

THE STATE OF SOUTH CAROLINA
In The Supreme Court

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APPEAL FROM BEAUFORT COUNTY
Court of General Sessions
Alex Kinlaw, Jr., Circuit Court Judge

S.C. SUPREME COURT

S.C. Court of Appeals Opinion No. 6034 (Appellate Case No. 2018-001257)
State v. Dent, 442 S.C. 38, 897 S.E.2d 46 (Ct. App. 2023)

The State, ... Petitioner,

v.

Charles Dent, ... Respondent.

APPENDIX VOLUME II OF III

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- 1 A 13 and 15.
- 2 Q And who's who?
- 3 A A.M. is 15. And J.M. is 13.
- 4 Q So in 2014, four years ago, how old were they?
- 5 A Nine and 11.
- 6 Q And where do you currently live?
- 7 A In New York.
- 8 Q And did you ever used to live in Beaufort County?
- 9 A Yes.
- 10 Q And when did you live in Beaufort County?
- 11 A From 2012 to 2014.
- 12 Q And where did you live in Beaufort County?
- 13 A In Bluffton.
- 14 Q Okay. And do you remember the addresses or, at
- 15 least, the street where you used to live?
- 16 A We lived on in two different -- two
- 17 different houses.
- 18 Q Okay. So on in two different places?
- 19 A Yes.
- 20 Q Were they near each other?
- 21 A Yes.
- 22 Q How near each other were they?
- 23 A Probably about seven or eight houses down.
- 24 Q So why did you move between two houses that were so
- 25 close together?

1 A Charles wanted us to move into a bigger apartment.

2 Q Okay. And how did you feel about that?

3 A I did not want to.

4 Q Why not?

5 A I'm a pretty independent person. And I wanted to be
6 able to pay for everything on my own. And I wanted to get
7 to a point where I wouldn't need any help at all. And he
8 wanted us to move to a bigger place where it cost more.
9 And I didn't -- I didn't want to depend on anyone.

10 Q And what was the size difference of the two houses?

11 A We went from a two-bedroom to a four-bedroom.

12 Q And what did you do with the extra bedroom at the new
13 house?

14 A The extra bedroom downstairs was for Charles.

15 Q Okay. And you keep saying "Charles," who is Charles
16 Dent to you?

17 A My dad.

18 Q And do you see him in the courtroom?

19 A Yes.

20 Q Can you identify him for us?

21 A He's right there in the tan jacket.

22 MS. JOSEPH: Let the record reflect that the witness
23 has identified the Defendant.

24 BY MS. JOSEPH:

25 Q How would you characterize your relationship with

1 your dad prior to 2012, prior to you moving to Beaufort
2 County?

3 A We didn't speak very much at all, occasionally, on
4 holidays and birthdays over the phone.

5 Q And what led to you guys getting back in touch?

6 A My brother's suicide.

7 Q So what was your brother's name?

8 A Matthew.

9 Q And what year did he kill himself?

10 A 2012.

11 Q And why did that event lead you to get closer with
12 Charles?

13 A My brother, Matthew, and Charles were really close
14 with each other. And I was really close with my brother.

15 So when he died, Charles had -- he was very
16 emotional. He told us that he had no one left. He had
17 nowhere to go for holidays. And he didn't know how he
18 would function at the house where my brother killed
19 himself. And I sort of felt an obligation to my brother
20 to befriend him and to give him a chance in our lives.

21 Q Prior to moving to Beaufort County, where did you
22 live?

23 A Florida. Jacksonville, Florida.

24 Q And did you live in -- what type of neighborhood did
25 you live in?

- 1 A It definitely wasn't a very nice neighborhood.
- 2 Q And was that part of the reason you moved?
- 3 A No. I'm fine being in a neighborhood -- I mean, I
- 4 can survive anywhere.
- 5 Q Okay. Where did Charles live when you lived in
- 6 Beaufort? Did he live with you?
- 7 A Alabama.
- 8 Q He lived in Alabama?
- 9 A Uh-huh.
- 10 Q How often did he visit?
- 11 A I'd say maybe every other month.
- 12 Q Okay. And how long would he stay?
- 13 A About a week at a time.
- 14 Q Okay. I'm going to ask you some questions. And I
- 15 want you maybe to distinguish between the first house and
- 16 the second house.
- 17 A Okay.
- 18 Q So did he pay your rent when you lived in Beaufort?
- 19 A He paid part of it.
- 20 Q Okay. And that's for both houses?
- 21 A Yes.
- 22 Q And did he pay your cable?
- 23 A I don't remember.
- 24 Q Did he pay for your cell phone?
- 25 A Not until 2014.

1 Q All right. Tell us about that.

2 A I had my own phone. And he kept telling me that he
3 could get me a new phone on his plan. I didn't want to.
4 I had my own phone and my own phone plan. But he went
5 ahead and ordered a phone on his account and gave me a new
6 phone.

7 Q We're going to talk about that cell phone again in a
8 moment. Did he buy you a car?

9 A No.

10 Q Did he want to buy you a car?

11 A Yes.

12 Q Can you tell us about that?

13 A Yes. I was driving a PT Cruiser. And something
14 happened, like, I don't know if it was like a flat tire or
15 something was wrong with the car -- oh, the battery had
16 died. And he kept telling me that my kids would be safer
17 in a brand new vehicle. And he would lease one in his
18 name and my kids would be safer.

19 Q Let's talk about that. So he wanted to put his name
20 on the lease?

21 A Yes.

22 Q Was his name on the lease for the homes in Beaufort?

23 A Yes.

24 Q And could you have afforded those houses on your own?

25 A No.

1 Q So going -- you said that he sort of pushed you to
2 have a cell phone?

3 A Yes.

4 Q And did he, also, give J.M. a cell phone?

5 A He did give her a cell phone without my knowledge.

6 Q And then, at one point, you found a naked image on
7 that cell phone?

8 A I did.

9 Q Of a naked --

10 MR. GROSE: Objection, Your Honor. Number one, it's
11 leading. And, number two, this is not relevant. And,
12 number three, they've never produced this supposed photo.

13 MS. JOSEPH: I can move on, Your Honor.

14 THE COURT: Move on.

15 I'm going to sustain all of the objections.

16 MR. GROSE: And I'd request a curative instruction.

17 THE COURT: Okay. Disregard.

18 Go ahead.

19 BY MS. JOSEPH:

20 Q Who is John Camelo? And when I ask that question,
21 I'm asking who is he to you, not who is he in the world.

22 A He's my ex-boyfriend.

23 Q And, to your knowledge, did your daughter, J.M. ,
24 make a disclosure to John?

25 A Yes.

1 Q Okay. And did John then come to you about that
2 disclosure?

3 A Yes.

4 Q And then did J.M. make a disclosure to you?

5 A I'm -- I believe I asked her about it.

6 Q But then she shared some information about something
7 that had happened to her?

8 A Yes.

9 Q And where did you have that conversation, physically?
10 Do you remember?

11 A I remember the conversation with John was when we
12 were swimming at the pool. And I think that I had the
13 conversation with J.M. when we got home.

14 Q And do you remember what time of year that would have
15 been?

16 A I don't.

17 Q Maybe summer of 2014?

18 A It was the same day that I contacted somebody about
19 it.

20 Q Okay. So you just said you contacted someone about
21 it. Did you first call A.M.'s therapist?

22 A I did.

23 Q What did she tell you to do?

24 MR. GROSE: Objection. Hearsay.

25 MS. JOSEPH: This is -- I can rephrase the question.

1 THE COURT: Rephrase the question.

2 I'm going to sustain the objection.

3 Rephrase the question.

4 BY MS. JOSEPH:

5 Q After calling the therapist, what did you do?

6 A I called the police.

7 Q And you gave a statement to law enforcement?

8 A I did.

9 Q And law enforcement set up a series of interviews and
10 exams for J.M. . And you took her to those
11 appointments?

12 A Yes.

13 Q Did you have contact with Charles Dent, the
14 Defendant, after J.M. made her first disclosure?

15 A Yes.

16 Q And why did you have contact with him?

17 A I was instructed to make it seem like I didn't know
18 anything, and that I hadn't contacted the police.

19 Q Specifically, did you text the Defendant?

20 A There were text messages.

21 Q And do you remember those text messages?

22 A Yes.

23 Q Do you remember them word for word?

24 A No.

25 Q If I showed you a copy of those text messages, would

1 that refresh your memory?

2 A Yes.

3 Q So I'm handing you a copy of those text messages. If
4 you could, take a moment to review those.

5 MR. GROSE: I'm going to object. That's -- that's
6 not a copy of the text messages. That's a document that
7 can be used to refresh her memory. But it's not a copy of
8 the text messages.

9 THE COURT: All right. I'll so note that.

10 Go ahead.

11 BY MS. JOSEPH:

12 Q So, as Mr. Grose said, that's not a copy of the text
13 messages. That's a copy of a police report; is that
14 correct?

15 A Yes.

16 Q Okay. And after taking a moment to look over those
17 text messages, is that a true and accurate depiction of
18 those text messages?

19 A Yes, as far as I know.

20 Q And turning to -- I know that they're listed by date.
21 The June 10th conversation, can you read how that -- can
22 you read that conversation, please?

23 A Sure. The conversation starts out with Mr. Dent
24 asking Michelle --

25 Q I'm going to pause you. First of all, can you read a

1 little bit slower. And, also, it says "Michelle." What
2 is your legal name?

3 THE COURT: What's your objection, Mr. Grose?

4 MR. GROSE: Judge, this is a hearsay document. This
5 is not the text messages. If this can be used to refresh
6 her memory, then she can testify about it. But she can't
7 read a document written by somebody else.

8 THE COURT: I'm going to overrule your objection.
9 And go ahead, ma'am.

10 MS. JOSEPH: Thank you.

11 BY MS. JOSEPH:

12 Q So what is your legal name, Lori?

13 A Lori Michelle Mayo.

14 Q So you go by both "Lori" and "Michelle"?

15 A Yes.

16 Q So this document refers to you as "Michelle"?

17 A Yes.

18 Q So starting over on June 10th, 2014, if you could
19 just read a little bit slower and louder.

20 A Sure. The conversation starts out with Mr. Dent
21 asking Michelle why she is trying to ruin his life. He
22 tells her not to bring the kids into her drama. And that
23 she needs to pay half the rent, half the cable, and \$30
24 for her phone and -- \$30 for her phone for her and her
25 boyfriend.

1 Michelle tells Mr. Dent that he brought the kids into
2 it. And that she wasn't going to let him ruin their lives
3 like he did her childhood and most of her life. Michelle
4 said that it was a mistake to let him see the kids.

5 Mr. Dent said that he didn't know that she hated him
6 so much.

7 Michelle said she didn't know that he touched her
8 daughter.

9 Mr. Dent said that he would never touch the children
10 and she knew that.

11 Mr. Dent told her that he couldn't break the lease or
12 she would get evicted. He told her she could pay the next
13 two months and then renew it in her name, if that is what
14 she wanted. He asked her if she asked the kids to hate
15 him, too. Then he asked if they hated him -- it says, if
16 they hated them.

17 Michelle tells him that Diamond Realty will be
18 e-mailing him an addendum to sign so he can be removed
19 from the lease.

20 He tells her that he loves her and the kids and that
21 he is sorry if he ever hurt her.

22 Q All right. So then the next date is June 15th of
23 2014. Can you read those text messages as well?

24 A Sure. Michelle sends him a message saying, Happy
25 Father's Day.

1 Q I'm sorry. And the next one is June 23rd, 2014.

2 Continue.

3 A Mr. Dent told her that he had not heard from Diamond
4 Realty and said that he would like to get his phone back.

5 Michelle told him that if he wanted to be an asshole,
6 she could, too. And that he wanted everything in his
7 name, so now he could pay for it. She said that he's the
8 one that cared about his credit so much so he could make
9 sure he paid the rent on time.

10 Michelle told Mr. Dent --

11 Q She was glad.

12 A I'm sorry. I lost my place.

13 Q That's okay.

14 A It's really small.

15 Q I know.

16 A Michelle told Mr. Dent she was glad she didn't get
17 the car or he would want to take that back, too. She told
18 him if he turned the phone off, he would never get to talk
19 to the kids again in his life.

20 Mr. Dent told Michelle he was done paying and it was
21 up to her and her boyfriend now.

22 She told him that she was not paying and that he
23 needed to pay the rent or ruin his credit. She told him
24 that he wanted everything in his name, not her.

25 Mr. Dent told her that he was not paying her

1 boyfriend's rent. She told him that it was his rent and
2 his credit. He told her that he didn't live there, he
3 couldn't come there, and wasn't welcome there.

4 She told Mr. Dent that she didn't care about her
5 credit score and would have a new place before the
6 eviction went through.

7 Mr. Dent told Michelle that he wanted his name off of
8 the lease and asked what he was doing wrong.

9 She told him that he was doing everything wrong and
10 she was going to keep his name on the lease.

11 Mr. Dent told her, why would I pay for you and your
12 boyfriend to live rent free? He told her that it was all
13 her choice, not his.

14 She told him that she was not going to argue with him
15 and pay what he has been paying or the rent won't get
16 paid. She told him to fuck up his credit if he wanted to
17 and that it did not matter to her.

18 Q All right. And then the next texts -- and there's
19 only two more batches of texts. The next texts are from
20 July 2nd of 2014. Can you keep reading?

21 A Sure.

22 Michelle texted Mr. Dent and told him that he showed
23 pictures of his penis to J.M. . She asked him if he was
24 serious and told him that he was sick. Michelle told
25 Mr. Dent that he had way more than his credit to worry

1 about if the rent didn't get paid.

2 She, also, told him that he needed to give her back
3 the allotment that he owed. Michelle said that he owed
4 her and her daughter his fucking life. Michelle told him
5 that she would be expecting the rent and her allotment in
6 her account by Friday, unless he wanted his mom and
7 brother to find out, too.

8 Q And then the last texts are from July 3rd, 2014, the
9 next day. Can you read those as well?

10 A Sure.

11 Michelle texted Mr. Dent and told him to keep his
12 money and that they didn't need shit from him. She said
13 that she did not care if the rent got paid or not, and
14 that it was not about money. It was about him being a
15 pedophile and molesting children. She said he [sic] hoped
16 he got what he deserved.

17 The next one, too?

18 Q Yes, please.

19 A Mr. Dent texted Michelle and told her that he didn't
20 take care of the cable bill yet. And then on Tuesday, it
21 would be \$325. He, also, told her that she agreed to pay
22 \$30 a month on her phone. Mr. Dent told her that he would
23 have no choice but to have them turned off since she
24 didn't want to be responsible.

25 Michelle told Mr. Dent to go to hell.

1 Q All right. Now, I'm showing you a copy of your
2 statement. I just have one question about this statement.
3 So do you recognize this statement?

4 A Yes.

5 Q And how do you recognize it?

6 A It's my handwriting.

7 Q And is your name on it, too?

8 A Yes.

9 Q What date was that statement written?

10 A June 10th, 2014.

11 Q And I should have asked this before. So that
12 statement is the statement you gave law enforcement;
13 right?

14 A Yes.

15 Q So law enforcement came to your house and they took
16 that statement?

17 A Yes, on June 10th.

18 Q On June 10th. And that's when the text messages I
19 had you read started?

20 A Yes.

21 Q All right. So I already asked you why you had
22 contact with Mr. Dent after the disclosures?

23 A Yes.

24 Q You, obviously, had a lot of contact about the rent.
25 Why were you concerned with the rent?

1 A Because that's where me and my children sleep.

2 Q And, in fact, after you told law enforcement -- after
3 you reported the disclosure to law enforcement, what
4 happened to you and J.M. ?

5 A What do you mean?

6 Q Did you remain in the house?

7 A We -- I believe we -- the lease was up at the end of
8 August, if I'm not mistaken. And we were forced to leave.

9 Q Okay. So the -- I just want to separate those two
10 things. So the lease was up?

11 A Yes.

12 Q So it's not clear if you would have been able to
13 stay?

14 A I definitely would not have been able to stay.

15 Q Why not? Can you explain that?

16 A The realty company would not remove his name without
17 him sending a letter. And they, also, would not allow me
18 to just make a new lease by myself.

19 Q Okay. And then -- I'm sorry. So where did you move
20 into?

21 A We had to stay in a hotel.

22 Q Can you tell me a little bit about that, staying in a
23 hotel?

24 A It sucked. We stayed in the hotel for a couple of
25 months while we tried to find a home.

1 Q Did you notice any changes in your daughter after the
2 disclosures?

3 A Yes.

4 Q And what changes did you notice?

5 A She went from a child to a young lady in no time.
6 She had nightmares. And she was definitely more sexual.

7 Q Has she been diagnosed with ADHD?

8 A Yes.

9 Q And that was prior to this?

10 A Yes.

11 Q Circling back, how old were you in 2012 -- or 2014?

12 A Uh...

13 Q How old are you now?

14 A I'm 35.

15 Q So you were about 31?

16 A Yes.

17 Q So you were a grownup?

18 A Yes.

19 Q Prior to John Camelo, did you have any boyfriends or
20 girlfriends that lived in the house?

21 A Yes.

22 Q And I say boyfriends and girlfriends because you date
23 men and women?

24 A Yes.

25 Q So you had significant others, people that you dated

1 that lived in the house?

2 A No. Not in Beaufort County, no.

3 Q Not in Beaufort County. Okay. What about Dee?

4 A Yes. That was a coworker.

5 Q That was a coworker. Did the Defendant have any
6 issues with anyone else living in the apartment?

7 A He loved it when Dee lived there and brought her
8 friends over.

9 Q So he had no issue with Dee living in the apartment?

10 A No.

11 Q But he did have an issue with John Camelo living in
12 the apartment?

13 A Yes.

14 Q And why do you think he had that --

15 MR. GROSE: Objection. Speculation.

16 THE COURT: Sustained.

17 BY MS. JOSEPH:

18 Q What did Mr. Dent know about John Camelo?

19 A He knew that --

20 MR. GROSE: Objection. Also, speculation.

21 MS. JOSEPH: Your Honor, this is things that he would
22 have learn based off what Lori, his daughter, told him.

23 THE COURT: I'll allow it.

24 THE WITNESS: I told him that he used to be in law
25 enforcement. And he had a background with helping young

1 girls who had been sexually assaulted.

2 BY MS. JOSEPH:

3 Q Did you observe -- and maybe you didn't. Did you
4 observe that that information made the Defendant
5 uncomfortable?

6 A Yes.

7 MR. GROSE: Objection. Speculation. Move to strike.

8 MS. JOSEPH: Your Honor --

9 THE COURT: Overruled.

10 BY MS. JOSEPH:

11 Q And after learning that information about John
12 Camelo, did the Defendant, in fact, get frustrated, or you
13 can use a different word, with John Camelo living there?

14 A He was very upset.

15 Q Did --

16 A The -- I'm sorry.

17 Q No. It's okay. One last question. Well, it's not
18 one last question because I'm a lawyer and it can never be
19 one last question.

20 So J.M. came to you twice to talk to you about
21 things that had been happening to her?

22 A She went to John.

23 Q Right. She went to John, but she also -- you, also,
24 talked to her twice?

25 A Yes.

1 Q Do you know -- did J.M. tell you why she didn't
2 tell you everything at first?

3 A At first --

4 MR. GROSE: Objection. Hearsay.

5 MS. JOSEPH: Your Honor, the Defense opened the door
6 to this question during their opening statement when they
7 said --

8 MR. GROSE: If we're going to argue this, we need to
9 take up a matter of law.

10 THE COURT: I can rule now, Counsel.

11 MR. GROSE: Okay.

12 THE COURT: I'm going to overrule your objection.

13 Go ahead.

14 BY MS. JOSEPH:

15 Q So to restate the question. Do you know and did
16 J.M. tell you why she didn't tell you everything at
17 first?

18 A Yes.

19 Q And what did she tell you?

20 A She told me that she thought that I would be mad at
21 her. And she, also, was embarrassed.

22 MS. JOSEPH: I beg the Court's indulgence for a
23 moment.

24 THE COURT: All right.

25 (Pause.)

1 MS. JOSEPH: Nothing further.

2 Thank you.

3 Please answer Mr. Grose's questions.

4 THE COURT: All right. Mr. Grose, cross-examination
5 subject to your prior objections.

6 MR. GROSE: Thank you, Your Honor.

7 THE COURT: All right.

8 CROSS-EXAMINATION

9 BY MR. GROSE:

10 Q I believe you just testified that J.M. went to
11 John first both times?

12 A Yes.

13 Q Okay. Do you still have your statement there in
14 front of you?

15 A Yes.

16 Q And that was the statement that you identified that
17 was made on June 10th?

18 A Yes.

19 Q Of 2014?

20 A Yes.

21 Q And this was a statement that you made to law
22 enforcement?

23 A Yes.

24 Q And you knew that this was a statement that was going
25 to be used as part of the official police investigation;

1 is that right?

2 A No. I wouldn't know what it would be used for.

3 Q Well, you knew you were making a report to the
4 police?

5 A Yes.

6 Q All right. And you knew that when you talked to the
7 police, it's important to tell them the truth?

8 A Yes.

9 Q And to tell them everything?

10 A Yes.

11 Q If you could, take a look with me at the first line
12 of your statement. It says, On June 9, 2014, I questioned
13 my daughter because of my own suspicions about my dad ever
14 doing anything that she didn't want him doing.

15 A Yes.

16 Q Is that right?

17 A Yes.

18 Q And take and read over that to yourself for a second,
19 the entire statement.

20 A (Witness complied.)

21 Q Having read over that, you would agree with me that
22 John Camelo's name is never mentioned anywhere in that
23 statement, is it?

24 A No.

25 Q And so if we were to just look at this statement, it

1 would appear that you were the first person to question
2 J.M. or bring up any type of abuse with J.M. ; is
3 that correct?

4 A Yes.

5 Q Okay. And at the very beginning, we said that that
6 happened on June 9th; is that right?

7 A That's what the statement says, yes.

8 Q Okay. So based on that, you didn't call law
9 enforcement the same day that you questioned your
10 daughter, did you?

11 A No. It looks like I contacted them on June 10th.

12 Q Okay. And that was after contacting a counselor for
13 A.M. ?

14 A Yes.

15 Q Okay.

16 A It was in the evening.

17 Q Okay. Well, you know, you can call the police at
18 night?

19 A Yes.

20 Q Okay. Now, you talked about living in Jacksonville,
21 Florida. Is that where you lived before you moved to the
22 Beaufort County area?

23 A Yes.

24 Q And you, in fact, had lived in Jacksonville for quite
25 a while, hadn't you?

1 A Yes.

2 Q I think your mother, whose name was, also, Lori, and
3 Charles were married on two occasions; right?

4 A Yes.

5 Q They got married, divorced, and then they remarried?

6 A And then divorced again, yes.

7 Q And then divorced again. And you lived with your
8 mother in Jacksonville; is that right?

9 A We lived in a suburb of Jacksonville.

10 Q Okay. And Matthew, your brother, lived with Charles?

11 A Yes.

12 Q Okay. And you mentioned -- you mentioned that you
13 had a close relationship with your brother, Matthew?

14 A Yes.

15 Q And, in fact, Matthew would come and visit you and
16 your children in the Jacksonville area?

17 A And my mom, yes.

18 Q And your mom.

19 MS. JOSEPH: Objection, Your Honor. Under Rule 401
20 and 402, I'm just not sure what the relevance of this is.

21 THE COURT: What's the relevance?

22 MR. GROSE: Your Honor, they -- I need to get into
23 the relationship that J.M. had with Matthew, as well
24 as his --

25 THE COURT: I'm going to sustain the objection.

1 MR. GROSE: Your Honor, can I take up a matter of
2 law?

3 THE COURT: You can.

4 Take the jury out.

5 Please do not discuss the case with each other or do
6 any research or investigation.

7 (WHEREUPON, the jury was excused from open court at
8 approximately 2:57 p.m.)

9 THE COURT: Mr. Grose, yes, sir.

10 MR. GROSE: Judge, the -- the reality of this is --
11 and they already brought up Matthew's suicide. The
12 reality of this is that mental illness runs in this
13 family, particularly on the mother's side. And J.M.
14 was close to both Matthew and to her grandmother.

15 Her grandmother, also, committed suicide, and may
16 have even made one suicide attempt while living in the
17 same household. And this is entirely relevant. Because
18 you heard yesterday that the -- they plan to ask the
19 counselor -- well, not the counselor, but the so-called
20 independent expert about trauma.

21 And we have counseling records where when they were
22 going through the potential different types of trauma that
23 J.M. had experienced -- and it has information in there
24 about, you know, the history of suicide and the fact that
25 she knew -- either was told or knew enough about suicide

1 of a family member or of a person that she would have, you
2 know, images about that in her mind.

3 And so if -- if trauma is going to be an issue in
4 this case like they're making it, then I'm entitled to
5 show the other sources of trauma. And so it is very
6 relevant to why we're here if that's, you know, the
7 State's theory.

8 I mean, they're going -- they're going to argue, you
9 know, that some of J.M. 's behaviors were related to
10 trauma. And I think I'm entitled to go into the traumas
11 that she's experienced in her life.

12 THE COURT: Mr. Grose, I'm going to let Counsel
13 respond to that. But I -- rarely, do I see a lawyer
14 anticipate what the State's going to do and make an
15 objection before I even hear what the State is going to
16 do.

17 MR. GROSE: I'm not anticipating it.

18 THE COURT: Well, that's what you just said. You
19 said you anticipate that their argument is going to be
20 about trauma and you now need to go into this.

21 MR. GROSE: Well, they told us that yesterday. I
22 mean, I'm entitled to rely on what they put forward in the
23 hearing yesterday.

24 THE COURT: All right. Ms. Joseph.

25 MR. GROSE: I have two packages of records I'd like

1 to mark as Defendant's Exhibit Nos. 2 and 3.

2 THE COURT: Have you seen those?

3 MS. JOSEPH: I have? When he says Defense Exhibit --
4 I know we've gone over this a million times. This will
5 not be going back to the jury.

6 MR. GROSE: It will not be going back to the jury.
7 It will just be marked for identification.

8 MS. JOSEPH: I mean, I know that he's being kind of
9 cavalier about this. But, Your Honor, I do want to point
10 out that these are the counseling records of a
11 nine-year-old person. We don't -- I mean, we're here
12 deciding about her sexual abuse allegations. But we,
13 also, know she had two suicides in her family.

14 This is not a casual matter. We are talking about
15 mental health tainting testimony. I'm very concerned
16 about where this is going.

17 MR. GROSE: I'm concerned about where it's going if
18 we don't get to put this in. I fully believe this is a
19 serious matter. This is a 61-year-old man that has only a
20 simple possession of marijuana on his record, that if he
21 gets convicted of this is going to spend the rest of his
22 life in prison.

23 And the State has said -- and they're calling
24 witnesses to talk about characteristics of child abuse.
25 And they've said they're going to have testimony about

1 trauma. And this goes to our Sixth Amendment right to
2 confront and cross-examine it.

3 And I just need to have this marked and put in the
4 record. I don't have a problem if these records -- these
5 two exhibits are sealed after this trial is over, as long
6 as they're in the record.

7 MS. JOSEPH: To briefly respond, Your Honor. Tessa
8 has not met with the -- Ms. Trask, our expert, has not met
9 with the victim. She is not -- she is, literally, going
10 to define trauma and say that sex abuse can cause trauma.
11 I mean, she is speaking in the biggest generalities
12 possible.

13 And if he wants to argue that her trauma was caused
14 from other things, he is welcome to argue that at the end.
15 But -- and she's already said that her brother committed
16 suicide. I just think that he wants to paint this picture
17 that -- I think that he's gathered enough information from
18 this witness where the jury understands the picture. And
19 I think that this is not relevant to the extent where he
20 is asking the questions.

21 MR. GROSE: I don't --

22 MS. JOSEPH: And, also, he -- after our witness
23 testifies -- because I think that you're right, Your
24 Honor. This is maybe my more important point. I was so
25 overwhelmed by this idea of mental health being brought

1 in -- I'm sorry. I got a little off track.

2 He is welcome to subpoena this witness and call her
3 himself. I just think that our witness is not going to
4 testify to what he thinks she's going to testify to.
5 She's never met this little girl. She's talking complete
6 generalities. So it's very frustrating to me that he's
7 trying to paint my victim like a head case.

8 MR. GROSE: These snarky remarks are getting a little
9 old.

10 But moving past that. We don't have in the record
11 the -- the fact that J.M. 's mother -- I mean
12 grandmother, also, committed suicide. And I'm sure she
13 would object if I started arguing something that's outside
14 of the record. And I don't --

15 THE COURT: Mr. Grose, let me ask you this. Don't
16 you think that -- and I understand what you're saying.
17 But we've got -- we've got a situation where we're going
18 to do a proffer on another hearing, I think, as far as the
19 Alabama people coming. When that -- what's this
20 witness --

21 Ms. Trask, is that her name? Right?

22 MS. JOSEPH: Yes, Your Honor.

23 THE COURT: Whenever they call her, do you want to do
24 a proffer and let's just kind of see at that time? And
25 then --

1 MR. GROSE: No. Because that's their witness. I do
2 get to cross-examine their witness.

3 THE COURT: Well, I'll ask --

4 MR. GROSE: But we did a proffer last night. And I
5 wanted to get into the substance of the testimony, which I
6 thought you were supposed to do under your gatekeeping
7 role. I was overruled on that objection. So I think
8 we're already past the proffer stage.

9 And I, also, you know, get to cross-examine witnesses
10 that they call regarding what I think are the -- the
11 theories and themes of my case. I mean, this is -- this
12 gets to a big part of our defense, based on the evidence
13 that they've told us that they're going to present, Your
14 Honor.

15 What they're -- what I anticipate that they're going
16 to do, based on what's been represented with the bullet
17 points that they went over, is that they're going to say
18 that, you know, J.M. 's symptoms of trauma confirm she
19 was sexually abused. I mean, that is the reason why our
20 Supreme Court in Weaverly and Schumpert and reaffirmed in
21 Anderson have said that this type of testimony is even
22 relevant to begin with.

23 So they've already put state of mind and mental
24 health into issue. And that's why Judge Mullen issued the
25 orders on our motions that allowed for the disclosure of

1 these records is because the state of mind is going to be
2 an issue.

3 MS. JOSEPH: I'm not comfortable saying that that is
4 why Judge Mullen did that. Judge Mullen -- we had a
5 hearing about this. I think that's a misstatement of
6 Judge Mullen's reasoning on that.

7 We had a hearing where she was given a brief set of
8 facts about this case. She looked to see if there was
9 anything relevant at all in those counseling records, and
10 that's why she let them in, Your Honor. She was not
11 making that determination. That is a misstatement.

12 MR. GROSE: Well, there was a motion based on the
13 fact that J.M. 's state of mind was going to be an
14 issue. It was a motion, initially, to get records from
15 the children's advocacy center, Hopeful Horizons.

16 And we followed the procedure that was set forth in
17 the Blackwell case from about a year ago now on how to get
18 the records and reviewed them. And she determined they
19 were relevant. And my reason for moving for them was for
20 this very possibility today, that we would be --

21 THE COURT: So did Judge Mullen make a finding that
22 they were relevant?

23 MR. GROSE: She -- well, she -- she made a finding --

24 THE COURT: That's what you're saying. You said she
25 found they were relevant.

1 MR. GROSE: She found that they were discoverable.

2 THE COURT: You're saying that she made a finding on
3 the record that they were relevant?

4 MR. GROSE: Well, I asked for -- the ultimate
5 admissibility was left to the trial judge. But if there
6 wasn't anything in these records that related --

7 THE COURT: I understand that, Mr. Grose. But what
8 I'm hearing you saying is that Judge Mullen made a finding
9 that they were relevant. And that's not the case.

10 MR. GROSE: Well, she had to make a finding under
11 Blackwell to disclose them, you know. Blackwell said that
12 a party can't just ask for mental health records and they
13 be turned over. That there has to be some sort of basic
14 determination as to whether or not the public policy, in
15 this case the Sixth Amendment confrontation right,
16 overrides the privacy right created by statute for mental
17 health records.

18 So she did, at least, make a determination that
19 complied with that procedure that was set forth by our
20 Supreme Court.

21 MS. JOSEPH: It's the concerns in Blackwell that the
22 State is concerned about here. Once again, there is a
23 higher threshold to release mental health records because
24 they are mental health records.

25 There's a reason that I am so deeply concerned with

1 J.M. 's mental health becoming a focal point of the
2 Defense. And I think what's important to note, Your
3 Honor, is that frequently when we have legal arguments, we
4 get very bogged down in the minutia.

5 And if we zone out right now, Mr. Grose is arguing
6 that whether or not J.M. experienced other trauma is a
7 pillar of his defense. That just simply can't be the
8 case. Because she is -- they're going to watch the
9 videos. Basically, her -- the red flags that John Camelo
10 talked about are one small aspect of this case. Her
11 disclosure is, clearly, the focal point of this case.

12 And so I think that he's trying to argue that the
13 fact that she experienced other traumas is this pivotal
14 thing in this case. And it just simply can't be, Your
15 Honor. And I think he's allowed to ask maybe one or two
16 questions about, you know, was she close with Matt? Did
17 Matthew kill himself? Was she close with your mom? Did
18 your mom kill herself?

19 I apologize. I'm being real glib.

20 But I think he has to move on. He can't just rake
21 over the coals with this information. And that's what
22 he's been doing. I mean, we're on question four. I mean,
23 at this point, we're sort of at the zip code of where they
24 lived in Jacksonville. I mean, he's really going deep.

25 THE COURT: I think --

1 Go ahead, Mr. Grose. But I'm inclined that the four
2 questions Counsel outlined, those are the questions that I
3 would permit you to ask.

4 MR. GROSE: Okay. I don't think that that allows us
5 to go into it deeply enough. I mean, I think --

6 THE COURT: Well, those are the four questions I'm
7 going to let you ask.

8 MR. GROSE: Okay. But the only thing I would like to
9 point out, this would not be an issue --

10 THE COURT: And I understand that, Counsel. But
11 those are the four questions I'm going to let you ask.
12 Move on.

13 MR. GROSE: I was going to say I don't even have to
14 ask those four questions if they're not going to call
15 their expert this afternoon. I mean, that's why this is
16 relevant.

17 MS. JOSEPH: We're calling her. But, once again,
18 she's speaking in such extreme generalities. She's,
19 literally, providing the definition of the word trauma.

20 MR. GROSE: That's not what she said last night.

21 THE COURT: Mr. Grose, I will say it for the fourth,
22 fifth time. I will allow you to ask those four questions
23 and none other. Now, if you ask me that again --

24 MR. GROSE: Fair enough.

25 THE COURT: Do you understand my ruling?

1 MR. GROSE: That I can ask was she close to her
2 brother -- or to her uncle? Did her uncle commit suicide?
3 Was she close to her mother? Did her mother commit
4 suicide?

5 THE COURT: Yeah, one, two, three, four.

6 MR. GROSE: Fair enough.

7 THE COURT: Anything further before we bring the jury
8 back?

9 MR. GROSE: I do want my exhibits marked as a proffer
10 for the record.

11 THE COURT: You've got two of them?

12 MR. GROSE: Yes, sir.

13 (WHEREUPON, Court's Exhibit Nos. 7 and 8 were was
14 marked for identification and admitted into evidence.)

15 THE COURT: Anything before we bring the jury back?

16 (WHEREUPON, there was no response.)

17 THE COURT: Bring the jury back.

18 (WHEREUPON, the jury came into open court at
19 approximately 3:14 p.m.)

20 THE COURT: We're back on the record, Mr. Grose.

21 MR. GROSE: Thank you, Your Honor.

22 THE COURT: All right.

23 CONTINUED CROSS-EXAMINATION

24 BY MR. GROSE:

25 Q When we left off, I think I was asking you about your

1 brother, Matthew. J.M. was close the Matthew, wasn't
2 she?

3 A I don't know if I would say that, but they loved each
4 other.

5 Q Okay. And I think you already testified that Matthew
6 committed suicide?

7 A Yes.

8 Q And J.M. was close to your mother, wasn't she?

9 A Yes.

10 Q And your mother, also, committed suicide, didn't she?

11 A Yes.

12 Q Okay. Now, it was after Matthew's suicide that you
13 ended up moving to the Beaufort County area; is that
14 right?

15 A Yes.

16 Q Okay. And the -- that's when Mr. Dent and you began
17 to re-establish a relationship; is that right?

18 A Yes.

19 Q Okay. And at the time, Mr. Dent's brother owned
20 property in this area; is that correct?

21 A I believe he had a timeshare.

22 Q At Hilton Head?

23 A Yes.

24 Q And so that was one of the reasons why this area was
25 selected?

1 A Yes.

2 Q Okay. Now, the first unit that you lived in, how big
3 was that?

4 A It was a two-bedroom.

5 Q Okay. And do you recall what the rent was for that?

6 A I do not.

7 Q You do not?

8 A No.

9 Q Okay. And your father paid the rent, didn't he?

10 A We both split the rent.

11 Q Okay. Do you remember what that split was?

12 A Half and half.

13 Q Okay. And then when you moved, do you know what the
14 rent was at that place?

15 A It was either \$1,100 or \$1,300 a month. I can't
16 remember exactly.

17 Q Okay. And since you don't remember the difference --
18 or the amount of rent for the first unit, you don't know
19 how much of an increase that was or was not, do you?

20 A Not exactly, no.

21 Q Okay. Now, you talked about wanting to be
22 self-sufficient. When you were living in the Beaufort
23 County area, did you have a job?

24 A Yes.

25 Q Okay. And did you have more than one job?

1 A Yes.

2 Q Okay. How many jobs did you have in that approximate
3 two-year period?

4 A Four that I can think of.

5 Q Okay. And what was the first one?

6 A The first one, I believe I worked at Cracker Barrel.

7 Q And how long did you work there?

8 A I don't recall.

9 Q All right. And what was the second one?

10 A I don't remember the order of them.

11 Q Okay. Well, where were they?

12 A I, also, worked at Publix. I worked for a temp
13 agency at Republic Services. And the first one just
14 slipped my mind. I can't remember.

15 Q Okay. Well, there was periods of time that you were
16 not employed while you lived in this area, too, wasn't
17 there?

18 A Yes.

19 Q Okay. Do you remember how much you were employed
20 versus how much you were unemployed?

21 A I would say I was employed 90 percent of the time.

22 Q Now, did you and your father have an understanding
23 that he was going to help with the rent for a year, and
24 then you were supposed to take it over?

25 A No.

1 Q The Solicitor asked you about some text messages
2 before; is that right?

3 A Yes.

4 Q Okay. And do you still have that document in front
5 of you?

6 A Yes.

7 Q Okay. I don't want to necessarily go into those
8 again. But that is not a printout of text messages, is
9 it?

10 A They are very -- they were the text messages, yes.

11 Q Okay. But that is, actually, a report written by
12 somebody else. It's not written by you, is it?

13 A It's, actually, typed. It's not written.

14 Q Well, okay. Typed, written. But it's -- you didn't
15 type it, did you?

16 A I did not type it.

17 Q Okay. And it's not screen shots of the text
18 messages, or anything like that, is it?

19 A No.

20 Q Okay. Now, you and your father, you had arguments
21 about money going back to the fall of 2013, didn't you?

22 A I don't know what you're talking about.

23 Q I've got some documents I'd like for you to take a
24 look at. Is that all right?

25 A Yeah.

1 Q Just take a moment and read those.

2 A (Witness complied.)

3 Q One of the things in those messages is you and your
4 father arguing about money, isn't it?

5 A It -- I believe we were arguing about the half of the
6 rent that he had to pay.

7 Q And you were arguing about money for J.M. for
8 dance lessons?

9 A Yes.

10 Q And so arguments for -- about money started in 2013?

11 A I wouldn't -- I wouldn't say we were arguing.

12 Q Okay. Well, there was, at least, a disagreement,
13 wasn't there?

14 A Yes.

15 Q And you were upset that he hadn't sent more money
16 than he had sent?

17 A That he had not sent the money for the rent, yes.

18 Q All right. Well, and in those messages, it reflects
19 that some had been sent, but it wasn't enough?

20 A I don't -- I don't see where anything says any money
21 had been sent.

22 Q So, anyway, my question is, though, those were in
23 2013?

24 A Yes. The date on here says 2013.

25 Q All right. So the first time that some dispute or

1 discussions about the money coming up the first time
2 wasn't June 9th or 10th, was it?

3 A No.

4 Q Okay. I'll take those back from you.

5 I want to go back to John Camelo for a second. Is it
6 fair to say that you met him in the -- for the first time
7 in the spring of 2014?

8 A I don't recall when I met him.

9 Q Okay. You met him at the swimming pool; right?

10 A Yes. That was my other job.

11 Q Okay. And at the swimming pool, he was -- I don't
12 know what the right word was. He wasn't necessarily a
13 lifeguard, but he was somebody --

14 A He was a security guard.

15 Q Security guard. He wasn't working in law enforcement
16 then, was he?

17 A No.

18 Q And he wasn't working as a private investigator then,
19 was he?

20 A I'm not sure.

21 Q Okay. And for a period of time, you and John Camelo
22 dated?

23 A Yes.

24 Q Okay. And so it was a romantic relationship for you;
25 is that correct?

1 A Yes.

2 Q Okay. And John Camelo in a very short period of time
3 moved into the townhouse that you were living in; isn't
4 that right?

5 A He did not move in. He had his own place.

6 Q Okay. He didn't stay in the bedroom on the first
7 floor?

8 A He -- he stayed over every once in a while, like, for
9 maybe the night. It wasn't until June 10th that I asked
10 him to come stay with us.

11 Q Okay. But he did move in, didn't he?

12 A No. He still had his own place.

13 Q Well, but he spent more nights there than he spent
14 anywhere else, didn't he?

15 A He worked overnight.

16 Q Okay. So you're saying John Camelo never lived in
17 your townhouse?

18 A I'm not saying he never lived there. But he had his
19 own place. So I asked him to stay over several times.

20 Q Okay. And the Solicitor asked you about one of your
21 friends named Dee living there?

22 A Yes.

23 Q Do you recall that question?

24 A Yes.

25 Q And -- but Dee was not a romantic interest for you,

1 was she?

2 A No.

3 Q Okay. Now, during the two years, roughly, that you
4 were living in Beaufort County, is it fair to say that
5 John Camelo was the only romantic interest that lived or
6 stayed over for extended periods of time in your
7 townhouse?

8 A Yes.

9 Q Okay. Now, John Camelo, also, your children referred
10 to him as "dad," didn't they?

11 A My son has never referred to anyone as dad.

12 Q Okay. J.M. did?

13 A Yes.

14 Q Did you ever tell people that John was the new dad
15 for J.M. and A.M. ?

16 A No.

17 Q Okay. Has there ever been any other men involved in
18 your life that J.M. has referred to as "dad"?

19 A Yes.

20 Q And who was that?

21 A Pretty much every man I've ever dated.

22 Q Okay. The one person that J.M. has probably never
23 referred to as her dad is her real dad; is that correct?

24 A Yes. She's never met him.

25 Q Okay. And so how many men have you dated --

1 MS. JOSEPH: Objection --

2 BY MR. GROSE:

3 Q -- that J.M. --

4 THE COURT: Hold on. Hold on.

5 MS. JOSEPH: I mean, I'm objecting, basically,
6 because the question started with, "how many men." But I
7 think that going deep into the witnesses dating history is
8 not relevant under Rule 401 and 402.

9 I think that I've allowed this -- you know, I've
10 allowed this to go on. And I know that in his opening, he
11 talked extensively about the witness -- talking about
12 calling Mr. Camelo "dad." And he's been allowed to ask
13 questions about that.

14 But, now, we're going into the witnesses dating
15 history. And I just don't think that's relevant.

16 THE COURT: I don't think -- I'll hear from you.

17 MR. GROSE: I don't want to get into the dating
18 history. I just want to know how many people, other than
19 John Camelo, J.M. has referred to as "dad."

20 THE COURT: That's not what you asked.

21 MR. GROSE: Well, I'll ask it that way.

22 THE COURT: I'll let you ask that. But I'm not going
23 to let you get into any dating history.

24 MR. GROSE: That's fine. Fair enough. I didn't
25 intend to.

1 THE COURT: Okay.

2 BY MR. GROSE:

3 Q Other than John Camelo, how many men has J.M.
4 referred to as "dad"?

5 A I couldn't tell you the exact number. I don't know.

6 Q More than five?

7 A I don't know.

8 MS. JOSEPH: Objection, Your Honor.

9 THE COURT: Sustained.

10 BY MR. GROSE:

11 Q Now, as far as the lease on the second townhome,
12 would you agree that you stayed there through the end of
13 the lease?

14 A Yes.

15 Q And would you agree that your father continued to pay
16 for it through the end of the lease?

17 A No.

18 Q Would you agree that when you moved out, there was
19 some damage that your father paid for?

20 A No.

21 Q Okay. Did you pay for it?

22 A No.

23 Q Okay. Now, there was -- I think after you moved out
24 of the townhouse, you went to a hotel; is that right?

25 A Yes.

1 Q And you were in the hotel for maybe a couple of
2 months?

3 A Yes.

4 Q And it was you, and J.M. , and A.M. staying there?

5 A Yes.

6 Q Anyone else?

7 A No.

8 Q Okay.

9 A My dog.

10 Q Your dog. Okay. And after that, you moved to North
11 Carolina; is that right?

12 A Yes.

13 Q Okay. Now, the hotel was noisy at night, wasn't it?

14 A Not that I recall.

15 Q Not that you recall. Okay. Fair enough.

16 Now, while J.M. was living in Beaufort, South
17 Carolina, Beaufort County, South Carolina, she attended
18 schools here, didn't she?

19 A Yes.

20 Q And she was an A and B student, wasn't she?

21 A A's, B's, and C's.

22 Q But she didn't have any problems in school?

23 A J.M. has always had problems in school.

24 Q Well, she had more problems when y'all moved to North
25 Carolina, though, didn't she?

1 A The schools are very different than here.

2 Q Okay. So you never told anybody that she went from
3 being an A and B student in South Carolina to a struggling
4 student in North Carolina?

5 A I've told a lot of people.

6 Q You've told a lot of people that?

7 A I don't hide, I mean, what we're going through.

8 Q Okay. But my point is she did better for the two
9 years that she was in South Carolina grade-wise than she
10 did after she moved to North Carolina?

11 A She did better grade-wise here in South Carolina in
12 Beaufort County schools, yes.

13 Q All right. And I think you just attributed that to a
14 difference in the schools; is that correct?

15 A I would definitely say it was because the schools are
16 better here.

17 Q They are better here?

18 A Yes.

19 Q But she did better here?

20 A Yes.

21 MR. GROSE: Okay. I beg the Court's indulgence for a
22 moment.

23 THE COURT: Yes, sir.

24 (Pause.)

25 MR. GROSE: That's all the questions I have at this

1 time.

2 Thank you.

3 THE COURT: Redirect.

4 MS. JOSEPH: Thank you, Your Honor.

5 REDIRECT EXAMINATION

6 BY MS. JOSEPH:

7 Q So Mr. Grose was asking you questions about what you
8 told the counselor about J.M. ; is that correct?

9 A I didn't hear --

10 MR. GROSE: The question --

11 THE COURT: Hold on.

12 MR. GROSE: The question was about grades. And I
13 didn't identify a counselor. I just asked if she had ever
14 told anybody about grades.

15 MS. JOSEPH: Okay. Let me rephrase.

16 THE COURT: Rephrase.

17 BY MS. JOSEPH:

18 Q So one of the people that you told about J.M. 's
19 grades was a counselor?

20 A Most likely. I don't recall.

21 MR. GROSE: I object to the leading.

22 THE COURT: All right. Sustained.

23 BY MS. JOSEPH:

24 Q Did you take J.M. to a counselor after the
25 disclosures were made?

1 A Yes.

2 Q I'm going to show some photos. Be careful not to
3 show them to the jury.

4 MR. GROSE: Objection. This is outside the scope of
5 cross-examination.

6 MS. JOSEPH: Your Honor, under Rule 611, it's at the
7 Court's discretion whether I can ask questions outside of
8 cross. If Your Honor decides that I can't ask questions
9 outside cross -- these questions are about photographs
10 that we discussed.

11 It may be better to recall this witness and have her
12 identify the photos tomorrow when certain other people are
13 testifying. That would -- recalling a witness during my
14 case in chief is, also, at the Court's discretion.

15 THE COURT: Let's do it this way --

16 MS. JOSEPH: You want to do it that way?

17 THE COURT: Yes.

18 MR. GROSE: Thank you, Your Honor.

19 THE COURT: All right.

20 MS. JOSEPH: Nothing else for this witness at this
21 time.

22 Mr. Grose may have one or two other questions.

23 MR. GROSE: I do not.

24 THE COURT: All right. Thank you.

25 Ladies and gentlemen of the jury, do y'all need a

1 break?

2 (WHEREUPON, the jurors indicated in the negative.)

3 THE COURT: Everybody is good?

4 All right. Next witness.

5 MS. JOSEPH: Your Honor, the State calls Investigator
6 LaVan.

7 THE COURT: I failed to ask these two important
8 people down in front of me. Do y'all need a break?

9 THE CLERK: No. I'm good.

10 THE COURT REPORTER: I'm fine.

11 MR. GROSE: Your Honor, may we approach?

12 THE COURT: Yes.

13 (WHEREUPON, a bench conference was held.)

14 THE CLERK: Okay. If you would, place your left hand
15 on the Bible and raise your right hand for me.

16 WHEREUPON,

17 CORNELIUS LAVAN,

18 after first having been duly sworn, testified as follows:

19 THE CLERK: Thank you.

20 Come right around here.

21 MS. LUTTRELL: May I proceed, Your Honor?

22 THE COURT: Yes.

23 DIRECT EXAMINATION

24 BY MS. LUTTRELL:

25 Q Good afternoon, Detective LaVan. Would you, please,

1 introduce yourself to the jury?

2 A Sure. My name is Investigator Cornelius LaVan. And
3 I'm with the Beaufort County Sheriff's Office.

4 Q And how long have you worked for the Beaufort County
5 Sheriff's Office?

6 A Since 2011.

7 Q What position do you hold there now, Investigator?

8 A Criminal investigator.

9 Q And what are some of your job duties as an
10 investigator?

11 A Generally speaking, obviously, we investigate
12 criminal cases that are brought to our attention by the
13 public. It is our job to further investigate those crimes
14 once they've been, initially, reported to the sheriff's
15 office.

16 Q Have you held any other positions with the Beaufort
17 County Sheriff's Office?

18 A Yes, I have.

19 Q What positions?

20 A I was an animal control officer before I was an
21 investigator.

22 Q And have you served in the military at all?

23 A Yes, I have. I spent 20 years in the Marine Corp.
24 And I'm retired now from the Marine Corp.

25 Q How did you got involved in the case that we're here

1 for today?

2 A This case, in particular, obviously, like I mentioned
3 before, Ms. Mayo, who just testified, she filed a
4 complaint with the Beaufort County Sheriff's Office. And
5 then that case was assigned to me as a criminal
6 investigator. And that's how I got involved.

7 Q Did you respond when she made that initial phone
8 call?

9 A Not that particular day. I believe approximately two
10 days after the report was filed with us, I made contact
11 with Ms. Mayo.

12 Q But did another officer go out the same day that she
13 called?

14 A Yes.

15 Q And then after that officer took an initial report,
16 then you took over the case?

17 A Correct.

18 Q Now, after you made contact with Ms. Mayo, what was
19 the first step you took in the case?

20 A The first thing I did was I called her on the
21 telephone. We briefly talked about what she, originally,
22 reported. Then I scheduled what we refer to as a forensic
23 interview.

24 MR. GROSE: Objection to the use of the term
25 forensics, Your Honor.

1 THE COURT: I'm going to -- I'm going to overrule
2 that objection. I'm going to overrule.

3 Go ahead.

4 BY MS. LUTTRELL:

5 Q So you scheduled an interview?

6 A I did.

7 Q Where did you schedule the interviews?

8 A Hope -- I get the names mixed up. It's Hopeful
9 Horizons, formerly known as Hope Haven.

10 Q And did you speak to J.M. in this case?

11 A No, I did not.

12 Q Why not?

13 A Because of her age and the allegations, we,
14 typically, don't interview someone of her age, according
15 to those allegations.

16 Q So you let someone else who's trained to handle that?

17 A Correct.

18 Q And that --

19 MR. GROSE: Objection, Your Honor. That gets into
20 the Anderson prohibition. And it's, also, leading.

21 THE COURT: I'm going to overrule the objection.

22 Go ahead.

23 BY MS. LUTTRELL:

24 Q Okay. So after you scheduled these interviews at
25 Hopeful Horizons, do you attend these interviews?

1 A I did -- I do.

2 Q And when was the first interview? Do you recall?

3 A If I'm not mistaken, the first one was done on -- I
4 want to say -- and I could be wrong about this date, in
5 particular. I think it was maybe July 10th, or something,
6 close to that.

7 Q And do you attend the interview as well?

8 A Yes.

9 Q Now, during the interview, are you observing it as
10 it's going on?

11 A I'm not in the actual room. I'm in another room
12 watching from a monitor, if that answers your question.

13 Q Yes. Now, at that point, after this initial
14 interview, did you obtain any warrants in this case?

15 A According to that first interview, yes, I did.

16 Q Were those warrants, actually, executed at that
17 point?

18 A No, they were not.

19 THE COURT: What's your objection?

20 MR. GROSE: It depends on what they ask next, Your
21 Honor.

22 BY MS. LUTTRELL:

23 Q And prior to any warrants being, actually, executed
24 in this case, was there a point where you set up a second
25 interview with Hopeful Horizons?

1 A I did.

2 Q And why did you do that?

3 A That was based on some new revelations in the case.

4 There was another disclosure, the term we're using, from

5 J.M. . And I recalled those warrants and we

6 conducted -- a second interview was conducted with

7 J.M. .

8 Q And was that, also, done at Hopeful Horizons?

9 A Yes, it was.

10 Q And did you attend that interview?

11 A I did.

12 Q When was that interview?

13 A That one was, if I'm not mistaken, on July 21st of
14 that year.

15 Q Now, when you were first speaking with Lori about
16 this case and taking that initial report, did you advise
17 her at all about contact with the Defendant in the case?

18 A I may have. It wouldn't be out of routine for me to
19 make that request. But I can't definitely say that I did
20 or didn't.

21 Q And when you say it wouldn't be out of your routine
22 to make that request, what kind of request are you talking
23 about?

24 A Because of the allegations, that her daughter was
25 assaulted, I may have asked her do not make contact with

1 the suspect, or pretend like there's nothing wrong so the
2 suspect does not get -- he doesn't get aroused to what's
3 going on.

4 Q Just act like everything is normal?

5 A Correct.

6 Q Now, when you took these reports, did you learn a
7 location of the allegations?

8 A I did.

9 Q And what were those locations?

10 A The first location was, I think, .

11 And the second one should have been .

12 Q And are those both in Beaufort County?

13 A I'm sorry. They're both in Bluffton, in Beaufort
14 County.

15 Q And what else did you do as part of your
16 investigation? Did you collect any evidence in this case?

17 A I did. When the second disclosure was brought to my
18 attention, there was a pair of shorts and two notes that I
19 collected as part of those -- those new disclosures.

20 Q And you turned those into evidence?

21 A I did.

22 Q Was anything done with that pair of shorts in this
23 case?

24 A No. If you're asking if there was any analysis done
25 on the shorts, there was not.

1 Q And why not?

2 A Because so much time had passed from the time of the
3 allegations until the time I collected the shorts. The
4 shorts could have been washed 20, 30 times since then. So
5 I would highly doubt there would be any significant
6 evidence recovered from the shorts.

7 Q What were -- what was the time of the allegations?
8 What was the date of the initial allegation or when the
9 incident occurred -- the allegations of when it occurred?

10 A We're not talking about the report date. We're
11 talking about --

12 MR. GROSE: And that would be speculation from this
13 witness. I have no objection to the report date.

14 THE COURT: Ask the question again, ma'am.

15 BY MS. LUTTRELL:

16 Q What was the date of the alleged incident in this
17 case?

18 MR. GROSE: And, again, that is outside his personal
19 knowledge.

20 THE COURT: You'll get to cross-examine him in a
21 minute. I'm going to allow it. You've got
22 cross-examination.

23 Go ahead and ask the question.

24 BY MS. LUTTRELL:

25 Q What were the dates of the alleged incidents?

1 A If I'm not mistaken, somewhere between March of 2014
2 and, I believe, June of 2014. But I might be off a little
3 bit. I'll have to refer to my notes.

4 Q Was this allegation put in a report and a warrant?

5 A It is. It's all documented in the affidavit and in
6 the report as well.

7 Q So would it refresh your memory if you took a look at
8 those --

9 A It would.

10 Thank you.

11 It would, yes.

12 Q -- two pieces? Do you have them with you, or would
13 you like me to give you a copy?

14 A If you have a copy, that would be fine.

15 MS. LUTTRELL: Do you have a copy of that, Mr. Grose?

16 MR. GROSE: Uh-huh.

17 MS. LUTTRELL: Your Honor, may I approach?

18 THE COURT: Yes, ma'am.

19 BY MS. LUTTRELL:

20 Q I'm showing you the warrants you took out in this
21 case. Are those the warrants?

22 A Yes, ma'am.

23 Q And what are the dates of the incidents listed on
24 those warrants?

25 A On this particular one I'm reading, the dates are

1 April -- I'm sorry, April of 2013 and August of 2013.

2 Q And are there additional warrants with other dates as
3 well?

4 A Yes.

5 Q Could you go ahead and refresh your memory -- you can
6 refresh your memory with all of them.

7 A The second set of dates are from August of 2013 to
8 April of 2014.

9 Q Now, during your investigation in this case, was
10 there, at some point, a report made to you about another
11 potential male trying to make contact with J.M. ?

12 A There was. There was an incident that was brought to
13 my attention, yes.

14 Q And was that after the initial report had been made
15 to you?

16 A The reporting of the incident was after the initial
17 reporting -- the initial report, yes.

18 Q I guess -- it might kind of be confusing. So you had
19 already been working with this family --

20 A Correct.

21 Q -- when they came to you with some other information
22 about a totally different person?

23 A Yes.

24 Q And did you investigate that?

25 A I read the report that was written by another deputy

1 and, also, went out and spoke with the young man's mother
2 about him. And he was quickly ruled out as anybody that
3 may have been involved in this incident.

4 Q And was that a young man who lived in their
5 neighborhood?

6 A That was reported to us, yes.

7 Q And you were in here when Mr. Camelo testified. And
8 he testified about this man -- or, I guess, older teenager
9 named Maurice. Is that the same incident we're talking
10 about right now?

11 A Yes.

12 Q And he was ruled out as a suspect?

13 A Yes.

14 Q Did you collect anything else in this case, like bed
15 sheets?

16 A No. Bed sheets, no.

17 Q And why was that?

18 A Because, again, at the time the incident was
19 reported, it was just -- happened in two separate
20 locations. Obviously, the first location at the time the
21 incident was reported, we didn't have access to that
22 house.

23 And the second incident, because so much time had
24 passed, again, the same thing with the shorts. Evidence
25 is washed, destroyed, gotten rid of, so there was no need,

1 at that point, to collect any bed sheets or anything like
2 that, especially according to the nature of the incident.

3 Q Did you take any photos of the house?

4 A No. And for the same reason.

5 Q Did you contact DSS in this case?

6 A I didn't personally, but they were contacted by the
7 sheriff's office.

8 Q I'm sorry. For the jury, could you explain what DSS
9 is in case no one knows?

10 A Yes. Department of Social Services.

11 Q And is that agency, typically, contacted in these
12 sort of cases?

13 A They are, yes.

14 Q But you don't work with them?

15 A No.

16 Q Now, after J.M. 's second interview at Hopeful
17 Horizons, did you then take out warrants in this case?

18 A Yes, ma'am, I did.

19 Q And, at some point, were those warrants executed and
20 an arrest made?

21 A They were.

22 Q And who was the person arrested in this case?

23 A He was arrested --

24 Q What's his name? What's the name of the person that
25 was arrested in this case?

1 A Charles Dent.

2 MS. LUTTRELL: Your Honor, may I have a moment?

3 THE COURT: Yes.

4 (Pause.)

5 MS. LUTTRELL: Nothing else.

6 THE COURT: Cross-examination, Mr. Grose.

7 MR. GROSE: Thank you, Your Honor.

8 CROSS-EXAMINATION

9 BY MR. GROSE:

10 Q They asked you about notifying DSS. DSS is not
11 involved in this matter, are they?

12 A To my knowledge, no, sir.

13 Q Okay. And you would know if they were?

14 A Yes.

15 Q Okay. As far as the timeline is concerned, the date
16 of the report to law enforcement was June 10th of 2014; is
17 that correct?

18 A Yes.

19 Q All right. And you hesitated, but would that refresh
20 your memory?

21 A Yes.

22 Q Okay. And that says the dispatch date was June 10th
23 of 2014?

24 A Yes.

25 Q Okay. The first interview at Hopeful Horizons was on

1 July 10th; is that correct?

2 A Yes.

3 Q Okay. Then the second report came in on July 18th;
4 is that right?

5 A When you say "second report," what do you mean by
6 that?

7 Q Well, when they -- the family reported that there was
8 more information?

9 A I'd have to refer to my notes. But that sounds
10 pretty accurate.

11 Q Okay. And July 18th was, also, the date that
12 involved that other neighbor, wasn't it?

13 A Again, I would have to look at the report to give you
14 an exact date.

15 Yes, sir. You're correct.

16 Q All right. And that -- the name of that person was
17 Maurice McKay?

18 A According to this report, yes, sir.

19 Q Okay. And your name is on that report as somebody
20 who had reviewed that report, isn't it?

21 A Yes, sir.

22 Q As one of the reviewing officers?

23 A Yes, sir.

24 Q And, you know, in that report, there's information
25 about Maurice acting in a manner that caused him to be

1 referred for a mental health evaluation, isn't there?

2 A Can I --

3 Q Yes, sir. That's why we have them, to refresh your
4 memory; right?

5 A I'm sorry. What is your question again, sir?

6 Q I can kind of direct you to where I'm looking at.

7 A Sure.

8 Q I'm looking at that part down there.

9 A Okay. This is from the sister of Maurice.

10 Q Right.

11 A Okay.

12 Q But it was --

13 MS. LUTTRELL: Objection, Your Honor. May we
14 approach?

15 THE COURT: Yes.

16 (WHEREUPON, a bench conference was held.)

17 BY MR. GROSE:

18 Q Investigator, I think where I was leaving off, the
19 report does indicate that Maurice was referred for a
20 medical or mental evaluation?

21 A I don't think it says that particularly, but there's
22 some reference to a mental evaluation.

23 Q Okay. And so that was on July 18th of 2014; correct?

24 A It was.

25 Q Well, the report date, I mean?

1 A Right. Yes.

2 Q Okay. And then the next interview at Hopeful
3 Horizons was on July 25th?

4 A Correct.

5 Q Okay. Now, they asked you some questions about not
6 being trained to conduct those interviews when children
7 are young. Do you recall those questions?

8 A Are you saying when I was first questioned today?

9 Q By the Solicitor, yes, sir.

10 A I don't remember the question exactly, but my answer
11 was something similar to that, yes.

12 Q Okay. And so the protocol when you get a report like
13 this is for -- involving a child is for law enforcement
14 not to conduct additional questioning of the child; is
15 that right?

16 A It's a common practice. I wouldn't say that it was
17 protocol. But I do think it's the smart thing to do.

18 Q Right.

19 A To have somebody trained to question her.

20 Q And you're supposed to minimize the number of people
21 that talk to a child before that interview is done where
22 it's recorded?

23 A I would agree with that.

24 Q All right. And the two interviews are videotaped?

25 A Are we talking about --

1 Q The July 10th and the July --

2 A At Hopeful Horizons, those are the interviews --

3 Q Yes, sir.

4 A Yes.

5 Q And they, also -- the Solicitor has, also, asked you
6 some questions about advice that you might give a
7 complaining party. Do you recall those questions?

8 A I do.

9 Q And you couldn't recall what advice you did or did
10 not give to Lori Mayo in this case, could you?

11 A No.

12 Q Because it's been four years; fair?

13 A That's fair.

14 Q All right. But one of the things that you said that
15 is typical for you to advise people is not to have any
16 contact at all?

17 A I'd say it's routine.

18 MR. GROSE: All right. Fair enough. I'll just take
19 that report back.

20 And I just want to check, but I think that's about
21 it, Your Honor.

22 THE COURT: All right. Ms. Luttrell, anything on
23 redirect?

24 MS. LUTTRELL: No, Your Honor.

25 MR. GROSE: Just one second.

1 (Pause.)

2 MR. GROSE: Yeah. That is it. I just wanted to
3 check.

4 Thank you.

5 THE COURT: You can step down.

6 THE WITNESS: Thank you, Your Honor.

7 MS. JOSEPH: Your Honor, could we briefly approach
8 about scheduling?

9 THE COURT: All right. Is it me or is the air off in
10 here?

11 THE CLERK: I think it's off, Your Honor.

12 THE COURT: This is church hot.

13 Yeah. You can come forward.

14 (WHEREUPON, a bench conference was held.)

15 THE COURT: All right. Ladies and gentlemen, we're
16 going to take about a 10-minute break. We're going to
17 probably, in all likelihood, go until about 5:30, give or
18 take. And I hope you don't mind that. I want you to work
19 with me as much as you can.

20 Let's take about a 10-minute break. And then we'll
21 come back. Remember, don't talk about the case. Don't do
22 any research or investigation.

23 (WHEREUPON, the jury was excused from open court at
24 approximately 3:55 p.m.)

25 THE COURT: All right. We'll take a break.

1 (WHEREUPON, a break was taken.)

2 THE COURT: Before we bring the jury back, let's go
3 on the record for a matter.

4 Previously, Mr. Grose was questioning I think --
5 Ms. Mayo, I think, was the witness at the time questioning
6 regarding the suicide that was committed by her -- who was
7 it?

8 DEFENDANT DENT: Brother.

9 THE COURT: Her brother and mother. And I limited
10 Mr. Grose to four questions at that time. I have since
11 thought about that. And I am reconsidering my ruling in
12 that regard. And I will allow Mr. Grose a little bit more
13 latitude in that area. And I am going to leave it up to
14 him as to how he would proceed in that regard.

15 And I've, also, advised Counsel for the State -- both
16 parties at sidebar of my reconsideration of that
17 particular ruling I made at that time after having giving
18 it some more thought.

19 So I just wanted to put that on the record. And I'll
20 allow Counsel to proceed in any manner they deem
21 appropriate.

22 Okay. Is that satisfactory?

23 MS. JOSEPH: 100 percent, Your Honor, yes.

24 THE COURT: Anything else from the Defense?

25 MR. GROSE: No, sir.

1 THE COURT: All right.

2 MR. GROSE: Actually --

3 THE COURT: Yes, sir.

4 MR. GROSE: -- when Ms. Mayo was testifying, there
5 was the copy of the report that she was reading from. I
6 would request -- it doesn't have to be now, but that we,
7 at some point, make that a Court's Exhibit so that if --
8 since there was an objection to that, that we would be
9 able to have that in any potential record on appeal.

10 THE COURT: Okay. Make sure you remind me of that.

11 MR. GROSE: Yes, sir.

12 Thank you, Judge.

13 THE COURT: Do you want to do it now?

14 MS. LUTTRELL: Yes, Your Honor.

15 THE COURT: Madam Court Reporter, that would be
16 Court's Exhibit No. 7?

17 THE COURT REPORTER: Court's Exhibit No. 9.

18 (WHEREUPON, Court's Exhibit No. 9 was marked for
19 identification and admitted into evidence.)

20 THE COURT: Bring the jury in, please.

21 (WHEREUPON, the jury came into open court at
22 approximately 4:19 p.m.)

23 THE COURT: All right. Ms. Joseph.

24 MS. JOSEPH: Thank you, Your Honor.

25 The State calls J.M.

1 THE CLERK: Come right up here. And if you would,
2 put your left hand on the Bible and raise your right hand.
3 WHEREUPON,

4 J.M. ,
5 after first having been duly sworn, testified as follows:

6 THE CLERK: Thank you.

7 THE BAILIFF: All right. This way.

8 DIRECT EXAMINATION

9 BY MS. JOSEPH:

10 Q Hi, J.M. .

11 A Hi.

12 Q Can you speak up a little bit?

13 A Hi.

14 Q Good job. Can you spell your first and last name for
15 us?

16 A J.M. .

17 Q J.M. , like ?

18 A Yes.

19 Q How old are you, J.M. ?

20 A I'm 13.

21 Q What grade are you in school?

22 A Seventh.

23 Q What's your favorite class?

24 A History.

25 Q And what's your least favorite class?

1 A Math.

2 Q Okay. J.M. , you know why we're here today, don't

3 you?

4 A Yes, ma'am.

5 Q Okay. I'm going to ask you to speak up again. Okay.

6 A Okay.

7 Q I know it's hard. I'm going to ask you a few more

8 questions. But just to get started, why don't you tell me

9 why you think we're here?

10 A That's a hard question.

11 Q Okay. Do you want me to ask smaller questions?

12 A Yes, please.

13 Q Okay. You're in Beaufort County now. Did you used

14 to live in this area with your mom?

15 A I did.

16 Q And who else lived in the house?

17 A My brother.

18 Q Okay. And was that a long time ago?

19 A About four years ago.

20 Q Okay. And did anyone else live in the house?

21 A Sometimes, someone would come and visit.

22 Q Who would come and visit?

23 A My grandfather.

24 Q And what's his name? Do you remember?

25 A Charles Dent.

1 Q And let's talk a little bit about the house. So did
2 you live in one house or two houses?

3 A Some -- I moved houses in the same neighborhood.

4 Q So how many houses total?

5 A Two.

6 Q So two houses in the same neighborhood. Did you have
7 your own room in the houses?

8 A Yes.

9 Q And did your grandfather visit you at both houses?

10 A Yes.

11 Q Okay. And then about how long would he stay when he
12 would come and visit?

13 A I'm not sure. I think every month or so.

14 Q Do you remember how long he would stay?

15 A About a week.

16 Q All right. So we're here today because you told John
17 Camelo something. So do you remember who John Camelo is?

18 A My mom's ex-boyfriend.

19 Q Okay. And did he live with you for a while?

20 A Yes.

21 Q And do you remember what you told John?

22 A Not really.

23 Q Okay. And you told your mom sort of the same
24 information; is that true?

25 MR. GROSE: I'm going to object to the leading.

1 MS. JOSEPH: I can rephrase.

2 THE COURT: Rephrase. Sustained.

3 BY MS. JOSEPH:

4 Q So you remember you had certain conversations with
5 John. Did you have similar conversations with your mom?

6 A No, not before.

7 Q Not before what?

8 A Not before, like, John told my mom.

9 Q Okay. So John told your mom. Okay. So you don't
10 remember, specifically, what you told John, or what you
11 told your mom?

12 A I don't remember.

13 Q Okay. You don't remember?

14 A (Witness shook her head.)

15 Q But do you remember anything about what was done to
16 you while you lived in those houses?

17 A Yes.

18 Q Can you tell us what you remember?

19 A I remember he started kissing me, like, on my face,
20 my mouth. He started licking my belly, like, my belly
21 button and started, like, touching me in weird places.
22 And he took pictures of his private parts and told me to
23 take pictures of mine.

24 Q Okay. So let's back up a little bit. You keep
25 saying "he." So who is "he"?

1 A Charles Dent.

2 Q Okay. That's your grandfather?

3 A (Witness nodded.)

4 THE COURT: Make sure you say "yes" or "no." Make
5 sure you give a verbal answer.

6 THE WITNESS: Like his name?

7 THE COURT: No. Don't say "uh-huh" or "huh-uh."
8 Make sure you say "yes" or "no."

9 Do you see that young lady on the back? Make sure
10 you speak loud enough so the young lady on the back row
11 can hear you. Okay. Can you do that for me?

12 THE WITNESS: Yes, sir.

13 THE COURT: Pull that microphone up a little bit
14 closer. That might help.

15 There you go.

16 BY MS. JOSEPH:

17 Q So you said Charles Dent. And I asked is that your
18 grandfather?

19 A Yes.

20 Q Okay. And so you said that he kissed you on the
21 face. Where on the face?

22 A On my mouth.

23 Q Okay. And then you said he licked your belly?

24 A Yes.

25 Q And then you said that he touched you in weird

1 places. What are weird places?

2 A My private parts.

3 Q Did he touch you under your clothes or over your
4 clothes?

5 A Over my clothes.

6 Q And then you said he made you take photographs -- or,
7 I'm sorry, he took photographs of his -- what did you say?

8 A His private parts.

9 Q His private parts. Okay. Was that under his clothes
10 or over his clothes?

11 A Under his clothes.

12 Q So the photographs were of his private parts under
13 his clothes?

14 A (Witness nodded.)

15 Q And then how do you know he took these photographs?

16 A He showed me afterwards.

17 Q Okay. And then you said that he took photos of you
18 as well?

19 A He told me to take pictures of mine, and he looked
20 afterwards.

21 Q Okay. And when you're talking about private parts,
22 do you mean top private parts or bottom private parts?

23 A Bottom private parts.

24 Q So he showed you photos of his private parts --

25 MR. GROSE: Objection to the leading, Your Honor.

1 THE COURT: Rephrase, if you can.

2 MS. JOSEPH: Let me ask the question --

3 THE COURT: I'm going to give her a little bit of
4 latitude.

5 BY MS. JOSEPH:

6 Q Let me ask the question I'm trying to ask, which is,
7 did he show you pornography?

8 A Yes.

9 Q And what did you see?

10 A People having sex.

11 Q Did he show you that once or more than once?

12 A Once.

13 Q Okay. Did he ever make you touch his penis?

14 A He didn't make me touch. He made me lick his private
15 parts.

16 Q Can you tell me about that?

17 A It's hard to explain. I'm sorry.

18 Q That's okay. When you say he made you, what does the
19 that mean?

20 A It means he told me to.

21 Q Okay. Once or more than once?

22 A Once.

23 Q Do you remember him telling you that there -- let me
24 rephrase.

25 Do you know what the word "consequences" means?

1 A Sort of.

2 Q Can you try to tell me what it means?

3 A Someone getting disciplined in a certain way.

4 Q Right. Okay. Yeah. Did your grandfather tell you
5 that there would be -- were there any consequences if you
6 told?

7 A No.

8 Q Did he threaten you in any way?

9 A No.

10 Q Okay. No, he didn't threaten you, or, no, you don't
11 remember?

12 A No. He didn't threaten me.

13 Q In what state do you live in now?

14 A New York.

15 Q So you remember living in the houses here in this
16 area?

17 A Yes.

18 Q Do you remember where you moved after the houses?

19 A I don't remember.

20 MS. JOSEPH: That's okay.

21 J.M. , I have no other questions for you.

22 Mr. Grose is going to ask you some questions. Okay. And
23 you have to do your best to speak up. And you have to do
24 your best to say "yes" or "no" out loud. Okay.

25 THE COURT: Mr. Grose.

1 MR. GROSE: Thank you, Your Honor.

2 May it please the Court.

3 CROSS-EXAMINATION

4 BY MR. GROSE:

5 Q My name is Charles Grose. And I'm going to ask you
6 some questions. Okay.

7 A Okay.

8 Q And I need you to speak up like you -- and into that
9 microphone, if you can. Okay. You're a little nervous,
10 aren't you?

11 A Yes.

12 Q Okay. That's -- I understand that. And so I'll try
13 to get through this as quick as I can. If I do ask you
14 anything that you don't understand, will you let me know?

15 A Yes.

16 Q Because I want to make sure you have a fair chance to
17 answer what I'm talking about.

18 Okay. And as far as the speaking up thing goes, this
19 lady who's sitting right here, she's called a court
20 reporter. And she has to take down everything that we
21 say. And so that's why the Judge and everybody is asking
22 you to make verbal responses, not only so we can hear you,
23 but for that, too. Okay.

24 A Okay.

25 Q All right. Now, I think you just testified that your

1 grandfather never threatened you; is that right?

2 A No, he never threatened me.

3 Q Okay. And I think you testified today that as far as
4 you're saying that he had you lick his private parts, that
5 only happened once?

6 A Yes.

7 Q Okay. And the -- as far as your claims that he
8 touched you on the private parts on the bottom part of
9 your body, you said that was always over clothing?

10 A Yes. It was always over clothing.

11 Q All right. So he never touched your privates under
12 your clothing?

13 A No.

14 Q And by "no," you're agreeing with that statement; is
15 that right?

16 A Yes.

17 Q Okay. And as far -- they asked you about telling
18 something to John Camelo?

19 A Yes.

20 Q Okay. And I think you said that John Camelo was your
21 mother's boyfriend at that time; is that right?

22 A Yes.

23 Q And did you refer to him as your dad back then?

24 A No.

25 Q You never referred to him as your dad?

1 A No. I just called him John.

2 Q Okay. Have you ever referred to anybody as your dad?

3 A Back then?

4 Q At any time.

5 A Now, I do refer to somebody as my dad.

6 Q Is that somebody in New York?

7 A Yes.

8 Q And so other than that person in New York, have you
9 ever referred to anybody as your dad?

10 A No.

11 Q And I know some of these questions are personal, but
12 I've got to go through them. Okay. As far as your real
13 dad, you've never met him, have you?

14 A No, I haven't.

15 Q Okay. And so it's probably been kind of hard on you
16 growing up without knowing him?

17 A Yes.

18 Q Okay. You do have, you know, other people in your
19 life in your family that are important to you, don't you?

20 A Yes.

21 Q And your mother is important to you?

22 A Yes.

23 Q And your -- you would want to try to please her, if
24 you could?

25 A (Witness nodded.)

1 Q Is that a "yes"?

2 A Yes.

3 Q Okay. Your brother, A.M., I think is important to
4 you?

5 A Yes.

6 Q Okay. And before you moved to South Carolina, you
7 were living in Florida, weren't you?

8 A Yes.

9 Q I don't know the exact town, but it was near
10 Jacksonville; is that right?

11 A Yes, it was.

12 Q Okay. Was it Orange Park?

13 A I'm not sure. I don't remember.

14 Q And that doesn't really matter. There was a time
15 when you lived in Florida that in addition to living with
16 you -- I mean, in addition to you living -- see, I told
17 you I could probably ask a question you might not
18 understand. Let me start over.

19 When you were living in Florida, in addition to
20 living with your mother and your brother, there was a time
21 that your grandmother lived with you, wasn't there?

22 A I'm not sure. I don't remember.

23 Q You don't remember that?

24 A I don't.

25 Q Okay. But you do remember your grandmother?

1 A Not really.

2 Q Okay. Was there also -- I'm going to move on. Was
3 there a time when you had an uncle that would come visit
4 you in Florida?

5 A Yes.

6 Q Okay. And was that your Uncle Matthew?

7 A Yes, it was.

8 Q And is that your mother's brother?

9 A Yes.

10 Q Okay. And he would come down there kind of
11 frequently, wouldn't he?

12 A Yes.

13 Q And your mother was close to your Uncle Matthew?

14 A I'm not sure.

15 Q Okay. You were close to him?

16 A Yes.

17 Q And, in fact, some of the times when he would come
18 and visit you, he would be the baby-sitter for you and
19 your brother, wouldn't he?

20 A Sometimes, yeah.

21 Q Okay. And, sometimes, he would come and spend the
22 whole summer, wouldn't he?

23 A I'm not sure.

24 Q Okay. But he would come and stay for a long period
25 of time?

1 A I believe so, yes.

2 Q Okay. At some point -- and I'm not going to go into
3 any details, I promise you. But at some point, he killed
4 himself, didn't he?

5 A Yes, he did.

6 Q And that was something that was hard on you, wasn't
7 it?

8 A Yes.

9 Q Okay. And when you were living in Florida, did you
10 kind of move around a lot from one house to another?

11 A I'm not sure.

12 Q You don't remember that, do you, very well?

13 A I don't.

14 Q All right. Since you have been in South Carolina --
15 or since you've left South Carolina, you've lived in North
16 Carolina, haven't you?

17 A Yes.

18 Q And, now, you're living in New York?

19 A Yes.

20 Q Okay. So you've moved around some during that
21 period -- well, let me rephrase that. How many houses
22 have you lived in since you left South Carolina?

23 A I'm not really sure. I think, like, three.

24 Q Like, three? So that would be three in about four
25 years?

1 A I'm pretty sure.

2 Q Okay. And when you lived here in South Carolina, you
3 went to school, didn't you?

4 A Yes.

5 Q And you were a pretty good student, weren't you?

6 A Yes.

7 Q You made A's and B's?

8 A Yes.

9 Q And when you got to North Carolina, you didn't do as
10 well in school, did you?

11 A No, I didn't.

12 Q Okay. And I'm not going to get into all the details,
13 but you struggled with grades, didn't you?

14 A Yes.

15 Q And you had a hard time getting along with people;
16 right, at first?

17 A Sort of.

18 Q Huh?

19 A Sort of.

20 Q Okay. But, eventually, that got better, though,
21 didn't it?

22 A I'm not really sure. I think.

23 Q All right. Now, I want to just ask you about some of
24 the things that you like to do. You have taken dance
25 lessons, haven't you?

- 1 A Yes, I have.
- 2 Q And is that something that you like to do?
- 3 A Yes.
- 4 Q And have there been acrobatics involved in --
- 5 A Yes.
- 6 Q -- the dance classes? Is that right?
- 7 A Yes.
- 8 Q Okay. And you like to go swimming, at least, when
- 9 it's warm enough to; right?
- 10 A Yes, I do.
- 11 Q Okay. And do you remember doing that in Florida?
- 12 A No.
- 13 Q But you did it here in South Carolina; right?
- 14 A Yes.
- 15 Q And you've done it where you lived in North Carolina,
- 16 and probably even in New York?
- 17 A Yes.
- 18 Q Okay. And when you first made these allegations, I
- 19 want to ask you about that just a little bit. Okay.
- 20 The -- was the first person you talked to John Camelo, or
- 21 was it your mother?
- 22 A It was John.
- 23 Q Okay. And did John start that conversation?
- 24 A No. I started it.
- 25 Q Okay. And did he ask you questions?

1 A No. I just told him what happened.

2 Q So he didn't question you about it at all?

3 A I'm not really sure.

4 Q You don't remember?

5 A I don't remember.

6 Q Okay. And it's okay to say if you don't remember, I
7 mean, if that's the case. Okay. So you don't really
8 remember how that conversation started, do you?

9 A No, I don't.

10 Q All right. And do you remember how the conversation
11 went with your mother?

12 A No.

13 Q You don't remember much about that, do you?

14 A No, I don't.

15 Q And do you remember if anybody asked you, your
16 mother, for example, to make sure you said certain things
17 when you went to see the lady at Hope Haven?

18 A I don't remember.

19 Q You don't recall that?

20 A No, I don't.

21 Q Okay. And after -- do you remember going to Hope
22 Haven?

23 A Yes.

24 Q Do you remember going both times or just once? How
25 many times do you remember going? Let me ask it that way.

1 A To Hope Haven?

2 Q Yes, ma'am.

3 A I think I went, at least, once a week there.

4 Q Okay. Well, I meant to -- for the interview?

5 A Oh, I think I went once. I'm not sure.

6 Q Okay. And you talked with -- or maybe you don't

7 remember. Do you remember whether or not you talked with

8 John Camelo after you went to the interview?

9 A No.

10 Q You don't remember?

11 A No. I don't remember.

12 Q Okay. And do you remember whether you talked to your

13 mother after you went to the interview?

14 A No. I don't remember.

15 Q Okay. There's really a lot of things about this you

16 don't remember, isn't there?

17 A Yes, there is.

18 Q And in order to get ready to come to court today,

19 you've been talking to people about this again, haven't

20 you?

21 A To, like, my mom? Are you trying to --

22 Q Anybody.

23 A I believe I talked to my social worker about it.

24 Q Okay. Did you talk to your mom about it?

25 A Not really.

1 Q Did you talk to these people about it?

2 A Yes, sir, I did.

3 Q Okay. And did they practice with you the type of
4 questions they were going to ask?

5 A I'm not sure.

6 Q You don't remember?

7 A I'm really not sure, but -- I don't remember a lot
8 about yesterday. It was a lot to remember.

9 MR. GROSE: Okay. I beg the Court's indulgence for a
10 moment.

11 (Pause.)

12 MR. GROSE: That's all I have, J.M. . I know this
13 was hard talking to a stranger, but thanks for answering
14 my questions.

15 THE COURT: Any redirect?

16 MS. JOSEPH: Briefly.

17 THE COURT: Okay.

18 REDIRECT EXAMINATION

19 BY MS. JOSEPH:

20 Q Are you okay, J.M. ?

21 A Yeah.

22 Q You have to speak up again. Okay. I know it's hard.

23 A Okay.

24 Q So you met me yesterday?

25 A Yes.

1 Q For the first time?

2 A I believe I met with you over the phone once.

3 Q That's true. We talked on the phone once. Very good
4 memory. And I brought you in this courtroom?

5 A Yes.

6 Q And I sort of showed you around?

7 A Yes.

8 Q And, actually, I put you up on the stand?

9 A Yes.

10 Q Did I tell you what to say?

11 A No.

12 Q Did your mom tell you what to say here today?

13 A No.

14 Q Did anyone tell you what to say?

15 A No.

16 Q Are you just trying to do the best to tell us what
17 you remember?

18 A Yes.

19 THE COURT: Anything else?

20 MS. JOSEPH: Nothing else.

21 THE COURT: Anything on recross?

22 MR. GROSE: No, sir.

23 THE COURT: All right. J.M. , thank you for
24 coming.

25 MS. JOSEPH: Your Honor, the State next calls Tessa

1 Trask.

2 MR. GROSE: And, Your Honor, while this witness is
3 coming in, I'd like to -- for the record, this is all
4 subject to the proceedings in front of you yesterday
5 afternoon; is that correct?

6 THE COURT: Yes. Subject to those proceedings.

7 MR. GROSE: Thank you, sir.

8 THE CLERK: Good afternoon.

9 If you would, place your left hand on the Bible and
10 raise your right hand.

11 WHEREUPON,

12 TESSA TRASK,

13 after first having been duly sworn, testified as follows:

14 THE CLERK: Thank you.

15 THE BAILIFF: Right this way.

16 DIRECT EXAMINATION

17 BY MS. JOSEPH:

18 Q Hi, Ms. Trask.

19 Let's start by talking a little bit about your
20 educational background. You went to college. What degree
21 did you receive when you graduated?

22 A My bachelor's degree is in political science with the
23 minor in international studies.

24 Q Do you have any additional degrees?

25 A I do. I have a Masters Degree in Psychology from the

1 Citadel.

2 Q And are you working towards any certificates at this
3 time?

4 A Yes, ma'am, I am. I'm working towards my license.
5 My license will be as a licensed professional counselor.
6 And I will have that license in August.

7 Q What does that license require?

8 A It requires a specific amount of clinical hours while
9 under clinical supervision of a licensed counselor.

10 Q And how many supervision hours does it require?

11 A It requires 150 supervision hours.

12 Q And how many have you completed?

13 A 147.5.

14 Q Okay. In addition to your educational background,
15 where do you currently work?

16 A I work at Hopeful Horizons. We're the local child
17 advocacy, domestic violence, and rape crisis center.

18 Q And you may have more than one role. So what are
19 your roles at Hopeful Horizons?

20 A Yes, ma'am. I have a dual role at Hopeful Horizons.
21 So I'm a therapist. I work with victims of child abuse,
22 sexual violence, and domestic violence. And then I'm,
23 also, a forensic interviewer.

24 Q And did you conduct the interview in this case?

25 A I did not.

1 Q Okay. Have you ever met the victim in this case?

2 A No, I have not.

3 Q Have you ever read the case file?

4 A No.

5 Q You did, however, observe some court proceedings
6 yesterday?

7 A Yesterday, during pretrial.

8 Q In addition to the certificate that you're working
9 towards, are you, also, a Child First certified
10 interviewer?

11 A I am. I received my Child First forensic interview
12 certification in July of 2017.

13 Q Have you ever been qualified as an expert before?

14 A I have.

15 Q And were you qualified as an expert in behavioral
16 characteristics of child victims of sexual abuse?

17 A Yes, ma'am. That's correct.

18 MS. JOSEPH: Your Honor, at this time, we ask that
19 Ms. Trask -- or Mrs. Trask be qualified as an expert in
20 behavioral characteristics of child victims of sexual
21 abuse.

22 THE COURT: All right. Any objection to that?

23 MR. GROSE: Just subject --

24 THE COURT: Subject to --

25 MR. GROSE: -- to the proceedings we had yesterday,

1 Your Honor. That's it.

2 THE COURT: All right. And I'll deem her so
3 qualified subject to any objection.

4 Counselor.

5 MS. JOSEPH: Thank you, Your Honor

6 BY MS. JOSEPH:

7 Q Ms. Trask, can you define the traumagenic model?

8 A Absolutely. So in cases of child sexual abuse, we
9 refer to the traumagenic model. And when we do so, we are
10 thinking about how child sexual abuse can be traumatic for
11 the child. It's considered traumatic for the child
12 because it's introducing sexuality or sexual contact --
13 content in a way that is traumatic, and in a way that's
14 developmentally inappropriate for that child at that time.

15 When I say traumatic, what I mean is that the child
16 is perceiving the abuse itself to be a traumatic event.
17 They may experience trauma symptoms or any other reactions
18 that a child or an adult may experience when a traumatic
19 event occurs.

20 Q And do you have a working definition of trauma? And
21 how did you come up with that definition?

22 A Yes. So in my experience in working at Hopeful
23 Horizons and, also, at a CAC in Charleston in the past, I
24 developed my own working definition of trauma just based
25 on research, training, experience --

1 MR. GROSE: I'm --

2 THE COURT: Hold on.

3 MR. GROSE: I'm going to object to any testimony
4 that's not been subject to peer review, Your Honor.

5 THE COURT: Give me more details.

6 MR. GROSE: Well, I think under the Chavis case that
7 we talked about, the subject matter of testimony has to be
8 deemed reliable. And if it's something that somebody has
9 developed themselves, it's not subject to peer review. I
10 don't know that that past is the standards for admissibility.

11 If, however, she wants to testify about something
12 that has been peer reviewed, I wouldn't have an additional
13 objection to that.

14 THE COURT: Ms. Joseph.

15 MS. JOSEPH: This goes to weight, not admissibility,
16 Your Honor. I have, clearly, laid the foundation that
17 this is a definition that Ms. Trask has gained through
18 several sources. If Your Honor wants, I could lay the
19 foundation of what exact sources. Although, I think she,
20 actually, did do that already.

21 THE COURT: I think she's done that already. And I
22 do agree, Counselor, I think it goes to weight. So I'm
23 going to let you go ahead.

24 BY MS. JOSEPH:

25 Q So, once again, what is your working definition of

1 trauma?

2 A Sure. And just to clarify. This is a definition
3 that has come from my experience and training, my
4 education, and then my experience with working with
5 victims of child abuse, domestic violence, and sexual
6 assault. So what I consider to be trauma has about six
7 parts.

8 So the first part is something that is extremely
9 stressful or scary. It's something that occurs outside of
10 the realm of someone's typical experience. It's not
11 something they would expect to happen. It's something
12 that makes them feel temporarily overwhelmed. Their
13 ability to cope -- they're not able to cope in the moment,
14 rather.

15 Another piece is it makes them change the way that
16 they think about themselves, about others, and the world.
17 It makes them feel helpless, ashamed, or horrified.

18 Q Okay. And what are some symptoms of trauma? And I
19 just want to clarify that we're not necessarily talking
20 about trauma from sexual abuse, but just trauma in
21 general. What are some symptoms of trauma?

22 A Sure. So in the field, the consensus is that there
23 are three main categories of symptoms when it comes to
24 trauma. And they're called avoidance, hypervigilance, and
25 reexperiencing symptoms.

1 Q Can you define those symptoms, not give examples, but
2 just help us understand them?

3 A Absolutely. So avoidance would be trying to avoid
4 thinking about, talking about, having feelings about, or
5 coming into contact with anything that might remind you of
6 the traumatic experience.

7 Reexperiencing would be having intrusive thoughts,
8 nightmares about the traumatic experience. The classic
9 reexperiencing symptom would be the flashbacks, like
10 you're, actually, reliving it.

11 And then there's the hyperarousal, also, sometimes
12 known as vigilance symptoms, which is not being able to
13 sleep, irritability, feeling on guard, or really jumpy.

14 Q And how could sexual abuse trauma, specifically,
15 look?

16 A Sexual abuse trauma -- there's a range of ways that
17 children can present when they've been sexually abused.
18 So some children may exhibit no signs and symptoms. And
19 then some children may exhibit like a complete 180 in
20 their behavior or in their personality.

21 It's important to know that the signs and symptoms of
22 child sexual abuse aren't necessarily proof that it did or
23 did not occur. But there's some things that we do expect
24 to see.

25 So you're going to expect to see the trauma symptoms

1 that we talked about earlier, the avoidance, the
2 hypervigilance, the reexperiencing. You would expect to
3 see a change in behavior, like a change in sleep patterns,
4 eating patterns, or energy. So changes that you can see
5 that are observable.

6 You may see new internalizing or externalizing
7 behavior on the part of the child, or you may see
8 behaviors that look a lot like aggression, acting younger
9 than the child is.

10 Q What about developmentally inappropriate presentation
11 of sexual behaviors?

12 A That's, certainly, something that you may expect to
13 see when child sexual abuse has occurred.

14 Q And I know I just said it out loud, but what is that?

15 A So developmentally inappropriate sexual behavior; is
16 that correct?

17 Q Yes.

18 A Okay. So that's when a child is exhibiting
19 behaviors, either through their actions, or through their
20 language, or simply through their interest and intention
21 in sexualized topics that are not developmentally
22 appropriate. And what I would mean by that is it's not
23 something you would expect to see from a child at that age
24 or at that developmental level.

25 Q Can ADHD and trauma have similar presentations?

1 A They can. Sometimes, trauma goes undiagnosed and is
2 diagnosed as ADHD or ADD instead.

3 Q And why would that happen -- in fact, turning to the
4 symptoms of trauma, which one, in particular, of those
5 might meet that misdiagnosis?

6 A Sure. And while I'm not an expert in ADD or ADHD,
7 what you sometimes see that can be confusing would be the
8 parts of ADHD and ADD that are difficulty concentrating,
9 having intrusive thoughts, acting out behaviorally. So
10 some of those hypervigilance symptoms that we talked about
11 for trauma.

12 Q Thank you.

13 And then this is a broad question, but what can you
14 tell me about the disclosure process?

15 A Okay. So, as we know in the field, disclosure is a
16 process. So what I mean by that is it's not a one-time
17 event. It happens incrementally or gradually over time.
18 There are different stages of disclosures and there's even
19 different kinds of disclosures.

20 So what we know is there are accidental disclosures,
21 which is what it sounds like, a child accidentally
22 disclosures, or the abuse is revealed by chance. Usually,
23 younger kids are doing that.

24 And then you've got your purposeful disclosures,
25 which are ones where the child is actively making the

1 choice to disclosure.

2 So those are the two kinds of disclosures. And you
3 do have a range in the stages of disclosure. And the
4 stages of disclosure can range from tentative to active to
5 recanting, which means taking it back and then reasserting
6 the disclosure. But it's not necessarily linear.

7 Q Can you define grooming for us?

8 A Sure. So grooming is a dynamic that we see a lot in
9 child sexual abuse cases from my experience and from the
10 literature.

11 So grooming is -- there's a couple different pieces
12 to the definition. So the first one is the giving of
13 privileges, things of value, money, treats, prizes.

14 And then the second piece would be creating,
15 developing, maintaining a trusting relationship with the
16 child and the family so that the perpetrator can gain
17 access to the child.

18 And then the third piece would be the perpetrator is
19 gradually exposing the child to sexual contents, and so
20 normalizing sexual content through that gradual exposure.

21 Q Okay. What are some risk factors of sexual abuse?

22 A So there's risk factors of sexual abuse for the
23 child. And then there are some risk factors of sexual
24 abuse for the caregiver.

25 So risk factors for the child would be age, emotional

1 well being, prior history, and whether or not the child
2 has any kind of delay or disability.

3 Risk factors for the caregiver would include whether
4 there's any substance used, or substance abuse on behalf
5 of the caregiver, and then, also, whether the caregiver is
6 a single parent.

7 And I want to be careful when I say that because I
8 don't want to come off as blaming single parents, of
9 course, for this happening. But what we know is single
10 parents are at a higher risk for a perpetrator to seek
11 them out in order to gain access to that child.

12 Q Going back to the definition of grooming that you
13 gave, do you feel comfortable saying -- and maybe you
14 don't -- that single-parent households are at risk because
15 there could be financial dependency?

16 A That could be one of the reasons why, yes.

17 Q And then going back to delays. You said that any
18 sort of delays could be a risk factor?

19 A Right.

20 Q So that could be developmental delays. What other
21 type of delays are you talking about?

22 A Developmental delays, intellectual delays or
23 disabilities, or physical disabilities.

24 MS. JOSEPH: I have no other questions for you at
25 this time, Ms. Trask. Mr. Grose may have some questions

1 for you.

2 THE COURT: Mr. Grose, cross-examination.

3 MR. GROSE: May it please the Court.

4 CROSS-EXAMINATION

5 BY MR. GROSE:

6 Q Going back to the questions they asked you about your
7 background for a minute, if that's all right.

8 A Sure.

9 Q I believe that you testified that you're working to
10 become a licensed professional counselor?

11 A Yes, sir. That's correct.

12 Q Okay. And your title right now is, actually, an
13 LPCI?

14 A Yes, sir. That stands for licensed professional
15 counselor intern.

16 Q That was going to be my next question.

17 And in order to complete that, you have to have so
18 many hours of clinical experience; correct?

19 A That's correct.

20 Q And that's 2,000 hours?

21 A Yes, sir.

22 Q And as of yesterday, I think I asked you how many
23 you've completed and you weren't able to answer that
24 question.

25 A No, sir. I'm not able to tell you exactly how many

1 hours I have.

2 Q Okay. And one of the things that I think that you
3 testified to is you're kind of using sort of your own
4 framework for explaining some of this?

5 A Can you clarify the question?

6 Q Well, they asked you what your working definition of
7 trauma was?

8 A They did.

9 Q Okay. And so this is kind of what you've decided to
10 do based on things that you've read, I guess?

11 A My testimony is based on a combination of my
12 education, my training, and my experience in the field.

13 Q Okay. Now, you, I think, testified that you've never
14 met J.M. ?

15 A That's correct.

16 Q So if you've never met J.M. , you've never
17 interviewed J.M. ?

18 A I have not interviewed J.M. .

19 Q And even though your position is at Hopeful Horizons,
20 you have not read the file that Hopeful Horizons keeps on
21 J.M. ?

22 A I have not read the file.

23 Q Okay. And you've not read, reviewed any social
24 history documents on J.M. , or anything like that?

25 A No, sir, I have not.

1 Q And I don't think you've interviewed J.M. 's mother
2 either, have you?

3 A No, sir.

4 Q Okay. And so your role here today is to just come
5 and talk about these topics; is that right?

6 A Yes, sir. That's correct.

7 Q And to be clear, you're not offering any kind of
8 opinion regarding J.M. one way or the other?

9 A No, sir. That's not my job.

10 Q Okay. Now, as far as diagnosis, there -- they asked
11 you about ADHD; is that right?

12 A I believe Ms. Joseph did ask me about ADHD.

13 Q And you're not -- you don't know whether J.M. has
14 that diagnosis or doesn't have that diagnosis, do you?

15 A No.

16 Q Okay. Because you wouldn't have reviewed any records
17 regarding that?

18 A No.

19 Q Okay. And so when you're talking about symptoms and
20 presentation, you're just talking about those in a general
21 kind of way; right?

22 A I am.

23 Q All right. Because, I mean, there's a whole book
24 that deals with diagnosis of mental health type issues,
25 the DSM V. It's probably two or three inches thick?

1 A There is.

2 Q And there are different things in that that deal with
3 trauma; right?

4 A There are.

5 Q Okay. And so children can have sources of trauma
6 that aren't sexual abuse; isn't that correct?

7 A That is correct.

8 Q Okay. Loss of a close relative could be one of them?

9 A Certainly.

10 Q Okay. And there's -- also, we know that children
11 sometimes have adjustment disorders, don't we?

12 A An adjustment disorder is a clinical diagnosis in the
13 DSM.

14 Q And that can result from the stress of a move;
15 correct?

16 A It could.

17 Q All right. And I guess what I'm -- I'm getting at
18 is -- is that, you know, there's -- there's a lot of
19 things that could come under the umbrella of somebody
20 providing clinical counseling that don't necessarily have
21 to do with sexual abuse; is that correct?

22 A Can you clarify the question?

23 Q Well, there's lots of different diagnoses?

24 A Sure.

25 Q And symptoms of one diagnosis can, also, go to

1 another diagnosis?

2 A Certainly.

3 Q Okay. And, again, you're not here to offer an
4 opinion in this case about J.M. ?

5 A No, sir, I'm not.

6 Q That's not your role?

7 A It is not.

8 MR. GROSE: That's all I have, Your Honor.

9 MS. JOSEPH: No further questions for the witness.

10 We ask that she be excused.

11 THE COURT: Any objection?

12 MR. GROSE: No objection.

13 THE COURT: Thank you, ma'am.

14 You can step down. Appreciate you coming.

15 MS. JOSEPH: Thank you, Ms. Trask.

16 At this time, Your Honor, the State is done with
17 witnesses. And we ask that we be done for the evening.
18 We have several witnesses lined up for tomorrow.

19 THE COURT: And, ladies and gentlemen of the jury, I
20 apologize to you. I told you I was going to keep you
21 until 5:30. I'm not going to be able to do that. So I'm
22 sure you're not upset about that. So I'm going to let you
23 go for the evening.

24 And here again, I just want to tell you, I hate using
25 the word "admonish," because that's sort of like talking

1 to children in school. So I'm just going to tell you,
2 don't talk about the case with anybody. If anybody's at
3 your house, don't discuss it with them. Don't read
4 anything. Don't research anything. If somebody comes up
5 to you and wants to ask you what you were doing today and
6 they're persistent about it, you get their name and bring
7 their name to me.

8 But I want y'all to have a good evening. And I'll
9 see you tomorrow morning at 9:30.

10 All right. Take care.

11 (WHEREUPON, the jury was excused from open court at
12 approximately 5:04 p.m.)

13 THE COURT: Anything before we break for the evening?

14 MS. JOSEPH: Nothing, Your Honor.

15 Our witnesses will be available starting at 9:00
16 tomorrow.

17 THE COURT: And that would be who?

18 MS. JOSEPH: We're going to start in with the
19 interviews first thing. And then -- we'll do that. And
20 then, hopefully, we will -- then we'll address the Alabama
21 motion. I think that makes the most sense.

22 THE COURT: Right.

23 MS. JOSEPH: And then we'll recall Lori. And we'll
24 do our two Alabama people. Even if Alabama materials
25 don't come in, they have to be called for, like, a limited

1 purpose.

2 THE COURT: Okay. And I think the only thing we've
3 got to deal with is the whole Alabama thing.

4 That's the only motions out there; right?

5 MS. JOSEPH: That is my understanding, Your Honor.

6 THE COURT: But we've dealt with the whole arrest
7 warrant?

8 MR. GROSE: Well, we've dealt with the arrest
9 warrant. I guess we've dealt with the statutory part of
10 the search warrant, also.

11 So I think we've dealt with those, yes, sir.

12 THE COURT: All right. Thank you.

13 MR. GROSE: What time do you want us to be here? Do
14 you want us here at 9:30 or -- I guess what we're going to
15 do is we're going to do the interviews first and then the
16 proffer. Is that the plan?

17 THE COURT: That's the plan. And I think that's
18 going to take about -- well, about an hour and a half to
19 two hours, something like that?

20 MS. JOSEPH: Yes, sir.

21 THE COURT: I will be walking in the door about 9:27.

22 MR. GROSE: Okay.

23 THE COURT: So I'll see you then.

24 MS. JOSEPH: And, Your Honor, the Defense has,
25 helpfully, provided the State with a transcript. So we'll

1 be muting the video as we go. And the Defense agrees that
2 the last quote that he wants muted is the last part of the
3 video. So we'll just turn off the video at that point.

4 THE COURT: And that's where you've got the little --

5 MS. JOSEPH: Yeah. There is no actual clapping, it
6 turns out. But she does say things like thank you for
7 being honest.

8 THE COURT: Okay.

9 MR. GROSE: And I just wanted to make sure we were
10 still on the record when she said I was helpful because
11 that's --

12 MS. JOSEPH: Yes. They were beautiful transcripts.

13 THE COURT: Okay. Thank you.

14 (WHEREUPON, the proceedings were concluded at
15 approximately 5:07 p.m., to be reconvened on
16 Wednesday, May 23, 2018.)

17

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25

STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSIONS
COUNTY OF BEAUFORT	)	2014-GS-07-01671
	)	2014-GS-07-01672
	)	2014-GS-07-01673
	)	2014-GS-07-01674
	)	
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
CHARLES DENT,	)	VOLUME II
DEFENDANT.	)	
_____	)	

May 23 and 24, 2018
Beaufort, South Carolina

B E F O R E:

THE HONORABLE ALEX KINLAW, JR., JUDGE; and a jury.

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

ALEXANDRA M. JOSEPH, ESQ.
S. REBEKAH LUTTRELL, ESQ.
Assistant Solicitors

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Attorney for the Defendant

HOLLIE M. JENKINS
Circuit Court Reporter

I N D E X

(SW) - Denotes State's Witness
(DW) - Denotes Defense Witness
(IC) - Denotes In Camera

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All Exhibits were retained by the Clerk of Court for Beaufort County.

P R O C E E D I N G S

1
2 THE COURT: Anything we need to address before --

3 MS. JOSEPH: Your Honor, in order for this to be a
4 speedier process, I am using Court's Exhibits Nos. 1 and 2
5 to play. And then I will show her and enter into evidence
6 what's going to be State's Exhibit Nos. 1 and 2 [sic].
7 I've told that to Mr. Grose, and he understands why I'm
8 doing it. It's just to make everything go smoother. And
9 he's fine with that.

10 In addition, Your Honor, I just want to remind the
11 Court that I will be muting certain sections of the tape.
12 And I am going off of the transcript provided by
13 Mr. Grose. And then in order to avoid any issues with
14 this witness, I'm going to be not going into great detail
15 about her experience interviewing children. I'll be doing
16 it less than I did in pre-trial. Because in pre-trial, I
17 have different things to prove, just so the Defense is
18 aware of that.

19 MR. GROSE: I think, under the Anderson procedure,
20 it's just, basically, she works there and she did an
21 interview. I think that's it.

22 MS. JOSEPH: And that's, basically, what I'll be
23 hitting on.

24 MR. GROSE: If that's it, we're fine.

25 THE COURT: And correct me if I'm wrong, Mr. Grose.

1 In pre-trial, when we were putting her up as to
2 qualifications and all that, you didn't have any problems
3 with that. Or was there any objections?

4 Just jog my memory. Were there any objections
5 regarding her qualifications that you raised?

6 MR. GROSE: Well, not in pre-trial. But the
7 determination under Anderson, for lack of a better
8 description, it's a two-part process. In pre-trial, you
9 have to determine whether she's qualified. And we didn't
10 object to that. You had to make certain statutory
11 findings. While we objected under some of those findings,
12 we didn't object to that part of it.

13 THE COURT: Right.

14 MR. GROSE: Now, I would have an objection to the
15 jury being told that she's an expert in interviewing,
16 because of the separate function that you serve on
17 admissibility versus presenting the evidence for a jury.

18 THE COURT: And I think there was some agreement that
19 she would be called -- or known as a custodian?

20 MS. JOSEPH: Yes.

21 THE COURT: I think the term you used, Ms. Joseph,
22 was custodian of records.

23 MS. JOSEPH: Record keeper, record custodian, yes,
24 Your Honor.

25 THE COURT: And I think Mr. Grose had an issue

1 regarding expert in forensic interviewing.

2 MS. JOSEPH: I will not be using the word "forensic
3 interview."

4 THE COURT: Okay.

5 MS. JOSEPH: And I'm not seeking to qualify her as an
6 expert. I will lay a brief foundation just so the jury
7 doesn't wonder -- I mean, the jury will recognize her from
8 the video, Your Honor. But just where you work now, in
9 that capacity, do you interview children. And then I'll
10 move right into why we're here today.

11 THE COURT: And --

12 MR. GROSE: Basically, I wouldn't say she's exactly a
13 records custodian because she did the interview. But it's
14 analogous to that. She's here to authenticate the tape,
15 yes, I did this interview, and this is a true and accurate
16 copy of it. And they play it. And that really should
17 probably be the --

18 THE COURT: Extent.

19 MR. GROSE: -- extent of her testimony.

20 THE COURT: And you're okay with that?

21 MS. JOSEPH: I'm going to ask her, you know, where do
22 you work? Do you -- in that role, do you interview
23 children? She doesn't interview children anymore, but she
24 used to.

25 THE COURT: Right.

1 MS. JOSEPH: And then, did you interview the victim
2 in this case? On what date? Did you interview her again?
3 Yes. I'm going to ask her, you know, is it uncommon to
4 have two interviews? No, it's not really uncommon.

5 And then I'm going to ask her, under the rule, about
6 how she's allowed to say the disclosure was made to her.
7 Was the disclosure made to you? Yes. Then time and place.

8 MR. GROSE: Well, of course, we're not going to call
9 her "victim." We're going to try to avoid doing that.

10 MS. JOSEPH: I didn't do that.

11 THE COURT: Okay.

12 MR. GROSE: As far as the time and place, I think
13 what's on the video speaks for itself.

14 THE COURT: Right.

15 MR. GROSE: This is, actually, a statutorily enacted
16 rule of evidence, basically, that's broader than what the
17 time and place exceptions are under the statute. So I
18 think since her whole interview is coming in, it just
19 needs to speak for itself.

20 THE COURT: All right. And, obviously, the Court did
21 an analysis under Anderson based on the input from both
22 sides. And so I did an analysis under that case.

23 So I'm satisfied that we're ready to proceed with
24 those sort of streamline --

25 MS. JOSEPH: And can I ask her about time and place

1 of the disclosure? Those would be my only questions about
2 the disclosure. I'm treating her like any witness that
3 hears a disclosure from a child in a sex abuse case.

4 MR. GROSE: You're not -- because we have this
5 whole -- I don't think she needs to emphasize beyond
6 what's on the tape.

7 MS. JOSEPH: It's not bolstering in any way. It's
8 not speaking to the truth of the child, which I would
9 understand his concerns if that was the case.

10 It's just foundation, Your Honor.

11 THE COURT: Just time and place?

12 MS. JOSEPH: Just time and place.

13 THE COURT: I don't think that would be prejudicial
14 at all, Mr. Grose, unless you find it to be prejudicial.
15 And if you do --

16 MR. GROSE: I just think they're just trying to
17 repeat it as many times as they can. I mean, they're
18 actually -- I mean, the time and place exception in 801(d)
19 is because you can't go into what somebody told you. But
20 then we have this statute that, for this particular
21 witness, creates different rules.

22 And so, you know, not only are -- is the -- I mean,
23 the jury is going to see what she said about time and
24 place in the interview. So I just -- you know, I guess it
25 just gets cumulative at some point.

1 THE COURT: Well, let's just -- so that's going to be
2 an objection you're going to make?

3 Because if it is, I'll note it on the record so we
4 won't have to --

5 MR. GROSE: Okay. And I would just ask that when
6 they move the video into evidence that we just note the
7 pre-trial objections at that time.

8 THE COURT: All right.

9 MR. GROSE: So I don't --

10 THE COURT: And you can stand and make sure you do
11 it. I'll probably remember to note your objection but if
12 I don't, make sure you stand and make that objection.

13 Let me say this. I anticipate getting a telephone
14 call sometime during the course -- maybe during the course
15 of the video. And if I do so, I'll take a break. I'll
16 send the jury back probably. I don't -- it will probably
17 take me -- I'm going to be probably talking 10 or
18 15 minutes.

19 MS. JOSEPH: That's completely fine, Your Honor.

20 THE COURT: So I'll send the jury back if that
21 occurs. I don't know what time that will happen, but it
22 will happen.

23 MS. JOSEPH: Your Honor, that's completely fine.

24 In addition, the State just wants Your Honor to be
25 aware that after the video, we will need to let the jury

1 go back, maybe even break so we can discuss the Alabama
2 matters.

3 THE COURT: Okay.

4 MS. JOSEPH: So the State -- and as Your Honor is
5 very well aware, these are quite lengthy videos.

6 THE COURT: You think?

7 MS. JOSEPH: I, actually, remember them being much
8 shorter, just so you know.

9 THE COURT: A movie always becomes shorter the second
10 time you look at it.

11 MR. GROSE: Are we going to fast-forward through that
12 long break again?

13 MS. JOSEPH: Yes, Your Honor. I am going to
14 fast-forward through the long break in the first
15 interview. In the second interview, it's so short that
16 I'm not going to do that.

17 MR. GROSE: That's fine.

18 THE COURT: All right. Anything else before we bring
19 the jury in?

20 MR. GROSE: No, sir.

21 THE COURT: From the State?

22 (WHEREUPON, there was no response.)

23 THE COURT: Okay.

24 (WHEREUPON, State's Exhibit Nos. 16 and 17 were marked
25 for identification only.)

1 (WHEREUPON, the jury came into open court at
2 approximately 9:46 a.m.)

3 THE COURT: Good morning.

4 All right. Is the State ready to proceed?

5 MS. JOSEPH: Yes, Your Honor.

6 The State calls Shauw Chin Capps.

7 THE CLERK: Good morning.

8 If you would, place your left hand on the Bible and
9 raise your right hand.

10 WHEREUPON,

11 SHAUW CHIN CAPPS,

12 after first having been duly sworn, testified as follows:

13 THE CLERK: Thank you.

14 THE BAILIFF: Right this way.

15 DIRECT EXAMINATION

16 BY MS. JOSEPH:

17 Q Good morning, Ms. Capps.

18 A Good morning.

19 Q How are you doing this morning?

20 A Fine.

21 Thank you.

22 Q Are you all settled in?

23 A Yes.

24 Q Are you currently employed?

25 A Yes.

1 Q Where do you work?

2 A I work at Hopeful Horizons.

3 Q And what is your current position at Hopeful
4 Horizons?

5 A I'm the chief executive officer.

6 Q In your current role -- well, what is Hopeful
7 Horizons?

8 A Hopeful Horizons is a nationally accredited
9 children's advocacy center. And we're, also, a domestic
10 violence and sexual assault center.

11 Q Do you say that -- do you do that definition a lot as
12 the CEO of Hopeful Horizons?

13 A Yes.

14 Q In your current role as CEO, do you interview
15 children?

16 A In my current role, I do not interview children.

17 Q Back in 2014, so four years ago, did you interview
18 children?

19 A Yes. Prior to the merger of the organization in
20 -- which was in 2017, we were called Hope Haven of the
21 Lowcountry. And so I was employed from 2003 up to
22 present. And from 2003 until the point of the merger,
23 which was 2017, I conducted our forensic interviews.

24 Q Okay. Turning to this case, in preparation for this
25 trial, I asked you to look back at an interview you

1 conducted with J.M. ?

2 A Correct.

3 Q On what dates did you interview J.M. ?

4 A There were two interviews that I conducted with
5 J.M. . The first one was July 10th, 2014, and the
6 second one was July 25th, 2014.

7 Q So you did two interviews with her?

8 A I did.

9 Q And is it uncommon to do two interviews?

10 A It's not uncommon. It's not necessarily common
11 either. However, it all depends on whether there's,
12 actually, a need to do a second interview. And per law
13 enforcement's requests, you know, if there is reason to do
14 a second interview, we -- we would do a second interview.
15 And we continue to do second interviews.

16 Q Okay. And during the course of this interview, did
17 J.M. make a disclosure to you?

18 A Yes, she did.

19 MR. GROSE: Same objections from the pre-trial
20 hearing.

21 THE COURT: All right. Subject to your objection,
22 Mr. Grose.

23 BY MS. JOSEPH:

24 Q And we're just going to talk about time and place.
25 Did she say physically where the act had occurred?

1 A Yes. She identified three locations for the events
2 that occurred. The first --

3 Q And were any of those in Beaufort County?

4 A Yes.

5 Q And were they at two different houses in Beaufort
6 County?

7 A Yes.

8 Q And then as far as -- did she give a time frame for
9 the abuse?

10 A The time frame she was able to provide was that it
11 happened after her eighth birthday.

12 Q Okay. So after her eighth birthday?

13 A Uh-huh.

14 Q Do you know how old J.M. was when you interviewed
15 her?

16 A Yes. She was nine years old.

17 Q So between eight and nine?

18 A Yes.

19 Q In preparation for this trial, I asked you to review
20 the interviews that you conducted in this case; is that
21 correct?

22 A That's correct.

23 Q And you actually -- you made a copy of those
24 interviews?

25 A Yes.

1 Q And you reviewed them?

2 A Yes.

3 Q So I'm handing you what's been marked as State's
4 Exhibit Nos. 16 and 17. Do you recognize those disks?

5 A I do.

6 Q And how do you recognize those disks?

7 A I've watched the interview through -- with these
8 disks. And, also, I initialed it when I watched it.

9 Q So I asked you to initial it. And you put your
10 initials on it after you reviewed it?

11 A Yes.

12 Q Were those videos altered in any way?

13 A No.

14 Q Were they in the same format and did they look the
15 same as when you viewed them originally?

16 A Absolutely, yes.

17 MS. JOSEPH: Your Honor --

18 BY MS. JOSEPH:

19 Q Oh, and I'm sorry. What is the date on State's
20 Exhibit No. 16?

21 A July 10th, 2014.

22 Q So that's the July 10th video?

23 A Uh-huh.

24 Q And then what's the date on State's Exhibit No. 17?

25 A July 25th, 2014.

1 MS. JOSEPH: Your Honor, at this time, the State
2 would move to enter State's Exhibit Nos. 16 and 17 into
3 evidence. And then we would move to publish these to the
4 jury.

5 THE COURT: All right. What says the Defense?

6 MR. GROSE: Subject to our pre-trial hearing, Judge.

7 THE COURT: All right. Your objection subject to the
8 pre-trial hearing is so noted.

9 It will be State's Exhibit Nos. 16 and 17?

10 MS. JOSEPH: Yes, Your Honor.

11 THE COURT: All right.

12 (WHEREUPON, State's Exhibit Nos. 16 and 17 were
13 admitted into evidence.)

14 (WHEREUPON, State's Exhibit No. 16 was played in
15 open court.)

16 MS. JOSEPH: Your Honor, at this time, I'm going to
17 fast-forward through the time that the interviewer was out
18 of the room.

19 (WHEREUPON, State's Exhibit No. 16 continued to be
20 played in open court.)

21 MS. JOSEPH: And, Your Honor, at this time, we're
22 going to play the second video.

23 THE COURT: You're going to do that after we take a
24 five-minute break -- let's say a 10-minute break.

25 Ladies and gentlemen of the jury, the same

1 instruction I gave you yesterday. I'm going to let you
2 take a break, stretch your legs, go to the restroom, do
3 anything like that before we look at the other video.

4 Don't talk about the case with each other. Don't do
5 any research, or anything like that.

6 We'll be back in about 10 minutes.

7 (WHEREUPON, the jury was excused from open court at
8 approximately 11:00 a.m.)

9 THE COURT: All right. We'll be down for about 10
10 minutes.

11 (WHEREUPON, a break was taken.)

12 THE COURT: Anything before we bring the jury back?

13 MS. JOSEPH: Nothing, Your Honor.

14 MR. GROSE: Just briefly.

15 THE COURT: Yes.

16 MR. GROSE: And it's not likely to come up again.
17 But we were going to stay away from the use of the term
18 "forensic interview." And it crept in in the first part
19 of her interview. So I'd just like to remind everybody to
20 stay away from that.

21 MS. JOSEPH: Your Honor, my understanding at the
22 beginning of this is that we are all going to do our best
23 to stay away from that term. I mean, I didn't use the
24 term. I think she used it once.

25 MR. GROSE: And that's exactly right. And I'm just

1 reminding everybody, so.

2 THE COURT: All right. Are you -- you're talking
3 about this witness; right?

4 MR. GROSE: Yes, sir -- well, all witnesses. It
5 happened in her --

6 MS. JOSEPH: Just to clarify for the witness.
7 We're staying away from the term "forensic
8 interview." I've never had that come up before in a
9 trial. So we're just going to call it "interview."

10 THE WITNESS: Okay.

11 THE COURT: Are you okay with that?

12 THE WITNESS: No. I didn't know.

13 THE COURT: Okay. Anything else before we bring the
14 jury back?

15 MR. GROSE: No, sir.

16 THE COURT: Okay. Go get them.

17 (WHEREUPON, the jury came into open court at
18 approximately 11:21 a.m.)

19 THE COURT: All right. The jury is assembled.
20 Ms. Joseph.

21 MS. JOSEPH: Thank you, Your Honor.

22 (WHEREUPON, State's Exhibit No. 17 was played in
23 open court.)

24 THE COURT: Let me do this. I'm going to -- it is
25 about five minutes to 12:00. I'm going to send the jury

1 back to the room. And I'll give you some instructions as
2 to lunch in a minute.

3 So just bear with me for a minute. I need to talk to
4 these lawyers about a few things. Don't discuss the case
5 with each other while you're back there.

6 (WHEREUPON, the jury was excused from open court at
7 approximately 11:54 a.m.)

8 THE COURT: All right. Question -- my first question
9 is, are you going to -- any other questions of this
10 witness?

11 MS. JOSEPH: I have no other questions, Your Honor.

12 MR. GROSE: I don't.

13 THE COURT: All right. And my next question -- well,
14 first of all, she's been sitting up here for a while. Can
15 she --

16 MS. JOSEPH: She -- as far as the State is concerned,
17 Judge, she can be excused. Yes, Your Honor.

18 THE COURT: Thank you, ma'am.

19 MR. GROSE: I would just -- I have no objection to
20 her being excused. But I think we do need to let the
21 jurors know after a break that --

22 THE COURT: That I excused her.

23 MR. GROSE: That she was excused and -- I don't want
24 the record to look like --

25 THE COURT: I'll tell you what, so we'll have a clean

1 record, Mr. Grose, what I'll do is I will bring the jury
2 back and instruct them in here regarding lunch plans. And
3 then I will excuse her on the record.

4 MR. GROSE: Okay.

5 THE COURT: So the record will be clear.

6 MS. JOSEPH: That makes sense, Your Honor.

7 THE COURT: But the other thing I was going to ask,
8 the next witness is who?

9 MS. JOSEPH: Well, we have to sort of discuss how
10 we're going to handle that, Your Honor.

11 THE COURT: This is the Alabama thing?

12 MS. JOSEPH: Yeah, basically. But shortly, Your
13 Honor, it is the investigator from Alabama, who, as far as
14 the State is concerned, is doing, basically, the chain to
15 show how he got the electronic devices, you know. We got
16 a search warrant. We went to the house. We got the
17 electronic devices. And then it's the electronic task
18 force member who is the one that went on the electronic
19 devices and pulled the images.

20 And then, Your Honor, there's Lori, who we're
21 recalling for the limited purpose of looking at some
22 photographs.

23 THE COURT: Okay. So we would want to do a proffer
24 on both of the Alabama witnesses?

25 MS. JOSEPH: Yes, Your Honor.

1 And the State -- you know, we all go home and think
2 about things. I think I did that yesterday. That the
3 Alabama discussion got mixed in with the discussions of 12
4 images of the victim. And the State feels those are,
5 actually, two separate discussions. There's the child
6 porn question. And then there's the 12 images of the
7 victim.

8 So going forward, we just want to make sure that
9 those are two distinctive issues. And the State has two
10 separate positions on those.

11 THE COURT: Right. But depending -- the --

12 MS. JOSEPH: The child porn only comes in if those
13 files were mixed, that is my understanding.

14 THE COURT: That was the discussion.

15 MS. JOSEPH: That was the discussion. Those were the
16 findings. And then as far as the 12 images, which are not
17 child porn and they're of the victim in this case, we
18 would like to be heard separately on that. But those
19 witnesses, the three I listed, are necessary to establish
20 those photos anyway.

21 THE COURT: Well, let's be clear. I'm not making any
22 ruling as to what comes in.

23 MS. JOSEPH: Right.

24 THE COURT: That's what you say.

25 MS. JOSEPH: Yes.

1 THE COURT: I've got to hear the proffer first. I
2 don't want it misunderstood that I'm making any finding --

3 MS. JOSEPH: I completely understand. I just wanted
4 to separate those two things in your mind.

5 And just to preview something for the Court. The
6 answer about whether or not the files were mixed is, of
7 course, slightly more complicated because it just was. So
8 you'll have to just hear from him.

9 THE COURT: So it's my understanding that we're going
10 to have a proffer on both of the Alabama witnesses.

11 MS. JOSEPH: Yes, Your Honor.

12 MR. GROSE: Can I ask which two? Because you listed
13 four.

14 MS. JOSEPH: So it's going to be Investigator Joey
15 Stone. And it's, actually, going to be Arthur Agee.

16 And Arthur Agee is not the officer that did the
17 report in this case. He has replaced the officer that did
18 that report. Basically, one officer moved on and he
19 filled his spot on the task force. But he has
20 independently reviewed the materials. He did not produce
21 a report in the case, but --

22 THE COURT: Well, is that going to be -- is that
23 going to be an objection?

24 MR. GROSE: Yeah. There's two objections there.

25 I mean, they listed on their witness list Justin

1 Cole, who's the one who did the report, did the
2 examination. And they've already acknowledged needing to
3 call one of the investigators. They've listed two
4 investigators that were involved in executing the search
5 warrant. And they're going to call one of them.

6 So they've already acknowledged needing to prove the
7 chain. And so if they don't have Mr. Cole, then they
8 can't prove the chain.

9 And then the second question --

10 MS. JOSEPH: Can I address that first point first?

11 THE COURT: Yeah.

12 MS. JOSEPH: We can -- I mean, we'll do that in
13 proffer. We'll establish the chain for Your Honor.

14 MR. GROSE: Well, I mean --

15 MS. JOSEPH: He can say that we can't, I understand
16 his objection, but we can.

17 MR. GROSE: Well, I don't know --

18 THE COURT: Well, here's my question. You've got a
19 guy, an investigator, who's coming from Alabama. But he
20 wasn't involved at all in getting any of the materials.
21 He's just coming as a substitute.

22 And I understand where Counsel is going to go with
23 that objection regarding that.

24 Is that what you're telling me?

25 MS. JOSEPH: No, Your Honor -- well, yes and no.

1 Classic lawyer answer. He was not involved in the initial
2 investigation. He will testify that the first thing that
3 they do is they photograph each and every electronic
4 device that's seized. They get the serial numbers on the
5 device, and then they mirror the devices. So all the
6 contents of the devices are perfectly mirrored.

7 He then reviewed those mirrors, which is the process
8 that Detective Cole did when he made his first report.

9 MR. GROSE: Well --

10 MS. JOSEPH: So he did all the things Detective Cole
11 did in preparing for this case.

12 MR. GROSE: Well, that's interesting that she thinks
13 that. But I need to get -- to ask Detective Cole --

14 MS. JOSEPH: Completely --

15 MR. GROSE: Can I finish?

16 MS. JOSEPH: I'm agreeing with him.

17 MR. GROSE: Okay. But they don't have Detective
18 Cole. So without being able to ask Detective Cole that,
19 they've got a link in the chain. But then I think -- I'll
20 get you the cite over lunch. I think it's the
21 Melendez-Diaz case out of the United States Supreme Court
22 on the chain of custody.

23 I think you get to examine the person who, actually,
24 made those mirrors. Because this goes to some of the
25 issues that were already really -- you know, we were

1 already discussing in the case is how the stuff was
2 organized on there. And you know --

3 THE COURT: Well, if we're going to have a chain of
4 custody argument --

5 And, obviously, Counsel, you're going to raise that
6 issue.

7 MR. GROSE: Chain and confrontation clause.

8 THE COURT: Any case law that you come up with, share
9 that with Ms. Joseph --

10 MR. GROSE: Okay.

11 THE COURT: -- and Ms. Luttrell over lunch.

12 And I guess I'll just have to hear it and then, I
13 guess, deal with whatever objections come up at the time
14 during the proffer. But I just know -- based on what you
15 just told me, I just know that Counsel may have some
16 concern about that. And I don't know where it's going to
17 go. But I'd have to wait and see -- hear it and see it.

18 MS. JOSEPH: And, Your Honor, I just think it's
19 important to note this for the record. I have -- and we
20 will discuss the issue of chain. I have my own case law
21 that I'll provide to you and to Defense.

22 THE COURT: All right.

23 MS. JOSEPH: But part of the chain and part of
24 notification, just the underlying principles of this, is
25 that Defense's burden -- if they don't know everyone in

1 the chain and they can't examine everyone in the chain.
2 In this case -- and this, I think, is really important for
3 Your Honor to know this. They hired their own expert, an
4 expert, who, by the way, we have stipulated to the
5 qualifications of because he is more than qualified. He's
6 an expert in this field. And he, actually, got to go to
7 Alabama. And do you know what he looked at, Your Honor?
8 He looked at those mirrored copies. So they had no issues
9 with looking at those mirrors --

10 MR. GROSE: I didn't -- no, I didn't say that. I did
11 not say that --

12 MS. JOSEPH: I'm just saying --

13 MR. GROSE: No, no. We -- yes, we sent somebody to
14 Alabama and he looked at it. He didn't look at every
15 single device. He looked at certain things to get certain
16 information and to consult with me. Nothing about that
17 should be construed as relieving them of their burden.

18 I didn't know this was going to be an issue because
19 Mr. Cole was on --

20 THE COURT: The witness list.

21 MR. GROSE: -- the witness list. And they have an
22 address for him. I mean, the address is on the witness
23 list.

24 So we need to make sure that a copy of their witness
25 list is in the record. But they've got an address on the

1 witness list.

2 I did some research on him. He's still in Alabama.
3 And he's still consulting and is available as a witness.
4 He's just not here. They could have subpoenaed him here.
5 We subpoenaed records -- some of the records you looked at
6 yesterday, we got them from North Carolina using the
7 process of interstate subpoenas.

8 THE COURT: Let me ask you this, Ms. Joseph. When
9 did you find out he was going to be unavailable, Mr. Cole?

10 MS. JOSEPH: Last week.

11 THE COURT: Did you not let Mr. Grose know that?

12 MS. JOSEPH: No, Your Honor.

13 THE COURT: Well --

14 MR. GROSE: No. This is the first I've heard of it,
15 that he's unavailable.

16 MS. JOSEPH: But --

17 MR. GROSE: She sent a witness list last week that
18 his name -- I mean, the witness list -- I'll check it. It
19 came out on either Thursday or Friday. You've got a copy
20 of it. And his name was on the witness list. And there
21 was nothing about him being unavailable.

22 MS. JOSEPH: But, Your Honor, I -- two weeks ago,
23 Defense and I e-mailed each other. So I have always -- I
24 want to be very clear. Detective Cole is no longer a
25 police officer. He makes a lot of money now --

1 THE COURT: Here's my point --

2 MS. JOSEPH: No, no. I have a really good point --

3 THE COURT: Let me tell you what my point is.

4 MS. JOSEPH: Yes.

5 THE COURT: My point is this, a case of this
6 magnitude and a case as serious as this case is, I've got
7 a pet peeve about if something -- if there's a witness
8 that the Prosecution or the State put on the witness list,
9 gave it to Defense Counsel and he's relying on it, and
10 then the Prosecution comes in on D day and says, well,
11 this guy is not coming, we're sending this person here. I
12 don't know how that will impact, I mean, the Defense's
13 case.

14 I guess, I'm just -- I've got a pet peeve about
15 communications between lawyers on both sides. And if
16 something came up, like, there was a witness that's going
17 to be unavailable, let the other side know the witness is
18 going to be unavailable and why. And then maybe that was
19 something -- if you knew that two weeks ago, maybe that's
20 something we could have addressed pre-trial. I mean, we
21 had pre-trial matters. That could have been something I
22 could have heard and we could have dealt with.

23 But, you know, I don't -- and I'm not throwing the
24 pitch fork at either you -- or either side. That's just a
25 pet peeve of mine. I just like cases being tried with

1 everybody being open and clear as a whistle. I think
2 these cases require that, that everybody on both sides be
3 transparent as much as they can about every -- not just
4 some, every iota of discovery.

5 And discovery will include things -- the evidence you
6 exchange by way of the rules of discovery. But, also,
7 part and parcel of that is letting both sides know when
8 you've got a -- some -- some problem with a witness
9 appearing or not appearing, and that kind of stuff.
10 That's just where I'm at.

11 Because when we -- when you come in here -- and every
12 case is important, it's important to the State, it's
13 important to the Defense. And I just think that the
14 playing field must be extremely level. That's the only
15 way -- that's the only way you can play ball. It has to
16 be extremely level on both sides.

17 So having said that, I just think, Ms. Joseph, you
18 had an obligation, I think, to let Mr. Grose know before
19 today that Mr. Cole was not going to be here. I just
20 think you should have told him.

21 MS. JOSEPH: I think that's fair, Your Honor. I
22 apologize to Mr. Grose.

23 THE COURT: You should have told him.

24 So that's -- that's a path that we've got to cross
25 once we put -- we do the proffer on both of those Alabama

1 witnesses. We'll cross that bridge when we get to it.

2 And we're going to do that -- well, I'm going to --
3 it's 10 minutes after 12:00. I'm going to bring the jury
4 back in here. I'm going to excuse --

5 And I will probably never get your name right.

6 THE WITNESS: Ms. Capps.

7 THE COURT: Ms. Capps. I can get that part.

8 I'll excuse Ms. Capps, and then give them
9 instructions on lunch. And my thinking is, let everybody
10 go to lunch.

11 And get back at what time? Because I hate to start
12 anything --

13 MR. GROSE: I think we should --

14 THE COURT: I'll do whatever you want to do.

15 MR. GROSE: I think we should give the jurors longer
16 than we get and take up the proffer, so that they're not
17 just sitting back there.

18 MS. JOSEPH: So I say that we come back at 1:00, the
19 jury comes back at 2:00, or we could come back at 1:30 and
20 the jury could come back at 2:30, Your Honor.

21 MR. GROSE: Can we have 1:30?

22 THE COURT: 1:30. And the jury comes back at 2:30.
23 That will work?

24 MR. GROSE: That will work.

25 And can I have about two minutes with Mr. Dent.

1 Because I have a time-sensitive decision I have to make
2 regarding a witness. And I just want to confer with him
3 real quick.

4 THE COURT: When do you want to do it?

5 MR. GROSE: I'm going to go in that room back there.

6 THE COURT: You want to do it now?

7 MR. GROSE: If I could.

8 THE COURT: Before I bring them back?

9 MR. GROSE: Never mind. I'm getting ahead of myself.
10 That will be quick. We'll just do that and --

11 THE COURT: I'm just going to bring them in and tell
12 them when to come back.

13 MR. GROSE: I wasn't thinking through straight. That
14 will give me enough time.

15 MS. JOSEPH: And, Your Honor, normally, I wouldn't
16 say anything. But just for the record, on May 3rd, I did
17 tell Defense Counsel that our contact was Arthur Agee.
18 And I provided him a cell phone number. And I provided
19 him Arthur Agee's CV on Monday of this court week.

20 Your Honor, I agree that I did not say that Detective
21 Cole was not available. But I let him know it was Arthur
22 Agee that we had contact with.

23 MR. GROSE: And that's true. But Arthur Agee -- and,
24 actually, for all this bickering back and forth, she's,
25 actually, been very cooperative with us as far as

1 obtaining records and being able to view the stuff in
2 Alabama.

3 And I had asked for -- to try to help facilitate some
4 of that, you know, who do we need to talk to. I've talked
5 to Mr. Agee on the phone. I understand that he is the
6 person who has custody of it now. That has never been an
7 issue.

8 I've had plenty of cases where, you know, people at
9 SLED who have done stuff in the forensic chain or been
10 investigators have gone on to work for another agency and
11 then have come back and testified at trial. I think the
12 1980s cold case they're trying in the other courtroom is
13 just like that. People have retired, former
14 investigators, but they're coming back to testify at
15 trial.

16 I didn't think that that meant Mr. Cole was
17 unavailable. I just thought it meant he wasn't the person
18 to deal with to get this. And, like I said, his address
19 is on the witness list. I looked him up. He lives in
20 what appears to be a nice house, based on what Google maps
21 says for that address. He's on LinkedIn. He's a
22 consultant now. I just assumed, like she said, he's gone
23 into consulting where he can make more money, and he would
24 come.

25 THE COURT: All right. Anything else before I bring

1 the jury in and give them that limited instruction
2 regarding lunch and excusing Capps?

3 (WHEREUPON, there was no response.)

4 THE COURT: Nothing further.

5 Bring the jury back.

6 THE BAILIFF: Are you ready, Your Honor?

7 THE COURT: Yes.

8 (WHEREUPON, the jury came into open court at
9 approximately 12:12 p.m.)

10 THE COURT: All right. Ladies and gentlemen, first
11 of all, both sides have finished any questioning of
12 Ms. Capps. So I'm going to excuse her.

13 So, Ms. Capps, you can step down.

14 THE WITNESS: Thank you.

15 THE COURT: Any objection to her being excused?

16 MS. JOSEPH: None from the State.

17 MR. GROSE: No, sir.

18 THE COURT: Okay. No objection from the State or the
19 Defense.

20 Thank you, ma'am.

21 THE WITNESS: Thank you.

22 THE COURT: Next, we're going to do this for lunch
23 plans. I'm going to excuse you to go to lunch now. I'm
24 going to give you an extended lunch, so you'll have an
25 opportunity to eat your lunch a little slower than you

1 normally would. I'm going to let you come back at 2:30.

2 We've got some matters that we need to take up before
3 you come back. But I didn't want you sitting back there
4 waiting for us to take care of those matters. So I
5 decided just to give you an extended lunch to allow us to
6 go to lunch and then, also, take up those matters. So
7 that's what -- I wanted you to do that.

8 During lunch, even though you've got an extended
9 time, here again, please, don't discuss the case with each
10 other. Do not read any newspapers. Do not cut on your
11 television set. And if anybody comes up to you and wants
12 to talk about this case with you, get their name and
13 report that person back to me. And I'll deal with that
14 person or persons accordingly.

15 So enjoy your lunch. And I'll see you back at 2:30.

16 (WHEREUPON, the jury was excused from open court at
17 approximately 12:14 p.m.)

18 THE COURT: Just -- we're still on the record. This
19 is one thing before we break for lunch. In going back to
20 the point, the witness list that I was --

21 And, Ms. Joseph, I'm addressing this, I guess, to
22 you. The witness list that I was provided with and, also,
23 Mr. Grose was provided, this witness list was clocked in
24 with the clerk's office by your office on May 18th, which,
25 according to my recollection, was probably last week.

1 On this witness list that your office clocked in with
2 the clerk's office, it has number 11 as the witness,
3 Detective Cole. So my point is you clocked this witness
4 in -- witness list in. You gave it to the Court. You
5 gave it to Mr. Grose. You clocked it in as this being the
6 witness list that's going to be utilized in this trial.
7 And Mr. Cole's name was on here. That's my point.

8 MS. JOSEPH: No. I completely agree. I should have
9 explicitly told him that I couldn't use Cole. I
10 completely understand and I agree.

11 THE COURT: But I just wanted the record to be clear
12 that that's what the witness list said, and your office
13 clocked it in on the 18th of May. So you knew at that
14 time that Mr. Cole wasn't going to be here when you
15 clocked in the witness list.

16 Am I right?

17 MS. JOSEPH: Yes, Your Honor.

18 THE COURT: All right. We're going to break for
19 lunch. And we'll be back at 1:30. Okay. We'll stand
20 down until 1:30.

21 (WHEREUPON, a lunch break was taken.)

22 (WHEREUPON, State's Exhibit Nos. 18, 19, and 20 were
23 marked for identification only.)

24 THE COURT: Ms. Joseph.

25 MS. JOSEPH: So, Your Honor, in light of having --

1 after Your Honor's -- I don't want to call it a ruling.
2 But after discussing the Alabama matter with Your Honor
3 yesterday, and after reaching an understanding with the
4 Court that if the child pornography was not in the same
5 folders as the images of the daughter that it would not be
6 admissible under 404(b).

7 THE COURT: Right.

8 MS. JOSEPH: We have rediscussed matters with Arthur
9 Agee. The child pornography was deleted. And when
10 anything is deleted on a computer, the first thing that is
11 deleted is the pathway where it was stored. So they can't
12 say -- he cannot say with any certainty where the child
13 pornography was stored on the computer.

14 Does that make sense?

15 THE COURT: It makes sense.

16 MS. JOSEPH: I'm only asking if it makes sense
17 because I barely understand it. We were going to argue
18 that because there was a chance -- you know, we don't know
19 for certain that maybe it should be let in. But I think
20 in light of everything that's happened, the State is not
21 going to attempt to get in the 404(b) evidence,
22 specifically, the child porn.

23 So right now, the only thing that's being discussed
24 is the approximately 12 images of the victim. The State's
25 arguing that they're sexual images, the images of the

1 victim that were found on the Defendant's camcorder and
2 camera. And we are now going to proffer all three
3 witnesses just so Your Honor will get a preview of exactly
4 what we're going to do.

5 And the State would request that we argue this at the
6 end of the proffer. Because I genuinely think all of the
7 questions will be addressed through the proffer testimony.
8 That's not to mean that Defense can't object as we go
9 along. But I think -- as far as the big question about
10 chain and Agee's role in this, I think that all of that
11 will be ironed out if we're allowed to proffer all the
12 testimony.

13 THE COURT: All right. Y'all already probably talked
14 about that before --

15 MS. JOSEPH: We, actually, hadn't.

16 MR. GROSE: Well, Your Honor, we hadn't. But this is
17 a proffer. So I'm okay arguing the objections at the end
18 of the testimony.

19 THE COURT: Okay.

20 MS. JOSEPH: And I want to be clear that we are --
21 I'm going to put the witnesses up in the order that I
22 intend to put them up in front of the jury. So I'm going
23 to start with Lori Mayo.

24 THE COURT: Okay.

25 MS. JOSEPH: Because Defense Counsel and I had

1 briefly talked about doing a different order. So I'm
2 going to call Ms. Mayo to the stand.

3 (WHEREUPON, State's Exhibit No. 21 was marked for
4 identification only.)

5 THE COURT: If you'll swear her in. I know she was
6 sworn in previously, but let's do it again.

7 THE CLERK: Yes, Your Honor.

8 Place your left hand on the Bible and raise your
9 right hand.

10 WHEREUPON,

11 LORI MAYO,

12 after first having been duly sworn, testified as follows:

13 THE CLERK: And just put that microphone where they
14 can hear you.

15 Thank you.

16 THE COURT: All right.

17 DIRECT EXAMINATION

18 BY MS. JOSEPH:

19 Q Ms. Mayo, I'm going to hand you something.

20 MS. JOSEPH: And I'm providing Defense a copy,
21 although I have already provided it --

22 MR. GROSE: We've got it, yeah.

23 BY MS. JOSEPH:

24 Q I'm showing you something marked as State's Exhibit
25 No. 21. Do you recognize what -- I'm going to call them

1 photographs. Do you recognize them?

2 A Yes.

3 Q I'm calling them photographs, but what are they
4 photographs of?

5 A They are screen shots, or just pictures of actual
6 text messages on a cell phone.

7 Q So they're pictures of a cell phone screen?

8 A Yes.

9 Q And you had the opportunity to look through these
10 photos?

11 A Yes.

12 Q And do you recognize your name in the photos?

13 A Yes.

14 Q And your phone number?

15 A Yes.

16 Q And then you read through the body of the text
17 messages that are displayed in the photographs?

18 A Yes.

19 Q Have they been materially altered in any way?

20 A Not that I'm aware of.

21 Q Okay. So are they a true and accurate depiction of
22 the testimony between -- I'm sorry. Who are the text
23 messages between?

24 A Between Charles and I.

25 Q Are they a true and accurate depiction of those text

1 conversations?

2 A I am fairly certain they are.

3 MS. JOSEPH: Your Honor, based on that foundation, we
4 would move to enter State's Exhibit No. 21 into evidence.

5 THE COURT: Any objection?

6 MR. GROSE: Well, I mean, I think they would have to
7 do that in front of the jury.

8 MS. JOSEPH: Yes.

9 MR. GROSE: I don't have a specific objection to
10 those, as long as she can identify them in front of the
11 jury. But these are separate from the photographs that I
12 thought we were doing the proffer on.

13 MS. JOSEPH: It is. I was just going to go through
14 her genuine testimony today. Because I, literally, am
15 going to ask her about those text messages and then the
16 other photos. And then we're done.

17 So I'm about to address some photographs that are not
18 the photos in dispute. I've shown these to Defense
19 Counsel. These photographs are of the victim and the
20 Defendant. I'll stop using the word "victim." They are
21 of J.M. and the Defendant in the home where the
22 allegations took place.

23 THE COURT: So these text messages here are screen
24 shots of the text messages we talked about --

25 MS. JOSEPH: Yes.

1 MR. GROSE: And I -- they haven't told me this. But
2 I think they're doing this to cure my objection to the use
3 of the incident report yesterday.

4 MS. JOSEPH: Yes.

5 MR. GROSE: And I would much rather have the actual
6 text messages in evidence than what happened yesterday.
7 So any of my caution is -- because these were probably
8 brought in with the Alabama stuff. But this is not what
9 we have an objection to. And so I --

10 MS. JOSEPH: I'm just going through her whole
11 testimony. She's being called for a fairly limited
12 purpose. So I'm just going to go through everything I
13 expect to question her about on the stand in front of the
14 jury.

15 MR. GROSE: That's fair enough. I just didn't
16 understand --

17 THE COURT: You're okay?

18 MR. GROSE: Yes.

19 THE COURT: I just wanted to make sure those were the
20 same text messages that was contained in the incident
21 report the other day.

22 MS. JOSEPH: They are. Your Honor, to be fully
23 honest with the Court, there's slightly more, like, a
24 little bit more material because the incident report was a
25 summary. But I have provided Defense Counsel with these

1 text messages prior to our break for lunch. So he has had
2 a chance to look that over.

3 THE COURT: Was that other document moved into
4 evidence, the incident report?

5 MS. JOSEPH: No.

6 MR. GROSE: I don't think the incident report --

7 THE COURT: Was that was marked for identification,
8 or it just wasn't even marked?

9 MS. JOSEPH: It was not even marked.

10 MR. GROSE: I think it might have been marked as a
11 Court's Exhibit.

12 MS. JOSEPH: I didn't mark it.

13 Did you mark it?

14 MR. GROSE: Well, it was one of y'all's copies, but I
15 think we did mark it. And that was my concern, that they
16 were going by a summary yesterday and not the actual
17 thing. And so, now, we have the actual thing. So I'm --
18 unless something changes in her testimony between now and
19 when we're in front of the jury, I'm not --

20 MS. JOSEPH: And I agree I'm going to need to do that
21 in front of the jury. I recognize that.

22 THE COURT: All right.

23 MS. JOSEPH: Similarly, this is not -- I'm just
24 getting into those other photos. So I'm going to hand you
25 a stack of photos. This is State's Exhibit Nos. 1, 2, 3,

1 4, and 5.

2 And I'll come back and show them to you.

3 So this is State's Exhibit Nos. 1 through 5.

4 And I know --

5 MR. GROSE: Yeah. I just wanted to -- yeah.

6 BY MS. JOSEPH:

7 Q So, first, do you recognize those photographs?

8 A Yes.

9 Q How do you recognize those photographs?

10 A That's my daughter in our old house.

11 Q All right. Have those photographs -- did you take
12 those photographs?

13 A I am not sure who took the photographs.

14 Q Okay. That's a fine answer. Did you -- are those
15 photographs materially -- have they been materially
16 altered in any way?

17 MR. GROSE: I -- if she's not the one who took the
18 photographs, I don't know how she can answer that
19 question.

20 MS. JOSEPH: That's true. I guess I'm thinking if
21 she could identify a photo of her house; right? She
22 wouldn't have necessarily had to take the photo of her
23 house.

24 MR. GROSE: I think she can identify -- I mean, this
25 isn't like a crime scene where I'm standing next to the

1 officer taking photographs and I can say, yeah, this is
2 how it looked at the crime scene. I think she can testify
3 that's a picture of my daughter, and whether or not she
4 recognizes the background. But I don't think she can
5 testify about whether or not those photographs have been
6 altered since they were taken.

7 THE COURT: Do you want to respond?

8 MS. JOSEPH: Your Honor, what I'm trying to get her
9 to testify to is the subject of the photographs, the
10 background of the photographs, the time period that they
11 were taken, how old her daughter was, how old J.M. was.
12 I agree that -- when I'm using the word "altered," I don't
13 mean, you know, is she behind the camera cropping it. I
14 guess I mean --

15 THE COURT: But she wouldn't be in a position to know
16 that, would she?

17 MS. JOSEPH: Right. I guess when I say "altered,"
18 I'm not using it in that way. I mean, it's more like,
19 yeah, are they accurate for what they depict. There's a
20 photograph of her daughter at a birthday party. She can
21 say, that's my daughter at a birthday party. That's what
22 she looked like, you know. I was there. I mean, I know
23 his point that she's not standing over the person taking
24 the photograph --

25 MR. GROSE: And I'm okay with that. I'm just not

1 okay with her saying these are accurate as they were taken
2 and haven't been altered.

3 THE COURT: Okay. So why don't you phrase the
4 question that way with that amendment.

5 MS. JOSEPH: Yes, Your Honor

6 BY MS. JOSEPH:

7 Q So I'm going to go photo by photo. So hold up the
8 very first photo for me so I can see it. And what number
9 is on the front?

10 A One.

11 Q Okay. So of the photo -- what does that photo
12 depict?

13 A It's my daughter standing in front of the living room
14 window.

15 Q Okay. And when you say "living room window," which
16 house was this?

17 A The second house.

18 Q In Beaufort County?

19 A Yes.

20 Q Okay. And when I say what does it depict, is there a
21 special occasion that's happening?

22 A It was a birthday.

23 Q And do you remember what birthday party it was?

24 A That was her ninth birthday.

25 Q That was her ninth birthday. And did you attend that

1 birthday party?

2 A I don't think it was a party. It was just the
3 family. It was just us.

4 Q Were you at the house --

5 A Yes.

6 Q -- when that photograph was taken?

7 A I am not sure.

8 Q Okay.

9 A I was there that day.

10 Q How about this, did you see your daughter dressed
11 like that?

12 A Yes. I have the same pictures of her in that outfit
13 on her birthday.

14 MS. JOSEPH: Perfect.

15 Based on that, Your Honor, we would move to enter in
16 State's Exhibit No. 1.

17 MR. GROSE: And my --

18 THE COURT: Subject --

19 MR. GROSE: Well, we're having this hearing -- I
20 mean, I don't want to have to -- I thought we weren't
21 going to do the objections every time. Because these are
22 the photographs that came off the device in Alabama. And
23 so if they can't establish the chain and satisfy the
24 confrontation clause, then I'm going to have an objection.
25 And --

1 THE COURT: Let's hold off on the admissibility --

2 MS. JOSEPH: Right. Let's hold off on the
3 admissibility --

4 THE COURT: -- until we do the proffer.

5 MS. JOSEPH: I agree with that.

6 Does he have any other objections?

7 MR. GROSE: That's -- that's going to be --

8 MS. JOSEPH: I mean, we're proffering testimony. I
9 know that's not why we're necessarily here. But if there
10 are objections, I'd like to sort of handle them now.

11 MR. GROSE: That's going to be my objections.
12 Although, if we're going to go through photo by photo, I
13 might want to ask her some questions about some of them,
14 but not this one.

15 MS. JOSEPH: So he still has objections about where
16 the photos came from, which is the general reason that
17 we're here. But, seemingly, no objection about this
18 photograph.

19 THE COURT: Let me make sure I understand, Mr. Grose.
20 Once we get the proffer on the Alabama testimony, what
21 you're asking me to do is to -- you want to reserve your
22 objections as to the admissibility of the photos at the
23 same time that you assert any objections, if any, to the
24 chain in the Alabama --

25 MR. GROSE: Yeah. Judge, if -- if I can -- I don't

1 want this to take longer than necessary, I promise.

2 THE COURT: All right.

3 MR. GROSE: Just so the record doesn't get clouded.
4 I still have my objection for the solicitor's office not
5 applying for the search warrant. You've already ruled on
6 that. I don't plan on arguing that again.

7 I just want a -- I don't want that to be lost on the
8 record somehow. With what transpired before lunch, I have
9 questions about the chain of custody of the evidence from
10 Alabama. Because we're not really talking about just
11 this -- these photographs. We're talking about the
12 computers. And they've already acknowledged that they
13 have to prove the chain of custody by bringing an officer
14 from Alabama that was involved in the search to --

15 THE COURT: I think the computers are out. We're
16 just camera --

17 MS. JOSEPH: Camera, yeah, Your Honor.

18 MR. GROSE: Well, they're going to say that these are
19 on the computers, too, or some of them.

20 MS. JOSEPH: Not --

21 THE COURT: Not based on what I just heard.

22 MS. JOSEPH: Yeah. Just to be very clear. These
23 photos -- first of all, we're seeking to enter the four
24 photos you have in your hand.

25 MR. GROSE: It was five.

1 THE WITNESS: Five.

2 MS. JOSEPH: The five photos you have in your hand,
3 we're seeking to, actually, enter these through this
4 witness. We are not saying that the Defendant took these.
5 We're seeking to enter them to show the location where the
6 crime occurred, just like you would enter crime scenes.

7 I mean, this is all -- the first photo is in the
8 living room. That's not necessarily helpful. But the
9 next ones are in the photograph -- the next photos are in
10 the Defendant's bedroom and they're in the kitchen. And
11 in her forensic interview, she talks about one of the
12 assaults occurring in the kitchen.

13 So that's -- these photos, in the State's opinion,
14 are not tied -- and I should have said this earlier. I
15 apologize. I'm just trying to be very precise here.

16 These photos, in the State's opinion, we're not
17 arguing that the Defendant took them. We will not be
18 saying they came from his computer. We will not be saying
19 that they came from his camera or camcorder. We are
20 seeking to enter them just to satisfy the two facts that I
21 mentioned, Your Honor. So, in my opinion, they are very
22 much removed from where they came from.

23 And full disclosure to the Court. The State was just
24 provided the of interest photos of J.M. , which are the
25 sexual in nature images. We, actually, were not provided

1 these by law enforcement. We, actually, were provided
2 these five photos by the Defense's expert, who
3 independently looked at the computer and then in a drop
4 box sent these to us, like, two days ago.

5 So we didn't acquire these photos. We don't know
6 where they came from. We don't have the chain to do that.
7 Literally, she's a mom looking at photos of her daughter.
8 She is a homeowner looking at photos of her old house.
9 And that is her grounds for getting these images in.

10 MR. GROSE: And just to give you more information on
11 that -- and this gets back to what you said about if
12 somebody has something, share what they have. We went
13 through a process where we could have somebody look at the
14 photographs in Alabama. And he was allowed to bring back
15 copies of the photographs.

16 And out of an abundance of caution, you know, I told
17 them I might want to use some of them, I might not want to
18 use -- I'm not going to use any of them. But out of an
19 abundance of caution, I sent them a link to the file of
20 what our guy provided us. Because I didn't want to be in
21 a position where we were sandbagging them on something.

22 So these are images that came off the devices in
23 Alabama. Now, I can't tell you how many there were, but
24 there was a number of them. And these -- while what we
25 provided to them were what came off of two cameras that

1 were collected in the search warrant.

2 Now, as far as, you know, our objections today, you
3 know, they've got to establish, you know, at least, enough
4 of a chain of custody for how these ended up on the image,
5 or the clone, or whatever you -- whatever the proper term
6 is.

7 And so without -- and, in fact, my understanding is
8 that a lot of the photographs that came off of the -- the
9 devices, the two cameras -- and I can't tell you how many
10 were deleted and how many weren't. But a lot of them had
11 been from -- what I understand, had been deleted. I don't
12 know if that's the case or not. And I don't know, you
13 know, which ones were and which ones weren't standing here
14 right now. I might could be able to figure out what we
15 think it might be. But that's not -- you know, we didn't
16 make the clone and we didn't run the initial test.

17 So that's why I'm hesitant to agree to any of these
18 photographs that might seem somewhat innocuous. Because,
19 you know, we're objecting to anything they want to
20 introduce that would trace back to those devices through
21 law enforcement that were collected in the search warrant.

22 If they wanted to introduce photographs to show where
23 the incident location happened, that could be done without
24 using photographs that, you know, came off the device that
25 was in question.

1 And if we want to get into it, there's, also, you
2 know, some case law -- and I could get the case. But
3 there's, also, some case law that you don't get to just
4 introduce a photograph of a complaining witness in a
5 birthday dress or whatever to -- you know, those could
6 be -- I mean, there's been cases that have been reversed
7 for entering photographs in that manner.

8 So my -- but, still, my main objection is that all of
9 the photographs that we're going to be talking about have
10 the confrontation clause issue, because of them being
11 collected from devices that were obtained in a search
12 warrant without Mr. Cole, I believe it was, being here.

13 THE COURT: All right. So my understanding is your
14 expert that you hired for those photos were sent by way of
15 drop box to you?

16 MS. JOSEPH: Yes, Your Honor.

17 THE COURT: The question that I understood, Counsel,
18 that you're asking is threefold. One, can you identify
19 who is depicted in the photograph? Is this, in fact, your
20 daughter, J.M. ? That's question number one.

21 Question number two, as I understand, that you're
22 asking is, do you recognize this location as being your
23 house, or your dwelling, or where you resided; is that
24 correct?

25 MS. JOSEPH: Yes. That's correct, Your Honor.

1 THE COURT: Question number three, which I think
2 Counsel had a challenge about was whether or not this
3 witness was in a position to say whether or not the
4 photographs were altered. And I think everybody agrees
5 she's not in a position to say that.

6 MS. JOSEPH: Right.

7 THE COURT: What was the third? There was a third
8 prong.

9 MS. JOSEPH: Age.

10 THE COURT: Age. Is this the age of the child? And
11 it is my understanding that those were the limited
12 questions you were asking.

13 MS. JOSEPH: Yes, Your Honor.

14 THE COURT: I don't see, initially, Mr. Grose, how
15 those -- if the window of questions is limited to those
16 three questions, how that's prejudicial to your client.
17 I'm trying to -- I'm trying to weigh the probative value
18 versus the prejudicial value.

19 So I don't see how -- if those questions are limited
20 to those three questions.

21 MR. GROSE: Can I see the photographs for a second?

22 THE COURT: Yeah. Take a look at it. And since your
23 expert sent the photos by way of drop box to the State,
24 you've already saw the pictures.

25 MR. GROSE: I've seen the pictures. That's the

1 point. Basically, I sent somebody to Alabama so I could
2 see what the pictures were, other than the one or two
3 dozen that they disclosed to me.

4 But that does not speak to what was done when the
5 devices were, actually, examined. We did not examine the
6 actual devices, as I understand it. We examined the
7 images that were made by the witness who is not going to
8 be here.

9 THE COURT: Those pictures there came from a
10 camcorder?

11 MS. JOSEPH: The camera and the camcorder, yes, Your
12 Honor.

13 THE COURT: The camera and camcorder. There's no
14 pictures there from the actual computer?

15 MR. GROSE: But some of these --

16 MS. JOSEPH: It's the same images that were on all of
17 the devices.

18 MR. GROSE: But some of these -- and this gets to
19 whether they've been altered or not. I mean, some of
20 these are recovered photographs. I don't know which ones
21 exactly are or aren't. But some of them have been
22 deleted.

23 I'm looking at State's Exhibit No. 5. And if -- can
24 we just hand this up to His Honor to look at it?

25 THE CLERK: Certainly.

1 MR. GROSE: What's coming next is in this other set
2 of photographs that they have over here -- and they showed
3 these to me yesterday.

4 MS. JOSEPH: I showed them to him yesterday, but,
5 also, he's had them for months.

6 MR. GROSE: Well, I've had those. But she told me
7 yesterday that she was going to introduce those. And what
8 they're going to do is in this second set, they're going
9 to argue that -- some of the pictures where J.M. 's
10 wearing the same top as she is in State's Exhibit No. 5
11 are prejudicial to us because they're going to argue that
12 they're sexual in nature.

13 And so I feel like that since we've had this
14 confrontation clause, chain of custody issue come up that
15 I have to object to every single photograph that came from
16 those devices. The fact that we've been able to look at
17 them, the fact that we've been able to get duplicates of
18 it is not relevant to the inquiry.

19 The inquiry is, can they establish a chain of
20 custody? And do we get to cross-examine Investigator
21 Cole, who did the examination? And I would want to
22 cross-examine him about State's Exhibit Nos. 1 through 5,
23 in addition to the others as well.

24 THE COURT: Well, I mean, we've already crossed the
25 bridge that Investigator Cole is not going to be here.

1 MR. GROSE: Right. And that's -- but you haven't
2 ruled on the implications of that yet.

3 MS. JOSEPH: So I guess hold off --

4 MR. GROSE: That's what I thought I was holding off
5 to argue after they make the proffer.

6 THE COURT: And we can let you do that. And I think
7 the case you submitted was in what line?

8 MR. GROSE: I submitted --

9 THE COURT: The Melendez --

10 MR. GROSE: -- the Melendez-Diaz case, which I think
11 stands -- it was a drug case. But I think it stands for
12 the proposition that I get to cross-examine, on behalf of
13 Mr. Dent, the person who did the actual analysis.

14 THE COURT: Right.

15 MR. GROSE: And that would apply to State's Exhibit
16 Nos. 1 through 5 as well is my point.

17 THE COURT: Which is your argument that that person
18 would, obviously, be Mr. Cole?

19 MR. GROSE: That person is Mr. Cole, yes, sir, or
20 Detective Cole.

21 THE COURT: Detective Cole.

22 MS. JOSEPH: He's no longer a detective.

23 So I don't know if we need to necessarily go through
24 State's Exhibit Nos. 1 through 5 during the proffering
25 stage, but the State would contend that State's Exhibit

1 Nos. 1 through 5 should be handled separately. We are
2 seeking to admit them fully through Lori. We will not be
3 admitting them through any law enforcement -- any
4 electronic examiner.

5 We understand Defense's objection. So now, would
6 Your Honor like me to move on to the next batch of photos,
7 or do you want me to go through State's Exhibit Nos. 1
8 through 5?

9 THE COURT: Well, I still don't think we've finished
10 with Mr. Grose's point. I'm still unclear as to whether
11 or not he wants to argue the admissibility after the
12 Alabama proffer.

13 MS. JOSEPH: I think it has to be handled that way,
14 Your Honor. Because I think that so many of these issues
15 will be addressed --

16 THE COURT: I'm talking about even --

17 MR. GROSE: I do have a question I'd like to ask her
18 during the proffer about one of those photographs. Now, I
19 don't know if you want me to do it on this set or --

20 THE COURT: Well, is your position on the
21 admissibility what I just stated regarding the pictures?
22 Do you want to argue later?

23 MR. GROSE: I'd like to argue later. But since we're
24 doing a proffer, I would like to ask her one question.

25 THE COURT: Yes. I'll do that.

1 Go ahead.

2 Are you finished?

3 MS. JOSEPH: Yes.

4 THE COURT: Go ahead.

5 MR. GROSE: Can I --

6 MS. JOSEPH: I want to just be clear that at trial in
7 front of the jury, I am going to go through State's
8 Exhibit Nos. 1 through 5 individually and ask, is that
9 your daughter, where was this taken, and age. Then I'm
10 going to seek to admit State's Exhibit Nos. 1 through 5.
11 Because it's the State's position that I do not need any
12 other foundation to do so.

13 MR. GROSE: And I don't think they could be admitted
14 until -- I mean, they could be identified by a witness and
15 then admitted later, not unlike we do with the drugs in a
16 case going --

17 MS. JOSEPH: The --

18 THE COURT: But, I mean, I don't see why they can't
19 be admitted for the limited purpose of what she
20 identified -- I mean subject to any objections that you
21 may have through this witness.

22 MS. JOSEPH: Because, Your Honor -- you're right --

23 THE COURT: For that limited purpose, I don't see why
24 they can't be.

25 MR. GROSE: But I think I have to object to every

1 photograph from Alabama if Mr. Cole was involved in the
2 analysis.

3 THE COURT: Which would be photos -- State's Exhibit
4 Nos. 1 through 12, all of them? This is State's Exhibit
5 Nos. 1 through 5, but she's got 12.

6 MS. JOSEPH: I believe there's 16.

7 THE COURT: State's Exhibit Nos. 1 through 16.
8 You're going to object --

9 MR. GROSE: I'm going to object to all of them, yes,
10 sir.

11 THE COURT: Okay.

12 MR. GROSE: Can I ask her one question about these
13 now?

14 MS. JOSEPH: Actually, Your Honor, I think that you
15 could, in fact, rule on State's Exhibit Nos. 1 through 5
16 without hearing it, because I -- I'm going to be very
17 clear. I could have gone on Facebook and found 15 photos
18 of J.M. at the right age, as long as she was in the
19 house. I mean --

20 THE COURT: Well, I'm inclined -- just to circumvent.
21 I'm inclined to rule that photos -- State's Exhibit Nos. 1
22 through 5 are admissible for the purposes that you
23 established, subject to any objection that Mr. Grose has.

24 Now, as to the other photos, we'll deal with that
25 when the time comes. And after the proffer from the

1 Alabama witness, you can renew your objections.

2 MR. GROSE: Can I ask her just one question on
3 State's Exhibit Nos. 1 through 5?

4 THE COURT: Yes.

5 CROSS-EXAMINATION

6 BY MR. GROSE:

7 Q Can you -- do you still have those?

8 MS. JOSEPH: I think the Judge has State's Exhibit
9 No. 5.

10 THE COURT: Do you need State's Exhibit No. 5?

11 MR. GROSE: Yes. If you could just hand that back to
12 her.

13 BY MR. GROSE:

14 Q In State's Exhibit No. 5, it looks like there's
15 somebody on the couch. Do you see that foot over there?

16 A Yes.

17 Q Do you know who that is?

18 A I can't tell for a hundred percent certainty. I
19 would think it's my son.

20 MR. GROSE: Okay. Thank you.

21 REDIRECT EXAMINATION

22 BY MS. JOSEPH:

23 Q I'm going to come get State's Exhibit Nos. 1 through
24 5 back from you and get the texts back from you.

25 MS. JOSEPH: And then does Your Honor have State's

1 Exhibit Nos. 6 through 16 [sic]?

2 THE COURT: I do.

3 There's no objection to the text messages coming in;
4 right?

5 MR. GROSE: Right. I'm not going to object to that.

6 THE COURT: All right.

7 MR. GROSE: But those aren't related to --

8 THE COURT: Right.

9 MS. JOSEPH: Now, we're talking about State's Exhibit
10 Nos. 6 through 15. And then --

11 BY MS. JOSEPH:

12 Q So, Lori, I'm going to hand you photos that have been
13 marked State's Exhibit Nos. 6 through 15. Very carefully,
14 without showing them to the jury, can you briefly look
15 through these photos?

16 MR. GROSE: Is it through 16 or 15?

17 MS. JOSEPH: State's Exhibit Nos. 6 through 15.

18 MR. GROSE: Okay. Thank you for clarification.

19 BY MS. JOSEPH:

20 Q All right. Setting aside photo 15 for now, State's
21 Exhibit Nos. 6 through 14, do you know who took those
22 photos?

23 A I do not.

24 Q Okay. Do you know who's depicted in those photos?

25 A I do.

1 Q Who is depicted in those photos?

2 A My daughter, J.M. .

3 Q Looking at photo -- State's Exhibit No. 6, where was
4 that photograph taken?

5 A That was taken in the first house.

6 Q And when you say, "the first house," do you mean in
7 Beaufort County?

8 A Yes.

9 Q And approximately how old is J.M. in that
10 photograph?

11 A I couldn't say for sure, seven or eight.

12 Q Looking at the next photo, State's Exhibit No. 7,
13 who's depicted in that photograph?

14 A J.M. .

15 Q Approximately how old does she look?

16 A I don't know. Maybe eight or nine.

17 Q Which house?

18 A This was the second house.

19 Q In Beaufort County?

20 A Yes.

21 Q Okay. Looking at State's Exhibit No. 8, who is
22 depicted in that photograph?

23 A My daughter.

24 Q And how old does your daughter look in those
25 photographs -- that photograph?

1 A This is the same as the last photo. So about eight
2 or nine.

3 Q And then looking at State's Exhibit Nos. 6, 7, and 8,
4 you said that it was in the Beaufort house?

5 A Yeah.

6 Q Do you know where in the house it was?

7 A In which picture?

8 Q We're just talking about State's Exhibit Nos. 6, 7,
9 and 8, so any of them?

10 A I do know that -- no. I couldn't say for sure in
11 those.

12 Q That's okay. Looking at State's Exhibit No. 9, what
13 does photograph nine depict?

14 A My daughter.

15 Q Approximately how old does she look?

16 A About eight or nine.

17 Q And where was that photograph taken?

18 A That was in the second house.

19 Q And do you know where in the second house that was
20 taken?

21 A Yes.

22 Q Where was that taken?

23 A That was in the living room.

24 Q Are we on State's Exhibit No. 10?

25 A Yes.

1 Q Looking at State's Exhibit No. 10, who is depicted in
2 that photograph?

3 A J.M. .

4 Q And approximately how old does she look?

5 A About eight or nine.

6 Q And where was that taken?

7 A In the second house in Beaufort County.

8 Q And do you know where in the house?

9 A That was in the living room.

10 Q Okay. And then looking at State's Exhibit No. 11,
11 who is in that photo?

12 A J.M. .

13 Q And where was that photograph taken?

14 A In the second house.

15 Q Do you know where in the second house?

16 A In the living room.

17 Q And then approximately how old was she?

18 A About eight or nine.

19 Q And then looking at -- are we on State's Exhibit
20 No. 12?

21 A Yes.

22 Q State's Exhibit No. 12, who does that photo depict?

23 A My daughter, J.M. .

24 Q Approximately how old is she?

25 A About seven or eight.

1 Q And where was that photograph taken?

2 A The first house in Beaufort.

3 Q And do you know where in the house?

4 A In the living room.

5 Q And then looking at State's Exhibit No. 13, where was
6 that photograph taken?

7 A I couldn't say for sure.

8 Q And then -- did I already ask who it was of?

9 A No.

10 Q Who is that photograph of?

11 A J.M. .

12 Q And approximately how old is she?

13 A I mean, since she's -- I can only go by -- I mean,
14 this is the same picture, just like closer.

15 Q Okay.

16 A But it would be in the first house. And she was
17 about seven or eight.

18 Q Okay. And then are we on State's Exhibit Nos. 15 or
19 14?

20 A State's Exhibit No. 14.

21 Q State's Exhibit No. 14, who is that a photo of?

22 A J.M. .

23 Q Do you know how old she is in that photo?

24 A Again, she would have been seven or eight.

25 Q And then do you know where it was taken?

1 A In the first house.

2 Q And where in the first house?

3 A I couldn't say for sure.

4 Q And then are we -- we're on State's Exhibit No. 14.

5 We're done. Looking at State's Exhibit No. 15, are you
6 able to say with certainty what photograph 15 is of?

7 A I'm not.

8 Q Do you recognize anything about that photo?

9 A I do.

10 Q What do you recognize?

11 A She had a pair of green shorts exactly like it that
12 she had for dance.

13 Q So that was -- is it safe to say that was a dance
14 costume she was given?

15 A Her leotard and the shorts, yes.

16 Q And when we say "she," who was "she"?

17 A J.M. .

18 Q In that photograph, it depicts a body part?

19 A Yes.

20 Q Does that look, to your knowledge and as a mother,
21 like the body part of your daughter?

22 A Yes.

23 Q And approximately how old was she when she had that
24 dance uniform?

25 A I couldn't say for sure. Because I believe she was

1 in dance for those two -- for the whole two years. So I
2 don't know at what point she was given this outfit.

3 Q Okay. And when you say "the whole two years," do you
4 mean in Beaufort County?

5 A Yes.

6 Q She was in dance in Beaufort County for two years
7 ages seven, eight, and nine?

8 A Uh-huh.

9 Q And she was given a dance outfit that resembles that
10 one?

11 A Yes.

12 Q And can you say -- can you identify where that
13 photograph was taken?

14 A I cannot.

15 MS. JOSEPH: And that's it. We will not be entering
16 the photos through her. We're just going to identify them
17 to be entered later. And that's my only questions for
18 this witness.

19 THE COURT: Mr. Grose.

20 MR. GROSE: Just a couple follow-ups.

21 RE CROSS-EXAMINATION

22 BY MR. GROSE:

23 Q If I could see State's Exhibit Nos. 13 and 15,
24 please.

25 A (Witness complied.)

1 Q In State's Exhibit No. 13, you said you were unsure
2 where that was taken?

3 A Yes.

4 Q Okay. And what makes you unsure about that?

5 A It's blurry. And there's not much of a background.

6 Q Okay. And in State's Exhibit No. 15, you, initially,
7 said you're not sure who that is, didn't you?

8 A I cannot say for 100 percent certainty.

9 MR. GROSE: That's all I have.

10 THE COURT: All right. Anything else, Ms. Joseph?

11 MS. JOSEPH: Nothing else.

12 So the State is next going to call Lieutenant Joey
13 Stone.

14 THE COURT: You can step down.

15 MR. GROSE: And I will have an additional objection
16 to State's Exhibit Nos. 13 and 15 at this point. Because
17 she can't identify the location of one, possibly, both,
18 and the identity of State's Exhibit No. 15.

19 MS. JOSEPH: And, Your Honor, at the appropriate
20 time, once we've laid the foundation for them coming in,
21 the State's argument would be that goes to weight and not
22 admissibility. Our expert will be testifying that all
23 these photos were pulled from the same devices at the same
24 time, and especially State's Exhibit No. 13, it's a
25 series.

1 So she maybe can't identify that one in the series.
2 It's, basically, one photo that someone cropped in on.
3 Because she can identify State's Exhibit Nos. 12 and 11,
4 then she can identify State's Exhibit No. 13.

5 THE COURT: All right.

6 MS. JOSEPH: And just to be clear. I'm sorry. I'm
7 talking a lot. But for State's Exhibit No. 15, she,
8 obviously, freely admits it's a cropped photo. She can't
9 see whose head it is. I mean, she's doing her best. And
10 I think the jury will be able to weigh that.

11 Again, we're calling Lieutenant Stone.
12 WHEREUPON,

13 JOEY STONE,
14 after first having been duly sworn, testified as follows:

15 THE CLERK: Thank you.

16 THE BAILIFF: Would you care for some water?

17 THE WITNESS: I'm good right now.

18 DIRECT EXAMINATION

19 BY MS. JOSEPH:

20 Q Hi, Lieutenant Joey Stone.

21 A Hello.

22 Q I'm calling you Lieutenant. Where do you work?

23 A I work at the Calhoun County Sheriff's Office in
24 Anderson, Alabama.

25 Q How far a drive is that?

1 A About six hours.

2 Q Do you know that because you just drove down?

3 A That's correct.

4 Q How did you get involved in this case?

5 A In July of 2014, Investigator LaVan from the Beaufort
6 County Sheriff's Office contacted me and said he had a
7 warrant on an individual and could we go pick him up.

8 Q Okay.

9 A And that's how I, originally, got involved. And then
10 that warrant was recalled. There was a time frame where
11 he continued the investigation and then obtained new
12 warrants. And in August of 2014, that's when we made the
13 arrest.

14 Q Okay. So he called you. I assume he told you -- how
15 about this, let me not assume things. So you were serving
16 our warrants -- South Carolina warrants?

17 A Correct. And I was in -- I was the supervisor over
18 the warrant unit. So I probably passed him off,
19 originally, to one of the warrant guys.

20 Q Okay. And did you get a search warrant for Alabama
21 property in this case?

22 A I did.

23 Q And why did you get that search warrant?

24 A To help further his investigation once we -- I had a
25 copy of his report, and all the things that the child had

1 disclosed in her interview. And then when they served the
2 warrant, they saw electronic devices, cameras, cell phones
3 in plain view. That compounded with Detective LaVan's
4 report, I got a search warrant based on that.

5 Q So were you there when the search warrant was issued?

6 A I was.

7 Q Or executed?

8 A I obtained the search warrant from the Judge.

9 Q Okay. And you said that electronic devices in plain
10 view were seized?

11 A Correct -- well, they weren't seized, just seeing
12 them in plain view. Plus, what his investigation had
13 revealed. And that's where, you know, digital media is
14 stored on is cameras, and stuff.

15 Q So they were collected?

16 A It wasn't collected. The scene was held at that
17 time, typed a search warrant, had the search warrant
18 signed, and then we went and executed it.

19 Q So you got an additional search warrant for the
20 electronic devices?

21 A Yes. After we got everything back to the office,
22 then there was another search warrant signed for all the
23 devices that we got.

24 Q Do you know -- and you may have to look at your
25 report. Do you know how many electronic devices were

1 seized?

2 A I don't know how many electronics devices were
3 seized. I know how many we sent to Hoover, the Secret
4 Service, for examination.

5 Q Okay. Let's start there. So you collected some
6 electronic devices?

7 A Yes.

8 Q And then you turned them over to -- what did you call
9 it?

10 A The Secret Service. It's the Alabama Electronic
11 Crimes Task Force.

12 Q What do they do?

13 A They forensically examine digital media.

14 Q So how many devices did you turn over to them?

15 A 23.

16 Q 23. And you have your report in front of you. And,
17 I assume, that you listed all of the devices?

18 A Yes -- that I submitted to them?

19 Q Yes.

20 A Yes. It was on their actual submission form.

21 Q Their submission form. I'm not going to -- I'll talk
22 to you about that in just a second.

23 MS. JOSEPH: So, Your Honor, under State v.
24 Brockmire, which we handed up to you, evidence property
25 custody forms are not testimonial. So, at this time,

1 we're going to attempt to show Investigator Stone his
2 evidence property custody form.

3 And just so your judge -- Your Honor is aware and
4 then, just so Defense is aware, there was a mention of
5 marijuana on this that my Defense -- or my co-counsel
6 noted. We whited that out for the purposes of this
7 proffer. After we're done here, I'm going to make a copy
8 of it so that it will even appear less, sort of, visible.

9 But I'm showing State's Exhibit No. 18 to Defense at
10 this time.

11 BY MS. JOSEPH:

12 Q And, Lieutenant, I'm handing you State's Exhibit
13 No. 18. What is this?

14 A This is our evidence custody form.

15 Q And is your signature somewhere on there?

16 A No.

17 Q Okay. But was it in your original report?

18 A Was what in my original --

19 Q That evidence form, was it in the report in this
20 case?

21 A Yes, yes. The individual who signed this is the one
22 who, actually, transported it from the residence to the
23 office.

24 Q Okay. But this form is part of your case file?

25 A It is, yes.

1 Q Has it been materially altered in any way? I
2 understand I removed a reference to marijuana. I won't
3 mention that at trial. But has it been materially altered
4 in any way?

5 A No.

6 Q And does it accurately depict -- does it accurately
7 list the items that it's meant to list?

8 A It does.

9 MS. JOSEPH: At this time, Your Honor, the State
10 would enter State's Exhibit No. 18.

11 THE COURT: Any objection?

12 MR. GROSE: Yeah. If I may?

13 THE COURT: Yes.

14 CROSS-EXAMINATION

15 BY MR. GROSE:

16 Q Can I see that? It's Lieutenant; right? Lieutenant
17 Stone?

18 A Yes.

19 Q Who's that first signature?

20 A Jeff Thompson.

21 Q And, I guess, he printed his name there?

22 A Yes, below it.

23 Q And then who is that?

24 A Jeff Thompson.

25 Q And that's -- he put his name below that?

1 A He put it in the evidence locker.

2 Q So he's the only one -- was Jeff Thompson the one
3 that transported it from the scene?

4 A Yes, it appears so.

5 Q Okay. Now, I understand you testified that you
6 obtained the search warrant?

7 A Yes.

8 Q Did -- prior to obtaining the search warrant, did you
9 or anybody else consult with any authorities in South
10 Carolina?

11 A Yes.

12 Q Who?

13 A Investigator LaVan.

14 Q Anyone else?

15 A No.

16 Q Okay.

17 A Not to my -- I was the lead investigator on the case.
18 I believe he's the only one I talked to.

19 Q And that's fair. That's all I want to know. Were
20 you involved in serving the search warrant?

21 A I was.

22 Q Were you there the entire time that the search
23 warrant was served?

24 A I was not.

25 Q How long were you there?

1 A I got there, walked around, looked around. They
2 probably started taking photographs. And I had to leave.

3 Q All right. So that doesn't sound like you were there
4 very long?

5 A No.

6 Q How long?

7 A Maybe 15, 20 minutes probably.

8 Q All right. And so they were still taking photographs
9 when you left?

10 A Oh, yeah. I mean, it probably took several hours to
11 do this entire search warrant. There was, I think, 50
12 something items recovered and logged.

13 Q And is there a log of who recovered those items?

14 A There is.

15 Q And do you have a copy of that with you?

16 A Yeah. The -- yes.

17 Q And were -- did you recover any of the items?

18 A No.

19 Q Okay. Is anybody, other than you, that executed the
20 search warrant here in South Carolina?

21 A No, sir.

22 MR. GROSE: I beg the Court's indulgence for a
23 moment.

24 THE COURT: Yes, sir.

25 MS. JOSEPH: And, Your Honor, at this point --

1 obviously, he's free to ask questions in proffer. But I
2 think this is going to the larger issue. And the State
3 has a response to this. I understand that --

4 MR. GROSE: Can I finish asking my questions before
5 we get to the argument?

6 THE COURT: Go ahead.

7 BY MR. GROSE:

8 Q Was David Becker one of the people that was involved
9 in serving the search warrant?

10 A He was.

11 Q Was he involved in collecting the items?

12 A He probably assisted in collecting the items.

13 Q Okay.

14 A There was several investigators there that collected
15 items.

16 Q All right. You said you had that log with you?

17 A It's not a log. I mean, I've got their -- I've got
18 Investigator Thompson's supplement and Investigator
19 Becker's supplement.

20 Q Okay. So that's a report?

21 A Right.

22 Q All right. And so from your personal knowledge, you
23 don't know who collected any of the electronic devices;
24 right?

25 A I mean, what the report says.

1 Q Right. But that's --

2 A I didn't firsthand see it --

3 Q That's what I mean.

4 A -- if that's what you're asking, no, sir.

5 MR. GROSE: Yeah. You didn't firsthand see it.

6 That's all at this time.

7 Thank you, Your Honor.

8 MS. JOSEPH: Was that an objection to State's Exhibit
9 No. 18 coming in?

10 MR. GROSE: That was -- I thought -- I'm confused
11 with whether or not we're arguing this at the beginning or
12 the end. I thought we were going through the proffer and
13 then we're going to argue all this at the end.

14 MS. JOSEPH: Right. So okay.

15 MR. GROSE: Yes. There will be an objection.

16 THE COURT: All right.

17 MR. GROSE: But --

18 THE COURT: Okay.

19 REDIRECT EXAMINATION

20 BY MS. JOSEPH:

21 Q So I'm showing you State's Exhibit Nos. 19 and 20.
22 And these are the back of the forensic reports. So what
23 are State's Exhibit Nos. 19 and 20 of?

24 A State's Exhibit No. 19 is of a Fuji film camera. It
25 looks like it had an SD card in the camera. And State's

1 Exhibit No. 20 is a JVC camcorder.

2 Q And then State's Exhibit No. 18 was that property
3 form?

4 A Yes.

5 Q And can you read off of item one and two and then
6 tell me if State's Exhibit Nos. 19 and 20 depict items one
7 and two on that property form? Does that make sense?

8 A Yes. Item number one on our property sheet was a JVC
9 mini camcorder. The model number is GZ-E300RU. That
10 model number matches State's Exhibit No. 20.

11 Q Actually, do me a favor. Can you just read it off of
12 State's Exhibit No. 20 as well, just so the record has a
13 match.

14 A Okay. Model number on State's Exhibit No. 20, which
15 is a JVC camcorder is GZ-E300RU. And then item number two
16 on our evidence sheet is a black Fuji film digital camera.
17 The serial number is 7S -- Sam -- 45123.

18 State's Exhibit No. 19 is a Fuji -- a picture of a
19 Fuji film camera with serial number 7S451213.

20 Q Okay. And you did not create State's Exhibit Nos. 19
21 and 20; is that correct?

22 A No, I did not.

23 Q But you and -- but you did go to the scene?

24 A Yes.

25 Q And you -- did you walk around the scene?

1 A I did.

2 Q Did you observe any electronic -- well, actually,
3 looking at your property list, items one and two, does it
4 say the location where those items were seized?

5 A Item number one, the JVC camcorder, was found on the
6 coffee table in the living room. And number two, the Fuji
7 film digital camera, was found on the coffee table in the
8 living room.

9 Q And did you walk by the coffee table in the living
10 room when you were at the scene?

11 A I did.

12 Q State's Exhibit Nos. 19 and 20 depict a camcorder and
13 camera. Do you recognize that camera and camcorder?

14 A I mean, I don't recognize it, first, offhand. But I
15 also -- I submitted all this stuff. I've had it in my
16 hands before where I submitted it to the Secret Service
17 four years ago.

18 Q And you were the one that submitted it to the Secret
19 Service?

20 A I am.

21 Q So you have seen these items before?

22 A Yes.

23 Q And, to your knowledge, this is a true and accurate
24 depiction of that camera and that camcorder?

25 A Yes.

1 Q And, in part, you're forming that because the serial
2 numbers match?

3 A Correct.

4 MS. JOSEPH: So, Your Honor, at this time, we would
5 move to enter State's Exhibit Nos. 19 and 20 into evidence
6 as well. I understand this is the proffer stage.

7 THE COURT: Same objection to be argued?

8 MR. GROSE: To be argued at the end of all of this,
9 yes, sir.

10 THE COURT: All right.

11 BY MS. JOSEPH:

12 Q So you didn't collect the evidence in this case?

13 A I didn't.

14 Q You did not?

15 A No.

16 Q Right. Because you were the lead investigator?

17 A That's correct.

18 Q Okay. So you have underlings to do that stuff for
19 you?

20 A I was the supervisor at the time.

21 Q Right. You're the supervisor.

22 A So I have people that do stuff like that.

23 Q I'm going to make an assumption, which I shouldn't
24 do. But I assume, at some point, you were the type of
25 officer that collected evidence?

1 A Yes.

2 Q You were the low guy on the totem pole?

3 A Yes. I still collect evidence.

4 Q And when you collect evidence, do you write down the
5 serial numbers?

6 A Yes.

7 Q So -- and I'm just using this as a hypothetical just
8 for the proffer stage. If you collected a gun, would you
9 write down the serial number?

10 A Yes.

11 Q If you collected a TV, would you write down the
12 serial number?

13 A Yes.

14 Q If you collected a computer, would you write down the
15 serial number?

16 A Yes, ma'am.

17 Q A camera?

18 A Yes.

19 Q If you collected drugs, would you write down the
20 serial number?

21 A There's no serial number on drugs.

22 Q Let's just pretend a cheeseburger was important to a
23 case, which you never know. Would you collect a serial
24 number from a cheeseburger?

25 A There's no serial number on a cheeseburger.

1 Q So it's just items that have serial numbers --

2 A Correct.

3 Q -- that you write them down?

4 And why do you do that?

5 A So we can identify them later and say that item we
6 took from that house is the same item that -- you know, if
7 we have it in our hands in court, or whatever.

8 Q So if I had 15 cameras that were identical in this
9 room, one of the cameras was the camera from State's
10 Exhibit No. 19, could you find me that camera based on
11 that evidence sheet?

12 A I could.

13 Q And how could you?

14 A By the serial number.

15 MS. JOSEPH: I don't have any other questions.

16 Mr. Grose may.

17 THE COURT: Mr. Grose.

18 RECROSS-EXAMINATION

19 BY MR. GROSE:

20 Q If you worked as a homicide investigator and you take
21 the deceased for an autopsy, you maintain the chain of
22 custody, don't you?

23 A The coroner, I guess, maintains that custody of the
24 body.

25 Q Right. But it's important that nothing -- that

1 nobody alter that body between the time it's removed from
2 the scene until the time the medical examiner does the
3 autopsy; is that right?

4 A It is. Sometimes funeral homes take -- take them up
5 there.

6 Q But you can establish that the body is in the same
7 condition. Even though there would never be any doubt who
8 it was, you still have to establish it was in the same
9 condition if called upon to do so?

10 A Yes, sir.

11 MR. GROSE: Thank you.

12 THE COURT: Yes, ma'am.

13 MS. JOSEPH: I'm sorry. I have one more question,
14 Your Honor, if you don't mind.

15 This is the evidence form from the Alabama Electronic
16 Crimes Task Force.

17 MR. GROSE: All right. Now, I do have a problem with
18 her asking about this. Because so far, he's been
19 testifying about things that he could be considered
20 potentially a record custodian from his department. This
21 would not be the case.

22 MS. JOSEPH: So he just testified that he's the one
23 that took the items to the Alabama -- well --

24 THE WITNESS: I didn't physically take them. I
25 created the submission form.

FURTHER EXAMINATION

BY MS. JOSEPH:

Q So is this the submission form --

MS. JOSEPH: May I ask that question?

MR. GROSE: Yes.

BY MS. JOSEPH:

Q Is this the submission form?

A It is.

Q You can tell from that far away?

A Yes. I've seen a few.

Q You've seen a few of those?

A I mean, this is the submission form. Like, we have a copy, a PDF form. And then we fill it out and send it with our evidence technician who transports it to the lab.

Q So I'm confused, is this part of it or -- just tell me. I don't know.

A Yeah. It's like a booklet you've got to fill out for, you know, who you are, our agency, case number. Now, this part, I don't -- I believe they created this.

Q Okay. So they create this -- oops, as I throw papers at you. So I'm taking that down.

A And this is my handwriting on the bottom of this.

Q So everything I've now handed you is the form that you fill out. So you -- I mean, I don't know. Tell me how you fill it out. Do you look at the devices and write

1 down the serial numbers and send them? What do you do?

2 A Yeah. You just, basically, go down through there and
3 check the boxes that you're going to -- of what you want.
4 And then you have to put our -- you have to -- when you
5 send it to them, you have to number it one through 10.
6 It's numbered one through 20. And then you'll see a box
7 over here where it says, agency item number.

8 So their number one may be our number five. So you
9 have to fill it out how they want it. So that way, theirs
10 are in chronological order, where we may just skip around
11 evidence because we collect a lot of stuff.

12 MS. JOSEPH: I understand.

13 I'm going to mark this State's Exhibit -- I don't
14 know where we are.

15 THE COURT REPORTER: State's Exhibit No. 22.

16 MS. JOSEPH: State's Exhibit No. 22.

17 (WHEREUPON, State's Exhibit No. 22 was marked for
18 identification only.)

19 BY MS. JOSEPH:

20 Q And this is, just again, for the record, the
21 submittal form to the Alabama Electronic Task Force; is
22 that correct?

23 A Yes.

24 MS. JOSEPH: And now, Mr. Grose has an additional
25 question.

FURTHER EXAMINATION

BY MR. GROSE:

Q Do you still have -- is this your evidence form?

A That's our evidence.

Q So State's Exhibit No. 18, on the camcorder found on the coffee table, is there a serial number for that?

A No. It's a model number.

Q Where is the model number you're looking at?

A Right there, model number.

Q Model number, is that G2?

A GZ-- no, hold on.

Q Yeah.

A You and I both have eye problems. GZE300RU.

Q And is there a serial number depicted for item one?

A Not on that evidence sheet.

Q And on State's Exhibit No. 22, which is a four-page document, with item one, is there a serial number there?

A There's not.

Q Okay. So all those questions about the serial number, I guess item one is kind of like --

A It was a model number, not serial number.

Q Right. But when she was asking you about serial numbers, item one is kind of like that hamburger, it didn't have one; right?

A It don't have one, no, sir.

1 MS. JOSEPH: That's it for this witness, Your Honor.

2 THE COURT: All right. Thank you, sir.

3 MS. JOSEPH: And the State next calls Arthur Agee.

4 Joey Stone, don't go far.

5 And we're going to make a copy of State's Exhibit

6 No. 18 so the white-out is less visible.

7 THE COURT: I'm not trying to rush Counsel in any
8 form or fashion, but I do realize the jury is back there.
9 And I don't want the jury to sit back there a long period
10 of time.

11 MS. JOSEPH: I think Arthur will be fast. I just
12 think our argument will be long. Hopefully, not so since
13 you've heard it.

14 MR. GROSE: And this is important. I don't want to
15 be rushed on this. And I don't want --

16 THE COURT: No. I don't want you to be rushed.

17 MR. GROSE: And I don't want the jury to be
18 uncomfortable.

19 THE COURT: I was just reminding you guys.

20 MR. GROSE: Should we address that somehow, or -- I
21 mean --

22 THE COURT: Address?

23 MR. GROSE: Well, the jury's comfort would be my
24 concern. I mean, I don't know how long this is going to
25 take. And it's -- she says he'll be quick, but the

1 argument might be a long time. I just -- I raise that for
2 your consideration.

3 THE COURT: Well, I mean, I don't want to send them
4 back off site. I mean, they're already probably back in
5 the jury room by now.

6 THE BAILIFF: We have everybody. All I can tell you,
7 Judge, is they have all the water, drinks, and snacks they
8 can possibly consume and comfortable chairs.

9 MR. GROSE: Is it a fairly comfortable jury room
10 here?

11 THE BAILIFF: Oh, yes, sir.

12 MR. GROSE: I mean, I've practiced in some
13 courthouses where it's kind of small and not --

14 THE BAILIFF: No. They've got nice chairs and
15 everything in there.

16 THE COURT: Okay. Swear him in, Madam Clerk.

17 THE CLERK: If you would, raise your right hand please.
18 WHEREUPON,

19 ARTHUR AGEE,
20 after first having been duly sworn, testified as follows:

21 THE CLERK: Thank you.

22 THE BAILIFF: Come right around this way.

23 DIRECT EXAMINATION

24 BY MS. JOSEPH:

25 Q Hi, Mr. Agee.

2

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A. 700

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of General Sessions
Alex Kinlaw, Jr., Circuit Court Judge

RECEIVED
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SC Court of Appeals

Appellate Case No. 2018-001257

The State,..... Respondent,

v.

Charles Dent,..... Appellant.

RECORD ON APPEAL VOLUME II OF II

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State's Exhibits 1-22 will be transported to the Court.

1 THE BAILIFF: Would you like a cup of water, sir?

2 THE WITNESS: I'm good.

3 Thank you.

4 BY MS. JOSEPH:

5 Q How was your drive?

6 A It was long.

7 Q I'm sorry.

8 And you and I just met for the very first time?

9 A Right.

10 Q But we have texted?

11 A Right.

12 Q And talked on the phone?

13 A That's correct.

14 Q A lot?

15 A Yes.

16 Q And what is your job title?

17 A I'm a digital forensic examiner. I work on the
18 electronic crimes task force as part of the Secret Service
19 there in Hoover, Birmingham area in Alabama.

20 Q And this is a little bit complicated. But you are a
21 Hoover police officer?

22 A Hoover detective.

23 Q Hoover detective?

24 A Right.

25 Q In fact, what's your rank?

- 1 A Right. It's detective.
- 2 Q But you are on the task force?
- 3 A Correct.
- 4 Q So you sort of are loaned out to the task force?
- 5 A Correct.
- 6 Q What county cases do you work on?
- 7 A As far as what type of county cases?
- 8 Q No. I guess I'm asking what type of cases come to
9 you, like, from where?
- 10 A They come from all over the state.
- 11 Q So you're not just handling Hoover cases, you're
12 handling cases anywhere in the state?
- 13 A Correct.
- 14 Q And you know Detective Justin Cole?
- 15 A I do.
- 16 Q And did you work with him?
- 17 A Not in my current role. But, you know, previously,
18 we worked in passing at the department.
- 19 Q Right. So you joined the task force as he was
20 leaving?
- 21 A Correct.
- 22 Q You were asked to independently review the evidence
23 in this case; is that correct?
- 24 A Right.
- 25 Q By me?

1 A Right.

2 Q Because Justin Cole is no longer with the Secret
3 Service Electronic Task Force?

4 A Right.

5 Q Is that the right name of the task force?

6 A Electronic Crimes Task Force.

7 Q Thank you.

8 And he wasn't fired, he just is a consultant now?

9 A Well, he resigned to take a different type of
10 employment.

11 Q Right. So he didn't leave under any bad
12 circumstances?

13 A No.

14 Q And -- okay. So as part of this case, you examined
15 two items. We're going to talk a little bit about the
16 process by which you did that. But, first, I'm going to
17 hand you State's Exhibit Nos. 19 and 20. So what does
18 State's Exhibit No. 20 depict? What is that a photograph
19 of?

20 A State's Exhibit No. 19 is a Fuji film camera with a
21 32 gigabyte SD card memory that was inside the camera.

22 Q Okay. Did you say what both of them were? I'm
23 sorry.

24 A No, I didn't. State's Exhibit No. 20 is a JVC
25 camcorder with a separate 32 gigabyte SD card that was

1 inside that one, also.

2 Q And then you independently examined the contents of
3 these devices. But can you tell me, did you, actually,
4 physically go and look at those devices?

5 A No. The devices are no longer physically in our lab.
6 Typically, when we get a case in, we make an exact
7 duplicate of any electronic media that comes in there and
8 we work from that copy. The copy was still on storage
9 devices in the lab. And I took that copy, hashed and
10 verified that it was the same copy that Detective Cole
11 worked with. And I worked from that copy.

12 Q Okay. So who made -- we're going to call it a copy.
13 Do you mind if I call it a mirror copy just to make it
14 easier for me? What's a better term?

15 A Forensic image is the proper term.

16 Q Who made the forensic image?

17 A Detective Cole.

18 Q And Detective Cole wrote a report?

19 A Correct.

20 Q And you reviewed his report?

21 A Right.

22 Q When he wrote that report, was he relying -- did he
23 go to the devices, or did he go to the forensic image?

24 A Initially, he went to the devices and made a forensic
25 image of the devices. And from there, he worked off of

1 the forensic image.

2 Q Okay.

3 A We don't want to alter any original evidence. And
4 that's the reason for that.

5 Q Oh, that makes complete sense. If -- so I know -- I
6 work a lot with drug cases. In drug cases, I know that,
7 frequently, they do blind testing. If someone was going
8 to check up on your work, or Detective Cole's work, or any
9 of the other people that work in your department, would
10 they go to the original devices, or would they always work
11 off of the mirror -- forensic copy?

12 A It's our practice that if the Defense expert or
13 anyone that, you know, has authority to view those -- that
14 evidence, they always work from that forensic image.

15 Q That's the policy?

16 A Correct. Never the original evidence.

17 Q And what's the reason behind that policy?

18 A Just to make sure the original evidence is not
19 altered.

20 Q And the answer may be you just don't know. But if
21 someone -- let's say someone was fired from the electronic
22 crimes task force, or someone was deployed overseas, or in
23 some way very unreachable and someone had to duplicate
24 their work, I assume -- first of all, my first question,
25 has that situation ever arisen where someone is truly

1 unreachable?

2 A Not to my knowledge.

3 Q Okay. If that situation arose --

4 MR. GROSE: Objection to the hypothetical.

5 THE COURT: I'll allow it.

6 MS. JOSEPH: Okay.

7 BY MS. JOSEPH:

8 Q If that situation arose, would the person -- and you
9 can say, I don't know. Would the person -- and by
10 "person," I mean detective on the electronic crimes task
11 force that was tasked with going back and recreating that
12 work, would they go to the forensic copy, or would they go
13 to the original devices?

14 A In that hypothetical situation, it would be they
15 would work from the forensic image.

16 Q So -- okay. I'm going to hand you State's Exhibit
17 No. 22. Do you know what State's Exhibit No. 22 is?

18 A It looks like a submission form or service request
19 for our task force.

20 Q And do you fill that out?

21 A No -- well, it's a joint process between the case
22 agent and the -- the detective in the lab. They go
23 through and fill out the service request together.

24 Q So someone, not law enforcement, would request you to
25 look at items. And that's what this form is?

1 A Correct.

2 Q It's a request to look at items?

3 A Correct.

4 Q Is there a way for you to tell if Item 22 is about
5 this case?

6 A Yes. There's a case number from the Calhoun County
7 Sheriff's Office. It matches. And then the paperwork in
8 here, the case ID and the Secret Service case number,
9 they, also, match.

10 Q So it's this case?

11 A Correct.

12 Q I'm now handing you State's Exhibit Nos. 6 through
13 15. And I know you reviewed this, like, three seconds
14 ago. You looked at State's Exhibit Nos. 6 through 15
15 prior to testifying here in court today; is that correct?

16 A That's correct.

17 Q So my question to you is, were State's Exhibit Nos. 6
18 through 15 recovered from State's Exhibit Nos. 19 and 20?
19 So State's Exhibit Nos. 19 and 20 are a camera and
20 camcorder. And were those images on that camera and
21 camcorder?

22 And if you need time to review your report before you
23 answer that question, please, take your time.

24 A That's correct. These were -- was it 6 through --

25 Q 15.

1 A 15. They were recovered from items -- I'm sorry,
2 State's Exhibit Nos. 19 and 20.

3 MS. JOSEPH: Okay. That's it.

4 THE COURT: Mr. Grose.

5 CROSS-EXAMINATION

6 BY MR. GROSE:

7 Q You said that -- and I'm going to use items one and
8 two because items one and two are what's in your report;
9 is that right?

10 A That's not my report. It's Detective Cole's report.

11 Q Right. Detective Cole's report.

12 A Right.

13 Q You said that those two items, one and two, are no
14 longer at the task force?

15 A That's correct.

16 Q When they left the task force, where did they go?

17 A I don't have that information with me right now.

18 Q Okay. Where would they normally go?

19 A Typically, they go back to the submitting agency,
20 which in this case would be the Calhoun County Sheriff's
21 Office.

22 Q The same place Mr. Stone works?

23 A That's correct.

24 Q Now, the Solicitor asked you about the situation
25 where somebody is unavailable. And it sounds like you've

1 never encountered that situation where somebody is truly
2 unavailable?

3 A That's correct.

4 Q And you said the importance of working off an image
5 is because you don't want the evidence to be altered?

6 A That's correct.

7 Q And so if somebody was truly unavailable, wouldn't it
8 be possible to go to the arresting agency, in this case,
9 the Calhoun County Sheriff's Office, and get those devices
10 and make another image of them?

11 A I mean, it's possible. But, typically, since those
12 images were already created and acquired, we'd just work
13 from those images.

14 Q I'm saying, typically, but if you wanted -- the
15 purpose of keeping the evidence so that it cannot be
16 altered -- it seems like part of the reason to do that is
17 that, under certain circumstances, you could go back to
18 that evidence in the form that it was in and get another
19 image of it?

20 A Correct.

21 Q Okay. And when you're -- when we're dealing with
22 doing -- dealing with the sort of -- this digital
23 information, is that the right way to say it?

24 A Yes, sir.

25 Q Okay. The -- there are times where it could be

1 altered from collection before it comes to you, aren't
2 there?

3 A We have no -- you know, we don't assume any
4 responsibility for anything that happens in transit
5 between the time it is recovered from wherever and between
6 the time we get it. The time we get it in the lab --

7 Q Right.

8 A -- nothing is altered at all when it comes to the
9 lab.

10 Q So when it comes to the lab -- you're not responsible
11 for the condition before it comes to the lab?

12 A That's correct.

13 Q You're responsible for the condition after it gets to
14 the lab?

15 A That's correct.

16 Q Now, she asked you about State's Exhibit Nos. 5
17 through -- I mean, State's Exhibit Nos. 6 through 15, I
18 think. Do you know if State's Exhibit No. 6 was -- based
19 on the image that Detective Cole did, was that a deleted
20 photograph or, actually, taken off the camera?

21 A That was recovered from -- from item number one.

22 Q Right. But was it a carved image?

23 A That's correct.

24 Q And "carved" means it had been deleted?

25 A Correct.

1 Q State's Exhibit No. 7, was that a carved image?

2 A I don't recall.

3 Q How would you find out?

4 A I'd have to go back and look at the forensic image.

5 Q Okay. Do you have that here with you?

6 A I do not.

7 Q So there's no way whether you can tell us if that was
8 a deleted item or not?

9 A No.

10 Q And that's State's Exhibit No. 7 that I was just
11 asking about the follow-up question.

12 State's Exhibit No. 8, do you know if that was a
13 deleted item or an item that's never been deleted?

14 A I don't recall.

15 Q And you don't have that information here with you?

16 A No.

17 Q And State's Exhibit No. 9, do you know if that was a
18 deleted image?

19 A I don't recall.

20 Q All right. And you don't have that information with
21 you?

22 A No.

23 Q State's Exhibit No. 10, do you know if that was a
24 deleted image?

25 A I don't recall.

1 Q And you don't have that information with you; is that
2 right?

3 A That's correct.

4 Q State's Exhibit No. 11, was that a deleted image or
5 not?

6 A I don't recall.

7 Q And you don't have that information with you?

8 A No.

9 Q State's Exhibit No. 12, do you know if that was a
10 deleted image or not?

11 A That's correct. It was a deleted image.

12 Q It was a deleted image?

13 A Yes.

14 Q So out of that, we've got two that were deleted so
15 far?

16 A That's correct.

17 Q State's Exhibit No. 13, was that a deleted image?

18 A That was a deleted image.

19 Q So that's three that were deleted. State's Exhibit
20 No. 14, was that a deleted image?

21 A That was a deleted image.

22 Q State's Exhibit No. 15, was that a deleted image?

23 A I don't recall.

24 Q And you don't have that information with you?

25 A No.

1 MR. GROSE: Okay. Is State's Exhibit Nos. 1 through
2 5 up here, or is that somewhere else?

3 MS. JOSEPH: No. It's right here. It's on the corner.

4 BY MR. GROSE:

5 Q Do you know if State's Exhibit No. 1 was something
6 that came off the forensic image that Detective Cole made?

7 A I don't recall.

8 Q So you don't know one way or the other?

9 A No.

10 Q All right. State's Exhibit No. 2, do you know if
11 that was a photograph that came off of the forensic image
12 that Detective Cole made?

13 A I don't recall.

14 Q And you don't have that information here with you?

15 A No.

16 Q State's Exhibit No. 3, do you know if that was an
17 item that came off Detective Cole's image?

18 A I don't recall.

19 Q And you don't have that information with you?

20 A No.

21 Q State's Exhibit No. 4, do you know if that came off
22 of Detective Cole's forensic image?

23 A It did.

24 Q Okay. Do you know if it was deleted or undeleted?

25 A I don't know if it was deleted or undeleted.

1 Q And you don't have that information here with you?

2 A No.

3 Q And I take it, State's Exhibit Nos. 1 through 3,
4 since you don't know if that came from Detective Cole's
5 image, you don't know whether those were deleted or
6 undeleted?

7 A That's correct.

8 Q And State's Exhibit No. 5, do you know whether or not
9 that came off Detective Cole's image?

10 A It did.

11 Q All right. And do you know if it was deleted or
12 undeleted?

13 A I don't recall.

14 Q And you don't have that information with you?

15 A No.

16 MR. GROSE: I beg the Court's indulgence just for a
17 moment.

18 (Pause.)

19 BY MR. GROSE:

20 Q I think you already answered this question. You know
21 Detective Cole and you had worked with him in the past?

22 A Correct.

23 Q But your tenure at the task force did not overlap
24 with his tenure at the task force?

25 A It overlapped exactly two weeks.

1 Q Exactly two weeks?

2 A Correct.

3 Q And that was not during the time where he would have
4 made this forensic image?

5 A No.

6 Q And during that time, I'm sure this case probably
7 never came up?

8 A No, it didn't.

9 Q And Detective Cole is still around in the Birmingham
10 area, isn't he?

11 A He travels a lot for his new assignment.

12 Q Oh --

13 A But more or less, he's in the Birmingham area.

14 Q Well, he still works from there and it sounds like he
15 travels?

16 A Correct.

17 Q But for his job?

18 A Correct.

19 MR. GROSE: Okay. That's all.

20 MS. JOSEPH: Briefly.

21 THE COURT: Yes, ma'am.

22 REDIRECT EXAMINATION

23 BY MS. JOSEPH:

24 Q Does the process used to make a forensic image alter
25 the original digital files in any way?

1 A No.

2 Q How were the forensic copies identified in the lab
3 when conducting a review -- making your report? I think
4 what I'm looking for, what is a hash?

5 A A hash value is -- basically, it's a digital
6 fingerprint of an entire file or an entire hard drive.
7 Basically, it's, you know -- it's a, you know,
8 mathematical algorithm assigned to a particular file
9 saying this is, you know, what it says it is.

10 Q Right. So in this case, each item has a hash?

11 A That's correct.

12 Q So, like, what I'm calling State's Exhibit No. 19,
13 what he's calling item, I think, one, that is a hash to
14 you?

15 A That's correct.

16 MS. JOSEPH: No other questions.

17 THE COURT: Anything else, Mr. Grose?

18 MR. GROSE: No, sir.

19 THE COURT: Thank you, sir.

20 You can step down.

21 MS. JOSEPH: Thank you.

22 Don't go too far.

23 THE COURT: Anything else by way of proffer,

24 Ms. Joseph?

25 MS. JOSEPH: Nothing by way of proffer. I think

1 we're ready for argument, Your Honor.

2 THE COURT: Okay. Let me hear from you.

3 MR. GROSE: You know, Judge, there's -- I guess
4 there's several issues here. We -- with regard to the two
5 cameras, item one and two, as they were identified in
6 evidence, we have, virtually, no chain of custody on those
7 items. And I understand that there's case law talking
8 about establishing the chain of custody as near as
9 practical as possible. But I think that analysis is a far
10 stretch to get to that.

11 For example, I'm familiar with drug cases where an
12 officer gets drugs from an informant, the informant might
13 not testify, but they've watched him go in and come out
14 with drugs. And then they have everything else in the
15 chain.

16 I'm, also, familiar with the cases where, for
17 example, once you put it in the SLED drop box until the
18 time it gets to the examiner that they don't necessarily
19 have to have every one of those people. But I don't think
20 that any of our case law allows them to authenticate a
21 chain of custody when there are so many steps missing.

22 And in this case, while Detective Stone, you know,
23 went to obtain the search warrant and went to the
24 residence, he was only there for about 10 minutes. They
25 were still photographing things when he left. He did not

1 collect any of those items. They appeared -- I forget who
2 he named. But there was a person who had signed it in and
3 out of the evidence locker, Mr. Thompson maybe, his name
4 appeared on that three times.

5 I understand that Detective Stone prepared the
6 request for Alabama. But I don't think -- for the task
7 force in Alabama. But I don't think he was the one that,
8 actually, transported it there.

9 And so, really, we have -- and, certainly, we don't
10 have anything with regards to what Detective Cole did
11 after he received them until when the image was made, or
12 any testimony about whether that image had been altered in
13 the period of time when Detective Cole made it up through
14 when Mr. -- Detective Agee looked at it.

15 And I understand that, you know, if there's a gun
16 with a serial number on it that you don't necessarily have
17 to have the chain of custody to identify it. But if you
18 have a gun and you want to testify whether there's gunshot
19 residue on it, you better be able to establish that
20 nothing has happened to alter that gun, or that gun to
21 have been fired between the time it was collected and when
22 they did that gunshot residue test.

23 And when we're dealing with, you know, this digital
24 data, I mean, it's one thing for somebody to break in my
25 office and steal my computer and me be able to identify my

1 computer. But when you start getting into the material
2 that's contained on it, that becomes a whole lot more
3 fungible. That becomes something that can be altered
4 easily.

5 And so I think that they have to account for that
6 chain of custody more than what they did today. And they,
7 certainly, had -- I believe it was Mr. Becker who was on
8 their witness list that was involved in collecting it, but
9 he's not here. And we could have heard from him. We
10 could have heard from their evidence custodian. It
11 wouldn't have been hard to get those people here.

12 But I, also, have the confrontation clause issue.
13 The confrontation clause issue, even though, you know, you
14 might not have every step in that chain of drugs between
15 the time it goes from the -- being collected to the time
16 that it is examined, you do have to have the person who
17 conducted the examination in court so that that person can
18 be cross-examined about running the analysis.

19 And so in this case, it would be us cross-examining
20 Detective Cole about, you know, making the -- the forensic
21 images and what he did or didn't do with it. And he's
22 just not here to be questioned. And, you know, he's not
23 truly unavailable as we talked about before lunch. He
24 doesn't work in the same place, but he's still around. It
25 sounds like he travels for work. He may be very busy.

1 But they could have gotten him here to do that.

2 And then I have questions, also, about the evidence
3 that was brought in here out of all -- State's Exhibit
4 Nos. 1 through 16 that we went through -- it's State's
5 Exhibit Nos. 1 through 15 --

6 MS. JOSEPH: It's 1 through 15.

7 MR. GROSE: State's Exhibit Nos. 1 through 15 that we
8 went through, none of those were, you know, images that
9 were, actually, still on the camera -- or none of them
10 were testified to -- to that. There's, at least, three or
11 four that he can't say whether or not they came from
12 Detective Cole's image or not.

13 And there's a number of them that they can't say
14 whether they had been deleted or not. The ones that they
15 could say have all been deleted. And so -- and none of
16 them really -- I mean, none of them are per se illegal.
17 None of them are child pornography. And, you know, I
18 think that, you know, we need to be able to cross-examine
19 Detective Cole.

20 I, also, have, you know -- and we eluded to it
21 earlier. I think it was State's Exhibit Nos. 13 and 15,
22 the identification of those by Lori Mayo. Certainly,
23 State's Exhibit No. 15, I think, is out because she can't
24 say who that was. And Mr. Agee couldn't offer much
25 additional testimony about that image here today. And

1 State's Exhibit No. 13, I think, is also -- should be
2 excluded. And I think that pretty much summarizes it.

3 Thank you.

4 THE COURT: Ms. Joseph, are you going to argue?

5 MS. JOSEPH: Thank you, Your Honor.

6 I have four points to make.

7 THE COURT: Yes, ma'am.

8 MS. JOSEPH: First -- and let me go in order. First,
9 Defense provided with you with Melendez-Diaz v.
10 Massachusetts. The State argues that that case is not
11 applicable here because it's a drug case, and it involves
12 fungible evidence.

13 The second point is that what we're dealing with here
14 is non-fungible evidence. Rule 901 of evidence governs
15 non-fungible evidence. The State provided a case, State
16 v. Pope. In that case, a TV was used as an example of
17 non-fungible evidence. And the Court went on to say that
18 anything with a serial number is non-fungible evidence.
19 And I have another copy of --

20 THE COURT: Go ahead. I'm listening.

21 MS. JOSEPH: And then I want to read you this direct
22 quote from State v. Pope, but it's State v. Pope,
23 actually, quoting State v. Freiburger. And I, also,
24 provided the Court a copy of State v. Freiburger.

25 The quote is, While the chain of custody requirement

1 is strict where fungible evidence is involved, where the
2 issue is the admissibility of non-fungible evidence, that
3 is evidence that is unique and identifiable, the --

4 THE COURT: Which page of the case are you reading?

5 MS. JOSEPH: Oh, I apologize, Your Honor.

6 THE COURT: Are you reading from Pope?

7 MS. JOSEPH: Actually, I am reading from Pope, that's
8 quoting Freiburger.

9 THE COURT: Got you.

10 MS. JOSEPH: And it's on Page 5 of 6, Your Honor.
11 And it's the top of column two.

12 THE COURT: Okay.

13 MS. JOSEPH: So I'm going to start over.

14 While the chain of custody requirement is strict
15 where fungible evidence is involved, where the issue is
16 the admissibility of non-fungible evidence, that is
17 evidence that is unique and identifiable, the
18 establishment of a strict chain of custody is not
19 required.

20 And, Your Honor, the use of TV is in the middle of
21 column two on Page 5. They say a shotgun, or a
22 television, or a pistol. They're giving examples. And,
23 Your Honor, this case was, actually, about a scale. And
24 if this scale, actually, had a serial number. And that's
25 why they're saying anything with a serial number applies.

1 And then my third point is -- and this quote, also,
2 comes from the Pope case. This quote is talking about
3 fungible evidence, but we still think it applies here.
4 They're saying that if you want to challenge the chain,
5 the -- if the identity of each person handling the
6 evidence is established and the manner handling is
7 reasonably demonstrated, no abuse of discretion by the
8 trial court is shown in admitting the evidence absent
9 proof of tampering, bad faith, or ill motive.

10 So in this case, the Court wants to make it clear we
11 identified every member of the chain. Arthur Agee, the
12 last witness, was able to speak to the manner of handling,
13 as was Investigator Stone. And there was no proof of
14 tampering, bad faith, or ill motive. In fact, Arthur Agee
15 testified the reason they go off of a forensic copy is to
16 avoid damaging the evidence. So the policy is there for a
17 reason. That is to, in fact, avoid any tampering.

18 So without a showing of tampering, bad faith, or ill
19 motive, we feel that Defense cannot challenge the chain
20 and cannot challenge the use of forensic -- the use of
21 copying, mirroring, or making of a forensic copy.

22 Because if Your Honor agrees this is a non-fungible
23 item and, therefore, we do not need to establish strict
24 chain, then the State believes the only question on the
25 table is the issue of the forensic mirroring of the items,

1 which means the copying of the items. And Arthur Agee
2 testified to that process, why that process was done. And
3 he testified that in any sort of independent review
4 situation, they always go back to the forensic copy. And
5 Detective Cole's report was based off of that forensic
6 copy. And even the forensic copy is unique and has a hash
7 value that identifies each item and where it comes from.

8 Finally, Your Honor -- well, sorry. I have two more
9 points. There's no confrontation clause. The problem
10 with this issue -- there's no confrontation clause issue
11 here because Arthur Agee conducted an independent review.
12 So they're able to confront the person who will be
13 testifying about his own independent knowledge.

14 Defense Counsel brought up that several of these
15 items had been deleted, or Arthur Agee could not testify
16 to whether or not they had been deleted. We believe that
17 goes to weight, not admissibility.

18 And then, finally, number 15, where Lori Mayo was
19 able to say that she believes that those are her
20 daughter's legs. She believes that is a dance costume her
21 daughter wore. Arthur Agee can testify that that item was
22 found on the camcorder and the camera. He cannot testify
23 about whether or not it was deleted. Whether or not that
24 is the victim goes to weight, not admissibility.

25 MR. GROSE: Whether or not it's the victim goes to

1 relevance. And I disagree with some of that.

2 First of all, they've not established the entire
3 chain of custody as far as identity is concerned because
4 we don't know who collected those two items. And so
5 without that being in the record, they haven't established
6 all of that.

7 Secondly, she's relying on serial numbers. But one
8 of them, they don't have a serial number for, they just
9 have a model number. So even under her own argument,
10 anything that came off of that device, she hasn't --
11 because we're dealing with images off of two devices.
12 Anything that came off that device, she hasn't even
13 established that.

14 And we're not talking about identifying a stolen TV,
15 or identifying a stolen gun, or a gun that was picked up
16 at a crime scene. We're talking about, you know, what
17 the -- we're talking about the digital data on the
18 computer, which I would argue is much more like a fungible
19 item than a non-fungible item. Even drugs, for example,
20 can be made more like a non-fungible item. That's the
21 whole reason for putting them in those SLED vest packs and
22 sending them up the chain.

23 And this is important because they're conflating the
24 chain of custody with the confrontation clause argument.
25 The chain of custody wasn't the real issue in

1 Melendez-Diaz. The real issue in that was the Sixth
2 Amendment confrontation right of the person who, actually,
3 did the examination.

4 And this is also -- and they didn't do it for the
5 purposes of the proffer. And I'm not objecting to that.
6 But they're going to have to qualify Detective Agee as an
7 expert, which means they would, also, have to qualify
8 Detective Cole as an expert. And we would get an
9 opportunity to cross-examine him about those
10 qualifications. And we can't do that if he's not here.

11 So, you know, it's -- the confrontation clause is a
12 lot more complicated than that. And we may need to get
13 somebody back up here to see if they can tell us, if it
14 becomes important in the analogy, which -- of the
15 analysis, which one of the items came off of the one with
16 the serial number versus the one without the serial
17 number. And, in fact, I'd like to recall Detective Agee
18 for that limited purpose.

19 THE COURT: Any objection to that?

20 MS. JOSEPH: So he's calling him -- he's -- what is
21 the limited purpose he's calling him --

22 MR. GROSE: The limited purpose is whether or not he
23 can tell whether these images came -- which device they
24 came off of.

25 MS. JOSEPH: Okay. That's fair. Yeah, that's --

1 THE COURT: Come on back up.

2 You're still under oath.

3 THE WITNESS: Yes, sir.

4 DIRECT EXAMINATION

5 BY MR. GROSE:

6 Q And I'll try to go through this fast. State's
7 Exhibit No. 1, do you know if that came off of your
8 evidence item one or two?

9 A I don't recall.

10 Q State's Exhibit No. 2, your item one or two?

11 A I don't recall.

12 Q State's Exhibit No. 3, your item one or two?

13 A I don't recall.

14 Q State's Exhibit No. 4, your item one or two?

15 A I don't recall.

16 Q State's Exhibit No. 5, your item one or two?

17 A That came off of item number one.

18 Q And that's the one with no serial number?

19 A It looks like there's a serial number listed on the
20 report.

21 Q On the request form that we have, there's no serial
22 number for item one.

23 A There's a serial number in the forensic report.

24 Q Okay. And State's Exhibit No. 6, do you know if that
25 was one or two?

1 A That was item one.

2 Q State's Exhibit No. 7?

3 A That was item two.

4 Q Okay. State's Exhibit No. 8?

5 A Item two.

6 Q State's Exhibit No. 9?

7 A Item two.

8 Q State's Exhibit No. 10?

9 A Item two.

10 Q State's Exhibit No. 11?

11 A Item two.

12 Q State's Exhibit No. 12?

13 A Item one.

14 Q State's Exhibit No. 13?

15 A Item one.

16 Q State's Exhibit No. 14?

17 A Item one.

18 Q And State's Exhibit No. 15?

19 A Item two.

20 Q And as far as the several that you don't know which

21 item they came from, you don't have that information here

22 today, do you?

23 A No, I don't.

24 Q I'm sorry.

25 A No, I don't.

1 MR. GROSE: Thank you.

2 That's all.

3 MS. JOSEPH: Your Honor, just for clarification --

4 THE COURT: I've just got one question.

5 MS. JOSEPH: Of course.

6 EXAMINATION

7 BY THE COURT:

8 Q You're working off of Mr. Cole's report?

9 A I worked -- for items one and two, I worked off of
10 the forensic image.

11 Q Of Mr. Cole --

12 A Right, that he recreated. Right.

13 Q Not a report that you did?

14 A No. I did not do a report.

15 MR. GROSE: And just as follow-up for that.

16 REDIRECT EXAMINATION

17 BY MR. GROSE:

18 Q The report that you looked at while I was asking you
19 those questions is Detective Cole's report?

20 A Yes. The report right here, yes. That's correct.

21 Q And so the serial number from item one came from
22 Detective Cole's report. You've never seen, actually,
23 item one?

24 A That's correct.

25 MR. GROSE: Thank you.

1 MS. JOSEPH: Judge, if I may.

2 CROSS-EXAMINATION

3 BY MS. JOSEPH:

4 Q I know we're just re-clarifying over and over again.
5 The Judge asked you if you had worked off of Detective
6 Cole's report. You -- Detective Cole created a forensic
7 copy?

8 A Forensic image.

9 Q Forensic image. And that means that he took -- let's
10 say the camera, he took the contents of the camera, which
11 are digital files, nothing physical?

12 A Correct.

13 Q And he copied it?

14 A Correct.

15 Q So you didn't do that copy?

16 A I did not.

17 Q And that copy lives in your office?

18 A That's correct.

19 Q And every single device that comes in -- I'm sure
20 hundreds of devices a year come into the electronic crimes
21 task force?

22 A Right.

23 Q And that's the process that's done every single time?

24 A That's correct.

25 Q And you do that process yourself?

1 A Right.

2 Q And it's -- what does it entail? So, for a camera,
3 what does that mean?

4 A So, in this instance, there was an SD card inside.
5 You remove the SD card and put that SD card inside a write
6 blocker. What the write blocker does, it does not -- it
7 allows our tools to -- to read evidence, but it cannot
8 write. It kind of acts as a one-way valve. Information
9 can come in, but it can't go back out. It can't be
10 altered.

11 So it can read that data from the SD card and copy
12 it, but no information can be written back to that SD
13 card.

14 Q Okay. And then you take the SD card out of that
15 device?

16 A The write blocker.

17 Q The write blocker.

18 A And it's put back in our evidence locker until the
19 case is done with.

20 Q And then the forensic image --

21 A Right.

22 Q -- lives at your office?

23 A That's correct.

24 Q And that's what you went back and looked at for this
25 case?

1 A That's correct.

2 Q So you -- if you had been asked to do an
3 independent -- at this -- I could give you a case number
4 for any case in your office and you could go look at a
5 forensic case -- I'm sorry, forensic image?

6 A That's correct.

7 Q And that's how you -- that's how anyone in your
8 office, in fact, does review evidence for court, for
9 example. So if you had done the original report and you
10 wanted to review it for court, you would never go to the
11 original devices. You would always go to the forensic
12 copy?

13 A That's correct. That's our standard practice.

14 Q Okay. You're not relying solely on Detective Cole's
15 report?

16 A For items one and two, no.

17 Q For items one and two. And items one and two are the
18 camera and the camcorder?

19 A That's correct.

20 Q You're relying on your own independent review of the
21 forensic image?

22 A That's correct. Verify the report.

23 MS. JOSEPH: Is it item two that we're having an
24 issue with the serial number?

25 MR. GROSE: Item one.

1 BY MS. JOSEPH:

2 Q What is item one again?

3 A It's a JVC camcorder.

4 Q And you may not be able to answer this. I may need
5 to recall Detective Cole [sic]. But do you -- there's a
6 serial number here that's listed?

7 A That's correct.

8 Q Do you know if that's an internal serial number?

9 A It should be -- I don't know.

10 Q You don't know. That's okay.

11 MS. JOSEPH: Can we recall Detective Cole [sic] for
12 that limited question?

13 MR. GROSE: Detective Cole is the one that's not
14 here.

15 MS. JOSEPH: Right, Sergeant Stone. All of these men
16 have like four letters in their last name. Agee, Cole,
17 Stone, that's five. I'm sorry. That was wrong.

18 THE COURT: Okay. You can step down.

19 Let's move this along.

20 Come on up, sir.

21 DIRECT EXAMINATION

22 BY MS. JOSEPH:

23 Q Lieutenant Stone --

24 A Yes, ma'am.

25 Q -- item one, which is State's Exhibit No. 19 -- is

1 State's Exhibit No. 19 up there?

2 A No, ma'am.

3 Q We'll find State's Exhibit No. 19.

4 I'm handing you State's Exhibit Nos. 18 and 19. And
5 State's Exhibit -- I'm handing you State's Exhibit
6 Nos. 18, 19, and 20. And was it the camcorder?

7 A Yes, item number one.

8 Q Item number one, the camcorder, you don't have a
9 serial number listed; is that correct?

10 A That's correct.

11 Q Why don't you have a serial number listed?

12 A There's not a serial number on the model tag on the
13 camcorder.

14 Q And where is the serial number located?

15 A I'm assuming --

16 MR. GROSE: Objection. Speculation.

17 THE WITNESS: It's not on the camera -- on the
18 external of the camera.

19 BY MS. JOSEPH:

20 Q You've collected several electronic devices in your
21 career?

22 A Yes.

23 Q And do some devices have internal serial numbers?

24 MR. GROSE: Objection. Relevance. We're talking
25 about this one item.

1 THE COURT: All right. I'm going to sustain that.
2 Go ahead.

3 We're just talking about one item.

4 MS. JOSEPH: I'm just asking him -- no further
5 questions.

6 MR. GROSE: I have no questions.

7 THE COURT: You can step down.

8 MS. JOSEPH: I think that's it, Your Honor.

9 THE COURT: Anything further before I rule?

10 MR. GROSE: Not from me.

11 MS. JOSEPH: No, Your Honor.

12 THE COURT: All right. I made reference prior to
13 lunch of the witness list. And one of the reasons that I
14 asked Counsel about the witness list was because I was
15 concerned about one of the witnesses in the case.

16 And I think Counsel, at the beginning of the week,
17 when I made inquiry about -- or the Court made inquiry
18 about the witnesses that would be appearing, I think
19 Counsel -- the State's Counsel made reference to some
20 folks from Alabama. I didn't know who they were.

21 I looked at the witness list and I went through them.
22 And I saw there were three individuals from the Alabama
23 Sheriff's Department -- or detectives listed there. I
24 think because of the seriousness of the case, I wanted to
25 make sure that both sides had the opportunity to know who

1 the witnesses were on both sides.

2 My concern was then and is still now -- and I had an
3 opportunity and I read this Melendez-Diaz case. And I
4 read some other cases, too, that talked about the Court's
5 obligation to weigh the probative value of the evidence
6 presented versus the prejudicial effect. And there are a
7 whole line of cases that talk about that. And there's a
8 whole line of cases that talk about the Court's
9 requirement to look at 404(b) and reconcile that with 403.
10 There are a whole line of cases there.

11 And then there are a whole line of cases that talk
12 about res gestae and the Lyle case we talked about
13 earlier. All of those cases were there. And I read all
14 those cases. I read all of those cases.

15 Because Counsel filed these motions and I was reading
16 the cases because, obviously, I needed to get in my
17 mind -- based upon what I heard, I needed to be prepared
18 to rule based on what I heard. And those were all the
19 cases I was reading. I read all of them, every single one
20 of them.

21 And there's just a bunch of them that says I, as the
22 trial judge, must -- must perform, for lack of a better
23 word, a balancing test on the record to determine the
24 admissibility of the evidence, whether the probative value
25 of the evidence is outweighed by the prejudicial and vice

1 versa. I'm required to do that.

2 But what I'm hearing today is you've got a witness --
3 a critical witness, in this Court's estimation, Detective
4 Cole. He is the gentleman -- I mean, he went out there.
5 He is the one that -- that determined whatever images that
6 were collected. I mean, he was -- he's critical in this
7 case.

8 And I think in Melendez-Diaz -- even though the
9 Melendez-Diaz case --

10 And Madam Court Reporter, I'm going to cite that case
11 for you. It was given to me by Counsel. It's the
12 Melendez, M-E-L-E-N-D-E-Z, Diaz, D-I-A-Z v. Massachusetts.

13 And this is a case -- even though it's a drug case,
14 the critical thing is the whole confrontation clause.
15 That's critical. That is very critical. And the reason I
16 say it's critical is every Defendant has the absolute
17 Constitutional right to confront any witnesses on his
18 behalf, unless he waives it.

19 And Mr. Agee didn't do an independent examination.
20 He -- I mean, he relied -- whether he relied somewhat on
21 the report of Detective Cole as to some of it, none of it,
22 he didn't do it all.

23 And I am not satisfied that the State has afforded
24 this Defendant an opportunity to confront -- and when I
25 say "confront," Mr. Cole needed to be here. Defense

1 Counsel needed to have the opportunity to cross-examine
2 him, to ask him some specific questions.

3 And so even though I read all these cases about Lyle
4 and 403 and Rule 404(b) and all that, my ruling as to the
5 exclusion of the evidence is not based on any of that.
6 It's just based on the fundamental Constitutional right of
7 confrontation, the ability to have the right to confront
8 any witnesses.

9 So based on that solely, that Constitutional right, I
10 am excluding that.

11 Anything else?

12 MR. GROSE: And does that go from State's Exhibit
13 Nos. 1 to 5? Because we had talked about the limited --

14 THE COURT: Yes.

15 MR. GROSE: Thank you.

16 THE COURT: Anything from the State?

17 MS. JOSEPH: Your Honor, the State would just say as
18 to items one through five that those -- there's no
19 testimony from the mother that those came from the
20 devices. She is clear that she does not know the origins
21 of those.

22 And, once again, if we were to show her a photo of
23 her house, even if she had no idea who took the photo, she
24 can say, yes, that's my house. That's an accurate
25 depiction of my house. In the same way, she's going to

1 say items one through five are photos of her daughter,
2 accurate photos of her daughter at approximately this age
3 in a house where she lived.

4 So we would argue that one through five do come in
5 and their origins will not be mentioned at trial.

6 THE COURT: As to which devices and as to which
7 location?

8 MS. JOSEPH: Right. The devices won't come in, the
9 location won't come in. We will not be recalling
10 Lieutenant Stone. We will not be recalling Arthur Agee.
11 Just the mother will get on the stand and will testify
12 items one through five, they depict her daughter at
13 approximately this age in her house in Beaufort.

14 THE COURT: I've already pretty much ruled on that.

15 MR. GROSE: I don't have anything to add.

16 THE COURT: I'm not going to change it.

17 All right. Anything further before we bring the jury
18 in? Anything else?

19 MR. GROSE: We need a restroom break.

20 THE COURT: All right. Let's take a 10-minute
21 restroom break and then we'll be ready.

22 (WHEREUPON, a break was taken.)

23 THE COURT: You're standing. So have you got a
24 matter you want to take up before we bring the jury in?

25 MS. JOSEPH: Briefly, Your Honor.

1 THE COURT: Yes, ma'am.

2 MS. JOSEPH: Your Honor, it's not the State's
3 intention -- we would like to avoid this because putting
4 children on the stand is always difficult. Now, it's the
5 State's intention to try to get these photos in through
6 J.M. . I just want to make the Court aware. But we
7 will be recalling Lori first.

8 MR. GROSE: I mean, she can't testify to the
9 authenticity of these photos. And given -- I mean, I
10 think they would need to proffer that, if that's what
11 their intention is now.

12 MS. JOSEPH: It's the State's contention that we do
13 not need to proffer. She's the subject matter of those
14 photographs.

15 In Defense's earlier motion, he used the example of
16 if I were trying to use a photo where the person
17 testifying had not taken the photo. He said that he would
18 be agree -- he would agree that someone standing over the
19 shoulder of the person taking the photo could testify.

20 So in this case, J.M. was, clearly, present when
21 the photos were taken, because she is the subject matter.
22 However, Defense can, obviously, object as we go forward.
23 We don't think --

24 MR. GROSE: I'm moving to exclude the admission of
25 the photographs based on the Court's previous ruling. I'm

1 moving that if they're going to try to admit them through
2 J.M. that that needs to be, first, taken up outside the
3 Court's [sic] presence given the number of times that she
4 testified yesterday that she couldn't remember. I think
5 it would be extremely prejudicial for them to parade
6 photos in front of the jurors that, ultimately, can't be
7 authenticated.

8 MS. JOSEPH: Obviously, we would not show these
9 photos to the jury prior to them being admitted. I mean,
10 we would be very careful about that. You watched me in
11 court. I'm very careful to warn witnesses, don't show
12 these to the jury. I mean, I really take that very
13 seriously, Your Honor.

14 THE COURT: All right. So what I'm hearing is that
15 the mother of the child -- obviously, there's some
16 question about authenticating the pictures. You're not
17 going to use her. You want to try to put the child back
18 up by way of proffer and let me hear --

19 MS. JOSEPH: Sure, sure. We can do that, Your Honor.

20 MR. GROSE: And remembering that the ones that can be
21 identified whether they were deleted or undeleted. They
22 were all deleted. The rest is unknown.

23 MS. JOSEPH: I mean, she won't be testifying about
24 that. These are just images of her. She was there when
25 they were taken. And she's going to testify about the

1 circumstances surrounding the photographs.

2 THE COURT: Is she going to be able to testify when
3 they were taken?

4 MS. JOSEPH: I mean, you can -- we're proffering it.
5 So you can --

6 THE COURT: I mean, I got it, but that's a question.

7 MS. JOSEPH: That's fair.

8 THE COURT: That's a fair question.

9 MS. JOSEPH: You're the Judge.

10 MR. GROSE: And in my crime scene example, we weren't
11 talking about photographs that had been deleted. I mean,
12 there is an authentication issue to these photographs.
13 And I don't think -- I don't think they can do anything
14 with this particular witness to change that.

15 THE COURT: All right. Well, we'll -- I'll let you
16 do it by way of proffer.

17 MS. JOSEPH: Thank you, Your Honor.

18 THE COURT: Anything else before we bring the jury
19 back? They've been sitting back there for a while.

20 Anything else?

21 MS. JOSEPH: No, sir.

22 We are going to put Lori on the stand first in front
23 of the jury and then proffer J.M. .

24 THE COURT: If that's what you want to do.

25 MR. GROSE: And none of the photographs are with

1 Lori. That's just --

2 MS. JOSEPH: Right. Just the text messages.

3 MR. GROSE: I just wanted to --

4 THE COURT: Well, let me just ask you this just so
5 the jury won't be back and forth. Do you want to do the
6 proffer with the child now? Because after that, everybody
7 else is going to be fact witnesses.

8 MS. JOSEPH: After J.M. , Your Honor, the State
9 will, actually, be resting. So it might make more sense
10 to do J.M. 's proffer now.

11 THE COURT: That's what I was suggesting.

12 MS. JOSEPH: Yes, Your Honor. And I'm agreeing with
13 your suggestion.

14 MR. GROSE: Can I make another suggestion?

15 THE COURT: What's that?

16 MR. GROSE: That we call Lori. By the time that's
17 done, it's already 4:00, that we excuse the jurors for
18 today. And you can determine whether or not -- you know,
19 during the proffer whether J.M. is going to testify.
20 We could do that first thing in the morning, if that's
21 their last witness. We'd be prepared to present our case.

22 THE COURT: How many witnesses have you got?

23 MR. GROSE: Right now, I'm anticipating calling five.
24 But I, also, anticipate, you know, that I could be done by
25 midday. And we could be, you know, arguing and charging

1 tomorrow afternoon.

2 THE COURT: Well, my intention was to go until about
3 6:00, or whatever. I don't want to -- I don't want to let
4 the jury go and then I've got five witnesses tomorrow that
5 we can't get through because we've got all kinds of legal
6 matters, you know. The way this has gone -- I'm not
7 complaining, I mean, you just don't know what's going to
8 come up.

9 MR. GROSE: Well, my first witness is the longest
10 witness. And I have to call that witness first before I
11 call the other witnesses.

12 THE COURT: Have you got any -- any of your witnesses
13 here today?

14 MR. GROSE: They're all here today.

15 THE COURT: So how long is your longest witness going
16 to take? An hour, hour and a half?

17 MR. GROSE: It's going to be Mr. Dent. I imagine
18 it's going to take an hour, hour and a half, or more. The
19 rest of them will be short.

20 THE COURT: An hour, hour and a half on direct?

21 MR. GROSE: Maybe.

22 THE COURT: Or cross?

23 MR. GROSE: Between an hour, hour and a half on
24 direct would be my estimation. I don't know how long
25 their cross would take. The rest of them would be short.

1 THE COURT: I'm not going to do that. What we're
2 going to do today is we are going to do the proffer on
3 J.M. . We're going to put Lori up for the limited
4 purpose you're talking about.

5 MS. JOSEPH: Yes.

6 THE COURT: The State is going to rest after that?

7 MS. JOSEPH: After Lori and J.M. , the State will
8 rest.

9 THE COURT: We're going to take a 10-minute break.
10 And then I'm going to let you put your first witness up.
11 We're going to cover Mr. Dent today.

12 MR. GROSE: We might be here longer than 6:00, but
13 that's -- I mean, it's your call. But I just think
14 that -- by the time we get done with the proffer and do
15 all that, we're going to be pushing 5:00.

16 THE COURT: What's your position, Ms. Joseph?

17 MS. JOSEPH: We leave it in the Court's discretion,
18 Your Honor.

19 MR. GROSE: I really do feel like my case is all
20 within a half day. I mean, I know lawyers --

21 THE COURT: Instead of -- I'll change that. Instead
22 of starting at 9:30 in the morning, we'll start at 9:00.

23 MR. GROSE: That makes sense.

24 THE COURT: We'll start at 9:00. We'll get these
25 two, the proffer and this witness. And then I'll excuse

J.M.

(IC)-EXAMINATION BY THE COURT

1 the jury and we'll start at 9:00.

2 And you're going to rest before we leave here today?

3 MS. JOSEPH: Yes, Your Honor.

4 THE COURT: The State is going to rest.

5 And then tomorrow morning sharp at 9:00, we'll start
6 with your first witness.

7 MR. GROSE: Yes, sir.

8 THE COURT: Fair enough?

9 MR. GROSE: Fair enough.

10 THE COURT: Okay. Let's do that.

11 Where's my bailiff at?

12 THE BAILIFF: Right here, sir.

13 THE COURT: Well, now, let's bring J.M. in here.
14 We've got to do that first.

15 She's outside -- is she here?

16 MS. JOSEPH: Bring J.M. in.

17 (WHEREUPON, J.M. entered the courtroom.)

18 EXAMINATION

19 BY THE COURT:

20 Q Yes, ma'am. Could you come forward and stand right
21 there for me?

22 I know you've been in here before; right?

23 A Yes.

24 Q And the last time you were in here, you said you knew
25 the difference between telling the truth and telling a

J.M.

(IC)-DIRECT BY MS. JOSEPH

1 lie; is that right?

2 A Yes, sir.

3 Q Are you willing to tell me the truth today?

4 A Yes, sir.

5 Q Are you okay?

6 A Sort of.

7 THE COURT: The best you can.

8 Okay. Come on around and have a seat here for me in
9 this little box. We're not going to keep you long. We've
10 just got a few questions to ask you.

11 MS. JOSEPH: Did you have any other questions for
12 her, Your Honor?

13 THE COURT: No. Go ahead.

14 DIRECT EXAMINATION

15 BY MS. JOSEPH:

16 Q Hi, J.M. . You were here yesterday; right?

17 A Yes, I was.

18 Q You were in this room?

19 A Yes.

20 Q And you testified right there?

21 A Yes, ma'am.

22 Q Do you remember that?

23 A Yes.

24 Q You talked to me. And you know why we're here this
25 week; right?

1 A Yes.

2 Q It's because of some stuff with your grandfather?

3 A Yes, ma'am.

4 Q When you lived in Beaufort County, which is here in
5 this area, I think you lived in Bluffton; is that right?

6 A I'm not sure.

7 Q But when you lived -- you remember living in this
8 area?

9 A Yes.

10 Q And how long did you live there -- or here?

11 A I think four years. I'm not sure.

12 Q Do you remember around what age you were?

13 A I think it was seven to nine.

14 Q Seven to nine. You said yesterday that your
15 grandfather would come visit; right?

16 A Yes.

17 Q Okay. When he would come visit, would he take
18 photographs of you?

19 A I don't remember, but I think he would.

20 Q Okay. So I'm going to show you some photographs.

21 And I want you to look at them. And then I'm going to ask
22 you some questions about them. Okay. But I want you to
23 look at them first. Okay.

24 A Okay.

25 Q You need to be careful. You do have to look at them.

1 A Yes.

2 Q You have to be careful -- you can look at them, but
3 you can't show them to anyone else. So just be careful
4 and look at them.

5 A (Witness complied.)

6 Q All right. How many photographs did I hand you?

7 A Four.

8 Q The one that's on top of the stack, what number does
9 it have? There's like a red sticker, and it has a number.

10 A 15.

11 Q 15. Okay. Can you put that on the bottom of the
12 stack.

13 A (Witness complied.)

14 Q All right. What's the number that's on the top now?

15 A 13.

16 Q All right. 13. What is that a photo of?

17 A Me.

18 Q You. And do you know how old you were when that
19 photograph was taken?

20 A I don't remember.

21 Q Do you know where that photograph was taken?

22 A I don't know which house it was in.

23 Q Okay. But was it in a house in Beaufort?

24 A Yes.

25 Q And how many houses did you live at in Beaufort?

1 A Two.

2 Q And how do you know that it was a house in Beaufort?

3 A Again, I'm not sure where I lived. I just know I
4 lived in two houses.

5 Q No, no. When you look at the photograph --

6 A Oh, I see a blue couch. And we had a blue couch back
7 then.

8 Q So you see a blue couch?

9 A In the background.

10 Q So you're in the photograph. It's in Beaufort. Who
11 took that photograph?

12 A I'm not sure, but I think it was my grandfather.

13 Q You're not sure, but you think it was your
14 grandfather?

15 A Yes.

16 Q Put that photo upside down on top in front of you on
17 the rail.

18 A Like, this way, like, facing me?

19 Q Let me see.

20 A I'm sorry.

21 Q It's okay. You're doing great. Like bam. What's
22 the next photo?

23 A It's a picture of me.

24 Q It's a picture of you. What's the number on it?

25 A Six.

1 Q All right. So it's a picture of you. And how old
2 were you in that photograph?

3 A I'm not sure.

4 Q Okay. Can you tell where the photograph was taken?

5 A I think the picture was taken in one of the houses.

6 Q And why do you think that?

7 A It has the same blue couch as the last one.

8 Q And do you know who took that photograph?

9 A I'm not sure, again, but it looks the same as the
10 last one.

11 Q So it looks the same as the last one?

12 A Yes.

13 Q Why do you say it looks the same?

14 A I'm wearing the same outfit. It has the same
15 background. And it looks like the same place.

16 Q All right. And you think you know who took the last
17 one. So do you think you know who took this one?

18 A I think it was him again since it looks like the same
19 one.

20 Q So put that photo upside down on top of that one.
21 Perfect.

22 All right. What's the next photo?

23 A It's 11.

24 Q Good. And what is that a photo of?

25 A Me.

1 Q And how old are you in that photo?

2 A I'm not sure.

3 Q And where was that photo taken?

4 A In one of the houses.

5 Q And why do you say that?

6 A It's the same wall background. And I remember what
7 the first house looked like. And it looks like the first
8 one.

9 Q Okay. And who took that photograph?

10 A I'm not sure.

11 Q Okay. Can you put that one in a separate stack?

12 A (Witness complied.)

13 Q What's the number for the next one?

14 A 15.

15 Q What is that a photo of?

16 A Someone in shorts, but I think it's me.

17 Q You think it's you?

18 A Yes. Because these are my shorts from a dance
19 recital that I had.

20 Q And was that -- was that uniform -- was that a
21 uniform that everyone wore?

22 A It wasn't a uniform. It was just a requirement. You
23 had to wear some type of, like, dance shorts.

24 Q So you recognize those shorts?

25 A I do.

1 Q And where was that photo taken?

2 A I'm not sure.

3 Q And why are you not sure?

4 A It has a plain background and it's zoomed in.

5 Q And who took that photograph?

6 A I think it was him.

7 Q Okay. When you say you think it's him with this
8 photo only, how sure are you?

9 A From one to 10?

10 Q Yeah.

11 A I think it's a six.

12 MS. JOSEPH: Okay. Thank you.

13 No further questions.

14 THE COURT: Mr. Grose.

15 MR. GROSE: Yes. Just very briefly.

16 CROSS-EXAMINATION

17 BY MR. GROSE:

18 Q You don't know who took any of those photographs, do
19 you?

20 A Some of them, I don't. Some of them, I think I do.

21 Q Okay. But they've just asked you about four; right?

22 A Four, yes.

23 Q And so -- in one of them, I think you said you're not
24 sure?

25 A Yes, sir.

J.M.

(IC) -CROSS BY MR. GROSE

1 Q And in three of them, you said that you think it was
2 your grandfather?

3 A Three of them, yes.

4 Q Okay. But you just say you think that, you're not
5 sure of that?

6 A Yes, sir.

7 Q Okay. And when he would come to your house, he
8 wasn't the only one that used the cameras, was he?

9 A Again, I'm not sure. I don't remember.

10 Q I'm just going to show you a picture, if that's all
11 right. And it's in black and white. Does that look like
12 you in that picture?

13 A Yes, it does.

14 Q And that's you taking a selfie in the mirror?

15 A Yes, sir.

16 Q Okay. So in addition to your grandfather, your
17 brother, also, lived in the house; right?

18 A Yes, he did.

19 Q And your mother lived in the house; right?

20 A Yes, sir.

21 Q And there was a time when a lady named Dee was
22 staying there; right?

23 A Yes, sir.

24 Q Was there any other people that stayed there, other
25 than John Camelo?

J.M.

(IC) -CROSS BY MR. GROSE

1 A No. I think that's all the people that stayed in
2 that house.

3 Q All right. And the blue couch, that's how you
4 recognized it as the place that you lived; right?

5 A Yes, sir.

6 Q You had the blue couch -- do you remember that blue
7 couch being in Florida when you lived there?

8 A I do. But it had a sheet over it and that's how it
9 was blue. But when we were in Florida, it was white.

10 MR. GROSE: All right. I beg the Court's indulgence
11 for a moment.

12 THE COURT: Yes, sir.

13 (Pause.)

14 BY MR. GROSE:

15 Q And you don't have any idea where any of those four
16 photos came from before today, do you?

17 A I think it came from an SD card, but I'm not sure.

18 Q But that's just speculation?

19 A I don't know what that means.

20 Q It's kind of like --

21 MS. JOSEPH: Objection, Your Honor. She said, "I
22 think." I mean, this is --

23 BY MR. GROSE:

24 Q It's kind of like an educated guess.

25 A I mean, I'm saying I think so.

1 Q But you don't know?

2 A But I don't know.

3 MR. GROSE: Thank you.

4 THE COURT: Any other questions?

5 MS. JOSEPH: Yes, Your Honor.

6 REDIRECT EXAMINATION

7 BY MS. JOSEPH:

8 Q J.M. , I'm handing you five more photos. Can you
9 look at those?

10 A Do you want me to flip this one over?

11 Q Yeah. Give it to me.

12 Thanks.

13 Five more photos. Do you recognize those photos?

14 A Some of them, yes.

15 Q Okay. So what's on top of the stack? What number?

16 A One.

17 Q And do you recognize that photo?

18 A I do.

19 Q Okay. And what does that photo show?

20 A Me on my birthday.

21 Q You on your birthday. And do you remember that day?

22 A Yes.

23 Q Do you know where that photo was taken?

24 A It was taken in the second house.

25 Q And do you remember who took that photo?

- 1 A No. I think it was my mom.
- 2 Q And were you -- was that a special day?
- 3 A For me, yes.
- 4 Q What date -- what was that day?
- 5 A What do you mean by what day?
- 6 Q Like, why was it special?
- 7 A Because it was my birthday.
- 8 Q Did lots of people take your photo on that day?
- 9 A I'm not sure. I think just my mom because it was my
10 birthday.
- 11 Q So why don't you put that upside down in front of you
12 like we did the last ones.
- 13 A (Witness complied.)
- 14 Q Good job.
- 15 Okay. What's the next photo?
- 16 A It's a picture of me. It's number two.
- 17 Q Okay. So number two is a picture of you. Do you
18 recognize that photo?
- 19 A No.
- 20 Q Can you put that -- well, actually, really quickly,
21 do you know where that photo was taken?
- 22 A I'm not sure what house it was.
- 23 Q Do you know whose room it was?
- 24 A No.
- 25 Q Okay. Can you put that upside down and make a

1 separate stack?

2 A (Witness complied.)

3 Q Perfect.

4 What's the next photo?

5 A It's a picture of me and my grandfather. It's number
6 three.

7 Q So it's number three. It's you and your grandfather.
8 And do you know where that was taken?

9 A In -- I think it was taken in the first house.

10 Q Okay. Do you know if it was taken in Beaufort
11 County?

12 A Yes.

13 Q And how do you know that?

14 A Just the layout of the house, and there's a door.
15 And we had a door that was connected to a bathroom.

16 Q Do you know how old you were in that photo?

17 A No. I'm not sure.

18 Q Okay. Can you put that photo on this stack?

19 A This side?

20 Q Good job.

21 What's the next photo?

22 A It's a picture of me. It's number four.

23 Q Do you recognize that photo?

24 A I do.

25 Q And where was that photo taken?

1 A I think it was taken in the second house.

2 Q And where in the second house?

3 A In the guest bedroom.

4 Q And who slept in the guest bedroom?

5 A Sometimes my grandfather. And if someone else came

6 to stay over, but that was like after --

7 Q Okay.

8 A -- like, a couple of months. So I think that was

9 where my grandfather stayed.

10 Q Okay. You think that's where your grandfather

11 stayed. Do you think it was the guest bedroom, or do you

12 know?

13 A I know. The bed was in the corner next to the door.

14 Q Okay. And how old were you in that photo?

15 A I'm not sure.

16 Q And was it -- was it house number one or two?

17 A House number two.

18 Q Okay. If you would put that in this stack. And

19 what's the next photo?

20 A It's a picture of me. It's number five.

21 Q And do you recognize that photo?

22 A No. But it looks like some of other photos that you

23 showed me.

24 Q Okay. Can you put that photo in that stack?

25 A (Witness complied.)

1 MS. JOSEPH: So, Your Honor, based on that, we would
2 move to admit -- and I'll do this with Defense. State's
3 Exhibit No. 1, that's the birthday party photo. State's
4 Exhibit No. 3, that's the cooking photo. And State's
5 Exhibit No. 4, that's the photo of the Defendant --
6 J.M. and the Defendant's bed.

7 MR. GROSE: Just briefly.

8 RECROSS-EXAMINATION

9 BY MR. GROSE:

10 Q I think State's Exhibit No. 1, you said you thought
11 that your mother took that; right?

12 A Yes. Because it was my birthday.

13 Q Okay. And number four, do you know who took that?

14 A I'm not sure. But because it was in the guest
15 bedroom, I believe it was my grandfather. Again, I'm not
16 sure.

17 Q But you're not sure; right?

18 A (Witness nodded.)

19 Q And number three, do you know who took that?

20 A No. Because my grandfather is in the photo.

21 Q So it, certainly, wasn't him?

22 A No.

23 Q Okay. It couldn't have been him. Oops, I'm sorry.

24 A That's all right.

25 MS. JOSEPH: And those are my questions for

1 J.M. -- actually, those are your questions for J.M. ?

2 MR. GROSE: They're my questions for J.M. for this
3 hearing.

4 THE COURT: All right. I'm going to excuse her while
5 I hear argument from Counsel.

6 J.M. , you can leave.

7 THE WITNESS: Thank you.

8 THE COURT: All right.

9 MS. JOSEPH: J.M. , walk this way.

10 (WHEREUPON, J.M. exited the courtroom.)

11 THE COURT: All right. Before I rule on
12 admissibility, I'll be glad to hear any arguments from
13 Counsel.

14 MS. JOSEPH: Just really briefly, Your Honor. We're
15 not seeking to get in these sets of photos -- merely that
16 these are -- well, it's two sets of photos. So for the
17 second set of photos, which is the kitchen photo, her in a
18 bed --

19 MR. GROSE: Can we reference the numbers?

20 MS. JOSEPH: Absolutely.

21 And her at the birthday party. So State's Exhibit
22 Nos. 1 is the birthday party. State's Exhibit No. 4 is
23 the bed. State's Exhibit No. 3 is the kitchen. We're
24 seeking to get those in.

25 We're not going to be asking her who took the photos.

1 Instead, we're going to be asking where were they taken.
2 Because the point is that this is where the alleged
3 incident happened.

4 And, actually, she talks about the kitchen in her
5 Hope Haven interview. And then she talks about the bed --
6 the bed would be one of the scenes where things occurred.
7 So that's why we want to get into these.

8 There are no crime scene photos in this case.
9 Investigator LaVan testified he did not take crime scene
10 photos. This is sort of what we're left with. And the
11 jury has a right, the State would argue, to see where the
12 alleged incidents occurred. So that is the basis for
13 State's Exhibit Nos. 1, 3 and 4.

14 And then for State's Exhibit Nos. 13, 6, 15, and 11,
15 as Your Honor heard, she's going to testify that it's her,
16 at what age it is. And then she's going to testify, I
17 think my grandfather took it -- took these photos.

18 And, Your Honor, whether or not the Defendant took
19 it -- they can argue he didn't take it. He can take the
20 stand, if he wants, and say he didn't. He doesn't have
21 to, obviously. And that would go to weight, not
22 admissibility.

23 MR. GROSE: With regards -- can I see them?

24 Because I can't remember the number of the first set.

25 MS. JOSEPH: And just really quickly, the second set

1 was State's Exhibit Nos. 13, 6, 15, and 11.

2 MR. GROSE: With regard to State's Exhibit No. 4,
3 which is what she referred to as the bedroom photo, the
4 testimony was that was the guest bedroom. I don't know
5 that we have any evidence that anything happened as far
6 as -- well, from the interview as far as any photographs
7 being taken, I don't think there was any testimony about
8 the guest bedroom.

9 But again -- and I can get you the cite. But there's
10 a case where they introduced -- in a murder case where
11 they introduced a picture of a guy in a band uniform and
12 said his nickname was Bunny, I believe. And that case got
13 overturned on appeal. And I think that's -- number four
14 is getting into that category.

15 With regards to State's Exhibit Nos. 6, 11, 13, and
16 15, one of those four -- and we'd have to go back and see
17 which one. But one of those four, she just said, I wasn't
18 sure. She said with regards to three of them that she
19 thought that her grandfather took them, but she couldn't
20 say for certain.

21 And with regards to State's Exhibit No. 15, she
22 didn't even say that that was her. She was equivocal on
23 whether that was her or not.

24 And so, you know, this is the point where, I guess,
25 looking at a lot of those 403 cases comes back into play,

1 you know. You get into the danger of unfair prejudice
2 outweighing any probative value for her to be able to
3 testify, oh, I think my grandfather took those pictures,
4 but no -- no certainty on that.

5 And, again, all of these -- none of these are actual
6 photographs. These are -- or there's been no testimony to
7 establish that. All of these are -- are carved or
8 couldn't be excluded as being carved, meaning that they
9 had been deleted.

10 So, you know, I don't think that she could even
11 testify that those were fair and accurate pictures from
12 what was taken of her, assuming they all are her, because
13 she's not sure about one. I don't think she would be able
14 to testify to that because of what we know about those
15 photographs from the rest of the hearing that we've
16 already had.

17 THE COURT: All right. Let me tell you what we're
18 going to do as to the first set.

19 I think -- the question, Counsel, Ms. Joseph, I think
20 is time, place, and age; is that correct?

21 MS. JOSEPH: Time, place, and age.

22 MR. GROSE: And by first set -- because we've kind of
23 talked about them as first set and then flipped them.

24 MS. JOSEPH: My understanding is bedroom, kitchen,
25 birthday party, State's Exhibit Nos. 1, 3, and 4.

1 THE COURT: Right. What I'm going to do as to the
2 first set -- and that was the ones you just mentioned --
3 I'm going to allow those to be admitted. As to the
4 others, I'm going to allow them to be admitted and let the
5 jury attach whatever weight they deem necessary. So it
6 goes to weight as to the other set.

7 MS. JOSEPH: Thank you, Your Honor.

8 So we're going to call Lori for the text messages and
9 J.M. for these photos. And then we're going to rest,
10 Your Honor.

11 THE COURT: Anything else before we bring the jury
12 back?

13 MS. JOSEPH: Nothing.

14 MR. GROSE: Well, can I have just a moment?

15 THE COURT: Yes, sir.

16 (Pause.)

17 THE COURT: All right. Anything further before we
18 bring the jury back?

19 MS. JOSEPH: No, Your Honor.

20 MR. GROSE: I'm looking for a case to give you, but I
21 think -- I'm looking for the case with the photographs.
22 And I could just put that on --

23 THE COURT: Well, if you find it, you can give it to
24 me before we leave.

25 MR. GROSE: Yes, sir.

1 THE COURT: Just give me the cite.

2 MR. GROSE: And I have that cite, Your Honor. It
3 helps if you look in the right database.

4 THE COURT: Just write it down. Do you want to put
5 it on the record?

6 MR. GROSE: I can just call it out real quick.

7 THE COURT: What is it?

8 MR. GROSE: It's State v. Langley, 334 S.C. 643, 515
9 S.E.2d 98 from 1999. And it's -- had the admission of
10 testimony about the nickname Bunny and the picture in the
11 band uniform. It required reversal.

12 THE COURT: All right. I'm ready.

13 (WHEREUPON, the jury came into open court at
14 approximately 4:19 p.m.)

15 MS. JOSEPH: Your Honor, the State calls Lori Mayo.

16 THE COURT: Hold on.

17 MS. JOSEPH: I'm jumping the gun a little --

18 THE COURT: Hold on.

19 Ladies and gentlemen of the jury, I always try to be
20 a man of my word. And I apologize to you. I told you I'd
21 get you back in here at 2:30, and I didn't do it. So I
22 want to apologize to you for that.

23 But the good news is that we've got a couple of
24 witnesses and, hopefully, we won't be too long. So you
25 won't be here for so long. So I apologize I didn't get

1 you back in here at 2:30. But you had an opportunity to
2 have a good lunch. So that's a good thing.

3 All right. Yes, ma'am.

4 MS. JOSEPH: Thank you, Your Honor.

5 The State calls Lori Mayo to the stand.

6 THE COURT: All right. Ms. Mayo, come forward.

7 Swear her again.

8 THE CLERK: Good afternoon.

9 Place your left hand on the Bible and raise your
10 right hand.

11 WHEREUPON,

12 LORI MAYO,

13 after first having been duly sworn, testified as follows:

14 THE CLERK: Thank you.

15 DIRECT EXAMINATION

16 BY MS. JOSEPH:

17 Q Hi, Lori.

18 I'm going to hand you what's been marked as State's
19 Exhibit No. 21. Without showing it to the jury, can you
20 just briefly look over State's Exhibit No. 21?

21 A (Witness complied.)

22 Q What is State's Exhibit No. 21?

23 A These are images of a -- text messages on a cell
24 phone.

25 Q So they're photographs of a cell phone screen?

1 A Yes.

2 Q And then the cell phone screen has text messages on
3 it?

4 A Yes.

5 Q Do you see your name on the text messages?

6 A Yes, I do.

7 Q And then do you see your cell phone number?

8 A Yes, I do.

9 Q And these are text messages between you and who else?

10 A And Charles Dent.

11 Q And you testified yesterday?

12 A Yes.

13 Q And you read out loud some text messages?

14 A Correct.

15 Q Are these the same text messages that you read out
16 loud?

17 A Yes.

18 Q And is this a true and accurate copy of those text
19 messages, to the best of your recollection?

20 A Yes.

21 MS. JOSEPH: At this time, the State moves to enter
22 State's Exhibit No. 21 into evidence.

23 MR. GROSE: No objection.

24 THE COURT: Without objection, State's Exhibit No. 21
25 is in evidence.

1 (WHEREUPON, State's Exhibit No. 21 was admitted into
2 evidence.)

3 MS. JOSEPH: And we'd ask that this witness be
4 excused.

5 THE COURT: Any objection to this witness being
6 excused?

7 MR. GROSE: Well, I'd like to ask her a couple of
8 questions.

9 THE COURT: Yes, sir.

10 MR. GROSE: And this will be real quick.

11 CROSS-EXAMINATION

12 BY MR. GROSE:

13 Q You just testified that these were the same ones we
14 went over yesterday; right?

15 A Yes.

16 Q I think they're, actually, slightly different from
17 yesterday, aren't they, in the sense that yesterday's were
18 summaries, and these are the actual messages?

19 A Correct. But everything that was in these was in
20 that.

21 Q But these are a little bit more complete?

22 A Yes.

23 MR. GROSE: Okay. Thank you.

24 That's all.

25 THE COURT: Thank you, ma'am.

J.M.

-DIRECT BY MS. JOSEPH

1 You can step down. You can be excused.

2 Call your next witness.

3 MS. JOSEPH: Your Honor, the State recalls J.M.

4 .

5 THE COURT: All right.

6 THE CLERK: Just put your left hand on the Bible and
7 raise your right.

8 WHEREUPON,

9 J.M. ,

10 after first having been duly sworn, testified as follows:

11 THE CLERK: Thank you.

12 DIRECT EXAMINATION

13 BY MS. JOSEPH:

14 Q Hi, J.M. .

15 How are you?

16 A I'm good.

17 How are you?

18 Q I'm good.

19 Thank you for asking.

20 I'm going to hand you some photographs. Okay.

21 A Okay.

22 Q So being very careful and not showing them to the
23 jury, can you look through those photographs?

24 A Okay.

25 Q How many photographs did I hand you?

- 1 A Let me count them. You handed me three.
- 2 Q Three photographs. And do those photographs -- do
- 3 they have anything on them that has a number?
- 4 A They do.
- 5 Q And what color is that thing?
- 6 A Orange.
- 7 Q Okay. And so that sticker is orange. And what
- 8 numbers do you have in front of you?
- 9 A Number one.
- 10 Q And do you have any other ones -- what other numbers?
- 11 A I have number three and number four.
- 12 Q Okay. So State's Exhibit Nos. 1, 3, and 4. Okay.
- 13 Before we talk about those photographs, did you ever live
- 14 in Beaufort County?
- 15 A I'm not sure. But I do remember living somewhere in
- 16 South Carolina.
- 17 Q Okay. So you lived somewhere in South Carolina?
- 18 A I did.
- 19 Q That was kind of near here?
- 20 A I believe so.
- 21 Q And do you know how old you were when you lived in
- 22 this area?
- 23 A It was from seven to nine, I think.
- 24 Q So seventh through ninth grade?
- 25 A No. Seven to nine years old.

1 Q Seven to nine years old. Okay.

2 Now, looking at the photographs, do you recognize
3 photograph one?

4 A I do.

5 Q And how do you recognize it?

6 A It was my birthday. And it's a picture of me.

7 Q It's a picture of you. And it's your birthday. And
8 how old were you turning?

9 A I'm not sure.

10 Q Okay. And where was this photograph taken?

11 A It was taken in one of the houses I lived in.

12 Q And do you know if it was taken in house one or two?

13 A House number two.

14 Q So it was taken in house number two. And you said it
15 was one of the houses that you lived in. Do you mean in
16 South Carolina?

17 A Yes, in South Carolina.

18 Q Going to the next photo. Do you remember how -- can
19 you do that thing we did last time where you did it upside
20 down?

21 A (Witness complied.)

22 Q Perfect.

23 Going to the next photo, what number is that one?

24 A Number three.

25 Q What is that a photo of?

1 A Me and my grandfather.

2 Q You and your grandfather. And where are you?

3 A In one of the houses.

4 Q Do you know if it's house one or house two?

5 A I think it's house number one.

6 Q Okay. And how do you know that that was your house

7 in South Carolina?

8 A We had a door that was next to the kitchen in house

9 number one, I believe. And so that's how I think it is.

10 Q Could you see the door in the --

11 A I do see the door in the picture.

12 Q Do you know how old you were?

13 A No. I'm not sure.

14 Q Can you turn that photo over, too?

15 A On a separate side?

16 Q No. On the same -- let's stack them.

17 Perfect.

18 And what is -- who is photograph number four of?

19 A Of me.

20 Q And do you know how old you were in that photograph?

21 A No. I'm not sure.

22 Q And do you know where you were in that photograph?

23 A I was in the guest bedroom in house number two.

24 Q And who stayed in the guest bedroom in house number

25 two?

1 A My grandfather and someone named Dee. But that was
2 after he would visit, like, that was when he was done
3 visiting.

4 Q So do you think this photograph was taken before or
5 after he visited?

6 A Before.

7 Q Okay. So after that photo was taken, he stopped
8 visiting?

9 A Not after the photo. But there's a bunny in the
10 photo. And my grandfather did have a bunny that he
11 visited with and brought with us.

12 Q So did that bunny only come when he was around?

13 A I'm not sure. But I do remember the bunny staying
14 with us for -- as -- like, a couple of months, or
15 something.

16 MS. JOSEPH: Okay. So if you would put that photo on
17 top of the other ones.

18 Okay. At this time, Your Honor, the State moves to
19 enter State's Exhibit Nos. 1, 3, and 4 into evidence.

20 MR. GROSE: Subject to our previous hearing.

21 THE COURT: All right. So entered. Subject to the
22 objection lodged at the previous hearing by the Defense.

23 (WHEREUPON, State's Exhibit Nos. 1, 3, and 4 were
24 admitted into evidence.)

25 MS. JOSEPH: I beg a moment of the Court's

J.M.

-DIRECT BY MS. JOSEPH

1 indulgence.

2 THE COURT: Yes, ma'am.

3 (Pause.)

4 BY MS. JOSEPH:

5 Q All right. J.M. , I've just handed you some more
6 photos. Take a second and look at those. And be careful
7 that you don't show them to the jury. Okay.

8 A Yes, ma'am.

9 Q You're doing a very good job answering out loud.
10 That's good.

11 Thank you.

12 A I've looked through them.

13 Q Thank you.

14 How many photographs are there?

15 A Four.

16 Q Okay. Let's talk about the one on top. What number
17 is it?

18 A Number 11.

19 Q Okay. And who's in that photo?

20 A Me.

21 Q And where is that photo taken?

22 A One of the houses.

23 Q And when you say "one of the houses," do you mean
24 here in South Carolina?

25 A Yes, here in South Carolina.

1 Q And how do you know that?

2 A Because on Christmas Eve, we got these bean bag
3 chairs in one of the houses. And I'm laying on one of
4 them.

5 Q And do you know how old you were?

6 A I'm not sure.

7 Q Okay. So do what we did before where you flip it
8 over and put it in front of you, please.

9 A (Witness complied.)

10 Q Good job.

11 Okay. What's the next number?

12 A Number 13.

13 Q What does number 13 show?

14 A Me and someone standing in front of the photo.

15 Q Oh, like someone's arm is in front of the photo?

16 A Yes.

17 Q So it's you. And where was that photo taken?

18 A In one of the houses in South Carolina.

19 Q And how do you know that?

20 A We had a blue couch -- well, we had a white couch and
21 we covered it in a blue sheet.

22 Q And you see that couch in the photo?

23 A I do.

24 Q And how old were you in that photo?

25 A I'm not sure.

1 Q And do you know who took that photo?

2 A I believe it was my grandfather.

3 Q All right. And can you pull the photo that was right
4 in front of you, the one that you flipped over --

5 A Right here?

6 Q No, no. Pull it back in front of you. Look at it
7 again. Do you know who took that photo?

8 A I'm not sure.

9 Q Do you have a guess about who took it?

10 A I am guessing it was him.

11 Q Okay. And when you say "him," do you mean your
12 grandfather?

13 A Yes.

14 Q Okay. So can you put -- let's see. I can help.
15 I've made it confusing. I'm sorry.

16 So going to the next photo, what number is that?

17 A Number six.

18 Q And what is that a photo of?

19 A Of me.

20 Q And how old were you in that photo?

21 A I'm not sure. But it looks similar to the last
22 photo.

23 Q So it looks similar to the last photo. And what
24 makes it similar?

25 A I'm wearing the same outfit. The couch is in the

1 background. And, again, someone is standing in the front.

2 Q And where was that photo taken?

3 A One of the houses in South Carolina.

4 Q And who took that photo?

5 A I'm guessing, because it looks similar to the last
6 photo, it was my grandfather.

7 Q Okay. So flip that one over, too.

8 All right. And then what's the next photo?

9 A It's a picture of someone in shorts, which I believe
10 is me.

11 Q And why do you think it's you?

12 A I had neon shorts that I used for a dance recital.

13 Q And were the neon shorts a uniform?

14 A No. It's just something we were required to wear to
15 dance rehearsals.

16 Q So you remember those shorts pretty well?

17 A I do.

18 Q And where was that photo taken?

19 A I'm not sure, because it's a plain background. But
20 in South Carolina, I did take dance classes.

21 Q And who took that photo?

22 A I'm assuming it's my grandfather, because it's just
23 me. My legs are showing and some shorts.

24 Q Okay. So you think it was your grandfather?

25 A I'm thinking it's my grandfather, yes.

J.M.

-DIRECT BY MS. JOSEPH

1 MR. GROSE: I'm going to object to the leading, Your
2 Honor.

3 THE COURT: All right. Sustained.
4 Don't lead her.

5 MR. GROSE: Move to strike.

6 THE COURT: All right.

7 BY MS. JOSEPH:

8 Q J.M. , can you put all the photos back in front of
9 you?

10 A (Witness complied.)

11 Q And then what were the numbers of the photographs?

12 A Do you want me to read all of them?

13 Q Yes, please.

14 A 11, 13, 6, and 15.

15 MS. JOSEPH: Your Honor, at this time, the State
16 moves to enter State's Exhibit Nos. 11, 13, 6, and 15 into
17 evidence.

18 MR. GROSE: Subject to our hearing -- and, again,
19 she's not testified as to who took the photographs. And
20 with State's Exhibit No. 15, she's not certain that it was
21 her.

22 THE COURT: And I will allow them to be admitted, and
23 for the jury to give such weight they deem appropriate.

24 (WHEREUPON, State's Exhibit Nos. 6, 11, 13, and 15 were
25 admitted into evidence.)

1 MS. JOSEPH: Thank you, Your Honor.

2 And we ask for permission to publish them at this
3 time?

4 THE COURT: Any objection to that?

5 MR. GROSE: Just subject to our earlier objection.

6 THE COURT: All right. Subject to your earlier
7 objection. Both sets.

8 MS. JOSEPH: Are you done?

9 MR. GROSE: I haven't started yet.
10 I'll let them look at them, and then I'll ask her
11 some questions.

12 THE COURT: All right.

13 (Pause.)

14 THE COURT: All right. Mr. Grose.

15 MR. GROSE: Thank you, Your Honor.

16 CROSS-EXAMINATION

17 BY MR. GROSE:

18 Q Okay. J.M. , I'm going to show you State's Exhibit
19 No. 1. That's one of the photographs we were just talking
20 about?

21 A Yes, it was.

22 Q And do you remember that photograph?

23 A I do.

24 Q And I believe you said a little bit earlier when the
25 jurors weren't here that you thought your mother took this

1 photograph?

2 A I do think it was taken by my mother. But, again,
3 I'm not sure.

4 Q Okay. So that's State's Exhibit No. 1. And you
5 thought that was by your mother because you -- you
6 remember that's a dress you wore during your birthday
7 party; right?

8 A It was, yes.

9 Q Now, State's Exhibit No. 3, you don't know who took
10 that picture, do you?

11 A I don't.

12 Q All right. But your grandfather is in that picture;
13 right?

14 A He is.

15 Q So we know he didn't take that picture?

16 A We do.

17 Q And that's State's Exhibit No. 3.

18 State's Exhibit No. 4, you don't know who took that
19 photograph, do you?

20 A I'm thinking that it was him because it was in the
21 guest bedroom that he stayed in.

22 Q All right. But when you testified a little earlier
23 when the jurors weren't here, you didn't know who took it,
24 did you?

25 A I said I don't know, but I'm thinking.

1 Q Okay. You're thinking. And, in fact, with these
2 others, State's Exhibit Nos. 6, 11, 13, and 15, you really
3 don't know who took those pictures, do you?

4 A I don't remember being in those photos.

5 Q I'm sorry?

6 A I don't remember being in most of those photos. I
7 don't remember who took them, but I'm guessing.

8 Q So you don't remember when these were taken?

9 A I don't. But I do know they were in one of the
10 houses.

11 Q Okay. And you don't -- you're just guessing who
12 might have taken them?

13 A Yes.

14 Q Okay. In State's Exhibit No. 6, there's somebody
15 else's feet?

16 A Those are my brother's.

17 Q That's your brother?

18 A Yes.

19 Q And when your grandfather was there visiting, other
20 people in the house used the camera, didn't they?

21 A Yes.

22 Q In fact, I showed you -- I showed you this picture
23 earlier, which is, actually, you with one of his cameras
24 taking a selfie; is that right?

25 A It is.

1 Q And so -- and, again, the people that were living
2 there were you, your brother, A.M., and your mother;
3 right?

4 A Yes, sir.

5 Q And Dee would stay there sometimes, too?

6 A After my grandfather was done visiting.

7 Q Okay. But she would visit while he was there?

8 A No. I don't remember her ever visiting when he was
9 there.

10 Q Okay. And you don't remember her coming over with
11 some of her friends sometimes?

12 A There was one night where I think some -- my mom -- I
13 don't know if it was her birthday or it was Dee's. But it
14 was one night where Dee and my mom's friend, they came
15 over. And me and my friend were sleeping over in my room.
16 And we did go down for most of that part. No one was
17 drinking. But Dee wasn't living there.

18 Q Okay. And you would have some of your friends come
19 over sometimes, too?

20 A My friend, yes.

21 Q Okay. And, again, you're just guessing at who took
22 those pictures?

23 A Yes, sir.

24 THE COURT: Ms. Joseph.

25 MS. JOSEPH: Just very briefly.

J.M.

-REDIRECT BY MS. JOSEPH

REDIRECT EXAMINATION

BY MS. JOSEPH:

Q How old are you now?

A I'm 13.

Q How old were you when you lived back in Beaufort?

A What year?

Q Let's -- well, you lived -- how long did you live in
South Carolina?

A Almost four years.

Q And what were the ages again?

A Seven to nine.

Q But you're now 13?

A I am.

Q Do you have a cell phone?

A I do.

Q Do you know what a selfie is?

A Yes, I do.

Q Is this a selfie?

A No.

Q Would you take this photo of yourself?

A No, I wouldn't.

Q Do you like this photo?

A No.

Q Is this a selfie?

A No.

J.M.

-RECROSS BY MR. GROSE

1 Q Did you take this photo of yourself?

2 A No.

3 Q Did you take this photo of yourself?

4 A No, I didn't.

5 Q Okay. What about this one?

6 A No.

7 Q These are not selfies?

8 A They're not.

9 MS. JOSEPH: No further questions.

10 THE COURT: Anything on recross?

11 MR. GROSE: Just to follow-up.

12 RECROSS-EXAMINATION

13 BY MR. GROSE:

14 Q The people in the house used the camera, other than
15 your grandfather; isn't that right?

16 A I'm not sure. I did from that photo you showed me.
17 I'm not sure if anyone else did, because my mom had her
18 own phone and my brother didn't.

19 Q So all of those, though, that she was just showing
20 you, you're guessing as to who took them?

21 A I am. But I'm certain that one of those photos --
22 now that I'm assuming after she did that, when she was
23 going over the photos that weren't selfies, number 15 that
24 was about the green shorts, I -- I'm not guessing. I
25 think I'm saying that it was him that took that photo.

1 Q Okay. But up until now, you've just been guessing?

2 A I have.

3 Q And her questions are prompting you to change your
4 mind?

5 A No. They're just -- I'm just going along as I can.

6 MR. GROSE: Okay. Thank you.

7 FURTHER EXAMINATION

8 BY MS. JOSEPH:

9 Q J.M. , you and I talked on the phone before trial;
10 right?

11 A We did.

12 Q But you only met me on Monday?

13 A Yes.

14 Q And today is Wednesday?

15 A Yes.

16 Q And you only saw these photographs today?

17 A Yes, I did.

18 Q In fact, I showed you these photographs for the very
19 first --

20 MR. GROSE: Objection to the leading, Your Honor.

21 MS. JOSEPH: You're right. I'll rephrase.

22 BY MS. JOSEPH:

23 Q When did I show you these photographs?

24 A You showed me a few minutes ago before the jury
25 walked in -- no. Actually, let me say that again. You

1 showed me before I came into this courtroom.

2 Q Today?

3 A Yes, today.

4 Q Okay. So I showed them to you a few minutes ago?

5 A Yes.

6 Q For the first time?

7 A Not for the first time. You and her --

8 Q Rebecca?

9 A Yes. And your boss came into one of the offices and
10 showed me the photos, and asked me if I remembered who
11 took them.

12 Q Okay. And that was only a few moments ago -- or it
13 was today?

14 A It was today.

15 MS. JOSEPH: No further questions.

16 MR. GROSE: Nothing further.

17 THE COURT: All right.

18 MS. JOSEPH: We ask that she be excused.

19 THE COURT: Any objection to her being excused?

20 MR. GROSE: No, sir.

21 THE COURT: All right. Thank you, J.M. , for
22 coming.

23 MS. JOSEPH: Your Honor, at this time, the State
24 rests.

25 THE COURT: All right. Ladies and gentlemen of the

1 jury, what we're going to do now is -- it's about 4:45.
2 And I'm going to let you go home for the evening.

3 Please, ma'am, please, sir, do not talk about the
4 case with anyone, including persons in your household. Do
5 not pick up any newspapers, or watch any television that
6 has anything to do with this case.

7 If anybody approaches you and wants to find out
8 information about the case, you report that person to me.
9 And I'll deal with him or her accordingly.

10 Now, we're going to start tomorrow morning -- instead
11 of 9:30 as we've been starting the last couple of days,
12 we're going to start tomorrow morning at 9:00. So I need
13 you in your jury room at 9:00 sharp. Because we're going
14 to start very promptly at 9:00.

15 Okay. Have a good night. And I'll see you in the
16 morning.

17 (WHEREUPON, the jury was excused from open court at
18 approximately 4:43 p.m.)

19 THE COURT: Anything else before we retire for the
20 evening?

21 MR. GROSE: Do you want us to do motions now, or do
22 you want us to do them later?

23 THE COURT: Well, I guess -- do you want to go ahead
24 and do them now?

25 MR. GROSE: Yes, sir.

1 THE COURT: All right.

2 MR. GROSE: And I'll start with the two criminal
3 sexual conduct with minor charges.

4 THE COURT: All right.

5 MOTIONS

6 MR. GROSE: The State is relying on, you know,
7 these -- the videotaped interviews that we watched this
8 morning. And the -- I beg the Court's indulgence one
9 moment.

10 (Pause.)

11 MR. GROSE: In the second interview, the July 15th
12 interview, of course, there was nothing about fellatio
13 that was stated in the first interview. In the second
14 interview, there was a question that was asked, was it in
15 the first house, both houses, or something else? And the
16 answer was that it happened in the old house.

17 And the way the indictments are structured, there's a
18 period from April of 2013 to August of 2013, and then
19 that's an indictment that ends in 01674.

20 And then in the indictment that ends 01673 --

21 THE COURT: And you're reading from the amended
22 indictments; right?

23 MR. GROSE: Right. I don't think these were ever
24 amended.

25 MS. JOSEPH: The CSC ones were not amended.

1 MR. GROSE: That time frame is from August of 2013 to
2 April of 2014. And that would have been the period of
3 time they were in the second unit.

4 So with regards to the indictment that ends in 01673,
5 our position is that there's not been any testimony of
6 criminal sexual conduct with a minor in the first degree
7 happening at the second location. And so we would move to
8 dismiss that indictment for that reason.

9 THE COURT: All right. Ms. Joseph.

10 MS. JOSEPH: Thank you, Your Honor.

11 The State has a three-tier argument. The first tier
12 is that the indictments are notice documents. And that
13 all that they're meant to do is put the Defendant on
14 notice for what he was charged with. And all that we must
15 prove is that a sexual battery, as defined by the statute,
16 was committed. So she, in her second interview, testified
17 that the Defendant put his mouth on her privates, which
18 would be a sexual battery at the second location.

19 If Your Honor feels that these are not notice
20 documents and that we must prove fellatio at both
21 locations, then the State would say that in her second
22 interview, she talked about fellatio occurring at the
23 first house. And then on the statement, she testified
24 about fellatio occurring at the second house. So that
25 would satisfy both indictments.

1 Finally, Your Honor, the victim at the time of this
2 alleged incident was nine years old. She was, actually,
3 eight and nine, very young. And the State feels that it
4 is fair, and we feel like we should be allowed to argue
5 that there was some confusion about where it took place,
6 especially because the two houses were so near each other.
7 They were on the same street in Beaufort County.

8 And it's the same offender and the same type of
9 conduct. And, therefore, there may be some confusion.
10 And did she testify it happened more than once. So it's
11 possible it happened at both locations. There was just
12 some confusion.

13 Based on that, we feel like at the directed verdict
14 stage, there is enough evidence to go to the jury if you
15 view the evidence in the light most favorable to the
16 State.

17 Thank you, Your Honor.

18 MR. GROSE: And I don't recall the testimony in the
19 trial about both houses. And the other -- the other issue
20 that I had -- and, remember, we started, you know, with
21 issues about the indictment. And I'm telling you that I
22 thought it was very important for the jurors to have the
23 indictments in this case so that they would know exactly
24 what the charges were.

25 And, in fact, I talked about the indictments in my

1 opening statement. Because in the indictments, they said
2 that the sexual battery that they were going to prove was
3 fellatio on the Defendant by J.M. . It gives her
4 date of birth and the violation of the Code of Laws.
5 That's the element that they picked.

6 That's -- yes, there's that Gentry case out there
7 that talks about indictments being a notice document. But
8 they could write that down on a cocktail napkin and give
9 it to us and it would give us notice.

10 There -- and I realize that a lot of prosecutors
11 treat the Grand Jury like a rubber stamp. But there is
12 still something to the State Constitutional right to have
13 a presentment to the Grand Jury. And they've said that
14 the element that they were going to prove is fellatio.

15 So whatever arguments that they make about another
16 sexual battery, that would be a variance from the
17 indictment. And I can give you a case. It has to do
18 with -- and I can look it up now, but it would probably be
19 easier to give you in the morning. There's a case
20 involving a homicide by child abuse statute where the
21 State elected their theory in the indictment. And on
22 appeal, they said that that was a variance when they --
23 when the State asked the Judge to charge a different
24 section of the homicide by child abuse statute, that was a
25 variance.

1 And to the extent that it's a notice document and
2 only a notice document, this puts us on notice that they
3 were going to prove fellatio. And I brought that up in my
4 opening. And they didn't raise anything then that they
5 were going to change, you know, midstream as to what their
6 theory was in the indictment. And, now, they've rested.

7 So I don't think -- with regards to the second house,
8 I don't -- I don't see -- I don't see any proof that's
9 been presented for that to go to the jury.

10 THE COURT: All right. Anything else before I rule?

11 MS. JOSEPH: Nothing else from the State, Your Honor.

12 THE COURT: All right. I'm going to respectfully
13 deny your motions. I think there's sufficient evidence
14 for the matter to be submitted to the jury on all
15 offenses.

16 MS. JOSEPH: Thank you, Your Honor.

17 MR. GROSE: Well, I haven't even addressed the other
18 three indictments yet.

19 THE COURT: I thought you were addressing all of
20 them.

21 MR. GROSE: No. I said wanted to start with the two
22 CSC indictments. And I've only asked for one of them to
23 be dismissed.

24 THE COURT: All right.

25 MR. GROSE: But if that's your ruling, I'm not going

1 to argue with you.

2 THE COURT: That's as to those two that you talked
3 about. I'll listen to the others. I'll be open minded.
4 Go to the other two.

5 MS. JOSEPH: Just for clarification, these are the
6 amended indictments, Your Honor?

7 THE COURT: Right.

8 MR. GROSE: With regard to the second CSC indictment
9 in the older house, I would just argue that the evidence
10 is insufficient for any reasonable juror to convict.

11 With regards to the two indictments for disseminating
12 obscene material, again, you know, at the directed verdict
13 stage, they still haven't proven compliance with the
14 statute for getting those warrants. I think Your Honor
15 can consider that again.

16 But, also, they have to show that the materials
17 violated 16-15-305. And we don't think there's been any
18 testimony that satisfies that requirement. And we would
19 move to dismiss for failure to establish the elements of
20 the crime.

21 THE COURT: All right. As to both of the criminal
22 sexual conduct indictments, I'll respectfully deny your
23 motion for directed verdict as to those indictments.

24 As to both of the amended indictments regarding the
25 dissemination of obscene material, as to both of those

1 indictments, I'll respectfully deny your motion for a
2 directed verdict as to those two as well.

3 Anything else before we retire for the afternoon --
4 evening?

5 MS. JOSEPH: Nothing else from the State.

6 THE COURT: All right. We'll reconvene back at 9:00
7 in the morning.

8 (WHEREUPON, the proceedings were concluded at
9 approximately 4:54 p.m., to be reconvened on
10 Thursday, May 24, 2018.)

1 THURSDAY, MAY 24, 2018

2 THE COURT: Anything before we bring out the jury?

3 MOTIONS

4 MS. JOSEPH: Yes, Your Honor, briefly.

5 The State has passed up a motion. Although I have
6 spoken with the Defense subsequently, and I think that
7 maybe our motion was premature.

8 Yesterday, as we were leaving, we saw Defense Counsel
9 queuing up a video to practice -- you know, we all
10 practice before we put up a display. In addition, as Your
11 Honor is aware, in his motion he filed pre-trial, he
12 included a page from a polygraph examination.

13 Do you remember that, Your Honor?

14 THE COURT: Yes.

15 MS. JOSEPH: The only videos the State is aware of in
16 this case are the Defendant's statements that he gave to
17 law enforcement. And all polygraph examinations are
18 required to be filmed in the State of South Carolina now.
19 So we had reason to be concerned that they were seeking to
20 enter through the Defendant either his statements or his
21 polygraph examination.

22 When I say his "polygraph examination," I want to be
23 clear. I'm talking both about the actual examination and
24 merely the results, being that he passed. And the State's
25 brief -- which, again, I put in front of Your Honor, and

1 I, also, provided a copy to Seth. As it makes clear, the
2 Defendant cannot get into his own statement. Because it
3 does not satisfy an exception to the hearsay rule, Rule
4 801.

5 If Your Honor were to allow in his statements -- so
6 let's say, you found it did satisfy an exception to the
7 hearsay rule, in his statement, there are several mentions
8 where the -- and I'm paraphrasing here, where the
9 investigator is saying you should take a polygraph
10 examination, you should take a polygraph examination. And
11 there are case law -- there's case law that says if the
12 jury is left with the impression that the Defendant
13 refused a polygraph when, in fact, he did take one, the
14 Defense can satisfy that.

15 But it's the State's contention that they cannot
16 satisfy that polygraph -- they cannot rebut the inference
17 that he did not take a polygraph. They themselves are the
18 one creating that inference.

19 And, also, it's the State's position that a polygraph
20 examination really goes into what the jury's role here --
21 it's the jury's duty -- it's their sole responsibility to
22 determine credibility of witnesses. There's not a per se
23 rule against polygraphs in this state. But they are
24 highly disfavored because a polygraph is a machine that
25 purports to say whether or not a witness is credible. And

1 that's solely within the jury's purview.

2 So for that reason, Your Honor, we would seek to keep
3 out the Defendant's statement and his polygraph.

4 And then we have one other issue after we discuss
5 that.

6 THE COURT: So there's --

7 Mr. Grose, there's a video of some sort?

8 MR. GROSE: She said we discussed it. And it was,
9 basically, I was asking her what she got at. And she
10 said, I suggest you read my three-page motion. I could
11 have answered a lot of this.

12 Yesterday -- this is not my first time in this
13 courthouse, but it's my first time trying a case in this
14 courthouse. And I am not as familiar with the audio
15 system here as I am in the more backwards places where I
16 practice.

17 And so with the assistance of the clerk, we ran a
18 test so I could, you know, know how to do it. And I
19 queued up a video of one of my client's interrogations
20 from another case that I tried.

21 THE COURT: Fast-forward, Mr. Grose. My question is,
22 is there going to be a video in this case?

23 MR. GROSE: I'm not presenting a video. And I was
24 just trying to explain what I was doing is I was -- the
25 video that they saw is from another case. And it was just

1 for the purpose of me testing my integration with --

2 THE COURT: So there's no polygraph?

3 MR. GROSE: No, there's not. Because I'm not seeking
4 to admit the polygraph.

5 Now, I do have a concern, you know -- and I believe
6 we're trying to head things off -- problems before they
7 happen. I would refer you back to Page 2 of my pre-trial
8 motion. Because her motion is -- is not only limited to
9 me not introducing Mr. Dent's statement, but even any
10 mention that he gave a statement.

11 And on Page 2 of that pre-trial brief, I cited State
12 v. Blurton, the Court of Appeals version. Mr. Blurton,
13 actually, won in both venues. But the State v. Blurton
14 case was, actually, a case I tried 20 years ago. So it
15 makes me feel kind of old now.

16 But in that case, Mr. Blurton testified. And there
17 was some evidence that we wanted to get in that was
18 excluded, and including the fact that he had told certain
19 things to law enforcement at the beginning of the case.
20 And then the assistant solicitor gets up and argues in the
21 closing that Mr. Blurton had 16 months, or whatever it
22 was, to sit in the county jail and make up this story.

23 And so, you know, if they either in cross-examination
24 or in closing, you know, want to do something like that --
25 this case is much older, you know. I think we're, at

1 least, allowed, if the right things develop, to say, you
2 know, Mr. Dent, did you give a statement? Did you talk to
3 law enforcement? Did you deny these allegations? Was
4 that right away? Yes. But that may not become a problem.
5 But I'm concerned that, you know, they're going to try to,
6 you know, make use of that. And I just want to head off
7 anything before it happens, so.

8 THE COURT: All right. Very briefly, so we can move
9 along.

10 MS. JOSEPH: In my motion, Your Honor, I have a
11 sentence that says that we recognize that Defense has the
12 right to ask his client, you know, did you cooperate with
13 law enforcement. So we understand that. We just cannot
14 play the video. And he can't just sit here and say, I
15 told law enforcement this, I told law enforcement that.
16 He's on the stand to give testimony today.

17 MR. GROSE: And I'm not planning on doing that today.

18 THE COURT: All right. Anything else?

19 MS. JOSEPH: Yes, Your Honor.

20 I apologize, but one more matter. We have reviewed
21 the Defense's witness list, which they helpfully provided.
22 The first witness --

23 Do you have that list, Your Honor?

24 THE COURT: I do.

25 MS. JOSEPH: The first name on that list is their

1 electronics expert.

2 MR. GROSE: I'm not calling him.

3 MS. JOSEPH: Right. Which is not being called.

4 And then two through eight are family members,
5 neighbors, community members, things like that. So we
6 think that there's a high likelihood that the Defense is
7 going to seek to get in character evidence.

8 And we just wanted to ask again -- first, we want to
9 make Your Honor aware that technically you did not rule on
10 the 404(b) child porn evidence. We think if they're going
11 to enter character evidence about -- I want to be very
12 specific here, about the Defendant's reputation with
13 children -- so they want to say he's around my kids all
14 the time. He has no issue with children. That we
15 would -- in fact, would be allowed to talk about -- or
16 potentially introduce the child porn evidence.

17 So we wanted to flag that for Your Honor and
18 potentially get a ruling on that now.

19 THE COURT: All right. Mr. Grose, first of all, let
20 me ask you this. Of these eight witnesses on this list --
21 and I think yesterday, you alluded to the fact that your
22 Defendant is going to be one of your witnesses.

23 How many of these witnesses are you going to call?
24 Give me their names.

25 MR. GROSE: I'm going to call four witnesses. This

1 is David Dent sitting right here. And this is his mother,
2 Ms. Leffler. I apologize for not remembering her last
3 name. This is Terri Fife and Mitch Fife, who are close
4 friends of Mr. Dent.

5 I do not plan on asking character-type questions.
6 All of these people have something to say that's relevant.

7 THE COURT: To the facts of the case?

8 MR. GROSE: To the facts of this case and,
9 potentially, the specific child that's involved in this
10 case. I'm not going to ask -- I'm not going to ask about
11 any children, other than the interaction between Mr. Dent
12 and his two grandchildren, J.M. and her brother, A.M. .

13 THE COURT: Right. But I want to be very, very
14 clear.

15 MR. GROSE: Yeah.

16 THE COURT: Very, very clear. If these witnesses --
17 if any of their testimony goes down the path that Counsel
18 just asserted -- I'm telling you on the front end so
19 you'll be aware. You can jump up all you want. But you
20 open up that door, I'm going to let them run in with that
21 stuff.

22 MR. GROSE: I'm not planning on doing that.

23 THE COURT: So I'm telling you that right now. So if
24 you hadn't talked to your witnesses and if they go down
25 that path -- even if they go down one inch of that path,

1 I'm going to allow the State to do that. I mean, so I
2 just want to be -- I want to be clear as to where we're
3 going with this.

4 MR. GROSE: All right.

5 THE COURT: Now, the other thing is, I called some
6 witnesses, at least, in the arena that I was recently in,
7 feel-good witnesses. And feel-good witnesses are
8 witnesses who are just going to get up here and say the
9 same thing over and over about -- and I won't say
10 character. I don't know what they'll say.

11 But what you're telling me is none of these witnesses
12 are going to go to the issue of character. All these
13 witnesses are going to touch upon something that has some
14 factual basis, at least, some parallel with the facts in
15 this case?

16 MR. GROSE: Yes, sir.

17 THE COURT: Is that what I'm hearing from you?

18 MR. GROSE: Yes, sir.

19 THE COURT: All right.

20 MR. GROSE: And that's part of why I told you that
21 the four witnesses, in addition to Mr. Dent, would be
22 quick.

23 THE COURT: All right.

24 MR. GROSE: Now, I have a concern about opening
25 doors, too.

1 THE COURT: Okay.

2 MR. GROSE: And, you know, we've only had certain
3 photographs come into evidence. And if they're going to
4 try to cross-examine him about those or if they're going
5 to try to bring in other photographs through him, they're
6 going to open the door to the fact that I wouldn't go into
7 otherwise that we had a hearing where those photographs
8 got excluded.

9 THE COURT: You know, I don't want to anticipate
10 what's going to happen. Let's just cross these bridges
11 once we get to it.

12 But do you want to oppose at a point.

13 MS. JOSEPH: Well, Defense is correct. I mean, this
14 is -- he's right to sort of see down the road. I was
15 going to ask Your Honor if I can ask about the child porn
16 on his computer. I would do so -- it would be one
17 question. The Defendant is free to give whatever answer
18 he wants. And then I would move on.

19 I recognize that I'm incredibly limited. But I think
20 that because the Defendant is taking the stand -- and I'm
21 presuming, he, obviously, has the absolute right not to
22 take the stand. But I could ask one or two questions
23 about that and then move on.

24 MR. GROSE: I -- you know, the --

25 MS. JOSEPH: Without -- I'm sorry. Just to clarify a

1 hundred percent. Without going into the Alabama
2 investigation.

3 MR. GROSE: I don't think that they get to get into
4 that because it's not been established that there was
5 child porn on the computer. And if they get into that, I
6 mean, you know, the testimony was that all the child porn
7 was recovered files. That gets right back into needing to
8 be able to confront the person who, actually, examined the
9 computer.

10 THE COURT: What if they asked him, do you have
11 child -- number one, do you own a computer? Number two
12 is -- I mean, foundation, do you own a computer? What
13 kind of computer it is? How long have you had the
14 computer? And is child pornography on your computer? And
15 that's a yes or no answer.

16 MR. GROSE: I don't think that that's relevant. I
17 think that gets into other bad acts. That gets to the
18 404. And they withdrew that motion yesterday, so.

19 THE COURT: Well, based upon what the indictments
20 are, I mean, I don't see anything wrong -- I mean, if
21 his -- obviously, he's come into court and he's pled not
22 guilty to all four indictments. I mean, that's his
23 premise that he came into court with.

24 So the State is asking based on the language in the
25 indictment, which it, obviously, talks about pornography,

1 do you have pornography on your computer? He came in here
2 and says he's not guilty of any of this.

3 MR. GROSE: Now, that might be a different question,
4 Judge. Because the -- the indictment says that -- I have
5 it in a folder. But the indictment says he showed her
6 pornography.

7 And the information on the videos that we've watched
8 is that it was of adults kissing each other. And the
9 testimony in the courtroom was of people implying adults
10 having sex.

11 So if they ask him about pornography, that's one
12 thing. If they ask him about child pornography, that's
13 implying a bad act. That's implying a crime. That's what
14 404(b) is exactly intended to exclude.

15 THE COURT: Well, let me just say this, Mr. Grose.
16 Since we're having that discussion, so you'll know, if
17 that -- if he were -- if that question came up, I'm going
18 to allow that question.

19 MR. GROSE: Okay.

20 THE COURT: In the format that I just -- I mean,
21 obviously, you could object to it. But since we're having
22 that discussion, I would allow the State to ask that
23 question.

24 MR. GROSE: And then here's the thing, Judge.
25 Because I'm a little confused. Because a minute ago, they

1 were trying to keep me from opening the door about
2 character evidence. Because if I opened the door, you
3 were going to let them rush through it with the child
4 pornography stuff. And, now, they're saying they're going
5 to ask him about that. All these witnesses are aware of
6 that allegation.

7 So if they do that, then I might have to ask them --
8 knowing these allegations, I might have -- my intent was
9 not to get into character evidence. And they were wanting
10 me not to do that. But, now, they're saying oh, yeah,
11 we're going to get into this, but we're going to exclude
12 your good stuff. I mean, you're letting them go through
13 that door before we pushed it open even a millimeter.

14 THE COURT: Well, no door has been opened right now.
15 All the doors are closed, as far as I can see, right now.

16 MR. GROSE: Well, but you've said you're going to
17 allow that question.

18 THE COURT: I'll just have to see. I don't know
19 where the witnesses testimony is going to go, either your
20 witnesses or -- I mean, the witnesses in the back for the
21 Defendant.

22 And I think it's good we're having this discussion
23 now. Because, obviously, I don't want to continue to let
24 the jury go in and out on these legal issues. And we need
25 this train to move as quickly as we can.

1 So let's -- let's resolve this issue right now.
2 Because I don't want to send the jury out. We're going to
3 be bogged down talking about the same thing then that
4 we're talking about now, so.

5 MR. GROSE: Well, I think that's a good idea, Judge.
6 So if -- if they're going to ask about -- I'm going to
7 tell you right now.

8 THE COURT: Right.

9 MR. GROSE: If they ask a question about child
10 pornography, I am moving for a mistrial. Because that
11 would be, in my opinion, a violation of 404(b), and what
12 we briefed, and what we knew was going to be an issue
13 coming into court this week. And I've got to do that to
14 protect the record.

15 And once those words child pornography go through
16 this courtroom, you can't unring that bell. That is --
17 that is a loud bell that's going to reverberate through
18 this courtroom and is not going to go away. So if that is
19 asked, I'm going to move for a mistrial. And it may be
20 granted, it may not be granted. But it's going to insert
21 a huge issue for appeal in this case that is not here
22 right now.

23 THE COURT: Anything?

24 MS. JOSEPH: Your Honor, you articulated the question
25 the State wants to ask. We will ask it in the way you

1 articulated it, you know. You gave a foundational
2 question and then you asked the question. The State is
3 aware, as Your Honor said, that it is a yes or no
4 question. And we are not seeking to enter extrinsic
5 evidence about that.

6 The Defendant has an absolute right to take the
7 stand. He has an absolute right to not take the stand.
8 When he takes the stand, he does open himself up to
9 questions.

10 And, Your Honor, I understand Mr. Grose's point that
11 the accusations here are about Mr. Dent showing the victim
12 child porn. The State has been arguing consistently that
13 the Defendant taking photos of the victim were part of
14 grooming. And these were -- him taking sexualized photos
15 of his granddaughter and they were escalating, you know,
16 in order to culminate any sexual abuse --

17 THE COURT: Well --

18 MS. JOSEPH: Yes, sir.

19 THE COURT: I didn't mean to cut you off.

20 But what I was saying earlier was if that question
21 was asked as I articulated it a minute ago, that's a yes
22 or no answer. The State moves on.

23 MS. JOSEPH: Exactly.

24 THE COURT: And if Mr. Dent -- I don't know what he's
25 going to say. But if Mr. Dent says, no, the State moves

1 on.

2 MS. JOSEPH: Yes, sir.

3 THE COURT: If Mr. Dent says, yes, the State moves
4 on.

5 Based upon that colloquy between the questioner and
6 the person that's answering the question, I see -- it's
7 hard for me to anticipate, Mr. Grose, that that would be
8 in any way prejudicial to the Defendant. There's no
9 elaboration. There's just that specific question, a yes
10 or no answer. And the State moves on.

11 MR. GROSE: And is -- am I understanding -- and this
12 is more of a question for opposing Counsel than you. But
13 am I understanding that she's going to ask the question
14 limited to pornography and not say child pornography?

15 MS. JOSEPH: No. I'm going to say child pornography.

16 MR. GROSE: Then I'm moving for a mistrial when she
17 does that.

18 THE COURT: I mean, you have every right to do that.
19 And I'll address it at the appropriate time. But it's
20 either a yes or no answer and --

21 MS. JOSEPH: And the State moves on.

22 THE COURT: The State moves on. But based upon these
23 discussions from both sides, following that path, the
24 Court does not envision that that would exhibit any
25 prejudice towards Mr. Dent. And, certainly, the Court is

1 cognizant about that. The Court is aware of that.

2 So that's the path that will be followed if, in fact,
3 we get to that particular juncture and that's the way the
4 question is going. I don't know which way the question is
5 going to go. But, certainly, any --

6 And, Mr. Grose, obviously, we're going back through
7 this duplication of testimony. Obviously, we don't --
8 just try to be as succinct as you possibly can so
9 witnesses don't duplicate testimony about -- or anything.

10 MR. GROSE: And, Judge, I need five minutes to confer
11 with Mr. Dent.

12 THE COURT: All right. It's 25 until 10:00. I'll
13 give you 20 to 10:00. I'll sit right here and give you
14 five minutes.

15 Do you want to take him outside?

16 MR. GROSE: I would like to take him in one of these
17 private rooms. They might be occupied.

18 (WHEREUPON, a break was taken.)

19 THE COURT: Anything else before we bring the jury
20 out?

21 MR. GROSE: Yes, just very briefly. I've got some
22 requests to charge I'd like to hand up, which they're
23 pretty standard. But I do want to know, at some point
24 later before closing, what definition of reasonable doubt
25 Your Honor is going to use.

1 And the other thing is, it was brought to my
2 attention this morning by some of the people in the
3 courtroom that sometimes when I'm up questioning
4 witnesses, the Prosecutors have been up and walking around
5 or making faces in response to some of the questions. And
6 I would just ask that that not occur anymore.

7 THE COURT: All right. Don't make any faces, y'all.

8 MS. JOSEPH: Thank you, Your Honor.

9 THE COURT: Anything else?

10 MR. GROSE: No, sir, not at this time.

11 THE COURT: All right. Where's my bailiff?

12 All right. Let's go get them.

13 THE BAILIFF: Yes, sir, Judge.

14 MS. JOSEPH: Your Honor, don't we need to do this --
15 I don't know what it's called, but the little talk to the
16 Defendant about his right to testify?

17 THE COURT: Yes.

18 MS. JOSEPH: Sorry. I forgot all about that.

19 MR. GROSE: And I think that can be satisfied through
20 a colloquy between the Judge and Counsel. I've informed
21 Mr. Dent that he has the right to testify or not testify.
22 And it's his decision either way. And he's chosen to
23 testify.

24 THE COURT: All right. And, Mr. Dent, would you
25 stand up for me?

1 Raise your right hand.

2 WHEREUPON,

3 CHARLES DENT,

4 after first having been duly sworn, testified as follows:

5 THE COURT: Hold on one second.

6 THE BAILIFF: Okay.

7 THE COURT: All right. You can put your hand down.

8 Your lawyer, Mr. Grose, indicates that you -- that he
9 advised you of your right to testify or not testify.

10 DEFENDANT DENT: Yes, sir.

11 THE COURT: You fully understood those rights?

12 DEFENDANT DENT: Yes, sir.

13 THE COURT: And you're not under the influence today
14 of anything that would impact your judgment?

15 DEFENDANT DENT: Absolutely not.

16 THE COURT: You're clear minded and you understand
17 what you're doing?

18 DEFENDANT DENT: Absolutely.

19 THE COURT: And you're satisfied with the discussions
20 that you've had with Mr. Grose regarding that right to
21 testify or not testify?

22 DEFENDANT DENT: Yes, sir.

23 THE COURT: Any questions of me?

24 DEFENDANT DENT: No, sir.

25 THE COURT: Any questions of your lawyer?

1 DEFENDANT DENT: No, sir.

2 THE COURT: All right.

3 MR. GROSE: Thank you, Judge.

4 THE COURT: Bring them in.

5 Thank you, Ms. Joseph.

6 MS. JOSEPH: Thank you, Your Honor.

7 (WHEREUPON, the jury came into open court at
8 approximately 9:42 a.m.)

9 THE COURT: All right. Good morning.

10 Mr. Grose, are you ready to proceed?

11 MR. GROSE: I am, Your Honor.

12 At this time, I would call Charles Dent.

13 THE COURT: All right. Mr. Dent, come forward.

14 THE CLERK: Good morning.

15 If you would, place your left hand on the Bible and
16 raise your right hand.

17 WHEREUPON,

18 CHARLES DENT,

19 after first having been duly sworn, testified as follows:

20 THE CLERK: Thank you.

21 THE BAILIFF: Right this way, sir.

22 THE COURT: Yes, sir.

23 DIRECT EXAMINATION

24 BY MR. GROSE:

25 Q Charles, you are the Defendant in this case?

1 A Yes.

2 Q And one of the allegations is that you took pictures
3 of your penis and showed them to your granddaughter,
4 J.M. . Did you do that?

5 A No, I did not.

6 Q Another allegation is that you showed your
7 granddaughter, J.M. , pornography. Did you do that?

8 A No, I did not.

9 Q One of the allegations is that you forced J.M. to
10 commit fellatio on you, oral sex on you at the first
11 townhouse that they lived at here in the Beaufort County
12 area. Did you do that?

13 A No, I did not.

14 Q And the final allegation is that you had J.M.
15 perform oral sex on you at the second townhouse that they
16 lived in here in Beaufort County. Did you do that?

17 A No, I did not.

18 Q And did you ever do anything, touch J.M. , or have
19 her do anything in a sexually inappropriate manner?

20 A Absolutely not.

21 Q Charles, what I want to do is go back and ask you a
22 little bit about your background so the jury can know a
23 little bit about you. Where were you born?

24 A In Tampa, Florida.

25 Q I'm sorry. Can you speak into that microphone?

1 A In Tampa, Florida.

2 Q And, just generally, where did you grow up?

3 A In Florida in my early years, and in Tennessee in my
4 later years in school.

5 Q All right. And what kind of schooling did you have?

6 A I have a twelfth-grade education. And in my military
7 career, I went to several schools, probably a second year
8 college level.

9 Q So you said you had a military career. What branch
10 were you in?

11 A I was in the United States Navy.

12 Q And what year did you enter the United States Navy?

13 A In 1985.

14 Q And how long did you spend in the Navy?

15 A 20 years.

16 Q And while you were in the Navy, were you stationed in
17 various places around the country?

18 A Yes.

19 Q And where were those places?

20 A I started my career in Great Lakes, Illinois. I was
21 stationed at a naval air station in Atlanta. I was in a
22 squadron in Point Loma, California. I returned to
23 Atlanta. And then my last duty station was staff
24 headquarters in New Orleans, Louisiana.

25 Q And what types of positions did you hold in the Navy?

1 A I started out as a very young recruit. And I
2 progressed up to the level of first class petit officer by
3 my retirement.

4 Q And as part of that, did you have a security
5 clearance?

6 A Absolutely.

7 Q And did you have responsibilities regarding security
8 and homeland security?

9 A Yes. I was, actually, an instructor for
10 anti-terrorism training. And that required a confidential
11 clearance.

12 Q Okay. Now, we've been introduced to Lori Mayo, your
13 daughter, this week. Her mother, is her name, also, Lori?

14 A Yes, it is.

15 Q Okay. And were you married to the older Lori?

16 A Yes, I was.

17 Q Okay. And how many times were y'all married?

18 A We, actually, were married twice. We divorced for a
19 little over a year, and then we got remarried.

20 Q Okay. And so when was the first time that you got
21 married, just approximately?

22 A 1985, I believe.

23 Q And how long were you married before the divorce?

24 A We were married until 1993, I believe. And we were
25 remarried in 1994.

1 Q Okay. When -- when you were divorced for that year,
2 where were you stationed at that time?

3 A Excuse me. Could you ask me --

4 Q Yes, sir. Charles --

5 MS. JOSEPH: Your Honor, objection to 401, 402
6 relevance. I've let him go into his background. But at
7 this point, we've gone far beyond that.

8 THE COURT: I'm going to sustain the objection.

9 MR. GROSE: Okay.

10 THE COURT: Streamline.

11 BY MR. GROSE:

12 Q So you and Lori, your wife -- ex-wife, did y'all have
13 any children together?

14 A Yes, we did.

15 Q Okay. And how many children did you have?

16 A We had three.

17 Q All right. And who were those children?

18 A Michael, the oldest, was my stepson.

19 Q Okay.

20 A And Michelle, my daughter, and my son, Matthew.

21 Q Okay. So Michelle -- when you say "Michelle," that's
22 how you distinguish between Lori, the mother, and Lori,
23 the daughter?

24 A Yes.

25 Q Okay. So Michelle and Matthew were your biological

1 children; right?

2 A Yes.

3 Q And we've heard mention of an Uncle Michael this
4 week. That was your stepson?

5 A That is my stepson, yes, sir.

6 Q Okay. Now, when -- when you divorced the second
7 time, were the children still young?

8 A Yes, they were.

9 MS. JOSEPH: Your Honor, again, under 401 and 402,
10 we're going to object to relevance.

11 MR. GROSE: I'm getting into who lived with who.

12 THE COURT: I'm going to sustain the objection.

13 Mr. Grose, move on.

14 MR. GROSE: Okay.

15 BY MR. GROSE:

16 Q Let me jump forward to 2012. In 2012, where were you
17 living?

18 A I was living in Alabama. I own a farm there.

19 Q And was anybody living with you in Alabama?

20 A My son, Matthew.

21 Q And at that time, do you know where your daughter and
22 her two children were living?

23 A Yes. They were living in Jacksonville, Florida.

24 Q Okay. And prior to 2012, was Matthew living with
25 you?

1 A Yes, he was.

2 Q And would he travel to Florida?

3 A Yes. He would travel every year.

4 Q And how long would he --

5 MR. GROSE: Judge, we had testimony about this.

6 THE COURT: Let me hear the objection first.

7 MS. JOSEPH: Again, it's relevance. We're in
8 Florida. All the allegations are in Beaufort. And Lori
9 Mayo testified, Your Honor, that she had no contact with
10 the Defendant prior to Matthew's death. So anything prior
11 to Matthew's death is not relevant.

12 MR. GROSE: Well, it's -- there was testimony about
13 Matthew.

14 THE COURT: I'm going to sustain the objection.

15 Let's just move on.

16 MR. GROSE: Okay.

17 BY MR. GROSE:

18 Q In 2012, did something happen to Matthew?

19 A Yes.

20 Q And what happened?

21 A He committed suicide.

22 Q Okay. Was that hard on you?

23 A Very, very hard.

24 Q And when he committed suicide, were -- where was --
25 where were the services for him?

1 A We had a memorial service in Jacksonville, Florida.

2 Q Okay. And at that point, did you begin having
3 contact with Michelle and the children?

4 A Yes.

5 Q Okay. And how did that contact begin?

6 A What do you mean by --

7 Q Well, how did you first kind of get back in touch
8 with Michelle?

9 A After the memorial service, all -- all -- Michael and
10 Michelle were down there for the memorial service. And I
11 just got to know them during that short period of time a
12 little better. I, certainly, was down there several times
13 before that.

14 Q And when you were down there for the memorial
15 service, did you have a chance to observe where they were
16 living?

17 A Yes.

18 Q And what were the conditions of where they were
19 living?

20 A It was very poor. It was what I would call a crappy
21 neighborhood.

22 Q And when you were down there for Matthew's memorial
23 service, was anybody else from your family there with you?

24 MS. JOSEPH: And, Your Honor, again, we're going to
25 object to relevance. Now, we're talking about a funeral

1 and --

2 MR. GROSE: Well, I have to -- this is relevant to
3 the decision for them to move to South Carolina.

4 THE COURT: All right. Mr. Grose, I've been pretty
5 lenient. I'm going to sustain the objection on --

6 The relevancy objection, Counsel, that's what it was?

7 MS. JOSEPH: Yes, Your Honor.

8 THE COURT: I'm going to sustain that.

9 So let's move on.

10 MR. GROSE: Okay. Thank you.

11 BY MR. GROSE:

12 Q Were there ever any discussions about Michelle and
13 the children moving to South Carolina?

14 A Yes, there were.

15 Q And were you part of those discussions?

16 A Yes.

17 Q And who else was part of those discussions?

18 A My brother.

19 Q Who's your brother?

20 A David Dent.

21 Q And as a result of those discussions, what was
22 decided?

23 A I wanted to get them away from the conditions the
24 children were living in. It was very frightening where
25 they were at. And I thought a better location, better

1 schools would improve their quality of life.

2 Q And so how was the Beaufort area selected?

3 A My brother, at the time, leased property on Hilton
4 Head. And he was telling us how beautiful it was, how --
5 what a great community it was.

6 Q So in what month did Matthew pass away?

7 A In June of 2012.

8 Q Okay. And so how soon after that did Lori and your
9 grandchildren move to the Beaufort area?

10 A In mid-August.

11 Q Of the same year?

12 A Yes.

13 Q Now, when they lived here, what was the -- did they
14 live in more than one townhouse when they lived here?

15 A Yes.

16 Q And were those townhouses in the same complex?

17 A Yes, they were.

18 Q Can you describe the first townhouse they lived in?

19 A The first townhouse I leased was a two-bedroom, two
20 and a half bath. It was very small, perhaps, 900 square
21 feet.

22 Q Okay. And what was the arrangement for paying the
23 bills for that townhouse?

24 A I -- I paid for everything, the lease, the cable, the
25 water, the electricity. And Michelle was unemployed. She

1 couldn't afford to pay for anything.

2 Q Okay. So were you paying the entire rent?

3 A Absolutely.

4 Q Okay. And did you and Michelle have some
5 expectations as far as what was going to happen with
6 regard to responsibility for the bills?

7 A Yes. Michelle's credit was very poor. And we put
8 her name on, perhaps, everything, the electric, cable, the
9 lease in an attempt to improve her credit. And I would
10 give her the money. I would deposit the money into her
11 account and she would be able to write the check.

12 Q And was there going to be a point where she was going
13 to take over the bills?

14 A Absolutely. She was very independent. And she
15 wanted to be able to support herself and her children.

16 Q And what was the plan for when that was going to
17 happen?

18 A The original plan was one year. We felt like by the
19 end of the first -- of the lease, then she would be able
20 to be independent.

21 Q Okay. And did that happen at that stage?

22 A No, it did not.

23 Q Okay. Now, you described the size of the townhouse.
24 Do you remember how much you were paying in rent for the
25 first townhouse?

1 A Yes. It was \$900 per month.

2 Q Okay. So at the end of the year, did you agree to
3 continue paying the bills?

4 A I did. There was no way they could survive or live
5 here without that.

6 Q Okay. Now, what -- at what point did they move into
7 the second townhouse?

8 A At the end of the lease, we -- I decided they needed
9 a much larger place. I didn't have anywhere to stay when
10 I was there in the original thing. So I had to sleep in a
11 recliner downstairs in the living room. And I wanted a
12 place where I could, at least, have a place to stay when I
13 was over visiting.

14 Q And we're going to come back to that in a second.
15 But how much bigger was the new townhouse?

16 A The new townhouse was a four-bedroom, three and a
17 half bath townhome with a garage.

18 Q Okay. And do you recall what the cost -- or the
19 lease amount was for that townhouse?

20 A Yes. It was \$1,100 per month.

21 Q Okay. So that was \$200 more than the first one?

22 A Yes.

23 Q Okay. And do you remember the date that they moved
24 into the second townhouse?

25 A Yes. The lease was up on August 30th. And we moved

1 that weekend.

2 Q Okay. So August 31st, September 1st is when that
3 started?

4 A Yes.

5 Q Okay. Now, you talked about when you would visit.
6 Did you reside there the entire time?

7 A No, I did not.

8 Q And you have -- still have property in Alabama?

9 A Yes. I own a small hobby farm in Alabama.

10 Q And just where in Alabama is that?

11 A It's 60 miles from Birmingham.

12 Q So if you're going to come from Alabama to Beaufort,
13 how long does that take?

14 A It's a six-hour drive, at least.

15 Q And when you would come, would you, also, include
16 other visits in your trip?

17 A Yes.

18 Q And who else would you visit?

19 A I would visit my friends, Terri and Mitch. They
20 lived in Charleston at the time. And my mother lived in
21 Mooresville, as did my brother. And I would travel there
22 before I came here, or I would travel there after I left
23 here.

24 Q Now, would you -- did you ever buy presents for the
25 children?

1 A Absolutely.

2 Q And did you buy them for just one, or did you buy
3 them for both?

4 A No. I bought them for both, equally.

5 Q Okay. And when you say that, how did you go about
6 deciding what type of presents to buy?

7 A They were two very different children. A.M. was a
8 video gamer from the age of three. And he was obsessed
9 with that. So I would try and buy him a video game or,
10 perhaps, some accessories for his gaming system. And then
11 I would buy J.M. something equally priced.

12 Q Okay. So -- and would you try to tailor what you
13 bought J.M. to her interests?

14 A Yes. She was very much into dolls and girly stuff.
15 I would buy her doll houses, and things like that.

16 Q And did anybody else ever shop with you when you were
17 buying your grandchildren presents?

18 A Yes. I would travel and see my mother in Charlotte
19 before I came down. And we would go to thrift stores and
20 different places looking for gifts for both of them.

21 Q Now, when you were visiting in South Carolina, how
22 much would you come?

23 A When we [sic] first moved here, I couldn't come very
24 often. I was very busy with my farm. Perhaps, once a
25 month, maybe every five weeks or so.

1 Q And, typically, how long would you stay?

2 A Sometimes just for the weekend. Perhaps, on
3 holidays, I would stay a little bit longer.

4 Q And when you would come here, would you take
5 photographs?

6 A Of course.

7 Q All right. And would you take photographs of your
8 grandchildren?

9 A Yes.

10 Q The first townhouse they moved into in August of
11 2012, do you remember the holidays from that year?

12 A I do. I wasn't able to come to every holiday.

13 Q All right. Did you make Thanksgiving?

14 A I think I did.

15 Q Okay. Were you able to make them both that year?

16 A Both?

17 Q Thanksgiving and Christmas. I'm sorry.

18 A No, I was not.

19 Q And when you -- for the holidays that you were there,
20 was there any other of your family that visited as well?

21 A Yes. My brother and my mom both stayed in Hilton
22 Head during the holidays -- those holidays.

23 Q Now, during that first year -- during the time they
24 were in the first townhome, did any issues start to arise
25 between you and Michelle?

1 A Yes. There was some financial issues.

2 Q And can you tell us about that?

3 A The original plan was for Michelle to become
4 independent and be able to live on her own with her
5 children at the end of the year. And she was unemployed
6 the majority of that year.

7 Q Okay. And did y'all begin to have any discussions or
8 issues about the finances?

9 A Yes.

10 Q Okay. And can you tell us about that?

11 A Yes. J.M. expressed a desire to -- to be in a
12 dance class, a dance school, acrobatics. And I signed her
13 up for that. And A.M. was interested in Boy Scouts and
14 fishing. And we did that on a regular basis. I paid for
15 all of that.

16 Michelle, being unemployed, she -- she had food
17 stamps and -- but she didn't have money for other things.
18 I had to help her with her car payment, and insurance, et
19 cetera.

20 Q All right. And so after the move into the second
21 townhome, did -- was there any escalation in any of those
22 concerns?

23 A Yes. Michelle didn't want to move there because the
24 cost had increased. And she could not afford the first
25 apartment at a cheaper price. She, certainly, could not

1 afford the more expensive one. However, I was paying for
2 everything.

3 So I insisted that if I were going to come over and
4 visit and help support them, I would have to have a place
5 I could stay, also.

6 MR. GROSE: I beg the Court's indulgence for a
7 moment.

8 (Pause.)

9 BY MR. GROSE:

10 Q I want to show you some documents. If you could look
11 at those first, please.

12 A (Witness complied.)

13 Q And what are those?

14 A Those are screen shots of Facebook messages.

15 Q And who are those between?

16 A Me and my daughter, Michelle.

17 Q And what timeframe were those messages?

18 A This is -- I didn't bring my glasses. I'm sorry. I
19 apologize. I'm sorry.

20 Q No problem.

21 A They appear to be in September of 2013.

22 Q Okay. And what was the subject matter of those
23 messages?

24 A They were concern -- they were conversations about
25 the finances.

1 Q What issue was discussed in some of those?

2 A In one of them, Michelle tells me that the kids are
3 home alone with no phone and this makes me want to quit my
4 job. The kids are, also, starving. We have no food, no
5 food stamps, no money.

6 Q So was she wanting you to send more money?

7 A Absolutely.

8 Q And were you, also, sending Michelle an allotment?

9 A Yes. When I was in the military, I set up an
10 allotment to come out of my pay for the children. And
11 that continued after I retired from the military.

12 Q Okay.

13 A That allotment was increased several times.

14 Q And did that allotment, eventually, go to Michelle?

15 A Yes, it did. It went to her and to my son, Matthew.

16 Q I want to show you State's Exhibit No. 21, which is a
17 multiple-page document. And I want you to look at this
18 particular message right there.

19 A Okay.

20 Q Can you tell the date of that by looking at it?

21 A July 3rd, 2014.

22 Q Okay. And does that text message refer to the
23 allotment?

24 A Yes, it does.

25 Q And what does it say?

1 A It is from Michelle to me. And it says, I'll be
2 expecting the rent money and my allotment in my account by
3 Friday, unless you want your mom and brother to find out,
4 too.

5 Q Now, in 2014, were you making any decisions about the
6 arrangement that you and Michelle had?

7 A In 2014?

8 Q In 2014.

9 A Yes, I was.

10 Q And what were you considering?

11 A I was considering ending the lease and trying to find
12 them a much cheaper place where she could possibly live
13 independently with her children.

14 Q And were you thinking about whether or not you were
15 going to continue sending --

16 A I had already decided I was not going to continue to
17 be on the lease. It would be her own.

18 Q And at what point did you make that decision?

19 A Perhaps, as early as March or April of 2014.

20 Q And when you were going through the process of trying
21 to make that decision, would you talk to anybody else
22 about it?

23 A Yes, I did. I discussed it a lot. I lived at home
24 alone since Matthew passed away. And I would call my
25 friends and my brother. He is very intelligent with

1 finances. And I would discuss it with him.

2 Q So your brother, David, that you mentioned earlier?

3 A Yes, David.

4 Q And your friends, who are you referring to?

5 A Mitch and Terri, particularly Mitch. I didn't talk
6 as much to Terri.

7 Q And Mitch and Terri, where do they live?

8 A They live in Charleston.

9 Q Moving back to the holiday season in 2013, did you
10 visit South Carolina around the holidays?

11 A Yes, I did.

12 Q Did you stay in the apartment?

13 A Yes.

14 Q Was there a time where you visited, but you stayed
15 with your brother?

16 A Yes. My brother and mother stayed on Hilton Head
17 during the holidays, Thanksgiving and Christmas. And we
18 would go over there and have the family meals. And I was
19 with them.

20 Q Did Michelle and the children come over for those
21 meals?

22 A Yeah.

23 Q In 2013?

24 A Yes.

25 Q Okay. Was there a time that you and your brother

1 delivered presents?

2 A Yes, we did at Christmastime. At Christmastime, I
3 didn't stay at the apartment. I stayed with my brother on
4 Hilton Head.

5 Q Okay. So you stayed there at Thanksgiving, but not
6 at Christmas?

7 A Correct.

8 Q So at Christmas, even though you weren't staying
9 there, were there presents for the grandchildren?

10 A Absolutely, large box.

11 Q And who helped you deliver them?

12 A My brother. It was such a large container with the
13 gifts inside, we both had to carry it inside.

14 Q Okay. And did you buy gifts for everyone?

15 A Absolutely.

16 Q Now, at some point -- at some point, did you learn
17 about somebody named John Camelo?

18 A Yes, in mid-2014.

19 Q Okay. And how did you find -- well, did you ever
20 meet him?

21 A I was introduced to him. But we were sitting in a
22 truck and he was in a van.

23 Q And did you have time to have any lengthy
24 conversation with him?

25 A No, not at all.

1 Q And were you ever told anything about his background?

2 A I was. I was told...

3 Q All right. And what were you told?

4 A I was told that he -- excuse me -- that he worked for
5 the pool company as a maintenance man. And he was living
6 in an extended-stay motel.

7 Q Were you told anything else, other than that?

8 MS. JOSEPH: Your Honor, objection. Hearsay.

9 THE WITNESS: No.

10 THE COURT: Sustained.

11 BY MR. GROSE:

12 Q Were you -- in 2014, up to the time that you were
13 arrested, were you ever aware that John Camelo had an
14 experience -- or history in law enforcement?

15 A No, I was not.

16 Q Before you were arrested in 2014, were you aware that
17 John Camelo had been a private investigator?

18 A No, I did not.

19 Q Okay. Did you ever learn that John Camelo was going
20 to be moving into the townhouse?

21 A I found out after the fact. He moved in sometime in
22 June or early July. And I was not aware of that. I was
23 told that.

24 Q Okay. And who told you that?

25 A My granddaughter, J.M. .

1 Q Okay. And what did you think about John Camelo
2 moving into the townhouse?

3 A I was very concerned. I didn't know the man at all.
4 I thought it was really strange that Michelle and him had
5 only been dating, perhaps, less than a month and he moved
6 in. And he moved into the part of the townhome that I
7 lived in when I was there.

8 Q Okay. And did you express those concerns?

9 A Yes, I did.

10 Q And was that the source of more tension between you
11 and Michelle?

12 A It was -- it was very concerning, mainly, because of
13 the grandchildren, a stranger moving in and living there,
14 taking care of the kids, and watching them when Michelle
15 wasn't there.

16 Q All right. And I asked you in the beginning whether
17 or not you had ever done anything sexually inappropriate
18 with J.M. . Did you ever make any threats to J.M. ?

19 A No, I did not.

20 Q And just so we're clear. Did you ever show J.M.
21 pictures of your penis?

22 A No, I did not.

23 Q And did you ever show J.M. pornography?

24 A No, I did not.

25 Q And did you ever have J.M. perform oral sex on

1 you?

2 A No, I did not.

3 Q At any location?

4 A No.

5 MS. JOSEPH: Your Honor, at this point, we'd object,
6 asked and answered. He's not allowed to just ask the same
7 questions he asked at the beginning.

8 THE COURT: I'm going to sustain that.

9 Counsel, that was already asked earlier.

10 MR. GROSE: Thank you, Your Honor.

11 At this time, I don't have any other questions.

12 THE COURT: Cross-examination.

13 MS. JOSEPH: Thank you.

14 CROSS-EXAMINATION

15 BY MS. JOSEPH:

16 Q Do you have State's Exhibit No. 21 in front of you
17 still?

18 A I do.

19 Q Do you have those Facebook messages as well?

20 A I do.

21 Q Will you hand those to me?

22 A Sure.

23 Q I'm handing these back to you.

24 A Thank you.

25 Q How do you recognize those Facebook messages?

1 A I don't understand. What do you mean?

2 Q Let me rephrase the question. That's a Facebook
3 conversation?

4 A Yes. It's Facebook messages.

5 Q Right. And it's between you and your daughter?

6 A Yes.

7 Q So you recognize the conversation, because it's a
8 conversation between you and your daughter?

9 A Yes.

10 Q Okay. On your Facebook app?

11 A Yes.

12 Q Okay. And there's a date on it?

13 A (There was no response.)

14 Q It might be really small.

15 A I'll put my glasses on. Do you want to know the
16 date?

17 Q No. Just is there a date on it?

18 A There is one on it.

19 Q And is that a true and accurate depiction of that
20 conversation? And if you need to take a moment to review
21 it, I understand. So what I'm asking is, has that
22 conversation been altered? Is it an accurate picture of
23 that conversation?

24 A Yes, it appears to be.

25 MS. JOSEPH: Your Honor, at this time, we move to

1 enter this as State's Exhibit No. 23.

2 MR. GROSE: No objection.

3 THE COURT: Without objection, State's Exhibit No.
4 23.

5 (WHEREUPON, State's Exhibit No. 23 was marked for
6 identification and admitted into evidence.)

7 BY MS. JOSEPH:

8 Q You are J.M. 's grandfather?

9 A Yes, I am.

10 Q And you just testified that you visited J.M. , and
11 Lori, and A.M. in Beaufort?

12 A Yes.

13 Q And you visited frequently?

14 A Perhaps, every four to five weeks.

15 Q And you stayed for about a week at a time?

16 A No. I stayed on weekends mainly. And on holidays, I
17 would stay longer.

18 Q And -- sorry. In the second house, you had a bedroom
19 that was a guest bedroom, and it was on the first floor?

20 A Yes.

21 Q And that was your room?

22 A Yes.

23 Q And what years did Lori live in Beaufort? What years
24 did Lori --

25 A What years?

1 Q Yes, sir.

2 A We [sic] moved here in 2012. And I have no idea how
3 long she lived here after 2014.

4 Q So you're aware that she lived here from 2012 to
5 2014?

6 A Yes.

7 Q And J.M. was between the ages of seven and nine
8 during 2012 to 2014?

9 A Yes.

10 Q And prior to Matthew's death in 2012, you did not
11 have much of a relationship with Lori?

12 A That is not correct.

13 Q Okay. You were on the lease in Beaufort?

14 A Yes.

15 Q And you just testified that you paid the rent for the
16 two Beaufort houses?

17 A Yes.

18 Q And you paid for their cable?

19 A Yes.

20 Q And you paid for Lori's phone?

21 A In 2014 only.

22 Q And you gave J.M. a phone?

23 A No. That is not correct. I gave the children a
24 phone so they could call 911.

25 Q So you gave A.M. and J.M. a phone?

- 1 A Yes.
- 2 Q And how old was A.M. ?
- 3 A Two years older than J.M. the whole time.
- 4 Q So approximately 11 years old?
- 5 A In 2014 -- he was nine years old in 2012.
- 6 Q So you gave a seven and nine-year-old a phone?
- 7 A No, I did not. I gave them a phone in 2014.
- 8 Q A nine and 11-year-old?
- 9 A Nine and 11-year-old, correct.
- 10 Q You paid for J.M. to go to dance lessons?
- 11 A I did.
- 12 Q And you did, in fact, buy J.M. toys?
- 13 A Yes, I did.
- 14 Q And gift cards?
- 15 A Once, I believe.
- 16 Q And you gave her money?
- 17 A On occasion.
- 18 Q You just testified that you made Lori move into a
19 bigger house that she told you she couldn't afford because
20 you wanted a place to stay?
- 21 A Yes. I was already paying for the other place.
22 There was only a \$200 difference to move to the new place.
- 23 Q But she told you she couldn't afford it?
- 24 A She wasn't paying for it, I was.
- 25 Q But you, also, said that you wanted her to be

1 independent?

2 A Originally, that was the plan.

3 Q But you made it harder for her to be independent?

4 A I did not. She was unemployed the whole time.

5 Q So she was unemployed the whole time. But in this
6 Facebook message, it says that her kids are at home
7 because she's at work?

8 A Yes. She did work occasionally.

9 Q Okay.

10 A Briefly.

11 Q And then you have a -- do you have State's Exhibit
12 No. 21 in front of you?

13 A I do.

14 Q Turning to the second to last page, your text message
15 to her is, You didn't take care of the cable -- Internet
16 cable bill yet.

17 A Can I look at it?

18 Q Of course. Second to last page --

19 A Which page?

20 Q Second to last. And then it's the right bottom
21 square. And I'll give you a moment to review.

22 A Thank you.

23 You said the bottom right square?

24 Q Yes. And it's blue because it's a text from you.
25 And it starts with "Michelle," because it's clearly to

1 Michelle.

2 A Yes.

3 Q So it says, You didn't take care of the cable
4 Internet bill yet. On Tuesday, it will be \$325. Also,
5 you agreed to pay \$30 a month on your phone. So she was,
6 in fact, financially contributing?

7 A This was July 31st after I had been removed from the
8 property.

9 Q You made Lori move into a bigger apartment so you
10 would have a place to stay?

11 A I didn't make her do anything.

12 Q Even though you just testified that your brother had
13 a place in the area. You could have stayed with your
14 brother?

15 A Absolutely not. He was leasing a place on holidays
16 in the wintertime only.

17 Q You would agree that Lori was desperate for money?

18 A Yes, I would agree.

19 Q And you would agree that she was a single mom?

20 A I agree.

21 Q And your attorney had you read out a text -- and it's
22 on the same page. It's, actually, the square right above.
23 It says, I'll be expecting the rent money and my allotment
24 in my account by Friday, unless you want your mom and
25 brother to find out, too.

1 A Yes. This was July 3rd.

2 Q So here she is saying I want my money?

3 A Yes.

4 Q I want my money?

5 A Yes.

6 Q And she is threatening to tell your mom and your
7 brother; right?

8 A Yes.

9 Q Okay. And this text -- and you have to turn the page
10 back -- was sent on July 3rd?

11 A Yes.

12 Q Or July 2nd, I apologize. July 2nd.

13 A Mine says July 3rd.

14 Q So that's, actually, the next text. So you have to
15 go back one page back. And that's July 2nd of 2014 that
16 that was shown?

17 A Yes. These texts were not sent on the same day.

18 Q So on July 2nd, 2014, she sent a text threatening you
19 for money -- threatening you, wanting money?

20 A Yes.

21 Q And saying that she was going to tell your mom and
22 your brother?

23 A Yes.

24 Q But she had already told law enforcement. She had
25 already started the investigation?

1 A I have no idea.

2 Q So you've been sitting in here during the whole
3 trial?

4 A Yes.

5 Q And you heard Lori read these text messages out loud
6 to the jury?

7 A Some of them.

8 Q Okay. Because she was reading a summary when she
9 testified. And you, obviously, have the text messages --
10 or photographs of the text messages in front of you?

11 A I am not sure these are the same text messages. I'm
12 sorry.

13 Q Oh, do you need a moment to review them?

14 A No. I don't remember exactly what she read. And I'm
15 not sure if these are the ones she read.

16 Q It sounds like you need a moment to review them.

17 A No. I just don't remember what she read.

18 MR. GROSE: And, Your Honor --

19 THE COURT: Stand up. Stand up.

20 MR. GROSE: I'm just going to object --

21 THE COURT: What's your objection?

22 MR. GROSE: Pitting.

23 THE COURT: Overruled.

24 BY MS. JOSEPH:

25 Q In those texts, she says -- she texts you that you

1 touched her daughter?

2 A In which text, ma'am?

3 Q It's on Page 2. It's the top right square. It's
4 yellow. I didn't know you were touching my daughter.

5 A Yes. I see that text.

6 Q You do see that?

7 A Yes.

8 Q And in these same text messages at a later date, she
9 says that you showed pictures of your penis to her
10 daughter?

11 A What page is that on?

12 Q That's the third to the last page. And it's the
13 bottom right square. You showed J.M. pictures of your
14 penis. Are you fucking serious? You are sick.

15 A I don't see that on the last page.

16 Q No, it's the third to last. Third to last.

17 A Third to last. Okay. I'm backwards.

18 Q Yeah. Start at the back.

19 A Okay.

20 Q So she did text you that?

21 A Text me what?

22 Q Okay. So this is July 2nd of 2014. Do you see it?
23 You showed J.M. pictures of your penis. Are you
24 fucking serious? You are sick.

25 A Yes.

1 Q And you texted -- this is about you I'm talking
2 about. You texted, I haven't done anything to hurt
3 J.M. .

4 A And that is after her text?

5 Q No. It's, actually, one of the first you sent.

6 A I'm getting very confused. And which page is that
7 on?

8 Q That's on, actually, the very first page. So this is
9 before she texted you, You touched my daughter. Before
10 she texted you, You showed photos of your penis to my
11 daughter. This is at the beginning of the conversation.
12 It says, I haven't done anything to hurt you or J.M. .

13 A It does not say that. It says, I haven't ever done
14 anything to hurt you or J.M. , and you know it.

15 Q Okay. And then you, also, texted later on, I would
16 never hurt the children.

17 A And what page is that on?

18 Q That's on the next page, the bottom right square top
19 text. I would never hurt the children and you know that,
20 exclamation mark.

21 A Yes, I texted that.

22 Q But in these text messages, you never denied sexually
23 touching J.M. ?

24 A I was never asked.

25 Q You never explicitly denied showing photos of your

1 penis to your granddaughter?

2 A In the text only?

3 Q Yes.

4 A Yes. It was ridiculous.

5 Q In fact, in these text messages, she confronts you
6 with these allegations. And your next text is about rent
7 money?

8 A Next text meaning?

9 Q Meaning, she says that you showed her daughter a
10 photo of your penis and your next text --

11 A Please give me a minute. Okay. I do see that text
12 dated July 2nd.

13 Q So she confronts you with these allegations and your
14 next text is about rent money?

15 A 30 days later.

16 Q Do you own a computer?

17 A I do.

18 Q And what type of computer do you own?

19 A I currently own an HP laptop.

20 Q How long have you owned that computer?

21 A About two years.

22 Q Do you own any other devices?

23 A I do not -- I do have an Apple iPad. I apologize.

24 Q And you have photos of your granddaughter on these
25 devices?

1 A I do not.

2 Q Is there child pornography on these devices?

3 A Absolutely not.

4 MR. GROSE: Your Honor, at this time, I move for a
5 mistrial pursuant to Rule 404(b) and Rule 403.

6 THE COURT: All right. Denied.

7 MS. JOSEPH: I beg a moment of the Court's
8 indulgence, Your Honor.

9 (Pause.)

10 MS. JOSEPH: No further questions.

11 THE COURT: Anything on redirect, Mr. Grose?

12 MR. GROSE: Just very briefly.

13 REDIRECT EXAMINATION

14 BY MR. GROSE:

15 Q She asked you about whether you denied touching
16 J.M. . And you denied showing J.M. pictures of your
17 penis?

18 A Yes.

19 Q After you were arrested, did law enforcement
20 interview you?

21 A They did.

22 Q And did you cooperate with that?

23 A Absolutely.

24 Q And did you deny those allegations at that time?

25 A If I were asked -- I don't recall if I was asked

1 that.

2 Q And did you answer every question that they asked
3 you?

4 A Yes, I did.

5 MR. GROSE: That's all I have.

6 Thank you.

7 THE COURT: Recross?

8 MS. JOSEPH: Nothing, Your Honor.

9 THE COURT: Thank you, sir.

10 You may step down.

11 Next witness.

12 MR. GROSE: Your Honor, I call Sue Leffler.

13 THE CLERK: If you would, place your left hand on the
14 Bible and raise your right hand.

15 WHEREUPON,

16 AUDREY SUE LEFFLER,

17 after first having been duly sworn, testified as follows:

18 THE CLERK: Thank you.

19 THE BAILIFF: Right this way.

20 THE COURT: Yes, sir.

21 DIRECT EXAMINATION

22 BY MR. GROSE:

23 Q Can you state your full name, and spell your last
24 name?

25 A Audrey Sue Leffler, L-E-F-F-L-E-R.

1 Q And do you know Charles Dent?

2 A Yes.

3 Q And how do you know him?

4 A He's my son.

5 Q And where do you live?

6 A Just north of Charlotte.

7 Q Okay. And I want to focus your time -- direct your
8 attention to the time beginning around 2012 -- the summer
9 of 2012. At some point after that, did you ever meet Lori
10 Michelle Mayo and her children?

11 A Yes.

12 Q And when was that?

13 A It was the Thanksgiving holidays. And my daughter
14 and I had come over to stay at David's place. And I
15 invited Michelle and the children to come up and eat with
16 us.

17 Q Okay. And was Charles there for that particular
18 gathering?

19 A No, he wasn't.

20 Q Okay. Now, were you aware that Charles was making
21 trips back and forth between Alabama --

22 A Yes.

23 Q -- and South Carolina?

24 A Yes.

25 Q Okay. And on some of those trips, would he stop and

1 see you on the way to South Carolina?

2 A Yes.

3 Q All right. And did you ever go shopping with
4 Charles?

5 A Always.

6 Q And what did you go shopping for?

7 A The children.

8 MS. JOSEPH: Objection. Relevance.

9 THE COURT: Sustained.

10 MR. GROSE: Your Honor, I have a matter of law to
11 take up.

12 THE COURT: All right. Send the jury out.

13 (WHEREUPON, the jury was excused from open court at
14 approximately 10:33 a.m.)

15 THE COURT: Yes, sir.

16 MR. GROSE: Your Honor, before we get into that, I
17 would just note, for the record, that my mistrial motion I
18 understood would incorporate all of our prior discussions
19 into it. So that's preserved for appellate review.

20 THE COURT: All the discussions that we had prior to
21 the jury coming in today?

22 MR. GROSE: Well, the whole -- everything we've had
23 this week about 404(b), and 403, and Lyle, including my
24 specification objection based on all of that, that they
25 not be allowed to ask a question about child pornography.

1 THE COURT: Well, that's not my understanding of
2 that, Counsel. And let me tell you why. The 403 -- the
3 404 and 403, I addressed that yesterday when we were
4 talking about the Alabama proffer. I didn't -- as a
5 matter of fact, the reason that the Court ruled the way it
6 did had nothing to do with the 404 argument or 403
7 argument. It had nothing to do with that.

8 MR. GROSE: Okay.

9 THE COURT: So what I'm saying is I don't want you to
10 stand and make a motion for a mistrial and try to use the
11 umbrella of all of that when you, specifically, indicated
12 prior to the jury coming in that -- your statement was
13 that if the word pornography -- child pornography was
14 used, that would be the basis of your motion for a
15 mistrial.

16 So I'm not going -- and I'm not going to allow you to
17 now put your -- under an umbrella of a mistrial and
18 include everything that happened all week. Because that
19 was not the specific language that you alluded to before
20 the jury came in today.

21 So in that regard, I'll listen to you. But I'm not
22 going to allow you to do that. I'm going to let the basis
23 of your mistrial -- your motion for a mistrial be based on
24 what you said that you would do.

25 MR. GROSE: And when --

1 THE COURT: And I'm going to let you respond to that.

2 MR. GROSE: When I objected and said 404(b) and 403,
3 did you not understand that was prior bad acts?

4 THE COURT: I understood --

5 MR. GROSE: The analysis?

6 THE COURT: I understood precisely, Counsel. I
7 understood precisely. I'm very familiar with both of
8 those rules.

9 MR. GROSE: Okay.

10 THE COURT: I know them as well as you do, probably
11 better.

12 MR. GROSE: I'm sure you probably do.

13 THE COURT: So I know exactly what they are. But I'm
14 not going to allow you to do that. Now, I'm going to let
15 them respond to your motion.

16 Counsel, do you want to respond?

17 MS. LUTTRELL: No, Your Honor.

18 THE COURT: But that's -- is that -- that was my
19 understanding of the basis for the motion for mistrial
20 and --

21 MR. GROSE: Well, as long as you understand that I've
22 been trying to keep the child pornography questions out
23 all week. And I, specifically, this morning talked about
24 that motion and referenced you again to the pretrial brief
25 and said that if they went into that that I was going to

1 object to that as bad character evidence, which is 404(b)
2 and --

3 THE COURT: So I've already ruled on that. So the
4 matter of law you're alluding to is the ruling that I made
5 in reference to a mistrial. Is that what we're talking
6 about?

7 MR. GROSE: That was the first thing. I wanted to
8 get that on the record because I -- I didn't -- I
9 understood you didn't want us to do what we just had to
10 do, which was send the jury out this morning.

11 THE COURT: Well, I think everything is on the
12 record, Counsel.

13 MR. GROSE: Okay.

14 THE COURT: I spent -- I was very patient with both
15 of you before this jury came out to eliminate this kind of
16 argument --

17 MR. GROSE: Okay.

18 THE COURT: -- to continue to prolong this matter.
19 And I understood what the arguments were going to be. I
20 did not rule pre-trial -- I indicated on the record that I
21 wanted to hear some testimony. I did that. You made your
22 motion. It's based upon what you previously said. And I
23 ruled on it.

24 So to take this jury out for us to rehash what was
25 discussed before the jury came out, I think, just prolongs

1 this matter unnecessarily.

2 MR. GROSE: Well, I have to protect the record.

3 THE COURT: The record is protected. And I
4 understand that.

5 MR. GROSE: And I understand you're saying you
6 considered, at least, what we did this morning. And I'm
7 good with that.

8 THE COURT: All right. But here again -- here again,
9 you know, I was patient this morning with both lawyers to
10 allow you to get into any of these matters so we wouldn't
11 consistently have the jury come back and forth. And if
12 that's the reason you did this --

13 MR. GROSE: No. But I have to --

14 THE COURT: What's your second reason?

15 MR. GROSE: Well, the reason I did this was that I
16 wanted to talk about -- I want to make a proffer on the
17 objection that you just sustained. I have to make this
18 proffer to be able to appeal this issue.

19 THE COURT: Okay. Go ahead and make the proffer on
20 the objection. Go ahead.

21 DIRECT EXAMINATION

22 BY MR. GROSE:

23 Q When Charles would visit you on his way to South
24 Carolina, did you and he ever go shopping?

25 A Yes.

1 Q And what did you go shopping for?

2 A Always both children.

3 Q And when you say "always both children," what does
4 that mean?

5 A We bought for J.M. and A.M. . He would not be sure
6 what was proper for their age. And I would help him pick
7 it out. And we always made sure that it was the same cost
8 for both of them.

9 Q And --

10 A Different things, but the same.

11 Q All right. Did he try -- in your observations, did
12 he try to buy things that they were interested in?

13 A Yes.

14 Q And did he try to be even in what he bought the
15 grandchildren?

16 A Yes.

17 MR. GROSE: Okay. And that would be my proffer. And
18 I think that's relevant to respond to their grooming
19 argument. And it's relevant because it corroborates the
20 testimony of the Defendant, which is always relevant.

21 THE COURT: Let me hear from you. Anything on that
22 point?

23 MS. LUTTRELL: No, Your Honor. That's fine.

24 THE COURT: All right.

25 MR. GROSE: When they say "that's fine," do they mean

1 they're withdrawing their objection?

2 THE COURT: I can't speak for them.

3 MR. GROSE: Well, I'm asking because -- I'm asking to
4 be able to ask her those questions.

5 MS. LUTTRELL: That's fine, Your Honor. We withdraw
6 our objection.

7 Thank you.

8 THE COURT: Anything else?

9 MR. GROSE: No, sir.

10 THE COURT: Bailiff, bring the jury back.

11 THE BAILIFF: Yes, Your Honor.

12 (Pause.)

13 THE BAILIFF: It's going to be a minute, Judge.

14 MR. GROSE: While we're waiting on that, can we talk
15 about scheduling just really quick?

16 THE COURT: On the record or off the record?

17 MR. GROSE: It's up to you.

18 THE COURT: Let's put everything on the record.

19 What do you want to chat about?

20 MR. GROSE: I anticipate being done by noon. And I
21 would like to have -- since we seem to be on a good
22 timetable, have a little bit of time. I don't know if
23 they have any reply. But between -- just to get ready for
24 closing, just what time you would want us back for lunch,
25 assuming we're done by noon.

1 THE COURT: We're going to take a short lunch break.
2 The lunch break will last no longer than an hour.

3 MR. GROSE: Okay.

4 THE COURT: And we're going to -- since you asked
5 that question, we're going to go as long as it takes to
6 get this matter to the jury today.

7 MR. GROSE: All right. I appreciate that.

8 THE COURT: So the lawyers need to be aware of that.
9 Because that's going to be the movement of the Court.
10 We're going to do this today.

11 MR. GROSE: Well, and my anticipation was to do it
12 today.

13 THE COURT: All right. I'm glad we're on the same
14 page.

15 MS. JOSEPH: Your Honor, I'm just -- I'm looking
16 ahead. I'm looking at the requests to charge. Is there a
17 standard testimony of children, standard charge
18 instruction, Your Honor?

19 THE COURT: I haven't looked at what he gave me.
20 Do you want to deal with that now or later?

21 MS. JOSEPH: We can deal with that later. I just
22 didn't know if you knew if there was a standard one.

23 MR. GROSE: There, at least, used to be one in the
24 charge book. I don't know if it's still there. It was in
25 there as recently as 2015.

1 THE COURT: You can confer with each other with -- to
2 save time, you can confer with each other on that.
3 Everything else looks like a standard charge. But, at
4 least, on that issue, if y'all confer, whatever you can
5 agree upon between now and then will be fine.

6 MS. JOSEPH: Okay.

7 (Pause.)

8 THE BAILIFF: Are you ready for the jury?

9 THE COURT: Anything before the jury comes out?

10 MR. GROSE: No, sir.

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

12 (WHEREUPON, the jury came into open court at
13 approximately 10:48 a.m.)

14 THE COURT: All right. Mr. Grose, go ahead.

15 MR. GROSE: May it please the Court.

16 THE COURT: Yes, sir.

17 CONTINUED DIRECT EXAMINATION

18 BY MR. GROSE:

19 Q Ms. Leffler, when we left, I was asking you about
20 whether or not you went shopping with Charles. Do you
21 recall that question?

22 A Yes.

23 Q All right. And what was -- did you all go shopping?

24 A Yes.

25 Q And what was the purpose of going shopping?

1 A We shopped for the children and their mother. And we
2 would always make sure that the cost for each was the
3 same, or very close. But we shopped for what the children
4 were interested in.

5 Q And when you say "the children," who are you
6 referring to?

7 A A.M. and J.M. .

8 Q And from your observation, did Charles try to buy
9 presents for them that catered to their various interests?

10 A Yes.

11 Q And from your observation, did he try to be fair and
12 balanced in his selection of gifts?

13 A He was very careful with that, that they each had the
14 same value.

15 MR. GROSE: Thank you.

16 That's all the questions I have. I don't know if
17 they have any for you.

18 THE COURT: Cross, Ms. Luttrell.

19 MS. LUTTRELL: Very briefly, Your Honor.

20 CROSS-EXAMINATION

21 BY MS. LUTTRELL:

22 Q Ms. Lef -- Leffler --

23 A Leffler.

24 Q Ms. Leffler, you just testified to this jury that you
25 met Lori in 2012; is that right?

1 A No.

2 Q No. Was that the first time you met her in South
3 Carolina?

4 A I had not -- right. That's right.

5 Q Okay. And that was the first time you met the kids,
6 A.M. and J.M. ?

7 A Yes.

8 Q And the Defendant, he wasn't there for that meeting?

9 A No.

10 Q And when your -- your son, the Defendant, when he
11 would come visit in South Carolina, you didn't come down
12 here with him; right?

13 A Not always, no.

14 Q You didn't stay at Lori's house when he stayed there?

15 A Oh, no. I stayed at David's.

16 Q You always stayed at your other son's house?

17 A Yes.

18 Q You never stayed at the apartment or the townhome
19 with your son?

20 A No.

21 Q So you were never there when he was staying the night
22 at the townhome with J.M. ?

23 A No.

24 Q This is your son; right?

25 A Yes.

1 Q You love your son?

2 A I do.

3 Q You care about your son?

4 A I do.

5 Q You'd do anything for your son; right?

6 A Not anything, no.

7 Q You don't want to see your son get in trouble for
8 this; right?

9 A No. But, at the same time, I don't want him accused
10 of something I don't believe happened.

11 Q But you weren't there; right?

12 A I wasn't there.

13 Q And you've been sitting here the entire trial; right?

14 A Correct.

15 Q You've been listening to all of the other witnesses
16 testify before you got up here?

17 A That's right.

18 MS. LUTTRELL: No further questions, Your Honor.

19 MR. GROSE: Nothing further.

20 THE COURT: All right. Thank you, ma'am.
21 You can step down.

22 MR. GROSE: My next witness will be Mitch Fife.

23 THE CLERK: Good morning.

24 Will you place your left hand on the Bible and raise
25 your right hand?

1 WHEREUPON,

2 MITCHELL DWAYNE FIFE,

3 after first having been duly sworn, testified as follows:

4 THE CLERK: Thank you.

5 THE BAILIFF: Right this way, sir.

6 DIRECT EXAMINATION

7 BY MR. GROSE:

8 Q I'm going to start off asking you to state your full
9 name for the record, and spell your last name.

10 A Okay. My name is Mitchell Dwayne Fife, last name is
11 F, as in Frank, I, as in India, F, as in Frank, E, as in
12 echo.

13 Q All right. And you go by Mitch?

14 A I do go by Mitch.

15 Q Okay. Mitch, where do you live?

16 A I live in Charleston, South Carolina.

17 Q And do you work?

18 A I do work.

19 Q Where do you work?

20 A I work at the Boeing Company.

21 Q That's the -- where they make the planes?

22 A That is an airplane manufacturing company, yes.

23 Q And do you know Charles Dent?

24 A I do know Charles Dent.

25 Q And how long have you known Charles Dent?

1 A Approximately 30 years, I've known him.

2 Q And how did you and Mr. Dent meet?

3 A We were stationed together in our military careers
4 twice.

5 Q And what locations were y'all stationed together?

6 A We were stationed in Atlanta --

7 MS. JOSEPH: Objection, Your Honor. Relevance.

8 THE COURT: I'm going to overrule. I'll let you ask
9 that question.

10 MR. GROSE: All right.

11 BY MR. GROSE:

12 Q Which places?

13 A Atlanta twice. Actually, both times we were
14 stationed there. We were both stationed there twice.

15 Q Okay. Now, focusing on 2012 to 2014, were you aware
16 that Charles was making trips from Alabama to South
17 Carolina?

18 A Yes, I was.

19 Q And would he visit you during those trips?

20 A Yes, he would.

21 Q Would he, also, visit your wife?

22 A Absolutely.

23 Q Obviously, you live together; right?

24 A Absolutely.

25 Q And who is your wife?

1 A My wife is Terri Fife, who's sitting in the white
2 sweater.

3 Q And I'm not going to ask you to go into any details
4 of the conversations. But did Charles ever have
5 conversations with you about issues involving the
6 arrangement between him and his daughter, Lori Michelle
7 Mayo?

8 A Yes, he did. He did.

9 Q And when did those conversations take place?

10 A I believe they started around 2012 -- late 2012,
11 early 2013.

12 Q All right. And then, did they continue all the way
13 through his arrest in 2014?

14 A They did.

15 MR. GROSE: Okay. Thank you.

16 That's all the questions I have.

17 THE COURT: Cross.

18 MS. LUTTRELL: Very briefly, Your Honor.

19 CROSS-EXAMINATION

20 BY MS. LUTTRELL:

21 Q Mr. Fife?

22 A Yes, ma'am.

23 Q Have you ever met Lori?

24 A Yes, I have.

25 Q Did you ever --

1 A Lori, the wife, or Lori, the daughter?

2 Q Lori Michelle Mayo, the daughter?

3 A The daughter, yes, I have.

4 Q Did you ever visit with Charles when he would stay at
5 her townhome?

6 A Yes.

7 Q You would stay the night at Lori's townhome?

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

9 Q So you've never -- you were never there when the
10 Defendant was staying in the townhome at the same time as
11 J.M. ?

12 A Well, we visited -- he stayed -- yeah. He stayed
13 there, but we didn't.

14 Q So you would go stay somewhere else during that short
15 visit?

16 A No. I only live two hours away. So I would drive
17 home. We visited for a couple -- few hours and we drove
18 back home.

19 Q But he would stay there and you would not be there at
20 the same time?

21 A Well, when we were visiting, we were there at the
22 same time.

23 Q But not overnight is what I'm asking?

24 A Not overnight, correct.

25 Q You never stayed --

1 A I never stayed overnight --

2 Q -- in the apartment?

3 A -- in the apartment, no, I did not.

4 Q And you said Charles, the Defendant, he's your friend
5 of 30 years?

6 A He's my best friend.

7 Q Your best friend?

8 A Yes.

9 Q You don't want to see him get into any trouble?

10 A Of course not.

11 Q And you've been sitting in this trial the entire time
12 it's been going on?

13 A I have.

14 Q And you got to listen to all the other witnesses
15 testimony?

16 A I have.

17 MS. LUTTRELL: Thank you, Your Honor.

18 No further questions.

19 MR. GROSE: Just a couple follow-up.

20 THE COURT: Redirect.

21 REDIRECT EXAMINATION

22 BY MR. GROSE:

23 Q You said that you were stationed with Charles in
24 Atlanta; right?

25 A Correct. We were both stationed in Atlanta.

1 MS. LUTTRELL: Objection. Outside the scope.

2 MR. GROSE: Well --

3 THE COURT: Hold on. Hold on, Mr. Grose.

4 I'm going to sustain that objection. It's outside
5 the scope of redirect. You've got to go back in cross.

6 MR. GROSE: Yes, sir.

7 THE COURT: Outside the scope.

8 BY MR. GROSE:

9 Q So did -- she asked you if you had ever met Lori
10 Michelle Mayo?

11 A Correct.

12 Q All right. When was the first time you met her?

13 A When we were stationed together in Atlanta the first
14 time.

15 Q Was that when she was a child?

16 A She was about probably seven to nine years old.

17 Q Okay. And then you, also, met -- or saw her again
18 and met J.M. and A.M. . Where did that happen?

19 A That happened at the place in Beaufort -- or Bluffton
20 where they lived.

21 Q All right. And do you remember the time frame that
22 happened?

23 A Yes, I do. It was -- it was around the time frame of
24 the Heritage Classic, which my wife, Terri, and I were
25 down visiting -- or we went for the golf tournament.

1 Q And what year was that?

2 A That was 2014, I believe.

3 MR. GROSE: Thank you.

4 That's all the questions I have.

5 THE COURT: Anything further?

6 MS. LUTTRELL: Nothing further.

7 THE COURT: Thank you, sir.

8 You can step down.

9 All right. Next witness.

10 MR. GROSE: Terri Fife.

11 THE CLERK: Good morning.

12 If you would, place your left hand on the Bible and
13 raise your right hand.

14 WHEREUPON,

15 TERRI LYNN FIFE,

16 after first having been duly sworn, testified as follows:

17 THE CLERK: Thank you.

18 THE COURT: Mr. Grose.

19 DIRECT EXAMINATION

20 BY MR. GROSE:

21 Q Terri, I'm going to ask you to state your full name
22 for the record. Since I assume your husband and you spell
23 your last the same, I'm going to ask you to spell your
24 first name. Because there's different spellings of that.

25 A Yes. My name is Terri Lynn Fife. My first name is

1 spelled T-E-R-R-I.

2 Q Okay. And are you married to Mitch?

3 A Yes.

4 Q And how long have you and Mitch been married?

5 A 10 years.

6 Q And where do you live?

7 A We, actually, live in Summerville, but people say

8 Charleston. But it's South Carolina.

9 Q And how long have -- well, do you know Charles Dent?

10 A Yes.

11 Q And how long have you known Charles Dent?

12 A Since before Mitch and I got married. I met him

13 through Mitch, of course. I guess about 12 years or so.

14 Q Okay. And were you aware that -- in the 2012 to 2014

15 period of time, were you aware that Charles was making

16 trips from Alabama to South Carolina?

17 A Yes.

18 Q And would he ever visit your house in Summerville?

19 A Yes, he would.

20 Q Okay. And did you ever meet Lori Michelle Mayo and

21 her children?

22 A Yes, I did.

23 Q And when did you meet them?

24 A It was at the time of the Heritage Golf Classic. We

25 had came down and were invited over to meet them and the

1 children.

2 Q Okay. And, again, I don't want to go into any
3 conversations. But were you aware that your husband and
4 Charles were having conversations?

5 A Yes, absolutely.

6 Q And you were -- were you aware whether that included
7 issues that had developed between Lori and -- Lori
8 Michelle and Charles?

9 A Yes.

10 Q Okay. And do you remember the time frame when those
11 conversations were going on?

12 A Yes, I do.

13 Q And what was that time frame?

14 A It was in the springtime of 2014 before -- I think it
15 was before and after we went to visit.

16 MR. GROSE: Thank you.

17 That's all the questions I have.

18 THE COURT: Any questions?

19 MS. LUTTRELL: No questions, Your Honor.

20 THE COURT: All right. Thank you, ma'am.

21 You can step down.

22 MR. GROSE: At this time, Your Honor, I would call
23 David Dent.

24 THE COURT: All right.

25 THE CLERK: Good morning.

1 Place your left hand on the Bible and raise your
2 right hand.

3 WHEREUPON,

4 DAVID LAMAR DENT,

5 after first having been duly sworn, testified as follows:

6 THE CLERK: Thank you.

7 DIRECT EXAMINATION

8 BY MR. GROSE:

9 Q Would you, please, state your full name for the
10 record?

11 A David Lamar Dent.

12 Q Okay. And are you related to Charles?

13 A I am his younger brother.

14 Q His younger brother. How many years separate you and
15 him?

16 A I think just under two.

17 Q And where do you live?

18 A I live in Troutman, North Carolina, which is just
19 north of Charlotte.

20 Q Okay. And are you employed?

21 A Technically not. I just retired Friday.

22 Q Okay.

23 A From the IT industry.

24 Q Well, congratulations. What did you retire from on
25 Friday?

1 A Hewlett Packard.

2 Q And you said you did IT internet technology?

3 A I do -- or I did, yes.

4 Q All right. I want to focus you on the 2012 to 2014
5 period of time. Do you -- did you know Matthew?

6 A I did.

7 Q And were you aware of when Matthew committed suicide?

8 A I was.

9 Q Okay. And were there any services for Matthew?

10 A There were. I went to Alabama and picked up Charles,
11 helped to facilitate by transporting them down to Florida
12 for the services.

13 Q And you attended those services?

14 A I did.

15 Q All right. And did you have any interaction with
16 Michelle Mayo and her children when you were in Florida?

17 A Yes, I did.

18 Q And did you have an opportunity to observe where they
19 lived?

20 A I did.

21 Q And can you tell us what kind of conditions they were
22 living in?

23 A It was a very poor neighborhood, a large community
24 complex.

25 Q And were there discussions that took place about

1 whether or not Michelle and the children might move to
2 another location?

3 A Yes, there were.

4 Q And were you involved in any of those discussions?

5 A Yes, I was.

6 Q Okay. And can you tell us how that decision was
7 made?

8 A My brother and I had discussions about the conditions
9 of Michelle and the children. And it was a suggestion
10 that he consider putting them in a safer environment to
11 give them a chance to recover from where they were at.

12 Q Okay. And, ultimately, they moved to South Carolina?

13 A Yes, they did.

14 Q And do you know how the Beaufort area was selected?

15 A I have had property down here for several years
16 and/or leased property. And so I had recommended this
17 area.

18 Q And in that summer of 2012, did you have any
19 interaction with Michelle and the children?

20 A I --

21 Q After Florida?

22 A No, I did not. They moved here and I was still
23 working and living in the Charlotte area.

24 Q Did you have any interactions with them around the
25 holidays of 2012?

1 A I did. I, actually, invited Michelle and the
2 children, along with Michael and his family, to our house
3 at Hilton Head.

4 Q And Michael is Charles' stepson and Lori's sister --
5 I mean brother?

6 A Her brother, yes.

7 Q Okay. And so did they come to your place at Hilton
8 Head?

9 A They did. Michael and his family, actually, stayed
10 with us. And then Michelle and the children came and
11 visited.

12 Q And did you have any interaction with them again in
13 the holidays later that year?

14 A We did. They came back for Christmas as we were
15 there for the holidays.

16 Q And was Charles there for both of those events?

17 A No. I don't recall Charles being there for
18 Thanksgiving. He was there for Christmas.

19 Q Did you have any interaction with Michelle and the
20 children during 2013?

21 A Limited.

22 Q Okay. And when you say "limited," what do you
23 recall?

24 A Well, I, typically, was not able to come into the
25 Hilton Head area until the fall and winter of 2013. And

1 during that period of time, I had gone over with him to
2 deliver some presents to the family.

3 Q And was that at one of the holidays?

4 A That was Christmas.

5 Q Okay. And you said when you had gone over with
6 "him," who did you go over with?

7 A With Charles.

8 Q And when you say "presents," who were the presents
9 for?

10 A The family.

11 Q And did he buy everybody presents?

12 A To my knowledge, yes.

13 Q During this time period in 2012 to 2014, did you and
14 Charles have any conversations about how the arrangement
15 was going between him and Michelle?

16 A Yes.

17 Q And did he express any concerns to you?

18 A Yes.

19 Q Okay. What time frame?

20 MS. JOSEPH: Objection, Your Honor. This series of
21 questions has been leading.

22 BY MR. GROSE:

23 Q What time frame --

24 THE COURT: Hold on. Let me rule on the objection,
25 Mr. Grose. Rephrase your question.

1 BY MR. GROSE:

2 Q What did you and Charles have conversations about?

3 A One of the topics --

4 MS. JOSEPH: Objection, Your Honor. Hearsay.

5 THE COURT: Sustained.

6 MR. GROSE: Well, the topic is not hearsay.

7 THE COURT: I'm going to sustain the objection. You
8 can rephrase the question.

9 MR. GROSE: All right.

10 BY MR. GROSE:

11 Q Did you and Charles have conversations?

12 A Yes, we did.

13 Q And what period of time were these conversations
14 going on in?

15 A We spoke on a pretty regular basis. So I would say
16 from 2012 through 2014.

17 Q Okay. And during this time -- when you say "regular
18 basis," how often?

19 A Every couple of weeks, maybe once a month.

20 Q And during this period of time in 2012 to 2014, did
21 you start giving Charles some advice?

22 A I did.

23 Q And what advice did you give him?

24 A There -- there were conversations regarding
25 financials with he and Lori -- or Michelle. And my

1 suggestion, at that time, was he needed to remove himself
2 from that environment and let them move on and, you know,
3 take back -- and go back into their own lives.

4 Q All right. And did you -- were you giving him that
5 advice in the early months of 2014?

6 A Yes.

7 MR. GROSE: Thank you.

8 That's all the questions I have.

9 THE COURT: Anything on cross-examination?

10 MS. JOSEPH: Yes.

11 Thank you, Your Honor.

12 THE COURT: All right.

13 CROSS-EXAMINATION

14 BY MS. JOSEPH:

15 Q So you're the Defendant's brother?

16 A Yes.

17 Q And we keep talking about Lori, and J.M. , and
18 A.M. , but that's actually -- they're related to you, too.

19 That's your niece?

20 A Yes, and nephew.

21 Q Niece and nephew; right? And Lori is related to you,
22 too?

23 A She, technically, I would think to be my niece.

24 Q Right.

25 A And they're my grandnieces. I'm not sure exactly how

1 genealogy works for that.

2 Q Right. And then your mom testified earlier; right?

3 A Yes, she did.

4 Q Right. And she kept saying Lori, J.M. , but
5 that's, actually, her granddaughter, great granddaughter?

6 A Yes.

7 Q This is a family affair --

8 MR. GROSE: Objection to comments.

9 THE COURT: All right. Sustained.

10 MR. GROSE: Move to strike.

11 THE COURT: Strike that, Madam Court Reporter.

12 BY MS. JOSEPH:

13 Q So you testified you had property in Hilton Head
14 around 2012, 2014?

15 A Yes.

16 Q Yes. And you would sometimes come down and stay?

17 A Yes.

18 Q Was that a one-bedroom apartment?

19 A No. I, actually, had a three-bedroom house at the
20 time.

21 Q Okay. In Hilton Head?

22 A Yes.

23 Q Did people ever stay over?

24 A Yes.

25 Q Frequently?

1 A I'm not sure what you mean by "frequently."

2 Q Let me ask a more fair question. Some people --
3 maybe me -- don't like having guests at their house. It
4 stresses me out. But you're not that type of person?

5 A No, I would say I am. That's why I come to Hilton
6 Head because I do like my quiet time. And this is a
7 period of time at the end of the year where I do that.

8 Q But you did have some guests sometimes?

9 A I did, yes.

10 Q So, as you just said, the Defendant is your brother
11 and you love him very much?

12 A Yes.

13 Q And you would do anything for him?

14 A I think that's a leading question, but --

15 Q I'm, actually, allowed to ask leading question.

16 A Oh, so I would say no.

17 Q Okay. And you've been sitting in here for the past
18 three days, and you've been watching all the evidence?

19 A Yes.

20 Q And you had conversations with your brother about
21 money and Lori?

22 A Yes.

23 Q Okay. And speaking about money, you have helped your
24 brother out financially?

25 A I have.

1 Q When he, actually, got arrested for these charges,
2 you're the one that posted bail?

3 A I am.

4 MS. JOSEPH: No further questions.

5 THE COURT: Anything on redirect, Mr. Grose?

6 MR. GROSE: No, sir.

7 THE COURT: Thank you, sir.

8 You can step down.

9 MR. GROSE: And that would be our last witness.

10 So, at this time, we would rest.

11 THE COURT: All right. Could I have a sidebar with
12 the lawyers?

13 MS. JOSEPH: Of course, Your Honor.

14 (WHEREUPON, a bench conference was held.)

15 THE COURT: All right. Ladies and gentlemen of the
16 jury, what we're going to do at this juncture, I'm going
17 to send you back to your jury room for approximately about
18 20, 25 minutes. And I'll bring you back. And, at that
19 time, we will have opening -- I mean closing arguments
20 from both sides.

21 So -- and I think you've already -- those of you who
22 didn't get to have a bathroom break a few minutes ago, you
23 can have that at this time. Please, ma'am, please, sir,
24 do not discuss the case with each other or anything of
25 that nature while you're waiting. And I'll be back with

1 you shortly.

2 Okay. Thank you.

3 (WHEREUPON, the jury was excused from open court at
4 approximately 11:13 a.m.)

5 THE COURT: All right.

6 MOTIONS

7 MR. GROSE: And, Judge, just so I don't forget. At
8 the sidebar, the State said they did not have any reply.

9 So, at this time, I think it's incumbent upon me to
10 renew my motions for directed verdict.

11 THE COURT: Yes, sir.

12 MR. GROSE: I would do that at this time based on the
13 same grounds that we used last night. I referenced a case
14 about a variance in the indictment. That's Bailey v.
15 State. And I'm providing the Solicitor a copy. It's 392
16 S.C. 229 -- I'm sorry, 709 S.E.2d 671 from 2011. I have a
17 copy for the Court.

18 THE COURT: Yes, sir.

19 MR. GROSE: And that goes to the issue of the
20 criminal sexual conduct indictments. And the fact that
21 once the State alleged a complete offense and identified
22 fellatio in the indictments that due process requires that
23 that be what is limited to what goes to the jury.

24 And so I would just, also, remind the Court yesterday
25 about our motion, in addition to the other three, that had

1 to do with the second house where we had comments in the
2 interview that was played that nothing happened there.
3 And I think she testified that fellatio only happened
4 once.

5 So I don't see how both -- I think the second
6 indictment still should be dismissed. And I'll leave it
7 at that.

8 THE COURT: Ms. Joseph.

9 MS. JOSEPH: In the interview, she talks about
10 fellatio happening more than once at the first house. On
11 the stand, she testified about the fellatio happening at
12 the second location.

13 The State would, also, briefly say that we view
14 indictments as notice documents. She talked about oral
15 sex, cunnilingus being performed on her at the second
16 house.

17 With Your Honor viewing the evidence in the light
18 most favorable to the State, we ask that this motion be
19 denied.

20 Thank you, Your Honor.

21 MR. GROSE: And I understand the standard is in the
22 light most favorable to the State. But, again, I'm trying
23 to prevent problems before they happen. I imagine that
24 they're going to argue that they can prove something other
25 than fellatio. And if they do that, that's -- that just

1 gives us a free shot at doing this again another day, if
2 they get a conviction, because of the Bailey case.

3 THE COURT: All right. Anything further from the
4 State?

5 MS. JOSEPH: Nothing further.

6 THE COURT: All right. Motion is denied.

7 Anything else -- we want to go over the -- I think
8 reasonable doubt.

9 MS. JOSEPH: Yes, Your Honor.

10 The State has looked over the reasonable doubt
11 language given to Your Honor. We would object to the
12 second paragraph, which talks about civil cases. We just
13 don't think it's necessary. So if you cross off that
14 paragraph, we would agree with everything else.

15 THE COURT: Let me just tell you what I've got --

16 MS. JOSEPH: Yes, Your Honor.

17 THE COURT: -- what I intend to present. So what is
18 reasonable doubt? A reasonable doubt is defined as the
19 kind of doubt that would cause a reasonable, sincere,
20 honest, and conscientious person to hesitate to act in an
21 important matter in their own affairs. Proof beyond a
22 reasonable doubt is proof that leaves you firmly convinced
23 of the Defendant's guilt. The law does not require proof
24 that overcomes every possible doubt.

25 MR. GROSE: Well, I would request that additional

1 language that they don't object to, if based on your
2 consideration of the evidence, you are firmly convinced
3 that the Defendant --

4 THE COURT: Excuse me a second. Let me get that.

5 MR. GROSE: Okay.

6 THE COURT: Let me get to that page. Are you in the
7 third paragraph?

8 MR. GROSE: I'm in the third paragraph.

9 THE COURT: Okay.

10 MR. GROSE: I understand they object to the second
11 paragraph. I would like the second paragraph, but I'm not
12 going to argue that that hard. I liked what you used in
13 the first paragraph. So I have no problem with that. But
14 I would like that entire second -- or I mean entire final
15 paragraph.

16 THE COURT: That starting with proof beyond a
17 reasonable doubt is proof that leaves you firmly
18 convinced?

19 MR. GROSE: Right. And going through -- yes, sir.
20 And going through the end of that paragraph.

21 THE COURT: All right. What's the State's position
22 on that language?

23 MS. JOSEPH: That's fine, Your Honor.

24 Can you, if possible, read back exactly what you're
25 going to say now? Can you just reread it?

1 THE COURT: Incorporating --

2 MS. JOSEPH: Yes. So I know what the final product
3 is.

4 THE COURT: All right. So what is reasonable doubt?
5 A reasonable doubt is the kind of doubt that would cause a
6 reasonable, sincere, honest, and conscientious person to
7 hesitate to act in an important matter in their own
8 affairs. Proof beyond a reasonable doubt is proof that
9 leaves you firmly convinced of the Defendant's guilt.

10 The law does not require proof that overcomes every
11 possible doubt. There are few things in this world that
12 we know with absolute certainty. And in criminal cases,
13 the law does not require proof that overcomes every
14 possible doubt.

15 If based on your consideration of the evidence, you
16 are firmly convinced that the Defendant is guilty of the
17 crimes charged, you should find the Defendant guilty. If,
18 on the other hand, you think there's a real possibility
19 that the Defendant is not guilty, you should give the
20 Defendant the benefit of the doubt and find him not
21 guilty.

22 The only thing that I excluded from the third
23 paragraph, Mr. Grose, was that first sentence since I had
24 said that in the charge that I just went through.

25 MR. GROSE: It's all covered. So, yeah, we're good

1 with that.

2 THE COURT: Okay.

3 So, Ms. Joseph, you're okay --

4 MS. JOSEPH: Yes, Your Honor. No objection.

5 THE COURT: All right. So just so we're clear, on
6 this document, Mr. Grose, that you've given me, I'm going
7 to cross out the first paragraph and cross out -- the
8 first two paragraphs and cross out the first sentence in
9 the third paragraph, and incorporate the other language in
10 addition to my standard.

11 MR. GROSE: Perfect.

12 Thank you, Judge.

13 THE COURT: All right. Now, let's -- I think the
14 circumstantial evidence and direct evidence part is pretty
15 standard. I think you guys have seen that before.

16 MS. JOSEPH: It is. No objection.

17 THE COURT: I'll be glad to go over it with you. And
18 I've looked at this. And it's in line with what you've
19 given me.

20 MR. GROSE: Yeah. And I think that under the way the
21 Logan case was decided, I have to request that. But I
22 know that's the standard charge in the book.

23 THE COURT: Right.

24 And on the -- the charge regarding children, what I
25 wanted both of you to do is maybe -- I think you've got

1 a -- in your standard -- in your book downstairs, you've
2 probably got a charge that goes, specifically, to that.

3 And I guess you and Mr. Grose can maybe in the last
4 five minutes of your lunch or something, just take a look
5 at it and see what you can agree on. And we'll discuss it
6 again before we bring the jury back -- before we charge
7 the jury to see if we can come to some consensus on that
8 particular charge.

9 MR. GROSE: And I think this is probably -- don't
10 hold me to this. I think this is probably verbatim from
11 the 2015 charge.

12 THE COURT: From the 2015 charge?

13 MR. GROSE: Which is what I have. I don't have any
14 more recent version. I created this charge. I don't
15 know.

16 THE COURT: I've looked at it in that 2015 book. And
17 it looks real similar. I don't think -- but I'll let
18 Ms. Joseph take a look at it.

19 MR. GROSE: And, just for the record, I'm fine with
20 whatever is in the charge book.

21 THE COURT: All right.

22 MR. GROSE: If it's not verbatim, it's pretty close.

23 THE COURT: And as far as the indictments are
24 concerned, when I get to that part, I'm going to be
25 reading the -- I've got two indictments on criminal sexual

1 conduct first degree. Those indictments are not the
2 amended indictments.

3 MS. JOSEPH: Right. They have never been amended.

4 THE COURT: But on the disseminating obscene material
5 indictments, both of those are amended indictments?

6 MS. JOSEPH: Yes, Your Honor.

7 THE COURT: And I have those. So these are the four
8 that I'll be reading when I get to that portion of the
9 charge.

10 MS. JOSEPH: Yes, Your Honor.

11 MR. GROSE: And we're going to send those to the
12 jury, too, I believe.

13 THE COURT: Yeah. I think -- was it agreed upon?

14 MS. JOSEPH: Yes, yes.

15 MR. GROSE: It was. But I think she's about to
16 change that.

17 MS. JOSEPH: No, I'm not.

18 MR. GROSE: Okay.

19 MS. JOSEPH: I'm about to change something.

20 Your Honor, after consulting with my co-counsel,
21 we're concerned that if we close right now that we're
22 going to close, and then they're going to get lunch. And
23 I think that both Mr. Grose and I think that we're good
24 enough and stern enough lawyers that our words will move
25 them.

1 So I'm concerned about them getting lunch immediately
2 after us closing. So I would prefer they get lunch, hear
3 our closing, and then immediately start deliberating.

4 MR. GROSE: That's what I wanted to talk about
5 earlier. That would have been my suggestion. But I'm
6 good with whatever you do Judge, so.

7 MS. JOSEPH: I had to think about it. I'm sorry,
8 Your Honor.

9 THE COURT: It's the old --
10 Let's go off the record.

11 (Pause.)

12 THE COURT: Okay. Bring the jury back in.

13 (WHEREUPON, the jury came into open court at
14 approximately 11:27 a.m.)

15 THE COURT: All right. A little slight change in
16 plans. And let me tell you what it is. I've got some
17 good news for you. The good news is I'm going to let you
18 go to lunch a little earlier today. Normally, lunchtime
19 is around 12:00, 12:30. So I'm going to let you go
20 earlier. Also, the good news is you don't have to come
21 back until 1:00. All right. So that's the good part
22 about it. So you can enjoy your lunch.

23 I also -- when you come back at 1:00 and you report
24 to your jury room, I need you to collectively decide only
25 this, not to discuss the case. Don't talk about the case

1 at all. But I need you to decide among yourselves who's
2 going to be the jury foreman.

3 And then when you decide who that's going to be, you
4 let me know when I bring you back in after lunch. And
5 then I'll just -- I'll ask who is the foreman. And
6 whoever the person is designated as the foreman will let
7 me know that he or she has been designated as the jury
8 foreperson.

9 We'll go to lunch. Here again, same admonition. Do
10 not discuss the case with each other. Do not do any
11 research. Do not do any discussions with anybody in any
12 restaurants or any place you may go eat lunch.

13 And I will see you back promptly at 1:00. Enjoy your
14 lunch.

15 (WHEREUPON, the jury was excused from open court at
16 approximately 11:29 a.m.)

17 THE COURT: Anything before we break? Any loose
18 ends?

19 MS. JOSEPH: Nothing.

20 THE COURT: Nothing?

21 MS. JOSEPH: Nothing.

22 THE COURT: We'll break for lunch.

23 (WHEREUPON, a lunch break was taken.)

24 THE COURT: Two things.

25 MS. JOSEPH: Yes, Your Honor.

1 THE COURT: That will probably mushroom into three
2 things, and maybe four things. The first is Madam Court
3 Reporter has given me an exhibit, State's Exhibit No. 23.
4 And I think there was some question whether or not this
5 particular exhibit is in evidence.

6 Is everybody in agreement that it is in evidence?

7 MR. GROSE: We are.

8 MS. JOSEPH: Yes.

9 THE COURT: Okay. That clarifies that.

10 Now, the second thing is, everybody is clear on the
11 whole reasonable doubt charge; correct?

12 MS. JOSEPH: Yes.

13 THE COURT: Mr. Grose, are you good on that?

14 MR. GROSE: Yes, sir.

15 THE COURT: All right. And I think everybody is
16 clear on the charge regarding circumstantial evidence
17 versus direct. Because it mirrors the same exact standard
18 charge that I normally give.

19 MS. JOSEPH: Yes, Your Honor. No objection.

20 MR. GROSE: Yes, sir.

21 THE COURT: So did the two of you have an opportunity
22 to look at the charge regarding children?

23 MS. JOSEPH: Yes, sir.

24 It is from the desk book. But the State would still
25 object to the second to the last sentence, Your Honor.

1 Just because something is the standard charge doesn't mean
2 the State can't object.

3 THE COURT: The second to the last sentence.
4 Beginning with -- it's a long sentence, but beginning with
5 because? Have you got it in front of you?

6 MS. JOSEPH: I, of course, don't, Your Honor -- oh,
7 here it is.

8 THE COURT: The second to the last sentence is a
9 pretty long sentence. As a matter of fact --

10 MS. JOSEPH: I have, In addition, young children may
11 be influenced.

12 THE COURT: Oh, okay. That's the last sentence --
13 that's the second to the last sentence. I see it now. In
14 addition, young children may be influenced by the way
15 questions are asked. It is up to you to decide whether
16 the child understood the questions asked.

17 And that's directly out of the charge book; right?

18 MS. JOSEPH: Right. Yes, Your Honor.

19 THE COURT: Well, you can object, but I'm going to go
20 ahead and charge it.

21 MS. JOSEPH: Thank you, Your Honor.

22 THE COURT: Okay. Anything else? Is everybody --
23 Mr. Grose, are you ready with your technology?

24 MR. GROSE: Yeah. We're good on that. We both had a
25 chance to test.

1 During the lunch break, I got an e-mail that they
2 were requesting Your Honor charge 16-3-657. And, of
3 course, that's addressed -- why you can't do that is
4 addressed in my pre-trial brief. And I don't know where
5 we stand on that.

6 THE COURT: Let me get that.

7 MS. JOSEPH: And, actually, Your Honor, that request
8 is withdrawn.

9 THE COURT: Okay.

10 MR. GROSE: The only other request that I would make
11 is when you're defining criminal sexual conduct and you're
12 defining sexual battery that you limit it to fellatio,
13 which is what's in the indictments.

14 THE COURT: All right.

15 MS. JOSEPH: And the State would object to that, Your
16 Honor. We would just ask that you read everything in
17 full.

18 THE COURT: Let me get that. Let me just read this
19 sentence. And I think -- let me ask this question. My
20 able clerk and I was talking about this. I think on
21 the -- there's -- on the verdict form, there has -- does
22 the jury -- there has to be some notation regarding sexual
23 intercourse either by the person or the object --

24 (Pause.)

25 THE COURT: While he's doing that, let me just tell

1 you what I'm defining as sexual battery. A sexual battery
2 is sexual intercourse, cunnilingus, fellatio, anal
3 intercourse, or any intrusion, however slight, of any part
4 of a person's body or any object into the genital or anal
5 openings of another person's body, except when the
6 intrusion is accomplished for medically recognized
7 treatment or diagnostic purposes.

8 MS. JOSEPH: That's correct.

9 Thank you, Your Honor.

10 THE COURT: And your objection would be?

11 MR. GROSE: My objection is that the State has
12 limited themselves to fellatio under the indictment. And
13 I cited the -- I believe it was the Bailey case and
14 provided a copy earlier regarding variance or going
15 outside and changing the elements.

16 And I would also -- we mentioned the Court of Appeals
17 case in Blurton earlier.

18 THE COURT: Right.

19 MR. GROSE: The Supreme Court case at 352 S.C. 235,
20 573 S.E.2d 802. And that citation is in my brief. While
21 I didn't cite to the Supreme Court case, the jury charge
22 issue that the Supreme Court took up in Blurton dealt with
23 the Judge giving an instruction to the jury that was a
24 correct statement of the law, but was confusing and
25 misleading under the facts of that case.

1 And, of course, by the time it got to the Supreme
2 Court, Mr. Blurton already had a new trial. But the
3 Supreme Court addressed that issue because when he had his
4 retrial, they wanted to make certain that the jury was
5 instructed properly. And what -- the summary of what
6 Justice Pleicones said in that opinion was --

7 THE COURT: Do you -- what's the cite on the Blurton
8 case?

9 MR. GROSE: It's the Supreme Court 352 S.C. 203, 573
10 S.E.2d 802 from 2002.

11 THE COURT: Okay.

12 MR. GROSE: And, basically, Justice Pleicones said
13 the charge has to be tailored to the facts of the case.

14 THE COURT: Did that case cite Bailey?

15 MR. GROSE: Well, Bailey hadn't been decided then.
16 Bailey is a more recent case.

17 THE COURT: Okay.

18 MR. GROSE: And Bailey, specifically, deals with the
19 variance between what the indictment says and the
20 evidence, and what the jury's asked to consider for a
21 conviction.

22 THE COURT: Let me read this. I'm just reading the
23 footnote in Bailey. It says, Variance between the
24 allegations and the proof. While a conviction may be
25 sustained under an indictment, which is defective because

1 it omits essential elements of the offense, such is not
2 true when the indictment facially charges a complete
3 offense and the State presents evidence which convicts
4 under a different theory than alleged.

5 Is that where --

6 MR. GROSE: Right. That's what I'm looking at. And
7 in their indictment, they, specifically -- they identify
8 the specific sexual battery. And it gets back to the
9 concept of the presentment to the Grand Jury.

10 THE COURT: Right.

11 MR. GROSE: We -- in the State system, unless you're
12 charged by the State Grand Jury where they do have
13 transcripts of the Grand Jury, we don't have any way of
14 knowing what the Grand Jury was presented, other than
15 what's in the indictment. And there's no evidence in the
16 indictment that the Grand Jury considered anything other
17 than fellatio.

18 THE COURT: So what you're saying is that definition
19 of sexual battery is okay with you with the omission of
20 everything else other than fellatio?

21 MR. GROSE: Yes, sir.

22 THE COURT: What's the State's position regarding
23 that?

24 MS. JOSEPH: Thank you, Your Honor.

25 I've had this issue come up in many of my trials --

1 trials of this nature.

2 THE COURT: Yes, ma'am.

3 MS. JOSEPH: The indictment is a notice document. We
4 are not contesting that it goes back to the jury. But
5 it's important to note it is not evidence, Your Honor.

6 They were put on notice that he committed criminal
7 sexual conduct in the first degree with a minor, which is
8 committing a sexual battery with a child under 11. And
9 that's what we are going to argue to the jury.

10 In addition -- but, I mean, I think we're splitting
11 the baby here. Because we are asking for the full
12 definition of sexual battery to be read into the record.
13 We're asking to argue that a sexual battery was committed.
14 The Defense can point to the indictment -- and the
15 indictment is going back with them. So he gets to make
16 that point. So I think that every side is satisfied.

17 But as far as why it's not an error and why you won't
18 be overturned is because the indictment is a notice
19 document. Yes, it says to wit, fellatio. But,
20 fundamentally, sexual battery is the element that's
21 required to be proven.

22 MR. GROSE: But they limited it to one sexual
23 battery. And I think that if you go with my approach and
24 you just define fellatio as being a sexual battery and
25 explain what that means, if your charge does that, and

1 send back a verdict form that says guilty or not guilty,
2 we'll know if they found beyond a reasonable doubt whether
3 fellatio was committed.

4 The reason -- I think there's two reasons probably
5 for putting the particular sexual battery in the -- on the
6 verdict form, two reasons why the code did that. That
7 wasn't there until South Carolina decided to make criminal
8 sexual conduct with a minor a death penalty eligible case.
9 That's already -- while our statute hasn't been to the
10 U.S. Court, the Supreme Court has decided that issue. So
11 that's no longer the case, because a finding of a
12 particular sexual battery was an aggravating circumstance
13 for a capital case.

14 The second is probably so that there's an assurance
15 that there was a unanimous jury on which sexual battery
16 was, actually, committed, which is, also, going to, you
17 know, whether or not the verdict was unanimous to that
18 level. And since we only have one at issue here, it's
19 either -- in my opinion, it's either guilty or not guilty.
20 They either have proven fellatio beyond a reasonable doubt
21 or they haven't.

22 And we keep coming back to this concept of an
23 indictment being a notice indictment. That is true. That
24 is not the only purpose of an indictment. But to the
25 extent that it's notice, it says this is what we're going

1 to prove. And, now, they're trying to change that, you
2 know. I mean, I've seen indictments where multiple, you
3 know, potential batteries were listed. They could have
4 drawn the indictment that way.

5 THE COURT: All right. Let me just ask you this,
6 Mr. Grose. This is piggybacking on what Ms. Joseph said.
7 You could cure that in -- when you're -- well, I guess you
8 can cure it in your closing argument, that particular
9 discrepancy.

10 MR. GROSE: Well, I mean, I plan on referencing the
11 indictments in my closing argument. I don't think that
12 cures the due process violation of allowing her to argue
13 something different than the indictment and allowing the
14 jurors to consider something different than the
15 indictment. That coming from me is not the same as it is
16 coming from Your Honor.

17 THE COURT: Well, you know, I think what I can do is
18 I could say sexual battery is defined as, and -- and let
19 you decide -- in your closing, you could reference
20 whatever you want to. But I feel comfortable defining
21 sexual battery as I just said a minute ago. I feel
22 comfortable doing that.

23 MR. GROSE: And is that the way you, initially, read
24 it, the broader definition?

25 THE COURT: Yes.

1 MR. GROSE: Just note our objection.

2 THE COURT: I will. I will.

3 Are you -- are the two of you going to submit
4 proposed verdict forms?

5 MS. JOSEPH: We can, Your Honor.

6 THE COURT: Can you do that?

7 MS. JOSEPH: Yes, sir.

8 THE COURT: And just be working on that.

9 MS. JOSEPH: Yes, sir.

10 THE COURT: Okay. Anything else?

11 (Pause.)

12 THE COURT: 16-3-655, Subsection D(1), I'm reading
13 about -- maybe about the first four -- maybe four
14 sentences down. I'll just read it into the record. It
15 says, In the case of a person convicted at trial for a
16 violation of Subsection A(1), the Judge or jury, whichever
17 is applicable -- here, being the jury applicable -- must
18 designate as part of the verdict whether the conduct
19 constituted a sexual battery involved sexual or anal
20 intercourse by a person or intrusion by an object.

21 My reading of this is that the verdict form has to
22 have some language. That's what I'm reading. And we read
23 that the other day. And that's what -- the discussion
24 that I had with the clerk.

25 MS. LUTTRELL: And, Your Honor, I can tell you that

1 this same issue just came up last month, I believe, in a
2 very similar case. And there was a lot of discussion back
3 and forth. And, actually, the Defense and our office both
4 agreed that that finding is -- it's in there. And if you
5 look further down in that same paragraph -- it's kind of
6 hard to direct you.

7 THE COURT: Well, you start reading it.

8 MS. LUTTRELL: But later on, it says, In order to be
9 eligible for the death penalty pursuant to this section,
10 the sexual battery constituting the current events and any
11 prior events must have involved sexual or anal intercourse
12 by a person or intrusion by an object.

13 THE COURT: All right.

14 MS. LUTTRELL: It goes on to talk that about if the
15 prior offense was committed prior to when this -- the
16 effective date of this section, then the Judge would hold
17 a hearing to determine, at that point, if the offense was
18 committed or involved sexual or anal intercourse by a
19 person or intrusion.

20 It's our position that that finding is only necessary
21 if the State were seeking the death penalty in a future
22 case. Here in this case, if there were a conviction,
23 which is a minimum 25-year offense, based on the
24 Defendant's age -- we're not seeking that additional
25 finding.

1 THE COURT: So your position is that should not be
2 placed on any form -- verdict form?

3 MS. LUTTRELL: It's only required in a future
4 proceeding if the State were -- if this same offense came
5 up again and the State were seeking the death penalty in
6 that case.

7 THE COURT: And I'm assuming that -- that question
8 came up in a prior case and the Court --

9 MS. LUTTRELL: And in that case, it was a first
10 offense of this type as well. It was very similar to what
11 we're dealing with here.

12 THE COURT: And the Court at that time adopted your
13 rationale?

14 MS. LUTTRELL: Yes, Your Honor.

15 THE COURT: Or the State's rationale in that regard?

16 MS. LUTTRELL: Yes, Your Honor.

17 MR. GROSE: And my rationale is identical, except it
18 goes a step further. That the State would never seek the
19 death penalty in one of these cases because they know it
20 has already been held unconstitutional by the United
21 States Supreme Court without a murder being involved.

22 THE COURT: All right. I'm satisfied that we would
23 not include that language.

24 MR. GROSE: And, Judge, I'm not going to be able to
25 do a proposed verdict form since it's just me. And my

1 request would be for the verdict form, guilty or not
2 guilty on each of the four indictments.

3 MS. JOSEPH: We'll, obviously, show it and have it
4 approved. And I understand he's saying alternate guilty,
5 not guilty.

6 THE COURT: Yes. Just prepare one and show it to
7 him.

8 MS. JOSEPH: We'll take care of that, Your Honor.

9 THE COURT: Please, ma'am.

10 All right. Anything else before we bring the jury
11 back?

12 When we bring the jury back, what we're going to do
13 is -- we're ready to close; right?

14 MS. JOSEPH: Right. So I'm going to open -- close in
15 full, Your Honor. And then I will rebut whatever Defense
16 says at the end. That's my understanding.

17 MR. GROSE: Mine as well.

18 THE COURT: Okay. So you're going to open, he's
19 going to come, and then you're back again?

20 MS. JOSEPH: Briefly, yes, Your Honor.

21 THE COURT: We're ready.

22 (WHEREUPON, the jury came into open court at
23 approximately 1:15 p.m.)

24 THE COURT: All right. Good afternoon.

25 All right. Juror #309. All right. Ma'am, would you

1 exchange seats with this juror.

2 Juror #309 will serve as foreman [sic] of the jury.

3 All right. We are now going to go into closing
4 arguments on both sides.

5 Are both sides ready to proceed?

6 MS. JOSEPH: Yes, Your Honor.

7 MR. GROSE: Yes, sir.

8 THE COURT: All right. Ms. Joseph.

9 CLOSING ARGUMENTS

10 MS. JOSEPH: Thank you.

11 May it please the Court.

12 Opposing Counsel.

13 Members of the jury, the Defendant admitted on the
14 stand that Lori was desperate for money. She was a single
15 mom. And, yes, sometimes, even frequently, she asked the
16 Defendant for money. But the difference between what
17 we're arguing and what they're arguing is they want you to
18 believe the Defendant entered Lori's life in 2012 and
19 saved her. He rescued her and her children. He was her
20 guardian angel.

21 But if you look at the Defendant's testimony, his own
22 statements on the stand, and if you remember Lori's
23 testimony, the Defendant admitted that Lori, J.M. 's
24 mother, was strong and independent. Lori said she was
25 doing just fine in Florida before Mr. Dent reentered their

1 lives.

2 He wasn't saving them. He was trapping them with
3 money. He agreed to pay the rent, the cable, their phone.
4 He wanted to buy them a car. Because he was doing
5 something that all predators, all manipulators do. He was
6 getting the upper hand.

7 And now, I'm going to go through the evidence piece
8 by piece and explain why he wanted the upper hand, what
9 his ultimate goal was.

10 Now, what I say to you right now and what Defense
11 says to you, this isn't evidence. This is me, as a
12 lawyer, arguing to you. The things that are evidence, the
13 things that when you go back there and have to think
14 about, that's the -- the testimony that you heard right
15 here when the people came and talked to you, and it's the
16 photos, and it's videos. So let's together look back on
17 that.

18 The first thing and the most important thing that you
19 have to consider is the statement, the two videos made by
20 J.M. in this case. So you saw J.M. testify.
21 And she's now 13. But back when this video was made, she
22 was nine years old. And this video was made approximately
23 a month after she had made a disclosure about what had
24 happened to her. This is the closest in time account
25 about what she remembers about the abuse.

1 So let's look at this -- let's remember this video
2 and sort of thing -- big picture, big picture. What are
3 your impressions? I want you, the jury, to remember how
4 detailed she was. How she corrects herself over and over
5 again. No, that's not right. That's not how it happened.

6 The Defense is going to want to say she's confused,
7 that she's lying. But what I see is a child trying her
8 hardest to get it right. And when she doesn't know, she
9 says, I don't know. When she's not sure, she says, I'm
10 not sure. Over and over again, she corrects herself. She
11 corrects the interviewer, even though it makes her
12 uncomfortable. She admits when she doesn't know things.

13 And overwhelmingly, I think the thing that we all
14 agree on is that these videos are long. They are long,
15 long videos. And they are full of details, small little
16 details.

17 There are two types of details that I want to talk
18 about. There are details about the abuse. And then there
19 are other details.

20 So for the details about the abuse, I want you all to
21 recall how she described urine. That's what she called
22 it. She was, obviously, talking about the Defendant's
23 ejaculation. How she when asked what color it was, she
24 said without hesitation white. And then, members of the
25 jury, maybe you don't remember this, maybe you need to

1 re-watch the video, which we can allow you to do. She
2 said it looks like flour, if you mixed it with something.
3 That is a weird, and vivid, and detailed description.

4 In addition to talking about the Defendant's semen,
5 she talked about how he -- the ejaculation never went into
6 her mouth. How it would come close and the Defendant
7 would run off into the bathroom. She's describing
8 behavior that would be normal in this type of situation
9 that is, in fact, how the Defendant would behave.

10 She, also, described his penis as sometimes soft and
11 sometimes hard. She talked about -- not even talking
12 about fellatio, but just talking about the other sexual
13 acts, she's asked did he ever try to put his tongue in
14 your mouth? And she looked horrified by the question.
15 But she says, Yes. I knew you were going to ask that.
16 Yes, he did. And I kept my mouth closed. And she shows
17 the interviewer, I kept my mouth closed.

18 She, also, doesn't want to answer when she's asked
19 about pornography. Did he show you nasty videos? Did he
20 show you videos? I didn't want to tell you this, but,
21 yes, yes, he did. It was adults. They were kissing.
22 They were in a bed. I saw private parts. That's why I
23 didn't want to look. I said eww.

24 She's very vivid in her descriptions. She's very
25 vivid as she -- each time the interviewer asked over your

1 clothes, under your clothes. She can say, well, that was
2 over my clothes, that was under my clothes, that was under
3 his clothes. The level of detail is so high.

4 But looking at the interview as a whole, it's not
5 just the abuse. Her descriptions of the abuse are very
6 vivid. But maybe you don't believe the descriptions of
7 abuse. So ignore the abuse. Ignore the abuse.

8 Look at the other details. The conversation that
9 really caught my eye was the conversation about the sports
10 bra. Because she -- she describes an entire conversation
11 she has with her grandfather, the Defendant, about the
12 sports bra.

13 He asked her, Why are you wearing a sports bra?

14 And she says, Because I am.

15 And then she talks about how much it covers her. And
16 how she had to go upstairs and put it on because he was
17 touching her chest. If she is making something up, she is
18 making up an entire conversation. And I would argue that
19 nine-year-old kids simply don't do that.

20 And the other vivid details she describes that have
21 nothing to do with sexual abuse, she talks about that
22 turkey over and over again, how he's big, and she's afraid
23 of it. She, actually -- if you listen, if you re-watch
24 the interview, which I encourage you to do, she describes
25 where each adult is in the house when he's visiting. She,

1 also, describes how everyone else is out on the Gator,
2 which is that small golf cart type thing, and she was
3 alone. There's just detail upon detail upon detail. So
4 that's the video. And the video is the biggest piece of
5 evidence in this case.

6 And before I move on to talking about other things, I
7 do want to show you one brief clip from this video.

8 Jennifer, can you try turning it on and off?

9 I think we may just have audio.

10 (WHEREUPON, a portion of State's Exhibit No. 17 was
11 played in open court.)

12 MS. JOSEPH: Before we move on from the video, I
13 would be remiss if I didn't talk about other things that
14 J.M. said, not about the abuse, not about the details
15 of her life.

16 She talks extensively about how the Defendant
17 threatened her. And the threats are very specific because
18 the threats that maybe a normal nine-year-old girl -- this
19 wouldn't be a concern in her life. He said he's going to
20 kick us out of his house -- or our house if I tell. And
21 Lori said and the text messages show that they -- and the
22 Defendant said that he was paying the rent. They are
23 completely dependent on him. And he's using that
24 dependency. He's threatening this child with that
25 control.

1 In addition, she talks about bribes so, so, so, so
2 much. And that is not surprising. If any of you have
3 kids, kids talk about the things they get, the toys, their
4 possessions. And here she is, jewelry, gifts, gift cards,
5 money. He had money in his room all the time, she says.

6 Now, the Defendant put up witnesses, his brother, his
7 mom. And I say his brother, his mom because these people
8 are not claiming Lori and J.M. as their kin. They're
9 not doing that.

10 He put up his witnesses and they talked about
11 Christmas gifts, how the Defendant would show up with
12 Christmas gifts, some for A.M., some for J.M. . And
13 maybe that's true. Maybe on Christmas, he did give gifts.
14 And he gave them to both children.

15 But J.M. isn't talking about gifts. J.M. is
16 talking about bribes. She even uses the words bribe. She
17 thinks it's a bribe. And the interviewer has to correct
18 her, but she knows -- she knows what word to use. And she
19 gives an example, you know, A.M. got a smaller gift. I
20 got a bigger gift. He loved me more. Why? Because he
21 was trying to control her more.

22 Now, in this case, J.M. gave two interviews. And
23 you, obviously, have seen both of them. You just saw a
24 clip of one of them. In the first interview, J.M.
25 primarily talks about the Defendant touching her, rubbing

1 her, making her feel uncomfortable. She talks about
2 trying to get away from him kissing her on the mouth. It
3 is in the second interview where she says he made me lick
4 his penis. He put his own mouth on my private parts --

5 MR. GROSE: Objection. Variance to the indictment.

6 THE COURT: I'll let you proceed.

7 Objection noted for the record.

8 MS. JOSEPH: He talked about penetrating her vagina.

9 He talked about --

10 MR. GROSE: Objection. Variance to the indictment.

11 THE COURT: Subject to your objection.

12 You may proceed.

13 MS. JOSEPH: She talked about him touching her
14 private parts under her clothes. Over and over again,
15 she's making these disclosures in the second interview.

16 The Defense is going to talk extensively about how
17 because she made two statements, she's lying. You know,
18 she said -- and it's true, she told the interviewer in the
19 first interview, I told you everything. I told you
20 everything.

21 And, members of the jury, this is my chance to talk
22 to you. And this is my version. And I'm basing my
23 version off of these videos, off of what I watched, off of
24 the evidence, and off of what J.M. says at the very
25 beginning of the second statement over what John Camelo,

1 the first witness, if you remember that, said, she was
2 afraid. She was afraid she was going to get in trouble.
3 She was afraid that her mom would hate her. She was
4 embarrassed. This is a little girl just wearing
5 sunglasses. She's trying to hide. She's embarrassed.

6 We had Tessa Trask come and testify. That was the
7 expert from Hope Haven. And she said a lot of really
8 important things. But one of the things that she said,
9 and I want you to remember in the context of this case, is
10 that disclosure is a process. It's a conversation.

11 J.M. has been abused by someone she trusted. It
12 took her a while to find someone she trusted to tell. It
13 took her a while to tell the entire truth. Do not blame
14 J.M. for having her trust erased. It was the Defendant
15 that erased that trust.

16 So, now, we're going to talk about the evidence,
17 other than the videos. So other than this interview where
18 she tells the interviewer what happened to her, I want you
19 to remember she, also, told her mom and she, also, told
20 John. And she told you in court what happened to her.

21 Why did she tell John? I want you to remember back
22 to John's testimony. John no longer dates Lori. He has
23 no contact with J.M. . He is a neutral third party. He
24 has no dog in this fight. I believe that J.M. told
25 John because she viewed him as law enforcement. She

1 viewed him as a safe person to tell. I, also, think she
2 told him because when she told him, the Defendant was far
3 away. He was no longer visiting. He couldn't hurt her
4 anymore.

5 Now, J.M. told John. She told her mom. And, as I
6 mentioned, she came here and told you. Once again,
7 Defense is going to argue that her statement here is so
8 different than the videos. And this is just a different
9 opinion. He's going to see differences. He's going to
10 argue for differences.

11 I saw so many similarities. Four years have passed.
12 She's now 13 years old. Like most survivors, she's trying
13 to put this behind her. But she remembered having been
14 forced to lick his penis. She remembered him kissing her
15 all the time, making her feel uncomfortable, being touched
16 all over. She remembers being shown porn and him taking
17 inappropriate photos of her. She remembers the bulk of
18 what happened to her.

19 So I want you to compare her testimony that you've
20 heard here and then compare the tapes. And I think you'll
21 be overwhelmed with how much she, actually, really does
22 remember.

23 In addition to looking at her video statement and her
24 statement from the stand, I want you to look at the
25 behavior described by her here and then in the videos.

1 And I want you to remember Tessa Trask's testimony.

2 So Tessa was the expert from Hope Haven. And she
3 defined grooming. And I have a definition of grooming,
4 but I'm going to read it out loud, too. It's giving
5 gifts, things of value, treats or privileges, developing a
6 trusting relationship with a child and her family to gain
7 access to the child, and normalizing sexual touch through
8 exposure. It can include exposure to pornography or other
9 acts. It is safe to say that J.M. had never seen this
10 definition of grooming when she went into that Hope Haven
11 interview when she was nine years old.

12 And, frankly, even if you showed a nine-year-old that
13 definition, I don't think that they would really
14 understand it or be able to shape their story to fit that
15 definition. So it should shock and amaze you how much her
16 description of the conduct matches that description,
17 giving gifts, things of value, treats, or privileges.

18 She describes over and over again the bribes she was
19 given. He would pull up the American Girl Doll website,
20 which American Girl dolls, that's a big one, pull up that
21 website in front of her and say, Do you want one of these
22 dolls? These expensive, expensive dolls. He would give
23 her gifts, gift cards, money. He was consistently bribing
24 her.

25 Developing a trusting relationship with a child and

1 her family to gain access to the child. He inserted
2 himself. He pushed himself into their lives. He paid
3 their rent, their cable, their phone bill. He wanted --
4 he said on the stand that he wanted Lori to be
5 independent. But he encouraged, pushed Lori to get a
6 bigger house, a house she couldn't afford so that he could
7 have a private space in that house, a room all of his own.

8 He made a big point on the stand that he thought it
9 was weird, it made him uncomfortable that John moved into
10 the house so quickly. That was practically a stranger, he
11 said, living in the house. But he was practically a
12 stranger. He had no relationship with J.M. prior to
13 2012. And suddenly, he was there. Suddenly, he had a
14 room. Suddenly, he was visiting all the time. Even when
15 he had other places to stay in the area. He could have
16 stayed with his brother. He could have stayed with his
17 best friend who lived in Charleston.

18 And, finally, and most importantly, the last prong of
19 grooming is his normalized sexual touch through exposure.
20 Yes, J.M. talked about fellatio, which is when she was
21 forced to lick his penis. But that's the culmination,
22 members of the jury. That's the final act. There's so
23 much ground work.

24 He was touching her, her back -- interestingly, if
25 you watch the video, she is so uncomfortable with the

1 touching. Because I do think, deep down, kids know. And
2 he's touching her inner thighs, her back. He's warming
3 her up. He's grooming her. He's showing her photos of
4 his penis. He's showing her porn. He's taking photos of
5 her. All of this, it's building, it's building. That's
6 what grooming is. He's trying to get to a point when he,
7 finally, culminates, he does what he wants, she won't tell
8 anyone. It's called grooming. It's a long process.

9 And, frankly, the grooming in this case mostly
10 worked. She didn't really want to tell. Even when she
11 told, she tried not to tell the whole truth because it was
12 embarrassing and she knew there would be consequences if
13 she told.

14 The other thing that Tessa Trask, the expert, talked
15 about was that sexual abuse is trauma. And that trauma
16 has certain symptoms. John, our very first witness,
17 testified that he saw red flags.

18 Now, he's not an expert in sexual abuse. This is
19 just a boyfriend whose girlfriend's daughter is acting
20 weird. She is hugging him all the time, kissing him,
21 calling him dad, sitting on his lap, trying to touch his
22 groin. This is someone who no longer talks to Lori, no
23 longer has a relationship with J.M. , years later
24 saying, yeah, I remember some troublesome behavior.

25 And Lori testified and talked about nightmares.

1 These are ways -- outward signs of abuse. All trauma
2 victims, all sexual abuse victims do not exhibit these
3 signs, just to be clear. But in this case, the State
4 argues that these actions that John and Lori described
5 were symptoms of a sexual abuse.

6 Now, J.M. was recalled to the stand and talked
7 about some photos. And I want to sort of talk about these
8 photos as well. So, really, you can consider the photos
9 in two sets. This photo of J.M. at her birthday, this
10 photo of J.M. and her grandfather, the Defendant,
11 cooking, and this photo of J.M. in the Defendant's
12 bedroom with a bunny that the Defendant would bring with
13 him. Those photos are to provide context.

14 Investigator LaVan testified that given the nature of
15 the allegations, given the time that had passed, he did
16 not take crime scene photos. But if you listen in her
17 interview, she says that she was cooking with her
18 grandfather the first time he ran his hand up her legs.
19 In case you need a visual of what this house looked like.

20 Now, the second group of photos, J.M. testified to
21 most of them she wasn't sure, but she thought the
22 Defendant took them. So this photo -- for example, this
23 photo of her bending down in front of the camera, the
24 camera almost going down her shirt, she's not sure, but
25 she thinks the Defendant took it. It's not her brother

1 because her brother is behind her; right? She thinks the
2 Defendant took this one. When she was asked again, she
3 was almost positive that the Defendant took this one.
4 This is her dance uniform, it's her legs.

5 After you've looked at the video and you remember
6 J.M. 's own statements, I want you to remember the
7 Defendant's statements, which should be fresh in your mind
8 because you heard them today. He admitted that Lori was a
9 strong, independent woman and he forced her to move from
10 Florida. He forced her to move into a bigger house, a
11 house she couldn't afford. On one hand, he's saying I
12 want her to be independent. Why is she so dependent on me
13 for bills? But each step, he's making her more and more
14 and more dependent.

15 I want you to review the text messages. I want you
16 to review the Facebook messages. First of all, in the
17 Facebook messages -- he said she doesn't have a job.
18 Those Facebook messages, which he testified were his
19 Facebook messages, the first thing she says is the kids
20 are at home because I'm at work.

21 And, yes, her next sentence is, I want money for
22 J.M. 's dance recital. That's because J.M. was
23 taking dance because the Defendant was paying for it. And
24 he was paying for it because he wanted the whole family
25 dependent on him.

1 And in those text messages, they do talk about rent.
2 She wants that rent paid because she wants a roof over the
3 head of her kids. But read those text messages closely.
4 Because the last text message -- in fact, I'm not going to
5 quote it. Let me find it.

6 Do you have State's Exhibit No. 21?

7 Here, I have it.

8 And you'll have a chance to read all of these. You
9 know what, keep your money. We don't need shit from you.
10 I don't care if the rent gets paid or not. This isn't
11 about money. It's about you being a pedophile and
12 molesting children. I hope you get what you deserve.

13 The Defendant, when he got on the stand wanted to
14 argue -- wanted you to believe that Lori was after the
15 money. Money, money, money, money, money. But when Lori
16 confronted him, you did this to my daughter, you did this
17 with my daughter, he didn't stop communicating with them,
18 freak out. He didn't deny the allegations outright.
19 Instead, it was him that came back talking about the rent
20 again.

21 And, also, there was no financial gain in this case.
22 And I'm going to say this at the end as well. There's no
23 financial gain because they told -- they could no longer
24 afford to live where they lived and they ended up in a
25 long-term hotel. I mean, what was the gain?

1 So after you've considered the testimony, and after
2 you've reviewed the evidence, and -- the evidence in this
3 case, it's the videos, the photos of J.M. , the text
4 messages, Facebook messages, you will be asked to decide
5 guilt or innocence in this case. And I'm with the State.
6 And the State in this case, me, this table, Investigator
7 LaVan, we have the burden.

8 So the burden is written up here. And you can take a
9 moment to read it. The Judge is going to read it to you.
10 But, simply put, we have the burden. We must prove beyond
11 a reasonable doubt that the Defendant did what he's
12 accused of doing.

13 Reasonable doubt is a doubt which makes an honest,
14 sincere, conscientious juror in search of the truth
15 hesitate to act. And the example that's frequently used,
16 you're making other big decisions in your life, buying a
17 home, who to marry, the type of uneasiness that would
18 cause you to hesitate when making those type of big
19 decisions.

20 Can you go back to the second slide?

21 Members of the jury, the State has met that burden.
22 We have proved beyond a reasonable doubt based on the
23 videos, based on the testimony, based on all the things
24 that you will review that the Defendant, Charles Dent,
25 made J.M. , his granddaughter, lick his penis, look at

1 pornography, look at photos of his penis.

2 The Defense is about to speak to you. They're going
3 to try to confuse you. They're going to try to tell you
4 what they think this case is about.

5 This case is not about money. Because Lori and
6 J.M. and A.M. , J.M. 's brother, got nothing from
7 telling the truth. They were kicked out of their house.
8 They weren't allowed to keep paying rent there. They
9 couldn't afford it. And they ended up in a long-term
10 motel.

11 This case is, also, not, by the way, about other
12 traumas in J.M. 's life. Yes, J.M. 's Uncle Matt
13 killed himself. But you do not act out in a sexual way
14 the way that John Camelo described because you're going
15 through trauma related to suicide. J.M. was acting
16 like a sexual assault victim.

17 This case is, also, by the way, and, perhaps, most
18 importantly, not about J.M. not knowing her dad, which
19 was a question Defense asked J.M. when she was on the
20 stand. It's, also, not about Lori's dating history.

21 Over and over again, J.M. was asked, who did this
22 to you? Did anyone else do this to you? She consistently
23 said, my grandfather, my grandfather, Charles Dent did
24 this to me. He's guilty.

25 Thank you.

1 THE COURT: Mr. Grose.

2 MR. GROSE: I beg the Court's indulgence for just a
3 moment.

4 THE COURT: Yes, sir.

5 MR. GROSE: I want to, I guess, start today where we
6 started on Tuesday morning. But before I go into it, I
7 want to just comment on something. I know that this
8 process can be kind of frustrating sometimes. And it can
9 be kind of burdensome with all the getting up and going
10 out and the schedule is changing. And while we always do
11 our best to apologize for the inconvenience, one of the
12 things that we never apologize for is the process itself.

13 It's like Judge Kinlaw talked about on Tuesday
14 morning when he first started addressing you and has sort
15 of been your guide through this trial in telling you how
16 everything works. That the right to a jury trial is so
17 important that John Adams and the other founding fathers
18 put it into our Constitution because it was that
19 important. That when the Government decides to take an
20 allegation and put somebody on trial for life and liberty
21 that a jury gets to decide, gets to hear what the evidence
22 is and what the allegations are.

23 Now, on Monday when we started, one of the things we
24 talked about was the presumption of innocence and the
25 burden of proof. We're going to talk about that again in

1 a minute.

2 I'll, also, review the indictments with you. The
3 indictments are very important. While the Judge told you
4 that's not evidence, an indictment is the way that the
5 State tells a person what they're charged with and what
6 they have to come to court and defend.

7 I, also, ask that you pay attention to three things,
8 the timeline, opportunity for coaching, and motive. And
9 we're going to talk about all of these in a little bit
10 more detail. This is more my words, just sort of a
11 summary, of reasonable doubt and a way to begin to explain
12 it.

13 We talked a little bit on Tuesday about the different
14 levels of burden of proof that we follow in our courts.
15 If it's an automobile accident case, the burden of proof
16 is by a preponderance of the evidence. Is it more likely
17 than not that somebody was at fault in the accident?

18 In a civil case, if fraud is alleged, and that's
19 pretty serious, you have a higher standard. That's clear
20 and convincing evidence.

21 But the highest standard in our law is beyond a
22 reasonable doubt. And when you get to talking about
23 beyond a reasonable doubt, you know, it's not all doubt,
24 but it has to leave you firmly convinced. But if you
25 think that there is a real possibility that a defendant is

1 not guilty of what they're charged with, you're supposed
2 to give them the benefit of the doubt, and find them not
3 guilty.

4 I don't know for sure, but I imagine that that's
5 where the term give somebody the benefit of the doubt came
6 from. It came from these concepts that John Adams and our
7 other founding fathers thought were so important that they
8 would be included in our Constitution.

9 So when you go through the evidence -- and it's
10 really interesting. Because when the Prosecutor was up
11 here, she said, well, this is my view of the evidence.
12 And she tried to predict what she thought my view of the
13 evidence might be when I came up here.

14 And that's interesting to me because that's her
15 acknowledging that there's more than one way to look at
16 this evidence, more than one way to view it. Because in
17 our society, if in a jury trial, there's really more than
18 one way to view the evidence, if there is a real
19 possibility after viewing the evidence that a person is
20 not guilty, then that's what the verdict's supposed to be.

21 The Judge is, also, going to charge you on something
22 called circumstantial evidence. And I'm not going to try
23 to quote the exact words as to what he's going to say.
24 But it's just this sort of same type of, you know,
25 convincing. If there is two ways to look at

1 circumstantial evidence, then the State has failed to meet
2 their burden of proof. And they rely on a lot of
3 circumstantial evidence. Certainly, things like
4 testimony, eyewitnesses accounts are what we call direct
5 testimony.

6 But one of the things that they did in their closing
7 argument just a few minutes ago was want to talk about
8 John Camelo's relationship with J.M. , and how John said
9 that J.M. acted with him. Now, first of all, you
10 haven't heard one bit of testimony that J.M. displayed
11 any sexual or sexualized behavior with anybody else. So
12 we're going to come back to that a little bit later on
13 when we talk about John Camelo a little bit more and how
14 all of this sort of evolved.

15 So the timeline. Matthew's suicide was, obviously, a
16 pretty important point in the lives of a lot of the people
17 that you've heard from in this courtroom here. You
18 probably noticed this morning when Charles was up here
19 that he got a little almost teary and a little emotional
20 when he talked about that. And what we know and -- I
21 mean, this is tragic. I mean, there's a lot of tragedies
22 in all of this that we're going to talk about.

23 But what we know is that Matthew was close to his
24 sister. Sometimes, we refer to her as Lori and sometimes
25 we refer to her as Michelle. And that Matthew would go to

1 Jacksonville, Florida.

2 Sadly, Matthew was not the first suicide in this
3 family. Lori's mother, also, named Lori, committed
4 suicide. And, you know, sometimes mental illness does run
5 in a family. And maybe that's what happened here, and
6 maybe it's not. But they want you not to focus on that.

7 And the reason I don't think you can overlook that is
8 because they want you to consider in this case the expert
9 that came in and testified. This was an expert that
10 hadn't read the file, hadn't interviewed J.M. , wasn't
11 aware of any of J.M. 's, what we call, social history,
12 sometimes, this family history, what J.M. has been
13 exposed to in her life. She wasn't familiar with
14 J.M. 's school records, didn't know that she did well in
15 Beaufort when the abuse was supposedly going on, but
16 didn't do well after they moved to North Carolina.
17 Because if you think about it, if somebody is being
18 abused, that's when they're grades are going to drop off.

19 Ms. Trask, also, talked about adjustments. And that
20 children can sometimes have adjustment problems when they
21 move. And J.M. was having those adjustment problems in
22 North Carolina.

23 But the reason that you can't ignore the suicide is
24 because Ms. Trask talked about there being different types
25 of trauma. And back in the day, we didn't understand -- I

1 say back in the day, 20, 30, 40 years ago, we didn't
2 understand what types -- what being exposed to trauma did
3 to people.

4 I mean, I think after Vietnam, we began to learn more
5 about that, and learn how when somebody is close to you
6 and they die, like Matthew did, that that's something that
7 has an effect on you. And that that's something that can
8 be a trauma in somebody's life. So we can't overlook
9 that.

10 So the timeline -- I mean, we've been through it over
11 and over. August of 2012, the first townhouse. August of
12 2013, the second townhouse. June 10th, 2014, law
13 enforcement contacted. July 10th, July 18th, the
14 interview -- I'm sorry. First interview date is on July
15 10th. July 18th, two things happen. That's when they
16 gave the authorities more information. But it's, also,
17 the day that the Maurice incident happened. And then the
18 second interview happened a week later.

19 Now, I alluded to the Maurice incident in opening
20 statements. And I'm not trying to sit here and say
21 Maurice is guilty and Charles is not. That's not the
22 point of bringing it up. But it is curious that the
23 Maurice incident happened on exactly the same day that
24 more information came out. And when we get a little bit
25 further, we're going to be talking about some of the

1 circumstances of when that additional information came
2 out.

3 But what's important is I want you to think about
4 children. I want you to think about somebody that's nine
5 years old at that time. I want you to think about what we
6 know about children. Children have imaginations. And
7 that is a good thing. I mean, we want them to have
8 imaginations. That's how you learn, that's how you
9 develop. But, sometimes, the imaginations can run wild a
10 little bit.

11 Children, also, want to please adults. I asked
12 J.M. , one of the questions, if she wanted to please her
13 mother. And she said, Yes. That's typical of children.
14 We, also, saw an example of how children are able to read
15 signs from adults and tailor what they say to it.

16 In this very -- we witnessed it yesterday. We
17 witnessed it when they were talking about the
18 photograph -- I don't have my glasses on, but the
19 photograph with the dancing shorts. You know, there was a
20 time she wasn't sure who took that. You found out that
21 they showed that to her yesterday not long before she came
22 into this courtroom to testify about it.

23 You heard how her answer evolved. And the more times
24 she was asked the question she thought or, at least, said
25 she was more sure that she thought her father [sic] took

1 it. There's no evidence who took any of these
2 photographs, except there's evidence that Charles didn't
3 take some of them. We don't know who took these
4 photographs.

5 But when you walk through this door and you come in
6 here -- and the way this courtroom is set up, and I don't
7 know a better way to do it. But you have people on one
8 side that are prosecuting, and the Defense is on the other
9 side. And I'm sitting next to J.M. 's grandfather,
10 Charles Dent. She had met the Prosecutor on the
11 telephone. And she met her in person this week.

12 Now, I'm not saying anything improper happened here.
13 I'm not saying that anybody said, J.M. , I need you to
14 get in here and change your story. What I'm saying is
15 that the dynamics of this courtroom and you knowing that
16 there's people on different sides of the issue, and
17 knowing that I'm connected to Charles Dent, knowing that
18 these people are connected to Lori Mayo, her mother, who
19 she wants to please, it's the process.

20 Even at that age, even at 13, she's giving the answer
21 that she thinks is going to be -- receive the most
22 approval from the adult that she wants to get approval
23 from. Look, I'm not trying to blame Lori. I'm just
24 trying to talk about -- I mean, J.M. . I'm not trying
25 to blame J.M. . I just want to talk about the dynamics,

1 and what we know about children, and what we know about
2 them wanting to please adults. And we're going to come
3 back to her imagination in a minute.

4 But before I do that, I want to go through the
5 indictments. Okay. Because the indictments, like we
6 talked about, is what the State is trying to prove. And
7 there's two indictments for disseminating obscene material
8 to a person under 12. And in this first indictment, 1671
9 are the last numbers of it, they're saying that Charles
10 took pictures of his genitals and showed them to J.M. .

11 (WHEREUPON, a portion of State's Exhibit No. 16 was
12 played in open court.)

13 MR. GROSE: Okay. Two things about that. But before
14 that, I apologize that the picture is a little splotching.
15 I've never gotten it able to play on my computer as well
16 as it did yesterday morning.

17 But it's important to listen to what is said. And
18 there was two things that were said in that that are
19 important. One is for that indictment, the photographs of
20 the genitals, she said he took 10 pictures and showed them
21 to her, 10 pictures of his penis and showed them to her.

22 Now, I told you on Tuesday they weren't going to have
23 any pictures of Charles Dent's penis. They brought in
24 some other pictures without any evidence of where they
25 came from. But they're not the pictures that prove this

1 count -- or this charge as contained in this indictment.

2 The other thing that's important is right there at
3 the very end, you heard her say, no, as far as taking a
4 picture of herself. So even at that young age, she
5 understood that she could say no and something wouldn't
6 necessarily happen.

7 Now, the next indictment is, also, the disseminating
8 of obscene material. And this is showing pornography.
9 And once again, we've had some testimony, but we haven't
10 had anything that has confirmed or corroborated showing of
11 pornography.

12 The next two indictments are for criminal sexual
13 conduct with a minor in the first degree. And in these
14 indictments, the State says what they're going to prove is
15 a sexual battery. And they say they're going to prove
16 that Charles had J.M. commit fellatio on her [sic].
17 And it gives her date of birth and the code section that's
18 involved.

19 And, again, going back to the timeline, there's a
20 time frame in this first indictment, April 2013 to
21 August 2013. Again, this goes back to the leases.
22 Remember, they moved into the first one in August of 2012.
23 They moved into the second one at the very end of August,
24 beginning of September of 2013.

25 The next indictment still alleges the same thing, the

1 fellatio. But it alleges a time frame in August of 2013
2 going to April of 2014 when they didn't have communication
3 anymore. This is from the second interview.

4 Remember, in the first interview -- and they don't
5 even dispute this. In the first interview, there was no
6 disclosure, no comments, no claims, no accusations about
7 fellatio. Look, what -- I want you to listen to what was
8 said here.

9 (WHEREUPON, a portion of State's Exhibit No. 17 was
10 played in open court.)

11 MR. GROSE: So she was given a choice to say where it
12 happened, first house, both houses. And so even under
13 this video -- and we don't think that this really
14 happened. But under this video, she's only talking about
15 it happening in one place. And she was consistent about
16 that, although arguably inconsistent about whether it was
17 the first one or the second one. But the point is from
18 the get-go, you can take one of these off the table
19 because her statements don't even support that it happened
20 at both locations.

21 Now, we're going to keep talking and talk about why
22 this was evidence of coaching, why there was coaching
23 involved in this case, and the opportunities for coaching.
24 Now, you know, this, also, gets back to something I said
25 on Monday, which was I told you to expect her to come in

1 here and make some allegations.

2 But we were kind of warned in the Prosecution's
3 opening that her memory was not going to be good. And we
4 can talk about a little bit different reasons why that
5 might have been. But, certainly, she didn't testify to
6 all the things on Tuesday when she came in here that she
7 did in her -- what she talked about in the videos.

8 But I, also, warned you that you were going to see
9 these videos. And I, also, asked you to look for evidence
10 of coaching. Because the thing is, in our system, the way
11 the Court system works, people don't just walk in here and
12 say I was coached or I was, you know -- I coached somebody
13 to say something. You have to begin to look for clues.
14 You have to pay attention to these videos and look for
15 clues for coaching.

16 And so I'm going to play this one in a second. But
17 she starts off saying, My mom told me to tell you this.
18 And then we're going to listen to her make up a story.

19 (WHEREUPON, a portion of State's Exhibit 17 was
20 played in open court.)

21 MR. GROSE: I mean, Ms. Capps caught her making up
22 something. And this gets back to the active imagination
23 that I was talking about before. And when she was telling
24 this story about the places that it was hidden in or
25 whatever, she sounds the same as she does when she's

1 talking about everything else.

2 And if you remember in other parts of the video,
3 probably later on when they came back to this same thing,
4 you know, it wasn't clear at what point she learned about
5 the layout of everything in Alabama, whether she had been
6 there at the point that this supposedly happened, or
7 whether it was coming from photographs.

8 But it began with my mom wanted me to tell you this.
9 My mom wanted me to tell you this is a clue about the
10 coaching. The way it's said in this, you're going to hear
11 her say, I told my mom lots of things. I just have to
12 remember them.

13 And then we're going to get to a point later on where
14 she says, My mom said. And when we get to that, I want
15 you to pay attention. Because she's talking about things
16 that she's claiming that Charles did to her. But then she
17 sort of switches and starts talking about -- continues
18 with, My mom said.

19 And again -- and we're still in the first interview.
20 And there's some evidence where they ask her about, you
21 know, being made to touch somebody's private parts.

22 (WHEREUPON, a portion of State's Exhibit No. 16 was
23 played in court.)

24 MR. GROSE: So she had to remember. And in that
25 story, she switched to talking about her mom saying that

1 he was rubbing this part. And we can't tell -- I wish
2 they had this easel turned where we could see it. But
3 from the context where they're talking about private
4 parts, she's -- J.M. is disclosing to Ms. Capps that
5 her mom talked about Charles rubbing his own penis and he
6 shouldn't do that.

7 She just sort of switched. It kicked in. And it was
8 probably subconscious, but it was another little clue.
9 And then Ms. Capps honed in and asked, Have you ever been
10 asked to touch his private parts?

11 And she said, No.

12 Now, I said we were going to come back to the
13 relationship with John Camelo, a/k/a dad, and have you
14 ever had to -- well, also, this is another thing about
15 have you ever had to touch anybody else's private parts.
16 Before we play this, let's talk about Camelo --

17 MS. JOSEPH: Objection, Your Honor. Improper
18 third-party guilt.

19 MR. GROSE: I'm not going to third-party guilt, Your
20 Honor. This is a response -- I'm going to play this
21 video. But this is a response to their comments about the
22 sexualized behavior. This is in evidence.

23 THE COURT: Go ahead.

24 MR. GROSE: Thank you.

25 Before we play it, we had some contradictions in this

1 courtroom about who J.M. referred to as dad. Now, the
2 significance of her not knowing and ever meeting her real
3 dad, which is tragic, is that I imagine that all through
4 her life she's wanted to have a dad.

5 And her mother, Lori, told you that she's probably
6 called every one of her boyfriends dad. J.M. didn't
7 want to acknowledge that in here. She said that the only
8 person she called dad is her mom's current boyfriend in
9 New York, and she never called John Camelo dad. Well,
10 John Camelo remembered being called dad and that's in the
11 video.

12 And, again, I said nobody talked about J.M. having
13 sexualized behavior with anybody other than John. So
14 let's listen to what J.M. said about her relationship
15 with John, who her mother had met in February or March,
16 started dating in May and moved into the house.

17 (WHEREUPON, a portion of State's Exhibit No. 16 was
18 played in open court.)

19 MR. GROSE: Okay. I mean, who let's a boyfriend
20 they've only known for a few months spank their children?
21 And then we find out it's for play or for fun. And they
22 talked about, you know, wrestling with each other. And
23 she said she had accidentally grabbed him somehow.

24 So this is not -- when you hear J.M. talk about
25 this, this is not a relationship of her just coming up and

1 hugging on somebody and kissing them. Sure, she wants a
2 dad. But this is a really odd kind of relationship with
3 somebody that she's barely known.

4 The second interview, I think it's important -- the
5 July 25th interview, it's important to talk about -- to
6 listen to what she said about why she didn't remember
7 everything.

8 (WHEREUPON, a portion of State's Exhibit No. 17 was
9 played in open court.)

10 MR. GROSE: So John -- and remember, this is the same
11 day the Maurice thing happened. And she was probably
12 under some scrutiny about why this guy is coming around
13 wanting to play with her. And then John starts asking,
14 Did you remember to tell her everything? And over and
15 over, she says, I'm trying to remember things. It's
16 almost like she's trying to remember what she was told to
17 say.

18 And when John's asking that question, it's like he
19 knows what everything is. Did you remember to tell her
20 everything?

21 And she was like, I forgot. And she said, And I was
22 scared to tell them.

23 But that begs the question, was she scared to tell
24 John the things that she was supposed to say? It's like
25 John already knew. Or was she scared to tell John that

1 she didn't remember to tell Ms. Capps some of the things?
2 It's an important question.

3 Now, as far as, you know, motive is concerned. We,
4 certainly, have had, you know, presentations of two
5 different ways as to what the arrangement was and how it
6 was supposed to work. And they want to argue that there's
7 nothing irrational. There's nothing for Lori to have
8 gained out of this, or the children because she was
9 getting kicked out of the house.

10 Well, it gets back to that timeline. August '12 to
11 August '13 is when they had the lease on the first
12 townhouse. August 2013 to August of 2014 was when they
13 had the lease on the second townhouse. And almost every
14 place that rents wants some kind of notice of when you're
15 going to terminate the lease.

16 And you heard the people that are connected to
17 Charles and, yes, they're probably some of the most
18 important people in his life. But who else would you
19 expect to be witnesses in a case like this? Who else
20 would you confide in in your ordinarily -- ordinary
21 everyday lives except the people that are important to you
22 and close to you?

23 And Charles Dent was talking to Mitch Fife and his
24 brother, David Dent, about the issues that he and Lori
25 were having with regards to the arrangement that they had.

1 And he was getting advice. And you heard David say, you
2 know, I told him he needed to back out of this situation.

3 And this was happening early on in 2014. It was
4 early on in 2014 before any of these allegations came up.
5 There was a date that that lease terminated. And so if
6 Lori is truly interested in being self-sufficient, she
7 knows what that date is. She has no obligation under any
8 circumstances to stay there. But she knows what that date
9 is and that it's coming.

10 And there's been a dispute about how much she was
11 working. And they want to say, oh, these text messages
12 say she was. We're not saying she wasn't working some of
13 the time. We're saying she wasn't working a lot of the
14 time.

15 So come the end of that lease when Charles -- and she
16 knows that Charles is not going to be paying the bills any
17 more. She has the time to plan to do something. And all
18 of this was brewing. And she wanted that to continue.
19 And it wasn't going to. And that's when all of this
20 started evolving.

21 It gets back to reasonable doubt. And it gets back
22 to what we were talking about, if there's a real
23 possibility that Charles Dent is not guilty, you're
24 supposed to give him the benefit of doubt.

25 In this case, you've got to ask yourself, is there a

1 real possibility that Lori was trying to get back at her
2 father? And when you look at everything, everybody,
3 including Lori, she said that she and the children were
4 living in a poverty neighborhood, a bad neighborhood, I
5 think, is how Lori described it.

6 She talks about the work that she was doing in
7 Jacksonville -- or in Florida in one of these messages
8 that the State introduced today. She was being a
9 stripper. And she was living in a poor neighborhood.
10 They had just had a death in the family, somebody that she
11 relied on in the summers for some of the child care.

12 We don't know the number of homes that they had lived
13 in during that period of time. But the most stable time
14 in Lori's life and J.M. 's life was the two years that
15 they lived here in Beaufort. And while they moved from
16 one unit to another, they were units in the same apartment
17 complex.

18 In the four years that Lori and the children have
19 been gone from Beaufort, they've lived in three houses in
20 two states. That was the testimony. And you've got a
21 seven-year-old child when she comes here, seven to nine
22 for the time frame that she's living here who wants to
23 please her mother and has never had a stable father figure
24 in her life. Oh, she's searched for it and she's looked
25 for it in all of her mother's boyfriends.

1 But to J.M. , people in her mother's life
2 disappear. When she's done with them, they're gone. When
3 she was done with Charles Dent, he was gone. When she was
4 done with John Camelo, he was gone.

5 In fact, I suggest that she was, actually,
6 manipulating John Camelo because he said he had been a
7 victim of sexual abuse himself. And that was an issue
8 that was important to him. And she had him move in to pay
9 half the rent, but Charles finished out the rent. So she
10 was using that money for something else.

11 But getting back to the point, they're all gone. And
12 J.M. knows that people disappear from her mother's
13 life. And her mother wants her to make these allegations.
14 We saw the evidence of coaching in these videos.

15 When she came in here -- when J.M. came in here
16 and couldn't remember things this week -- and some of the
17 videos we watched today, she was nonchalant talking about
18 this. When she comes in here today -- or this week to
19 talk about it, there's a lot of reasons why a child may
20 forget things, may be hesitant, may be inconsistent with
21 things. They want to say it's about the disclosure
22 process.

23 But they, also, talked about kids reacting to
24 stresses in their life and being asked to do something --
25 or doing something that's out of the ordinary. And I

1 would imagine that it would be an extreme stress on a
2 child to be coached to lie about something that didn't
3 happen.

4 Her school problems didn't start until after this.
5 They weren't going on while the abuse was supposedly
6 taking place. The changes happened after she was coached
7 to talk about something that didn't happen.

8 And so coming in here and being reluctant -- people
9 don't come in here and say I was coached. But she may
10 have been uncomfortable in here because she knows that
11 what she's doing is wrong. She's not a bad person. She's
12 lived a sad life. She's lived a tragic life. And it's
13 unfortunate that we have to be here and talk about all of
14 this.

15 But when you get back to the burden of proof, is
16 there a real possibility, based on the evidence that
17 you've heard here this week, that Lori coached J.M. to
18 do this? If the answer is yes, then we ask you to find
19 Charles Dent not guilty of all of these charges.

20 THE COURT: Ms. Joseph.

21 MS. JOSEPH: Thank you, Your Honor.
22 Jennifer.

23 THE CLERK: Yes.

24 MS. JOSEPH: Motive, motive, motive, motive. There
25 is a reason the Defense talked to you so much about

1 coaching, so much what he views as inconsistencies in
2 these videos before he got to motive. Motive is sort of a
3 throw away for them. Because, basically, effectively, if
4 you look at the testimony, Lori admits I was living in a
5 bad neighborhood. We're not hiding it. She admits she
6 had a variety of jobs, temp agencies, Publix.

7 The Defendant testified on the stand that she was on
8 food stamps -- or the Facebook messages mention food
9 stamps. It is not a crime to be poor. It is not a crime
10 to struggle. You are not a bad mom if you struggle. She
11 was doing fine in Florida.

12 These are the risk factors for sexual abuse.
13 Single-parent household. Why? Because predators know
14 that people that they can financially manipulate are
15 people that they can effectively prey upon. I'm sorry.
16 I'm getting worked up. But emotion is something that we
17 have to talk about in this case. Read the Facebook
18 messages. Read the text messages. Look at the anger in
19 those text messages.

20 The Defense wants to argue that Lori coached J.M. .
21 And he says -- he looks at the videos and he says, look,
22 she's saying my mom said, my mom said, my mom said. First
23 of all, all nine-year-olds say my mom said a hundred
24 times.

25 Second of all, in her very first interview, the

1 interviewer asked, you know, basically, why are we here?
2 And she says, My mom said we're here so this doesn't
3 happen again to any other little girl. So, yeah, her and
4 her mom, they had some conversations about this meeting.
5 And her mom said go in there and tell the truth. Read the
6 text messages.

7 The Defense wants to argue that this is all about
8 timeline. And in support of his argument, he has put up a
9 bunch of bias witnesses to say, oh, yeah, he was talking
10 about kicking that lame girl out, you know, at the end of
11 this lease.

12 But meanwhile, he's moved her into a house so that he
13 can have a room there and is visiting her all the time.
14 But he wants this to end as soon as possible, you know.
15 He just had established a relationship with his daughter
16 and grandchildren, but cutting them off because he wants
17 her to be financially independent, even though he's moving
18 her into a bigger home.

19 But look at the timeline established not by his
20 witnesses, but by the text messages. Yes, Lori texted her
21 father and said, I want rent money. That's on the same
22 day she's reported this case to law enforcement. She is
23 not saying give me rent money or I will tell the police.
24 She's already told the police. At this point, she's just
25 looking for money so she can keep a roof over her kids

1 head for a little bit longer.

2 There is no motive in this case, members of the jury,
3 because she talked to her daughter. Her daughter told her
4 what happened to her. And they ended up not in the house,
5 they ended up in a long-term motel. And, members of the
6 jury, there is nothing wrong with being in a long-term
7 motel. After all, it's another roof over her children's
8 head. They had lived in a bad neighborhood in Florida.
9 But they survived before without Charles Dent and they
10 survived after without him.

11 They keep wanting to talk about John Camelo and what
12 a weirdo. This is a short relationship. And Lori is a
13 bad mom for having these boyfriends move in.

14 This is a man that she had no relationship with, no
15 relationship with. And suddenly, he's buying gifts, huge
16 packages of Christmas gifts. He's paying their rent.
17 He's paying their cable. He's all up in their life. He's
18 baby-sitting. He has a room in that house. The same
19 behavior that they want you to judge John for and find him
20 not credible, the Defendant exhibits.

21 A lot of what Defense Counsel talked about was how we
22 had failed to do things. We didn't show you photos of the
23 Defendant's penis. We didn't show you porn found on
24 electronic devices. We're not required to do that.

25 And he started talking about circumstantial evidence.

1 And he said the Judge would talk to you about
2 circumstantial evidence. And he didn't want to read out
3 the definition of circumstantial evidence that the Judge
4 is going to read. But I'm going to do that because
5 circumstantial evidence is frequently viewed as a dirty
6 word, I think. If you guys -- you know -- it's viewed as
7 not being serious. But -- and I'm going to read it.

8 Crimes may be proven by circumstantial evidence. The
9 State can rely on direct evidence, circumstantial
10 evidence, or some combination of the two. The Judge is
11 going to read that to you.

12 Circumstantial evidence is evidence. And it's not a
13 lesser type of evidence. And why -- why is this case
14 about circumstantial evidence? Why do we not have photos
15 of J.M. licking the Defendant's penis? Why do we not
16 have J.M. 's clothes covered in the Defendant's semen?
17 We don't have that because of the grooming process.
18 Because sexual assault cases, these type of cases, they do
19 not happen out in broad daylight with witnesses. They
20 happen in private homes. They happen between two people
21 who have a power difference. And that's what happened
22 here.

23 It happened when J.M. was alone with the offender.
24 It happened in a private home. It happened after months
25 of grooming. And that is why we must rely on

1 circumstantial evidence.

2 They talked about how there are two interviews, and
3 how she didn't tell the interviewer everything in the
4 first interview -- first interview. This is a
5 nine-year-old girl who had held in all of this abuse for a
6 year.

7 She, finally, found the courage to tell someone. Her
8 mom told her to tell everything that had happened to her.
9 Through the course -- in those tapes, she says, I'm trying
10 to remember. I'm trying to remember. She's trying to
11 remember. It's a lot to remember. And this is her
12 chance.

13 The Defense Counsel told you that children have
14 imaginations. They do. Children's imaginations do not
15 let them perfectly describe the consistency of semen. He
16 said that children want to please adults. Why would
17 J.M. telling her mom, hey, your dad, a man who you just
18 got back in touch with, sexually abused me? Why would
19 that please her mom? We know there was no financial gain.

20 Defense Counsel talked to you a lot about the
21 indictments in this case. I'm holding a copy of the
22 indictments. You're going to get a copy of the
23 indictments. The indictments are not evidence. But you
24 will get a chance to look at them. But they are not
25 evidence.

1 As Defense Counsel pointed out, there are two date
2 ranges, it's the difference between the first house and
3 second house. Then it alleges in both of these
4 indictments the Defendant committed a sexual battery upon
5 a minor who is less than 11 years of age.

6 And, obviously, everyone testified that J.M. was
7 nine approximately when this occurred, eight or nine. And
8 then the indictment goes on to say, to wit, fellatio.
9 Fellatio, members of the jury, is oral contact between a
10 victim and male genitalia. That's what fellatio is.

11 So it says, to wit, it gives an example. And she did
12 talk, both on the stand and in her tape, about being
13 forced to lick the Defendant's penis. But all the law
14 requires is that she have committed a sexual battery. And
15 the Court is going to read out the definition of sexual
16 battery. But I'm going to read it to you as well --

17 MR. GROSE: Objection to the variance to the
18 indictment.

19 THE COURT: Overruled, subject to your objection.

20 MS. JOSEPH: Thank you, Your Honor.

21 Sexual battery means sexual intercourse, cunnilingus,
22 which is oral contact with a Defendant and female
23 genitalia, fellatio, anal intercourse, or any intrusion
24 however slight of any part of a person's body or any
25 object into the genitalia or anal opening of a person's

1 body, except when such intrusion is accomplished for
2 medically recognized treatment or diagnostic purposes.
3 The Defendant committed a sexual battery over -- he
4 committed several sexual batteries over a year period on
5 J.M. .

6 This is where I finish talking to you and you get to
7 go out and look at the evidence and consider it. I know
8 that you will take that seriously. I just ask that you
9 look at all of the evidence. And as the Judge said at the
10 beginning of the trial, apply your common sense.

11 Thank you so much for taking this matter so
12 seriously.

13 THE COURT: Thank you, ma'am.

14 We're going to take about a three-minute break. And
15 the three-minute break is for Your Honor to use the
16 restroom.

17 So take the jury out. And we'll be back in about
18 three minutes.

19 (WHEREUPON, the jury was excused from open court at
20 approximately 2:42 p.m.)

21 (WHEREUPON, a break was taken.)

22 (WHEREUPON, Court's Exhibit No. 10 was marked for
23 identification and admitted into evidence.)

24 THE COURT: The jurors are using the restroom and
25 they'll be back shortly. The exhibit -- not the exhibit,

1 the note where they selected the jury Foreman, I just had
2 that marked as Court's Exhibit No. 10.

3 And I'm assuming that's without objection.

4 MS. JOSEPH: Without objection, Your Honor.

5 MR. GROSE: Correct.

6 THE COURT: Okay. Here you go.

7 MR. GROSE: Your Honor, they have given me copies of
8 the proposed verdict forms. I have no objection to those.

9 THE COURT: All right.

10 MR. GROSE: I do have one question. When they put up
11 their definition of reasonable doubt, it had jurors
12 searching for the truth in it. I don't remember hearing
13 that when you read yours out.

14 THE COURT: I didn't read that when I read it out.
15 Was that in --

16 MS. JOSEPH: Yeah, Your Honor. I did my best to take
17 down your version.

18 MR. GROSE: Okay. And I'm not criticizing her. I
19 just wanted to make sure that it's not in what you're
20 going to say because of the case law on that.

21 THE COURT: Yes.

22 MR. GROSE: So we're good.

23 THE COURT: All right.

24 MR. GROSE: I mean, I don't think either of us got it
25 exactly like you're going to do it, you know, but we're

1 good.

2 THE COURT: And I think that language was in prior
3 definitions. And then I think -- you know, there was some
4 discussion about that. But in other words, it's not
5 anything I'm going to say.

6 MR. GROSE: And I didn't think it was because I'm
7 kind of tuned in to that one for some reason.

8 THE COURT: All right.

9 MS. JOSEPH: While we're on break, Mr. Grose, do you
10 want to look at the evidence and make sure what's going
11 back?

12 THE COURT: As to each verdict form, I'm going to
13 read exactly what's on this verdict form.

14 MS. JOSEPH: Yes, Your Honor.

15 THE COURT: Anything before we bring the jury in?

16 (WHEREUPON, there was no response.)

17 THE COURT: Bring in the jury.

18 (WHEREUPON, the jury came into open court at
19 approximately 2:59 p.m.)

20 CHARGE ON THE LAW

21 THE COURT: All right. Ladies and gentlemen of the
22 jury, I know you've been here all week and you've listened
23 to a lot of testimony. But what I'm getting ready to do
24 right now is very, very critical. I need you to focus on
25 everything and every word that comes out of my mouth. In

1 other words, I want you to listen to everything I'm
2 getting ready to say. So, please, ma'am, and, please,
3 sir, please, listen. And I'm going to try to speak loud
4 enough so everyone can hear.

5 Ladies and gentlemen, you have heard all of the
6 evidence that you're going to hear in this case. And you
7 have heard the closing arguments. And, now, it is my duty
8 to instruct you on the law that applies to the facts in
9 this case.

10 It is your duty to determine the facts from the
11 evidence that you've heard during this trial. As to those
12 facts, you must apply the law as I give it to you. And
13 you should not be concerned with what you think the law
14 should be, but what the law is. And you should not be
15 concerned with any undue sympathy, or biases, or
16 prejudices, or personal likes or dislikes you may have.

17 And that means that you must decide this case solely
18 on the evidence before you and according to the law. As
19 you recall, you took an oath at the beginning of this
20 trial to do exactly that.

21 Now, in following my instructions, you must follow
22 all of them and not single out some of my instructions and
23 ignore others. Because all of my instructions are equally
24 important. And do not read into these instructions or
25 anything that I may have said or done during this trial as

1 any indication to what I think the facts are or what your
2 verdict should be.

3 Because, as I told you at the outset, under our
4 Constitution and system of justice, you and you alone are
5 the sole and exclusive judge of the facts of this case.
6 You decide what the facts are by evaluating and weighing
7 the evidence you've heard during the trial. There's no
8 way for you to do that in a literal sense.

9 I'm, certainly, not going to give you a set of scales
10 to go back and forth to conduct experiments. But what I'm
11 talking about is weighing the evidence and evaluating it
12 by using your good common sense, your sense of logic and
13 reason, and your own life experiences. And you bring
14 those things to bear on what you've heard during this
15 trial.

16 I, also, told you at the beginning of the case that
17 evidence consists of several things. The first is sworn
18 testimony, and the second is exhibits. You judge the
19 credibility of the evidence. And you, as jurors, would
20 have to necessarily gauge the credibility or believability
21 of the evidence presented. That's within your purview.
22 And I'm not going to go back and forth over that with you,
23 because I know you heard me the very first time I said
24 that at the outset of this trial.

25 But I will tell you that you may, also, consider in

1 deciding credibility of the witnesses testimony in such a
2 way that you believe everything that they say, or you
3 would believe nothing a witness says. You may believe
4 parts of a witnesses testimony, and disbelieve the other
5 part of a witnesses testimony. You may believe one
6 witness over several, or several over one. But I know
7 that you will decide this matter of credibility using
8 reason, and logic, and your good common sense and not do
9 it in an arbitrary fashion.

10 Now, there are, also, two sources -- or two types of
11 evidence, rather. And I'm talking about now is there's
12 direct evidence and circumstantial evidence. Direct
13 evidence is the testimony of someone who claims to have
14 direct and actual knowledge of a fact, such as an
15 eyewitness. Direct evidence is evidence that if it is
16 believed immediately establishes a fact.

17 Circumstantial evidence. Circumstantial evidence is
18 indirect evidence. Put another way, circumstantial
19 evidence is proof of a chain of facts from which you could
20 find that another fact exists, even though it has not been
21 proven to you directly.

22 The law makes no distinction between the weight or
23 value to be given to either direct or circumstantial
24 evidence. You may consider both kinds. And there's not a
25 greater degree of certainty required of one over the

1 other.

2 Now, ladies and gentlemen, there are certain
3 things -- or certain witnesses who come in here who are
4 qualified and described as experts. You saw that during
5 the course of this trial. These are people who by reason
6 of their training, education, and experience have achieved
7 a specific expertise in their field. And they are, unlike
8 other witnesses, entitled to give their opinions about
9 things that they have observed.

10 However, expert witnesses share this with all other
11 witnesses, and that is that you, the jury, are the sole
12 judges of their credibility as well. You may accept their
13 testimony, or you may reject their testimony, or give it
14 whatever weight that you think their opinion or testimony
15 deserves. You're not required to accept even the
16 uncontradicted opinion of an expert.

17 Now, there are certain principles that apply in
18 criminal cases. And I'm going to go over those again with
19 you now. And I went over those -- some of those with
20 you -- or those with you at the outset of the trial.

21 The first is the mere fact that Mr. Dent, the
22 Defendant in this case, was indicted and charged doesn't
23 constitute evidence of any kind. The fact that a person
24 has been indicted doesn't even create a suspicion of
25 guilt.

1 I explained to you that these indictments are simply
2 the manner -- or formal manner in which a case begins. In
3 other words, that's how cases begin. And they, certainly,
4 do not constitute evidence against the Defendant.

5 Mr. Dent, in these four indictments, has pled not
6 guilty. And that puts the burden of proof solely and
7 squarely upon the shoulders of the State. And he can only
8 be convicted if all 12 of you agree that the State has
9 proven each and every element of the charges against
10 Mr. Dent beyond a reasonable doubt.

11 You're, also, required to weigh each of these charges
12 separately and consider the evidence as to each one
13 separately. There are four indictments, four charges,
14 four evaluations by you of each one to determine -- and
15 that has to be done to determine whether or not the State
16 has met its burden of proof as to each element of the
17 offense.

18 Mr. Dent is presumed innocent. And that presumption
19 of innocence is not some legal technicality. It is a
20 fundamental right that all of you -- every person enjoys
21 in this country. And it can only be removed if the State
22 convinces you with proof beyond a reasonable doubt as to
23 every element of the crime.

24 Now, what is reasonable doubt? A reasonable doubt is
25 defined as the kind of doubt that would cause a

1 reasonable, sincere, honest, and conscientious person to
2 hesitate to act in an important matter in their own
3 affairs. Proof beyond a reasonable doubt is proof that
4 leaves you firmly convinced of the Defendant's guilt.

5 The law does not require proof that overcomes every
6 possible doubt. There are few things in this world that
7 we know with absolute certainty. And in criminal cases,
8 the law does not require proof that overcomes every
9 possible doubt.

10 If based on your consideration of the evidence, you
11 are firmly convinced that the Defendant is guilty of the
12 crimes charged, you should find the Defendant guilty. If,
13 on the other hand, you think that there is a real
14 possibility that the Defendant is not guilty, you should
15 give the benefit of the doubt and find him not guilty.

16 So if based upon -- on your view of the evidence you
17 are firmly convinced, then you -- that the Defendant is
18 guilty of the crime, then you must find him guilty. On
19 the other hand, if you think he is not guilty, as I said
20 earlier, you must give him the benefit of the doubt.

21 Now, in order to establish criminal liability, the
22 State must prove criminal intent. And criminal intent is
23 a matter that must be determined by you from the facts.
24 And there is no way to prove criminal intent to a
25 mathematical certainty.

1 So the law says that criminal intent may be inferred
2 from circumstances. It is not necessary to establish
3 intent by direct evidence. Intent may be established by
4 circumstantial evidence taking into account the
5 circumstances that are at issue.

6 Criminal intent is a mental state of conscious
7 wrongdoing. It is up to you to determine what the
8 Defendant intended to do based on the circumstances shown
9 to have existed.

10 The testimony of children. During this trial, you
11 have heard the testimony from a child. Where a witness is
12 a child, you must determine, as with any other witness,
13 whether the testimony is believable. In deciding
14 believability, you may consider not only matters that I
15 have already discussed with you, but you may, also,
16 consider the age of the child, the child's ability to
17 observe and remember the facts, and the child's ability to
18 understand and answer questions.

19 Because young children may not fully understand what
20 is happening here, it is up to you to decide whether the
21 child understood the seriousness of appearing as a witness
22 at this criminal trial, whether the child understood the
23 questions, whether the child has a good memory, and
24 whether the child understands the difference between lying
25 and telling the truth.

1 In addition, young children may be influenced by the
2 way the questions are asked. It is up to you to decide
3 whether the child understood the questions asked.

4 Now, the offense that we're, first, going to discuss
5 is criminal sexual conduct with a minor first degree.
6 Mr. Dent is charged in two indictments. Both indictments
7 charge him with criminal sexual conduct in the first
8 degree, count one and count two.

9 In order to convict the Defendant of this offense,
10 the State must prove several things beyond a reasonable
11 doubt. First, the State must prove that the Defendant
12 engaged in a sexual battery with the victim. Sexual
13 battery is -- is defined as sexual intercourse,
14 cunnilingus, fellatio, anal intercourse, or any intrusion,
15 however slight, of any part of a person's body or of any
16 object into the genitalia or anal openings of another
17 person's body, except when the intrusion is accomplished
18 for medically recognized treatment or diagnosis --
19 diagnostic purposes.

20 The State must next prove beyond a reasonable doubt
21 that the victim in the case was less than 11 years old at
22 the time of the alleged sexual battery. Consent,
23 willingness, indifference, or ignorance on the part of the
24 minor, if any, as to what was taking place does not in any
25 way affect the charge of criminal sexual conduct with a

1 minor. The specific date and time of the alleged offense
2 is not an element that the State is obligated to prove.

3 The next charge against this Defendant is the
4 dissemination of obscene material to a minor prohibited by
5 Section 16-15-305 of our South Carolina Code of Laws,
6 which makes it unlawful for an individual 18 years of age
7 or older to knowingly disseminate to a minor 12 years of
8 age or younger material which he or she knows or
9 reasonably should know to be obscene.

10 Now, ladies and gentlemen of the jury, in order to
11 convict this Defendant of this offense, the State must
12 prove beyond a reasonable doubt that the Defendant
13 knowingly disseminated, which is defined as published,
14 exhibited, or otherwise made available to a minor under
15 the age of 12 anything obscene.

16 Knowledge of the conduct of the content of the
17 material or performance, or failing under reasonable
18 opportunity to exercise reasonable expectation that would
19 have shown the content of the material or performance.
20 Material is considered obscene if, to the average person,
21 applying the contemporary community standards, the
22 material shows or describes sexual conduct in a patently
23 offensive way that the average -- that the average person
24 applying contemporary community standards relating to the
25 showing or description of sexual conduct would find the

1 material taken as a whole to the purpose -- to the pure
2 interest in sex -- to a whole appeals to be purely
3 interest in sex. I'm sorry.

4 To a reasonable person, the material taken as a whole
5 lacks serious literacy, artistic, political, or scientific
6 value. And the material is used -- or is used as not
7 otherwise protected -- that the material used is not
8 otherwise protected or privileged under the Constitution
9 of the United States.

10 Now, many of the terms I've just used in describing
11 obscene material have special definitions for purposes of
12 these offenses. Sexual conduct means vaginal, anal, or
13 oral intercourse, actual or simulated, normal or perverted
14 between human beings, animals, or a combination of an act
15 that depicts actual or simulated touching, caressing, or
16 fondling of or other similar physical contact with the
17 covered or exposed genitalia, pubic, or anal regions, or
18 female breast, nipple, whether alone or between humans,
19 animals, or a human and an animal at the same time, or
20 opposite sex in an act of actual sexual stimulation or
21 gratification.

22 Patently offensive means, obviously and clearly,
23 disagreeable, objectionable, repugnant, displeasing
24 distasteful or obnoxious to contemporary standards of
25 decency and propriety within the community. Nudity in and

1 of itself is not obscene. Materials showing or depicting
2 nude men or women may be provocative without being
3 obscene. And, also, the candid display of male or female
4 genitals is not in and of itself obscene.

5 In other words, sex and obscenity are not synonymous.
6 They're not the same thing. The contemporary standards
7 means the current modern standards within this community.

8 In deciding whether materials in this case are
9 obscene, you're not to base your decision on your own
10 personal tastes or personal standards. Instead, you must
11 decide whether an ordinary adult in this country would --
12 in the county would find the materials to be obscene as I
13 have defined the terms to you. The materials must be
14 judged as a whole in their entire context.

15 Now, those are the principles and law applied to the
16 offenses upon which this Defendant is charged. There's
17 two counts of each one of those areas that I just
18 outlined.

19 The verdict form is pretty straightforward. Now --
20 and I'll talk about that in just a minute.

21 Now, ladies and gentlemen of the jury, you were
22 chosen prior in this case to be unbiased partisans. And
23 you are the judges of the facts. You were chosen to be a
24 juror in this case because both sides in this case, the
25 State as well as Defense, believed that all 12 of you

1 could be fair and impartial, and you could decide this
2 case without any kind of bias, or prejudice, or
3 preconceived ideas.

4 So you are the judges. You're the judges of the
5 facts. And your sole interest is to determine what the
6 facts are, take the law as I just gave it to you, and
7 apply it to those facts using your life experiences, your
8 common sense, and your sense of logic and reason. Once
9 you do that, you'll be able to reach a verdict in this
10 case.

11 Now, each of you has a vote in this case. And your
12 vote is exactly that, it's your vote and no one else's.
13 Don't be afraid to change your mind if you are of
14 different minds and the discussion that you have -- the
15 discussion that you have persuades you that you should
16 change your mind. But don't change your mind simply to
17 get the case over with or to reach a unanimous verdict.
18 Because, obviously, the case is important to both sides,
19 both important to the Prosecution, both important to the
20 Defense.

21 The record in this case is now closed. There's not
22 going to be any more witnesses. There will be no more
23 evidence presented. There will be no more testimony.

24 So if something was referred to during the trial that
25 you want to have, but you don't have back there in the

1 jury room as an exhibit, I can't get it for you. So keep
2 that in mind.

3 Don't start talking about this case until I have
4 instructed the bailiff to deliver to you the verdict form
5 and the exhibits.

6 Now, you have already selected a Foreperson. I'm
7 going to now go over with you the possible verdicts in
8 each one of the offenses charged.

9 In the State of South Carolina v. Charles Dent,
10 indictment 2014-GS-07-01673, in which Mr. Dent is charged
11 with criminal sexual conduct with a minor first degree,
12 count one -- as to count one -- as to indictment
13 2014-GS-07-01673, the charge of criminal sexual conduct
14 with a minor first degree, we, the jury, unanimously find
15 the Defendant, Charles Dent -- and pay no particular
16 attention as to the order that I'm listing it. I have to
17 list it in some order. We find Charles Dent not guilty or
18 guilty.

19 Once you make a decision in that regard, Madam
20 Foreperson, sign your name and date it.

21 As to count two, the State of South Carolina v.
22 Charles Dent, charged with criminal sexual conduct with a
23 minor first degree, we, the jury, unanimously find the
24 Defendant, Charles Dent -- and here again, I reiterate,
25 pay no attention to the order in which this is listed, I

1 had to list it in some order -- not guilty or guilty.

2 And once you reach a decision on this particular
3 count two, then, Madam Foreperson, you would sign it and
4 date it. Once you, the jury, all 12 of you reach a
5 decision on it, then you would sign and date it.

6 On the other two indictments, count three, the State
7 of South Carolina v. Charles Dent, as to indictment
8 2014-GS-07-01672, on the charge of disseminating obscene
9 material to a person 12 years old or younger, we, the
10 jury, unanimously find the Defendant, Charles Dent -- and
11 here again, pay no attention to the order in which this is
12 listed, I had to list them in some order -- not guilty or
13 guilty.

14 Once you reach a verdict, then Madam -- the
15 Foreperson of the jury signs it and dates it.

16 On count four, indictment 2014-GS-07-01671, it states
17 as follows, as to indictment 2014-GS-07-01671, on the
18 charge of disseminating obscene material to a person
19 12 years or younger, we, the jury, unanimously find the
20 Defendant, Charles Dent -- and here again, as to this
21 particular -- this fourth indictment, pay no attention to
22 the order in which this is listed, I had to list it in
23 some order -- guilty or not -- not guilty or guilty.

24 And once you reach your verdict, the Foreperson of
25 the jury would sign it and date it. And this will be

1 given back to the Court.

2 Now, I am going to -- I have some legal matters to
3 take up with both sides. So I am going to ask that you go
4 back to your jury room. And, please, ma'am, and, please,
5 sir, do not begin deliberating until the verdict forms
6 have been brought to you by the bailiff, along with all
7 the exhibits. There's to be no discussion at all about
8 this case until you receive that.

9 Everybody is clear on that?

10 (WHEREUPON, all of the jurors indicated in the
11 affirmative.)

12 (WHEREUPON, the jury was excused from open court at
13 approximately 3:24 p.m.)

14 THE COURT: Any exceptions to the charge by the
15 State?

16 MS. JOSEPH: None, Your Honor.

17 THE COURT: Any exceptions to the charge by the
18 Defendant?

19 MR. GROSE: Three. First, out of an abundance of
20 caution, I think I need to renew my objection to the
21 manner in which the Court charged sexual battery. We
22 asked it be limited to fellatio. And, of course, you gave
23 them the other options. And that's the same arguments we
24 made before.

25 When Your Honor was charging 16-15-305, I know you

1 talked about the term knowingly. But I don't recall if
2 you read the definition of that.

3 THE COURT: Of what? The definition of what?

4 MR. GROSE: The term knowingly, which is in
5 16-15-305(c)(5).

6 And, finally, with regard to circumstantial evidence,
7 I think that that was a variance from the Logan case and
8 didn't include all the language about to the extent the
9 State relies on circumstantial evidence, all of the
10 circumstances must be consistent with each other and when
11 taken together point conclusively to the guilt of the
12 accused beyond a reasonable doubt. If these circumstances
13 merely portray the Defendant's behavior as suspicious,
14 then the proof has failed. That may not be the only
15 variance, but that's one that jumped to mind. And that's
16 Defendant's request to charge number two.

17 And that's my objections.

18 MS. JOSEPH: I didn't note those, Your Honor. I
19 don't know which circumstantial evidence you were reading,
20 if you were, in fact, reading the one Defense provided,
21 but it seems to include everything pertinent. If he wants
22 you to read the definition of knowingly, we have no
23 objection to that.

24 THE COURT: What definition do you have of knowingly
25 that you want me to read?

1 MR. GROSE: I have 16-15-305(c)(5). Knowingly
2 means --

3 THE COURT: 16-15-305?

4 MR. GROSE: Yeah. It means having general knowledge
5 of the content of the subject material, or performance, or
6 failing after reasonable opportunity to exercise
7 reasonable inspection, which would have disclosed the
8 character and material of the performance. And that's
9 straight out of the code.

10 THE COURT: I'm satisfied that the charge on
11 circumstantial evidence was satisfied. So I'm probably
12 not going to do that.

13 But I will give a definition of knowingly. And I'm
14 assuming that's for purposes of the indictments on
15 dissemination?

16 MR. GROSE: Yes, sir. Just because that's a part of
17 that code section.

18 THE COURT: And I'll bring them back.

19 And I think the State has no opposition to that?

20 MS. JOSEPH: No objection at all, Your Honor.

21 Thank you.

22 THE COURT: As soon as I get that in front of me.

23 MR. GROSE: I believe you need to hire him as your
24 permanent clerk. He's done a good job this week.

25 THE COURT: He's done an excellent job.

1 MR. GROSE: And we've only seen part of it. I'm sure
2 he has done many more things.

3 (Pause.)

4 THE BAILIFF: Are you ready, Your Honor?

5 THE COURT: Yes.

6 (WHEREUPON, the jury came into open court at
7 approximately 3:30 p.m.)

8 FURTHER CHARGE ON THE LAW

9 THE COURT: All right. Ladies and gentlemen of the
10 jury, in the charge that I gave you just a minute ago as
11 to the offenses count three and four, this Defendant is
12 charged with disseminating obscene material to a person
13 12 years of age or younger. And I'm going to read the
14 language in the indictment. And I'm going to tell you
15 what I'm getting ready to do.

16 In the indictment, it says that in Beaufort County,
17 South Carolina, on or about April of 2013 through April of
18 2014, the Defendant, Charles Dent, did, while 18 years of
19 age or older at the time of the offense, knowingly
20 disseminate to a minor 12 years of age or younger at the
21 time of the offense material he knew or reasonably should
22 have known to be obscene within the meaning of Code
23 Section 16-15-305.

24 I need to give you a definition of what the word
25 knowingly means. And knowingly means -- in that code

1 section, it is defined as knowingly means having general
2 knowledge of the content of the subject material or
3 performance, or failing after reasonable opportunity to
4 exercise reasonable inspection which would have disclosed
5 the character of the material or performance.

6 And I'll read it again. Knowingly means having
7 general knowledge of the content of the subject material
8 or performance, or failing after reasonable opportunity to
9 exercise reasonable inspection which would have disclosed
10 the character of the material or performance.

11 So I needed to define -- and that word is, obviously,
12 used in the -- in this count three and four. So I just
13 wanted you to know that. And that's -- I think that's it.

14 So until you get further instructions from me and
15 receive the verdict forms and the exhibits, please, do not
16 begin to deliberate. I need to discuss something else
17 with the lawyers.

18 (WHEREUPON, the jury was excused from open court at
19 approximately 3:32 p.m.)

20 THE COURT: And, Counsel, let the record reflect
21 that, obviously, you made -- Mr. Grose, you made a
22 statement regarding the Court's charge regarding
23 circumstantial evidence. And I found that the charge that
24 I did give to the jury was satisfactory. So I did not
25 charge what you asked, but, certainly, I note your

1 exception for the record.

2 MR. GROSE: And my ongoing exception to the sexual
3 battery.

4 THE COURT: To the sexual battery.

5 As it relates to the request to define to the jury
6 the word "knowingly," are there any questions or
7 exceptions to that?

8 MS. JOSEPH: No exceptions or objections, Your Honor.

9 MR. GROSE: No, sir.

10 THE COURT: All right. Anything else before we send
11 the verdict forms and exhibits back?

12 And I think everybody has had an opportunity to go
13 through the exhibits and make sure they're all in. And
14 the indictments go back. I think everybody is in
15 agreement that the indictments go back.

16 MR. GROSE: Yes, sir.

17 THE COURT: All right.

18 MR. GROSE: And you're correct. We've already
19 reviewed the evidence and I think that's ready to go.

20 MS. JOSEPH: And she has the indictments.

21 THE BAILIFF: Everybody is satisfied this is
22 everything?

23 MS. JOSEPH: Yes, sir.

24 MR. GROSE: Yes, sir.

25 MS. JOSEPH: Thanks, Your Honor.

1 And, Your Honor, are you ready for pleas?

2 THE BAILIFF: Judge, are you ready for your
3 alternates? We usually just bring them in.

4 THE COURT: Yes.

5 (WHEREUPON, Juror #153, Keri Haars-Sherry, and Juror
6 #140, Douglas Gilman, entered the courtroom.)

7 THE COURT: All right. Juror #40.

8 JUROR #140, DOUGLAS GILMAN: #140.

9 THE COURT: And you're Juror --

10 JUROR #153, KERI HAARS-SHERRY: #153.

11 THE COURT: We thank you for your service. We're
12 going to excuse you. You're free to do whatever you want
13 to do. You can stay here, or go home, or do whatever. We
14 appreciate your service and appreciate you staying here
15 these last four days.

16 JUROR #153, KERI HAARS-SHERRY: Thank you.

17 JUROR #140, DOUGLAS GILMAN: Thank you.

18 (WHEREUPON, Juror #153, Keri Haars-Sherry, and Juror
19 #140, Douglas Gilman, exited the courtroom.)

20 THE COURT: Okay. Anything else?

21 MR. GROSE: No, sir.

22 (WHEREUPON, the proceedings were recessed at
23 approximately 3:37 p.m.)

24 QUESTIONS FROM THE JURY

25 THE COURT: We have questions. Here are the

1 questions.

2 Do y'all want to come up here and read them with me
3 at a sidebar?

4 MS. JOSEPH: Sure.

5 (WHEREUPON, a bench conference was held.)

6 THE COURT: State's Exhibit Nos. 1, 3, 4, 6, 11, 13,
7 and 15. That's what's written on here. What device or
8 camera did the photos come from? Who was it? Whose was
9 it? I'm assuming that's what they meant. Who discovered
10 them, the police-mom?

11 MS. JOSEPH: Maybe if you just tell them their
12 recollection, I assume, to rely on --

13 MR. GROSE: Are we on the record?

14 MS. JOSEPH: We are on the record.

15 THE COURT REPORTER: I can't hear --

16 THE COURT: You got the question I just read, though;
17 right?

18 THE COURT REPORTER: Yes, sir.

19 You say maybe if --

20 MS. JOSEPH: I said maybe they should just be told to
21 rely on their recollection. And then the Judge was
22 starting to answer me.

23 THE COURT: I was just going to say that they need to
24 rely on their recollection and the testimony.

25 MS. JOSEPH: Yes, Your Honor. That's sounds

1 appropriate.

2 MR. GROSE: I would add that all the testimony is in,
3 like you told them.

4 And I would, also, note on the record that I believe
5 this note establishes prejudice for our objections to
6 those photographs coming into evidence.

7 THE COURT: Do you want me to write all that?

8 MR. GROSE: Well, actually, I would like you -- no.
9 I'm just putting on the record that I think this question
10 indicates prejudice to the admission of those exhibits.

11 THE COURT: Let me ask you. As opposed to me
12 bringing them out, are both sides okay with me writing on
13 here that all of the relevant evidence and testimony is
14 in? That's all I was going to put --

15 MR. GROSE: That's perfect.

16 MS. JOSEPH: Well, can you write you must rely on
17 your --

18 THE COURT: You tell me what you want.

19 MS. JOSEPH: All of the relevant evidence is in,
20 period. You must rely on your own recollections.

21 MR. GROSE: I don't think the second part is
22 necessary, but I don't object to it.

23 MS. JOSEPH: Of the testimony received.

24 THE COURT: Okay. I'm just going to put, all of the
25 relevant evidence is in. Rely on the testimony presented.

1 MS. JOSEPH: Okay.

2 MR. GROSE: That's perfect.

3 MS. JOSEPH: Thank you, Your Honor.

4 (WHEREUPON, Court's Exhibit No. 11 was marked for
5 identification and admitted into evidence.)

6 (WHEREUPON, the proceedings were recessed at
7 approximately 3:52 p.m.)

8 (WHEREUPON, Court's Exhibit No. 12 was marked for
9 identification and admitted into evidence.)

10 THE COURT: We have a note from the jury. I can tell
11 you what the question is. They need a reprint of the
12 verdict form on two. But I told them to write it out on a
13 piece of paper so we could make it an exhibit.

14 MS. JOSEPH: Yes, Your Honor.

15 THE COURT: Y'all take a look at it.

16 MS. JOSEPH: Yeah. That looks great. Who wrote that
17 has great handwriting.

18 THE COURT: Take a look at that.

19 MS. JOSEPH: That looks perfect.

20 MR. GROSE: Oh, is this the one you reprinted?

21 THE COURT: Is it okay just sending that one back?

22 MR. GROSE: Yes, sir.

23 (WHEREUPON, the proceedings were recessed at
24 approximately 6:23 p.m.)

25 THE COURT: We have a verdict.

1 Bring the jury in.

2 (Pause.)

3 THE BAILIFF: Are you ready, Your Honor?

4 THE COURT: Yes, sir.

5 (WHEREUPON, the jury came into open court at
6 approximately 6:43 p.m.)

7 THE COURT: Madam Forelady, has the jury reached a
8 verdict?

9 JUROR #309, JULIE RICHARDSON: Yes, sir.

10 THE COURT: Mr. Bailiff, hand the verdict forms to
11 the Clerk.

12 THE CLERK: Thank you.

13 THE COURT: Madam Clerk, please, publish the
14 verdicts.

15 VERDICT

16 THE CLERK: The State of South Carolina v. Charles
17 Dent, indictment #2014-GS-07-01673, we, the jury, find the
18 Defendant guilty.

19 As to indictment #2014-GS-07-01674, the charge of
20 criminal sexual conduct with a minor first degree, we, the
21 jury, unanimously find the Defendant, Charles Dent, not
22 guilty.

23 In count three, as to indictment #2014-GS-07-01672,
24 the charge of disseminating obscene material to a person
25 12 years old or younger, we, the jury, unanimously find

1 the Defendant, Charles Dent, guilty.

2 In count four, as to indictment #2014-GS-07-01671,
3 the charge of disseminating obscene material to a person
4 12 years old or younger, we, the jury, unanimously find
5 the Defendant, Charles Dent, guilty.

6 THE COURT: All right.

7 MR. GROSE: I request the jury be polled, Your Honor.

8 THE COURT: All right. Poll the jury, Madam Clerk.

9 THE CLERK: Would you like me to use names or
10 numbers?

11 THE COURT: Numbers.

12 THE CLERK: Juror #232, is this your verdict?

13 JUROR #232, MELANIE MARTIN: Yes, it is.

14 THE CLERK: Is it still your verdict?

15 JUROR #232, MELANIE MARTIN: Yes, it is.

16 THE CLERK: Juror #256, is this your verdict?

17 JUROR #256, ALEXES MITCHELL: Yes, it is.

18 THE COURT: Is it still your verdict?

19 JUROR #256, ALEXES MITCHELL: Yes, it is.

20 THE CLERK: Juror #383, is this your verdict?

21 JUROR #383, RICHARD WELKER: Yes, it is.

22 THE CLERK: Is it still your verdict?

23 JUROR #383, RICHARD WELKER: Yes, it is.

24 THE CLERK: Juror #279, is this your verdict?

25 JUROR #279, EDDIE PEARCE: Yes, it is.

1 THE CLERK: Is it still your verdict?
2 JUROR #279, EDDIE PEARCE: Yes, it is.
3 THE CLERK: Juror #172, is this your verdict?
4 JUROR #172, TAKAYLA HOLMES: Yes, it is.
5 THE CLERK: Is it still your verdict?
6 JUROR #172, TAKAYLA HOLMES: Yes.
7 THE CLERK: Juror #309, is this your verdict?
8 JUROR #309, JULIE RICHARDSON: Yes, it is.
9 THE CLERK: Is it still your verdict?
10 JUROR #309, JULIE RICHARDSON: Yes, it is.
11 THE CLERK: Juror #268, is this your verdict?
12 JUROR #268, PAULA NOVAK: Yes, it is.
13 THE CLERK: Is it still your verdict?
14 JUROR #268, PAULA NOVAK: Yes.
15 THE CLERK: Juror #311, is this your verdict?
16 JUROR #311, SINDODA ROBINSON: Yes, it is.
17 THE CLERK: Is it still your verdict?
18 JUROR #311, SINDODA ROBINSON: Yes, it is.
19 THE CLERK: Juror #278, is this your verdict?
20 JUROR #278, CHRISTOPHER PATRILLA: Yes.
21 THE CLERK: Is it still your verdict?
22 JUROR #278, CHRISTOPHER PATRILLA: Yes.
23 THE CLERK: Juror #334, is this your verdict?
24 JUROR #334, PETER SINGLETON: Yes, it is.
25 THE CLERK: Is it still your verdict?

1 JUROR #334, PETER SINGLETON: Yes, it is.

2 THE CLERK: Juror #266, is this your verdict?

3 JUROR #266, LEONARD NEWTON: Yes.

4 THE CLERK: Is it still your verdict?

5 JUROR #266, LEONARD NEWTON: Yes.

6 THE COURT: All right. Thank you, ma'am.

7 All right. Ladies and gentlemen of the jury, your
8 services here this week has ended. I appreciate --
9 everyone here appreciates your service. We appreciate the
10 time you've spent. And at this time, I'm going to excuse
11 you.

12 And thank you so much for being attentive all week
13 long. I know it's been a long week. It's been a
14 difficult time. But I, certainly, want to thank you on
15 behalf of the State of South Carolina and, certainly, on
16 behalf of the parties involved in this matter.

17 So you're excused -- hold on.

18 THE CLERK: I'm sorry.

19 THE COURT: Hold on a second. Have a seat.

20 Any questions of the jury by anyone?

21 MS. JOSEPH: No questions from the State.

22 MR. GROSE: Nothing additional.

23 THE COURT: All right. Thank you, ma'am. Thank you
24 all.

25 I appreciate it.

1 (WHEREUPON, the jury was excused from open court at
2 approximately 6:47 p.m.)

3 MS. JOSEPH: Your Honor, we just need a few moments
4 to prepare the sentencing sheets.

5 And I believe the victim's mother, at least, would
6 like to be heard.

7 THE COURT: All right. Any motions, Ms. Joseph?

8 MS. JOSEPH: I apologize.

9 THE COURT: Any motions?

10 MS. JOSEPH: No motions from the State.

11 MR. GROSE: I want to take the 10 days as provided by
12 the rule, Your Honor.

13 THE COURT: All right.

14 (Pause.)

15 THE COURT: Juror #332 indicated that he was not
16 polled. So I'm bringing that juror back in for that sole
17 purpose.

18 Did you -- that's what he says.

19 THE CLERK: Okay. I'm sorry, Your Honor. I don't
20 recall. I thought that I did call #332, but I may not
21 have.

22 THE COURT: All right. So is it okay? I'm going to
23 bring that juror in just for that limited purpose.

24 MS. JOSEPH: Yes. No objection, Your Honor. That's
25 okay.

1 (WHEREUPON, Juror #332, Robert Simonsen, entered the
2 courtroom.)

3 THE COURT: Juror #332, yes, sir. You indicated you
4 had not been polled?

5 JUROR #332, ROBERT SIMONSEN: That is correct.

6 THE COURT: All right. Madam Clerk.

7 THE CLERK: Is this your verdict?

8 JUROR #332, ROBERT SIMONSEN: It is.

9 THE CLERK: Is this still your verdict?

10 JUROR #332, ROBERT SIMONSEN: Yes, ma'am, it is.

11 THE CLERK: Thank you.

12 THE COURT: Thank you, sir.

13 (WHEREUPON, Juror #332, Robert Simonsen, exited the
14 courtroom.)

15 MS. JOSEPH: Your Honor, I'm handing you up the
16 verdict forms and the sentencing sheets.

17 And, Your Honor, the State would like a chance to be
18 heard whenever Your Honor is ready.

19 THE COURT: All right. Is the State ready to
20 proceed?

21 MS. JOSEPH: Yes, Your Honor.

22 THE COURT: Is the Defense ready to proceed?

23 MR. GROSE: Yes, Your Honor.

24 THE COURT: Yes, ma'am.

25 MS. JOSEPH: I'm going to be very brief. I know

1 we've been here for a very long time. And the victim's
2 mother, Lori Mayo, would like to be heard.

3 The State in this case is asking for life. And let
4 me tell you why. The State demonstrated at trial that
5 this was careful grooming done over a period of over a
6 year.

7 In addition, something that was mentioned at trial,
8 but something I was careful to stay away from because the
9 Defendant was not charged with incest, is this was his
10 granddaughter. That's a special relationship that was
11 violated as part of this heinous crime.

12 And then, finally, this is evidence that could not
13 come in at trial, but Your Honor heard about the evidence
14 extensively in pre-trial motions. Large amounts of child
15 pornography were found on the Defendant's computer as part
16 of the investigation in this case. Taking all that
17 evidence into consideration, Your Honor, we think that
18 this man deserves life in prison.

19 And now -- Your Honor, if now is the appropriate
20 time, we would like the victim's mother to be heard.

21 THE COURT: Yes, ma'am.

22 MS. LORI MAYO: This has not been easy in any way for
23 me or my daughter. Since the day that she told me, I have
24 not been able to talk to her about it, just to make sure
25 that there was no indication that she was coached in any

1 way.

2 For four years now, my daughter has not been able to
3 heal from this, and neither have I. We have watched over
4 our shoulder every single day. I keep moving from place
5 to place because I'm afraid who's going to come after us.

6 I knew as soon as I called the police that he would
7 never come near my daughter again. We had the option many
8 times to back out and to not put her through this this
9 week. My daughter and I both know that we are doing this
10 to make sure it doesn't happen to anyone else.

11 I don't have a recommendation. I feel like you guys
12 know what you're doing. And that's all.

13 MS. JOSEPH: And that's it from the State, Your
14 Honor.

15 THE COURT: Mr. Grose.

16 MR. GROSE: Your Honor, you've already heard a little
17 bit about Mr. Dent. They've not provided you with any
18 criminal history because, essentially, he doesn't have
19 any. He only has, as I understand it, a simple possession
20 of marijuana conviction from his late teens before he went
21 into the military.

22 You know, obviously, he has a supportive family and a
23 support structure that have been here throughout this
24 week, you know. I think from what I've been able to
25 learn, he had, you know, a distinguished career when he

1 was in the Navy. And we'd ask that you take all of that
2 into account.

3 There is a -- a minimum sentence that you have to
4 impose, which is, essentially, going to be a life sentence
5 for him. We would ask that you impose the minimum
6 sentence on the criminal sexual conduct and run any of the
7 other sentences concurrent.

8 He's, also, been on a GPS home detention since he was
9 arrested in Alabama. And under the statute, he can be
10 given credit for the entire time since the date of his
11 arrest through today. So we'd ask that you do that as
12 well, Your Honor.

13 THE COURT: What's the State's position regarding
14 the --

15 MS. JOSEPH: Your Honor, that is in the Court's
16 discretion. We'd, obviously, ask that that not be -- not
17 take into effect. This case, frankly, took far too long
18 to come to court. The State's aware of that.

19 Your Honor, yes, he has no criminal history. But you
20 should consider that he has a pending child porn case in
21 Alabama. We ask that he not be given credit for that
22 time.

23 And, again, we are asking for life because this is --
24 this was a violation of his relationship with a blood
25 relative. This is a violation of a little girl. This was

1 careful grooming. And, ultimately, he had child
2 pornography on his computer. And he was taking sexual in
3 nature photos of his granddaughter.

4 For those reasons, Your Honor, we think the minimum
5 is just not enough in this case.

6 THE COURT: Anything else?

7 MR. GROSE: No, sir.

8 THE COURT: All right. Mr. Dent, anything you would
9 like to say?

10 DEFENDANT DENT: I have nothing to say.

11 SENTENCING

12 THE COURT: The State of South Carolina v. Charles
13 Dent, indictment number 2014-GS-07-01673, charging the
14 Defendant with criminal sexual conduct in the first degree
15 the victim under 11, the sentence of the Court is that
16 you, Charles Dent, be sentenced to the South Carolina
17 Department of Corrections for a period of 30 years.

18 On indictment 2014-GS-07-01672, State of South
19 Carolina v. Charles Dent, charging Charles Dent with
20 disseminating obscene materials to a person 12 years old
21 or younger, the sentence of the Court is you, Charles
22 Dent, be sentenced to the South Carolina Department of
23 Corrections for a period of 15 years. That sentence is to
24 run concurrent.

25 On indictment 2014-GS-07-01671, the State of South

1 Carolina v. Charles Dent, charging Charles Dent with
2 disseminating obscene material to a person 12 years old or
3 younger, the sentence of the Court is that you, Charles
4 Dent, be sentenced to the South Carolina Department of
5 Corrections for a period of 15 years. That sentence is,
6 also, to run concurrent.

7 Good luck to you, sir.

8 MR. GROSE: And did you make a decision on the house
9 arrest?

10 THE COURT: I will not do that.

11 MS. JOSEPH: Thank you, Your Honor.

12 THE COURT: All right. Thank you.

13 *****END OF TRANSCRIPT OF RECORD*****
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CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

I, HOLLIE JENKINS, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and the evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Beaufort County, South Carolina, on the 21st, 22nd, 23rd, and 24th days of May, 2018.

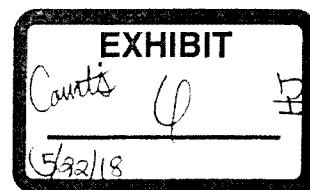
I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

November 20, 2018

Hollie M. Jenkins, Court Reporter

My Commission Expires: 09/24/20

Wednesday, April 11, 2018 at 2:58:16 PM Eastern Daylight Time

Subject: State v. Dent**Date:** Thursday, April 5, 2018 at 1:06:02 PM Eastern Daylight Time**From:** Alex Joseph**To:** Rebekah Luttrell, April Winston, Charles Grose

Good afternoon:

Here are the notes from Rebekah's (cc-ed here) and April's meeting with John Camello (this was who Victim first disclosed to):

He said he grew up in Beaufort and graduated from Beaufort HS. After graduation he was a volunteer firefighter and also did some work with PD. In the late 90's he moved back to Florida (where he was born) to be close to family. He lived in south Florida where he met/married his wife. From 2002-2012 he worked as a college administrator at a few different colleges in South Florida. He also was a private investigator for 10 years in Florida working with a couple different agencies - mostly worked on child runaway cases, child abuse/molestation cases, and child drug cases. In 2009 his wife and step daughter moved to LA and the two lived separate for three years until divorce in 2012. Camello suffered from severe depression after the divorce and attempted suicide. Started counseling and during these sessions disclosed for the first time that he was sexually abused by a male family friend when he was 12 years old for approx a year.

Camello moved back to Beaufort in 2013. First job back was a pool security guard with the apartment complex where Lori and victim lived. He met them at the pool and would talk with Lori. He said Lori was very outgoing, and the kids were both well-behaved, sociable and outgoing. Eventually he and Lori started dating. He would occasionally go to the house for dinner and to hang out. He always hung out with the kids in the living room. The D picked the family up from the pool twice and Camello briefly met him. He seemed like a normal grandpa, but they never had a lengthy conversation. Lori told Camello the D was helping pay bills, would visit occasionally and was retired navy and lived out of state.

A month or two into dating Lori, Camello started noticing signs from J.M. that raised red flags. He said she was affectionate towards him, liked to be touching people and tried kissing Camello on the cheek. She would try to sit in his lap often, which made him uncomfortable. Also she would dance and "shake her booty" or "twerk" in front of him, which he found odd for her age. Both the victim and Adam would call Camello dad, and Lori told the kids that Camello "could be there new dad." When out in public, victim would introduce Camello as "my new dad." This also made Camello uncomfortable and he found it a little odd.

After he started dating Lori, he learned that she used to be a stripper in Florida and she smoked marijuana. He decided this was not a relationship he wanted to continue. He eventually moved into the house, but he said it was purely as a renter, and he told Lori he was moving in to help her pay bills and rent a room from her. He can't remember if J.M. disclosed before or after he moved into the house.

J.M. Disclosure: He can't remember specific details, but does remember they were sitting in the living room, possibly on the couch. Said Adam was in the room, because he was never alone with the kids, he was always with both of them and/or Lori was with him when he was with the kids. He doesn't remember if J.M. just told him or if he asked her questions, but J.M. disclosed that her grandfather had touched her and it made her uncomfortable. She told him her grandfather had kissed her on the mouth. After she disclosed J.M. became very upset and emotional. He said J.M. was very clear, no confusion when she disclosed. She seemed like she'd been wanting someone to ask and wanting to tell someone. Camello immediately told Lori and suggested she report to law enforcement. He said Lori called police that same night. He was working two jobs at the time, Lowes at night. He said he went to bed after the disclosure to get some sleep before his night shift and Lori woke him up because police were at the house to take a report. He told her to just talk to them and tell them everything she knew. He did not give a statement until later. Levan came to the house and took two different statements from him about each disclosure. (Prior to getting a statement, Levan read Camello his rights and Camello signed a waiver.

Second disclosure: He doesn't remember exactly how long after the first disclosure. He said after the first disclosure J.M. attempted to put her mouth new Camello's groin area over his clothes a couple times, and this raised more red flags that more happened than what she originally disclosed. He said he asked her if anything else happened, and that's when she wrote the note that D "made her lick it." He said J.M. face was "full of fear" when she disclosed the second time and she again became very emotional. After the second disclosure Camello decided to remove himself from the situation, and told Lori in front of Levan that he could not be alone with the kids anymore. Camello said he asked Adam if D ever made him uncomfortable and Adam said no. He said Adam never disclosed anything about D. Said Lori disclosed abuse by D when she was younger well-after J.M. disclosures. Shortly after the second disclosure, Camello moved out and back into the Suburban. Lori had trouble paying bills after Camello moved out and he was able to help her with a room at the Suburban while she got back on her feet.

He found out they were moving the day before they left. He didn't know where they were going and hadn't kept in touch after they moved.

Neighbor Incident: He did remember there was a neighbor who came by asking to play with J.M. He said this happened after both disclosures, and he was already living at the house. He said the neighbor was much older than J.M. maybe late teens/early 20s. He thinks he was mentally handicapped. He told the guy to leave because he was too old to be playing with J.M. Another day the guy came back and was sitting in the backyard. Camello physically removed him from the backyard and had a talk with the guy's mom. They also filed a police report. He asked J.M. about the guy, and she was adamant nothing happened.

Thanks,

Alex

Assistant Solicitor

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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of General Sessions
Alex Kinlaw, Jr., Circuit Court Judge

Appellate Case No. 2018-001257

RECEIVED
NOV 04 2019
SC Court of Appeals

The State,..... Respondent,

v.

Charles Dent, ... Appellant.

Rule 210, SCRCP Certification

The Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

Respectfully Submitted,

By



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Attorney for Charles Dent

October 29, 2019
Greenwood, South Carolina

Oct 29 2021

S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

On Petition for Writ of Certiorari to the Court of Appeals
Appeal from Beaufort County
Honorable Alex Kinlaw, Jr., Circuit Court Judge
S.C. Ct. App. Appellate Case No. 2018-001257

THE STATE,

Petitioner,

vs.

CHARLES DENT,

Respondent.

Opinion No. 5850 (S.C. Ct. App. filed August 18, 2021)

PETITION FOR WRIT OF CERTIORARI

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CERTIFICATION OF COUNSEL

Counsel for Petitioner hereby certifies that a Petition for Rehearing was filed in the South Carolina Court of Appeals on August 26, 2021. The Petition for Rehearing was denied by an Order filed October 18, 2021.