief, the State vs. Richey in 1911, acts prior and

1 subsequent to the charged indictment when deciding a
2 continuous course of conduct, the illicit
3 intercourse between the two are admitted into
4 evidence as continuous course of conduct. State v.
5 Whitner, which is a 1955, those two have been cited
6 throughout the cases. State v. Weaverly, which is
7 also in the brief, 337 S.C. 460, a 1999 case, is
8 another continuous course of conduct case. As is
9 State v. Edwards, a 2007 case, 373 S.C. 230, 2007,
10 where the Court said the common scheme or planned
11 exception is commonly applied in cases where both
12 before and after acts, or continuous course of
13 conduct between the same two parties. There's a
14 recent case, State v. Jenkins, which was decided in
15 February, excuse me, in December of 2021, which is 4
16 -- which is 355, excuse me, 435 S.C. 591. In that
17 case they once again talked about the comments being
18 a plan, and that -- that if -- that the Court wants
19 to decide if it's offer for something other than to
20 simply show propensity. That case talked about how
21 Perry had overturned Wallace and Perry because those
22 two cases dealt with remote incidents between
23 separate individuals. And in the Dickens case they
24 allowed this continuous course of conduct, or the
25 same. They let it in for grooming, it was a three-

1 year period that the defendant had made several
2 advances toward the victim. The court talked about
3 the hallmark of admissibility from -- for the 404B
4 under the common scheme or plan is if the acts are
5 connected in mind of the defendant, or the actors,
6 it said. But, Your Honor, also in our case we are
7 not simply offering it for common scheme or plan,
8 but also to show absence of the State motive and
9 intent, to show the second composition that was made
10 to this child can explain those things. A jury
11 could incorrectly assume that he was making a lewd,
12 insulting comment to the child, which sometimes
13 people use that wording to insult, and make it
14 erroneously if they just had that one statement in
15 the vacuum, erroneously think, well, maybe she was
16 mistaken, maybe that wasn't his motive, but the fact
17 that he solicits her again just a little bit later
18 really goes to show his intent, and that he was
19 feeling her out perhaps for later. And that she
20 wasn't mistaken, and that his intent was to inquire
21 as to if this is something that could happen later.
22 And it shows the true picture of what is -- his
23 motive was. The -- also, a second solution --
24 solicitation is connected and serves to, as I was
25 kind of explaining, to complete a true nature and

1 true circumstances of this crime, which goes to res
2 gestae of the crime. The uncharged conduct is so
3 linked together in time and circumstances with the
4 charge that is needed to fully show and explain and
5 complete the factual scenario that is involved. It
6 should come in also under the res gestae argument of
7 this. And once again, Your Honor, I don't think
8 that it could be anymore common scheme or plan, and
9 would be actually one charge, had they not crossed
10 over a county line.

11 THE COURT: All right. Briefly from the
12 Defense.

13 MS. HERRING-LASH: Your Honor, I do -- the State
14 also would argue that you have heard the testimony
15 of the child, and that if you choose to assess her
16 testimony, that she has met the clear and convincing
17 standard, and even take into account the Defense
18 witnesses.

19 THE COURT: All right. Yes, sir.

20 **404b MOTION ARGUMENT FROM MR. DAVIS**

21 MR. DAVIS: I'll start where the State stopped.
22 This is not a jury verdict determination. This is
23 admissibility determination. This is more than is
24 normally needed. This is clear and convincing. I
25 know you know that, Your Honor, but I'll start

1 there. So you have doubt, but it can't be, yeah,
2 probably. It has to be clear and convincing. And,
3 Judge, to that I'm going to argue the continuous
4 course of conduct argument and argue against that,
5 which I think is also -- they're not identical, I
6 think that assumes the res gestae argument as well.
7 I think those are kind of one in the same. And,
8 Judge, he wasn't charged in Colleton County. The
9 State indicates that he could have, would have.
10 Certainly, I don't -- I take Ms. Herring-Lash at her
11 word, and that she would have tried to, but the
12 testimony -- I think undisputed testimony is, there
13 is a number of hours between this and a number of
14 distant -- a long distance travel between these two
15 places. That is a stretch, maybe, maybe, but I
16 don't think it's clear and convincing that it's one
17 continuous course of conduct, it's that should be --
18 that could have been charged, but more importantly,
19 that should be allowed in front of this jury. If
20 the Court wants to charge him and go forward, they
21 can, but today we -- we certainly think the State
22 has failed to meet their burden, both on a factual
23 basis and on a standard basis, so those reasons for
24 allowing the jury to hear this testimony about a
25 second incident. It's used quite a bit in

1 nomenclature now, but the State may refer to this
2 kind of offhand. I know Ms. Herring-Lash handles a
3 lot of these types of cases, of sexual, both adult
4 and children, but there's been no proof of any type
5 of grooming here. Normally if we have that, we'd
6 have expert testimony and we'd get into that. So
7 I'd ask you to discount any argument by the State
8 that this should be allowed in because of some
9 grooming that might attach to the continuous course
10 of conduct.

11 I will argue that since those don't apply, they
12 must find a way under 404b under Lyle for you to
13 allow this in. Lyle is a 404b, it's rule of
14 exclusion. It's all -- it's drafted in a way
15 already the language of it is excluded unless we do
16 not believe that they do not meet any of the grounds
17 that they proffer that they would be using it for.
18 Judge, when I talk about this rule and this case all
19 the time, it's frequently joking that -- Judge, it's
20 a hearsay, and I'm not using it for the truth of the
21 matter asserted. Oh, of course you are, and then
22 you can't backdoor for some other means. Now, if
23 there's a clear, bright line, but here we don't have
24 a clear, bright line that would allow you to decide
25 that they met a burden of clear and convincing

1 evidence as to let's deal with it absence of a state
2 or accident. The second doesn't make the first one
3 we can fight about in front of the jury any more or
4 less likely to be an accident or not, it doesn't.
5 If -- we had two witnesses testify, didn't hear
6 anything, didn't see anything. The State released
7 witnesses. If any of them had seen or heard
8 anything, they would have proffer -- proffered them
9 at this pretrial hearing. So the only individual
10 that can testify that anything inappropriate was
11 said at Cottageville, the second one, the one they
12 tried to admit is Ms. MINOR -- MINOR. With the
13 contrary testimony and the absence of corroborating
14 testimony, again, we're not in front of a jury,
15 there'd certainly be one witness, or many, many over
16 one, and you only need a witness to convict if it
17 reaches beyond reasonable doubt. But here clear and
18 convincing, you must have some concerns in your mind
19 about the evidence. Motive is either present in the
20 statement, if believed to have been made at the Isle
21 of Palms, where it's not. The second incident tries
22 convincing language per the testimony of the
23 accuser, exact same language. It doesn't prove
24 motive that hours later in light most favorable to
25 the State that it was said again. It only serves

1 to, well, I'm not sure if he did it the first time,
2 but, man, he must have done it one time. That's the
3 entirety of Lyle 404b. It's -- Your Honor, we are
4 not only tiptoeing, we are wading into a propensity
5 argument here, Judge, and it -- so it does not
6 support motive. Common scheme or plan, and I'm
7 going to get into cases a little bit. First of all,
8 I would argue that common scheme or plan is a means
9 to an end. Common scheme or plan is a means to
10 identity. It was so similar in nature as this prior
11 crime, that we can say it was done by the same
12 person in the same way. The -- the MO, the modus
13 operandi of committing the crime is so similar, that
14 they're admitted because almost always it proves
15 identity. That's not an issue here. The question
16 isn't identity. The question is not identity. But
17 then going into more of an explanation to the cases
18 of examples where in these type of cases, either
19 sexual assault or CSC, or assault with intent, or
20 those types of cases, and this is borderline one of
21 those claims. Clearly, this case is the Court's
22 taken a little different view of the common scheme
23 or plan. For years and years and years they were
24 all over the place. I appreciate the State
25 including Dinkins, which is from the Court of

1 Appeals from December of last year. The Judge
2 highly argued that the ruling case is still Perry.
3 The three cases that were decided on the same day
4 back in May of 2020, trio of cases, I believe one of
5 those, the most encompassing one being Perry. From
6 Dinkins, quoting Perry, in that case, in Dinkins
7 case they were using it, and in that case it was --
8 they did present it as grooming, we have no
9 testimony of that here. And prior acts counter the
10 argument that the actions were innocent and
11 familial. He made a different argument there,
12 Judge. In that case he's arguing something that
13 never was there. This just didn't happen, that's
14 our defense, it didn't happen. It's not something
15 happened, but I had a different intent. In Dinkins,
16 certainly, they are allowing where there was an
17 escalation in that case. Carried over for a period
18 of time multiple instances and showed an escalation.
19 Here, even in the light most favorable to the State,
20 we have the exact same language being used. I'm
21 going to lean on Perry because I do think that's a
22 lead case. The Court's standard for making a
23 determination is the Lyle logical connection test.
24 The statement demonstrates to the trial court
25 there's, in fact, a scheme or a plan common to both

1 crimes. And then evidence of the other crime serves
2 some purpose other than the defense character to
3 show propensity. They can wrap this up in any claim
4 that they want, but they want it in for propensity.
5 You know, hours later he's doing the same thing, if
6 believed by the jury, and that's certainly what they
7 want to argue. And if you'll recall, that case it
8 was Perry's two daughters and one stepdaughter, so
9 it's a very close connection. In that case, now
10 this is in the dissent, but I think the dissent may
11 explain what the majority is holding, because I
12 would argue it does require a unique scheme or plan,
13 or a common scheme or plan. I believe that that is
14 actually what the majority concludes when they make
15 their ruling. Here we have an allegation of the
16 exact same wording, hours later, a distance later at
17 a different location. Judge, first of all, we would
18 argue that it does not meet the clear and convincing
19 standard test. We would argue 404b is a rule of
20 exclusion not inclusion, but then if Your Honor is
21 persuaded by all of that, you must find that it also
22 passes a 403 balancing test, which is the flip side
23 of the coin. 404b is an exclusion, it's a standard
24 that the State must prove that the probative value
25 essentially outweighs the prejudice, because there

1 is prejudice. 403 flips that, and they would have
2 to -- I'm sorry, 403 is the probative value that has
3 to substantially outweigh the prejudice, because
4 there is prejudice here, Judge. Of course there is.
5 We tried to deal with 404b, and we think have, and
6 we think we've blocked them. We don't believe
7 they've met their burden. But even if you find they
8 have, and I'll just argue that they can't have made
9 a clear and convincing demonstration to that. That
10 403 must fall in as a safety net and catch this.
11 This is dynamite. Let him be judged by his peers on
12 the events that are alleged in this County, but to
13 admit this extraneous subsequent conduct would be
14 erroneous, Judge, and we'd ask you to exclude it.
15 Thank you, Your Honor.

16 **JUDGE'S RULING ON 404b MOTION**

17 THE COURT: All right. The way I look at it
18 regarding the cookout incident, first of all, I find
19 that the evidence is relevant. Secondly, I find
20 that it happened on the same day, simply hours
21 apart, at the Defendant's car, with the same
22 Defendant, the same victim. The solicitation was
23 the exact same wording, and the bad act logically
24 relates to the crime for which the Defendant has
25 been charged. Therefore, I'm going to allow that

1 404b, to show quite possibly all of this, the motive
2 common scheme or plan, absence of the State or
3 action or intent. As far as 403 goes, I find the
4 probative value outweighs its prejudicial effect.
5 It's not another crime, not another victim, not
6 something more serious, less serious, it happened
7 the same day. So I think it is very probative, and
8 outweighs its prejudicial effect, so I'm going to
9 allow it. If I get overturned, I'm never going to
10 allow a prior bad act again.

11 All right. Anything else we need to take up?

12 MS. DAVIS: Not today, Judge. Nine thirty in
13 the morning?

14 THE COURT: Nine thirty.

15 MR. DAVIS: Thank you, Your Honor.

16 THE COURT: We'll see you at 9:30 in the
17 morning.

18 MR. DAVIS: And, Judge, just out of an abundance
19 of caution, I feel confident that he'll be here,
20 Thomas is coming back with me. Numerous times over
21 the years showed up, showed up this morning, showed
22 up after lunch. We -- just for the record, we -- we
23 have a signed order by -- moved by me, signed by the
24 bondsman, that he'll remain on the bond, and when
25 Your Honor signs it, I'll get this filed in just a

STATE OF SOUTH CAROLINA) GENERAL SESSIONS
COUNTY OF CHARLESTON) TRANSCRIPT OF RECORD

-----x
THE STATE OF SOUTH CAROLINA,)
vs.) Case No. 2018-GS-10-04815
THOMAS HENRY BROWN, JR.)
Defendant.)
-----x

Wednesday, June 1, 2022

TRIAL TRANSCRIPT
Volume II

B E F O R E:

The Honorable William Seals, Presiding Judge

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Recorded by: Krystal Smith

Transcribed by: Bobbi Fisher, RPR
SC Official Court Reporter III

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1

E X H I B I T S

2

(Exhibits on file in Clerk of Court's Office.)

3

State's Exhibit

4

No.

Description

ID.

REC'D

5

1

Paper with Written Testimony

22

6

(ID ONLY)

7

2

Car Diagram (ID ONLY)

7

8

3

Forensic Interview Disk

126

126

9

(Redacted)

10

11

12

Defendant's Exhibit

13

No.

Description

ID.

REC'D

14

1

Photograph (ID ONLY)

92

15

16

Court's Exhibits

17

No.

Description

ID.

18

1-State

Car Diagram

6

6

19

3-State

Forensic Interview Disk

6

6

20

4-State

McKee C.V.

6

6

21

5-State

Paper with Written Testimony

6

6

22

1-Defense

Photograph

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23

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1	COURT REPORTER LEGEND	
2	Dash (--)	Indicates an interruption in speech
3	Ellipses (...)	Indicates trailing off in speech
4	(ph)	Indicates phonetic word
5	[Verbatim]	Indicates the word is said as written
6	(Indiscernible)	[Transcription] Indicates word(s) is
7		not known due to audio recording
8		quality
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P R O C E E D I N G S

(The following proceedings started at 9:44 a.m.):

(Court's Exhibit No. 1-State, Car Diagram, was marked for identification and received into the record.)

(Court's Exhibit No. 3-State, Forensic Interview Disk, was marked for identification and received into the record.)

(Court's Exhibit No. 4-State, McKee C.V., was marked for identification and received into the record.)

(Court's Exhibit No. 5-State, Paper with Written Testimony, was marked for identification and received into the record.)

(Court's Exhibit No. 1-Defense, Photograph, was marked for identification and received into the record.)

(State's Exhibit No. 2, Diagram of Car, was marked for identification only.)

THE COURT: Is the State ready?

MS. DAVIS: Yes, Judge. Thank you for waiting for me.

THE COURT: Sure.

Is the defense ready?

MR. DAVIS: Yes, Your Honor.

THE COURT: All right. Let's go ahead and bring in the jury.

THE BAILIFF: Yes, sir.

1 MS. DAVIS: Judge, may we approach?

2 THE COURT: Krystal, whenever we have a sidebar, is
3 it being recorded?

4 COURT REPORTER: If you're over top of that
5 microphone.

6 THE COURT: It's on? Okay.

7 BENCH CONFERENCE

8 (The following bench conference was held at the
9 bench with attorneys present and outside of the hearing of
10 the jury and others:)

11 MS. DAVIS: Did you receive the transcript?

12 THE COURT: Yes, somewhere.

13 MR. DAVIS: Do you have the (indiscernible)?

14 MS. DAVIS: I gave it to (indiscernible).

15 MR. DAVIS: Oh, okay. Thanks.

16 MS. DAVIS: Perfect. And then the victim, who would
17 be testifying first, is present in the courtroom.

18 MR. DAVIS: No objection.

19 THE COURT: All right. Sounds good.

20 [Open court resumes:]

21 THE BAILIFF: All jurors are present, Your Honor.

22 THE COURT: Thank you.

23 And, Ms. Goble, I'm going to make you the forelady
24 of the jury, if you'll take that front row seat, first
25 seat, please.

1 If he'll just switch up with you. Thank you.

2 And, Ms. Clerk, if you'll swear the jury.

3 (The jury was duly sworn.)

4 THE CLERK: If you have accepted this oath, please
5 be seated. If you have not accepted this oath, please
6 remain standing.

7 Let the record reflect that all jurors are seated.

8 JURY VOIR DIRE

9 THE COURT: Thank you.

10 All right. Members of the jury, we're getting ready
11 to start this case, but I want to go over a few things
12 with you before we actually begin, just to give you some
13 preliminary instructions.

14 The first thing I want to tell you is that the State
15 of South Carolina has the burden of proof in this case.
16 They have to prove their case beyond a reasonable doubt.
17 I will explain that to you in great detail at the end of
18 this case.

19 The next thing I want to explain to you is what your
20 role is and what my role is and how they differ. You-all,
21 as a jury, are the judge of the facts. You alone
22 determine what the facts of this case are. Not me, not my
23 clerk, nobody in the audience.

24 Well, you ask yourselves, "How do we determine what
25 the facts of the case are?" It's very simple: You look

1 at the evidence in the case.

2 The evidence is made up of witnesses who come over
3 here, and they take that witness stand, and they're sworn
4 in, and they testify. And it can be made up of any
5 exhibits admitted into the record as evidence. That could
6 be photographs, reports, pictures, things of that nature.
7 That is where you determine what the facts of the case
8 are.

9 At the very end of this trial, I will instruct you
10 on the law applicable to this case. I will read it to you
11 in great detail. At that time, you'll take the law as I
12 give it to you, the facts as you find them, you'll put the
13 two together and make a decision therefrom. A lot of
14 common sense in that process.

15 Another thing I want to explain to you is that, at
16 any point in time during this trial, if we take a break or
17 if we take a lunch break and you go home for lunch or if
18 we don't finish today and you go home tonight, at no point
19 in time do you need to start discussing this case. That
20 would be improper and that would be premature.

21 The reason I tell you that is because you need to
22 hear everything in this case before you start
23 deliberating. It's kind of like baking a pie. You can't
24 bake it if you don't have the flour, if you don't have the
25 eggs. You've got to have everything you need to bake that

1 pie.

2 And, in this case, I want to make sure you have
3 everything the State wants to give you, everything the
4 defense wants to give you, and the law as I instruct it to
5 you. So, at the very end, I'll specifically tell the
6 forelady that you can begin your deliberations.

7 Well, you ask ourselves, "What do we do in the
8 meantime? What if we have to go back in the jury room?"
9 and we hear motions out here and so forth. Talk about the
10 weather, talk about sports, talk about yourselves, talk
11 about anything you want to but not this case until I tell
12 you to.

13 Furthermore, at any point in time, if you need a
14 break, if you need something to drink, if you need to go
15 to the restroom and we're just moving along, if you'll
16 just kind of wave your hand to me. I'll make sure we take
17 a break, and I'll make sure you're taken care of.

18 I want you to sit back. I want you to relax.

19 And I recognize the State for your opening
20 statement.

21 MS. DAVIS: May it please the Court?

22 THE COURT: Sure.

23 OPENING STATEMENT ON BEHALF OF THE STATE

24 MS. DAVIS: The victim in this case is MINOR
25 [REDACTED]. She was 11 years old when this crime happened.

1 My name is Kelsey Davis, along with my co-counsel,
2 Debbie Herring Lash; we are the prosecutors representing
3 the State in this case.

4 Almost four years ago, after her fifth grade
5 graduation, MINOR spent the weekend with her cousins, her
6 aunt, and her aunt's boyfriend, Thomas Brown. She knew
7 her aunt and Thomas. She knew them well. They had even
8 lived with her at MINOR's house for a period of time
9 before all this happened.

10 But she had never gone away with them without her
11 mom. MINOR is now 15, and she will tell you what
12 happened that day. She'll tell you they spent the day at
13 the beach on Isle of Palms, and that, when everybody was
14 heading back to the car, somebody saw a snake, and it
15 caused a lot of commotion.

16 While all this was going on, MINOR was near the
17 back of the car, and Thomas came up to her, took her arm,
18 and he asked her a very inappropriate question.

19 Later that evening, Aunt Monique and Thomas took the
20 kids to a bonfire in Cottageville. Well, at the
21 bonfire --

22 MR. DAVIS: Your Honor, note our objection.

23 THE COURT: I understand.

24 Go ahead.

25 MS. DAVIS: Later that evening, Aunt Monique and

1 Thomas took the kids to a bonfire in Cottageville. While
2 at the bonfire, when he got the chance, he asked again.

3 When they got back to the hotel that night, where
4 they were staying -- MINOR's aunt and Thoms -- MINOR
5 reached out to her mom about coming home early. She
6 wanted to discuss something important. MINOR's week away
7 with her cousins was cut short, and she went home the next
8 morning.

9 As soon as she was home, safely, with her mom, she
10 told her.

11 This crime, criminal solicitation of a minor, is
12 what the legislature wrote to hold a person accountable
13 when an adult communicates with a minor for the purpose of
14 enticing that minor to participate in a sexual activity.

15 You're not going to hear about a rape or
16 molestation. You're not going to hear about an assault in
17 this trial. There's no DNA. There's no physical injury.
18 That's because, in this case, MINOR told her mom she
19 wanted to come home, and as soon as she got home, she
20 told.

21 Not all victims of solicitation of a minor do tell,
22 especially before it's too late. But this is the crime on
23 the books for when one does. Because the crime that
24 Thomas Brown is accused of is that communication that
25 MINOR will tell you about.

1 Her testimony is the most important part of this
2 trial. You will hear from her on the stand. She will
3 tell you about what happened that day when she was 11.

4 You will also be able to observe the forensic
5 interview that was conducted after MINOR's disclosure
6 when she was still 11.

7 Now, as you listen to her testimony and the
8 testimony of the other witnesses in this case, I'm asking
9 you to pay close attention to their words, their body
10 language, their demeanor.

11 As you listen carefully to each witness as they
12 testify, ask yourself: What motive would this witness
13 have to lie? What do they have to lose by telling the
14 truth today?

15 You, the jury, will be tasked with assessing the
16 credibility, as you deliberate, whether or not the State
17 has met its burden in this case. I submit to you that, if
18 you believe MINOR tells you the truth and you believe her
19 beyond a reasonable doubt, that, at the end of this case,
20 you'll find Thomas Brown guilty.

21 Thank you, Judge.

22 THE COURT: The defense is recognized.

23 MS. LUTHRINGER: Thank you, Judge. May it please
24 the Court?

25 THE COURT: Sure.

1 OPENING STATEMENT ON BEHALF OF THE DEFENDANT

2 MS. LUTHRINGER: Most of you probably have children
3 or nieces and nephews, and they have wild imaginations,
4 and sometimes they probably tell you stories. Lots and
5 lots of stories. Things from school or about playing with
6 their friends, things they just made up. Because they're
7 kids. And some of what they tell you is true. Sometimes
8 it's just their imagination. Sometimes you probably can't
9 tell.

10 Well, today, we're here for a story, but it's a
11 serious story involving a very serious allegation. And
12 this isn't the type of story that anyone wants to hear
13 from a child, and that's because it involves a child being
14 solicited for a sexual act. This is the worst kind of
15 story, because no one would wish this upon a child. No
16 one wants a child to be hurt or in trouble. It's
17 basically human instinct to protect them. But sometimes,
18 when we give into that instinct, we blind ourselves from
19 the truth or from the other side of the story because
20 there always is one, isn't there?

21 And just sometimes, on the other side, there's
22 someone being falsely accused or, worse, wrongfully
23 convicted, which is just as serious.

24 And that's why we're here today, for a very serious
25 allegation. And that's why, this week, Mr. Brown has

1 selected each of you to hear this story, to use your life
2 experiences, and your common sense to decide did this
3 happen or is this just another tale told by a child?

4 You just heard from the State a little bit about
5 their side, and today, through evidence, you will learn
6 that Mr. Brown is accused of soliciting MINOR for a
7 sexual act during a family trip to the beach as everyone
8 is loading into their vehicle. MINOR herself is going to
9 take that stand and tell her story, this time for all of
10 you. But the problem with her story is it just didn't
11 happen. It's just a story.

12 And that's why you'll also hear evidence that eight
13 other people were right there, that seven other family
14 members were loading into this vehicle, but not one of
15 them saw or heard anything.

16 You'll see that this case is just as much about the
17 evidence that you won't hear as it is about the evidence
18 that you will, and that's very important because the
19 burden in this case rests entirely on the State. It's
20 their job to prove this happened. It's not our job to
21 prove it didn't. And it's their job to convince every
22 single one of you beyond a reasonable doubt. And you
23 can't just think, "Well, maybe," or this probably did.
24 You must believe that Mr. Brown said those words to MINOR
25 and meant them.

1 Today, Mr. Brown sits here an innocent man because
2 he didn't do this. He's been waiting nearly four years
3 for his day in court so he can finally clear his name of
4 this terrible allegation.

5 So as you sit and listen to the State's witnesses,
6 ask yourself: "Did this happen or is just another story
7 of a child?"

8 We believe, after you hear all the evidence or the
9 lack thereof, your decision should be easy: This just
10 didn't happen.

11 THE COURT: The State will call your first witness.

12 MS. DAVIS: May it please the Court?

13 The State calls MINOR .

14 MINOR

15 after having been duly sworn, was examined and
16 testified to as follows:

17 THE CLERK: State your name for the record and spell
18 your last name.

19 THE WITNESS: MINOR

20 DIRECT EXAMINATION

21 BY MS. DAVIS:

22 Q Good morning, MINOR .

23 A Good morning.

24 Q How old are you?

25 A I'm 15.

1 Q Where do you live?

2 A With my mom.

3 Q Who else lives with you and your mom?

4 A I have other siblings.

5 Q Can you tell us their names?

6 A C. S. [REDACTED]; W. S. [REDACTED]; as well as
7 P. S. [REDACTED].

8 Q And where do you go to school?

9 A I go to a charter school in James Island.

10 Q Is it your last week of school?

11 A Yes, ma'am.

12 Q What grade are you finishing this week?

13 A Ninth.

14 Q Do you work?

15 A Yes, ma'am.

16 Q Where do you work?

17 A I am now employed at Subway.

18 Q Are you related to Monique Williams?

19 A Yes, ma'am.

20 Q How?

21 A She's my aunt.

22 Q And who are Monique's children?

23 A They're my cousins. Their names are Z. S. [REDACTED]
24 [REDACTED], C. S. [REDACTED]. We call the other two Fatman and
25 Cheeks.

1 Q Fatman and Cheeks? What are their names?

2 A We don't know their names.

3 Q You don't use their names?

4 A No.

5 Q You said that Monique Williams is your aunt?

6 A Yes, ma'am.

7 Q Who's her sister?

8 A My mom.

9 Q Okay. Do you spend time with your cousins?

10 A Not as much as I used to.

11 Q Why is that?

12 A We just -- not really (indiscernible).

13 Q Okay. Are you busy with other things?

14 A Pretty much.

15 Q What kind of things?

16 A I'm working on graduating early as well as
17 maintaining a busy work schedule.

18 Q Okay. Did you used to spend more time with Z. S.
19 in the past?

20 A Yes, ma'am.

21 Q Does she ever go by Z. S.?

22 A Yes, ma'am.

23 Q And why did you use to spend more time with Z. S. in
24 the past?

25 A There was just less things to worry about. I wasn't

1 employed. School was simpler. We were just closer.

2 Q Do you know Thomas Brown?

3 A Yes, ma'am.

4 Q How do you know him?

5 A He's my aunt's ex-boyfriend.

6 Q Okay. Do you see him in the courtroom today?

7 A Yes, ma'am.

8 Q Can you point him out to us?

9 A He's in a white button-down.

10 MS. DAVIS: Please let the record reflect the victim
11 has identified the defendant, Thomas Henry Brown, Jr.

12 THE COURT: Yes, ma'am.

13 BY MS. DAVIS:

14 Q Did Thomas and your Aunt Monique ever live with your
15 family at one point?

16 A Yes, ma'am.

17 Q What was that like?

18 A It was, overall, a really good time. It was -- it
19 was very playful most of the time.

20 Q Okay. So you got along with him?

21 A Yes, ma'am.

22 Q Did they eventually have their own place to stay?

23 A Yes, ma'am.

24 Q Now, was there a time when you went to spend a
25 weekend with your cousins?

- 1 **A** Yes, ma'am.
- 2 **Q** Was it a special occasion?
- 3 **A** Yes, ma'am.
- 4 **Q** What was that occasion?
- 5 **A** I was graduating fifth grade.
- 6 **Q** Fifth grade?
- 7 **A** Yes, ma'am.
- 8 **Q** Okay. Had you ever been off with Thomas and Aunt
- 9 Monique without your mom or dad before?
- 10 **A** No, ma'am.
- 11 **Q** Was this the first time?
- 12 **A** Yes, ma'am.
- 13 **Q** Do you remember where you went first?
- 14 **A** I believe it was the beach.
- 15 **Q** The beach?
- 16 **A** Yes, ma'am.
- 17 **Q** And who all went to the beach?
- 18 **A** Me as well as Thomas, Monique, and my four cousins:
- 19 **Z. S.**, **C. S.**, Fatman, and Cheeks.
- 20 **Q** Anybody else?
- 21 **A** My grandparents.
- 22 **Q** Okay. What do you call them?
- 23 **A** Nana and Papaw. Their names are Fannie Miller and
- 24 John Lucas.
- 25 **Q** Okay. And who did you drive to the beach with?

1 **A** Thomas and Monique.

2 **Q** Anybody else?

3 **A** Just my cousins.

4 **Q** Your cousins?

5 Did your grandparents take a separate car?

6 **A** Yes, ma'am.

7 **Q** What did you guys do at the beach?

8 **A** We just played in the water, just running around.

9 **Q** Okay. Did anything happen on the walk back from the

10 beach?

11 **A** They saw a snake.

12 **Q** Was anybody afraid of the snake?

13 **A** Yes, ma'am.

14 **Q** Did you see the snake?

15 **A** Yes, ma'am.

16 **Q** Were you afraid of the snake?

17 **A** Yes, ma'am.

18 **Q** Who else was afraid of the snake?

19 **A** My grandparents were.

20 **Q** Your grandparents?

21 **A** Yeah.

22 **Q** Were people excited to see the snake?

23 **A** More so just interested in just looking at it, yeah.

24 **Q** Okay. Did you have any sand on your feet?

25 **A** Yes, ma'am.

1 Q So what did you do?

2 A I stepped back, and I was just brushing the sand off
3 my feet.

4 Q Okay. What happened when you were at the car?

5 A Thomas, he came up -- like he came by me, and he
6 asked a question.

7 Q He came by you?

8 A Yes, ma'am.

9 Q Did he make physical contact with you at all?

10 A Yes, ma'am.

11 Q How so?

12 A He touched my arm.

13 Q He touched your arm?

14 A Yes, ma'am.

15 Q And then what did he do?

16 A He asked the question.

17 Q The question?

18 A Yes, ma'am.

19 Q Are you comfortable telling us what he asked?

20 A Could I write it down?

21 Q Okay.

22 MS. DAVIS: Court's indulgence.

23 I'm marking this blank piece of paper State's
24 Exhibit 1.

25 (State's Exhibit No. 1, Paper with Written

1 Testimony, was marked for identification only.)

2 MS. DAVIS: May I approach the witness?

3 THE COURT: You may.

4 BY MS. DAVIS:

5 Q Did you write in the middle of that piece of paper
6 what the defendant said to you while you were standing
7 outside the car?

8 A (No audible response.)

9 MS. DAVIS: May I publish?

10 THE COURT: Is it in evidence yet? Well, that's
11 right; it's her testimony being written down. You may
12 publish it.

13 BY MS. DAVIS:

14 Q It says, "Can you suck my dick?"

15 A Yes, ma'am.

16 MS. DAVIS: John, can you clear the screen, please?

17 May I approach, Judge?

18 THE COURT: Yes.

19 BY MS. DAVIS:

20 Q I now want to show you what's been marked as State's
21 Exhibit 2. Can you tell me what this is?

22 A It's a picture of a car.

23 Q Okay. Is it a specific car or just kind of a
24 general car?

25 A Yes, it's a general car.

1 **Q** Okay. Would using this diagram of a car help you
2 with your testimony to tell us where everybody was that
3 day?

4 **A** Yes, ma'am.

5 MS. DAVIS: Okay. May I publish?

6 THE COURT: Yes.

7 BY MS. DAVIS:

8 **Q** What we're going to do is I'm going to give you that
9 pen again. I'm going to ask you to tell us what you're
10 drawing. And then, after you draw it, I'm going to put it
11 up for the jury to see, and we're going to walk through
12 everything you drew. Okay?

13 So, first, I'm going to ask you to put your initials
14 about the area that you remember being when the defendant
15 came up to you, touched your arm, and asked you that
16 question.

17 **A** (Witness complies.)

18 **Q** Okay. Can you also put the defendant's initials,
19 T.B., where he was?

20 **A** (Witness complies.)

21 **Q** Okay. And where was the car when you guys walked
22 back to it?

23 **A** It was like alongside of the -- I don't know what to
24 call it. It's like sand -- like a -- I'm not sure.

25 **Q** Was it parked on the street?

1 **A** I believe so, yes.

2 **Q** Okay. So was it parked kind of on the side of the
3 street or was it in a fancy parking space?

4 **A** It was on the side of the street.

5 **Q** Okay. Could you draw some waves to show us which
6 side of the car the beach was on?

7 **A** (Witness complies.)

8 **Q** Okay. Could you draw maybe some dashes to show us
9 which side of the car the road was on?

10 **A** (Witness complies.)

11 **Q** And give us just a little squiggly of where the
12 snake was, if you can remember about where it was.

13 **A** (Witness complies.)

14 **Q** Okay. And if you remember where your grandma's car
15 was, could you just draw kind of a square to show where
16 your grandma's car was in relation to the car you guys
17 came in.

18 **A** Hers was a little far -- like a little ways.

19 **Q** It was a little far away? So maybe just draw an
20 arrow where your grandma's car was.

21 **A** (Witness complies.)

22 **Q** And then could you draw some circles for about where
23 you think everybody else was while you were in the back of
24 the car? And I'll point to the circles, and you can tell
25 me if you remember exactly who it was.

1 **A** (Witness complies.)

2 MS. DAVIS: May I approach?

3 THE COURT: Yes, ma'am.

4 BY MS. DAVIS:

5 **Q** All right. Now, we're going to show this to the
6 jury and go over it a little bit. Okay?

7 Okay. So can you see it all right on the board in
8 front of you?

9 **A** Yes, ma'am.

10 **Q** Okay. So this arrow, this is pointing to where your
11 grandma's car was?

12 **A** Yes, ma'am.

13 **Q** So your grandma's car was parked behind the car you
14 guys came in?

15 **A** I think it was a car between us.

16 **Q** Okay. And then, over here, this is the side that
17 the ocean was on?

18 **A** Yes, ma'am.

19 **Q** And this is where the street was?

20 **A** Yes, ma'am.

21 **Q** So when you were dusting off the sand, you were over
22 here?

23 **A** Yes, ma'am, somewhat.

24 **Q** Okay. And the defendant was next to you?

25 **A** Yes, ma'am.

- 1 Q Okay. And this over here, this is the snake?
- 2 A Yes, ma'am.
- 3 Q And there were people looking at the snake?
- 4 A Yes, ma'am.
- 5 Q Were your cousins looking at the snake?
- 6 A Yes, ma'am.
- 7 Q Is your aunt one of these circles?
- 8 A Yes, ma'am.
- 9 Q Okay. When he asked you this question, did he say
10 it loudly?
- 11 A No, ma'am.
- 12 Q Do you think anybody was able to hear him?
- 13 A No, ma'am.
- 14 Q What happened after this?
- 15 A We all got back in the car and we left.
- 16 Q Do you remember where you sat in the car when you
17 left the beach?
- 18 A No, ma'am.
- 19 Q Did you tell your Aunt Monique what he said to you
20 then?
- 21 A No, ma'am.
- 22 Q Did you tell your cousin Z. S.?
- 23 A No, ma'am.
- 24 Q Why not?
- 25 A Because I didn't know then if I would stay the whole

1 week, so I didn't want to tell them and then go completely
2 wrong.

3 Q Completely wrong?

4 A Yes, ma'am.

5 Q Tell me what you mean, you didn't want it to go
6 completely wrong if you told your aunt or [REDACTED].

7 A As in, like, if I told my aunt, I just didn't want
8 her to take it into her hands and something -- somebody
9 got injured or things of that nature.

10 Q Does your aunt have a temper?

11 A Yes, ma'am.

12 Q Okay. Were there any other reasons that, after the
13 beach, you didn't say anything?

14 A My phone was off at the time and it only worked on
15 Wi-Fi.

16 Q Okay. Did you feel safe to say something then?

17 A No, ma'am.

18 Q So after the beach, where did you go?

19 A I went to go get something to eat.

20 Q And then where?

21 A The hotel.

22 Q The hotel? What did you guys do at the hotel?

23 A We all washed off.

24 Q Okay. Do you know where you guys went after you
25 washed off?

1 **A** It was like a bonfire thing.

2 MS. LUTHRINGER: Judge, at this time, Defense would
3 like to renew our pretrial objection to this line of
4 questioning.

5 THE COURT: Overruled for reasons stated yesterday.
6 BY MS. DAVIS:

7 **Q** You said that you guys went to a bonfire?

8 **A** Yes, ma'am.

9 **Q** Do you know where that was?

10 **A** No, ma'am.

11 **Q** Did you know the people there?

12 **A** No, ma'am.

13 **Q** And what did you guys do while you were at the
14 bonfire?

15 **A** I don't really remember much of the bonfire.

16 **Q** Okay. What do you remember?

17 **A** We got there. I was with my aunt for the beginning,
18 and Z. S. [REDACTED], she went to the car. She started walking to
19 the car to go get something; I believe it was either water
20 or candy. And I told her that I was going to come and get
21 my things. So I followed her to the car. She got her
22 things.

23 As she was closing her door, I was opening mine. I
24 reached over to grab my water and more candy. Thomas
25 touched my hand and asked the question again.

1 Q Okay. Let's slow that down a little bit. So Z. S.
2 shut her door?

3 A She -- well, as she was shutting her door, I was
4 opening mine.

5 Q Okay. And where was the item you were reaching for
6 in the car?

7 A It was behind or in the passenger seat, behind the
8 driver's seat.

9 Q In the passenger seat behind the driver's seat?

10 A Yes.

11 Q Okay. And was the defendant inside the car?

12 A The defendant being?

13 Q Was Thomas in the car?

14 A Yes, ma'am.

15 Q Where was he in the car?

16 A In the driver's seat.

17 Q And what side of the car did you come in on?

18 A The back right side.

19 Q So not the driver's side?

20 A No, ma'am.

21 Q Okay. So did you have to reach across the back seat
22 to get your item?

23 A Yes, ma'am.

24 Q Is that when he touched your hand?

25 A Yes, ma'am.

- 1 Q Did he ask the same exact question?
- 2 A Yes, ma'am.
- 3 Q He said, "Can you suck my dick?"
- 4 A Yes, ma'am.
- 5 Q And so where was Z. S. when he said this?
- 6 A She had already started walking back to where her
- 7 mom was.
- 8 Q Did she hear?
- 9 A No, ma'am.
- 10 Q Did you tell Z. S. or Monique what he said then?
- 11 A No, ma'am.
- 12 Q Why not?
- 13 A I just didn't -- it was the same reason as before.
- 14 I didn't want Monique to take it into her own hands.
- 15 Q How are you feeling?
- 16 A I was confused. I was scared.
- 17 Q What did you all do when you left?
- 18 A I believe we went back to the hotel.
- 19 Q Did you reach out to your mom from the hotel?
- 20 A Yes, ma'am.
- 21 Q How do you remember contacting her? What was the --
- 22 A It was via Messenger.
- 23 Q Messenger? Okay.
- 24 Do you remember what you told her?
- 25 A I'm sorry.

1 Q Are you all right? Do you remember what you told
2 your mom?

3 A I'm sorry.

4 Q Do you need a break?

5 A No, ma'am.

6 Q There are some tissues if you need them. Would you
7 like some water?

8 A No, ma'am.

9 I told my mom that I had to tell her something.

10 Q Okay. Did you tell her anything else?

11 A I told her to see if I could come home that next
12 morning.

13 Q Did you erase the messages you sent to your mom?

14 A Yes, ma'am.

15 Q And why did you do that?

16 A Thomas had a history of wanting --

17 Q Don't tell me -- don't tell me about Thomas.

18 A Okay.

19 Q Why did you want to erase the text messages?

20 A I didn't want them to be found.

21 Q Okay. And did your mom feel that way too?

22 A Yes, ma'am.

23 Q And you told us that your phone couldn't work
24 without Wi-Fi. Is that why you couldn't -- why you didn't
25 send anything to her before?

1 **A** Yes, ma'am.

2 **Q** Do you know if you were -- do you remember if you
3 were going to tell your mom when you had Wi-Fi before he
4 asked you in Cottageville for a second time?

5 **A** I don't remember.

6 **Q** Okay. Did you go home the next morning?

7 **A** Yes, ma'am.

8 **Q** And was that the original plan, for you to go home
9 the next morning?

10 **A** No, ma'am.

11 **Q** How did you get home?

12 **A** Thomas brought me home.

13 **Q** Who was in the car when he brought you home?

14 **A** Me and my four cousins.

15 **Q** Okay. And who did he drop off first?

16 **A** My cousins.

17 **Q** Did Thomas say anything to you when it was just you
18 and him in the car?

19 **A** No, ma'am.

20 **Q** And what did you think about that?

21 **A** It was odd, but I feel as though because he felt
22 guilty.

23 **Q** Okay. And what happened when you got home?

24 **A** I told my mom.

25 **Q** Okay. What happened after you told your mom?

1 **A** She went to go if Thomas was still outside. I think
2 he had driven off. And after that, we took it to the
3 police.

4 **Q** Okay. Did you ever go to a place to talk to a lady
5 about this?

6 **A** Yes, ma'am.

7 **Q** Okay. Do you know was that interview
8 video-recorded?

9 **A** Yes, ma'am.

10 **Q** Those are all the questions I have right now.
11 Ms. Luthringer is going to ask you some questions.

12 **A** Yes, ma'am.

13 **Q** Thanks.

14 CROSS-EXAMINATION

15 BY MS. LUTHRINGER:

16 **Q** Hi, MINOR .

17 **A** Hello.

18 **Q** My name is Lyndsay. I know we haven't met before
19 this week. I'm just going to ask you a few questions --
20 Okay?

21 **A** Yes, ma'am.

22 **Q** -- about what you just told Ms. Davis.
23 You've met with her before -- right?

24 **A** Yes, ma'am.

25 **Q** Yeah.

1 -- to practice your testimony, to practice drawing
2 those photos?

3 A We went over what would be shown.

4 Q Okay. Perfect. I just have a few questions,
5 because we haven't. So I want to go back to the beach a
6 little bit. Okay?

7 A Yes, ma'am.

8 Q So, that day, you went with your Aunt Monique?

9 A Yes, ma'am.

10 Q Mr. Brown?

11 A Yes.

12 Q Z. S.?

13 A Yes, ma'am.

14 Q S. S. .

15 A Yes, ma'am.

16 Q J. S. ?

17 A Yes, ma'am.

18 Q And C. S. ?

19 A Yes, ma'am.

20 Q And then Fannie and John.

21 A Fannie and John rode separately.

22 Q But those are your grandparents?

23 A Yes, ma'am.

24 Q And they also went?

25 A Yes, ma'am.

- 1 Q Okay. But you go in two separate cars?
- 2 A Yes, ma'am.
- 3 Q You, Monique, Mr. Brown, and your cousins are all in
- 4 Monique's car?
- 5 A Yes, ma'am.
- 6 Q Okay. Do you remember where you were sitting in
- 7 that car?
- 8 A No, ma'am.
- 9 Q Okay. You don't remember sitting in the way back
- 10 behind [REDACTED]?
- 11 A No, ma'am.
- 12 Q And then Fannie and John park behind you?
- 13 A I'm not sure. I remember it being a car between us.
- 14 Q Okay. But close to you. You-all get there and go
- 15 to the beach together?
- 16 A Yes, ma'am.
- 17 Q You hang out there for the day?
- 18 A Yes, ma'am.
- 19 Q Do you remember that being a Saturday?
- 20 A I'm not sure what it was.
- 21 Q But it wasn't a school day?
- 22 A I don't remember.
- 23 Q Okay. So then when it's time to leave, all of you
- 24 pack up and head back up to the vehicles?
- 25 A Yes, ma'am.

1 Q And I think, at that point, one of your cousins
2 starts kind of yelling about a snake?

3 A Yes, ma'am.

4 Q And so people go running; right? Some of you are
5 afraid of the snake? Were all the girls afraid of it?

6 A I'm not sure who was. I know some people were.

7 Q Were you afraid of it?

8 A Yes, ma'am.

9 Q And the snake was on the side closer to the beach?

10 A Closer to the road.

11 Q Closer to the road.

12 So people go running towards the beach?

13 A No. They went to examine the snake.

14 Q The people who went running went to look at it?

15 A Yes, ma'am. No, the people who were running, they
16 were just like -- they weren't scared of it. Some people
17 -- the people who were scared of it, they didn't
18 necessarily move from it, but, like, they would just
19 look -- you know how people just like -- I don't know how
20 to explain it, but some of them, they went towards the
21 snake.

22 Q Okay. And your Aunt Monique and Mr. Brown went to
23 kind of chase the snake away?

24 A I don't -- Thomas didn't.

25 Q Thomas didn't?

1 **A** No, ma'am.

2 **Q** Do you remember giving an interview with Stephanie
3 McKee on June 18th, 2018?

4 **A** Yes, ma'am.

5 **Q** And do you remember that interview being recorded?

6 **A** Yes, ma'am.

7 **Q** And do you remember telling her that Mr. Brown
8 chased that snake away?

9 **A** I don't.

10 **Q** MINOR, if we were to play that interview for you,
11 do you think it would refresh your recollection?

12 **A** It can.

13 MS. LUTHRINGER: Judge, I think, at this time we
14 have a matter we want to take up that's outside the
15 presence of the jury.

16 THE COURT: Come over here a minute.

17 BENCH CONFERENCE

18 (The following bench conference was held at the
19 bench with attorneys present and outside of the hearing of
20 the jury and others:)

21 MS. LUTHRINGER: I mean, she testified differently
22 in the interview with Stephanie McKee. It goes to
23 placement of the vehicle. I think she needs to review
24 that.

25 MR. DAVIS: That is not in evidence yet, so it's

1 improper to put it in front of the jury, so we'd ask that
2 they step out. We'd ask that the jury step out when we
3 play it because it's not in evidence yet. In fact, we're
4 objecting to it being introduced but to impeach --

5 THE COURT: Do you want to use it to impeach --

6 MR. DAVIS: In camera.

7 THE COURT: In camera. All right.

8 [Open court resumes:]

9 THE COURT: Members of the jury, if you would step
10 into the jury room.

11 (The jury exited the courtroom at 10:28 a.m.)

12 MR. DAVIS: Judge, just one second; I'm trying to
13 find the proper video.

14 THE COURT: Do you want to use the transcript?
15 Would that be easier?

16 MR. DAVIS: Okay. We can ask her. I don't know if
17 she will need to actually see or hear it.

18 THE COURT: Doesn't matter to me. Whatever is
19 easiest for you.

20 PROFFERED CROSS-EXAMINATION

21 BY MS. LUTHRINGER:

22 Q MINOR, we have a transcript that the State provided
23 from that hearing. I'm just going to read you that
24 paragraph and then ask if you remember that. And, if not,
25 we can play the video. Okay?

1 **A** Yes, ma'am.

2 **Q** Okay.

3 "So we got there and then, when we were having a
4 good time, and then that's when we were about to leave,
5 and then me and my cousins saw a snake. And that's when
6 we told her mom and her dad. Well, her mom and her
7 stepdad. And they were trying to chase it away."

8 **A** I don't remember. If he did chase it away, I don't
9 remember.

10 **Q** Okay. Now, I understand now that you're saying that
11 you don't remember who chased it away, but can we agree
12 that statement from the interview -- do you remember
13 making that statement? That's my question.

14 **A** No, ma'am.

15 **Q** Okay. We're going to play the interview, and I
16 think that'll help. Okay?

17 **A** Yes, ma'am.

18 MS. DAVIS: And, Judge, I would just ask that, in
19 refreshing her recollection, they allow her to see that
20 whole statement -- the whole snippet where she's talking
21 about what happened.

22 THE COURT: Sure.

23 MS. DAVIS: Thanks.

24 MR. DAVIS: I'm going to try my best to get it at
25 three because I think that's where...

1 So it's 3:01:1, State's redacted, and it's Rule
2 501-53 (ph). And we can, again, get an actual document
3 marked at the appropriate time, but for now, that's the
4 disk that's going to play.

5 Rule 5 states 153, Rule 5, at 3 minutes and 1
6 second, and if we need to adjust it slightly, let me know.

7 (Audio playing.)

8 BY MS. LUTHRINGER:

9 Q MINOR, now do you remember saying that they were
10 chasing the snake?

11 A Yes, ma'am.

12 Q Okay, perfect. Thank you, ma'am.

13 MS. LUTHRINGER: Thank you, Judge.

14 THE COURT: Go ahead and bring in the jury.

15 MR. DAVIS: Judge, just in an abundance of caution
16 -- and not to surprise anybody -- but if we -- she'll be
17 asking her to repeat that for the jury. Obviously, she
18 now remembers, so that's where we're going next. Thank
19 you.

20 (The jury enters the courtroom at 10:35 a.m.)

21 THE BAILIFF: All jurors are present, Your Honor.

22 THE COURT: You may continue.

23 MS. LUTHRINGER: Thank you, Judge.

24 CONTINUING CROSS-EXAMINATION

25 BY MS. LUTHRINGER:

1 Q MINOR, I'm going to ask you again -- and your Aunt
2 Monique and Mr. Brown, do you remember saying that they
3 were chasing the snake?

4 A Yes, ma'am.

5 Q Okay. And they were chasing it on the driver's
6 side?

7 A Yes, ma'am.

8 Q Okay. And you go to get in the car on the passenger
9 side?

10 A Get in the car?

11 Q Or take the sand off your shoes?

12 A Yes, ma'am.

13 Q Okay. And that's when Mr. Brown comes back around
14 the car?

15 A Yes, ma'am.

16 Q And he grabs you by the arm?

17 A He touched my arm.

18 Q Okay. So your testimony is he just kind of touched
19 you?

20 A More so to get my attention.

21 Q Okay. And then he says to you, "Can you suck my
22 dick?"

23 A Yes, ma'am.

24 Q And then you try to pull away from him?

25 A Somewhat.

1 Q And you almost trip?

2 A I didn't trip because of him. I just tripped
3 because I just tripped.

4 Q Just naturally?

5 And you don't yell out for help; right?

6 A No, ma'am.

7 Q You don't scream?

8 A No, ma'am.

9 Q No one rushes over to help you?

10 A No, ma'am.

11 Q And then you get back in the car?

12 A I don't know at what point we got back in the car.
13 I don't know if it was a little while after or right then.

14 Q Okay. So, at some point, you're back in the car,
15 though?

16 A Yes, ma'am.

17 Q Maybe sitting behind Z. S.?

18 A I'm not sure.

19 Q And once you're back in there, no one asks what that
20 was about?

21 A No, ma'am.

22 Q Okay. And then you testified that you to have
23 something to eat with everyone?

24 A Yes, ma'am.

25 Q Just you go back to the motel room?

- 1 **A** Yes, ma'am.
- 2 **Q** And then everyone goes to Cottageville?
- 3 **A** Yes, ma'am, I think so.
- 4 **Q** So Cottageville, if you remember correctly, is it
- 5 you, Monique --
- 6 **A** (No audible response.)
- 7 **Q** Could you say "yes"?
- 8 **A** Yes, ma'am.
- 9 **Q** Thank you.
- 10 Mr. Brown?
- 11 **A** Yes, ma'am.
- 12 **Q** Z. S.?
- 13 **A** Yes, ma'am.
- 14 **Q** J. S.?
- 15 **A** Yes, ma'am.
- 16 **Q** S. S.?
- 17 **A** Yes, ma'am.
- 18 **Q** And C. S.?
- 19 **A** Yes, ma'am.
- 20 **Q** So you get to the bonfire after dark?
- 21 **A** When we got there, I believe it was just getting
- 22 dark, so it was just a little light.
- 23 **Q** And there was a bunch of kids running around?
- 24 **A** I'm not sure.
- 25 **Q** Okay. Do you remember playing with Nariana?

- 1 **A** No, ma'am.
- 2 **Q** Okay. That's not one of your friends?
- 3 **A** No, ma'am.
- 4 **Q** Do you remember Mr. Jeremy being there?
- 5 **A** No, ma'am.
- 6 **Q** You don't remember him being in the car with
- 7 Mr. Brown at all?
- 8 **A** Not at the point where I was asked that question.
- 9 **Q** But you do remember Mr. Jeremy being at the bonfire?
- 10 **A** Yes. I'm not sure who that is.
- 11 **Q** Okay. What about a Ms. Becca? Do you remember her
- 12 being at a bonfire?
- 13 **A** No, ma'am.
- 14 **Q** Okay. So you're at the bonfire, and at some point,
- 15 you go back to the car?
- 16 **A** Yes, ma'am.
- 17 **Q** And it's just you walk in there?
- 18 **A** Z. S. started walking in, and I walked after her.
- 19 **Q** Okay. To grab something?
- 20 **A** Yes, ma'am.
- 21 **Q** And Mr. Brown was in the car?
- 22 **A** Yes, ma'am.
- 23 **Q** Where was he sitting?
- 24 **A** The driver's seat.
- 25 **Q** And Mr. Jeremy was in the passenger seat?

- 1 **A** No, ma'am. It was just Thomas in the car.
- 2 **Q** Okay. Mr. Jeremy wasn't standing outside it?
- 3 **A** No, ma'am.
- 4 **Q** Okay. So Mr. Brown's in the driver's seat?
- 5 **A** Yes, ma'am.
- 6 **Q** You go in the back passenger side?
- 7 **A** Yes, ma'am.
- 8 **Q** And that's when Mr. Brown says this to you again?
- 9 **A** Yes, ma'am.
- 10 **Q** He says, "Suck my dick" again?
- 11 **A** Yes, ma'am.
- 12 **Q** And he touched your arm?
- 13 **A** My hand.
- 14 **Q** Your hand. So did he kind of, like, turn around and
- 15 reach?
- 16 **A** Yeah. It was a reach-back.
- 17 **Q** Okay. And then you go running and tell your aunt?
- 18 **A** No, ma'am.
- 19 **Q** What do you do?
- 20 **A** I went back with my aunt, and after that, I don't
- 21 remember much.
- 22 **Q** Okay. You didn't say anything to her?
- 23 **A** No, ma'am.
- 24 **Q** You didn't say anything to Z. S.?
- 25 **A** No, ma'am.

1 Q And then you go back to your aunt's hotel room for
2 the night?

3 A Yes, ma'am.

4 Q But Mr. Brown doesn't stay there?

5 A I don't remember.

6 Q Do you remember him leaving that night in his car?

7 A I don't remember.

8 Q Okay. But the next morning, do you remember
9 Mr. Brown picking you and your cousins up to bring
10 everyone home?

11 A I don't know if he was already there. So, like,
12 pick up? That's what I'm stuck on. I don't know if he
13 was already there or if he came back.

14 Q I'll ask it better. The next morning, Mr. Brown
15 drove you and all your cousins back home?

16 A Yes, ma'am.

17 Q And he drops all of them off first?

18 A Yes, ma'am.

19 Q So you're the last one in the vehicle?

20 A Yes, ma'am.

21 Q And he doesn't say anything to you now?

22 A No, ma'am.

23 Q He doesn't ask you to do anything sexual?

24 A No, ma'am.

25 Q And he doesn't touch you either?

1 **A** No, ma'am.

2 **Q** Just drives you home, no problem?

3 **A** Yes, ma'am.

4 **Q** And then you get there, and you tell your mom what
5 happened?

6 **A** Yes, ma'am.

7 **Q** And did you tell her or did you write it down?

8 **A** I don't remember.

9 **Q** You don't remember. Okay.

10 And then you said, immediately, your mom told the
11 police?

12 **A** I'm not -- like, I mean, like, when I told her, I
13 think it was a little while after. I think it was in that
14 morning.

15 **Q** Okay. And you deleted those text messages before
16 you went to the police?

17 **A** The messages between me and my mom?

18 **Q** Yes.

19 **A** I'm not sure. I believe that I deleted the
20 messages, I think it was that night, but my mom still had
21 them.

22 **Q** Did your mom give them to the police?

23 **A** I'm not sure.

24 **Q** Okay. But to be clear, that time where he drove you
25 home, you're alone with him in the car, and nothing

1 happened?

2 **A** Yes, ma'am.

3 MS. LUTHRINGER: Court's indulgence.

4 BY MS. LUTHRINGER:

5 **Q** MINOR, have you ever lied to your mom before?

6 **A** Little white lies.

7 **Q** Little white lies? Okay. Thank you, MINOR.

8 That's all the questions I have for you. I appreciate it.

9 **A** Yes, ma'am.

10 THE COURT: Redirect.

11 MS. DAVIS: Yes, Your Honor.

12 REDIRECT EXAMINATION

13 BY MS. DAVIS:

14 **Q** Ms. Luthringer asked you about that interview you
15 did with Stephanie McKee?

16 **A** Yes, ma'am.

17 **Q** Okay. Did she show you a transcript of that
18 interview to help you remember what you said?

19 **A** She read it to me.

20 **Q** She read it to you?

21 And did she show you the interview?

22 **A** Yes, ma'am.

23 **Q** A little piece of it?

24 **A** Yes, ma'am.

25 **Q** Do you remember what you said right after you told

1 her that Izzy's mom and Izzy's stepdad chased the snake
2 away?

3 **A** They only played that part.

4 **Q** Did you tell them what happened next?

5 **A** Yes, ma'am.

6 **Q** And what was that?

7 **A** That the question was asked.

8 **Q** Would it help you if I showed you that transcript
9 again?

10 **A** Yes, ma'am.

11 MS. DAVIS: May I approach?

12 THE COURT: Yes.

13 BY MS. DAVIS:

14 **Q** Now, I know it's a lot to remember, I know it was
15 four years ago, but this is that transcript we talked
16 about. Here's the paragraph.

17 So after you say that they're trying to chase it
18 away, does that help you remember what you said next?

19 **A** Yes, ma'am.

20 **Q** What was it?

21 **A** That I was tapping my shoe off.

22 **Q** And?

23 **A** Thomas came back around the car.

24 **Q** Okay. Why didn't you scream?

25 **A** I was -- I was just scared.

1 Q Were you surprised?

2 A Yes, ma'am.

3 Q You knew Thomas; right?

4 A Yes, ma'am.

5 Q Did you expect him to say something like that to
6 you?

7 A No, ma'am.

8 Q Were you really sure what to do?

9 A Not really.

10 Q Okay. Let's talk about Cottageville at the bonfire.

11 A Yes, ma'am.

12 Q You told us earlier that you didn't know everybody
13 there?

14 A Yes, ma'am.

15 Q You knew the people you went with.

16 A Yes, ma'am.

17 Q Do you remember your Aunt Monique and Thomas having
18 friends there?

19 A I believe so.

20 Q Were there people that you didn't know their name?

21 A Yes, ma'am.

22 Q Do you remember a man whose name you didn't know
23 that was friends with Thomas?

24 A The Jeremy guy? Yes, ma'am.

25 Q But you didn't know him?

1 **A** No, ma'am.

2 **Q** Do you remember seeing him around the car around the
3 time that Thomas asked you again?

4 **A** I don't remember.

5 **Q** You don't remember?

6 **A** I don't think so.

7 **Q** Do you remember ever seeing him get in the car?

8 **A** I didn't see him ever get in the car, but I looked
9 back once, and then he was in the car.

10 **Q** Was this before or after Thomas had asked you again?

11 **A** It was after.

12 **Q** Okay. So after he asked you at the bonfire later,
13 you looked back, and the man who's Thomas's friend, who
14 you think might be Jeremy --

15 **A** Yes, ma'am.

16 **Q** -- was he in the car?

17 **A** Yes, ma'am.

18 **Q** Okay. Let's talk about driving home. So you told
19 us that Thomas drove you and your cousins home?

20 **A** Yes, ma'am.

21 **Q** I know you told us you live in Charleston.

22 **A** Yes, ma'am.

23 **Q** Do you live in downtown Charleston or somewhere
24 else?

25 **A** I live downtown Charleston.

1 Q Do your cousins -- do they live with their dad or
2 their mom?

3 A Their dad.

4 Q Their dad? Were they living with their dad then?

5 A Yes, ma'am.

6 Q And do they live with their dad in downtown
7 Charleston or somewhere else?

8 A Downtown Charleston.

9 Q Is it kind of close to where you live?

10 A It's really close.

11 Q Really close? Okay.

12 So were they on the way to your house?

13 A My cousins?

14 Q Yes.

15 A I'm not sure.

16 Q Was their house on the way to your house?

17 A Oh, yes, ma'am.

18 Q Okay.

19 MS. LUTHRINGER: Judge, I'm going to have to object.

20 All of this is outside the scope of the redirect.

21 THE COURT: Response?

22 MS. DAVIS: Judge, it directly responds to what she
23 asked her about the kids getting dropped off first.

24 MS. LUTHRINGER: But we didn't talk about going
25 downtown, the distances.

1 THE COURT: I think it's in response to your cross,
2 though, so I'm going to overrule it.

3 Go ahead.

4 BY MS. DAVIS:

5 Q Those are all the questions I have. Thank you,

6 MINOR .

7 A Yes, ma'am.

8 MS. DAVIS: Judge, can she be released?

9 THE COURT: Any recross?

10 MS. LUTHRINGER: Judge, I have no questions for her.
11 Thank you.

12 THE COURT: All right. Members of the jury, let's
13 take a short break. If you would step into the jury room,
14 we'll be back with you in a moment.

15 (The jury exited the courtroom at 10:47 a.m.)

16 THE COURT: Any objections to this witness being
17 excused?

18 MS. LUTHRINGER: No objections, Judge.

19 THE COURT: You have a good day. Thank you.

20 THE WITNESS: Thank you.

21 THE COURT: All right. Let's take a short break,
22 and we'll come back.

23 (A brief recess was taken from 10:48 a.m. to 11:03
24 a.m.)

25 THE COURT: All right. Let's go ahead and bring in

1 the jury.

2 (The jury entered the courtroom at 11:05 a.m.)

3 THE BAILIFF: All jurors are present, Your Honor.

4 THE COURT: Thank you.

5 The State will call your next witness.

6 MS. DAVIS: The State calls Z. S. .

7 Z. S., will you just go up to this blue chair?

8 Z. S.

9 after having been duly sworn, was examined and
10 testified to as follows:

11 THE CLERK: Please state your name for the record
12 and spell your last name.

13 THE WITNESS: Z. S. .

14 DIRECT EXAMINATION

15 BY MS. DAVIS:

16 Q And would you spell your first name too.

17 A Z. S. .

18 Q Do you sometimes go by Z. S. ?

19 A Yeah.

20 Q Where do you live?

21 A I live downtown in South Carolina.

22 Q In Charleston?

23 A Mm-hmm.

24 Q Who do you live with?

25 A I live with my dad and my grandma and my brothers.

1 Q Could you pull the microphone a little closer to
2 you? Who did you say you live with?

3 A I said I live with my dad, my grandma, and my
4 brothers.

5 Q What are your brothers' names?

6 A My brother's name is Fatman, TJ, and Cheeks.

7 Q And is TJ, is that C. S. [REDACTED]?

8 A Yeah.

9 Q Where do you go to school?

10 A [REDACTED].

11 Q Did you graduate today?

12 A Yeah. My graduation was earlier.

13 Q Earlier this morning?

14 A Mm-hmm.

15 Q What grade did you graduate?

16 A Eighth grade.

17 Q Congratulations.

18 A Thank you.

19 Q Thanks for coming.

20 Are you related to MINOR [REDACTED]?

21 A Yes.

22 Q Who is she?

23 A She's my cousin on my mom's side.

24 Q Do you spend a lot of time with her these days?

25 A No, not really.

1 Q Why is that?

2 A Because she is busy with work or I have something to
3 do.

4 Q Do you go to the same school?

5 A No.

6 Q Did you used to spend more time together when you
7 were younger?

8 A Yeah.

9 Q Do you remember, did Thomas and MINOR used to get
10 along?

11 A Yes.

12 Q Do you remember what kind of stuff they would do
13 together?

14 A No, ma'am. I don't remember.

15 Q Do you remember a time when you went to the beach
16 with your family back in 2018?

17 A Yes, ma'am.

18 Q Who all went to the beach?

19 A It was me, my mom, Mr. Thomas, my brothers, my
20 Granny Fannie and Papaw and MINOR.

21 Q Do you remember was it the first time that MINOR
22 came somewhere with you and your family without her
23 parents?

24 A No, I don't remember.

25 Q Do you remember who went in the car that you were

1 in?

2 **A** The only people in the car with me was **MINOR** [REDACTED], my
3 mom, Mr. Thomas, and my brothers.

4 **Q** And what did you guys do at the beach?

5 **A** We played in the water and the sand.

6 **Q** Beach stuff?

7 **A** Mm-hmm.

8 **Q** Did anything happen as you-all left the beach?

9 **A** When we were leaving the beach, one of my brothers
10 saw a snake.

11 **Q** Did you see the snake?

12 **A** No, but I heard my brothers scream.

13 **Q** Was it scary?

14 **A** A little bit.

15 **Q** Did it cause some commotion?

16 **A** Mm-hmm. I don't remember.

17 **Q** Okay. Do you remember where you sat in the car on
18 the way back?

19 **A** No, ma'am.

20 **Q** Do you remember what you-all did after the beach?

21 **A** After the beach, we went to a bonfire.

22 **Q** Did you go straight to the bonfire from the beach?

23 **A** No.

24 **Q** Where did you go first?

25 **A** We went back to the hotel.

1 Q Okay. And then you went to the bonfire after the
2 hotel?

3 A Yes, ma'am.

4 Q Was there food at the bonfire?

5 A We had s'mores.

6 Q S'mores?

7 A Mm-hmm.

8 Q Do you remember at one point going back to the car
9 with MINOR ?

10 A Yes.

11 MR. DAVIS: Your Honor, we're going to renew our
12 pretrial objection.

13 THE COURT: I understand. Overruled.

14 BY MS. DAVIS:

15 Q Sorry. Do you remember going back to the car with
16 MINOR at some point?

17 A Yes.

18 Q Do you remember why you guys went back to the car?

19 A We went back to the car to get our drinks.

20 Q Your drinks?

21 A Mm-hmm.

22 Q And was your water in the front seat or the back
23 seat of the car?

24 A In the back seat.

25 Q Do you remember if you used the passenger side back

1 door or the driver's side back door?

2 **A** The driver's side.

3 **Q** Okay. Do you remember if you saw Thomas in the car?

4 **A** No, I don't remember.

5 **Q** You don't remember?

6 Do you remember how **MINOR** [REDACTED] had been acting that day
7 before you went to the car to get the water?

8 **A** Can you explain as like --

9 **Q** Yeah. So **MINOR** [REDACTED] is your cousin?

10 **A** Mm-hmm.

11 **Q** Do you remember what she was like back then?

12 **A** She was very playful and goofy.

13 **Q** And had she been acting kind of normal?

14 **A** Yeah.

15 **Q** Do you remember her behavior changing at all?

16 **A** I remember when she went quiet and all that stuff.
17 She really wasn't playing around like that.

18 **Q** And when did she go quiet?

19 **A** I don't remember.

20 **Q** Was it while you were at the bonfire?

21 **A** I think so.

22 **Q** Do you remember, after you guys got your drinks, if
23 she was being funny, goofy, or quiet?

24 **A** I don't remember.

25 **Q** Do you remember if you ever asked her if she was

1 okay?

2 **A** No, ma'am.

3 **Q** Did Thomas and **MINOR** get in an argument or anything
4 like that that night?

5 **A** I don't remember.

6 **Q** Do you know what made **MINOR** go quiet?

7 **A** No, ma'am.

8 **Q** Did anyone ever tell you?

9 **A** No, ma'am.

10 **Q** Do you know why we're in court today?

11 **A** No, ma'am.

12 **Q** Has **MINOR** ever said anything to you about it?

13 **A** No, ma'am.

14 **Q** Those are all the questions I have. The defense is
15 going to ask you some questions too. Okay?

16 **A** Okay.

17 **Q** Thanks, **Z. S.**.

18 MR. DAVIS: And just one moment, Your Honor.

19 CROSS-EXAMINATION

20 BY MR. DAVIS:

21 **Q** Can I call you **Z. S.**? Is that okay?

22 **A** Yes, sir.

23 **Q** Just have a few questions, if you remember.

24 **A** Okay.

25 **Q** When y'all went to the beach, you told the jury who

1 rode in the car with you. I'm going to try to simplify
2 it. That was everybody except your grandparents; right?

3 **A** Yes, sir.

4 **Q** They drove in a separate car and parked behind you.

5 **A** Mm-hmm.

6 **Q** I need you to say "yes" or "no" for this lady.

7 **A** Oh, yes.

8 **Q** Okay. Do you remember that you parked kind of on
9 the side of the road, on the street at the beach?

10 **A** I don't remember.

11 **Q** But you remember that you and the rest of your
12 brothers were in the car with Monique and Thomas; correct?

13 **A** Yes, sir.

14 **Q** And Fannie and John are behind you guys?

15 **A** Yes, sir.

16 **Q** So you're at the beach, playing for a little bit.
17 You come back in to load up and leave?

18 **A** Yes, sir.

19 **Q** Now, I think it's not like you had a bunch of
20 chairs.

21 **A** Yes.

22 **Q** You didn't have chairs; right?

23 **A** Mm-mmm.

24 **Q** No shovels and buckets and anything like that?

25 **A** I don't remember.

1 Q Okay. Not a big umbrella to carry?

2 A I don't remember.

3 Q Well, if you had to -- if somebody had to carry a
4 big umbrella back or chairs, you think you'd remember
5 that?

6 A Probably.

7 Q Okay. So the point I'm getting at is there wasn't a
8 bunch of gear to load up into the vehicles.

9 A No.

10 Q It was just the people.

11 A Yeah.

12 Q Okay. Seeing this snake there, you wanted to get in
13 the vehicle to get away from the snake; right?

14 A Mm-hmm, yes, sir.

15 Q And everybody was trying to load up into your
16 vehicle, and Fannie and John are getting in theirs pretty
17 quickly because you were leaving the beach; right?

18 A Yes.

19 Q Between that day at the beach and now, were you ever
20 interviewed by a police officer?

21 A No, sir.

22 MR. DAVIS: Give me just one moment, Your Honor.

23 Thank you, Your Honor. No other questions.

24 THE COURT: All right. Redirect?

25 MS. DAVIS: Briefly, Your Honor.

1 REDIRECT EXAMINATION

2 BY MS. DAVIS:

3 Q [REDACTED] do you remember, after the beach, at some
4 point, you went to the Children's Center and had an
5 interview done?

6 A I don't remember.

7 Q You don't remember?

8 A No, ma'am.

9 MS. DAVIS: Okay. No further questions.

10 THE COURT: You may step down. Thank you. You can
11 go.

12 Call your next witness.

13 MS. DAVIS: The State calls Fannie Miller Lucas.

14 We're going to have you walk down here to the blue
15 chair with the screen around it.

16 FANNIE MILLER LUCAS

17 after having been duly sworn, was examined and
18 testified to as follows:

19 THE CLERK: Please state your name for the record
20 and spell your last name.

21 THE WITNESS: Fannie Lucas. L-u-c-a-s.

22 DIRECT EXAMINATION

23 BY MS. DAVIS:

24 Q Good morning.

25 A Good morning.

- 1 Q Did you recently have a death in the family?
- 2 A Yes, ma'am. My sister. My baby sister.
- 3 Q And was that funeral recently?
- 4 A Saturday.
- 5 Q Thank you for being here.
- 6 Where do you live?
- 7 A Adam's Run (ph).
- 8 Q Are you related to Sheila?
- 9 A My daughter.
- 10 Q How about Monique?
- 11 A My daughter.
- 12 Q And who is MINOR ?
- 13 A My granddaughter.
- 14 Q And Z. S. ?
- 15 A My granddaughter.
- 16 Q Was there a time in June of 2018 that you went to
- 17 the beach with some of your family?
- 18 A Yes.
- 19 Q Who all went?
- 20 A Repeat that again.
- 21 Q Who went to the beach?
- 22 A Me, my husband, MINOR , Z. S. , Monique, Thomas,
- 23 and the boys, Saddarius, T.J., and -- oh, I can't remember
- 24 baby boy's name.
- 25 Q You guys use nicknames; right?

1 **A** Yeah.

2 **Q** What's his nickname?

3 **A** Fatman. No, it was Cheeks.

4 **Q** Do you remember, did y'all drive together or
5 separately?

6 **A** Separately.

7 **Q** Who was in your car?

8 **A** Just me and my husband.

9 **Q** And what beach did you guys go to?

10 **A** Isle of Palms.

11 **Q** Do you remember where you parked your car?

12 **A** On the street. I don't remember the name of the
13 street.

14 **Q** But on the street?

15 **A** Yes, ma'am.

16 **Q** Did you park near the car that Monique and Thomas
17 came in?

18 **A** I was parked directly behind them.

19 **Q** Behind them.

20 And y'all went to the beach? Like the actual beach
21 with the sand?

22 **A** Yes, ma'am.

23 **Q** What did you guys do there?

24 **A** They played in the water. I can't swim, so I stayed
25 at the edge of the water.

1 Q And when did you decide to leave?

2 A Probably about an hour, two hours later.

3 Q Do you remember about what time of the day it was?

4 A No, ma'am.

5 Q Was there a specific reason you wanted to leave?

6 A I was tired. It's hot.

7 Q And how about your husband?

8 A We needed to go.

9 Q Why is that?

10 A He was drinking.

11 Q He'd been drinking?

12 A Yes.

13 Q Okay. So you and your husband decided to leave.

14 You were hot. He'd been drinking. You were tired. Did
15 everybody else decide to leave as well?

16 A Yes, ma'am.

17 Q Did they start to leave at the same time as you or
18 right before? Right after?

19 A We all headed to the cars at the same time.

20 Q Okay. Do you remember if you guys were in the front
21 of everybody or in the back of everybody?

22 A We was in the front.

23 Q You were in the front?

24 Do you remember anything happening as y'all were
25 walking back to the cars?

1 **A** We got out by the car, and one of the boys yelled,
2 "Snake." So we stopped. Everybody scattered out.

3 **Q** Everybody scattered?

4 Did you see the snake?

5 **A** No.

6 **Q** Why is that?

7 **A** Because I wasn't trying to find him.

8 **Q** Were you afraid?

9 **A** Yes.

10 **Q** Tell me about the keys to your car. Who had them?

11 **A** They were locked in the car.

12 **Q** Locked inside the car?

13 **A** Yeah.

14 **Q** Okay. So you guys were locked out?

15 **A** We were. And he remembered the hatch -- the back
16 hatch wasn't locked, so he had to climb in the back hatch
17 to get the keys out.

18 **Q** Who did?

19 **A** My husband.

20 **Q** Your husband. Okay.

21 So he climbed through the back hatch of your car,
22 through the car?

23 **A** Yes, ma'am.

24 **Q** To get the keys?

25 And were you paying attention to your husband while

1 he was in the car?

2 **A** Yes.

3 **Q** Okay. And then, eventually, who drove home in your
4 car?

5 **A** I did.

6 **Q** Okay. Do you remember getting a call from your
7 daughter Sheila the next day?

8 **A** Yes, ma'am.

9 **Q** Okay. Without telling me what she said, did she
10 tell you about what **MINOR** told her?

11 **A** Yes, ma'am.

12 **Q** And do you remember if you gave her any advice?

13 **A** My advice to her was do what you got to do.

14 **Q** And why did you give her that advice?

15 **A** I felt like it -- something needed to be done. She
16 tried to Monique and Thomas, and nobody wasn't responding
17 to her. I didn't know what else to tell her.

18 **Q** And when you said, "Do what you got to do," what did
19 you mean by that?

20 **A** Do anything necessary -- anything necessary that
21 needed to be taken care of, because this matter needs to
22 be dealt with. I went through that as a kid, and I don't
23 wish that upon anyone.

24 **A** Okay. Nothing further.

25 THE COURT: All right. Cross?

1 CROSS-EXAMINATION

2 BY MR. DAVIS:

3 Q Do you go by "Fannie"?

4 A Yeah.

5 Q Okay. Fannie, I want to ask you just a few
6 questions.

7 A Yes, sir.

8 Q Okay. This was back in June of 2018, what you're
9 talking about; right?

10 A (No audible response.)

11 Q Now, do you remember that I and my investigator gave
12 you a call in January of this year, and we talked on the
13 phone? Do you remember that?

14 A January?

15 Q Yes, ma'am. January 4th, 2022.

16 A I vaguely remember. I don't remember the
17 conversation.

18 Q Fair enough. I apologize. I'll break it down.

19 Do you remember what day that we spoke?

20 A No.

21 Q Okay. Do you remember speaking to me over the
22 phone?

23 A What's your name?

24 Q Rodney Davis.

25 A Yeah.

1 Q Okay. And my investigator was talking with us too.
2 Do you remember that? He was on the speakerphone.

3 A Maybe. I don't remember him being on the phone.

4 Q Okay. But between whenever it was, we gave you a
5 call, and that time backwards to being at the beach, did
6 the police ever contact you?

7 A No.

8 Q Did the solicitor's office ever contact you?

9 A No.

10 Q When you were talking to me and my investigator on
11 the phone, do you remember telling us that Thomas and
12 MINOR were never alone out on the beach?

13 A (No audible response.)

14 Q I need you to answer "yes" or "no" for this lady.

15 A Oh, I'm sorry.

16 Q That's okay.

17 A I don't recall seeing them being alone.

18 Q So you don't recall ever seeing them alone at the
19 beach?

20 Do you remember telling me and my investigator that?

21 A No.

22 Q You and John were in your-all's Ford Explorer;
23 right?

24 A Yes.

25 Q Was it not one of those versions that you can punch

1 the keypad in to get in the door?

2 **A** We don't have the code to that one.

3 **Q** Okay.

4 **A** We had two, but we don't have the code to that one.

5 **Q** So that's why you had to climb through the back?

6 **A** Right.

7 **Q** All right. You were the driver?

8 **A** Yes.

9 **Q** He had been drinking a little bit?

10 **A** Yes.

11 **Q** And once you got that figured out -- you were right
12 bumper-to-bumper behind them; is that right?

13 **A** Yeah.

14 **Q** And so you sit there until they pulled off and then
15 you followed?

16 **A** Right.

17 **Q** Okay. So the jury will understand, out at the
18 beach, did y'all lug a bunch of chairs out there to sit
19 out there?

20 **A** I remember taking a big towel. I don't remember a
21 chair.

22 **Q** A big towel?

23 **A** Yeah. A beach towel.

24 **Q** But you didn't have a bunch of stuff to load back
25 into the Explorer?

1 **A** No.

2 **Q** And neither did Thomas, Monique, and the kids?

3 **A** No, not that I can recall.

4 **Q** Okay.

5 MR. DAVIS: Your Honor, if I could have just a
6 moment.

7 Judge, that's all the questions I have.

8 BY MR. DAVIS:

9 **Q** Thank you, ma'am.

10 THE COURT: Any redirect?

11 MS. DAVIS: Briefly.

12 REDIRECT EXAMINATION

13 BY MS. DAVIS:

14 **Q** So, Fannie, I know that Isle of Palms is a beach. I
15 know that you went to the beach, you parked on the street,
16 and then you walked to the actual beach with the sand and
17 the ocean; right?

18 **A** Yes.

19 **Q** When you're at the actual beach with the sand and
20 the ocean, everybody was together; right?

21 **A** Right.

22 **Q** And when y'all were at the car, there was a snake;
23 right?

24 **A** Yeah.

25 **Q** And your husband crawling through the car?

1 **A** Right.

2 **Q** And then you remember leaving.

3 **A** Uh-huh. Yes, ma'am.

4 MS. DAVIS: No further questions.

5 THE COURT: You may leave. Thank you.

6 THE WITNESS: Thank you.

7 THE COURT: If you'll call your next witness.

8 MS. HERRING LASH: The State would call Monique
9 Williams.

10 THE CLERK: Please raise your right hand.

11 MONIQUE WILLIAMS

12 after having been duly sworn, was examined and
13 testified to as follows:

14 THE CLERK: Please state your name for the record
15 and spell your last name.

16 THE WITNESS: Monique Williams. W-i-l-l-i-a-m-s.

17 DIRECT EXAMINATION

18 BY MS. HERRING LASH:

19 **Q** Monique, where do you live now?

20 **A** I live in North Charleston.

21 **Q** And where do you work?

22 **A** I work for Better Choice Health Care Center.

23 **Q** And are you able to work right now?

24 **A** No, ma'am.

25 **Q** When did you hurt your --

- 1 **A** Last Wednesday.
- 2 **Q** Is that why you're not working now?
- 3 **A** Yes, ma'am.
- 4 **Q** And, Monique, we've been discussing your children
- 5 today. Can you tell us their ages and their names?
- 6 **A** Mm-hmm. C. S. [REDACTED], he's 15. Z. S. [REDACTED] is 14, J. S. [REDACTED]
- 7 is 13, and S. S. [REDACTED] is 12.
- 8 **Q** And where do they live?
- 9 **A** 285 (indiscernible) with their father.
- 10 **Q** And are -- do you visit them sometimes?
- 11 **A** Yes, ma'am.
- 12 **Q** And are you related to MINOR [REDACTED]?
- 13 **A** Yes, I am.
- 14 **Q** And do you know Thomas Brown?
- 15 **A** Yes, ma'am.
- 16 **Q** And how do you know Thomas?
- 17 **A** Me and Mr. Brown dated for quite some time.
- 18 **Q** When did y'all meet?
- 19 **A** I want to say in 2015, I believe.
- 20 **Q** How did you meet?
- 21 **A** We actually lived down the sidewalk from each other.
- 22 **Q** Got what?
- 23 **A** We lived down the sidewalk from each other.
- 24 **Q** Oh, okay. And how long did y'all know each other
- 25 before you started in a relationship?

1 **A** We didn't know each other at all. I saw him in
2 passing. If he was standing outside or if I was walking
3 to the store and I saw him, we said hello to each other
4 and kept moving.

5 **Q** And then when did you start a relationship?

6 **A** We started a relationship probably about two months
7 after meeting him, noticing him down the sidewalk pretty
8 much.

9 **Q** Okay. And at that point in time, did y'all begin to
10 date?

11 **A** Yes, ma'am.

12 **Q** And did y'all eventually live together?

13 **A** Yes, ma'am.

14 **Q** About how long was that before you moved in
15 together?

16 **A** Probably about two months, I would say.

17 **Q** And where did y'all live in the beginning?

18 **A** We initially started living with my sister, Sheila.

19 **Q** And that's **MINOR** 's mom?

20 **A** Yes.

21 **Q** And where did they live?

22 **A** Downtown. **██████** Huger (ph) Street.

23 **Q** And so you and Thomas moved in with them?

24 **A** Yes.

25 **Q** And just you and Thomas, not your children?

1 **A** No. My children still reside with their father.

2 **Q** And how did -- did Sheila have any problems bringing
3 y'all into the home?

4 **A** No, ma'am.

5 **Q** How did things go?

6 **A** It went pretty well.

7 **Q** Did everybody get along?

8 **A** Yeah.

9 **Q** Did Mr. Brown get along with Sheila and her
10 children?

11 **A** Yes.

12 **Q** And did he get along with MINOR ?

13 **A** Yes.

14 **Q** And I guess y'all were staying together until at
15 least 2018?

16 **A** Yeah.

17 **Q** And during all of that time, was there ever any
18 controversy between Sheila and Mr. Brown or her family and
19 Mr. Brown?

20 **A** Not that I can think of, no. Nothing out of the
21 norm.

22 **Q** And did he -- how long -- how did he get along with
23 the children?

24 **A** Oh, he loved the children. I would like to say he
25 was their clown. He -- anything to put a smile on their

1 face, he was there.

2 Q And that included MINOR ?

3 A Yes.

4 Q Now, where did y'all live after you lived with
5 Sheila?

6 A We -- they moved out, and we moved into a hotel for
7 quite some time.

8 Q And did you live in more than one hotel?

9 A Yes.

10 Q Do you recall June of 2018?

11 A Yes.

12 Q Was that one of your children's graduation?

13 A Yes. Calvin's.

14 Q And what was he graduating from?

15 A I want to say fifth grade, if I'm not mistaken. It
16 was like a little moving-up ceremony, and the kids were
17 out of school.

18 Q Okay. And is MINOR on age with him?

19 A Yes. She's a month -- they're a month apart.

20 Q Okay. So was that her graduation also?

21 A Mm-hmm.

22 Q And what did y'all do to celebrate that?

23 A Well, unfortunately, we didn't have a lot of money,
24 so we just got together and decided to take the kids to
25 the beach and have a good time.

1 Q Yeah. Did y'all pick them up on a Friday or a
2 Saturday or a Sunday?

3 A I want to say it was that Friday we picked them up
4 because it was the weekend.

5 Q Okay. And what did y'all do Friday night?

6 A Friday night, I believe we just sat around, chilled
7 out. Nothing much. We watched some movies. As normal,
8 he was a clown, so...

9 Q And y'all were living in a hotel?

10 A Yes, ma'am.

11 Q Which hotel were y'all living in?

12 A Master's Inn off of Rivers Avenue.

13 Q And did everybody sleep in the same room?

14 A Yes.

15 Q How would y'all do that?

16 A The girls slept in the bed, and I had a blow-up air
17 mattress for the boys.

18 Q Okay. And what about you and Thomas?

19 A Me and Thomas had a bed for ourselves.

20 Q So you had two beds?

21 A Yes, it was a two-bed room.

22 Q And on that Saturday, what did y'all do?

23 A We got up and we set around the room for quite some
24 time until it was time for us to go to the beach. And we
25 got together -- got the kids together and we left and went

1 to the beach.

2 Q Do you remember what kind of car y'all were driving?

3 A A Saturn Vue.

4 Q And how many rows of seats are in that?

5 A Two.

6 Q Do you --

7 A Just front row and back row.

8 Q Where did everybody sit, if you remember?

9 A I want to -- if I'm not -- if I'm clear, I believe
10 that Mr. Brown drove us to the beach. I was on the
11 passenger side. Z. S. [REDACTED], C. S. [REDACTED], and J. S. [REDACTED] were up on
12 the second row, and MINOR [REDACTED] and Saddarius were in the --
13 well, the trunk, if you will say.

14 Q It's a trunk because it doesn't have a seat, but
15 it's not, like, a closed-up trunk.

16 A Yeah, it's not closed -- it's not a closed-in trunk.
17 It's an SUV. But it's not a closed-in trunk, so I can
18 still look in the rearview and see them.

19 Q And what did y'all do when you got to the beach?

20 A Got in the water and played.

21 Q Where did you -- I think we've talked about it. You
22 parked on the street?

23 A Yeah, just off on the street. If you're familiar
24 with coming into Isle of Palms and coming onto the beach,
25 you know you can park off of the road a little bit in

1 front of the houses out there. So we all parked along
2 there.

3 Q Were you facing, like, coming -- going toward --

4 A Going further down to -- further into the beach.

5 Q So the town was behind --

6 A Yeah. So the driver door would have been to the
7 road.

8 Q To the road?

9 A Yes.

10 Q And when y'all were coming back to the beach, did
11 something happen?

12 A Yes. There was a -- one of my sons discovered that
13 there was a snake. And so, of course, you know, there's
14 children, the snake, everybody's scrambling. And so
15 Mr. Brown managed to get the snake away from the car so
16 that the children can then gain access into the vehicle.

17 Q And who all was around the car; do you remember?

18 A Myself, C. S. [REDACTED], Z. S. [REDACTED], J. S. [REDACTED], Saddarius,
19 MINOR [REDACTED], and Mr. Brown.

20 Q Do you remember exactly where MINOR [REDACTED] and Mr. Brown
21 were?

22 A No, ma'am, I don't.

23 Q Were you paying attention to where everybody was at
24 that point?

25 A Not really. Just trying to, you know, yell for them

1 to get back to not go closer to the road. So I wasn't
2 really paying attention to where anybody was standing.

3 Q And where was your mom at with her husband?

4 A I believe they were at their vehicle, which was
5 parked behind us.

6 Q And when MINOR got in, do you remember if she was
7 still in the trunk, so to speak?

8 A I believe so.

9 Q And on the way back, who drove?

10 A I believe I drove. That was the only thing that
11 changed about the seating arrangement, was the drivers.

12 Q And did -- at that point in time, did MINOR say
13 anything to you about anything?

14 A No, ma'am.

15 Q And you didn't notice anything?

16 A No, ma'am.

17 Q Where did y'all go when you left the beach?

18 A We went back to the hotel.

19 Q What did y'all do there?

20 A They got showered and change out of their clothes
21 and we had another event that we were going to.

22 Q And what was that?

23 A The bonfire.

24 Q And where was that; do you know?

25 A In Cottageville. I don't know the exact address,

1 but I know it's in Cottageville.

2 Q And was it like a cookout kind of thing?

3 A It was more so like just a bonfire. I don't
4 remember seeing a grill.

5 Q Who was putting that on?

6 MR. DAVIS: Your Honor, at this point, we would
7 renew our pretrial objection.

8 THE COURT: I understand. Overruled.

9 A Ms. Rebecca Hernandez and Jeremy.

10 BY MS. HERRING LASH:

11 Q And how do you know them?

12 A We lived at the same hotel, Master's Inn.

13 Q So they live in the hotel near y'all?

14 A Yes, ma'am.

15 Q And were there lots of people out there?

16 A Yeah.

17 Q Like -- do you have a guess of how many people?

18 A It was well over ten people out there. If I had to
19 guess, I'd say maybe about 20, 25.

20 Q And how were y'all sitting?

21 A We -- how were we sitting at the bonfire?

22 Q Mm-hmm.

23 A We were at the back of Rebecca's truck.

24 Q Like, was it an SUV or what?

25 A Yes. If I'm not mistaken, it was an Expedition. A

1 green Expedition.

2 Q And where were the kids?

3 A They were at the back of the truck.

4 Q And did all of your children and MINOR attend the
5 bonfire?

6 A Yes.

7 Q And did -- what about when you got there, when you
8 first drove up?

9 A When I first got there, me and the kids, sit in the
10 car. Mr. Brown and Mr. Wheeler went on about their
11 business, as they should. I don't want to be around them
12 and stuff. But they went about their business, and me and
13 the kids proceeded to where Ms. Hernandez was.

14 Q And by "Mr. Wheeler," do you mean Jeremy?

15 A Yes.

16 Q And so did Mr. Brown come to the bonfire?

17 A I don't -- I recall him coming around the fire when
18 it was, like, time for us to leave, but I don't remember
19 him being right beside it.

20 Q Okay. Do you know where he was? You may not know.

21 A No.

22 Q From where you were, could you see his -- y'all's
23 car?

24 A Mm-hmm.

25 Q And do you know if he was in it or not?

- 1 **A** No, ma'am.
- 2 **Q** You don't know or he wasn't?
- 3 **A** I don't know if he was in there or not.
- 4 **Q** What would you do?
- 5 **A** I was talking with Rebecca and her mother and the
- 6 kids that were there.
- 7 **Q** At any point, did **Z. S.** and **MINOR** leave the bonfire?
- 8 **A** Mm-hmm. Yes, ma'am.
- 9 **Q** And what did they leave for her?
- 10 **A** To retrieve -- I don't recall what it was, but I
- 11 know they went to retrieve -- I think it was a snack or
- 12 something from the car.
- 13 **Q** And did they come back?
- 14 **A** Yes.
- 15 **Q** Did you -- do you know how long they were gone at
- 16 all?
- 17 **A** No, ma'am.
- 18 **Q** When they came back, what did they do?
- 19 **A** Got back where they were at, at the back of the
- 20 truck.
- 21 **Q** And you said, at some point, Mr. Brown came up?
- 22 **A** Mm-hmm. When it was time for us to leave, he asked
- 23 if we were ready, and I said yes. We then got the kids
- 24 together and got in the truck and left.
- 25 **Q** Okay. When he came up, did he come alone?

1 **A** Yes. He came from one side, which would be the
2 driver's side, and he asked if I was ready to go, and I
3 said yes.

4 **Q** And where was Jeremy?

5 **A** Jeremy came from the left hand -- well, from the
6 passenger side. Not like towards the tailgate side, but
7 there were other people down there, so he may be
8 conversating with someone down there.

9 **Q** Okay. And when you say "passenger" and "driver,"
10 what vehicle are you talking about?

11 **A** The Expedition of Mrs. Rebecca Hernandez.

12 **Q** The one you were sitting in?

13 **A** Yes.

14 **Q** And when you say "other people down there," what do
15 you mean by "down there"?

16 **A** They had other people out there. We weren't just
17 the only ones that were out there. They had a lot of
18 people that were there.

19 **Q** And so he said it was time to leave. And then did
20 y'all leave?

21 **A** Mm-hmm.

22 **Q** And where did you go?

23 **A** Back to the hotel.

24 **Q** And same sleeping arrangements as the evening
25 before?

1 **A** Mm-hmm.

2 THE COURT: You might want to make sure she says
3 "yes" or "no." She's answering every question "mm-hmm,"
4 "mm-hmm."

5 THE WITNESS: Okay.

6 BY MS. HERRING LASH:

7 **Q** Please say "yes" or "no." This lady has to write
8 down what you're saying.

9 **A** Okay.

10 **Q** Same sleeping arrangements as the evening before?

11 **A** Yes.

12 **Q** And what, if anything, happened when you got back to
13 the hotel?

14 **A** When we got back to the hotel, all of the kids, they
15 had got their stuff together. We ate dinner, and
16 Miss **MINOR** asked me can she use her phone to call her
17 mother, and I allowed her to.

18 **Q** After she was on the phone with her mother, did you
19 speak with her mother?

20 **A** Yes, I spoke with Sheila.

21 **Q** And what had the plans been as far as when **MINOR**
22 was going home?

23 **A** **MINOR** was supposed to go home Sunday evening once I
24 got off.

25 **Q** And did those plans change?

1 **A** Yes.

2 **Q** What did they change to?

3 **A** Ms. Simmons asked me, then, to bring -- if I could
4 bring **MINOR** home that morning, and I told her yeah, I
5 would.

6 **Q** Now, were you able to bring her home or did you
7 work?

8 **A** I had to work that morning, so Mr. Brown was the one
9 that dropped her off.

10 **Q** And did he take her alone or with your children?

11 **A** With my children.

12 **Q** And do your children live near Sheila?

13 **A** Yes.

14 **Q** And did you hear from Sheila again that day?

15 **A** Yes.

16 **Q** About when was that?

17 **A** That was that -- that afternoon. She had called and
18 asked me -- actually, that was that morning. She called
19 and asked me to bring **MINOR**. She asked me to bring
20 **MINOR** home. The next day, she called, once Mr. Brown
21 dropped her off, and told me that she wanted me to come
22 down once I got off so that we can have a conversation.

23 **Q** Did she want you to come alone or maybe bring
24 Mr. Brown?

25 **A** She just wanted both of us to come.

1 Q To her home?

2 A Yes, ma'am.

3 Q Did y'all go?

4 A No, ma'am.

5 Q Why didn't you go?

6 A Mr. Brown had an emergency where we had to take him
7 to the emergency room.

8 Q And what was wrong with him?

9 A I don't remember what was wrong.

10 Q Did he stay in the emergency room?

11 A No, ma'am.

12 Q And after he came home, did y'all go then?

13 A No. We went back to the hotel because I was
14 exhausted. I worked and...

15 Q And did you continue to stay with Mr. Brown?

16 A Yes.

17 Q And did you eventually find out about what Sheila
18 had called you about?

19 A Yes.

20 Q And did you stay with him still?

21 A Yes.

22 Q And why was that?

23 A I stayed with Mr. Brown because he was my financial
24 provider. He provided -- he helped provide places --
25 well, we lived in a hotel, so, you know, he helped find

1 places for us to stay.

2 Q And was -- is it fair to say your sister was upset
3 with you?

4 A Yes.

5 Q And did that go on for some time?

6 A Yes.

7 Q Okay. Have you ever spoken directly to MINOR about
8 what happened?

9 A No.

10 Q She's not willing to talk to you about it?

11 A Well, I haven't questioned her really about it
12 because I didn't want to -- I didn't know if I was able
13 to, with everything that was going on.

14 MS. HERRING LASH: Court's indulgence for one
15 moment.

16 THE COURT: Yes.

17 BY MS. HERRING LASH:

18 Q Those are all the questions I have, Ms. Williams.
19 If you would answer any from the defense.

20 A Sure.

21 CROSS-EXAMINATION

22 BY MR. DAVIS:

23 Q May I call you Monique?

24 A Yes.

25 Q This happened -- you're out at the beach on June

1 18th of 2018?

2 **A** Yes, sir.

3 **Q** Isn't it true that you were working half a day that
4 day and you went to the beach in the afternoon after you
5 got off work?

6 **A** Yes.

7 **Q** You were working at Castle Keepers back then?

8 **A** Mm-hmm.

9 THE COURT: Is that a "yes"?

10 BY MR. DAVIS:

11 **Q** You need to say "yes" or "no."

12 **A** Yes.

13 **Q** Okay. Thank you.

14 **A** I'm sorry.

15 **Q** That's all right. That's okay.

16 In fact, Castle Keepers had you working at the
17 Frankie home over in Mount Pleasant?

18 **A** Yes.

19 **Q** That's off the Isle of Palms Connector?

20 **A** Yes.

21 **Q** So you got off work at noon and figured, "Hey, let's
22 go to the beach. Just had some graduations. We're going
23 to take the kids out there." Right?

24 **A** Yes, sir.

25 **Q** And y'all went in the Saturn Vue?

1 **A** Yes, sir.

2 **Q** Silver?

3 **A** Yes.

4 **Q** And you think Thomas drove out there and you drove
5 back?

6 **A** Yes.

7 **Q** Either way, let's talk about the car for just a
8 second.

9 **A** Yes, sir.

10 MR. DAVIS: May I approach the witness, Your Honor?

11 THE COURT: You may.

12 (Defendant's Exhibit No. 1, Photograph, was marked
13 for identification only.)

14 BY MR. DAVIS:

15 **Q** Actually, I'm going to show you what's been marked
16 as Defendant's Exhibit 1 for identification purposes.

17 **A** Yes, sir.

18 **Q** Take a second. I'm going to ask you a couple
19 questions, but first, let's take a second to look at that
20 photo.

21 Does that look like the vehicle?

22 **A** Yes, sir.

23 **Q** Okay.

24 **A** That is the vehicle.

25 **Q** So it's a four-door SUV?

1 **A** Yes.

2 **Q** But it's a smaller SUV?

3 **A** Yes.

4 **Q** It has a back hatch that lifts up?

5 **A** Yes, sir, it does.

6 **Q** But, on the one y'all were in, the -- a couple of
7 the hinges weren't working; right?

8 **A** The hinges weren't working?

9 **Q** For the back thing. For the back door, the back
10 trunk?

11 **A** I don't recall the hinges not working correctly.

12 **Q** Okay. You don't remember having to lift it up and
13 hold it up because they wouldn't support it?

14 **A** Oh, yeah. That.

15 **Q** Okay. So you'd have to hold it up. It wouldn't
16 support it.

17 **A** Mm-hmm.

18 **Q** So if people are piling in through the back, someone
19 had to be standing there, holding it; correct?

20 **A** Yes, sir.

21 **Q** So it's probably easier if people go in through the
22 doors; correct?

23 **A** Yes, sir.

24 **Q** Okay. So you went to the beach on that Saturday
25 after you got off work?

- 1 **A** Yes, sir.
- 2 **Q** But you knew that you had this other event in
3 Cottageville later?
- 4 **A** Yes, sir.
- 5 **Q** So it wasn't a real long time at the beach?
- 6 **A** No.
- 7 **Q** Didn't take a bunch of chairs out there?
- 8 **A** We didn't take any chairs. Just --
- 9 **Q** Didn't take --
- 10 **A** -- towels.
- 11 **Q** Sorry. Go ahead.
- 12 **A** Just towels.
- 13 **Q** Didn't take a big ol' umbrella?
- 14 **A** Nope.
- 15 **Q** Buckets?
- 16 **A** No, sir.
- 17 **Q** Shovels, nothing like that?
- 18 **A** No, sir.
- 19 **Q** Okay. So when you came back to the vehicle, you
20 didn't have a bunch of stuff to load in.
- 21 **A** Just their towels.
- 22 **Q** Just their towels.
- 23 And now, Fannie and John --
- 24 **A** Yes, sir.
- 25 **Q** -- your mom and dad --

1 **A** Yes, sir.

2 **Q** -- parked right behind you?

3 **A** Yes, sir.

4 **Q** They're getting in their vehicle, and you're getting
5 the kids into your vehicle?

6 **A** Yes, sir.

7 **Q** And you're watching out for **MINOR**, too?

8 **A** Well, I was watching out for all the kids, right.

9 **Q** All your kids, but she was the same age as your son?

10 **A** Yeah.

11 **Q** So there's not a lot to pack up, but then you're
12 going to -- you're going to get in the vehicle quicker
13 because there's a snake there; right?

14 **A** Yes.

15 **Q** On January 25th -- so one week after this
16 happened -- you went with Thomas for him to turn himself
17 in to the Isle of Palms Police Department?

18 **A** Yes, I did.

19 **Q** You went to the bond court the next day?

20 **A** Yes, I did.

21 **Q** Do you remember telling the judge at the bond court
22 that this didn't happen?

23 **A** I don't remember telling him that. I remember
24 telling him the same thing that I've been telling
25 everybody. I can't say whether it happened. I can't say

1 whether it did not happen because it wasn't complained of.

2 I wasn't watching for that. Why would I be watching for
3 that stuff -- for that type of activity?

4 Q And so, to my question, do you recall telling the
5 judge at bond court this didn't happen?

6 A I don't recall that, no.

7 Q So that I'll be clear, are you saying that Thomas
8 stayed with you and your kids and MINOR at the Master's
9 Inn Friday and Saturday night?

10 A Yes.

11 Q So he didn't go home and stay with his mom?

12 A No. We lived at the Master's Inn.

13 Q Okay.

14 A That was our place of residence.

15 Q Sure, sure. But on this weekend, when you have your
16 kids with you --

17 A Mm-hmm.

18 Q You need to say "yes" or "no."

19 A Yes, sir.

20 Q That's all right.

21 A I'm sorry. Thank you.

22 Q So, this weekend, it wasn't just you and Thomas at
23 the hotel?

24 A No, sir.

25 Q Your kids --

1 **A** Yes, sir.

2 **Q** Four --

3 **A** Three boys and one girl.

4 **Q** Four kids. And then also **MINOR** ?

5 **A** Yes, sir.

6 **Q** Crowded hotel room?

7 **A** Yes.

8 **Q** And so you're saying, both Friday and Saturday, he
9 stayed there and wasn't at his mom's house?

10 **A** Yes.

11 **Q** Okay. Can you give me just one second?

12 **A** Yes, sir.

13 (Pause in the proceedings.)

14 **Q** Ms. Williams, I don't have any other questions.

15 Thank you.

16 **A** You're welcome.

17 THE COURT: Redirect?

18 REDIRECT EXAMINATION

19 BY MS. DAVIS:

20 **Q** Back when -- right after this occurred, you had not
21 spoken to **MINOR** or Sheila about what had occurred?

22 **A** When I first found out what happened was the night
23 that the police came to my door at Master's Inn.

24 **Q** And you found out from the police?

25 **A** No, I did not find out from the police. And I found

1 out from Sheila. The police came. They would not give me
2 information about what it was. All they told me they did
3 was arrested him for a warrant. And I went with that.

4 Then, once they got him in the police car and they
5 were sitting there, I jumped on the phone and I called my
6 sister, my go-to person. And so I called her and was then
7 notifying her that Mr. Brown had been just locked up, what
8 do I do?

9 And so she told me, she said, "Well, come down to
10 the house" --

11 MR. DAVIS: Objection, Your Honor.

12 THE COURT: Sustained.

13 BY MS. DAVIS:

14 Q Yeah, I'm not asking you what -- but my question is,
15 did **MINOR** explain to you what had happened?

16 A No.

17 Q Has she ever?

18 A No.

19 MS. DAVIS: Those are all the questions I have.

20 THE COURT: All right. Anything further?

21 MR. DAVIS: No, Your Honor.

22 THE COURT: All right. You have a good day.

23 THE WITNESS: Thank you.

24 THE COURT: Call your next witness.

25 MS. DAVIS: The State calls Sheila Simmons.

1 SHEILA SIMMONS

2 after having been duly sworn, was examined and
3 testified to as follows:

4 THE CLERK: Please state your name for the record
5 and spell your last name.

6 THE WITNESS: Sheila Simmons. S-i-m-m-o-n-s.

7 DIRECT EXAMINATION

8 BY MS. DAVIS:

9 Q Good afternoon. Where do you live?

10 A [REDACTED] Huger Street.

11 Q Is that downtown?

12 A Yes, ma'am.

13 Q Who lives at your house?

14 A Myself, MINOR [REDACTED], and two other children.

15 Q Are you MINOR [REDACTED]'s mom?

16 A Yes, ma'am.

17 Q How are you related to Monique?

18 A She's my sister.

19 Q Do you remember when you met Thomas Brown?

20 A Not exactly.

21 Q About how long ago was it?

22 A Maybe around nine years ago. Eight or nine.

23 Q Did Thomas and Monique ever live at your home for a
24 while?

25 A They did.

1 Q Do you know when that was?

2 A Not exactly.

3 Q Would it have been before June of 2018?

4 A Yes.

5 Q And how did you get along with him while he was
6 living there?

7 A We got along fine.

8 Q Did he get along with your children?

9 A Yes.

10 Q Did your sister's children live with her?

11 A No.

12 Q Where do they live?

13 A With their father.

14 Q Does MINOR spend time with her cousins?

15 A She do.

16 Q Did she used to spend more time with her cousins?

17 A At my house.

18 Q At your house?

19 Did MINOR have plans to spend the weekend with her
20 cousins in June of 2018?

21 A Yes, ma'am.

22 Q What was that occasion?

23 A If I'm not mistaken, Z. S. or J. S. was
24 graduating, and they wanted to go to the beach just to
25 celebrate.

1 Q Had MINOR graduated?

2 A Yes.

3 Q Had MINOR ever been off with Monique and Thomas
4 without you before?

5 A Not until that day.

6 Q And was the plan for her to stay the whole weekend?

7 A Yes, ma'am.

8 Q Did you hear from her at one point during the
9 weekend?

10 A I did.

11 Q Do you remember what night that was?

12 A I don't.

13 Q Would it have been the night before she came home?

14 A I'm not sure. I know that she didn't stay the whole
15 weekend.

16 Q Okay. She was supposed to stay the whole weekend --

17 A But she didn't.

18 Q -- but she didn't. Okay.

19 And tell me about her phone. Did she have a cell
20 phone back then?

21 A Yes, ma'am.

22 Q What kind of service did it have?

23 A Wi-Fi.

24 Q Wi-Fi.

25 Do you remember receiving a text from her?

1 **A** I did.

2 **Q** And did you two have a back and forth?

3 **A** We did.

4 **Q** What did you tell her to do with those text messages
5 between the two of you?

6 **A** To delete them.

7 **Q** And why did you tell her to do that?

8 **A** Because, at that point, she was at my sister's, and
9 my sister had that right to go through her phone, and I
10 didn't know what the issue was because **MINOR** made the
11 statement at that time to keep confrontation down. So to
12 keep it down, I told her to delete it and we'll discuss
13 whatever her issue was when she got home.

14 **Q** Okay. And before **MINOR** left to go with Monique and
15 Thomas that weekend, were there any problems between you
16 and Thomas?

17 **A** No.

18 **Q** So after you talked to **MINOR**, did you speak to your
19 sister?

20 **A** I texted her. If I'm not mistaken, I texted her.

21 **Q** And did you tell her there was a problem?

22 **A** I told her that I needed **MINOR** to come home. We
23 had something to do.

24 **Q** Okay. And you said she was not originally supposed
25 to come home that Sunday morning?

1 **A** She wasn't.

2 **Q** Okay. Who brought her home?

3 **A** Thomas.

4 **Q** Did you see him?

5 **A** Yes.

6 **Q** What happened when he dropped her off?

7 **A** When he dropped her off -- I was upstairs where I
8 could see through the window. So I saw the car. When it
9 came in, I headed downstairs. By the time he turned
10 around and had his car back down the driveway, **MINOR** was
11 already in the house by the stairway. When I got to her,
12 she had already broken down.

13 So I asked her what was wrong, and she started to
14 talk. And I took off to the door to go stop him, but he
15 kept going.

16 **Q** What do you mean, "He kept going"?

17 **A** He pulled out of the parking lot as if he didn't
18 hear me yell or waving my hand.

19 **Q** And you said **MINOR** was breaking down. What do you
20 mean by that?

21 **A** From the situation she was going through. When she
22 started to tell me what he said to her, she broke down
23 from it.

24 **Q** Was she crying?

25 **A** Yes.

1 **Q** Did she disclose to you that he said something to
2 her?

3 **A** She did.

4 **Q** So after speaking with her, did you contact anybody?

5 **A** I tried to wrap my head around the situation. My
6 next step was, after trying to get in contact with them --
7 I didn't get in contact -- I proceeded to call my mom and
8 ask her whether she thought what was the best thing for me
9 to do.

10 MR. DAVIS: Objection, Your Honor. Hearsay.

11 THE COURT: Sustained.

12 BY MS. DAVIS:

13 **Q** So without telling me about actual words that you
14 spoke with other people, you said you reached out to
15 "them." Who are they?

16 **A** Thomas and Monique.

17 **Q** Okay. And what did you want them to do?

18 **A** I wanted them to come back to my house.

19 **Q** And you said you weren't able to get in contact with
20 them?

21 **A** Not at that point.

22 **Q** Did they not come to your house?

23 **A** No.

24 **Q** Do you know why they didn't come?

25 MR. DAVIS: Objection, Your Honor. Calls for

1 speculation.

2 THE COURT: Sustained.

3 BY MS. DAVIS:

4 Q So then you called your mom?

5 A Yes.

6 Q And you got some advice from her?

7 A Yes.

8 Q And after you got that advice, what'd you do?

9 A I called the police.

10 Q Did you communicate with the police from Isle of
11 Palms about what MINOR had disclosed to you?

12 A When I called them -- I called the City, and the
13 City connected me with them. Someone called me back.

14 Q So you spoke with the Isle of Palms eventually?

15 A Yes.

16 Q Did you ever get a chance to talk to Thomas about
17 it?

18 A No, ma'am.

19 Q Do you remember taking MINOR to get interviewed?

20 A Yes, ma'am.

21 Q Where was that? The Children's Center?

22 A Dee Norton on King Street.

23 Q Okay. Did you ever tell Monique or her children
24 what MINOR said he told her?

25 A I spoke to my sister later about it.

1 **Q** Have you seen Thomas since he drove off from your
2 house that day?

3 **A** No, ma'am.

4 **Q** Not before today?

5 **A** Not before today.

6 **Q** Those are all my questions.

7 **A** Thank you.

8 THE COURT: Cross?

9 MR. DAVIS: One moment, Your Honor.

10 CROSS-EXAMINATION

11 BY MR. DAVIS:

12 **Q** Ms. Simmons, you just told the jury that you got in
13 contact with the Isle of Palms Police Department; right?

14 **A** Yes, sir.

15 **Q** Do you remember that you spoke to an Officer Molino?

16 **A** I don't remember the officer's name.

17 **Q** That's all right. That's all right.

18 And you talked to him on the phone, and I believe
19 you also sent an email to him. Do you remember?

20 **A** Yes.

21 **Q** Did you -- can you tell the jury if you talked to
22 any other officers from the Isle of Palms Police
23 Department?

24 **A** I think it was another representative or someone, a
25 young lady.

1 Q Would that have been Detective Tarr?

2 A Yes.

3 Q Okay. Other than Officer Molino -- Molino and
4 Detective Tarr, did you talk to anyone else from the Isle
5 of Palms Police Department?

6 A Not that I can recall.

7 Q Okay. Now, that was -- this is -- the incident
8 you're talking about was in 2018; correct?

9 A Yes, sir.

10 Q In leading up to today or this week and testifying,
11 you've spoken with the attorneys from the solicitor's
12 office?

13 A Correct.

14 Q You've met with them?

15 A Correct.

16 Q And probably before last week you've met with them;
17 right?

18 A Correct.

19 Q Back in 2018, did you tell either Detective Tarr or
20 Officer Molino that you told your daughter to delete the
21 messages?

22 A I did.

23 Q You told them that?

24 A I did.

25 Q Okay. And you also told the solicitors about that

1 when you met with them?

2 **A** I did.

3 **Q** Did you tell them about the first time you met with
4 them?

5 **A** Maybe. I'm not sure.

6 **Q** Let me ask it a better way; that's probably not
7 fair. Let me ask it a better way.

8 Had you told it to them before just recently?

9 **A** Yes.

10 **Q** And not only did you tell your daughter to delete
11 her messages, you deleted yours as well?

12 **A** I did.

13 **Q** You did?

14 **A** I did.

15 **Q** Okay. Ms. Simmons, give me just one second.

16 (Pause in the proceedings.)

17 **Q** Thank you, Ms. Simmons. No other questions.

18 MR. DAVIS: Thank you, Your Honor.

19 THE COURT: Redirect?

20 REDIRECT EXAMINATION

21 BY MS. DAVIS:

22 **Q** These text messages we're talking about, did **MINOR**
23 tell you what the defendant said to her in those text
24 messages?

25 **A** No, ma'am.

1 **Q** She didn't quote him?

2 **A** No.

3 MS. DAVIS: No further questions.

4 THE COURT: You may step down. Thank you.

5 Any other witnesses?

6 MS. DAVIS: The State calls Thomas Molino.

7 OFFICER THOMAS MOLINO III

8 after having been duly sworn, was examined and

9 testified to as follows:

10 THE CLERK: Please state your name for the record
11 and spell your last name.

12 THE WITNESS: Thomas Elliott Molino, III. Last name
13 is spelled M-o-l-i-n-o.

14 DIRECT EXAMINATION

15 BY MS. DAVIS:

16 **Q** Good afternoon.

17 **A** Good afternoon.

18 **Q** Where do you currently work?

19 **A** I currently work at the Berkeley County Sheriff's
20 Office.

21 **Q** How long have you worked for them?

22 **A** Since approximately January 2019.

23 **Q** And where did you work before that?

24 **A** I previously worked at the Isle of Palms Police
25 Department, which I began in 2017. And I previously also

1 worked at Charleston County 911 (ph) Center since 2015.

2 Q Did you work on this case?

3 A Yes.

4 Q Do you remember when you got this case?

5 A The evening hours of June 3rd, 2018.

6 Q How did this case come to you?

7 A It came to me through my supervisor at the Isle of
8 Palms Police Department after information was passed to
9 him from Charleston City Police Department.

10 Q And so what did you do when you got the case?

11 A I contacted the mother of the victim and spoke with
12 her on the telephone.

13 Q Sheila Simmons?

14 A Yes.

15 Q Did she end up sending you any information after you
16 spoke with her on the phone?

17 A Yes. She sent me an email about the conversation we
18 had on the phone.

19 Q Sorry?

20 A She sent me an email about the conversation that we
21 had on the phone.

22 Q Okay. Did she give you a summary of the allegations
23 in this case?

24 A Yes, she did.

25 Q From the information that she sent you, did you gain

1 an understanding of what date the crime took place?

2 **A** Yes. The previous date, which was June 2nd, 2018.

3 **Q** And from the information that she sent you, did you
4 gain an understanding of where this crime took place?

5 **A** Yes. Next to a car, on the roadside within Isle of
6 Palms in Charleston County.

7 **Q** Did this email include a summary of both times he
8 asked the question?

9 **A** Yes.

10 **Q** Are you aware of the location where this cookout
11 that he solicited her a second time was?

12 **A** An area known as Good Hope Boat Landing, which is
13 located within Colleton County.

14 **Q** How far away is that from the Master's Inn in North
15 Charleston where the defendant and his girlfriend had been
16 living?

17 **A** Approximately 30 miles.

18 **Q** Did you personally ever speak with the victim,

19 MINOR [REDACTED]?

20 **A** I did not.

21 **Q** Why not?

22 **A** The victim of the case is 11 years old. She's a
23 juvenile. When we deal with a serious allegation such as
24 this or a serious matter like this, it's imperative that
25 we not repeatedly subject the child to such harsh

1 questioning, as it can be traumatic to that child. For
2 that reason, there are trained professionals that do
3 forensic interviews of children. And so we send the child
4 to have that forensic interview done professionally.

5 **Q** So what did you do after getting the email from
6 Sheila's mom -- from MINOR's mom?

7 **A** After I got that email, I also attached that to a
8 copy of my police report, which I was submitting that
9 night.

10 **Q** Did you notify anyone about the crime?

11 **A** Yes. When dealing with significant incidents such
12 as this, I notified my direct supervisor, and I also sent
13 a brief synopsis or summary to my detectives, which were
14 also included in the Isle of Palms Police Department.

15 **Q** So what happened with the case after you notified
16 your supervisor?

17 **A** It was assigned to Detective Diane Tarr, who was
18 also a victim advocate in our department, so she could
19 arrange the forensic interview of the victim.

20 **Q** Are you aware if Diane Tarr is still working in law
21 enforcement?

22 **A** No. Diane Tarr retired briefly after I transferred
23 to Berkeley County from Isle of Palms.

24 **Q** Would that have been 2019?

25 **A** Yes.

1 Q Are you aware how her health is?

2 A Yes. Through my time working with her, she had
3 always had chronic health issues, and since she's retired,
4 her health has significantly deteriorated. She has
5 chronic illnesses that prevent her from enjoying everyday
6 life.

7 Q You said they prevent her from enjoying everyday
8 life?

9 A Yes.

10 Q Do they prevent her from traveling to court today?

11 A Yes.

12 Q You mentioned how protocol dictates that MINOR
13 should have been taken to the Children's Center for a
14 forensic interview. Do you know if this was set up?

15 A Yes. Detective Tarr did make arrangements with
16 reaching out to the Children's Advocacy Center and
17 scheduled an interview. And then Diane did attend that
18 interview on that date that it was scheduled.

19 Q Do you know if she attended it from the same room or
20 a different room?

21 A From a different room.

22 Q Okay. Do you know if she was able to observe it
23 while it was going on?

24 A To my knowledge, yes.

25 Q That's because there's a video camera in the room?

1 **A** Yes.

2 **Q** Do you know if Detective Tarr ever spoke with the
3 victim herself?

4 **A** No. Again, it's the best protocol to have the
5 forensic interview done with the child, with the
6 professional forensic interviewer, so she did not see the
7 victim herself.

8 **Q** Through your involvement in this case, do you know
9 how old the defendant was on June 2nd, 2018?

10 **A** Yes. The defendant was 39 years of age at the time
11 of the incident. He was born July 29th, 1978.

12 **Q** And through your involvement in this case, do you
13 know how old the victim, MINOR [REDACTED], was when this
14 occurred?

15 **A** Yes. The victim was 11 years of age at the time of
16 the incident. She was born [REDACTED], 2006.

17 **Q** Did you have any other involvement in this case?

18 **A** I assisted Detective Tarr with serving her arrest
19 warrant. I read him his Miranda at the station. I put
20 him in my police car. I transported him to the Charleston
21 County Detention Center where he was booked in on that
22 warrant to go to a bond hearing.

23 **Q** And when you say "her arrest warrant," you mean
24 whose?

25 **A** The arrest warrant for the defendant.

1 Q That Diane Tarr took?

2 A Yes.

3 Q No further questions. Thank you.

4 THE COURT: Cross?

5 CROSS-EXAMINATION

6 BY MR. DAVIS:

7 Q Officer Molino, let me clear up one thing. It's
8 something I've been doing. The incident date was
9 June 2nd, 2018? The incident date?

10 A Yes.

11 Q I may have said June 18th before. It was this
12 June 2nd of 2018; correct?

13 A Yes.

14 Q Okay. Moving ahead to June 25th of 2018, Thomas
15 turned himself in to you and Detective Tarr at the Isle of
16 Palms Police Department.

17 A You said June 25th?

18 Q Yes, sir.

19 A That's correct.

20 Q So he came to you to get served with a warrant to
21 get handcuffed and you drove him to the jail?

22 A He came to me with Detective Tarr so she could serve
23 the warrant.

24 Q Correct. I apologize. I'm just -- for the jury,
25 you were there?

1 **A** Yes.

2 **Q** And in addition, you kind of looked to check
3 something. You checked your report there?

4 **A** Yes.

5 **Q** Your involvement would have included knowing what --
6 knowing things that Detective Tarr did; correct?

7 **A** To a degree, yes.

8 **Q** I'm sorry?

9 **A** To an extent, yes.

10 **Q** Some of the things the solicitor asked you about?

11 **A** Yes.

12 **Q** Okay. So I want to talk about that just a little
13 bit more. We already explained to the jury why there was
14 not a law enforcement interview with **MINOR**, because of
15 her age; correct?

16 **A** Correct.

17 **Q** And there's another place that she'd be taken, since
18 she's a child, to be interviewed; correct?

19 **A** Yes. The Children Advocacy Center.

20 **Q** I'm sorry?

21 **A** The Children's Advocacy Center.

22 **Q** Correct.

23 There were -- you were aware that there were four
24 other children on the Isle of Palms when this allegedly
25 happened?

1 **A** There was a group of children that were also in
2 attendance on the beach that day.

3 **Q** Similar to **MINOR**, because of their ages, they were
4 not being interviewed by law enforcement?

5 **A** Correct.

6 **Q** They were then interviewed at the Advocacy Center?

7 **A** Yes.

8 **Q** Okay. But there were also adults there; correct?

9 **A** Yes.

10 **Q** In addition to Thomas?

11 **A** I believe they traveled to the beach with the aunt
12 of the victim.

13 **Q** In addition to the aunt, then the aunt's parents as
14 well in another vehicle?

15 **A** I can't say for certain. I didn't get into those
16 facts with...

17 **Q** To be clear, you didn't interview the aunt?

18 **A** I did not.

19 **Q** And if there were any other adults, you didn't
20 interview them either?

21 **A** No.

22 **Q** And you're not aware that -- if Detective Tarr did?

23 **A** Not to my knowledge.

24 **Q** Okay. Well, let me just be clear there, and I know
25 this is awkward because of her health. Do you know

1 whether she did or not, meaning she didn't or you just
2 don't know?

3 **A** Detective Tarr made the appointment for the child to
4 be interviewed at the Child Advocacy Center.

5 **Q** But as to adults, do you know for sure whether she
6 interviewed any adults or not?

7 **A** No.

8 **Q** Back when you were working with the Isle of Palms
9 Police Department, your jurisdiction was the city limits
10 of the Isle of Palms; correct?

11 **A** Correct.

12 **Q** Officer, can you give me just one second, please.

13 (Pause in the proceedings.)

14 **Q** Just a couple more questions, Officer Molino.

15 Were you ever provided any text messages from **MINOR**
16 or her mother?

17 **A** I do not recall being provided any text messages. I
18 do recall that the mother had disclosed or told me that
19 she received a text that she -- that the victim wanted to
20 be picked up or to go home on the night of the incident of
21 June 2nd.

22 **Q** You were made aware of it?

23 **A** Yes.

24 **Q** Did you ever view or were taken into evidence the
25 text?

1 **A** No.

2 **Q** Were you ever told by the mother that, in fact,
3 after it was received, it was deleted?

4 **A** No.

5 **Q** Officer, thank you so much.

6 MR. DAVIS: No other questions.

7 THE COURT: Redirect?

8 MS. DAVIS: None.

9 THE COURT: You may step. Thank you.

10 Call your next witness.

11 MS. HERRING LASH: Your Honor, the next witness --
12 we have a brief matter before the Court.

13 THE COURT: Members of the jury, if you would step
14 into the jury room.

15 (The jury exited the courtroom at 12:23 p.m.)

16 STEPHANIE McKEE

17 after having been duly sworn, was examined and
18 testified to as follows:

19 THE CLERK: Please state your name for the record
20 and spell your last name.

21 THE WITNESS: Stephanie McKee. M-c-K-e-e.

22 PROFFERED DIRECT EXAMINATION

23 BY MS. HERRING LASH:

24 **Q** Ms. McKee, where do you work?

25 **A** The Dee Norton Child Advocacy Center.

1 Q And is part of your job there to do forensic
2 interviews of children?

3 A Yes, it is.

4 Q And do you have training on doing those interviews?

5 A Yes, I do.

6 Q When did you first receive your investigative
7 training?

8 A In July of 2014.

9 Q And did you -- what did you attend for that?

10 A I attended the Child First South Carolina training.

11 Q Is that five-day training --

12 A Yes.

13 Q -- that forensic interviewers must go to?

14 A Yes.

15 Q And after going through that training, were you then
16 certified or you get a diploma, I guess, to do forensic
17 interviews?

18 A Yes.

19 Q And throughout the years, have you done follow-up
20 forensic interview training?

21 A Yes. We do continuing education as well as peer
22 reviews.

23 Q Do you remember about how many reviews you've done?

24 A They do them quarterly every year. These last
25 couple of years have been a little bit different with

1 COVID, but --

2 Q Everything is.

3 A Yeah.

4 Q And so when you interviewed MINOR [REDACTED], was that
5 in June of 2018?

6 A Yes.

7 Q And you had received this training and follow-up
8 training?

9 A That's correct.

10 MS. HERRING LASH: Your Honor, at this point, we'd
11 just offer that she has had the appropriate training as
12 required by the statute.

13 THE COURT: All right. Any objections?

14 MR. DAVIS: No objections and no questions on that
15 issue.

16 THE COURT: Your motion is granted.

17 MS. HERRING LASH: And that's the only thing
18 in camera that we had.

19 THE COURT: Okay. Why don't we take a short break
20 and then we'll come back and do her.

21 MS. HERRING LASH: Okay. Thank you, Your Honor.

22 (A brief recess was taken from 12:27 p.m. to 12:33
23 p.m.)

24 MS. HERRING LASH: Your Honor, just -- Mr. Davis did
25 get a chance to look at the redacted copy, and he agreed

1 that what he wanted to be taken out was taken out.

2 THE COURT: Is that correct?

3 MR. DAVIS: Yes.

4 MS. HERRING LASH: And that is the one that I will
5 play while Ms. McKee is on the stand.

6 (Court's Exhibit No. 1, Interview Disk, was marked
7 for identification and received into the record.)

8 THE COURT: If you'll go ahead and bring in the
9 jury.

10 MR. DAVIS: Judge, can you hold just for one second?
11 I apologize. Just a housekeeping matter.

12 I have taken to the court reporter a disk which
13 contains the brief impeachment portion that was played in
14 camera. And so she has it and it's been marked, I
15 believe, as a Court's exhibit. I told the State that; we
16 did that over the break.

17 And I've had a chance, over the break, to review the
18 redacted video we talked about in your chambers first
19 thing this morning. I reviewed it, and I have no
20 objection to the content, and then we'll see about the
21 testimony (indiscernible) to the content of the CD. Thank
22 you, Your Honor.

23 THE COURT: Okay.

24 (The jury entered the courtroom at 12:38 p.m.)

25 THE BAILIFF: All jurors are present, Your Honor.

1 THE COURT: All right. You may call your witness.

2 MS. HERRING LASH: The State has called Stephanie
3 McKee.

4 THE COURT: And you're sworn in so you're good.

5 STEPHANIE McKEE

6 after having been previously duly sworn, was
7 examined and testified to as follows:

8 DIRECT EXAMINATION

9 BY MS. HERRING LASH:

10 Q Ms. McKee, where do you work?

11 A The Dee Norton Child Advocacy Center.

12 Q And how long have you worked there?

13 A Eight years.

14 Q And as part of your job there, do you assist law
15 enforcement by interviewing children?

16 A Yes, I do.

17 Q And, in that capacity, did you see MINOR [REDACTED] ?

18 A Yes, I did.

19 Q When did you see her?

20 A June 18th, 2018.

21 Q And did anyone accompany her to the interview?

22 A Her mother and her aunt.

23 Q When you saw her, was she alone?

24 A Yes.

25 Q And when you saw her, did you interview her?

1 **A** Yes.

2 **Q** And was that interview recorded?

3 **A** Yes.

4 **Q** Was it audio- and video-recorded?

5 **A** Yes.

6 MS. HERRING LASH: And, Your Honor, at this time, we
7 would offer to play the recording of the interview.

8 MR. DAVIS: Judge, can we approach for one matter?

9 BENCH CONFERENCE

10 (The following bench conference was held at the
11 bench with attorneys present and outside of the hearing of
12 the jury and others:)

13 MR. DAVIS: Judge, I assume you're taking judicial
14 notice of --

15 THE COURT: This right here?

16 MR. DAVIS: Yes, sir. It's just that this is a
17 registry. We wanted you to take judicial notice. It is
18 the last (indiscernible).

19 MS. HERRING LASH: It is what?

20 MR. DAVIS: The offense of --

21 MS. HERRING LASH: Oh, yeah. Right.

22 THE COURT: What do you want to know?

23 MR. DAVIS: I don't know how that would be
24 presented.

25 MS. HERRING LASH: Yeah, I can't ask --

1 MR. DAVIS: Yeah. I'm just not -- I can't concede
2 -- the statute is here. And I'm just asking has that
3 (indiscernible) asking to take judicial notice of that.
4 And, Judge, the statute is here. It does -- I just can't
5 concede for my client that --

6 THE COURT: Concede what?

7 MR. DAVIS: That this offense is --

8 THE COURT: Had anything to do with it?

9 MR. DAVIS: It's the last thing to get it in. It's
10 the last requirement to get it in.

11 MS. HERRING LASH: It's just --

12 (Inaudible.)

13 MS. HERRING LASH: Okay, but -- and, Judge, will you
14 explain to them about the headphones? Or I can if you --

15 THE COURT: You're going to (indiscernible)?

16 MR. DAVIS: (Indiscernible).

17 [Open court resumes:]

18 MS. HERRING LASH: Your Honor, at this time, we
19 would ask you to take judicial notice that the statutory
20 obligation that the State must meet in order to play this
21 video have been met.

22 THE COURT: All right. They have been met.

23 MS. HERRING LASH: And the jury has headphones to
24 assist you in listening to this.

25 MR. DAVIS: Judge, with your ruling, I would just --

1 the reason we approached (indiscernible) our pretrial
2 issue, and now you've ruled on that. Thank you, Your
3 Honor.

4 MS. DAVIS: Is everyone's headphones on, on the
5 jury?

6 (Pause in the proceedings; technical difficulties.)

7 (Audio playing.)

8 MS. HERRING LASH: Your Honor, at this point, the
9 State would move into evidence, as published, State's
10 Exhibit No. 2.

11 THE COURT: Any objections?

12 MR. DAVIS: No new objections, Your Honor.

13 THE COURT: All right. State's No. 2 is into
14 evidence.

15 MS. HERRING LASH: It's three.

16 THE COURT: Three.

17 (State's Exhibit No. 3, Forensic Interview
18 Disk-Redacted, was marked for identification and received
19 into evidence.)

20 BY MS. HERRING LASH:

21 **Q** Those are all the questions I have, Ms. McKee. If
22 you would answer any that Mr. Davis has.

23 THE COURT: Cross?

24 MR. DAVIS: No questions for this witness, Your
25 Honor.

1 THE COURT: All right. You have a good day. Thank
2 you.

3 THE WITNESS: Thank you.

4 THE COURT: If you'll call your next witness.

5 MS. DAVIS: Court's indulgence.

6 The State rests.

7 THE COURT: Members of the jury, let's take a lunch
8 break until 2:30. As I've told you before, do not discuss
9 the case. Do not research the case. We'll be ready for
10 you at 2:30. Maybe we'll finish it.

11 (The jury exited the courtroom from 1:09 p.m. to
12 2:30 p.m.)

13 DEFENDANT'S RIGHTS

14 THE COURT: Mr. Davis, does your client intend to
15 testify?

16 MR. DAVIS: Judge, we have discussed it, obviously,
17 at length. It's my understanding, he does not.

18 I'm inclined to ask you -- we would ask for the
19 lunch break just in case, but I don't believe he will.

20 THE COURT: And Mr. --

21 THE DEFENDANT: Brown.

22 THE COURT: -- Brown?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: I want you to understand that this is
25 your case, and you do have the right to testify if you

1 would like. You can come over here, you can be sworn in,
2 and you can testify, and you can tell your side of the
3 story as you and your lawyer see fit.

4 However, I want you to understand that, if you do
5 testify, you may be cross-examined on any and all relevant
6 issues in connection with your case.

7 Furthermore, if you have a criminal record that
8 involves crimes of dishonesty or false statements or
9 crimes that carry a punishment of more than one year and
10 the Court determines that the probative value of admitting
11 same outweighs its prejudicial effect, then your criminal
12 record will be introduced to attack your credibility. Do
13 you understand that?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Furthermore, do you understand that you
16 have the constitutional right to remain silent? And if
17 you chose to exercise that right, I would tell that jury
18 they cannot use that against you in any way. I would even
19 tell that jury they cannot talk about that fact in the
20 jury room. Do you understand that?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Do you have any questions about your
23 right to remain silent for me or your lawyer at this time?

24 THE DEFENDANT: No, sir.

25 THE COURT: All right. Why don't you talk with your

1 lawyer at the lunch break and let me know if you want to
2 testify or not when we come back.

3 MR. DAVIS: And, Judge, one additional thing we've
4 talked about -- and I just want this on the record -- we
5 talked about that, other than him, we would not intend to
6 call anyone. We've not admitted anything into evidence.
7 And if we don't present, then I will get last argument.
8 And I've talked to him about that, and I'm sure that would
9 weigh in his decision.

10 THE COURT: Okay. Can you take a look at the charge
11 real quick before lunch?

12 MR. DAVIS: Sure.

13 THE COURT: All right. Let me grab him real quick.

14 (Pause in the proceedings.)

15 THE COURT: Got the charge up here, if you want to
16 look at it real quick, and let me know if you want to add
17 something to it.

18 MR. DAVIS: Is it already printed out?

19 LAW CLERK: Yeah, it's printing now.

20 MR. DAVIS: When we walked in here, I wasn't sure.

21 LAW CLERK: Except for one part that is...

22 MR. DAVIS: No objection to the solicitation of a
23 minor charge.

24 THE COURT: All right.

25 (Counsel conferring off the record.)

1 BENCH CONFERENCE

2 (The following bench conference was held at the
3 bench with attorneys present and outside of the hearing of
4 the jury and others:)

5 THE COURT: How about the rest of the charge?

6 MR. DAVIS: Judge, we don't have any objections to
7 these and the screen and the verdict form. I'll be happy
8 to -- I would ask you to consider a *Lyle* that -- the
9 purpose for the Cottageville testimony is not propensity
10 but one of the other factors.

11 THE COURT: (Indiscernible)?

12 MS. HERRING LASH: I think there is one
13 (indiscernible).

14 THE COURT: (Indiscernible) and then we'll come back
15 after lunch. I assume your objection is renewed. And
16 then we'll just bring the jury out. You can re-ask him
17 (indiscernible).

18 MR. DAVIS: I'll make a motion for (indiscernible).

19 THE COURT: Do you want to go ahead and make it now,
20 and, that way, you don't have to worry about it? Or do
21 you want to think about it?

22 MR. DAVIS: No, I was just -- this case -- this
23 statute, it's really for (indiscernible). We
24 (indiscernible) it should require an overt act. It
25 doesn't. But I think there's an argument on -- on that.

1 good lawyers.

2 All right. Would you like to put your objections or
3 motions on the record at this time?

4 MOTIONS

5 MR. DAVIS: Yes, Judge. Judge, we would renew all
6 previous objections, including our two pretrial issues
7 that were hashed out. In addition, Judge, we would ask
8 for a directed verdict in this case.

9 We discussed just briefly before taking a break for
10 lunch -- I'm aware that the actual statute that Mr. Brown
11 has been charged under does not have a required act,
12 meaning there's not -- it can be simply speaking. It
13 doesn't have to be an overt act by the language of the
14 statute and cases have held such.

15 But, Your Honor, I'd like to go a little deeper on
16 that. As we know, generally, most of the cases dealing
17 with this statute factually deal with online solicitation.
18 Just the majority of them do. And, in that case,
19 frequently -- not always, but frequently, the way that the
20 intent element of a statute is proven is by the overt act,
21 the traffic, what they bring with them, whether it be
22 alcohol, condoms, whatever.

23 To show -- the case where, "I was just going to go
24 and teach her a lesson to never talk like this to some
25 adult online," well, how did they prove intent in a case

1 like that? By the overt acts and what was done physically
2 by the defendant.

3 In the light most favorable to the State, we have a
4 touching by the hand on the shoulder or, in the uncharged
5 other jurisdiction, touching by the hand on the hand.
6 That, in and of itself, I don't believe proves intent.

7 So we would argue that the State -- this is not --
8 we will not limit our argument to this. If the Court
9 finds some other grounds to grant the direct verdict,
10 certainty we would take that. But we would argue that
11 some further evidence must be shown to prove the intent.

12 Here, I think the State might argue that these under
13 incidents (indiscernible) because they can't use --
14 propensity, it might be used for that. And of course we
15 were arguing and we continue to argue that, respectfully,
16 should not have (indiscernible).

17 So, Your Honor, we would ask you to direct a verdict
18 in this case. I don't think it's a matter that should be
19 left to the jury. It doesn't -- the State hasn't provided
20 sufficient proof to hand this over to the jury. And for
21 those reasons, we would respectfully ask you to direct a
22 verdict and we would respectfully ask for a ruling on our
23 previous motions and objections.

24 Thank you, Your Honor.

25 THE COURT: All right. Let me hear from the State.

1 MS. DAVIS: Yes, Judge.

2 As Mr. Davis stated, the facts to be considered in
3 the light most favorable to the State, there's ample
4 evidence in this case to put to a jury. We had testimony
5 of the defendant being over 18 and the victim being a
6 minor and of his communication with her, with the intent
7 of enticing her to perform a sexual act on him.

8 I think the communication in itself demonstrates the
9 intent that he had. Additionally, him asking a second
10 time, as you've previously ruled, goes towards that
11 intent. As I mentioned, I think it's more than enough to
12 have this go to a jury.

13 THE COURT: All right. I'm going to respectfully
14 deny the motions.

15 All right. I'm going to bring out the jury. You
16 can rest on the record, and I'll call on you for your
17 closing statement.

18 MR. DAVIS: Thank you, Your Honor.

19 THE COURT: Go ahead and bring out the jury.

20 MR. DAVIS: Oh, Judge, very quickly. And to our
21 prior motions and objections?

22 THE COURT: That is correct. They're all denied.

23 MR. DAVIS: Thank you, Your Honor.

24 THE COURT: Thank you.

25 (The jury entered the courtroom at 3:00 p.m.)

1 THE BAILIFF: All jurors are present, Your Honor.

2 THE COURT: If the defense would call your first
3 witness.

4 MR. DAVIS: Your Honor, the defense rests.

5 THE COURT: All right. The State is recognized for
6 your closing statement.

7 MS. DAVIS: May it please the Court?

8 THE COURT: Yes, ma'am.

9 CLOSING ARGUMENT ON BEHALF OF THE STATE

10 MS. DAVIS: If you believe MINOR told you the
11 truth, then the defendant is guilty.

12 At the beginning of this case, I told you that
13 MINOR's testimony is the most important part of this
14 case. It may seem to you that that was easy for her to
15 do, but believe me, participating in this prosecution for
16 four years, testifying before you, has not been easy.
17 Talking to 12 strangers in a courtroom full of people
18 about something she hasn't even told her cousins, her
19 grandmother, her aunt, it's not been easy.

20 None of those people -- people that are important to
21 her -- even knew what Thomas Brown had asked her that day
22 until they heard it in the forensic interview today in the
23 courtroom. That's how private she wanted to be.

24 She testified today. You watched her forensic video
25 from four years ago. The two are very consistent.

1 It may have seemed weird to you that Z. S. told you
2 she didn't know, but she had no reason to know because
3 MINOR didn't tell her. And she had no reason to remember
4 any details, anything specific about what happened at the
5 beach or at the bonfire because it was just a regular day
6 to her.

7 She was, however, able to corroborate lots of the
8 things that MINOR told you. She remembered the snake.
9 She remembered who drove and which car. She remembered
10 that they went back to the hotel and they went to the
11 cookout.

12 She told you that MINOR got kind of quiet when they
13 were at the cookout and that wasn't like her. She was
14 normally a happy young girl.

15 MINOR didn't want her family to know about this.
16 She didn't want to tell her aunt that night. She didn't
17 know how she was going to react. She waited until she was
18 home with her mother. If she were making this up, she
19 wouldn't care who knew. She would want people to know.
20 If you're making it up, she'd have some sort of motive or
21 reason that she wants people to know about. She'd have a
22 reason to make it up in the first place.

23 You heard from everyone who testified they got
24 along. Thomas lived with MINOR. They got along then.
25 He got along with Sheila. He was like a clown, many told

1 you. He played with the kids.

2 There were no issues that day. She didn't get in
3 trouble. She had no reason to lie. She had no reason to
4 hold on to what happened to her for four years and come
5 back today, the last week of school, and testify in front
6 of 12 strangers about what he asked her.

7 She told you about it because it's the truth. She
8 told her mom about it because she was afraid. She was
9 afraid his next step would be to take action.

10 As I mentioned earlier and as the judge will tell
11 you, y'all are going to be charged with assessing
12 credibility in this case, all of the witnesses, especially
13 MINOR. Even when the defense asked her had she ever lied
14 to her mother, she admitted she had. Kids do lie
15 sometimes. All people lie sometimes. Adults are usually
16 just better at it.

17 When you tell your mother a white lie, you have a
18 reason. MINOR had no reason to make this up.

19 When you look at this case, use your common sense.
20 It makes total sense that Thomas would not have drawn
21 attention to yourself or to he and MINOR being near the
22 car. He wouldn't have asked her loudly so other people
23 could hear. He would have done nothing to draw attention.
24 And no one at the car was paying attention to MINOR or
25 Thomas between the snake and getting the keys out of the

1 car that was locked. Why would anyone be paying attention
2 to Thomas and MINOR?

3 And it wouldn't have taken very long for him to ask
4 such a simple, short question. No one knew that day what
5 he was saying except for Thomas and MINOR. And they
6 didn't pay attention to how they sat in the car, what they
7 did at the beach, what they ate, what time they left the
8 beach. None of that was important on that day.

9 We're in June 2022 now. This crime happened four
10 years ago. That's a long time. And MINOR doesn't
11 remember a lot of things from back then or even that
12 weekend. There are a lot of things she testified she
13 didn't remember.

14 She remembers this: She remembers that a man she
15 knew, who was always nice to her, who acted like a clown,
16 violated her trust that day when he solicited her for a
17 sexual act when she was 11 years old.

18 Monique. Monique stayed with Thomas for a while,
19 even after she knew that he got arrested. She told you it
20 was because he was the breadwinner and stayed at a hotel
21 together. She didn't really have many options. That's
22 not a good reason. She shouldn't have stayed with him,
23 but she did.

24 She told you she doesn't have custody of her own
25 children. That should give you some indication of her

1 judgment.

2 You also heard from Officer Molino, that Detective
3 Tarr, the detective on this case, she couldn't come and
4 testify; she's got chronic health issues that prevented
5 her from coming to court.

6 The defense is going to point out that the police
7 didn't meet with and interview the adults that were at the
8 beach that day. But you heard from that stand, from every
9 adult that was there, except for MINOR's grandfather, who
10 we know had been drinking. And what they told you when
11 they testified was that they weren't paying attention.
12 They wouldn't know if he did or didn't ask. That's why
13 MINOR's testimony is the most important part of this
14 case.

15 Now, the judge is going to give you some
16 instructions. He's going to talk to you about the law,
17 about the State's burden, about your jobs. He's also
18 going to mention to you impeachment. When he mentions
19 this, what he's talking about is, while MINOR was on the
20 stand, Ms. Luthringer was asking her questions. She asked
21 her did she remember that Monique and Thomas chased the
22 snake away, and that wasn't how MINOR remembered it. We
23 took a break. When we came back, MINOR said, yes, that
24 is right. And then, after that, that was when the
25 defendant came around the car, touched her arm, and asked

1 this question.

2 You were able to see the forensic interview that she
3 reviewed in order to remember that that's what she said.
4 So you heard what she said. He was over there, and then
5 he came back to the car to where MINOR was.

6 And it makes sense that MINOR wouldn't have been
7 paying attention to where everybody else was, and they
8 wouldn't have been paying attention to where Thomas was or
9 where she was. And like the defense says, this happened
10 when -- you know, they weren't hanging out on the road or
11 staying for a half-hour.

12 The judge is also going to instruct you on something
13 called *Lyle*. When he's talking about this, it's because
14 what the defendant said in Cottageville at the bonfire
15 when he asked her a second time, that can't be charged in
16 Charleston County. We can only charge him for an act
17 committed in our jurisdiction. So when you get the
18 indictment through deliberation, it's not going to mention
19 anything that happened in Colleton County.

20 But you did get to hear about that because it's
21 important for you to be able to use that evidence for its
22 common scheme and the plan that the defendant had that
23 weekend. It shows -- hearing that he said it a second
24 time, at the car again, same day, lightly touching her
25 hand the second time, using the same words, it shows he

1 had a plan. It shows what his motive was, what his intent
2 was, and it shows the absence of a mistake.

3 I also want you to remember Monique told you that
4 she had to work the next morning after the bonfire; it's a
5 good thing that MINOR did want to go home instead.

6 The defense mentioned, during the cross-examination
7 of Sheila and MINOR and Officer Molino, that we don't
8 have those text messages between MINOR and her mom, but
9 we know, based on what everybody testified, that the plan
10 was for MINOR to stay the whole weekend, and the plans
11 changed, and MINOR wanted to go home.

12 And when she got home, she told her mom what
13 happened. Sheila didn't say that she told her what
14 happened in the text messages. So without the text
15 messages, we still know what happened to MINOR.

16 Now, let's talk about that ride home the next
17 morning. MINOR, when she did her interview back then,
18 she thought it was weird that Thomas didn't try anything
19 when they were riding back. It was just the two of them,
20 after they dropped off her cousins.

21 You heard testimony that the houses were kind of
22 close to each other, but what MINOR said she thought was
23 that maybe he felt guilty. Maybe he knew he had done
24 something wrong.

25 I submit to you he didn't try anything because he

1 knew that MINOR had already asked to go home. He knew he
2 was caught.

3 In a moment, the judge is going to charge you on the
4 law in this case. He'll direct you on the burden of proof
5 which lies with the State. He'll tell you that, in order
6 to convict, you must find a way that we've proven the
7 defendant's guilt beyond a reasonable doubt.

8 We welcome that burden. Proof beyond a reasonable
9 doubt is doubt -- is proof that leaves you firmly
10 convinced of the defendant's guilt. There are very few
11 things in this world that we can know with absolute
12 certainty, and in criminal cases, the law does not require
13 proof that overcomes every possible doubt.

14 Now, let's go over the law. Let's go over what the
15 State has to prove to have met its burden in this case. A
16 person 18 years of age or older commits the offense of
17 criminal solicitation of a minor. Officer Molino was the
18 one who testified to you that the defendant was 39 years
19 old when this happened. He knowingly contacts or
20 communicates with or attempts to contact or communicates
21 with. There was no (indiscernible). Communication is the
22 crime in this case.

23 He asked her by the car at the beach, "Can you suck
24 my dick"? That was his communication. And a person who
25 is under the age of 18 -- a person reasonably believed to

1 be under the age of 18 -- that's MINOR in this case. As
2 you've heard -- I know you've heard it a couple of
3 times -- she was 11.

4 And the purpose of or with the intent -- he's asking
5 and communicating with the intent of persuading, inducing,
6 enticing, or coercing the person to engage or participate
7 in a sexual activity.

8 And we can break that down a little bit. We've
9 already talked a little bit about the intent. And we
10 asked her twice how Monique was going to be gone the next
11 morning.

12 We're not telling you he wanted her to perform a
13 sexual act on him on the side of the road at Isle of
14 Palms. But when he communicated with her, he did it with
15 the purpose and the intent of enticing, persuading her to
16 later accommodate him. And that sexual activity that he
17 wanted from her is defined in this statute. In this case,
18 it was oral sex. We all know that.

19 Now, let's review some of the proof the State's
20 offered in this case that will leave you firmly convinced
21 of the defendant's guilt. Once again, it comes down to
22 what MINOR said, what she said back then, and what she
23 said today. Her story hasn't changed, and that's because
24 it's what she remembers. She told as soon as she could.

25 When she said it during her interview, it was more

1 fresh in her mind. She might not have remembered quite as
2 much sitting on the stand. Likely to be nervous too.

3 But she had no reason to lie. It was very brave for
4 her to sit up there and to tell you-all what happened,
5 especially with Thomas in the courtroom.

6 So what happened when she told? Not only did she
7 want to get home as quickly as she could, but her mom told
8 you she was barely in the door before she broke down
9 crying, holding in what she had been holding in all night.
10 She was scared. She needed help.

11 Remember that Z. S. told you that there was a change
12 in her behavior. That's corroboration. That's a reason
13 to say, "Well, we hear this from MINOR. What do we have
14 outside of MINOR?" We have Z. S. Z. S. noticed. That
15 was her cousin. They spent the whole weekend together up
16 until Sunday morning. And Z. S. noticed MINOR's change.
17 She got quiet. She wasn't having fun anymore.

18 The defendant's own actions that Sunday morning are
19 proof of his guilt. You may remember, Sheila said she
20 heard this from her daughter. She didn't immediately call
21 the police. The first thing she did, she reached out to
22 her sister, Monique. She wanted Thomas and Monique to
23 come on over and have a chat. Sheila and Monique both
24 told you they didn't go. Thomas never came back.

25 When Sheila was leaving her home after seeing her

1 daughter crying, running out the driveway and saying, "You
2 are the adult who just dropped off my daughter, why is she
3 crying?" Defendant's long gone. That's a sister-in-law
4 basically. He lived with her. That's the house he lived
5 at. He's gone.

6 And why didn't they ever go back to Sheila's house
7 later that day? What did Monique tell you? The defendant
8 had a convenient medical emergency. Didn't follow up,
9 come by later. Sheila has never since then since until
10 this day.

11 I want to thank you for your time during this trial
12 today. I know it hasn't been easy listening to us talk
13 about this kind of stuff. It's heavy, but it's important.

14 If you believe that this defendant made that
15 communication to MINOR and you believe that she told you
16 the truth, then the defendant is guilty. I ask you to
17 render that verdict.

18 THE COURT: All right. The defense is recognized.

19 CLOSING ARGUMENT ON BEHALF OF THE DEFENDANT

20 MR. DAVIS: These are touchy subjects, and they're
21 adult subjects. So we're going to use some language a
22 little bit later -- and I'm going to apologize about it --
23 in front of you.

24 When you hear the State's argument, you're probably
25 induced and your hearts go out to MINOR. That's natural.

1 That's emotion. That's if it happened.

2 The reason you're here today -- the reason you're a
3 juror is because we're at trial. And trial is about the
4 State proving it happened. It's natural to have those
5 emotions. But now, this is rendering a verdict based on
6 fact, based on logic, based on common sense, not emotion.

7 Thomas didn't say that. Thomas didn't say that.

8 Now, he's actually (indiscernible) the stand, and I
9 want to talk about that for a second. The judge is going
10 to explain some things in the law that, if the client
11 doesn't take the stand, that you have to keep in mind. He
12 doesn't have to and you cannot hold that against him. I'm
13 going to add to that two things. When we say, "I didn't
14 say it," by asking for this trial, he's implicitly saying
15 that.

16 Number two, because he didn't take the stand, we
17 didn't call any of the witnesses, I get to talk to you
18 last. And we thought that was (indiscernible).

19 He sits there today, yesterday, and forever presumed
20 innocent. The only way is if they have convinced you
21 beyond a reasonable doubt that he's guilty does that
22 change it. They have to prove that he said, "Can you suck
23 my dick?" and that he meant it.

24 The judge gave a unique analogy earlier about not
25 deliberating too soon. It's like baking a pie; you got to

1 have all the ingredients before you can start
2 deliberating. You'll get to do that soon. But I thought
3 that was a good analogy for this as well.

4 It's not enough that he said it; he had to have
5 meant it. He didn't say it. He didn't say it. He
6 certainly didn't mean it.

7 The State just argued a moment ago that, "Well,
8 we're not trying to say that he wanted that to happen
9 right at the roadside." So what do they want you to
10 believe? That he had the intent and saying it for
11 someday? Someday? We'll get to that in a second. That's
12 impossible.

13 Because let's talk about the scene at Isle of Palms.
14 The car full of kids, Thomas in the middle. The car
15 behind them of the grandparents. They go to the beach.
16 When they come back -- they don't have a lot of stuff.
17 They see a snake. They're getting in quickly. At most,
18 they had some beach towels or a towel, and they're loading
19 up quickly to get away from the snake.

20 This isn't a movie of one that they're lingering
21 around the car. Besides, they do have this other event to
22 go to. They've got to the hotel, get showered up, and go
23 to this other event.

24 The reason we know he didn't say it and didn't mean
25 anything like it is because they're at the beach that

1 afternoon, it was still light when they come back to the
2 cars. It's been some amount of time; they don't remember
3 exactly and that's fine. They spent some amount of time
4 playing in the sand, playing in the water.

5 Did Thomas take MINOR for a walk by themselves?
6 No. Did Thomas wade into the breakers with MINOR? No.

7 Did Thomas, at the hotel room the night before or
8 this night, when everyone else is asleep?

9 How about on the car ride home? If he said this and
10 meant this and intended for something to happen, he had
11 other opportunities. But, you know, he didn't. You know
12 what? He waited until everyone is at the cars -- everyone
13 is at the cars and that's when he's going to say it?

14 Not a single other person heard him say it. Not a
15 single other person saw this touching or grabbing and her
16 pulling away twice and almost tripping.

17 If someone else had heard and seen it, they would
18 have put them on this witness stand. Yeah, I made a big
19 deal about the police not investigating and talking to
20 people and interviewing people. I think that was a
21 failure. It's a failure of the State too. If they had
22 evidence -- if they had evidence proving this, they had
23 the corroboration of people on the stand.

24 John and Fannie are right there. Maybe Thomas don't
25 want to be around them or maybe the kids -- John and

1 Fannie are right there. "Take me home." "Take me home."

2 Back at the hotel, when other people are showering,
3 getting ready to leave again, she doesn't send a message.
4 She doesn't call her mom.

5 Now, the State got into this a little bit, and I
6 just need to be clear about this: There is no charge out
7 of Cottageville. There is only the Isle of Palms charge.

8 Now, the State talked a lot about Cottageville. The
9 judge is going to tell you, the only reason you can
10 consider Cottageville -- the judge will tell you that it's
11 just -- we want you to believe this guy (indiscernible).
12 And you can't do that; the judge will tell you. But
13 that's why they're talking about.

14 I do want to listen, as the State said, when the
15 judge gives a charge about Lyle or about another bad act.
16 That didn't happen. I think I'm not going to get into
17 that because that's not your job, but there's just as much
18 evidence in that case as there is in this one.

19 The prosecution failed to investigate. They spent
20 four years, and Fannie heard from us first. The police
21 didn't (indiscernible).

22 The witnesses they called is everyone they believe
23 they need to convince you this happened. That's everyone
24 they believe they need to prove the case.

25 The judge is going to talk about this without

1 actually using these words, but I -- the State cannot kick
2 over to Thomas and us to provide you with the motivational
3 line. That's called shifting the burden: "Yeah, well,
4 y'all tell us why she lied then." That's not the way
5 court works. They mentioned a few times in closing.
6 That's -- they're kicking it over to us. Thomas has
7 nothing to prove at all.

8 I do agree with the State that Fannie's testimony is
9 (indiscernible). It's the only testimony.

10 Who knows what (indiscernible). Sometimes it's for
11 attention. Sometimes it's because they're in trouble.
12 But who knows why. Sometimes there's just not a reason.

13 The State points out that MINOR admitted that she
14 lies to her mom. We all have. I hate to admit it, but we
15 all have, and that's the truth. I have issue with
16 (indiscernible), not only violence. I'd love for that to
17 be truth (indiscernible).

18 You will have the recorded interview to watch as
19 many times as you want. That happened back in 2018. I
20 agree with the State that direct conviction back then is
21 probably better than this now. Look at the discrepancies.
22 Just (indiscernible). She does not allow granting her
23 (indiscernible) twice on (indiscernible) and
24 (indiscernible).

25 Kids have a vivid imagination. They believe in

1 Santa Claus. They believe in the Easter Bunny. They play
2 make-believe.

3 (Indiscernible) something -- (indiscernible)
4 something. Maybe it sounded like they said it. Maybe it
5 sounded like those words. But if I told the judge to
6 "kiss my ass," I certainly don't want him to.

7 They're getting in the car with him. Fannie tells
8 you she never saw Thomas (indiscernible). (Indiscernible)
9 they really have to leave. They had to get back and
10 (indiscernible).

11 When Thomas knew that there was a warrant for him,
12 he drove out to the Isle of Palms Police Department to
13 turn himself in. He (indiscernible).

14 At the beginning of this case, each of you came and
15 stood right about here. (Indiscernible.)

16 Thomas picked each and every one of you to be here
17 because we trust you. You have a greater common sense,
18 you have a greater life experiences than in this
19 courtroom.

20 And the question for you, what the judge won't
21 instruct you, is go back and take as long as you need if
22 you all individually say, no doubt, he said it and he
23 meant it. (Indiscernible.) But the prosecution has
24 failed. Let's just really be honest. When you go back
25 and you're not using your heart, you're using your head,

1 let's be extremely honest. Maybe. Maybe. That's as good
2 as we get. Maybe this happened.

3 He didn't say it. He's been waiting almost four
4 years. Don't wrongfully commit the guy and find him not
5 guilty.

6 JURY CHARGE

7 THE COURT: Members of the jury, it is now my duty
8 to instruct you on the law applicable to this case, and it
9 is your duty as jurors to accept and apply the law as I
10 now state it to you. Furthermore, it is your exclusive
11 duty to decide all the issues of fact in this case and to
12 determine the effect, value, and weight of the evidence
13 presented.

14 Both the State and the defendant have the right to
15 expect that you will carefully consider and evaluate the
16 evidence and apply the law of this case to it so that, in
17 the end, both the State of South Carolina and this
18 defendant will have received a fair and impartial trial.

19 I want you to understand that when I use the word
20 "defendant," I am referring to Thomas Henry Brown, Jr.

21 In this case, the State of South Carolina charges
22 the defendant with criminal solicitation of a minor. To
23 this charge, the defendant has entered a plea of not
24 guilty. This plea of not guilty places the burden of
25 proof on the State to prove the guilt of the defendant to

1 you beyond a reasonable doubt.

2 It is vital to understand that the defendant is
3 presumed, under the law, to be innocent of the charge. It
4 is a fundamental rule of our law that the defendant,
5 regardless of the seriousness of the charge against him,
6 is always presumed innocent of the crime for which he is
7 charged unless and until his guilt has been proven by
8 evidence that satisfies you beyond a reasonable doubt.

9 The presumption of innocence is not a mere legal
10 theory or legal phrase. The presumption of innocence is
11 very important, and you need to understand that this
12 presumption accompanies the defendant from the time of his
13 arrest and appearance in this court and continues with the
14 defendant even after you retire to the jury room to
15 deliberate. In other words, the defendant receives the
16 benefit of the presumption of innocence until the very end
17 of this trial when you, the jury, will deliberate upon the
18 evidence and decide whether the State has proven his guilt
19 beyond a reasonable doubt.

20 During this trial, you and I have separate duties to
21 perform. As the trial judge, it is my responsibility to
22 preside over this trial; therefore, I have the duty to
23 rule upon the admissibility of the evidence offered during
24 the trial. In that regard, you are to consider only the
25 testimony which has been presented from this witness stand

1 together with any exhibits submitted into the record of
2 this case.

3 Furthermore, I have the additional duty to charge
4 you on the law applicable to this case, and in that
5 regard, it is your duty to accept and apply the law as I
6 now state it to you. If you have any preconceived ideas
7 as to what the law is or what the law ought to be and it
8 does not agree with what I tell you the law is, then you
9 are obligated under your oath to abandon these
10 preconceptions and accept the law as I now state it to
11 you.

12 In this trial, you are the sole and exclusive judge
13 of the facts. I am the judge of the law. Do not infer
14 that I have any opinion about the facts in this case from
15 anything I have said during the course of this trial. In
16 this regard, the law simply does not permit me to have an
17 opinion about the facts.

18 As jurors, it is your duty alone to determine the
19 effect, value, and weight of the evidence presented during
20 the course of this trial. Furthermore, it is your job as
21 jurors to determine the credibility and believability of
22 the witnesses who have testified in this case. You must
23 evaluate the evidence and determine which evidence
24 convinces you.

25 In determining the believability of witnesses who

1 have testified in this trial, you may believe one witness
2 over many or many over one. You may believe a part of the
3 testimony of a witness and reject the remaining part. You
4 may believe the testimony of a witness in its entirety or
5 reject it in full. You may consider whether the witness
6 has an interest in the result of the trial, whether the
7 witness is prejudiced toward either party, the opportunity
8 for the witness to have seen the matters and things about
9 which the witness may testify, and the way the witness
10 acts on the witness stand.

11 Proof beyond a reasonable doubt is proof that leaves
12 you firmly convinced of the defendant's guilt. There are
13 few things in this world that we know with absolute
14 certainty. So, even in criminal cases, the law does not
15 require proof that overcomes every possible doubt.
16 However, if, based on your consideration of the evidence,
17 you are firmly convinced that the defendant is guilty of
18 the crime charged, you must find him guilty. If, on the
19 other hand, you think there's a real possibility that he
20 is not guilty, you must give him the benefit of the doubt
21 and find him not guilty.

22 Please understand that reasonable doubt may arise
23 from evidence which has been presented in this case or
24 from the lack of evidence in the case. It is your
25 responsibility to determine whether or not reasonable

1 doubt exists as to the guilt of the defendant.

2 I charge you that the defendant is entitled to every
3 reasonable doubt arising in the whole case. If, upon any
4 issue of fact essential to conviction and a verdict of
5 guilty you have a reasonable doubt as to how that issue
6 would be resolved, it would be your duty to resolve that
7 reasonable doubt in favor of the defendant. Thus, in
8 summary, it is important to understand that the defendant
9 is not required to prove his innocence; instead, the State
10 is required by law to prove every essential element of the
11 charge against the defendant by evidence which satisfies
12 you of his guilt beyond a reasonable doubt. Only then can
13 you convict the defendant and find him guilty.

14 There are two types of evidence which are generally
15 presented during a trial: direct evidence and
16 circumstantial evidence. Direct evidence directly proves
17 the existence of a fact and does not require deduction.
18 Circumstantial evidence is proof of a chain of facts and
19 circumstances indicating the existence of a fact.

20 Crimes may be proven by circumstantial evidence.
21 The law makes no distinction between the weight or value
22 to be given to either direct or circumstantial evidence.
23 However, to the extent the State relies on circumstantial
24 evidence, all of the circumstances must be consistent with
25 each other and, when taken together, point conclusively to

1 the guilt of the accused beyond a reasonable doubt.

2 If these circumstances merely portray the
3 defendant's behavior suspicious, their proof has failed.
4 The State has the burden of proving the defendant guilty
5 beyond a reasonable doubt. This burden rests with the
6 State regardless of whether the State relies on direct
7 evidence, circumstantial evidence, or some combination of
8 the two.

9 You have heard evidence that the defendant has
10 committed a bad act other than the one for which the
11 defendant is now on trial. This testimony, if you
12 conclude it is true, may only be considered by you on the
13 question of motive, intent, absence of mistake, and common
14 scheme or plan and for no other reason.

15 You may give this evidence the weight and value, if
16 any, which you find it should have on the sole issue of
17 motive, intent, absence of mistake, and common scheme or
18 plan. You must not consider evidence of the commission of
19 another bad act as proof of the defendant's guilt of the
20 charge we are trying him on today.

21 I further instruct you the fact that the defendant
22 in this trial did not testify on his own behalf is not a
23 factor to be considered by you in any way during your
24 deliberations or in your consideration on the question of
25 guilt or innocence. In this regard, the defendant has the

1 constitutional right to remain silent. Any exercise of
2 this right must not be considered by you in your
3 deliberations. The fact that the defendant did not
4 testify should not even be discussed in the jury room.

5 The testimony of a witness may be discredited or
6 impeached by showing that she previously made statements
7 that are inconsistent with her present testimony. The
8 earlier contradictory statements are admissible only to
9 impeach the credibility of the witness and not to
10 establish the truth of these statements. It is a province
11 of the jury to determine the credibility, if any, to be
12 given the testimony of a witness who has been impeached.

13 The defendant in this case is charged with criminal
14 solicitation of a minor. The State must prove the
15 following beyond a reasonable doubt: that the defendant,
16 a person 18 years of age or older, knowingly contacted or
17 communicated with or attempted to contact or communicate
18 with an individual under the age of 18 or reasonably
19 believed to be under the age of 18 for the purpose of
20 persuading, inducing, enticing, or coercing that
21 individual to engage or participate in sexual activity.

22 Ladies and gentlemen, I'm now drawing near the end
23 of my charge, and I want you to clearly understand that
24 you are not partisans or advocates for the State or the
25 defendant. You do not serve as your jurors to reward your

1 friends or punish your enemies. In this regard, you have
2 been selected by both the State and the defendant to be
3 fair and impartial jurors.

4 It is your duty, by your joint deliberations, to
5 determine the facts in this case, giving the defendant the
6 benefit of every reasonable doubt on each and every issue.
7 Then, to the facts which you determine to be correct, you
8 should take and apply the law which has been given to you
9 by this Court and thus arrive at a verdict. When you have
10 accomplished these responsibilities, you will have
11 satisfied your oath as jurors, and you will have
12 discharged your duty to this Court.

13 Thank you.

14 Would you hand this to the forelady, please, ma'am.

15 Now, Ms. Forelady, I have handed you the verdict
16 form. When you arrive at a verdict in this case, you'll
17 write your verdict on the form. For the charge, if the
18 State has failed to prove the guilt of the defendant
19 beyond a reasonable doubt, your verdict would be two
20 words: not guilty.

21 However, should the State have proved their case
22 against the defendant beyond a reasonable doubt, then your
23 verdict would be one word: guilty.

24 Ms. Forelady, once a decision has been made, just
25 check whichever your verdict is, sign it, and date it.

1 Also, please understand that the verdict that you
2 render in this case must be the verdict of each and every
3 juror. It must be your unanimous verdict. All 12 jurors
4 must agree on the verdict which you authorized the
5 forelady to write for the jury.

6 Now, Ms. Forelady and members of the jury, I want
7 you to further understand that the order in which the
8 choices of verdict appear on the verdict form are not
9 suggestive of any verdict on the part of this Court. The
10 verdict in this case is to be determined by you and not
11 the Court.

12 Furthermore, ladies and gentlemen, please understand
13 that, even though I have given the verdict form to the
14 forelady, it is not her verdict alone. It is the verdict
15 of all 12 of you, and I emphasize again your verdict must
16 be unanimous.

17 Now, you will retire to the jury room; however, I
18 would ask that you do not begin your deliberations at this
19 time. The law requires that I consult with the attorneys
20 first. After I have done so, the bailiff will bring in
21 the items of evidence and instruct you to begin your
22 deliberations.

23 Also, should you have any questions during your
24 deliberations, you must put them in writing and send them
25 to me by way of the bailiff. The court bailiff will be

1 placed immediately outside of the jury room door to
2 provide security and assistance for you during your
3 deliberations.

4 Once you have reached your verdict, please knock on
5 the jury room door and ask the bailiff to advise the Court
6 that you have reached a verdict. At that time, we'll
7 return you to the courtroom as promptly as possible.

8 Thank you. You may retire to the jury room, but
9 again, as I said, do not begin your deliberations until
10 told to do so.

11 (The jury exited the courtroom at 3:46 p.m.)

12 THE COURT: Any objections to the charge from the
13 State?

14 MS. DAVIS: No, Your Honor.

15 THE COURT: How about defense?

16 MR. DAVIS: No, Your Honor.

17 THE COURT: If you would take a look at the items
18 that are in evidence to make sure they're in order.

19 (Pause in the proceeding.)

20 THE COURT: Is everything in order for the defense?

21 MR. DAVIS: Yes, just the CD.

22 THE COURT: Is everything in order from the State?

23 MS. DAVIS: Yes.

24 THE COURT: All right. If you'll send it in, bring
25 out the alternates, and tell them to begin.

1 (Pause in the proceedings.)

2 THE COURT: Let's make sure the alternates comes
3 out.

4 THE CLERK: Do you want me to show them how to use
5 the TV for the disk to work?

6 THE COURT: Any objection to the clerk showing them?

7 UNIDENTIFIED FEMALE: How to play the disk.

8 MR. DAVIS: Back there?

9 UNIDENTIFIED FEMALE: If you can figure it out, I'm
10 happy for you to do that.

11 MR. DAVIS: We're fine with that.

12 THE COURT: That will be fine.

13 THE CLERK: And I'll bring the alternates.

14 THE COURT: Thank you.

15 (Pause in the proceedings.)

16 THE CLERK: Your Honor, are you ready for the
17 alternates?

18 THE COURT: Yes.

19 (The alternate jurors entered the courtroom at
20 3:50 p.m.)

21 THE COURT: All right. I want to let you-all know
22 that your duties are complete. You were our backup
23 quarterback and you were backup defense. If any one of
24 the 12 players on the football team got sick or had an
25 emergency or couldn't be here, you had to back it up and

1 step in. That's why you had to be here for the whole
2 game.

3 But we have all 12 people and they're healthy and
4 they're in there and they're getting ready to go to work,
5 so your job is done.

6 You've earned a three-year exemption by being here,
7 and we appreciate your efforts this week and everything
8 you've done. I hope you have a good rest of the week.

9 ALTERNATE JUROR: Thank you.

10 THE COURT: Thank you.

11 (The alternate jurors exited the courtroom at
12 3:52 p.m.)

13 (A recess was taken while the jury deliberates.)

14 (The proceedings recommence at 4:32 p.m.)

15 JURY QUESTION

16 THE COURT: All right. We have a question, and it
17 says, "Did ^{MINOR} view her video prior to today's
18 testimony? And if so, how recently?"

19 Do you want me to just write on there, "That is not
20 in evidence. Please continue the deliberations"?

21 Good with the defense?

22 MR. DAVIS: That's fine with me, Judge.

23 THE COURT: The State?

24 MS. DAVIS: Yes, Judge.

25 THE COURT: All right.

1 All right. The bailiff will take this to the jury.
2 Just make sure they don't throw them away in the end.

3 All right. We'll be at ease until we get another
4 question or a verdict.

5 (Court's Exhibit No. 2, Jury Question, was marked
6 for identification and received into the record.)

7 (A recess was taken from 4:33 p.m. to 4:50 p.m.)

8 VERDICT

9 THE COURT: You can go ahead and bring in the jury.

10 (The jury entered the courtroom at 4:50 p.m.)

11 THE COURT: All right. Ms. Forelady, if you would
12 hand the verdict form to the clerk.

13 All right. I find that the verdict form is in
14 order, and I'll have the clerk publish it.

15 THE CLERK: In the Court of General Sessions, Ninth
16 Judicial Circuit, Indictment No. 2018-GS-10-04815, the
17 State of South Carolina, Charleston County, versus Thomas
18 Henry Brown, Jr., Defendant, as to the charge of criminal
19 solicitation of a minor, we, the jury, unanimously find
20 the defendant, Thomas Henry Brown, Jr., guilty. Signed by
21 foreperson Laura Goble, June 1st, 2022.

22 THE COURT: All right. Need for further polling
23 from the defense?

24 MR. DAVIS: I'm sorry, Your Honor?

25 THE COURT: Need for further polling?

1 MR. DAVIS: Your Honor, may I (indiscernible)?

2 (Pause in the proceedings.)

3 THE COURT: All right. Any motions from the
4 defense?

5 MOTIONS

6 MR. DAVIS: Yes, Your Honor. I would renew all
7 previous motions, and we would add to ask you to set aside
8 the jury's verdict. Again, we would argue that the
9 evidence provided during the course of the trial certainly
10 raises suspicion, and we would argue that it's not -- the
11 State has not met their burden beyond a reasonable doubt,
12 and we'd ask you to set aside the verdict and direct a
13 verdict on behalf of Mr. Brown.

14 THE COURT: All right.

15 Would the State like to reply?

16 MS. DAVIS: Judge, as you know, the (indiscernible)
17 testimony is evidence. Corroboration is not needed,
18 however, there was plenty of corroboration testified to in
19 this case. The State has met its burden beyond a
20 reasonable doubt. The defendant communicating with her
21 with the intent of enticing her to engage in a sexual
22 activity. He was an adult and she was not.

23 THE COURT: All right. I'm going to respectfully
24 deny those motions.

25 MR. DAVIS: Thank you, Your Honor.

1 THE COURT: Thank you.

2

3 SENTENCING

4 MS. DAVIS: Your Honor, may I approach with the
5 sentencing sheets?

6 THE COURT: Yes.

7 I'll be glad to hear from the State.

8 MS. DAVIS: May it please the Court?

9 THE COURT: Yes, ma'am.

10 MS. DAVIS: The jury is not here, but I'd like to
11 thank them for their careful consideration of the facts
12 that were before them in this case. I'd also like to
13 thank Officer Molino, who is now with the Berkeley
14 Sheriff's Office. And I'd like to thank MINOR for her
15 bravery in testifying in front of Mr. Brown in court
16 today. On behalf of MINOR and her family, we'd like to
17 thank the Court for your time.

18 The defendant does have a criminal record, Judge:

19 From 1997, breaking and entering DT. That's out of
20 Massachusetts.

21 As well as from Massachusetts, in 2007, armed
22 robbery. The RAP sheet reflects a five- to six-year
23 sentence there.

24 Then, from 2014, he's convicted of assault and
25 battery second. That stems from a criminal sexual conduct

1 with a minor second charge. He was placed on the sex
2 offender registry as a result of that conviction.

3 2015: Possession of marijuana, forgery less than
4 \$10,000, and violation of probation.

5 2021: Sex offender registry violation, second
6 offense.

7 I skipped over 2014 sex offender registry violation
8 first offense.

9 Then, 2018, driving under suspended license third.

10 And 2021, driving under suspended license third.

11 He also has a pending habitual traffic offenders
12 charge with this office.

13 Your Honor, I'd ask for a substantial sentence
14 commensurate with the pain this victim has been put
15 through up until today.

16 THE COURT: And the sentence carries up to ten; is
17 that right?

18 MS. DAVIS: Sorry?

19 THE COURT: It carries up to ten; is that correct?

20 MS. DAVIS: Zero to ten years.

21 THE COURT: All right. And would the victims like
22 to say anything?

23 MS. DAVIS: They would not.

24 THE COURT: All right. Be glad to hear from the
25 defense.

1 MR. DAVIS: Judge, first of all, I'd like a moment
2 after I speak to see if perhaps Thomas would want to
3 address you. I will go ahead and tell you -- and he's
4 heard me, but I'll say it again. At times like these, we
5 certainly respect the system, we respect the jury's
6 verdict. We don't agree with it.

7 And so there will (indiscernible), and he knows
8 that. So I've told him that everything's being recorded,
9 so he may not address you for that reason, but if I'll
10 have a moment with him in a moment, and I'll let you know.

11 Judge, so we don't agree, but we respect the jury's
12 verdict. Even in the light most favorable to the State
13 with, obviously, what the jury believes, we have a comment
14 with no follow-up. We understand that's all that the
15 statute requires. But, Judge, you heard in my closing,
16 which, obviously, was not persuasive enough, but there are
17 opportunities both before this, during this weekend, and
18 after -- well, later on in the weekend for activity --
19 where physical activity could happen if that were Thomas's
20 intent. There's been no evidence of that. There's no
21 evidence whatsoever of that.

22 Certainly (indiscernible) allowed to know about and
23 stated right off his prior record, but I would ask you to
24 impose a sentence commensurate with the activity the jury
25 finds that he did, and that is a statement. One

1 statement.

2 Judge, he's been out on bond since the day after he
3 turned himself in. So we only have one -- well, we have
4 two days. The first day he turns himself in, and he got
5 out the next day. Two days' credit.

6 So he hasn't racked up much time credit. He's been
7 out -- at the end of this month, it will be four years,
8 Judge. He's been on -- I used to be on the other side.
9 He's been on solicitor probation, at least we referred to
10 it, while out on bond for almost four years. Almost the
11 maximum length of a probationary sentence without
12 incident. I apologize. (Indiscernible) habitual traffic
13 offender. (Indiscernible).

14 Judge, I absolutely think that the facts presented
15 that the jury found him guilty of, his conduct over the
16 last four years and his ability to do well in the future.
17 He is 43. He has family members, Judge, as you've
18 probably seen throughout the trial that have been here
19 with him. He is a lifelong resident of the area. He's
20 had good jobs, most recently working as a janitor. He's
21 always been gainfully employed.

22 He has girlfriend, who is with us in the courtroom
23 today. She is pregnant and is due soon, possibly later
24 this month or if not, the next. It would be very soon.

25 We will ask you to give a probationary sentence,

1 Judge. We would argue that the threat of prison time,
2 which should be the reasons we impose sentences to simply
3 punish, to rehabilitate, for retribution, for restitution.
4 There's no restitution here, and we would argue that
5 retribution would be inappropriate. So it is for
6 punishment and for rehabilitation.

7 You can condition -- set conditions of probation
8 that will be very stringent; that it relieve any concerns
9 the State might have or you might have about security of
10 himself or others. This, we would argue, Judge, should
11 not be the act that requires incarceration. If you're not
12 persuaded by that, we would ask you to consider a split
13 sentence with the maximum suspended sentence. Again, he
14 has little to no time accrued while in jail.

15 Again, I won't belabor the point, but while we
16 respectfully don't agree with what the verdict is -- or I
17 don't -- we would ask you punish appropriate to the actual
18 punishment that the jury found (indiscernible) one
19 request, one time (indiscernible).

20 I'd like to have a moment with my client and see if
21 he has anything to add.

22 (Counsel conferring with the defendant.)

23 MR. DAVIS: Judge, thank you for that time with my
24 client. And given the reasons for everything, he will not
25 be addressing the Court now, but he would -- on behalf of

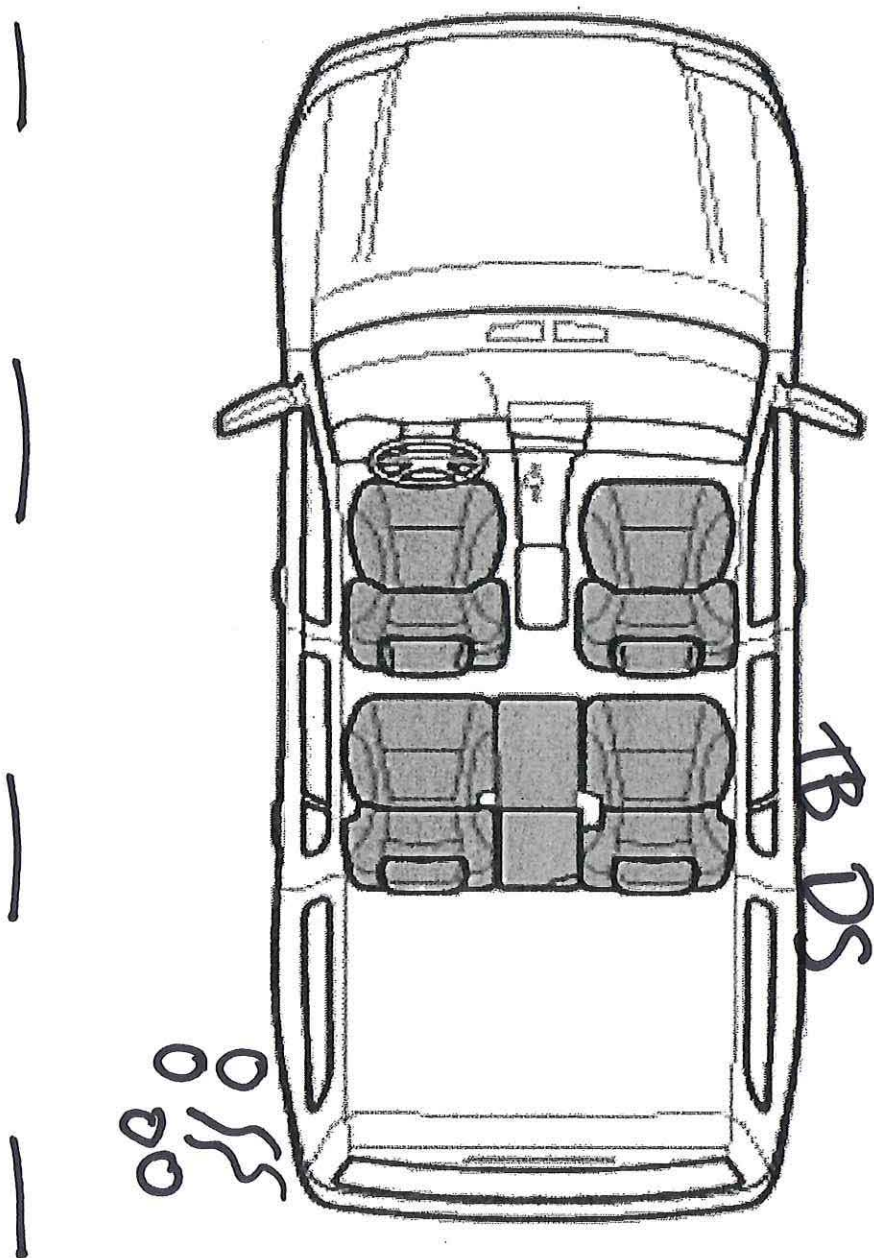
1 him, we would ask for your mercy. Thank you.

2 THE COURT: Taking into account this case and his
3 entire record, the sentence of the Court is eight years.
4 I'll give him two days' credit.

5 MR. DAVIS: Thank you, Your Honor.

6 THE COURT: Thank you.

7 (The trial concluded at 5:07 p.m.)
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Wavy line



STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

STATE OF SOUTH CAROLINA

vs.

THOMAS HENRY BROWN, JR.

Defendant.

IN THE COURT OF GENERAL SESSIONS
FOR THE NINTH JUDICIAL CIRCUIT

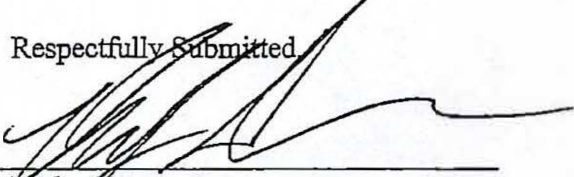
Indictment No.: 2018GS1004815

Charge: Criminal Solicitation of a Minor

**MOTION TO EXCLUDE
TESTIMONY OF OTHER ACTS**

YOU WILL PLEASE TAKE NOTICE that the Defendant, by and through the undersigned attorney, will move before the Presiding Judge of the Court of General Sessions at the Charleston County Judicial Center, to prevent the State from introducing evidence of other acts of the defendant in violation of S.C.R.E 404(b). This motion is made on the grounds that the Defendant finds such acts to be highly prejudicial if found to be admissible. Under State v. Lyle, 125 S.C. 406, 118 S.E. 803 (1923), the Defendant moves to limit such introduction of prior acts as not being within the five grounds for admission; intent, motive, identity of the person charged with the commission of the crime on trial, common scheme or plan, and absence of mistake or accident.

Respectfully Submitted,


Rodney D. Davis
Attorney for Thomas Henry Brown, Jr.

Charleston, South Carolina
Dated: 12/13/21

2021 DEC 13 PM 3:58
JULIE J. ARMSTRONG
CLERK OF COURT

FILED

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

STATE OF SOUTH CAROLINA

vs.

THOMAS HENRY BROWN JR.,

DEFENDANT.

IN THE COURT OF GENERAL SESSIONS

NINTH JUDICIAL CIRCUIT

STATE'S MOTION IN SUPPORT OF BAD ACTS

Arrest Warrant #2018A1011100119

Indictment # 2018-GS-10-04815

Criminal Solicitation of a Minor

FILED
 MAY 25 2022
 JULIE J. ARMSTRONG
 CLERK, C.P. & G.S.

The defendant, Thomas Brown., is currently charged with Criminal Solicitation of a Minor. The victim, _____ is the niece of the defendant's former girlfriend.

The State will call the afore mentioned case regarding the solicitation. The State will move to offer evidence of other another solicitation of the same minor that occurred several hours later on the same date, in Colleton County, pursuant to Rule 404(b), SCRE and South Carolina case law. See the States trial brief for facts.

The State contends that the solicitation that occurred in Colleton County is directly related to the solicitation that occurred in Charleston County and meets the factors cited in cases to show common scheme or plan. Evidence of other crimes, 'wrongs, or prior bad acts may be admissible to show "motive, identity, the existence of a common scheme or plan, the absence of mistake or accident, or intent." Rule 404(b), SCRE. See State v. Lyle, 125 S.C. 406, 118 S.E. 803 (1923).

Based on precedent dating back to 1911, South Carolina courts have consistently applied the common scheme or plan exception to sexual assault crimes involving the same two parties. The State relies on extensive South Carolina case law in support of the introduction of the evidence: State v. Richie, 70 S.E. 729 (1911), State v. Whitener 89 S.E.2d 701(1955), State v. Mathis, 597 S.E.2d 872 (2004), State v. Weaverling, 523 S.E.2d 787 (1999), State v. Edwards, 644 S.E.2d 66 (2007), State v. Kirton, 671S.E.2d

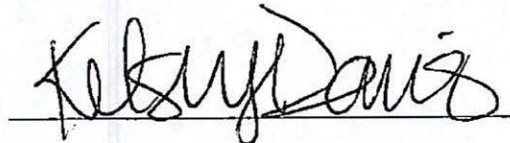
107 (2008) and State v. Clasby, 682 S.E. 2d 892 (2009), State v. Tutton, 580 S.E.2d 186 (2003), State v. Fonseca, 711 S.E. 2d 906 (2011), and State v. Taylor, 731 S.E. 2d 569 (2011), State v. Dinkins Opinion No. 5883 filed December 22, 2021, Appellate Case No. 2017-002360.

All the above cited cases deal with admitting testimony involving the same parties' cases under the 404(b), SCREE exception. The court stated, "Bad act evidence that is not subject to a conviction must be shown by clear and convincing evidence and should be reviewed under an "any evidence standard" on appeal. State v. Wilson, 345 S.C.1.

The State will show that these solicitations were a continuous course of conduct. The solicitations both occurred in and around the defendant's car. The same words were used, the subsequent solicitation within hours of the first. The defendant, victim and aunt of the victim and her children were all at the beach in Charleston and then went to a cookout in Colleton County.

Proof of a conviction for the other crimes is not required, State v. Blanton, 446 S.E.2d 438, 440 (Ct. App, 1994). The prior act need not be necessary to the State's case in order to be admitted, as this subsequent solicitation is corroboration and important to prove the Charleston solicitation. The subsequent solicitation goes to the intent of the defendant and absent of mistake. This was not a remote event and is logically connected.

Respectfully submitted,



Kelsey Ruben Davis

Assistant Solicitor

NINTH CIRCUIT SOLICITOR'S OFFICE

DHL/0344840
WITNESSES

Isle Of Palms Police Department

DOCKET NO. 2018-GS-10-04815

The State of South Carolina

County of Charleston

AGENCY CASE NUMBER

2018-917

ARREST WARRANT NUMBER

2018A1011100119

DATE OF ARREST

06/25/2018

ACTION OF GRAND JURY

TRUE BILL

Forfeiture of Grand Jury

SEP 25 2018

VERDICT

Forfeiture of Petit Jury

Date:

COURT OF GENERAL SESSIONS

SEPTEMBER TERM 2018

THE STATE

VS.

THOMAS HENRY BROWN, JR

B/M DOB:

Indictment for

CRIMINAL SOLICITATION OF A MINOR

SC Code: § 16-15-0342

CDR Code: 2999

FILED

9/27/2018 11:27:36 AM

JULIE J. ARMSTRONG

CLERK OF COURT

RECEIVED
FEB 22 2023
SC Court of Appeals

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

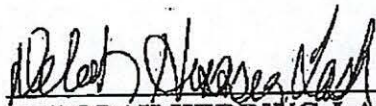
INDICTMENT

At a Court of General Sessions, convened September 2018, the Grand Jurors of Charleston County present upon their oath:

CRIMINAL SOLICITATION OF A MINOR

That in Charleston County, South Carolina, on or about June 2, 2018, the Defendant, Thomas Henry Brown Jr, while eighteen years of age or older, did knowingly contact, communicate with, or attempt to contact or communicate with, the victim, MINOR [REDACTED], a person who was under the age of eighteen, or the defendant reasonably believed was under the age of eighteen, for the purpose of, or with the intent of persuading, inducing, enticing, or coercing the victim to engage or participate in a sexual activity as defined in SC Code Section 16-15-375(5) or a violent crime as defined in SC Code Section 16-1-60, or with the intent to perform a sexual activity in the presence of the victim. This is in violation of Section 16-15-342 of the South Carolina Code of Laws (1976) as amended.

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


DEBORAH HERRING-LASH
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF CHARLESTON**RECEIVED**

STATE

FEB 22 2023

INDICTMENT/CASE#: 2018-GS-10-04815

VS.

THOMAS HENRY BROWN, JR**SC Court of Appeals**A/W#: 2018A1011100119Date of Offense: 06/02/2018S.C. Code §: 16-15-0342CDR Code #: 2999AKA: Jamal Gardner, Tomas H Brown JrRace: BlackSex: MAge: ●DOB: ■■■■■■■■■■ SS#: ■■■■■■■■■■Address: ■■■■■■■■■■City, State, ■■■■■■■■■■Zip: ■■■■■■■■■■DL#* ■■■■■■■■■■ SID# SC01739256*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐**SENTENCE SHEET**In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Criminal Solicitation Of A MinorIn violation of § 16-15-0342 of the S.C. Code of Laws, bearing CDR Code # 2999☒ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Kelsey Ruben Davis
Kelsey Ruben Davis, Assistant SolicitorSC Bar # 103019

Defendant

Attorney for Defendant

12396

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of 8 days/months/years/Time Served ☐ Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or paymentof \$; plus costs and assessments as applicable; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC.2 days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

STATE THOMAS HENRY INDICTMENT/CASE#: 2018-GS-10-04815
 VS. BROWN, JR

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
☐ Mental Health Counseling ☐ May serve W/E beginning: _____
☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
☐ Other: _____

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

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

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

***Fine:**

Fine may be pd. in equal consecutive weekly/monthly pmts. of \$ _____ Beginning _____ \$ _____

§14-1-206 (Assessments 107.5%)		\$
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$100.00
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$25.00
§14-1-213 (Drug Court Surcharge)	\$150	\$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$
§50-21-114 (BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	TBD	\$3.75
☐ Appointed PD or appointed other counsel, Provision requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500	\$
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$

TOTAL \$128.75

Clerk of Court/Deputy Clerk: Faith Ransom
 Court Reporter: Crystal Smith

Presiding Judge: [Signature]
 Judge Code: 2157
 Sentence Date: 06/01/2022

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled “Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings.”

Respectfully Submitted,

s/ Lara M. Caudy

Lara M. Caudy

Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 22nd day of March, 2024.

RECEIVED

Mar 22 2024

SC Court of Appeals

RECEIVED

Mar 22 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Charleston County

Honorable William H. Seals, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

THOMAS HENRY BROWN, JR.

APPELLANT

APPELLATE CASE NO. 2023-000261

CERTIFICATE OF SERVICE

I certify that a copy of the Record on Appeal in the above referenced case has been served upon Andrew D. Powell, Esquire, at his primary email address listed in the Attorney Information System (AIS), this 22nd day of March, 2024.

s/ Lara M. Caudy

Lara M. Caudy
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

From: [Mcinnis, Sara](#)
To: [Andrew Powell](#)
Cc: [Grace Sommer](#); [Caudy, Lara](#)
Subject: 2023-000261 The State v. Thomas H. Brown, Jr.
Date: Friday, March 22, 2024 8:48:00 AM
Attachments: [2023-000261 The State v. Thomas Brown Record on Appeal.pdf](#)
[2023-000261 The State v. Thomas Brown Proposed Transportation Order.pdf](#)

Good Morning Mr. Powell,

Please find attached for service in the above-referenced case the Record on Appeal and a proposed transportation order. These will be filed with the Court of Appeals today, March 22, 2024, via email filing.

Thank you!

Sara McInnis

Administrative Assistant
South Carolina Commission on Indigent Defense
Appellate Division
(803) 734-1330