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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Charleston County

Honorable Jennifer B. McCoy, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MARCUS A. WIGFALL,

APPELLANT

APPELLATE CASE NO. 2023-000236

AMENDED RECORD ON APPEAL

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State of South Carolina	)	Court of General Sessions
County of Charleston	)	2021-GS-10-00112
	)	2021-GS-10-00113
STATE OF SOUTH CAROLINA,	)	2021-GS-10-00114
	)	2021-GS-10-00115
Plaintiff,	)	
	)	
vs.	)	
	)	JURY TRIAL
MARCUS WIGFALL,	)	
	)	TRANSCRIPT OF RECORD
Defendant.	)	
_____	)	

February 6-8, 2023
Charleston, South Carolina

B E F O R E:

The Honorable Jennifer B. McCoy and a jury

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

MS. DEBORAH HERRING-LASH
and MS. CATHERINE B. FRIES,
Assistant Solicitors,
For the Plaintiff;

MS. MARY A. FORD
and MS. KAITLIN M. CORNWELL-GOULOZE,
Public Defenders,
for the Defendant.

Jamie Bickett
Official Court Reporter

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1 (Court called to order at 12:12 p.m., Monday,
2 February 6, 2023, in the presence of the potential jurors.)

3 THE COURT: All right. Thank y'all so much. Ladies and
4 gentlemen, I know you've been here a long time already this
5 morning, and now we're into the afternoon, so we're going to
6 try to get through this next part of the process as
7 efficiently as we possibly can.

8 I want to thank you all for appearing this morning for
9 jury service. I'm sure Judge Jefferson told you this, but if
10 not, I'll certainly tell you and reiterate that next to
11 military service for your country, jury service I think is
12 right behind it. So I really appreciate you showing up today
13 and being here. It's a very important part of our democracy,
14 and I thank you very much for appearing.

15 We are about to begin the trial of the case of the State
16 of South Carolina versus Marcus Alexander Wigfall.
17 Mr. Wigfall has been charged with four indictments. And
18 indictments, ladies and gentlemen, are just pieces of paper.
19 That's how charges come to court. And the indictments allege
20 one count of contributing to the delinquency of a minor and
21 three counts of criminal sexual conduct with a minor.

22 Before we select a jury, there are several questions
23 which I will ask you.

24 I believe, Madam Clerk, this jury was already sworn in
25 downstairs. Is that correct?

1 CLERK OF THE COURT: Yes, ma'am.

2 THE COURT: All right. So ladies and gentlemen, I'll
3 just remind you that you're still under oath from the oath
4 that you took downstairs this morning. And we will get
5 started.

6 Has anybody ever been related by blood or marriage to
7 either Marcus Alexander Wigfall or MINOR 1? If so,
8 please stand.

9 I find none.

10 Has anybody ever had a close personal or social
11 relationship with either Marcus Alexander Wigfall or MINOR 1
12 ? If so, please stand.

13 I find none.

14 Ladies and gentlemen, at this time I'm going to ask the
15 attorneys to stand and introduce themselves and the parties
16 they represent. And we'll begin with the attorneys for the
17 State.

18 MS. HERRING-LASH: Good morning. I'm Debbie
19 Herring-Lash. Sitting with me is Catherine Fries. And we
20 work at the Charleston County Solicitor's Office.

21 THE COURT: Anybody on the jury related by blood or
22 marriage to Ms. Herring-Lash or Ms. Fries or to anybody who's
23 associated with the Charleston County Solicitor's Office, to
24 the best of your knowledge? If so, please stand.

25 I find none.

1 All right. I'll move to the defense.

2 MS. FORD: Hi. My name is Mary Ford. I'm an attorney
3 with the public defender's office, and I represent Marcus
4 Wigfall here. And with us is another attorney in my office,
5 Kaitlin Cornwell-Goulooze.

6 THE COURT: Thank you very much.

7 Anybody ever been related by blood or marriage or have a
8 close personal or social relationship with Ms. Ford,
9 Ms. Cornwell-Goulooze, or anybody in the Charleston County
10 Public Defender's Office, to the best of your knowledge? If
11 so, please stand.

12 I find none.

13 All right. Ladies and gentlemen, at this time, I am
14 going to read a list of possible witnesses that may testify
15 during this trial. I'm going to read all the names out. If
16 you know any of these folks or you're related to them or have
17 any social or friendly relationship with them, I'd ask you to
18 stand. And at the end of the list, I'll ask for your jury
19 number.

20 MINOR 1, Kandra K. Pear, MINOR 2
21, Ivy Grinnage, Detective Nikolas Perez, Detective Michael
22 Christophersen, Alix Desch, Stephanie Petersen, Carole
23 Swiecicki, Thomas Walters of the Charleston County Public
24 Defender's Office, Marquis Brown, Anthony Gather, John Arthur
25 Smalls, Sherell Liferidge, Sierra Register, Erica Fludd, and

1 Amber Simmons.

2 All right. Yes, ma'am. Your jury number?

3 POTENTIAL JUROR: 95.

4 THE COURT: 95?

5 POTENTIAL JUROR: Mm-hmm.

6 THE COURT: Okay. Who from that list do you know?

7 POTENTIAL JUROR: I'm coworkers with Alix Desch, Carole
8 Swiecicki, and anyone else from the Dee Norton Children's
9 Center you may have mentioned.

10 THE COURT: Do you work at the Dee Norton Lowcountry
11 Children's Center?

12 POTENTIAL JUROR: Yes.

13 THE COURT: Okay. I'm going to excuse you.

14 Any objection from the State or the Defense?

15 MS. HERRING-LASH: No, your Honor.

16 MS. FORD: No, your Honor.

17 THE COURT: All right. Number 95 will be excused from
18 the trial of this case.

19 Follow the bailiff's instructions on what to do next.
20 We have several other cases pending. You might want -- you
21 can just stay.

22 Anybody else need to stand in response to the names
23 called on the witness list?

24 Yes, sir. Your number?

25 POTENTIAL JUROR: 205.

1 THE COURT: 205. Who do you know?

2 POTENTIAL JUROR: Did you say Thomas Walters?

3 THE COURT: Tommy Walters, yes, sir. You know
4 Mr. Walters?

5 POTENTIAL JUROR: I believe so, from James Island. So
6 if he's from James Island, yeah.

7 THE COURT: Okay. Tell me how you know him.

8 POTENTIAL JUROR: Just growing up on the island. And
9 our kids were friends.

10 THE COURT: Okay. Would that make it -- if he were to
11 testify, would it make it hard for you to be fair and
12 impartial to both sides if he were to testify for one side or
13 the other, based on your knowledge of Mr. Walters?

14 POTENTIAL JUROR: No, ma'am.

15 THE COURT: All right. 205 will remain.

16 Anybody else?

17 You can have a seat.

18 Anybody else?

19 Okay. I find none.

20 We'll move on to the specific voir dire. Hang on one
21 minute.

22 And ladies and gentlemen, obviously due to the nature of
23 the charges in the case, some of these questions are going to
24 be personal in nature. And unlike how I just got responses
25 from those folks, for these responses I'm going to call you

1 up one at a time. We'll come up right here by the court
2 reporter and do it on a more personal level so you won't be
3 disclosing this information to all these strangers.

4 So we'll get started.

5 Ladies and gentlemen, have you or a close household
6 family member or very close personal friend ever been the
7 victim of or a witness to or accused of a sexual misconduct
8 on a child? If any of those apply to you or a close
9 household member or a very close personal friend, I would ask
10 you to stand and come forward one at a time. The bailiffs
11 will help you.

12 And the attorneys can come forward.

13 One at a time, please. Come on up.

14 (The following proceedings were had at the bench outside
15 the hearing of the other potential jurors.)

16 THE COURT: Yes, sir. Your number?

17 POTENTIAL JUROR: Juror Number 4.

18 THE COURT: Okay. Which one applies to you?

19 POTENTIAL JUROR: I was sexually assaulted when I was a
20 kid. So yeah.

21 THE COURT: You were the victim?

22 POTENTIAL JUROR: Yeah.

23 THE COURT: I'm sorry. All right. Would that make it
24 hard for you to be --

25 POTENTIAL JUROR: Yeah.

1 THE COURT: Any objection to Number 4 being excused for
2 cause?

3 MS. HERRING-LASH: No, your Honor.

4 MS. FORD: No, your Honor.

5 THE COURT: Okay. You can be excused from the trial.

6 (The following proceedings were had in open court in the
7 hearing of all potential jurors.)

8 THE COURT: Juror Number 4 will be excused.

9 Thank you, sir.

10 Next.

11 (The following proceedings were had at the bench outside
12 the hearing of the other potential jurors.)

13 THE COURT: Okay. Tell me your juror number.

14 POTENTIAL JUROR: My juror number is 206.

15 THE COURT: 206. Okay. Which of those applies to you?

16 POTENTIAL JUROR: My girlfriend of five years was a
17 victim of sexual assault by a family member when she was a
18 child.

19 THE COURT: She was?

20 POTENTIAL JUROR: Yeah.

21 THE COURT: Okay. Would that make it hard for you to be
22 fair to both side in this case?

23 POTENTIAL JUROR: Potentially.

24 THE COURT: There's no wrong answer.

25 POTENTIAL JUROR: I think so, potentially, yes.

1 THE COURT: You think it might be difficult for you?

2 POTENTIAL JUROR: Mm-hmm.

3 THE COURT: All right. Any objection to Number 206
4 being excused?

5 MS. HERRING-LASH: No, your Honor.

6 MS. FORD: No, your Honor.

7 THE COURT: Okay. You can be excused from the trial of
8 this case.

9 POTENTIAL JUROR: Thank you, your Honor.

10 (The following proceedings were had in open court in the
11 hearing of all potential jurors.)

12 THE COURT: 206 is excused.

13 Next.

14 THE BAILIFF: Juror Number 41.

15 THE COURT: 41.

16 (The following proceedings were had at the bench outside
17 the hearing of the other potential jurors.)

18 POTENTIAL JUROR: Hi. My daughter and my stepdaughter
19 were abused by their grandfather.

20 THE COURT: Okay.

21 POTENTIAL JUROR: And he was incarcerated via grand
22 jury.

23 THE COURT: Okay. I'm sorry. Obviously, do you think
24 that would make it difficult for you to be fair to both sides
25 in this case?

1 POTENTIAL JUROR: I think so.

2 THE COURT: Okay. All right. Any objection to her
3 being excused?

4 MS. HERRING-LASH: No, your Honor.

5 MS. FORD: No, your Honor.

6 (The following proceedings were had in open court in the
7 hearing of all potential jurors.)

8 THE COURT: You're excused from this trial.

9 POTENTIAL JUROR: Thank you.

10 THE COURT: Thank you, ma'am.

11 All right. Next.

12 THE BAILIFF: Juror 170.

13 (The following proceedings were had at the bench outside
14 the hearing of the other potential jurors.)

15 THE COURT: Hey. How are you?

16 POTENTIAL JUROR: My younger sister was molested by her
17 best friend's dad when she was young.

18 THE COURT: Your sister?

19 POTENTIAL JUROR: Yeah, my sister. And we were able to
20 get through with the criminal charges against him, but --

21 THE COURT: Okay.

22 POTENTIAL JUROR: -- it was a big issue there for a few
23 years after that.

24 THE COURT: Okay. Would that make it difficult for --

25 POTENTIAL JUROR: I think so, yeah.

1 THE COURT: That's okay. There's no wrong answer.

2 All right. Any objection to 170 being excused?

3 MS. HERRING-LASH: No, your Honor.

4 MS. FORD: No, your Honor.

5 THE COURT: All right. Thank you.

6 (The following proceedings were had in open court in the
7 hearing of all potential jurors.)

8 THE COURT: 170 will be excused.

9 THE BAILIFF: Juror Number 8.

10 THE COURT: 8.

11 (The following proceedings were had at the bench outside
12 the hearing of the other potential jurors.)

13 THE COURT: Hey.

14 POTENTIAL JUROR: Good afternoon.

15 THE COURT: Which of those applies to you?

16 POTENTIAL JUROR: Myself and a family member, but
17 molestation as a child.

18 THE COURT: Okay. I'm so sorry. Would it be difficult
19 for you to be fair to both sides --

20 POTENTIAL JUROR: I think so on this basis.

21 THE COURT: I understand. Okay.

22 Any objection to this juror being excused?

23 MS. HERRING-LASH: No, your Honor.

24 MS. FORD: No, your Honor.

25 THE COURT: Okay. You're excused from the trial of this

1 case. Thank you so much.

2 (The following proceedings were had in open court in the
3 hearing of all potential jurors.)

4 THE COURT: 8 is excused.

5 THE BAILIFF: Juror 250.

6 THE COURT: 250.

7 (The following proceedings were had at the bench outside
8 the hearing of the other potential jurors.)

9 THE COURT: Hi. Which of those applies to you?

10 POTENTIAL JUROR: Victim.

11 THE COURT: Okay. You yourself?

12 POTENTIAL JUROR: Mm-hmm.

13 THE COURT: Okay. And would that make it hard for you
14 to be fair to both sides in this case?

15 POTENTIAL JUROR: (Indicated.)

16 THE COURT: I understand.

17 Any objection to 250 being excused?

18 MS. HERRING-LASH: No, your Honor.

19 MS. FORD: No, your Honor.

20 THE COURT: Okay. You're excused from this case.

21 (The following proceedings were had in open court in the
22 hearing of all potential jurors.)

23 THE COURT: 250 is excused.

24 THE BAILIFF: Juror Number 153.

25 THE COURT: 153.

1 (The following proceedings were had at the bench outside
2 the hearing of the other potential jurors.)

3 THE COURT: Hey.

4 POTENTIAL JUROR: Hi.

5 THE COURT: Which of those applies to you or a family
6 member?

7 POTENTIAL JUROR: Victim. My brother and I.

8 THE COURT: Okay. I'm sorry. So it would be difficult
9 for you to be fair and impartial to both sides?

10 I'm sorry. I have to ask. There's no wrong answer.

11 POTENTIAL JUROR: Yeah.

12 THE COURT: Okay. Any objection to 153 being excused?

13 MS. HERRING-LASH: No, your Honor.

14 MS. FORD: No, your Honor.

15 (The following proceedings were had in open court in the
16 hearing of all potential jurors.)

17 THE COURT: Okay. You're excused from the trial of this
18 case.

19 POTENTIAL JUROR: Thank you.

20 THE COURT: All right. Next.

21 THE BAILIFF: Juror Number 167.

22 THE COURT: 167.

23 (The following proceedings were had at the bench outside
24 the hearing of the other potential jurors.)

25 POTENTIAL JUROR: Good morning.

1 THE COURT: Hi. Which of those applies to you or a
2 family member?

3 POTENTIAL JUROR: I had a close personal friend in high
4 school that was accused of similar things, but it went away
5 for these issues.

6 THE COURT: Okay. No criminal charges were ever filed,
7 you don't think?

8 POTENTIAL JUROR: No.

9 THE COURT: Okay. Would that make it hard for you to be
10 fair to both sides in this case based on what little you
11 already know?

12 POTENTIAL JUROR: No.

13 THE COURT: Okay. Any followup from the State?

14 MS. HERRING-LASH: No, your Honor.

15 THE COURT: Any from the defense?

16 MS. FORD: Just a quick question of how you knew this
17 person?

18 POTENTIAL JUROR: A close friend in high school.

19 MS. FORD: Okay.

20 THE COURT: Any other questions?

21 MS. FORD: No.

22 THE COURT: Okay. 167 will remain. Thank you. You can
23 have a seat.

24 (The following proceedings were had in open court in the
25 hearing of all potential jurors.)

1 THE COURT: 167 will remain.

2 THE BAILIFF: Juror Number 285.

3 THE COURT: 285.

4 (The following proceedings were had at the bench outside
5 the hearing of the other potential jurors.)

6 THE COURT: Hey. How are you? Which applies to you or
7 a family member or friend?

8 POTENTIAL JUROR: I have a cousin that's a pedophile.

9 THE COURT: A cousin?

10 POTENTIAL JUROR: And his nephew has been sodomized.

11 THE COURT: Okay. I'm sorry. Would that make it hard
12 for you to be fair to both sides in this case?

13 POTENTIAL JUROR: Yes, it would.

14 THE COURT: Okay. All right. Any followup for the
15 State or the defense?

16 MS. HERRING-LASH: No.

17 MS. FORD: No.

18 (The following proceedings were had in open court in the
19 hearing of all potential jurors.)

20 THE COURT: Okay. I'll excuse 285 for cause. Thank
21 you.

22 All right. I think that's it in response to that
23 question. We'll go to the next.

24 MS. FRIES: Your Honor, may I approach?

25 THE COURT: Come on up.

1 (The following sidebar discussion was held on the record
2 at the bench in the presence of the potential jurors but
3 outside the hearing of the potential jurors.)

4 MS. FRIES: I know somebody on the jury panel.

5 THE COURT: You do?

6 MS. FRIES: Yeah. I don't know his juror number, but --

7 THE COURT: What's the last name?

8 MS. FRIES: Evans. It's E-V-A-N-S.

9 THE COURT: Okay. I'll have him brought up.

10 MS. FRIES: Okay.

11 (The following proceedings were had in open court in the
12 hearing of the potential jurors.)

13 THE COURT: Okay. Ladies and gentlemen, the next
14 question, have you or any member of your immediate family
15 ever had criminal charges either adjudicated by or are
16 currently pending with the Charleston County Solicitor's
17 Office, to the best of your knowledge? And likewise, if you
18 have been the victim of a crime that has been handled by the
19 Charleston County Solicitor's Office, you could also respond
20 to this. So you or a family member ever had any charges
21 pending against you or been the victim of any cases that were
22 handled by the Charleston County Solicitor's Office, and
23 you've not already stood up in response to the previous
24 question? Any other different charges that apply, please
25 stand.

1 Okay. All right. Come on down.

2 THE BAILIFF: Juror Number 66.

3 THE COURT: Okay.

4 (The following proceedings were had at the bench outside
5 the hearing of the other potential jurors.)

6 THE COURT: Hey. Were you charged or the victim?

7 POTENTIAL JUROR: It was a DUI in 1994 or something,
8 '95. Is that what you mean?

9 THE COURT: Sure. That's fine.

10 Okay. Would that make it hard for you to be fair to
11 both sides in this case?

12 POTENTIAL JUROR: No.

13 THE COURT: All right. Any followup voir dire from the
14 State or the defense?

15 MS. HERRING-LASH: No, your Honor.

16 MS. FORD: No.

17 THE COURT: All right. You can have a seat.

18 (The following proceedings were had in open court in the
19 hearing of all potential jurors.)

20 THE COURT: 66 will remain. Thank you.

21 Oh, got a couple more. I'm sorry. Y'all come on down
22 one at a time.

23 THE BAILIFF: Juror Number 82.

24 THE COURT: 82.

25 (The following proceedings were had at the bench outside

1 the hearing of the other potential jurors.)

2 THE COURT: Hey.

3 POTENTIAL JUROR: Was that just for this kind of a
4 charge or any charge?

5 THE COURT: No. Any charge --

6 POTENTIAL JUROR: We just had a --

7 THE COURT: Charged or a victim of.

8 POTENTIAL JUROR: Yeah, I've been getting letters. I
9 don't know what court it's from, but we had a break-in in our
10 vehicle.

11 THE COURT: You did?

12 POTENTIAL JUROR: So somebody was just going to court
13 because I kept getting letters about "If you want to appear."

14 THE COURT: Your vehicle was broken into?

15 POTENTIAL JUROR: Mm-hmm.

16 THE COURT: Okay. But you don't even know who's
17 prosecuting the case?

18 POTENTIAL JUROR: No. I know it went to court, like, a
19 week or two ago.

20 THE COURT: Okay.

21 POTENTIAL JUROR: But I didn't even show up just out of
22 sheer retaliation.

23 THE COURT: Okay. All right. Would that make it hard
24 for you to be fair to both sides in this case, to the best of
25 your knowledge?

1 POTENTIAL JUROR: I guess a criminal thing bothers me.
2 You know, like, I don't know how that applies. I mean --

3 THE COURT: Okay. Let me ask you this. Could you hear
4 the evidence and if I charge you on the law, could you be
5 fair to both sides and keep an open mind, or do you think
6 you're not able to do that based on your --

7 POTENTIAL JUROR: Yeah, I would be fair.

8 THE COURT: Okay. All right.

9 Any followup from the State or the defense?

10 MS. HERRING-LASH: No, your Honor.

11 MS. FORD: No, your Honor.

12 (The following proceedings were had in open court in the
13 hearing of all potential jurors.)

14 THE COURT: Okay. 82 will remain. Have a seat.

15 POTENTIAL JUROR: Okay.

16 THE COURT: Thank you, ma'am.

17 THE BAILIFF: Juror Number 203.

18 THE COURT: 203.

19 (The following proceedings were had at the bench outside
20 the hearing of the other potential jurors.)

21 THE COURT: Yes, ma'am?

22 POTENTIAL JUROR: I had a bad check charge. It's been,
23 like, 15 years ago.

24 THE COURT: Okay.

25 POTENTIAL JUROR: At least. I don't know if that's the

1 right --

2 THE COURT: It wouldn't be, but yeah, it's just -- okay.
3 Any followup from the State or the defense?

4 POTENTIAL JUROR: No. That's all. I paid everything.

5 THE COURT: Could you be fair to both sides despite
6 whatever that was back 15 years ago?

7 POTENTIAL JUROR: Mm-hmm. Yeah.

8 THE COURT: All right.

9 (The following proceedings were had in open court in the
10 hearing of all potential jurors.)

11 THE COURT: 203 will remain.

12 Have a seat. Thank you, ma'am.

13 All right. I think that's it for that question.

14 All right. Likewise, ladies and gentlemen, have you or
15 a close household family member ever been represented by the
16 public defender's office and you have not previously stood up
17 and disclosed that, please stand.

18 All right. I find none.

19 Are any of you former law-enforcement employees or
20 law-enforcement officers or have a household family member
21 who is in law enforcement? If so, please stand.

22 Yes, sir. Your number?

23 POTENTIAL JUROR: 285.

24 THE COURT: 285. And who is in law enforcement in your
25 family?

1 POTENTIAL JUROR: My son is a North Charleston police
2 officer.

3 THE COURT: All right. Would that make it difficult for
4 you to be fair and impartial to both sides?

5 POTENTIAL JUROR: No.

6 THE COURT: All right.

7 Any followup questions for 285?

8 MS. HERRING-LASH: Your Honor, I think he was already
9 excused.

10 THE COURT: Oh, he was excused, oh, for another basis.

11 Okay. Thank you. You can have a seat. You were --

12 Thank you for that, Ms. Herring-Lash.

13 You were excused already.

14 If you've already been excused, you don't have to stand
15 up for the remainder of the questions, just so you know.

16 Yes, ma'am. Your number?

17 POTENTIAL JUROR: 288. I just have a question.

18 THE COURT: Okay.

19 POTENTIAL JUROR: Does this count volunteer work?

20 THE COURT: Sure. Did you volunteer or somebody in your
21 household?

22 POTENTIAL JUROR: I did, in New York.

23 THE COURT: In New York? About how long ago was that?

24 POTENTIAL JUROR: About 2015.

25 THE COURT: All right. Would that make it hard for you

1 to be fair and impartial to both sides to the best of your
2 knowledge?

3 POTENTIAL JUROR: No.

4 THE COURT: All right. Have a seat.

5 288 will remain.

6 Anybody else?

7 All right. Moving on to the next question.

8 Ladies and gentlemen, do you have any particular
9 opinions or feelings about the crime of criminal sexual
10 conduct with a minor or contributing to the delinquency of a
11 minor which would make it difficult for you to serve on a
12 jury where the defendant is charged with this crime? If this
13 applies to you, I would ask that you stand. And likewise, as
14 I did a minute ago, we'll have you come up one at a time.

15 And again, once again, if you've already stood in
16 response to a question and been excused, you do not need to
17 stand again.

18 All right. I find none.

19 Has any member of the jury panel read or heard anything
20 about this case? For example, any news stories or related
21 media coverage. If so, please stand.

22 I find none.

23 Anybody on the jury panel a member of a victim's rights
24 organization or a law-enforcement organization such as
25 Mothers Against Drunk Driving, People Against Rape, anything

1 along those lines? If that applies to you and you are a
2 member of those organizations, please stand.

3 I find none.

4 Anybody in the jury panel have a job that requires you
5 to work primarily with children? If so, please stand.

6 Okay. And I'm going to have them come forward one at a
7 time too.

8 THE BAILIFF: Juror Number 5.

9 (The following proceedings were had at the bench outside
10 the hearing of the other potential jurors.)

11 POTENTIAL JUROR: Good morning, your Honor.

12 THE COURT: How are you?

13 POTENTIAL JUROR: I'm good.

14 THE COURT: What's your number?

15 POTENTIAL JUROR: Juror Number 5, Ciara Baker.

16 THE COURT: Okay.

17 POTENTIAL JUROR: I work at a daycare.

18 THE COURT: You work at a daycare?

19 POTENTIAL JUROR: North Charleston United Methodist
20 Church Learning Center.

21 THE COURT: Okay. Would that make it difficult for you
22 to be fair and impartial?

23 POTENTIAL JUROR: No, ma'am.

24 THE COURT: Any followup questions for this juror from
25 the State or the defense?

1 MS. HERRING-LASH: No, your Honor.

2 MS. FORD: No, your Honor.

3 (The following proceedings were had in open court in the
4 hearing of all potential jurors.)

5 THE COURT: Okay. 5 will remain.

6 Thank you. Have a seat.

7 Next one.

8 THE BAILIFF: Juror 103.

9 THE COURT: 103.

10 (The following proceedings were had at the bench outside
11 the hearing of the other potential jurors.)

12 THE COURT: Hey. How are you?

13 POTENTIAL JUROR: Hi. Good afternoon.

14 THE COURT: Where do you work?

15 POTENTIAL JUROR: Johns Island Early Childhood Christian
16 Academy.

17 THE COURT: Okay. Wonderful. Would that make it
18 difficult for you to be fair to both sides in this case,
19 understanding that there might be a minor child involved?

20 POTENTIAL JUROR: No, ma'am.

21 THE COURT: Okay. Any followup questions from the State
22 or the defense for this juror?

23 MS. HERRING-LASH: No, your Honor.

24 MS. FORD: No.

25 THE COURT: Okay. You can have a seat.

1 (The following proceedings were had in open court in the
2 hearing of all potential jurors.)

3 THE COURT: 103 will remain.

4 THE BAILIFF: Juror Number 14.

5 (The following proceedings were had at the bench outside
6 the hearing of the other potential jurors.)

7 THE COURT: How are you?

8 POTENTIAL JUROR: Good.

9 THE COURT: Where do you work?

10 POTENTIAL JUROR: Charleston School District.

11 THE COURT: Okay. What do you do for them?

12 POTENTIAL JUROR: I teach kids who are blind and
13 visually impaired.

14 THE COURT: Oh, wow. Okay. Would that make it
15 difficult for you to be fair and impartial to both sides if
16 this case involves a minor child?

17 POTENTIAL JUROR: No, ma'am.

18 THE COURT: Okay. Any followup questions from the State
19 or the defense?

20 MS. HERRING-LASH: No.

21 MS. FORD: No, your Honor.

22 (The following proceedings were had in open court in the
23 hearing of all potential jurors.)

24 THE COURT: Okay. Number 14 will remain.

25 You can have a seat. Thank you very much.

1 Anybody else?

2 One more -- two more.

3 THE BAILIFF: Juror Number 248.

4 THE COURT: 248.

5 (The following proceedings were had at the bench outside
6 the hearing of the other potential jurors.)

7 THE COURT: Hey. Where do you work?

8 POTENTIAL JUROR: I work at East Cooper with newborn
9 babies.

10 THE COURT: Oh, okay. Wonderful. All right. Would
11 that make it difficult for you to be fair and impartial to
12 both sides if this case involves a minor child?

13 POTENTIAL JUROR: I don't think so.

14 THE COURT: Okay. Any followup questions from the State
15 or the defense?

16 MS. HERRING-LASH: I couldn't hear her answer.

17 THE COURT: She said, "I don't think so."

18 MS. HERRING-LASH: Okay. No.

19 THE COURT: Could you follow the law as I give it to you
20 and hear the evidence and consider both sides?

21 POTENTIAL JUROR: Yes.

22 THE COURT: Okay.

23 (The following proceedings were had in open court in the
24 hearing of all potential jurors.)

25 THE COURT: All right. 248 will remain.

1 Have a seat.

2 THE BAILIFF: Juror Number 66.

3 THE COURT: All right.

4 (The following proceedings were had at the bench outside
5 the hearing of the other potential jurors.)

6 THE COURT: Hey. What do you do for --

7 POTENTIAL JUROR: I just umpire baseball.

8 THE COURT: Oh, wonderful. Okay. Would it make it
9 difficult for you to be fair to both sides --

10 POTENTIAL JUROR: No, ma'am.

11 THE COURT: -- if this involves a minor child?

12 POTENTIAL JUROR: No, ma'am.

13 THE COURT: Okay. Any followup questions for this
14 juror?

15 MS. HERRING-LASH: No.

16 MS. FORD: No.

17 (The following proceedings were had in open court in the
18 hearing of all potential jurors.)

19 THE COURT: Okay. 66 will remain.

20 Have a seat.

21 All right. I think that's all for that question.

22 All right. Ladies and gentlemen, have you or a close
23 household family member or a close personal friend worked for
24 or have any connection with the Dee Norton Lowcountry
25 Children's Center or a similar center in another city and you

1 have not previously stood up and disclosed that -- I know we
2 had one lady disclose that already -- please stand. So if
3 you have a close personal friend or household family member
4 who works for or has a connection with the Dee Norton
5 Lowcountry Children's Center, please stand.

6 I find none.

7 Ladies and gentlemen, have you or any member of your
8 household family had any connection with the organization
9 From Darkness to Light or any other organization dedicated to
10 child abuse? If so, please stand.

11 All right. Yes, ma'am. Your juror number?

12 POTENTIAL JUROR: 133.

13 THE COURT: And what's your involvement with them?

14 POTENTIAL JUROR: I'm an employee of Hoffman Law Firm,
15 and we've done some work with Darkness to Light.

16 THE COURT: You've done the training?

17 POTENTIAL JUROR: I have not.

18 THE COURT: Oh, just work with them.

19 POTENTIAL JUROR: Just a sponsorship, kind of.

20 THE COURT: A sponsorship with the firm you work for?

21 POTENTIAL JUROR: Yes.

22 THE COURT: Would that make it difficult for you to be
23 fair and impartial to both sides in this case?

24 POTENTIAL JUROR: No, your Honor.

25 THE COURT: All right. 133 will remain.

1 Have a seat.

2 Yes, sir?

3 POTENTIAL JUROR: 246.

4 THE COURT: 246. What's your involvement?

5 POTENTIAL JUROR: My older sister worked for the DCF in
6 Vermont and in North Carolina.

7 THE COURT: Okay. Would that make it difficult for you
8 to be fair and impartial in this case?

9 POTENTIAL JUROR: Not particularly.

10 THE COURT: All right. 246 will remain.

11 Have a seat.

12 Yes, ma'am?

13 POTENTIAL JUROR: 264. My daughter did some volunteer
14 work while I was responsible for her.

15 THE COURT: Okay.

16 POTENTIAL JUROR: And I do not feel it would make me
17 impartial.

18 THE COURT: All right. Thank you very much.

19 264 can have a seat.

20 Any other specific voir dire for the State or the
21 defense not previously asked by the Court?

22 MS. HERRING-LASH: Not from the State, your Honor.

23 MS. FORD: I think just number 8. I know it's broad,
24 but because of the --

25 THE COURT: That would be my -- that's always my last

1 one. Yes.

2 MS. FORD: Okay.

3 THE COURT: But any other specific --

4 MS. FORD: No, ma'am.

5 THE COURT: All right. Anybody on the jury panel, are
6 you aware of any reason whatsoever that you could not be fair
7 and impartial to both the State and the defendant in this
8 matter? If so, I'd ask that you stand at this time.

9 All right. I find none.

10 Okay. Ladies and gentlemen, we're going to go into the
11 next part of the process, which involves actually selecting
12 the jury. The clerk's office will handle this portion, and
13 I'll be here when you need me. Okay?

14 Strikes are five and ten. We'll do two alternates.
15 Okay?

16 All right.

17 MS. HERRING-LASH: Your Honor, there was the one
18 gentleman that --

19 THE COURT: Oh, I'm sorry. Thank you. Yes.

20 Before we do that let me -- let's see. Juror Number 79?

21 POTENTIAL JUROR: Yes.

22 THE COURT: Can you come forward right quick. You're
23 not in trouble at all. Just a quick question. Don't worry.

24 Attorneys, y'all can come forward.

25 (The following proceedings were had at the bench outside

1 the hearing of the other potential jurors.)

2 THE COURT: Hey, you're not in trouble. Did you go to
3 high school with --

4 POTENTIAL JUROR: I did.

5 THE COURT: Okay.

6 POTENTIAL JUROR: I realized what you said that after --

7 THE COURT: Okay.

8 POTENTIAL JUROR: -- social relationships.

9 THE COURT: She was just very conscientious and brought
10 that to my attention.

11 POTENTIAL JUROR: Yeah.

12 THE COURT: Would that make it hard for you to be fair
13 and impartial to both sides?

14 POTENTIAL JUROR: No, ma'am.

15 THE COURT: Okay. Any followup questions from the State
16 or the defense?

17 MS. HERRING-LASH: No.

18 MS. FORD: No.

19 THE COURT: Okay. All right. 79 will remain. Have a
20 seat.

21 POTENTIAL JUROR: Cool.

22 THE COURT: Thank you, sir.

23 (The following proceedings were had in open court in the
24 hearing of all potential jurors.)

25 THE COURT: All right. Now, we'll turn it over to the

1 clerk's office.

2 Okay. So ladies and gentlemen, they are taking the
3 information that we just got from the process we went through
4 with the questions, and they are mixing up your jury numbers
5 by the computer. They used to do it with, like, the lottery
6 balls and they'd, you know, pull the balls out in the old
7 days. But now we have computers to do it. So it just takes
8 them just a minute to get that all orchestrated, and then we
9 will get going. Okay? We're nearing the very end of this
10 process.

11 Actually, before you do that, can I have the attorneys
12 approach one more time?

13 And Number 218, can you come forward for me as well?

14 (The following proceedings were had at the bench outside
15 the hearing of the other potential jurors.)

16 THE COURT: I just saw this name. Y'all can come up.
17 His child goes to school with my child. They're friends. So
18 I'm going to have him just -- I'm not anticipating any issue
19 but I --

20 Hey, how are you? Come on forward, if you don't mind,
21 over here.

22 POTENTIAL JUROR: Okay.

23 THE COURT: Hey. How are you?

24 POTENTIAL JUROR: Yeah, I'm fine.

25 THE COURT: Would it make it -- because obviously we

1 know each other through our children. Would it make it hard
2 for you to be fair and impartial to both sides in this case?

3 POTENTIAL JUROR: I don't believe so.

4 THE COURT: Okay. Any followup questions from the
5 attorneys?

6 MS. HERRING-LASH: No.

7 MS. FORD: No.

8 THE COURT: Okay. Thank you. Have a seat.

9 POTENTIAL JUROR: Okay. Thank you.

10 (The following proceedings were had in open court in the
11 hearing of all potential jurors.)

12 THE COURT: All right. We're good to go.

13 CLERK OF THE COURT: Ladies and gentlemen, if your name
14 is called, please come forward and stand in front of the
15 podium, turn and face the parties, and bring all of your
16 belongings.

17 Juror Number 20.

18 What say you for the State?

19 MS. HERRING-LASH: Please present the juror.

20 CLERK OF THE COURT: What say you for the defendant?

21 MS. FORD: Please seat the juror.

22 CLERK OF THE COURT: Sir, please have a seat in the jury
23 box.

24 Juror Number 69.

25 What say you for the State?

1 MS. HERRING-LASH: Please present the juror.

2 CLERK OF THE COURT: What say you for the defendant?

3 MS. FORD: Please seat the juror.

4 CLERK OF THE COURT: Sir, you can have a seat in the
5 jury box.

6 Juror Number 27.

7 What say you for the State?

8 MS. HERRING-LASH: Please present the juror.

9 CLERK OF THE COURT: What say you for the defendant?

10 MS. FORD: Please seat the juror.

11 CLERK OF THE COURT: Ma'am, you can have a seat in the
12 jury box.

13 Juror Number 5.

14 What say you for the State?

15 MS. HERRING-LASH: Please present the juror.

16 CLERK OF THE COURT: What say you for the defendant?

17 MS. FORD: Please excuse this juror.

18 CLERK OF THE COURT: Ma'am, you have been excused.

19 You'll have a seat back in the audience.

20 Juror Number 95.

21 Juror Number 95?

22 THE COURT: Yeah, she was excused early on. Go to the
23 next one.

24 CLERK OF THE COURT: Juror Number 218.

25 What say you for the State?

1 MS. HERRING-LASH: Please present this juror.

2 CLERK OF THE COURT: What say you for the defendant?

3 MS. FORD: Please seat the juror.

4 CLERK OF THE COURT: Sir, you can have a seat in the
5 jury box.

6 Juror Number 227.

7 What say you for the State?

8 MS. HERRING-LASH: Please present the juror.

9 CLERK OF THE COURT: What say you for the defendant?

10 MS. FORD: Please seat the juror.

11 CLERK OF THE COURT: Ma'am, you can have a seat in the
12 jury box.

13 Juror Number 201.

14 What say you for the State?

15 MS. HERRING-LASH: Please present the juror.

16 CLERK OF THE COURT: What say you for the defendant?

17 MS. FORD: Please excuse this juror.

18 CLERK OF THE COURT: Ma'am, you have been excused.

19 You'll have a seat back in the audience.

20 Juror Number 186.

21 What say you for the State?

22 MS. HERRING-LASH: Please present the juror.

23 CLERK OF THE COURT: What say you for the defendant?

24 MS. FORD: Please excuse this juror.

25 CLERK OF THE COURT: Ma'am, you have been excused.

1 You'll have a seat back in the audience.

2 Juror Number 236.

3 What say you for the State?

4 MS. HERRING-LASH: Please present the juror.

5 CLERK OF THE COURT: What say you for the defendant?

6 MS. FORD: Please seat the juror.

7 CLERK OF THE COURT: Sir, you can have a seat in the
8 jury box.

9 Juror Number 297.

10 What say you for the State?

11 MS. HERRING-LASH: Please present the juror.

12 CLERK OF THE COURT: What say you for the defendant?

13 MS. FORD: Please excuse this juror.

14 CLERK OF THE COURT: Ma'am, you have been excused.

15 You'll have a seat back in the audience.

16 Juror Number 294.

17 What say you for the State?

18 MS. HERRING-LASH: Please present the juror.

19 CLERK OF THE COURT: What say you for the defendant?

20 MS. FORD: Please seat this juror.

21 CLERK OF THE COURT: Sir, you can have a seat in the
22 jury box.

23 Juror Number 90.

24 What say you for the State?

25 MS. HERRING-LASH: Please excuse the juror.

1 CLERK OF THE COURT: Sir, you'll have a seat back in the
2 audience.

3 Juror Number 215.

4 What say you for the State?

5 MS. HERRING-LASH: Please present the juror.

6 CLERK OF THE COURT: What say you for the defendant?

7 MS. FORD: Please seat this juror.

8 CLERK OF THE COURT: Ma'am, you can have a seat in the
9 jury box.

10 Juror Number 66.

11 What say you for the State?

12 MS. HERRING-LASH: Please present the juror.

13 CLERK OF THE COURT: What say you for the defendant?

14 MS. FORD: Please seat the juror.

15 CLERK OF THE COURT: Sir, you'll have a seat in the jury
16 box.

17 Juror Number 148.

18 What say you for the State?

19 MS. HERRING-LASH: Please present the juror.

20 CLERK OF THE COURT: What say you for the defendant?

21 MS. FORD: Please seat the juror.

22 CLERK OF THE COURT: You'll have a seat in the jury box.

23 Juror Number 248.

24 What say you for the State?

25 MS. HERRING-LASH: Please present the juror.

1 CLERK OF THE COURT: What say you for the defendant?

2 MS. FORD: Please excuse this juror.

3 CLERK OF THE COURT: Ma'am, if you'll have a seat back
4 in the audience.

5 The defendant has used five strikes.

6 Juror Number 229.

7 What say you for the State?

8 MS. HERRING-LASH: Please excuse the juror.

9 CLERK OF THE COURT: Sir, you'll have a seat back in the
10 audience.

11 Juror Number 264.

12 What say you for the State?

13 MS. HERRING-LASH: Please present the juror.

14 CLERK OF THE COURT: What say you for the defendant?

15 MS. FORD: Please excuse this juror.

16 CLERK OF THE COURT: Ma'am, you'll have a seat back in
17 the audience.

18 Juror Number 14.

19 What say you for the State?

20 MS. HERRING-LASH: Please present the juror.

21 CLERK OF THE COURT: What say you for the defendant?

22 MS. FORD: Please excuse this juror.

23 CLERK OF THE COURT: Ma'am, you'll have a seat back in
24 the audience.

25 Juror Number 203.

1 What say you for the State?

2 MS. HERRING-LASH: Please excuse the juror.

3 CLERK OF THE COURT: Ma'am, you'll have a seat back in
4 the audience.

5 The State has used three strikes.

6 Juror Number 132.

7 What say you for the State?

8 MS. HERRING-LASH: Please present the juror.

9 CLERK OF THE COURT: What say you for the defendant?

10 MS. FORD: Please seat the juror.

11 CLERK OF THE COURT: Ma'am, you'll have a seat in the
12 jury box.

13 Juror Number 79.

14 What say you for the State?

15 MS. HERRING-LASH: Please present the juror.

16 CLERK OF THE COURT: What say you for the defendant?

17 MS. FORD: Please seat the juror.

18 CLERK OF THE COURT: Sir, you'll have a seat in the jury
19 box.

20 Now striking for alternates.

21 Juror Number 252.

22 What say you for the State?

23 MS. HERRING-LASH: Please present the juror.

24 CLERK OF THE COURT: What say you for the defendant?

25 MS. FORD: Please seat the juror.

1 CLERK OF THE COURT: Sir, you'll have a seat in the jury
2 box.

3 Juror Number 167.

4 What say you for the State?

5 MS. HERRING-LASH: Please excuse the juror.

6 CLERK OF THE COURT: Sir, you'll have a seat back in the
7 audience.

8 Juror Number 288.

9 Any challenges from the State?

10 MS. HERRING-LASH: No.

11 CLERK OF THE COURT: What say you for the defendant?

12 MS. FORD: Please excuse this juror.

13 CLERK OF THE COURT: Ma'am, you'll have a seat back in
14 the audience.

15 Juror Number 111.

16 Any challenges from the State?

17 MS. HERRING-LASH: No.

18 CLERK OF THE COURT: What say you for the defendant?

19 MS. FORD: Please seat this juror.

20 CLERK OF THE COURT: Sir, you'll have a seat in the jury
21 box.

22 THE COURT: All right. Any exceptions or objections to
23 the jury selection process from the State?

24 MS. HERRING-LASH: No, your Honor.

25 THE COURT: Any from the defense?

1 MS. FORD: No, your Honor.

2 THE COURT: All right. Ladies and gentlemen, those of
3 you in the gallery, you were not selected for the trial of
4 this case. I would ask that you follow the instructions from
5 bailiffs as to what you are to do tonight.

6 What should they do, Mr. Pryor? Do we know yet?

7 Do you have instructions from the clerk's office.

8 CLERK OF THE COURT: Yes. Call back after 6 p.m.

9 THE COURT: Right. So call back after 6:00 p.m. that
10 juror hotline. Make sure you wait until 6:00 to get the most
11 up-to-date information. We don't want anybody showing up for
12 no reason. You're free to leave.

13 (Remaining potential jurors excused.)

14 THE COURT: Okay. Ladies and gentlemen, you were
15 selected to be on the jury for this case. We are not going
16 to get started with the part that we need you all for today,
17 so I am getting ready to excuse you all for the rest of the
18 afternoon and ask that you come back at 9:30 in the morning.

19 I'm just going to also add that you not try to do any
20 independent research about any of the topics or any of these
21 people in the courtroom at any time. Everything that you're
22 going to need will be presented to you right here in this
23 courtroom. Okay? So please be sure you don't do anything
24 like that.

25 I'll turn you over to the bailiffs now. They can give

1 you information on just logistics and parking and all that
2 good stuff. We'll see you back tomorrow morning at 9:30.

3 I will tell you I believe this trial will last into
4 Wednesday, potentially Thursday right now, just to try to
5 give y'all an idea what to expect. I know everybody's got
6 things to plan. So that would be my expectation is that we
7 would be here through Wednesday, potentially Thursday. Okay?

8 So with that, I will see y'all back in the morning.
9 Thanks so much.

10 (The jury was released for the day and exited the
11 courtroom at 1:05 p.m.)

12 (The following proceedings were had outside the presence
13 of the jury.)

14 THE COURT: I know we have several matters to take up in
15 limine. Is that correct? Several things were forwarded to
16 me late last week. So let's do this. You want to take a
17 lunch break and come back? What do y'all propose? I mean, I
18 can go either way. Would y'all rather go ahead and get into
19 it, or you want to take, like, a five- or ten-minute break
20 and come back and then be finished for the day? Y'all
21 discuss it amongst yourselves and let me know.

22 (Off the record.)

23 MS. FORD: We're fine taking a brief lunch break at this
24 point.

25 THE COURT: Just a brief break? What do y'all think?

1 Like, 15, 20 minutes? Thirty minutes?

2 MS. FORD: Half an hour.

3 THE COURT: Half an hour? Is that good?

4 MS. HERRING-LASH: That's time just to eat, yeah.

5 THE COURT: Just to get something to eat. That sounds
6 good. All right. I'll see y'all back. Let's just say 1:45.
7 Okay?

8 MS. FORD: Yes, ma'am.

9 THE COURT: We'll see y'all back then. Thank you.

10 (Court recessed.)

11 (Court resumed outside the presence of the jury.)

12 THE COURT: What can I do for everybody today? Why
13 don't we take up the State's motion first. Or whatever y'all
14 think is most appropriate.

15 MS. HERRING-LASH: I guess the motion -- the first
16 motion would be the motion to admit the defendant's
17 statement. I don't know if you have had the opportunity to
18 look at it or if I should put the detective up and play it.

19 THE COURT: I have seen it. This is -- I've listened to
20 the audio phone call, and I've watched the -- I guess they
21 met at some sort of a gas station location or something like
22 that. Is that right?

23 MS. HERRING-LASH: Yes, your Honor.

24 THE COURT: Yeah, I watched that body cam as well. But
25 it's probably best to -- if you have him here --

1 MS. HERRING-LASH: Yes, he's here.

2 THE COURT: -- just to, you know, have him tell us what
3 it is and authenticate it.

4 MS. HERRING-LASH: We would call Detective
5 Christophersen, Michael Christophersen.

6 THE COURT: Okay. And then do you have another copy?
7 Or do you want to use these? This is fine too.

8 MS. HERRING-LASH: I have a copy, because one of the
9 things that we did --

10 THE COURT: Have a seat, Detective.

11 MS. HERRING-LASH: The defense wanted one statement
12 redacted, so that -- I found out about that after we sent
13 you --

14 THE COURT: The one.

15 MS. HERRING-LASH: -- the one. And we redacted the --

16 THE COURT: Let's keep these separate.

17 MS. HERRING-LASH: What we redacted was just the very
18 end, near the end where the detective says it would be
19 strange for a 16-year-old to say something like that. And
20 the defense thought that that could be bolstering --

21 THE COURT: Okay.

22 MS. HERRING-LASH: -- her credibility.

23 THE COURT: Uh-huh.

24 MS. HERRING-LASH: So we took that -- I think it's eight
25 seconds.

1 MS. FORD: I think it might only be four.

2 MS. HERRING-LASH: Four seconds. So that's the only
3 change.

4 THE COURT: Okay. Well, I'll just make sure I keep
5 these up here.

6 All right. You can go ahead and swear the witness in,
7 please.

8 CLERK OF THE COURT: Raise your right hand.

9 (Witness sworn.)

10 CLERK OF THE COURT: Please be seated.

11 Please state your full name, spelling your last name.

12 THE WITNESS: My name is Michael Christophersen. My
13 last name's spelling is C-H-R-I-S-T-O-P-H-E-R-S-E-N.

14 MICHAEL CHRISTOPHERSEN,
15 called as a witness on behalf of the State, being first duly
16 sworn, was examined and testified as follows:

17 DIRECT EXAMINATION

18 BY MS. HERRING-LASH:

19 Q. And Detective Christophersen, for purposes of this
20 hearing, I'm just going to go -- I'm not going to go over all
21 of the parts of your testimony. But you were assigned to
22 investigate this case?

23 A. Yes, ma'am.

24 Q. What is the first thing that you did?

25 A. The first thing that I did is referred this incident to

1 DSS and the Dee Norton Child Advocacy Center.

2 Q. And did you attend that interview with the victim?

3 A. Yes.

4 Q. And what did you do after attending that interview?

5 A. After attending the interview, I spoke with Ms. Pear.

6 Q. The victim's mother?

7 A. Yes, ma'am.

8 Q. And then what?

9 A. And then I spoke with the victim.

10 Q. And did you meet with the defendant?

11 A. Yes.

12 Q. And how did that come about?

13 A. I contacted the defendant on June 23, 2020, via
14 telephone using the number that Ms. Pear provided to me.

15 Q. And what did you ask him?

16 A. I asked if he would be willing to meet with me for an
17 interview.

18 Q. And did he agree?

19 A. Yes.

20 Q. Did he set up a time and place to meet with you?

21 A. Yes. Mr. Wigfall asked to meet at a 7-Eleven gas
22 station in North Charleston at 5:30 p.m. on June 23, 2020.
23 This gas station was near his work.

24 Q. And did he give you directions how to get there?

25 A. Yes, ma'am.

1 Q. And who all went with you to interview him?

2 A. Myself and my supervisor.

3 Q. So two officers?

4 A. Yes, ma'am.

5 Q. And did you get there late?

6 A. Yes.

7 Q. How long were you delayed?

8 A. The interview was scheduled to take place at 5:30 p.m.,
9 and we arrived 18 minutes late at approximately 5:48 p.m.

10 Q. And where did this interview take place?

11 A. The interview took place in the parking lot at the gas
12 station at 7-Eleven.

13 Q. Were you all in a car or outside?

14 A. We stood outside our vehicles.

15 Q. And did you record it on your body cam or some other
16 mechanism?

17 A. Body camera.

18 Q. And when you first got there, did he appear to be
19 coherent and understand what was going on?

20 A. Yes. Mr. Wigfall was standing upright, speaking
21 clearly, and gave no indication of impairment or
22 intoxication.

23 Q. And did he seem to understand everything that you asked
24 him?

25 A. Yes.

1 Q. Did you inform him that he was not under arrest?

2 A. Yes, ma'am.

3 Q. Did you inform him that he was free to leave?

4 A. Yes. Um --

5 Q. Do you -- go ahead.

6 A. I'm sorry. I didn't mean to interrupt.

7 So upon exiting my vehicle, first thing I did was
8 apologize for being late, 18 minutes late. And then the
9 second thing I did was I provided him my business card with
10 my name and contact information for full transparency. And
11 then the very next thing I did was I told Mr. Wigfall that he
12 was not under arrest, he was not being detained, he did not
13 have any warrants for his arrest, and then I further stated
14 that he was free to leave, quote, at any time.

15 Q. And did he appear to understand those instructions?

16 A. Yes, ma'am.

17 Q. Did he, in fact, express a desire to speak with you to
18 get this over with?

19 A. Yes.

20 Q. And are you aware that Mr. Wigfall already knew about
21 the allegations from Ms. Pear?

22 A. Yes.

23 Q. So he knew what you were there for?

24 A. Yes.

25 Q. Did you explain to him a little bit about why you were

1 there?

2 A. Yes.

3 Q. And what was that?

4 A. Well, we just -- we addressed the topic, and he
5 acknowledged that he and Ms. Pear even had a prior
6 conversation about the subject at hand in the allegation.
7 And we discussed the allegation.

8 Q. And what was that conversation or discussion like?

9 A. Well, we first just went in and talked about where he
10 worked, that he did live with MINOR 1 and her mother, sort of
11 the hours that he would have been alone taking care of the
12 children while Ms. Pear was at work during the evening, and
13 talked about the dynamic that he had with MINOR 1 a little
14 bit. And then we got more into the detail of the allegation.

15 Q. And did he talk with you freely during this?

16 A. Yes.

17 Q. Did you use any kind of interrogation techniques to talk
18 with him?

19 A. No.

20 Q. Did he engage with you freely?

21 A. Yes.

22 Q. And at any time during that conversation, did he ask to
23 leave or want to leave or stop the conversation at any point?

24 A. No.

25 Q. And about how long did that go on?

1 A. Approximately 30 minutes.

2 Q. And at the end of that 30 minutes, what happened?

3 A. At the end of the 30 minutes, he provided me, I believe,
4 the address of where he was currently staying. We fist
5 bumped two times, and I just -- I thanked him for meeting
6 with us. And he just kind of expressed his general
7 appreciation for being able to speak with me.

8 Q. And were warrants eventually taken out?

9 A. Yes.

10 Q. And I know you just said this, but what was the date of
11 this conversation?

12 A. The conversation took place on June 23, 2020.

13 Q. And when were the warrants taken out?

14 A. June 29, 2020, which was six days after our
15 conversation.

16 Q. And what did you do after leaving the parking lot?

17 A. After leaving the parking lot and a time afterwards, I
18 had an opportunity to review the facts of the case to date
19 and then discuss the interview with my supervisor.

20 Q. And did that interview have anything to do with the
21 warrants being taken out?

22 A. Yes.

23 Q. And what was that?

24 A. Based on the information that we had at that time and
25 then the statements provided by Mr. Wigfall, we determined

1 that probable cause existed to present the facts of the case
2 to a judge.

3 Q. Did he, in fact, cooperate much of what you had heard
4 MINOR 1 say in her statement?

5 A. Yes, ma'am.

6 Q. And why did you not Mirandize him when you met with him
7 in the parking lot?

8 A. He was not in custody.

9 Q. And was he free to leave?

10 A. Yes.

11 Q. And do you -- did he express to you he understood that
12 in some way?

13 A. Yes.

14 MS. HERRING-LASH: Your Honor, do you want me to play
15 the interview at this point?

16 THE COURT: Maybe just have -- could you have him
17 identify a copy of it?

18 MS. HERRING-LASH: He did view a copy and initial it,
19 but it has been changed because of the redaction.

20 THE COURT: Okay.

21 MS. HERRING-LASH: But it's the exact same -- okay. He
22 saw the redacted copy today.

23 THE COURT: Okay.

24 MS. HERRING-LASH: I didn't know that happened while I
25 was in jury qualifications.

1 May I approach?

2 THE COURT: Yes, ma'am.

3 BY MS. HERRING-LASH:

4 Q. Do you recognize this disk?

5 A. Yes, ma'am.

6 Q. And did you view that today?

7 A. Yes, ma'am.

8 Q. And how do you recognize it?

9 A. It has my initials, MJC, and then the date that I wrote,
10 2/6/23.

11 Q. And did you realize that it had been redacted in a small
12 portion?

13 A. Yes, ma'am.

14 Q. Other than that, does it reflect your exact
15 conversation?

16 A. Yes, ma'am.

17 MS. HERRING-LASH: I guess we would have this as State's
18 Exhibit -- for ID purposes only as State's Exhibit Number 8.

19 (State's Exhibit Number 8 marked for identification.)

20 MS. HERRING-LASH: Those are all the questions I have,
21 your Honor.

22 THE COURT: Okay. Ms. Ford, any questions of this
23 witness?

24 MS. FORD: Yes, your Honor.

25

1 CROSS-EXAMINATION

2 BY MS. FORD:

3 Q. Detective Christophersen, by the time you spoke to
4 Marcus, MINOR 1 had already given multiple statements,
5 correct?

6 A. Yes, ma'am.

7 Q. She initially made a disclosure of sexual abuse to the
8 responding officer to her apartment, correct?

9 A. Yes.

10 Q. And she then went to the Lowcountry Children's Center
11 and made a disclosure there, correct?

12 A. Yes, ma'am.

13 Q. She actually had two interviews at the Lowcountry
14 Children's Center, correct?

15 A. Yes, ma'am. And I'm not trying to split hairs or be
16 argumentative. I don't know if it matters, but it's the Dee
17 -- I think they call it Dee Norton Child Advocacy Center.

18 Q. Yes. And you were actually present -- not with her, but
19 you were observing the interviews while they were occurring?

20 A. Yes, ma'am.

21 Q. After the second interview at the children's center, you
22 then met with her yourself, correct?

23 A. Yes, ma'am.

24 Q. And she made a disclosure at that time?

25 A. Yes.

1 Q. Also, you had talked to Ms. Pear, her mother, and knew
2 she had made a disclosure to Ms. Pear, correct?

3 A. Yes, ma'am.

4 Q. So before you talked to Marcus, you knew that MINOR 1 had
5 made a disclosure of sexual abuse to at least four people:
6 you, Ms. Pear, the interviewer, and the reporting officer.
7 Correct?

8 A. Yes, ma'am.

9 Q. And under the law, especially with CSC cases, there's a
10 statute that the word of a victim need not be corroborated,
11 correct?

12 A. Yes, ma'am.

13 Q. So by the time you met with Marcus, you had already had
14 probable cause for an arrest for criminal sexual conduct; is
15 that fair to say?

16 A. Statutorily speaking, yes. Per the way the statute is
17 written, yes.

18 Q. There had been clear disclosures?

19 A. Yes.

20 Q. Okay. And when you talked to the people at the Dee
21 Norton Lowcountry Children's Center, they informed you there
22 had been a clear disclosure, correct?

23 A. Yes.

24 Q. So that was your understanding when you went to meet
25 Marcus?

1 A. Yes. Wait. I'm sorry. What was my understanding? I'm
2 sorry.

3 Q. That there had been a disclosure of sexual abuse.

4 A. Yes, ma'am.

5 Q. When you met with Marcus, you initiated contact with
6 him, correct?

7 A. Yes, ma'am.

8 Q. And when you met with him, you took your supervisor,
9 Sergeant Tuttle?

10 A. Yes.

11 Q. So there were two of you there at the gas station?

12 A. Yes, ma'am.

13 Q. And Marcus was definitely, is it fair to say, a suspect
14 when you were talking to him?

15 A. Yes.

16 Q. And your intent of talking to him was to see if he made
17 any admissions corroborating MINOR 1's story, correct?

18 A. Well, the purpose of speaking with him wasn't a narrow
19 scope. The purpose of speaking with him was open-ended in
20 the sense that it was an opportunity to hear what he had to
21 say, if anything at all, for as long as he would like to
22 speak with us. If there were things he wanted to share or
23 evidence he wanted to share with us, we were there.

24 Yes, he was a suspect; however, we were open to
25 discussing anything and everything that he would want to

1 share with us. And if there was something that would assist
2 the investigation in going another route, we were certainly
3 open to hearing that.

4 Q. But you did ask him specific questions, correct?

5 A. Yes.

6 Q. So you didn't just say "Tell us your side" and then you
7 left, correct?

8 A. No, I did not say "Tell us your side."

9 Q. Yeah. You did ask specific questions?

10 A. Yes, ma'am.

11 Q. Initially, you asked him about any type of sexual
12 contact?

13 A. Initially, I think we first kind of just discussed the
14 dynamics of the home.

15 Q. Well, as far as any possible wrongdoing, you asked him
16 about the sexual contact and then you switched to the
17 marijuana, correct?

18 A. I think that's the order in which we discussed things.

19 Q. Then you went back to the sexual conduct, correct?

20 A. I believe so.

21 Q. But you were definitely there to ask him about the
22 allegations of criminal sexual conduct?

23 A. Yes. Among other things.

24 Q. Yeah. And you did at one point mention to him that --
25 er, you were trying to ask, you know, "Why do you think she

1 would have said this?" Correct?

2 A. Yes.

3 Q. Because you told him that it's not normal for a
4 16-year-old to make up these things, correct?

5 A. I believe I asked him if he would agree that it's not
6 normal for someone of her age to make allegations of that
7 nature. I believe that's how I worded it, something to that
8 effect.

9 Q. You did express that to him, correct?

10 A. Yes, ma'am.

11 Q. And you testified earlier that you did not use any
12 interrogation techniques. But part of your training, you are
13 taught to try to build rapport with a suspect, is that fair
14 to say, at times if appropriate?

15 A. Can you repeat the question?

16 Q. When trying to talk to a suspect, is it fair to say that
17 one strategy may be to befriend them?

18 A. Well, I would suggest that anytime I meet with somebody,
19 I try not to come off in an adversarial nature. And I think
20 it's always best that we can speak in cordial terms. But
21 sure, there are specific interview trainings, so to speak,
22 where they talk about rapport building.

23 Q. And you even told us how at the end you dapped him up a
24 few times?

25 A. I'm sorry?

1 Q. At the end of your interview upon parting, the two of
2 you dapped each other?

3 A. Fist bumped?

4 Q. Fist bumped.

5 A. Okay.

6 Q. You fist bumped each other?

7 A. Yes, ma'am.

8 Q. And is it fair to say that's a friendly gesture?

9 A. Well, in context, it was June of 2020, and we were right
10 in the start of the pandemic. Normally, I'd shake hands with
11 someone, but fist bumping felt a little bit more appropriate
12 given the context of the times.

13 Q. But you and Sergeant Tuttle were laughing with him at
14 times; is that correct?

15 A. Yes. Yep.

16 MS. FORD: No further questions.

17 THE COURT: Okay. Any followup questions of the
18 witness?

19 REDIRECT EXAMINATION

20 BY MS. HERRING-LASH:

21 Q. During that conversation, did he, in fact, tell you
22 about other sexual behaviors that he felt the victim had
23 engaged in with another person -- conversations?

24 A. Conversations.

25 Q. Yes.

1 A. Yes, ma'am.

2 Q. And so he felt free to talk to you about why he thought
3 she said this?

4 A. Yes.

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

6 THE COURT: Okay. You can step down.

7 Or I don't know. Do you have any followup to that? I'm
8 sorry. Do you have anything else for this witness?

9 RE CROSS-EXAMINATION

10 BY MS. FORD:

11 Q. Just that that was specifically you had asked him --
12 Kandra had told you that Marcus had admitted to seeing her
13 daughter, you know, undressed at some point, correct?

14 A. Well, MINOR 1 had made disclosures about Mr. Wigfall
15 instructing her to undress. And then I believe that Ms. Pear
16 stated that she had confronted Mr. Wigfall in conversation
17 about MINOR 1 being forced to undress for disciplinary
18 purposes.

19 Q. But you specifically asked him about what he told
20 Ms. Pear?

21 A. I think I recall asking him if he and Ms. Pear did have
22 a conversation.

23 Q. You asked, "Did you tell Kandra that you did something
24 for disciplinary purposes?"

25 A. Yes, ma'am. I did say that.

1 Q. So him telling you about MINOR 1 talking to an older
2 male, that was to explain what happened in that situation,
3 correct?

4 A. That was his explanation.

5 MS. FORD: Okay. No further questions.

6 THE COURT: Okay. Now you can step down from the
7 witness stand.

8 (Witness excused.)

9 THE COURT: Does the State have any other witnesses
10 you'd like to call?

11 MS. HERRING-LASH: No, your Honor.

12 THE COURT: Okay. All right. I'm happy to hear from
13 you all if there's anything else you'd like to tell me.

14 Do you have any witnesses, Ms. Ford?

15 MS. FORD: No, your Honor.

16 THE COURT: Okay. All right. Happy to hear from y'all.
17 So this is obviously a statement in a noncustodial setting
18 made by the defendant that the State seeks to admit, so I
19 guess in the nature of a confession, especially the -- at
20 least as it goes to the marijuana situation.

21 Is that right, Ms. Herring-Lash?

22 MS. HERRING-LASH: Yes, your Honor. I think that's the
23 only thing he acknowledges having done.

24 THE COURT: Acknowledged on the statement itself --

25 MS. HERRING-LASH: Mm-hmm.

1 THE COURT: -- is the marijuana?

2 MS. HERRING-LASH: That he gave her.

3 THE COURT: Right. That was my recollection when we
4 were watching it Friday.

5 Okay. I'm happy to hear arguments now on why this
6 should or should not be admitted. Care to make any additions
7 to the testimony that was elicited from the officer?

8 MS. FORD: I think, your Honor, basically, my point
9 would just be I think it's undisputed Miranda was not given.
10 It is very clear the officer very clearly says "You are not
11 under arrest. You are free to leave." However, we did point
12 out that we do think this is a deliberate attempt in order to
13 manipulate my client. He -- that's why I asked questions
14 about him taking a friendly approach. He was trying to
15 basically meet with my client with his guard down.

16 He very clearly had probable cause to make an arrest.
17 And in these cases, often a warrant is taken out right away.
18 While my client may have made some comments that may have
19 corroborated some of what was said, they obviously would have
20 arrested him anyways. I think it's disingenuous to say they
21 would not have arrested him but for his statement.

22 So we just think that this was a deliberate attempt to
23 avoid giving Miranda. Simply because my client was not
24 deemed an immediate threat, they thought he was someone that
25 they could do this to. And so they knew they didn't have to

1 hurry to arrest him, and that's why they did it this way,
2 your Honor. There were multiple officers on scene. They
3 were specifically there to ask him questions as a suspect.
4 So we do think that that is a concern.

5 And the *Lowery* case -- I have a difficult time
6 pronouncing that -- that's a recent 2022 case. It just does
7 refer to a list of factors. I think the fact that he's not
8 literally in custody is not the end of the story.

9 THE COURT: Mm-hmm.

10 MS. FORD: There are a list, and one is whether the law
11 enforcement -- whether the contact that was initiated by law
12 enforcement was -- whether the express purpose of the
13 interview was to question the pertinent person as a witness
14 or suspect. I think clearly it was.

15 How many officers were present is another consideration,
16 whether they dominated or controlled the course of the
17 interrogation, whether they manifested a belief that the
18 person was culpable and they had the evidence to prove it,
19 whether they were accusatory, whether they used techniques to
20 pressure the suspect, whether he was arrested at the end.

21 Again, we know he was not arrested. He was not arrested
22 for a week afterwards. We know that this was not very
23 confrontational. We are not trying to argue that. They did
24 not take on an aggressive manner.

25 THE COURT: Mm-hmm.

1 MS. FORD: But we do think this was a very deliberate
2 attempt to question my client.

3 THE COURT: Okay. What's the case cite for that *Lowery*
4 case?

5 MS. FORD: Yes, your Honor. It is 436 S.C. 349.

6 THE COURT: Okay.

7 MS. FORD: It's a court of appeals case.

8 THE COURT: Okay.

9 MS. HERRING-LASH: Your Honor, I think the *Lowery* case
10 lists 13 factors.

11 THE COURT: Mm-hmm.

12 MS. HERRING-LASH: And I'll just go through them.

13 The contact with law enforcement was initiated by
14 police. In this case, it was, but by way of a phone
15 conversation that he could have clearly said, "No, I will not
16 talk with you." Had he chosen -- and then he chose the time
17 and the location that would be beneficial to him of where he
18 would be.

19 And the express purpose of the interview was to question
20 him as a suspect. That is one of the factors that, in fact,
21 was in play here. They were questioning him as a suspect.

22 THE COURT: Mm-hmm.

23 MS. HERRING-LASH: The interview, where it took place is
24 to be factored in. This was not custodial. It was not in a
25 room. He was free to leave. It was out in the open outside

1 in a parking lot. The police informed him he was not under
2 arrest. They informed him he could leave at any time. And
3 he, in fact, says "No. I want to talk and get this"
4 expletive "over with."

5 The interrogation lasted about 30 minutes. There were
6 only two officers there, and they really didn't dominate and
7 control. The conduct went conversationally; a lot of it did.
8 I think they spent probably a good deal of the time talking
9 about how you smoke marijuana in a gas mask as opposed to the
10 actual allegations.

11 And they were not aggressive or accusatory and
12 confrontational to him. There was that one statement that it
13 seemed unusual for a 16-year-old to say this.

14 THE COURT: Mm-hmm.

15 MS. HERRING-LASH: That was the only statement where
16 they really expressed to him what any kind of evidence they
17 had.

18 And he was not arrested. I understand the argument is
19 they purposely and intentionally manipulated him by not
20 arresting him. That is one way to look at it. Another way
21 is they really were doing what the officer said, and they
22 were giving him a chance. If he gave them information to
23 follow up on other kinds of stuff, they would have followed
24 up on that. We're just assuming that it was some kind of
25 intentional manipulation. He did -- the most important thing

1 was he acknowledged he was her caretaker. Very clearly.
2 This was really more of a conversation than an interrogation.

3 And I do think it factors in that he knew what the
4 allegations were and had known because the mother and the
5 daughter, the three of them actually -- as the detective
6 testified to, the mother had confronted him. And he knew
7 that they were in the process of investigating him and spoke
8 freely to them. And in fact, they left and did not arrest
9 him for days. The warrant was not actually served until
10 sometime mid July, I think.

11 THE COURT: Mm-hmm.

12 MS. HERRING-LASH: So we would argue that it was
13 noncustodial and nonaggressive, and their intent was not some
14 sinister plot to try to get him to say something
15 incriminating.

16 THE COURT: Okay. I do think that the phone call does
17 shed some light on at least some of the factors of *Lowery*. I
18 think that it should really -- is it part of the CD that you
19 showed him or a separate CD?

20 MS. HERRING-LASH: It's a separate CD. He viewed it in
21 my office.

22 THE COURT: Mm-hmm. Okay.

23 MS. HERRING-LASH: It has not been changed.

24 THE COURT: You know, I think he obviously testified to
25 the fact that at least he did have a phone conversation with

1 him prior to the meetup. My review of the call, as well as
2 the video itself, you know, the defendant was allowed to tell
3 them -- I mean, that was more than half the phone call. The
4 conversation was "How do we get to you? What's convenient
5 for you? When do you get off work? How can we do this so
6 it's convenient for you?"

7 So I think obviously the defendant controlled the place
8 and the time of the meetup, essentially. So, you know, going
9 through the *Lowery* factors, obviously the police did initiate
10 it, but certainly he set -- again, he set the time, he set
11 the place, he voluntarily agreed. They didn't have to coerce
12 him into meeting with them whatsoever.

13 I think they were clear at the meeting and on the phone
14 call that this was a voluntary situation for him to come
15 discuss things and his side with them. While I think the
16 purpose was to interview him as a suspect, obviously I don't
17 know that that one factor alone is enough to throw off the
18 rest of the totality of the circumstances for the interview.
19 He was aware it took place, obviously. They specifically
20 told him that he was not under arrest, he was not in custody.
21 They did tell him he could leave anytime. He wasn't under
22 any sort of restriction of movement.

23 I mean, I realize there was a couple of police officers
24 there, but they were -- at least I think the State referred
25 to it as an unmarked car. They were in uniforms, as I

1 recall, because they had some sort of a special detail, that
2 they sort of apologized for that fact and they, you know,
3 made sure that he was going to be aware that they were going
4 to be in those uniforms, so there weren't any surprises or
5 anything.

6 The interrogation lasted, I want to say it was about a
7 half an hour or so, the video. So that was really -- I mean,
8 they were standing up the whole time. That's an indication
9 of how short it was. No one even needed to sit down or
10 anything.

11 Again, two police officers were present. I don't feel
12 that was some sort of a show of force of the police by any
13 means. And I don't think they really controlled the course
14 of the interrogation so much that he wasn't allowed to sort
15 of be an active participant. He certainly wasn't saying yes,
16 no, yes, no, the whole time or anything like that. It was
17 really more conversational in nature than interrogative.

18 And they never mentioned anything about, you know, "We
19 know you did it, and we've got the evidence to prove it." I
20 mean, there wasn't anything of that nature that I can recall
21 at all during the video. And again, the accusatory,
22 aggressiveness, confrontational, I don't think that one
23 really applies at all.

24 I'm not sure that the interrogation techniques I think
25 -- I know, Ms. Ford, you mentioned that this is sort of a

1 technique on their part, but, you know, I didn't pick up on
2 any of the pressure. I mean, you know, I get that, based on
3 what he said, they were going to go on with the
4 investigation, I mean, one way or another. But I don't know
5 that that necessarily was -- I didn't find it to be tricky in
6 nature. I don't think they were trying to trip him up in any
7 sort of way or induce him into saying something that wasn't
8 true or anything like that. And of course, we know he wasn't
9 arrested.

10 I think that while any one of the factors might come
11 into play, I don't think that under the totality it makes me
12 think he did not knowingly, intelligently, and voluntarily
13 meet up with them and give the statement. So given all the
14 factors, I would allow it in as redacted. I do think that
15 statement about -- it sort of almost is like an expert
16 opinion or something that I think would be inappropriate. So
17 certainly I do think that that part should be redacted that
18 you took out.

19 All right. So what's the next motion to take up? We
20 have a motion in support of bad acts. Is that something you
21 want to discuss?

22 MS. HERRING-LASH: I don't know if she's going to argue
23 that it's bad acts, actually. I think she has another --

24 THE COURT: Okay.

25 MS. HERRING-LASH: I didn't know. They're not bad acts

1 in and of themselves.

2 THE COURT: Okay.

3 MS. FORD: Right. My understanding from talking with
4 Ms. Herring-Lash is, because technically what he's actually
5 being charged with are not the incidents from 2020, which is
6 when the texts are from, which is why she labeled them,
7 basically, "other bad acts." We, in fairness, do anticipate
8 going into 2020 and discussing the ongoing abuse, so we are
9 not going to argue that it would be improper to refer to
10 those incidents since we do anticipate going into them
11 ourselves.

12 THE COURT: So the incidents are the actual incidents
13 giving rise to his current charges; is that right?

14 MS. HERRING-LASH: What happened is she turned 16 --

15 THE COURT: Mm-hmm.

16 MS. HERRING-LASH: -- on July 31 of 2019, so the
17 criminal sexual conduct with a minor statute no longer
18 applied. And the adult statute did not apply because by the
19 time that she turned 16 -- I mean, because of the
20 relationship, force was not an issue. So he could not be
21 charged for the acts that occurred after she became an adult
22 under that statute.

23 THE COURT: Okay.

24 MS. HERRING-LASH: So there was almost a year where
25 their behaviors went on. She doesn't really detail but maybe

1 one of them within that year when she gives her statement
2 earlier. But the reason I wanted to bring it up is because
3 the text messages infer that it was ongoing, and he's not
4 charged with that time.

5 MS. FORD: And --

6 MS. HERRING-LASH: But they plan on bringing it up,
7 so --

8 MS. FORD: We do object to the text messages themselves,
9 your Honor, simply because -- so MINOR 1 herself, when she's
10 speaking to other people, she specifically says, "Yeah, on
11 their own, these text messages, nobody would think anything
12 of them." She herself did not look at these text messages
13 and say that they were sexual in nature or that they
14 suggested sex on the face of them. But again, that was her
15 understanding. That's what she indicated to interviewers.

16 The reason we are objecting, though, is out of basically
17 the best-evidence rule, MINOR 1 was -- a reporting officer
18 went to the apartment and talked to her, got a statement from
19 her at that point. And the text messages came up. She
20 actually showed -- kind of like let him glance at them, and
21 he was just like, "Keep onto them."

22 Detective Christophersen talked to her about them, and
23 they decided she would just e-mail some screenshots. We
24 believe that is improper, that they should have taken the
25 phone into evidence or extracted text messages in order to

1 authenticate and to look at the other text messages. And so
2 that is why we are objecting to the screenshots coming in,
3 considering the circumstances surrounding them.

4 THE COURT: Okay. Well, I mean, she would have to
5 authenticate them, obviously.

6 MS. FORD: Yes, your Honor.

7 THE COURT: So we'll have to see if she can. And then
8 she will have to establish, you know, the statements were
9 sent in the text-message situation in terms of -- you know,
10 authentication is a pretty low bar when it comes to text
11 messages.

12 So I think, you know, she can establish that she was the
13 author of these and that, you know, in terms of -- I don't
14 know if she can tell you what his number was, but in terms of
15 his messages back or his messages to her, if she can
16 authenticate, you know, either the number or she can
17 authenticate that this is generally the type of conversation
18 that they would have or something along those lines, some
19 sort of circumstantial evidence to sort of corroborate
20 authorship of those that she received them from him.

21 Then we'll have to just see how that goes with her
22 testimony. And perhaps they can come in. But it is a pretty
23 low bar, authentication.

24 MS. HERRING-LASH: And your Honor, what I was --

25 THE COURT: I'm sorry. I don't want to interrupt. I

1 just want to finish my sentence.

2 In terms of, I think, your concern that he could maybe
3 go through and delete some of them out of the conversation, I
4 mean, certainly you could ask her, you know, about that and,
5 you know, speak to that. I mean, if you want to do that
6 outside the presence of the jury first, that's fine. Just
7 let me know. Give me a heads up on the way out.

8 MS. FORD: Yes, your Honor.

9 MS. HERRING-LASH: I was going to say, I was going to
10 ask her about these at the end, and I'll just say that we
11 have a matter to take up before we get to those questions --

12 THE COURT: That's fine.

13 MS. HERRING-LASH: -- so that we can do that part kind
14 of within her testimony when it comes up.

15 THE COURT: Yeah, that is completely fine. I have no
16 problem with that at all. Okay? So we'll kind of take that
17 up at the time that she would testify about the text
18 messages.

19 Now, what about -- what else? What are these other
20 motions about?

21 MS. HERRING-LASH: I had filed a rape-shield motion,
22 your Honor, just to make sure that they did not have other
23 allegations that they planned on bringing up. Ms. Ford and I
24 both realized that he does say in his statement that he, in
25 fact, thought she was having sexual-in-nature conversations

1 with a 30-year-old. I have told Ms. Ford I don't -- I don't
2 think that fits the rape-shield statute, so I wasn't
3 referring to that in my motion. Just if, you know, if he had
4 told them other instances that we don't know about --

5 THE COURT: Mm-hmm.

6 MS. HERRING-LASH: -- that before they ask about that,
7 that we clarify that.

8 And the other motion was kind of the same. There was an
9 -- she does have a prior abuse incident, but she was 3. We
10 do not plan on bringing that up. I didn't know if they had
11 another thing that they would plan on bringing it up. I just
12 want it to come out in camera before it happens.

13 THE COURT: Okay. All right.

14 MS. FORD: And your Honor, you know, I do not intend to
15 elicit that. She does mention it several times in her
16 interview. In her interview. So there might become a time
17 where I might -- but I would approach --

18 THE COURT: Sexual in nature at 3 years old, or was it a
19 physical abuse or neglect?

20 MS. HERRING-LASH: She was sexually assaulted by a
21 teenage -- a male teenage babysitter. She told, and he was
22 prosecuted in juvenile court.

23 THE COURT: Mm-hmm.

24 MS. HERRING-LASH: But I don't know what she remembers
25 about that. Her mother told me she does say in her statement

1 that Mr. Wigfall knew about it --

2 THE COURT: Uh-huh.

3 MS. HERRING-LASH: -- and that she felt like he
4 shouldn't have taken advantage of her knowing her history, I
5 think is how she said it.

6 MS. FORD: I do not intend to bring it up. Just if it
7 seems like she says something, you know, it would be more as
8 an explanation, but I would bring that to the Court's
9 attention before I said anything.

10 THE COURT: Okay. Yeah, just take a break at that
11 point.

12 MS. FORD: Yes, your Honor.

13 THE COURT: And we'll take it up if it becomes an issue.
14 And then as to the situation with the 30-year-old, what
15 interview is that where that's discussed?

16 MS. HERRING-LASH: She -- well, he tells law enforcement
17 that that is why she ended up taking her clothes off.

18 THE COURT: Right. I remember that conversation. I
19 guess I didn't hear the specific 30-year-old.

20 MS. HERRING-LASH: I think he says 30 or 32, something
21 like that.

22 THE COURT: Oh, okay.

23 MS. HERRING-LASH: She does not say that ever happened.

24 THE COURT: Okay. Oh, okay. All right.

25 MS. FORD: Just so you -- and again, I don't -- I wasn't

1 intending -- I mean, I can't be certain that I was going to
2 ask her about that, but according to the evidence, my client
3 tells her mom. The mom does find some pictures of some
4 penises on her Snapchat and makes her delete it. MINOR 1 's
5 asked about it in her interview, and she said that somebody
6 she gave them her account information, so it was other people
7 communicating on her Snapchat account, sending pictures of
8 penises.

9 THE COURT: Okay.

10 MS. FORD: But anyway, so that's just -- again, my
11 client does tell police that story in his interview. So I
12 mean, the jury's going to see it from the State's you know,
13 putting in the interview. But we would just bring that up to
14 explain his -- to give his explanation.

15 THE COURT: Of the shirt thing?

16 MS. FORD: Yes, your Honor.

17 THE COURT: Right. Okay. Yeah, I picked up on that.

18 All right. Okay. Yeah, I don't know that that one
19 really -- that would really bring the rape-shield statute
20 into play here, so I'm not hearing anything. But certainly
21 if issues pop up, just let me take a break, bring it to my
22 attention, and we can do that.

23 Anything else we need to specifically address?

24 MS. HERRING-LASH: The only thing I would, just for the
25 Court, is we have five photographs that we have marked into

1 evidence without objection.

2 THE COURT: Okay.

3 MS. HERRING-LASH: So I would just move those in so that
4 we can just start referring to them, rather than go through
5 that process.

6 THE COURT: Okay. Where are those?

7 MS. HERRING-LASH: They are right here. They are
8 pictures of the home.

9 THE COURT: Okay. Great. These are 1 through 5? Okay.
10 Now, what was the other State's -- oh, 8. Okay.

11 MS. HERRING-LASH: That --

12 THE COURT: The video is 8.

13 MS. HERRING-LASH: And the two text messages are 6
14 and 7.

15 THE COURT: Okay.

16 MS. HERRING-LASH: And the video is 8.

17 THE COURT: 8.

18 MS. HERRING-LASH: And I will wait and move that video.

19 THE COURT: Yeah, I mean, I'm not sure if you have to
20 wait until they're sworn before we start admitting evidence.

21 MS. HERRING-LASH: Oh, well, I was just going to --

22 THE COURT: So we'll do it tomorrow. Yeah. It sounds
23 like we can take care of that pretty quickly tomorrow.

24 So anything else?

25 MS. FORD: I would just move to sequester the witnesses,

1 including Ms. Pear because MINOR 1 's an adult now. So I would
2 move to sequester.

3 MS. HERRING-LASH: And we were not planning on having
4 her in. The only witness that we have in would be our case
5 agent.

6 MS. FORD: Yes. And my investigator, Mr. Walters, he
7 may be present as well. He's off today, but he should be
8 here tomorrow.

9 THE COURT: All right. Okay. Yeah. No problem. Apart
10 from the investigator and the case agent, everybody else will
11 be sequestered until after they testify. Motion granted.

12 Anything else?

13 MS. FORD: No, your Honor.

14 THE COURT: Is that it for this afternoon?

15 MS. HERRING-LASH: I think that's it.

16 THE COURT: Wonderful. Well, as I stated earlier, I am
17 flying solo, so if you need to send me anything or
18 communicate with me, jmccoyj@sccourts.org is the best way to
19 get to me this week. Okay?

20 And I will see y'all back a few minutes before 9:30 in
21 the morning. Okay?

22 MS. FORD: Yes, ma'am.

23 MS. HERRING-LASH: Yes.

24 THE COURT: All right. Great. Y'all have a great
25 afternoon.

1 MS. HERRING-LASH: Thank you, your Honor.

2 THE COURT: All right. See you in the morning.

3 (Court recessed at 2:32 p.m., to resume at 9:30 a.m.,
4 Tuesday, February 7, 2023.)

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1 (Court resumed at 9:27 a.m., Tuesday, February 7, 2023,
2 outside the presence of the jury.)

3 THE COURT: Anything we need to take up before the jury
4 comes in?

5 MS. FRIES: Your Honor, I did have a juror text me last
6 night, the one that --

7 THE COURT: Did he end up on the jury?

8 MS. FRIES: He is. It was just a text that said, "The
9 State couldn't excuse this juror, shaking my head."

10 MS. HERRING-LASH: She didn't open it.

11 MS. FRIES: I didn't even have the number in my phone,
12 and I didn't respond, but I wanted to --

13 THE COURT: Oh, gosh.

14 MS. FRIES: -- bring it to your attention.

15 THE COURT: I don't like that.

16 What do you think, Ms. Ford?

17 MS. FORD: Your Honor, I think -- I think that --

18 THE COURT: We went down this road about 15 years ago,
19 didn't we?

20 MS. FORD: Yeah. I think it needs to be addressed and
21 just ask him again if he can be fair and impartial.

22 THE COURT: I'm inclined just to take him off the jury,
23 to be honest. I don't think that's appropriate. I'm not
24 saying I think he willfully did something wrong. I don't
25 think we've -- I've instructed them yet, but I'm not

1 comfortable with him sitting on the jury.

2 MS. FORD: I'm fine with that.

3 THE COURT: We've got two alternates. I'd rather, out
4 of an abundance of caution, excuse him. I'm going to tell
5 you the other thing that happened is apparently Number 132 --

6 I'm sorry. And Ms. Fries, what's his number? Do you
7 happen to remember?

8 MS. FRIES: I believe it's 70 something. I can look it
9 up.

10 THE COURT: Was this Mr. Evans?

11 MS. FRIES: It is.

12 THE COURT: Okay. That was Number 79.

13 MS. FRIES: Correct.

14 THE COURT: Thank you for your disclosure.

15 Number 132 apparently called the clerk's office late
16 yesterday and indicated she has a job interview she, I guess,
17 didn't know about until after she got home yesterday, and
18 Wednesday and Thursday would like to be excused. So she will
19 be instructed that she's not excused for a job interview.
20 But she was, I believe, instructed by the clerk's office to
21 just write a note to me. But I just want to -- I anticipate
22 that happening this morning.

23 Does she have it? Can we go ahead and bring it in? I'd
24 just rather go ahead and address that now.

25 Okay. Thank you.

1 All right. Okay. The first note is just asking to use
2 her medical seat, because she's got a condition. Obviously,
3 I wouldn't have any problem with whatever kind of seat
4 cushion she needs.

5 The second note says, "Yesterday after court, I received
6 a call from the hiring agency VA/CMOP that I was scheduled
7 for the job interview on this Thursday. I called this
8 morning. I also e-mailed to the hiring agency and explained
9 my situation regarding jury duty. I received a response this
10 morning that they rescheduled my interview on Friday,
11 11:00 a.m., so I can fulfill my jury duty obligation. Thank
12 you."

13 So it sounds like she's already taken care of her
14 obligation with respect to the job interview.

15 And then on the seat, I'm happy for her to use whatever
16 kind of cushion she needs to have. Okay?

17 And you can just let her know that, Mr. Pryor.

18 I'm just going to mark these as Court's exhibits.

19 (Court's Exhibits Numbers 1 and 2 marked for the
20 record.)

21 THE COURT: Anything else I need to address from the
22 attorneys on that juror?

23 Mr. Pryor, can you bring in Number 79 too?

24 THE BAILIFF: Number 79?

25 THE COURT: Uh-huh.

1 THE BAILIFF: Yes, ma'am.

2 THE COURT: Anything else on 132 from the attorneys?

3 MS. HERRING-LASH: No, your Honor.

4 THE COURT: Okay.

5 MS. FORD: No, your Honor.

6 THE COURT: Okay. We'll bring them in.

7 (Juror Number 79 entered the courtroom at 9:33 a.m.)

8 THE BAILIFF: Juror Number 79.

9 THE COURT: Yeah, come on in. How you doing?

10 JUROR: Good. How are you?

11 THE COURT: Good. It was brought to my attention that
12 you text messaged one of the attorneys on the case last
13 night?

14 JUROR: Yes, ma'am.

15 THE COURT: Okay. I'm going to excuse you from this
16 trial. You're not in trouble or anything. I haven't given
17 y'all instructions, but that kind of stuff is pretty strictly
18 forbidden.

19 JUROR: Oh, I didn't know that. I'm sorry.

20 THE COURT: That's okay. I understand. You're not a
21 lawyer. And it's probably your first time on jury duty; is
22 that right?

23 JUROR: Yes, ma'am.

24 THE COURT: Okay. All right. Well, listen, do me a
25 favor. I'm going to excuse you from this trial. I'm going

1 to ask you to call back tonight after 6:00 --

2 JUROR: Yes, ma'am.

3 THE COURT: -- because they might need you on another
4 one. Okay?

5 JUROR: Yes, ma'am. Thank you.

6 THE COURT: All right.

7 Yes, ma'am?

8 CLERK OF THE COURT: They've been released.

9 THE COURT: Oh, I'm sorry. They've been released for
10 the week, so you don't even need to call back. Thank you
11 very much.

12 JUROR: Thank you.

13 THE COURT: Have a good day.

14 JUROR: Yes, ma'am.

15 (Juror Number 79 excused from service and exited the
16 courtroom at 9:34 a.m.)

17 THE COURT: All right. Anything else before the jury
18 comes in?

19 MS. HERRING-LASH: No, your Honor.

20 THE COURT: We do need to move an alternate over. So
21 normally I have Jordan, my law clerk, pick, but I'm going to
22 have the clerk of court pick instead. Okay? And we'll just
23 write down these as an extra task for today.

24 CLERK OF THE COURT: Okay.

25 THE COURT: All right. So our alternates are Number 252

1 and Number 111. So those numbers have been written on two
2 pieces of paper.

3 So pick a number.

4 Okay. 111 will be moved over to the body of the jury.

5 All right? So 111.

6 All right. Anything else? Are we ready to go?

7 I'll let the bailiff know they can -- oh, there they
8 are.

9 You can bring the jury in. And Number 111 will now be
10 on the main body of the jury.

11 THE BAILIFF: All right.

12 THE COURT: Thank you, Mr. Pryor.

13 (The jury entered the courtroom at 9:39 a.m.)

14 THE COURT: Good morning. Good morning.

15 All right. Number 111. Where's 111? Perfect. You're
16 now on the main body of the jury. Okay? I think the bailiff
17 already told you, but just to reiterate. Thank you.

18 All right. Good morning, ladies and gentlemen. I
19 didn't really introduce myself yesterday, so I'm sorry for
20 that. I was trying to go so fast and speed up, but I think I
21 neglected to do that. My name's Jennifer McCoy. I'm here
22 locally. I live on James Island with my family. I'm a
23 circuit court judge. We have statewide jurisdiction, so
24 sometimes they move us around the state. But I get to be
25 right here at home this week with you all, so I'm excited to

1 work with you.

2 You met the attorneys yesterday at the tables. Right
3 here at this table are the attorneys for the State, and at
4 this table the attorneys and the defendant -- for the
5 defendant.

6 We've got some folks in the courtroom in the gallery
7 back there, and that's normal. It's a public courthouse.
8 You'll see people coming in and out. You have every right,
9 if you want to, to walk in here and watch court anytime you
10 want. So it's not unusual to have folks coming in and out
11 during the course of the trial.

12 We have sheriff's deputies here as well, here just
13 keeping the peace and making sure everybody moves in and out
14 of the courtroom in an orderly fashion.

15 We also have a representative of the clerk's office.
16 Your clerk of court is Julie Armstrong, and this right here
17 is her representative this week with us. She's just making
18 sure that that computer and help make sure we've got all our
19 documentation in line and that we filed everything the right
20 way that we need to.

21 We also have our bailiffs, of course, that you've met.
22 They're going to be your liaisons this week. They're going
23 to help you with any kind of questions you have. If you have
24 a question for me, they'll help you get back to me, usually
25 in the form of a note, and we'll handle it. Whatever we need

1 to do, we'll -- we're going to make your life as easy as
2 possible during this process.

3 To my immediate left is the court reporter. She is the
4 most important person in the room. She is taking down every
5 word that is said in this courtroom. So she's a busy lady,
6 and we try to make her job easy as well.

7 Again, I appreciate your jury service this morning. And
8 before we get started, I'm going to ask the clerk of court to
9 swear you all in.

10 CLERK OF THE COURT: Ladies and gentlemen of the jury,
11 please stand and raise your right hand to be sworn.

12 (The jury was sworn to try the issues.)

13 CLERK OF THE COURT: If you have accepted this oath,
14 please be seated. If you have not accepted this oath, please
15 remain standing.

16 Let the record reflect all jurors have been seated.

17 THE COURT: Thank you so much. Please be seated as
18 well.

19 Yes, sir. Right here with the navy blazer on, you're in
20 the lucky seat. Can you tell me your juror number?

21 JUROR: 69.

22 THE COURT: 69. You're going to be the jury foreperson.
23 You're not going to have any greater weight than anybody else
24 on the jury, but at the end it will be your duty to sign the
25 actual verdict form. Okay? Everybody else can sit wherever

1 they want during the rest of the trial, but you have that
2 assigned seat. Okay?

3 All right. Ladies and gentlemen, we are now ready to
4 start this case. And as I told you yesterday, this is the
5 State of South Carolina versus Marcus Alexander Wigfall.

6 Now, before we begin this trial, I want to tell you a
7 few things just so you kind of have an idea about what to
8 expect. A lot of people think that by watching, you know,
9 courtroom television or things on TV, that the courtroom is
10 always full of high drama and riveting circumstances and
11 excitement. And while those things may be true from time to
12 time, it's important that you understand that this is not for
13 entertainment. This is a serious process, and we appreciate
14 the oath that you just took and we appreciate the fact that
15 you are taking time out of your lives to come ensure that
16 justice is done between the parties. So thank you for that.

17 This is a very important part of our democracy. It is
18 an effort to make sure that justice is done before the Court.
19 And making sure that justice is done is often a slow and
20 deliberate and repetitive process, which is kind of unlike
21 what you've maybe seen on TV or in movies.

22 Now, this courtroom is a place of honor, ladies and
23 gentlemen. It's dedicated to the protection and preservation
24 of citizens' rights. We have what many have called the
25 greatest justice system ever.

1 These attorneys that are appearing before you are
2 advocates for the parties they represent, but first and
3 foremost, they are officers of this court. They have taken
4 an oath to uphold the integrity and the fairness of our
5 judicial system and to help you. And you should expect them
6 to be professional, competent, and ethical in the
7 representation of their clients.

8 Remember that you have just taken an oath to try this
9 case and reach a verdict, and you are also expected to be
10 professional, reasonable, and ethical in doing so. I thank
11 you again for accepting this responsibility and your
12 contribution today to our justice system.

13 And what I'm now going to say is sort of an introduction
14 to the trial. These remarks are not a charge on the law in
15 this case. I will instruct you on the South Carolina law
16 that applies to this case at the end of the trial before you
17 retire to consider your verdict. What I'm going to give you
18 now is just an explanation of the procedure that we're going
19 to follow so you'll just have a better understanding of
20 what's going on.

21 You may take notes during the trial of this case. In a
22 little while, the bailiffs will pass out some notebooks and
23 pens or pencils. While we encourage you to take notes, if
24 that's part of your personal process in doing things, I just
25 would ask that you not let it take you away from paying

1 attention to the witnesses on the witness stand or the
2 attorneys.

3 The defendant, ladies and gentlemen, as I mentioned
4 yesterday, is charged by indictments. And these are just
5 pieces of paper through which charges are brought into the
6 court. They are not evidence in this case whatsoever. These
7 indictments, as I stated yesterday, charge him with
8 contributing to the delinquency of a minor and three counts
9 of criminal sexual conduct with a minor. The elements of
10 these will be explained to you later. And once again, these
11 indictments are just simply the charges by which the case is
12 brought into court.

13 The State, ladies and gentlemen, has the burden of
14 proving each element of these indictments beyond a reasonable
15 doubt, and it's going to be your duty to decide whether the
16 State has met that burden. Your purpose as jurors is to find
17 and determine the facts. You are the sole judge of the
18 facts. You are to determine the facts from the testimony you
19 hear and any other evidence introduced during this court
20 process. It's going to be up to you to determine what
21 inferences you feel may be properly drawn from the evidence
22 that is presented by both parties.

23 Now, on the other hand, and with equal emphasis, the
24 same law that makes you all the judge of the facts makes me
25 the judge of the law. And the law as given by the Court is

1 the only law you may consider. You have to accept it and
2 follow it even if you disagree with it. I cannot tell you
3 what the facts are, and you cannot disagree with me about
4 what the law is or what you think it should be. Your job
5 will be to take the law as I give it to you at the end of the
6 case and apply it to the facts as you find them from the
7 testimony of the witnesses and any other evidence that's
8 introduced. After doing that, you will render a verdict
9 under the solemn oath that you just took as jurors.

10 Now, until I advise you to begin your deliberations, you
11 must not discuss this case with anyone, including your fellow
12 jurors, your friends, your family members, and anybody
13 involved in this case. This would include discussions face
14 to face, by telephone, e-mail, text.

15 You may not use a computer or cell phone in this
16 courtroom at any time. If we have longer breaks, obviously,
17 or for meals, clearly overnight when you go home, you can use
18 your devices. However, we don't want you to use them at any
19 time to try to look up information about this case or try to
20 look up who these people are in the courtroom. Okay?
21 Everything, again, that you're going to need to reach a
22 verdict will be presented to you in the courtroom. Okay?

23 Now, during the trial, I'm going to ask that you not
24 listen to or watch any news reports about the case. This
25 would include anything in the newspapers or on TV or radio.

1 After the case is submitted to you, you must discuss it
2 only in the jury room with your fellow jurors.

3 The attorneys and parties in this case are advised that
4 they are not to talk with you. So if you see them around the
5 courthouse or outside on the sidewalk and they don't talk to
6 you or they look away, they're not being rude. They're just
7 following my admonition that says they're not allowed to talk
8 to you all. Okay?

9 It's important that you keep an open mind, ladies and
10 gentlemen. Try not to decide any issue in this case until
11 all the evidence has been presented and the parties have made
12 their closing arguments and I have instructed you on the law.
13 It's going to be your solemn responsibility to determine the
14 guilt or innocence of the defendant. Your verdict must be
15 based solely on the evidence presented to you in this trial
16 and on the law as I instruct you at the end.

17 In just a moment, the solicitor will make what's called
18 an opening statement in which the solicitor will explain to
19 you the issues in this case, or at least what the solicitor
20 thinks the issues in this case are. The attorney for the
21 defendant may also make an opening statement, although she's
22 not required to do so.

23 What these attorneys tell you in their opening
24 statements are not evidence in this case. It's only their
25 contention as to what the issues are. The evidence in this

1 case will be presented to you by the testimony of sworn
2 witnesses from that witness stand right there and any
3 exhibits or documents that may be introduced as evidence
4 during the course of the trial.

5 Now, from time to time you may hear one of these lawyers
6 tell me, "Judge, we've got something we've got to take up
7 outside of the jury's presence," or "a matter of law," or
8 something like that, and we might have to excuse you from the
9 courtroom back to your jury room while we discuss some
10 things. I want you to know that that's a totally normal part
11 of this process.

12 At times I think the jury can find it a little
13 frustrating to have to come in and leave, but that's just
14 part of the process. And part of the reason we do that is so
15 you don't hear anything we say in conjunction with the facts
16 of this case. Okay? So it's important that we do that and
17 it's important that you not hold any of these objections or
18 any of these requests that these attorneys make to that
19 effect against them or the parties that they represent.
20 Okay?

21 Now, ladies and gentlemen, in evaluating the evidence in
22 this case, you're going to have to decide whether or not the
23 testimony of the witness on the witness stand is believable.
24 It's going to be my responsibility to rule as to whether
25 certain testimony is admissible or not. But once it's

1 admitted, whether or not you believe it is entirely up to
2 you.

3 In deciding whether to believe a witness, you have the
4 right to consider the interests of that witness, the bias of
5 a witness, the prejudice of a witness, the opportunity for
6 that witness to have seen the things that they testify about,
7 and the way the witnesses act on the witness stand. You have
8 a right to consider anything in the record that will help you
9 evaluate the testimony of a witness.

10 That means it's your duty to pay close attention to
11 them, watch them, and listen to them, and pay close attention
12 to the attorneys and the Court. After the arguments of
13 counsel and the charge on the law by me at the very end, you
14 will be in a position to determine what the facts are, apply
15 the law to those facts, and render a verdict.

16 It's going to be your added duty, Mr. Foreperson, to
17 preside in the jury room and be the jury spokesperson here in
18 court. And as I stated earlier, it's going to be your duty
19 to write the verdict and sign the verdict form. And I can
20 give you some more information on that later at the end.
21 Okay?

22 Now, in order to preserve everybody's rights, I'm going
23 to give the parties an opportunity to object to anything I
24 have just said.

25 Are there any objections or exceptions from the State to

1 the opening charge?

2 MS. HERRING-LASH: No, your Honor.

3 THE COURT: Any from the defense?

4 MS. FORD: No, your Honor.

5 THE COURT: All right. Thank you very much.

6 Ms. Herring-Lash or Ms. Fries, happy to hear from you.

7 MS. HERRING-LASH: Thank you. May it please the Court?

8 THE COURT: While she's doing that, could we get some
9 notebooks?

10 Would anybody like a notebook?

11 If y'all could be working on that, that would be great.

12 MS. HERRING-LASH: Ladies and gentlemen, you have
13 already heard that this case is about a sexual assault on a
14 child. This kind of case is different in that the evidence
15 presented is very often different than in other crimes. It's
16 not like a DUI, where people on the highway or the officer
17 may see the crime, or a burglary where officers may go and
18 find articles that were stolen, or a violent physical assault
19 where you can see pictures or x-rays of injuries.

20 These crimes happened in the privacy of the home of the
21 adult and the child. They are in secret. The injuries are
22 to the child's emotions. What is stolen is the child's sense
23 of trust. The assault is committed by an adult.

24 It is really difficult for us as adults to even remember
25 what it was like to be so vulnerable as a child. Even though

1 we may think we can, it's hard to remember back to when an
2 adult controlled everything about your life, where -- you
3 know, the rules of your life, where you go, when you go, when
4 you come home, what you can do. Children live that way, as
5 we all did, but it's hard to remember. I would like you to
6 try to remember how vulnerable children are when you're
7 looking at the evidence, which will be the testimony of the
8 -- of MINOR 1 .

9 MINOR 1 is a teenager and was a teenager when
10 these assaults occurred. And you may think, "Well, a
11 teenager is a lot different than a small child," but
12 teenagers also weigh the consequences more of telling. They
13 are more aware of the changes that will happen in their life
14 if they disclose or if they lie. So they may weigh things
15 more than a small child who may not really understand the
16 repercussions. Teenagers are more afraid and aware of the
17 unknown and what will happen to their life.

18 You will hear in this case from MINOR 1 . She is now 19
19 years old. She was 13 or 14 when these assaults began.
20 Mr. Marcus Wigfall, the defendant in this case, was the
21 live-in boyfriend of MINOR 1 h's mother. They met when MINOR 1
22 was around 11 years old. She and her brother, her twin, were
23 around 10 or 11 when they met. She will tell you that the
24 assaults began around 2014. Well, they moved in together
25 when she was in fifth grade. The assaults began when she was

1 around 13 or 14.

2 They began gradually, starting with him having her touch
3 him over his clothes. He gave her marijuana to smoke to
4 relax her before he began to perform oral sex on her. Now,
5 she will tell you that she smoked marijuana with him other
6 occasions and that she smoked marijuana on her own, but that
7 she stopped.

8 Eventually, the oral sex turned into sexual intercourse
9 following oral sex. MINOR 1 had said that there was not
10 penetration, but attempted. But when she explains what
11 actually happened and you apply that to the law, you will see
12 that it was legally penetration.

13 Mr. Wigfall met the family about a year before they
14 moved in together. And MINOR 1 was close to him. He did a
15 lot of caretaking because her mom, Kandra Pear, often worked
16 at nights. He took she and her brother places. They did a
17 lot of kind of things together.

18 Her plan had been to graduate and move out and never
19 tell anyone because she didn't want to hurt her mother, who
20 she knew loved this man. But by June of 2020, she just
21 couldn't hold it in anymore. And also, her mother had
22 started talking about getting married and having a child, and
23 that concerned her. So she told her mother in June of 2020.

24 Her mom was absolutely devastated and shocked. She
25 loved this man more than any other. But she also knew she

1 had to protect her child. She eventually, several days after
2 being told, called law enforcement. MINOR 1 did not want her
3 to call. She just wanted it to stop and her mother to know.
4 But she -- her mom decided, "Yes, we need to report it to law
5 enforcement." She continued to have a hard time believing
6 that this could happen, but she protected her daughter even
7 though it really devastated and hurt her heart.

8 After the report was made, law enforcement spoke with
9 the -- with MINOR 1 and several other individuals, including
10 Mr. Wigfall. You will hear his statement, as it was
11 recorded. After this, Mr. Wigfall was charged. And as you
12 have been told, the State must prove to you the elements of
13 each charge. The elements I will explain to you.

14 To begin with, criminal sexual conduct with a minor in
15 the second degree. A person is guilty of criminal sexual
16 conduct in the second degree if the actor engages in a sexual
17 battery with a victim who is 14 years of age or less but at
18 least 11 and/or less than 16 years of age and the actor is in
19 a position of familial, custodial, or official authority to
20 coerce, or is older than the victim.

21 When you look at the indictment and hear about the
22 charges, MINOR 1 was both of these paragraphs in that she was
23 14 when they began. And you will hear that the charges
24 stopped the day before her 16th birthday, because when she
25 turned 16, this statute no longer applied because you have to

1 be less than 16.

2 Now, one thing that you don't see in these elements are
3 force. Force is not required because either the person is in
4 a custodial or familial or older than the victim or the
5 child's age. Adults don't have to force children when they
6 have responsibility over them.

7 You see that it also requires a sexual battery. And a
8 sexual battery is defined as sexual intercourse; cunnilingus,
9 which is oral intercourse on the female; fellatio; anal
10 intercourse -- the two that we have contested here are sexual
11 intercourse and cunnilingus -- or any intrusion, however
12 slight, into any part of the genital or anal openings. The
13 genital opening does not mean all the way into the introitus,
14 but to the very beginning of the genital opening. And that
15 is what you will hear the evidence of how she explained the
16 intrusion occurred. And the cunnilingus is the oral contact.

17 Another charge is criminal sexual conduct with a minor
18 in the third degree. It used to be called "lewd acts on a
19 minor." Here, the elements are the actor is over 14 and
20 willfully, lewdly commits or attempts to commit a lewd or
21 lascivious act upon or with the body or its parts of a child
22 under 16 with the intent of arousing, appealing to, or
23 gratifying the lust or passions or sexual desires. Commonly,
24 this is what you commonly think of as fondling, and it's the
25 touching of the adult by the child or the adult having the

1 child to touch them.

2 There's also a charge of contributing to the delinquency
3 of a minor. This is when the actor is over 18 and they
4 knowingly and willfully encourage or aid or cause or
5 influence a minor to deport themselves in a way to willfully
6 injure or endanger the health or morals or to violate a
7 municipal law. This is based on Mr. Wigfall giving MINOR 1
8 marijuana to smoke.

9 After you have heard the evidence -- er, while you are
10 hearing the evidence, we would ask you to pay special
11 attention to everything. Many times when you are hearing it,
12 you don't realize, well, that's something you wish you would
13 have listened more to until you get back and start talking
14 about it. So try to listen to everything.

15 After you've heard the evidence, we will ask you to find
16 Mr. Wigfall guilty of what he did to MINOR 1 and what she was
17 brave enough to tell you about.

18 Thank you very much.

19 THE COURT: Ms. Ford, happy to hear from you.

20 MS. FORD: Thank you, your Honor.

21 Life can be especially complicated for teens. They're
22 almost adults, but not quite. And they don't necessarily
23 understand life and consequences the way that an adult does.
24 They're at a stage of their life where they're trying to
25 figure out their future, who they are. They're faced with

1 serious issues, serious issues like sex and what it even is.
2 There are many ways they get their information. Of course,
3 there's friends, the Internet, social media, and even movies
4 and novels.

5 Now, MINOR 1 was a complicated teen. She was 16,
6 nearly 17 when all of this came out. She was living at home
7 with her mom, Kandra Pear, and her twin brother, MINOR 2.
8 And then her mom's boyfriend, Marcus Wigfall, was living
9 there too. He was staying in her mom's room. Things were
10 not ideal to MINOR 1, and she made a decision to change her
11 circumstances.

12 Now, MINOR 1's father, he lives in Florida. And as
13 Marcus lived in the household, he was, by default, a sort of
14 father figure, but he definitely wasn't a parent like Kandra
15 was. And Marcus would work really long hours. He was a hard
16 worker. He did demolition work.

17 Kandra would work too. You'll hear how she actually
18 worked at a school, a lot of times after the school hours
19 doing janitorial type of work. And often her kids would come
20 with her. They enjoyed helping her. And a few nights a
21 week, for a bit of time, she would work at Wendy's to make a
22 little extra money.

23 Now, during these times when she was at work and the
24 kids weren't with her and Marcus was home, he would,
25 naturally, be at home with both MINOR 1 and MINOR 2. Often

1 his friends or family members would be over. He liked to
2 play a lot of video games, things like that.

3 It wasn't uncommon for Kandra to come home at random
4 times without notice. And during all these times, over a
5 course of about three years is what you'll hear during this
6 trial, that's when Marcus was supposedly doing things to
7 MINOR 1. Now, during that time, Kandra never saw anything to
8 indicate anything sexual between the two, and neither did
9 MINOR 2, her twin.

10 But one day, MINOR 1 goes to her mom and she tells her
11 these things. And ultimately, Kandra does what a mother is
12 supposed to do and she goes to police. Kandra talks to
13 police. She talks to multiple people. And she tells them
14 that this happened basically twice a week every week for
15 about three years.

16 So what was actually going on in the household at that
17 time? Well, the solicitor told you a little bit about that.
18 Kandra and Marcus, they had been together for a while now at
19 this point, and they were discussing their future. They were
20 discussing possibly getting married and having a kid of their
21 own.

22 So if that had happened, what was going to happen to
23 MINOR 1? Would there be a place for her at this apartment?
24 Would she be delegated to be a babysitter? There was a lot
25 in question at this time, a lot of things that would be

1 naturally of concern to a teenage girl who's almost, but not
2 quite, an adult.

3 Now, these cases are never easy to hear. You're going
4 to be asked to listen to specific details of what is alleged
5 to have happened. But it's important to listen to the
6 details of what MINOR 1 's going to tell you and what others
7 will, because, ultimately, a lot of what she says simply
8 doesn't make sense.

9 Instead, what you'll hear is a story of a teenager who's
10 not quite an adult and who doesn't necessarily understand
11 things, sexual things, in the way an adult might understand
12 them. You'll hear -- the solicitor told you about what the
13 allegations are. And primarily, she alleges that during all
14 of these times, Marcus would perform oral sex on her. But
15 you'll also hear that at times, over and over, he tried to
16 penetrate her but couldn't because, in her words, she wasn't
17 open.

18 Now, MINOR 1 told her story to the police. MINOR 1 's mom
19 had actually confronted Marcus, and he denied anything sexual
20 between him and her daughter. But police, of course, did
21 their job, and they talked not only to MINOR 1 , but they
22 talked to Marcus as well.

23 Now, Marcus is really a good guy, and he was open to
24 police. And he told them how he would be open with both
25 twins and try to teach them about the reality of life. And

1 during some of these times, maybe he wasn't ultimately the
2 best role model. He was trying to help, but maybe he told
3 them things that some people would consider not the most
4 appropriate or things about sex.

5 But at no time did things ever become sexual between him
6 and MINOR 1. He wouldn't have hurt MINOR 1. If anything, he
7 actually tried to encourage her to protect herself and stand
8 up for herself. He had thought they were close. But
9 ultimately, he had overstayed his welcome in the household and
10 it was time for him to go.

11 Now, the State showed you and read you the law as you're
12 going to be required to consider. They have to prove to you
13 all of those things beyond a reasonable doubt. That is an
14 extraordinarily high burden to overcome. Now, in this case,
15 there is a lot of doubt, and you're going to discover that
16 after listening to MINOR 1 and to the other witnesses.
17 There's a lot of doubt because Marcus Wigfall is innocent.
18 And at the end of this trial, we are going to ask you to find
19 him not guilty.

20 Thank you.

21 THE COURT: Okay. The State can call its first witness.

22 MS. HERRING-LASH: The State would call MINOR 1.

23 CLERK OF THE COURT: Please raise your right hand and
24 place your left hand on the Bible.

25 (Witness sworn.)

1 CLERK OF THE COURT: Please be seated.

2 Please state your full name, spelling your last name
3 directly into the microphone.

4 THE WITNESS: MINOR 1

5 MS. HERRING-LASH: Thank you, MINOR 1.

6 Your Honor, before we start, we have entered into
7 evidence State's 1 through 5 without objection from the
8 defense.

9 THE COURT: Okay.

10 MS. HERRING-LASH: Those would just be photographs.

11 THE COURT: All right. Admitted without objection; is
12 that correct?

13 MS. FORD: Yes, your Honor.

14 THE COURT: Okay. Those photos are admitted.

15 MS. HERRING-LASH: Thank you.

16 (State's Exhibits Numbers 1, 2, 3, 4, and 5 admitted
17 into evidence.)

18 MINOR 1,

19 called as a witness on behalf of the State, being first duly
20 sworn, was examined and testified as follows:

21 DIRECT EXAMINATION

22 BY MS. HERRING-LASH:

23 Q. MINOR, you have told us your name. What is your date
24 of birth?

25 A. MINOR, 2003.

1 Q. And so how old are you now?

2 A. I'm 19.

3 Q. And where do you live?

4 A. I live downtown, Bridgeview Apartments.

5 Q. And who lives with you there?

6 A. My mom and my brother.

7 Q. And do you work?

8 A. Yes, ma'am.

9 Q. Where do you work?

10 A. I work at Chipotle on King Street.

11 Q. How long have you worked there?

12 A. For almost three years.

13 Q. And what do you do there?

14 A. I'm a manager, a kitchen manager.

15 Q. And have you worked other places also?

16 A. I worked at another job. These are my only two jobs. I
17 worked at the Citadel.

18 Q. What did you do there?

19 A. I was working in the mess hall.

20 Q. The mess hall?

21 A. Yes, ma'am.

22 Q. And where did you finish high school?

23 A. Early College High School.

24 Q. And where is that?

25 A. Downtown Charleston, Trident Technical College.

1 Q. And where did -- what other schools did you attend?

2 A. Elementary I attended Sanders-Clyde, and for a part of
3 my middle school as well. And then for eighth grade I
4 attended Morningside Middle School.

5 Q. And MINOR 1, what do you like to do for fun?

6 A. I write music. I sing music. And, you know, of course,
7 a little online shopping on the side.

8 Q. Those are your hobbies?

9 A. Yes, ma'am.

10 Q. And how long have you lived in your home?

11 A. For about nine years.

12 Q. And do you know about when y'all moved in?

13 A. I was in fifth grade.

14 Q. Okay. And when you moved in, who all lived there?

15 A. Me, my brother, my mom, and Marcus Wigfall, which was my
16 mom's boyfriend.

17 Q. And who is your brother?

18 A. MINOR 2.

19 Q. And is he your twin?

20 A. Yes, ma'am.

21 Q. And so Marcus moved in with you all?

22 A. Yes, ma'am.

23 Q. When you first moved in?

24 A. Yes, ma'am.

25 Q. Do you see Marcus Wigfall in the courtroom today?

1 A. Yes, ma'am.

2 Q. And what does he have on?

3 A. A blue collared shirt and black slacks, with a black
4 jacket.

5 MS. HERRING-LASH: Your Honor, let the record reflect
6 that the witness has identified Mr. Wigfall.

7 THE COURT: Okay.

8 BY MS. HERRING-LASH:

9 Q. When did you -- or how and when did you first meet
10 Marcus?

11 A. At the time, me and my brother were living with my
12 grandma in Goose Creek, and my mom was friends with him
13 beforehand. We met him a few times. Like, he would come
14 around and take us to the store or come to my grandma's
15 house.

16 Q. Mm-hmm.

17 A. That was it.

18 Q. So you met him a little bit before y'all moved in?

19 A. Yes.

20 Q. And when you moved in, did your mom work?

21 A. Yes, ma'am, she did.

22 Q. Where was she working at the time?

23 A. Morningside Middle School and Wendy's.

24 Q. And what did she do at Morningside?

25 A. She cleaned at night.

1 Q. And did you go with her sometimes?

2 A. Yes, ma'am.

3 Q. Did you go with her in the summer mainly?

4 A. Yes, I did. During the summer I did.

5 Q. And did Mr. Wigfall work?

6 A. Yes, he did.

7 Q. What were his hours at work?

8 A. They were, like, school hours, so like 6:00 to 3:00.

9 Q. Did he work later some days?

10 A. The latest, maybe 5:00.

11 Q. And what did he do? Do you know?

12 A. Demolition. He worked for DECO.

13 Q. And would he take care of you and your brother
14 sometimes?

15 A. Yes.

16 Q. What kind of things would y'all do?

17 A. Really just sit home and lounge, really. He would take
18 us shopping or we would just go out. Didn't matter.

19 Q. Did you all get along well?

20 A. Yes.

21 Q. And did he and you and your brother do things together
22 sometimes without your mom?

23 A. Yes.

24 Q. Now, does he still live there?

25 A. No, ma'am, he doesn't.

1 Q. And why not?

2 A. Because what he did.

3 Q. And how did people find out about what he did?

4 A. My mom told -- well, yeah, my mom told.

5 Q. Did you tell your mom?

6 A. Yes, I did.

7 Q. And why did you tell your mom?

8 A. They started talking about having kids and marriage
9 often.

10 Q. Uh-huh.

11 A. Something that she would bring up. And I didn't want
12 that to happen to anyone else.

13 Q. Explain what went on the day or time that you told her.

14 A. So I was getting ready for work, and I was just pacing,
15 like, "Just tell her everything that happened." So I told
16 her. She was talking on the phone to someone, and I started
17 to explain, like, he was touching me. And she got off the
18 phone and, you know, was like, "What do you mean?" And we
19 had a conversation about it.

20 Q. What were -- what was your demeanor like at that time?

21 A. I was more anxious than anything. I broke down a little
22 bit when I was telling her.

23 Q. Was that unusual for you?

24 A. Yes.

25 Q. And what did you do after telling her?

1 A. I went to work.

2 Q. And did she take you to work?

3 A. Yes, ma'am.

4 Q. And did she pick you up?

5 A. Yes, ma'am, she did.

6 Q. And when you got home from work, what was going on?

7 A. My belongings were in the living room, and they were
8 waiting so we could carry a conversation.

9 Q. Where had your belongings been?

10 A. They were in my room, but they moved them to the living
11 room.

12 Q. And so your belongings were there, and you all had a
13 conversation?

14 A. Yes, ma'am.

15 Q. Who had the conversation?

16 A. My mom, Marcus Wigfall, and me.

17 Q. And did y'all -- did your mom ask -- have a plan for you
18 all?

19 A. She wanted us to take a polygraph. That never happened.

20 Q. Did you agree?

21 A. Yes, ma'am.

22 MS. FORD: Objection.

23 THE COURT: Overruled.

24 BY MS. HERRING-LASH:

25 Q. Did your mom call the police?

1 A. Yes, ma'am, but not immediately. Maybe like the next
2 day.

3 Q. Did you want her to call them?

4 A. No, ma'am.

5 Q. Why not?

6 A. I'm not too big on publicity or, like, I wanted it to be
7 something we could deal with together.

8 Q. Mm-hmm. What do you mean by "publicity"?

9 A. I just don't like for my business to be put out.

10 Q. But she did call eventually?

11 A. Yes, ma'am, she did.

12 Q. And did he leave?

13 A. Yes, ma'am.

14 Q. Did officers come to your home after she called?

15 A. Yes, ma'am, they did.

16 Q. And what happened when they came to your home?

17 A. They briefly spoke with me, a little bit of questions.
18 Nothing too intense or anything like that. And then they
19 left.

20 Q. And then what happened?

21 A. I started going to Dee Norton to have an interview, or
22 whatever, and an examination.

23 Q. Did you go once or more than once?

24 A. I went more than once.

25 Q. And why was that? Do you know?

1 A. Further questioning of me.

2 Q. And now, we've been talking about -- around this, but
3 let's talk about, if you would tell us what actually
4 happened. Just start at the beginning, if you would.

5 A. Okay. The first time anything happened, we were
6 carrying a conversation in the kitchen, me and Marcus.

7 Q. Let me show you what has been marked as State's Exhibit
8 Number 2. It's already in evidence.

9 (Exhibit displayed on screen in open court.)

10 BY MS. HERRING-LASH:

11 Q. What is this, MINOR 1 ?

12 A. That's our kitchen.

13 Q. And where were you in the kitchen?

14 A. Well, the dining room table is cut out of this picture,
15 but to the right.

16 Q. Is that the dining room chair right there?

17 A. Yes, ma'am, it is.

18 Q. And so where were y'all?

19 A. We were at the dining room table.

20 Q. Okay. And what happened during that conversation?

21 A. He asked if I would give oral or let my mom die.

22 Q. Uh-huh.

23 A. And I said that I would let her die. And he wanted me
24 to change my answer, so he kept asking me. Then I changed my
25 answer.

1 Q. And what did your answer become?

2 A. I'd give oral.

3 MS. HERRING-LASH: And I have to correct the record.

4 That was State's Exhibit Number 1.

5 THE COURT: Okay. That photo?

6 MS. HERRING-LASH: Yes.

7 THE COURT: Okay.

8 BY MS. HERRING-LASH:

9 Q. And so what happened after you said that?

10 A. He told me to come here, and we went to my mom's -- he
11 lead me to my mom's room down the hall.

12 Q. I'm going to show you State's Exhibit Number 2.

13 (Exhibit displayed on screen in open court.)

14 BY MS. HERRING-LASH:

15 Q. What is that, MINOR 1 ?

16 A. That's my mom's bedroom.

17 Q. And where in that room did you go?

18 A. To the right side of her bed, where the pink stuffed
19 animal is.

20 Q. And what happened?

21 A. He guided my hand to his penis, and I touched it.

22 Q. Did he have his clothes on or off?

23 A. They were on.

24 Q. And how did it feel?

25 A. It was warm.

1 Q. And did you or he say anything?

2 A. No. I just removed my hand and walked out.

3 Q. And what happened when you walked out?

4 A. He followed after me, like, "What's wrong?" And I said
5 I didn't want to do that.

6 Q. And did anything else ever happen?

7 A. After that, yes. But on that day, no, ma'am.

8 Q. Not that day?

9 A. No, ma'am.

10 Q. Do you know about how long it was before something else
11 happened?

12 A. I can't remember.

13 Q. What is the next thing you do remember?

14 A. I came home from school one day, and I was in trouble
15 about something. And he was saying that I could either do
16 seven minutes in heaven or get a whooping. And I was like,
17 "I'll get a whooping. No problem."

18 Q. What did you think he meant by "seven minutes in
19 heaven"?

20 A. Honestly, I don't know. I assumed that -- I don't know.

21 Q. But you said "get a whooping"?

22 A. Yes, I did.

23 Q. And then what happened?

24 A. He was adamant on changing my answer as well, so I
25 finally said that I'd do seven minutes in heaven.

1 Q. And then what happened?

2 A. He went into my mom's room and got a gas mask with a
3 green bong attached to it, and he had me smoke marijuana out
4 of it.

5 Q. And where were you when you were smoking the marijuana?

6 A. In my room.

7 Q. I'm going to show you State's Exhibit Number 3.

8 (Exhibit displayed on screen in open court.)

9 BY MS. HERRING-LASH:

10 Q. And what is this, MINOR 1?

11 A. That's my room. Yeah, that's my room.

12 Q. And where in the room were y'all? What were you doing?

13 A. At the time, my bed was in the center of the floor where
14 the entertainment center is.

15 Q. Mm-hmm.

16 A. So my bed just was in the middle of the floor. So I was
17 on my bed.

18 Q. Were you sitting? Laying?

19 A. I was laying on my back.

20 Q. And where was he?

21 A. He was at the foot of the bed, between my legs.

22 Q. And when you smoked the marijuana, what happened?

23 A. I just laid back. Well, after -- before -- after I
24 smoked the marijuana, he helped me take off my clothes.
25 Well, just my bottoms.

- 1 Q. The bottoms?
- 2 A. Yes, ma'am.
- 3 Q. And then how were you laying?
- 4 A. I was on my back, head first, you know.
- 5 Q. And what happened?
- 6 A. He performed oral on me.
- 7 Q. And where was he?
- 8 A. At the foot of the bed in between my legs.
- 9 Q. And what position was he in?
- 10 A. He was kneeling.
- 11 Q. And what about his clothes? Were they on or off?
- 12 A. They were on.
- 13 Q. And what do you mean when you say he "performed oral"?
- 14 A. His mouth was on my vagina.
- 15 Q. And did he smoke with you before that or just did you
- 16 smoke?
- 17 A. I believe I just smoked.
- 18 Q. And what happened after that?
- 19 A. A few minutes passed, and I pushed him off of me.
- 20 Q. How did you push him off of you?
- 21 A. My arms at, like, his shoulder, and my legs.
- 22 Q. How were your legs when that was happening?
- 23 A. Positioned up in the air.
- 24 Q. What do you mean "up"?
- 25 A. Um --

1 Q. Would it help if I showed -- gave you something to
2 demonstrate?

3 A. Sure.

4 MS. HERRING-LASH: May I approach, your Honor?

5 THE COURT: Mm-hmm.

6 BY MS. HERRING-LASH:

7 Q. If you could, show the jury how your legs were. You may
8 have to stand up.

9 A. Okay. Like this.

10 Q. And what happened when it stopped?

11 A. I just got my clothes and said that I was going outside.

12 Q. And what did you do?

13 A. I went to my friend's house.

14 Q. What did you do there?

15 A. We just watched movies. We just watched movies to take
16 my mind off of it.

17 Q. And when you got home, what happened?

18 A. I can't remember.

19 Q. When you got home, did you tell your mom?

20 A. No, ma'am, I didn't.

21 Q. And why not?

22 A. I was in shock, really. And I was scared.

23 Q. What were you afraid of?

24 A. That I would get in trouble for it, or she would -- I
25 didn't know how she was going to respond.

1 Q. Mm-hmm. And did he say anything to you about telling?

2 A. Not that day, no, ma'am.

3 Q. And did that happen once or more than once?

4 A. More than once.

5 Q. And where -- was it in your bedroom or his bedroom or
6 the -- where was it?

7 A. In my mom's room.

8 Q. And would it -- where in your mom's room would it be?

9 A. On her bed.

10 Q. And how would it come about that you would be in her
11 room?

12 A. Either he'd call me in there or he'd maybe just text me.

13 Q. And what would he say if he texted you?

14 A. He would just say, "Come here."

15 Q. And now, where would your mom be? Or would she be home?

16 A. She'd be at work.

17 Q. And what about MINOR 2 ?

18 A. He was in his room. He was always in his room or
19 something.

20 Q. But he was home?

21 A. Yes, ma'am.

22 Q. Let me show you State's Exhibit Number 4.

23 (Exhibit displayed on screen in open court.)

24 BY MS. HERRING-LASH:

25 Q. And what is this, MINOR 1 ?

1 A. That's our hallway. My mom's room is on the left.

2 Q. Can you point to it? If you touch that, I think

3 it will --

4 A. Oh, yeah. My mom's room is on the left, and my room is
5 the last one in the hall.

6 Q. And where is MINOR 2 's room?

7 A. His room is before this picture right here.

8 Q. So his room is up --

9 A. Yeah, to the left.

10 Q. Okay. And so if he -- when he was home, he would be
11 in his --

12 A. In his room.

13 Q. And would you yell or scream or make any kind of loud
14 noises?

15 A. No, ma'am.

16 Q. What about Mr. Wigfall?

17 A. No, ma'am.

18 Q. And if he called you out loud, what would he say?

19 A. He just would tell me to come here.

20 Q. And do you know how many times that happened?

21 A. A lot.

22 Q. Huh?

23 A. A lot. I don't know how many times.

24 Q. MINOR 1, did any other kind of assault ever happen?

25 A. He tried to penetrate me.

1 Q. What do you mean by that?

2 A. He would try to enter.

3 Q. And can you tell us about the first time that you
4 remember that happening -- the first time you remember today
5 about that happening?

6 A. Yes. I don't remember how it, like, started or anything
7 like that, but we were in my mom's room and I was laying on
8 my back and he went to slide in.

9 Q. He went what?

10 A. To slide in, entry.

11 Q. Let me show you what is State's Exhibit Number 2 again.
12 (Exhibit displayed on screen in open court.)

13 BY MS. HERRING-LASH:

14 Q. You said you were in your mom's room?

15 A. Yes, ma'am.

16 Q. And do you remember where you were?

17 A. Edge of her bed, like right here.

18 Q. Uh-huh. And what did you have on?

19 A. I had on a shirt. I didn't have any bottoms.

20 Q. How did they come off? Did you take them off?

21 A. Yes, ma'am. He would do a motion, but he -- like,
22 figure 8 in the air and basically telling me to take off my
23 pants.

24 Q. What was that motion again?

25 A. A figure 8.

1 Q. And what did that mean?

2 A. It was just to take off my pants.

3 Q. How did you know that?

4 A. It had happened before.

5 Q. And so what happened when you took off your pants?

6 A. He helped me onto my mom's bed, and I was laying there.

7 Q. Okay. Go ahead.

8 A. I laid there and he entered, or tried to.

9 Q. When you say "tried to," how did that feel?

10 A. It hurt a lot.

11 Q. Where did it hurt?

12 A. In between my lips of my vagina.

13 Q. And what position were you in?

14 A. I was laying on my back with my legs in the air as well.

15 Q. The same way you showed us before?

16 A. Yes, ma'am.

17 Q. Where would your legs be in relation to his body?

18 A. It depended. So sometimes he would hold them, like just
19 hold them.

20 Q. What part of your leg would he hold?

21 A. My thighs.

22 Q. Okay.

23 A. Or sometimes they would be by his shoulders.

24 Q. And what clothes would he have on?

25 A. He had on a shirt as well. I don't really remember the

1 bottoms.

2 Q. And how many times do you remember that that happened?

3 A. I don't remember.

4 Q. You don't remember?

5 A. No, ma'am.

6 Q. And when -- I know you had told us a moment ago that you
7 smoked marijuana with the gas mask the first time?

8 A. Yes, ma'am.

9 Q. Did you smoke marijuana again?

10 A. Yes, ma'am, I did.

11 Q. And did you smoke marijuana with him again?

12 A. Yes, ma'am.

13 Q. And how would that come about?

14 A. He would ask if I wanted to smoke, and I would say yes.

15 Q. Where would y'all smoke?

16 A. In the living room.

17 Q. Were there ever any other people there when you smoked?

18 A. Yes.

19 Q. Who?

20 A. His brothers and -- his brothers.

21 Q. Did you ever have friends that were there when y'all had
22 the marijuana?

23 A. Yes.

24 Q. And who were they?

25 A. It was a friend that I had, SkyAsia.

1 Q. Mm-hmm.

2 A. Or a friend named Desiree.

3 Q. Mm-hmm. And did you sometimes smoke on your own without
4 him?

5 A. Yes, ma'am.

6 Q. And do you still?

7 A. No, ma'am.

8 Q. Why not?

9 A. I didn't like how it would make me feel.

10 Q. Now, going back to the assault, during that time, as
11 they continued, was your mom ever home?

12 A. No. She was mostly at work. When she would get home,
13 we'd be asleep.

14 Q. You'd be what?

15 A. Asleep.

16 Q. Did she ever come home when you were still in the room?

17 A. Sometimes, yes.

18 Q. And what would happen?

19 A. She would tell me to get out. I wasn't supposed to be
20 in there.

21 Q. Was that a rule?

22 A. Yes, ma'am.

23 Q. And what would you do when she told you to get out?

24 A. I would just leave.

25 Q. Did you tell her?

1 A. No, ma'am, I didn't.

2 Q. And did you tell your brother?

3 A. No, ma'am, I didn't.

4 Q. Do you -- have you told your brother about it yet?

5 A. We don't really speak about it. But have I tried to
6 hint it to him and state something? I have, yes.

7 Q. Since you told your mom or before?

8 A. Since I told my mom.

9 Q. Now, was there ever any time that you told someone else
10 before your mom?

11 A. Yes. I told my friend Ivy Grinnage.

12 Q. And when did you tell Ivy?

13 A. Maybe -- I don't remember.

14 MS. FORD: Objection, bolstering.

15 THE COURT: I'll allow it as phrased.

16 BY MS. HERRING-LASH:

17 Q. When did you tell her?

18 A. I don't remember when I told her. But it was just one
19 morning we were -- I was going to school. They were taking
20 me to school, and they were having an argument about
21 something.

22 Q. Who was having an argument?

23 A. My mom and Marcus.

24 Q. Okay.

25 A. And I wanted to say something so they would stop

1 arguing, but I just ended up screaming. And then they
2 started, like, coming at me, like I needed to stop acting out
3 and stuff like that.

4 Q. Mm-hmm.

5 A. And then I got to school, and I broke down in front of
6 -- I broke down in the hallway. And Ivy was approaching me,
7 and she was like, "Let's talk about it."

8 Q. Now, you can't say anything that she said --

9 A. Oh, no. Okay.

10 Q. -- or that you said. But did she tell anybody what you
11 had told her?

12 MS. FORD: Objection, speculation.

13 THE COURT: Sustained.

14 BY MS. HERRING-LASH:

15 Q. Did you want her to tell anyone?

16 A. No, ma'am.

17 Q. Did you tell her that?

18 A. Yes, ma'am.

19 Q. And did you talk to her about it a lot on other days?

20 A. Not a lot. Briefly.

21 Q. Did you tell her really any details?

22 A. I don't remember.

23 Q. And was the next person you told your mom?

24 A. Yes, ma'am.

25 Q. And have you talked to anyone else about this?

1 A. No, ma'am.

2 Q. What about, I mean, officers?

3 A. Oh, yeah, yeah. Sorry.

4 Q. How many officers did you talk to, if you remember?

5 A. One. I remember talking to one officer.

6 Q. Okay. And were you interviewed also by a lady?

7 A. Yes, ma'am.

8 Q. Now, was there ever a time that Mr. Wigfall talked to
9 you about any kind of sexual activity with anyone else?

10 A. What do you mean?

11 Q. Did he ever talk with you about you being sexually
12 active?

13 A. No.

14 Q. Did he know your sexual preference?

15 A. Yes, ma'am.

16 Q. And what was that?

17 A. Lesbian.

18 Q. And did you and he talk about it sometimes?

19 A. Briefly.

20 Q. Mm-hmm.

21 A. Yeah, briefly.

22 Q. And --

23 MS. HERRING-LASH: Your Honor, I think we have a matter
24 of law at this point.

25 THE COURT: Okay. All right. It's about time for a

1 morning break. Ladies and gentlemen, I'm gong to excuse you
2 from the courtroom for a few minutes to the jury room. You
3 can take a break and stretch your legs and use the restroom
4 if you need to, and we'll bring you back here shortly. Thank
5 you very much. Please don't discuss the case.

6 Oh, yeah, you can leave your notepads in the chairs so
7 they don't get mixed up.

8 (The jury exited the courtroom at 10:39 a.m.)

9 (The following proceedings were had outside the presence
10 of the jury.)

11 MS. HERRING-LASH: Your Honor, this is the point that I
12 was going to ask her about the text messages that we had
13 discussed.

14 THE COURT: Okay. Do you want -- do you have them?

15 MS. HERRING-LASH: I do.

16 THE COURT: How do you have them?

17 MS. HERRING-LASH: You want me to put them up here?

18 THE COURT: You can hand them to me so I can see what we
19 have.

20 So I've been handed what's been premarked as State's
21 Exhibit 7 and State's Exhibit 6. They appear to be
22 screenshots of text messages. I don't know what year, but I
23 see April, May, and June.

24 Okay. Have you had a chance to look at these, Ms. Ford?

25 MS. FORD: Yes, your Honor, I have.

1 THE COURT: Okay. All right. I'll give those back to
2 you.

3 Okay. And did you want to ask her about them?

4 MS. HERRING-LASH: I will.

5 THE COURT: Okay.

6 MINOR 1,

7 DIRECT PROFFER

8 BY MS. HERRING-LASH:

9 Q. MINOR 1, you had testified a moment ago that Mr. Wigfall
10 would text you sometimes "Come here"?

11 A. Yes, ma'am.

12 Q. And when you were at the Lowcountry Children's Center,
13 did you speak with an officer there?

14 A. I did.

15 Q. And while talking with him, did you discuss the text
16 messages?

17 A. Yes, ma'am.

18 Q. And did you show them to him?

19 A. Yes, ma'am.

20 Q. And I'm going to show you State's Exhibit Number 6.
21 I'll just hand it to you at this point. Do you recognize
22 that?

23 A. Yes, ma'am.

24 Q. And what is that?

25 A. It's a screenshot from my messages.

1 Q. And what is reflected there?

2 A. April 23 was Marcus asking me to "Come here."

3 Q. Mm-hmm. And what year was that? Was that the same --

4 A. That was the same year I told my mom.

5 Q. Okay.

6 A. Yes.

7 Q. And do you remember if Marcus sent that message?

8 A. Yes, ma'am, I do.

9 Q. Did that reflect the -- was it similar to all of the
10 other messages you've testified about that he sent you?

11 A. Yes, ma'am.

12 Q. And do you remember April 23?

13 A. Yes.

14 Q. And what happened when he sent you that message?

15 A. I ignored his text.

16 Q. And then what happened?

17 A. He texted me again, four dots, and I ignored that one as
18 well.

19 Q. Okay. Now, when you showed it to the officer, what did
20 you do after that?

21 A. I screenshotted it and e-mailed it to the officer.

22 Q. Did you screenshot it from your phone?

23 A. Yes, ma'am, I did.

24 Q. And how did you get it to him?

25 A. Through e-mail.

1 Q. Okay. And I'm going to show you what's been marked as
2 State's Exhibit Number 7. And do you recognize that?

3 A. Yes, ma'am.

4 Q. And whose phone is that from?

5 A. Marcus's phone.

6 Q. Okay. And was it -- whose phone did the message go to?

7 A. It went to my phone.

8 Q. And what was that regarding?

9 A. That was one night he wanted me to come to him, and I
10 told him, no, I was on the phone.

11 Q. And what was that date?

12 A. June 6.

13 Q. Do you remember that specifically being before you told
14 your mom?

15 A. Yes, ma'am.

16 Q. And what did he say?

17 A. His message said, "Just know I never told you no when
18 you always wanted something. I'm just saying."

19 Q. And do you recognize that as the one you showed the
20 officer?

21 A. Yes, ma'am, I do.

22 Q. And what happened after you showed the officer?

23 A. Um --

24 Q. Did you get it to him somehow?

25 A. E-mailed it to him.

1 Q. You e-mailed it to him?

2 A. Yes, ma'am.

3 Q. Okay.

4 MS. HERRING-LASH: Those would be the questions I would
5 ask her at this time.

6 THE COURT: Okay. Ms. Ford, do you want to cross this
7 witness on these text messages?

8 MS. FORD: Briefly, your Honor.

9 THE COURT: Mm-hmm.

10 CROSS PROFFER

11 BY MS. FORD:

12 Q. MINOR 1 --

13 A. Yes, ma'am.

14 Q. -- you showed these messages to police officers,
15 correct?

16 A. Yes, ma'am.

17 Q. But you did not give them your phone for them to review
18 them, correct?

19 A. No, ma'am.

20 Q. And so there was never an attempt, to your knowledge,
21 for the police to actually extract these messages from your
22 phone?

23 A. What do you mean?

24 Q. Like, they didn't download your text messages?

25 A. No, ma'am, they did not.

1 Q. So essentially, you showed police the text messages,
2 correct?

3 A. Yes, ma'am.

4 Q. You took screenshots, correct?

5 A. Yes, ma'am.

6 Q. And then you e-mailed them to the officers?

7 A. Yes, ma'am.

8 Q. But you had many more text messages with Marcus outside
9 of these screenshots, correct?

10 A. Yes, ma'am.

11 Q. And even in the text messages, the current ones from
12 April, on April 9 -- er, April 29, there's actually another
13 conversation where you had said, "You had call?" Correct?

14 A. Yes, ma'am.

15 Q. So that's another situation in which Marcus apparently
16 was calling for you; is that fair to say?

17 A. No, ma'am. That was a different conversation. Like,
18 that had nothing to do with what I'm here for.

19 Q. Right. Well, that's what I'm asking.

20 A. Oh. Yeah. Okay.

21 Q. So that is -- just in that text message alone is another
22 instance in which Marcus asked you -- or you asked him about
23 calling you, correct?

24 A. Yes, ma'am.

25 Q. But that was an innocent occasion?

1 A. Yes, ma'am.

2 MS. FORD: No further questions.

3 THE COURT: Any followup?

4 MS. HERRING-LASH: No, your Honor.

5 THE COURT: Okay. Are you seeking to move these in?

6 MS. HERRING-LASH: Yes, your Honor.

7 THE COURT: Go ahead and handle those outside the jury?

8 MS. HERRING-LASH: Yes.

9 THE COURT: Okay.

10 MS. HERRING-LASH: I am seeking to admit State's 6 and 7
11 to corroborate what she has said. And I think she can
12 identify them as coming from Marcus's phone to her. And they
13 reflect what she has already testified about getting on
14 several occasions.

15 THE COURT: Okay. Any objection?

16 MS. FORD: Yes, your Honor. As I had mentioned
17 yesterday, basically, according to the evidence rule, the
18 police easily could have gotten these text messages in a more
19 official way. Even from the text messages, these
20 screenshots, I pointed out there's this whole other
21 conversation where he's saying "Come here" which is
22 completely innocent.

23 And in light of that, I just think that the State and
24 the police should have been able to provide for the actual
25 text messages for completion as well as just to be in contact

1 and to look at other instances of virtual communication.

2 As I mentioned yesterday -- and I did forget to ask
3 MINOR 1 about it, but she did mention in one of her interviews
4 when talking about the text messages that they, on their own,
5 would seem innocent enough to just someone looking through
6 them. So I did forget to ask her that, but she did mention
7 that in one of her interviews.

8 And so we just believe that in light of all that and the
9 context, that those should not be allowed in, that they
10 should have gotten her full text-message exchanges with
11 Marcus.

12 THE COURT: Okay.

13 MS. HERRING-LASH: And I think that that argument can be
14 made on cross-examination of both MINOR 1 and the detective as
15 to why they didn't, but they don't go to the reliability and
16 authenticity of these.

17 THE COURT: Mm-hmm. Okay. Yeah, over the defense
18 objection, I just want to note for the record, I'll accept
19 the case that -- the prima facie case that authenticity has
20 been shown. And under our case law, as we discussed
21 yesterday, it's a low bar for authenticating text messages.
22 Text messages are viewed by the courts as any other writing,
23 so their primary concern is authorship.

24 The State can provide context. She's been shown the
25 text messages. She's been able to say she authored some of

1 them and that she received them. And she's -- you know,
2 she's provided enough context of these general types of
3 conversations she would have with the defendant to provide
4 for the authenticity from.

5 And I do -- certainly would agree that, you know, your
6 arguments are probably great fodder for cross-examination of
7 the officer, so you can go ahead and get the rest of it. And
8 I'll give you some leeway certainly with those questions when
9 the time comes. I'm not sure that this witness would be the
10 best one to ask that, though.

11 But at any rate, over your objection, they'll be
12 admitted.

13 Y'all want a quick break before we bring the jury back
14 in?

15 MS. FORD: Sure.

16 MS. HERRING-LASH: Yes.

17 THE COURT: Yeah, so we'll be at ease for about five
18 minutes.

19 MS. HERRING-LASH: And your Honor --

20 THE COURT: She can step.

21 Yeah, you can step down. We're going to take a break.
22 Just don't discuss the case with anybody.

23 MS. HERRING-LASH: My victim advocate will take her.

24 THE WITNESS: Yes, ma'am.

25 THE COURT: Okay. Thank you.

3 | Thank you.

5 (Court recessed.)

7 THE COURT: All right. Everybody ready to go forward?

10 THE BAILIFF: Yes, ma'am.

L2 THE BAILIFF: All jurors are present, your Honor.

L4 | The State can proceed. Please go ahead.

L6	RESUMED DIRECT EXAMINATION

L8 | Q. MINOR 1 - -

20 Q. -- you had said a moment ago that you spoke with the
21 detective?

23 Q. And where were you at when you spoke with him?

25 | Q. And did you talk with him about the text messages?

1 A. Yes, ma'am.

2 Q. And did you, in fact, show him some text messages?

3 A. Yes, ma'am.

4 MS. HERRING-LASH: Your Honor, I'd like to approach the
5 witness.

6 THE COURT: You may.

7 BY MS. HERRING-LASH:

8 Q. I'm going to show you State's Exhibit Number 6. Do you
9 recognize that, MINOR 1 ?

10 A. Yes, ma'am.

11 Q. And what is that?

12 A. Texts from -- between me and Marcus.

13 Q. And whose phone was that on?

14 A. It was from my phone.

15 Q. And how did it get in that form?

16 A. It's a screenshot that I sent from my phone.

17 Q. And who did you send it to?

18 A. The detective.

19 Q. And was that a message from Marcus, you said?

20 A. Yes, ma'am.

21 Q. And when did you send it to the detective?

22 A. After I told my mom, so in June.

23 Q. Was it the day you were at the Lowcountry Children's
24 Center?

25 A. Yes, ma'am.

1 Q. And does that reflect a conversation between you and
2 Marcus?

3 A. Yes, ma'am.

4 MS. HERRING-LASH: Your Honor, at this time we would
5 offer State's Exhibit Number 6.

6 THE COURT: Over objection already stated by the
7 defense, the prior ruling stands. It will be admitted.

8 MS. FORD: Thank you, your Honor.

9 (State's Exhibit Number 6 admitted into evidence.)

10 (Exhibit displayed on screen in open court.)

11 BY MS. HERRING-LASH:

12 Q. MINOR 1, I'm going to show you this. And was the text
13 from Marcus in white or yellow?

14 A. White.

15 Q. And what was going on when that was sent?

16 A. April 23 at 4:51, he texted me and said, "Come here." I
17 ignored the first text.

18 Q. You ignored it?

19 A. Yes, ma'am.

20 Q. And then what happened?

21 A. He texted me again at 4:58 the four dots.

22 Q. And what does the four dots mean?

23 A. Waiting for a response.

24 Q. And were there any other responses from you that day?

25 A. No. I ignored him. I ignored him.

1 Q. Okay. And I'm going to show you State's Exhibit
2 Number 7. Do you recognize this?

3 A. Yes, ma'am.

4 Q. And what is that?

5 A. Texts between Marcus and I.

6 Q. And did you show that to the detective?

7 A. Yes, ma'am.

8 Q. And whose phone was that on?

9 A. It was from my phone.

10 Q. And who sent messages to your phone?

11 A. Marcus.

12 Q. And how did the detective get those messages, that
13 screenshot?

14 A. I sent it through e-mail.

15 MS. HERRING-LASH: Your Honor, at this time we would
16 offer State's 7.

17 THE COURT: Okay. Over the same objection from the
18 defense, the prior ruling stands. It will be admitted.

19 (State's Exhibit Number 7 admitted into evidence.)

20 (Exhibit displayed on screen in open court.)

21 BY MS. HERRING-LASH:

22 Q. And what was the date of this text message?

23 A. June 6.

24 Q. And once again, whose messages are in yellow and whose
25 are in white?

1 A. My messages are in yellow, and Marcus's messages are in
2 white.

3 Q. And what was that message referring to, if you know? Or
4 do you remember?

5 A. It was referring to when I told him no, which was the
6 last time anything else.

7 Q. And what was the response?

8 A. He texted and said "Just know I ain't never told you no
9 when you always wanted something. I'm just saying."

10 Q. And was that shortly before you told your mom?

11 A. Yes, ma'am.

12 Q. And MINOR 1, after this and after you told, did you go to
13 some counseling?

14 MS. FORD: Objection, bolstering.

15 THE COURT: I'll allow it as phrased.

16 BY MS. HERRING-LASH:

17 Q. Just yes or no?

18 A. Yes.

19 Q. And MINOR 1, are you thankful that you told?

20 A. Yes, ma'am.

21 Q. And why?

22 MS. FORD: Objection, relevance.

23 THE COURT: Sustained.

24 THE WITNESS: It was the hard --

25 THE COURT: Wait a minute. Don't answer.

1 It's sustained.

2 MS. HERRING-LASH: MINOR 1, thank you for answering my
3 questions, and I will -- Ms. Ford, you'll be turned over to
4 her to answer her questions. Okay?

5 THE WITNESS: Okay.

6 CROSS-EXAMINATION

7 BY MR. FORD:

8 Q. Hey, MINOR 1.

9 MINOR 1, first I want to go over your apartment for a
10 little bit.

11 A. Yes, ma'am.

12 Q. You're still living in the same apartment you were when
13 Marcus was living with your family?

14 A. Yes, ma'am.

15 Q. In this apartment, we saw some rooms by -- your room was
16 the back room?

17 A. Yes, ma'am.

18 Q. And on the left side of the hallway, walking towards
19 your room, you told us there was MINOR 2's room at the front?

20 A. Yes, ma'am.

21 Q. And then your mother's room?

22 A. Yes, ma'am.

23 Q. So they would share a wall?

24 A. Sorry?

25 Q. So they were right by each other?

1 A. Yes, ma'am.

2 Q. Okay. Now, your mother's room, which is the room we've
3 seen a picture of with the -- there's a few stuffed animals
4 in there?

5 A. Yes, ma'am.

6 Q. You considered that -- you considered that your mother's
7 room, correct?

8 A. Yes, ma'am.

9 Q. So when discussing everything with the people you talked
10 to, you'd always refer to it as your mother's room?

11 A. Yes.

12 Q. So never "my mom and Marcus's room," correct?

13 A. No, ma'am.

14 Q. Okay. MINOR 2, he is your twin brother, correct?

15 A. Yes, ma'am.

16 Q. And you told us how you're working at Chipotle?

17 A. Yes, ma'am.

18 Q. And are you still at the Citadel as well?

19 A. No, ma'am.

20 Q. Okay. That's a former job you had?

21 A. Yes, ma'am.

22 Q. MINOR 2 actually worked those jobs with you, correct?

23 A. Yes, ma'am.

24 Q. So the two of you sort of got -- would often work the
25 same jobs then?

1 A. Yes.

2 Q. But you never told your brother anything that was
3 happening between you and Marcus?

4 A. No, ma'am.

5 Q. And he never asked you anything about anything between
6 you and Marcus?

7 A. No, ma'am.

8 Q. You told us that MINOR 2 would always be sleeping,
9 correct?

10 A. No, ma'am. He would be home.

11 Q. Okay. So Marcus -- er, I'm sorry. I meant MINOR 2 .

12 A. Oh, MINOR 2 .

13 Q. MINOR 2 would be home --

14 A. Yes, ma'am.

15 Q. -- during the time Marcus was doing things to you?

16 A. Yes, ma'am.

17 Q. And when you were interviewed, that was a question that
18 people asked of you, "Where was MINOR 2 ?" Correct?

19 A. Yes, ma'am.

20 Q. And you had indicated that he would be maybe in the
21 shower?

22 A. Correct.

23 Q. Or the bathroom?

24 A. Yes, ma'am.

25 Q. Or his room?

1 A. Right.

2 Q. So he wouldn't necessarily always be sleeping then?

3 A. No, ma'am.

4 Q. You showed us -- or we -- the solicitor brought up a
5 photo of your room, correct?

6 A. Yes, ma'am.

7 Q. But that photo was taken recently?

8 A. Yes, ma'am.

9 Q. And not back in 2020 when you made the disclosure,
10 correct?

11 A. Correct.

12 Q. And you showed us there was a media center with your TV
13 and everything?

14 A. Yes, ma'am.

15 Q. So at one point, you actually had that at your bed so
16 you could more easily see it, correct?

17 A. No, ma'am. I didn't have that entertainment center at
18 the time. I recently got it.

19 Q. Well, you had another table there?

20 A. No.

21 Q. So you never had a dresser there at the foot of your
22 bed?

23 A. No, ma'am.

24 Q. I want to talk about the text messages that we've just
25 recently went over. Police came to your house when your mom

1 -- you initially made the disclosure to your mom at your
2 apartment, correct?

3 A. Yes, ma'am.

4 Q. And a few days later she called the police?

5 A. Yes, ma'am.

6 Q. And some officers came to your apartment, correct?

7 A. Yes, ma'am.

8 Q. And they did talk to you?

9 A. Yes, ma'am.

10 Q. You showed them some of these text messages, correct?

11 A. I don't remember.

12 Q. You don't remember?

13 A. No, ma'am.

14 Q. At no point during that meeting did they ask about
15 taking your phone, correct?

16 A. No, ma'am, they didn't.

17 Q. Or looking at your phone?

18 A. Correct.

19 Q. You later, when you met at the Dee Norton Center, they
20 asked you about the text messages as well, correct?

21 A. I don't remember if it went like that.

22 Q. Okay. Well, they had asked you -- you met with
23 Detective Christophersen after your interviews?

24 A. Yes, ma'am.

25 Q. And you talked to him about the text messages?

1 A. Yes, ma'am.

2 Q. And he's the one you actually e-mailed them to, correct?

3 A. Yes, ma'am.

4 Q. But he -- even though you talked to him, he did not ask
5 to see your phone?

6 A. No, ma'am.

7 Q. And he did not take your phone into evidence at any
8 point?

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

10 Q. And when you were meeting with Ms. Desch, who's the lady
11 at the Dee Norton Center, you had indicated to her that from
12 just looking at the messages, that they would be vague.

13 Like, if just a random person were looking at it, it would be
14 vague to them and they wouldn't necessarily notice anything
15 wrong. Correct?

16 A. Yes, ma'am.

17 Q. So that was your opinion when you were looking at the
18 messages of how they would be viewed by the outside, correct?

19 A. Yes, ma'am.

20 Q. On the text messages we just viewed, in April, after
21 that dot dot dot, there's another message from Marcus where
22 he's again mentioning to call him, correct?

23 A. Yes, ma'am.

24 Q. Okay. But that -- you're saying nothing happened at
25 that point, but that is a situation in which he was calling

1 for you, correct?

2 A. Yes, ma'am.

3 Q. So it was common for Marcus to call for you to get your
4 attention?

5 A. Yes, ma'am.

6 Q. Okay. Now, Marcus, he lived with y'all for a while,
7 correct?

8 A. Yes, ma'am.

9 Q. And sometimes he would buy you things?

10 A. Yes, ma'am.

11 Q. Like clothes?

12 A. Yes, ma'am.

13 Q. And he would buy your brother things as well?

14 A. He would -- he would buy me things, and he would bring
15 home things for everyone.

16 Q. Okay. At one point Marcus actually gave you a Taser?

17 A. Yes, ma'am.

18 Q. And he gave you a knife?

19 A. Yes, ma'am.

20 Q. And that was because you -- you told us that you went to
21 the early college classes at Trident for your high school
22 education?

23 A. Yes, ma'am.

24 Q. And sometimes you would have to wait at the bus stop for
25 a while in the early morning, correct?

1 A. Yes, ma'am.

2 Q. And he wanted you to be able to be safe --

3 A. Yes, ma'am.

4 Q. -- if anybody attacked you?

5 A. Yes, ma'am.

6 Q. So you had those items back in 2020?

7 A. Yes, ma'am.

8 Q. Your mom actually asked you -- when you told her of all
9 this, she asked you about those things, correct?

10 A. Yes, ma'am.

11 Q. And you had told her that, "Oh, the Taser wasn't
12 working," or something like that?

13 A. It wasn't.

14 Q. And you told her that you lost the knife?

15 A. Yes, ma'am.

16 Q. But you admit that Marcus did actually give you those
17 items?

18 A. Yes, ma'am.

19 Q. I want to talk a little about you told us on the stand
20 that you do -- that you are a lesbian; is that correct?

21 A. Yes, ma'am.

22 Q. Okay. But -- and when you were interviewed, there were
23 some questions about that as well, just asking about that,
24 correct?

25 A. Yes, ma'am.

1 Q. And you did mention that, you know, there were times
2 when you had a boyfriend, correct?

3 A. Yes, ma'am.

4 Q. Because people have pointed out, "Well, if you haven't
5 had a boyfriend, how do you know?" and things like that?

6 A. Right.

7 Q. And so at one point you kind of dated a guy, but he
8 really was more of a friend?

9 A. Yes.

10 Q. Okay. And the solicitor asked you about if Marcus had
11 ever talked to you about you communicating to other boys,
12 correct?

13 A. Yes, ma'am.

14 Q. And you denied that?

15 A. Right.

16 Q. But your mom -- after all of this came out, your mom did
17 have a conversation with you because it had been brought to
18 her attention that there were some inappropriate pictures on
19 your phone of a boy's penis?

20 A. Yes, ma'am.

21 Q. And you had indicated that that -- somebody you had
22 given them your account information, correct?

23 A. Yes, ma'am.

24 Q. So that it wasn't yours?

25 A. Right.

1 Q. But you do admit there were those pictures on your
2 phone?

3 A. Yes, ma'am.

4 Q. And your mom asked you about those after Marcus had
5 brought it to her attention?

6 A. Yes, ma'am.

7 Q. When -- you told us how you talked to a variety of
8 people. They were curious to know or were asking how many
9 times this had happened, correct?

10 A. Yes, ma'am.

11 Q. And when you first met with the responding officer, the
12 guy -- the gentleman at your apartment, you told him it was
13 like a hundred or so times?

14 A. I don't remember using that number.

15 Q. You told Ms. Desch at the children's center, the Dee
16 Norton Center, that it happened maybe twice a week every
17 week, or maybe -- or at least two times -- er, three times in
18 a two-week period?

19 A. Yes, ma'am.

20 Q. So you told them it happened quite frequently, correct?

21 A. Yes, ma'am.

22 Q. And they asked you -- another thing they were interested
23 in was terminology for body parts; is that fair to say?

24 A. Yes, ma'am.

25 Q. And when you were discussing what happened, they asked

1 you the term for a penis, and the term you gave was "shaft";
2 is that correct?

3 A. Yes, ma'am.

4 Q. Now, I'm going to talk about some of the more specifics
5 of what you've been telling us happened. Okay?

6 So the very first time that Marcus did anything, it was
7 after he gave you a choice of choosing your mom dying or oral
8 sex, correct?

9 A. Yes, ma'am.

10 Q. That was obviously a huge, big choice to make between
11 those two?

12 A. Yes, ma'am.

13 Q. Both are bad choices, correct?

14 A. Yes, ma'am.

15 Q. Initially you chose your mom dying, correct?

16 A. Yes, ma'am.

17 Q. But you did -- you told us that you decided, after he
18 persisted, to give in?

19 A. Yes, ma'am.

20 Q. At that point, you're telling us that he had you touch
21 his penis, correct?

22 A. Yes, ma'am.

23 Q. But that never happened again. He never had you touch
24 his penis during all those times afterwards. Correct?

25 A. Correct.

1 Q. So there was only that one time that that happened?

2 A. Yes, ma'am.

3 Q. The second time or the next time you can really
4 remember, that's when he gave you another big choice about
5 you could choose seven minutes in heaven or a beating,
6 correct?

7 A. Yes, ma'am.

8 Q. And you chose a beating?

9 A. Yes, ma'am.

10 Q. But again he persisted?

11 A. Yes.

12 Q. And Marcus, he didn't beat you?

13 A. No, ma'am.

14 Q. Okay. Marcus wasn't one to be physical with you?

15 A. Not -- I mean, I have gotten a beating from him, yes.

16 Q. Like in sixth grade?

17 A. Yes.

18 Q. The one time you mentioned to the --

19 A. Yes.

20 Q. Yeah. So that is the time where he brought out the gas
21 mask?

22 A. No. The time what you're referring to --

23 Q. The seven minutes?

24 A. Yes, ma'am.

25 Q. So that's the time with the gas mask?

1 A. Yes, ma'am.

2 Q. Okay. When you met with people, you also referred to
3 attempted penetration, correct?

4 A. Yes, ma'am.

5 Q. And they were interested in that and asked questions
6 about what you meant by that?

7 A. Yes, ma'am.

8 Q. And it was important to you to let them know that you
9 were still a virgin?

10 A. Yes.

11 Q. And you told them the attempted penetration part started
12 when you had been 15?

13 A. I don't remember.

14 Q. Okay. But the penetration part was not new at this
15 time, correct?

16 A. When?

17 Q. In 2020 when you told everybody --

18 A. Oh, yeah. No, no.

19 Q. So the penetration part had been going on for a while?

20 A. Yes.

21 Q. So in fact, when they had asked you if oral had been
22 going on during the past year, you couldn't even remember if
23 there had been an oral situation initially?

24 A. I don't know what you're asking me.

25 Q. So they -- you were asked -- basically, you had

1 indicated that the attempted penetration started when you
2 were 15 years old?

3 A. Yes, ma'am.

4 Q. Okay. And they asked you if the oral was still going on
5 within the past year, correct?

6 A. Yes, ma'am.

7 Q. And you had indicated no initially, but then said, well,
8 you don't really remember. That's what you told Ms. Desch?

9 A. I don't remember telling her that.

10 Q. Okay. Now, the penetration part, you had indicated that
11 he was never actually successful in penetrating you, correct?

12 A. Correct.

13 Q. From your view of penetration, correct? I know there's
14 been talk about the lips, vagina lips, and things like that.

15 A. Yes, ma'am.

16 Q. You told them that it hurt too much?

17 A. Yes, ma'am.

18 Q. That your exact words were actually, "It was like a
19 train going through a brick wall?

20 A. Yes, ma'am.

21 Q. So those were your words, and that's why he couldn't
22 ever penetrate you because you told them that you were
23 closed, correct?

24 A. Yes, ma'am.

25 Q. Or you told them that you weren't open since you were a

1 virgin?

2 A. Yes.

3 Q. And since your weren't open, that it was basically you
4 could not be penetrated by Marcus's penis?

5 A. Yes, ma'am.

6 Q. And so that's why penetration had never actually
7 happened, correct?

8 A. Correct.

9 Q. Now, when you were interviewed, people were really
10 concerned about your -- about people you had in your life who
11 were safe people, correct?

12 A. Yes.

13 Q. So they wanted to know that you had people in your life
14 that you could go to if you had any concerns for your safety,
15 right?

16 A. Right.

17 Q. And you told them about your aunt?

18 A. Yes.

19 Q. And then you also had, like, a mentor figure?

20 A. Yes.

21 Q. And but you told them you could tell your mom?

22 A. Yes.

23 Q. That she was your Number 1?

24 A. Yes.

25 Q. Your Number 1 to go to, correct?

1 A. I would say yes.

2 Q. And your mom, she liked to watch a lot of, like, legal
3 drama type of shows, legal TV shows, correct?

4 A. Yes, ma'am.

5 Q. And so about a year before you told her about all of
6 this, she had actually asked, from watching those shows,
7 "Hey, has anybody tried anything with you?"

8 A. Yes, ma'am.

9 Q. And you told her no at that time, correct?

10 A. Yes, ma'am.

11 Q. So that would have been in 2019?

12 A. I don't remember the year.

13 Q. But it was when Marcus was doing things?

14 A. Yes, ma'am.

15 Q. And --

16 MS. FORD: Beg the Court's indulgence?

17 THE COURT: Uh-huh.

18 MS. FORD: I have no further questions, your Honor.

19 THE COURT: Okay. Any redirect?

20 REDIRECT EXAMINATION

21 BY MS. HERRING-LASH:

22 Q. MINOR 1 --

23 A. Yes, ma'am.

24 Q. -- I'm going to show you State's Exhibit Number 4 again.
25 (Exhibit displayed on screen in open court.)

1 BY MS. HERRING-LASH:

2 Q. I think you said this is the hallway?

3 A. Yes, ma'am.

4 Q. And you told us where your mother's room, your room, and
5 MINOR 2 's room is. Where was the bathroom?

6 A. The bathroom was to the right, right here.

7 Q. Okay.

8 A. And we had another bathroom that was back here.

9 Q. Okay. So one was across from MINOR 2 's room and one was
10 after that? So they were next to each other?

11 A. Yes, ma'am.

12 Q. And just to clarify, you had said that Marcus would
13 "bring home things." What does that mean?

14 A. He would bring home mirrors or paintings.

15 Q. From his demolition work?

16 A. Yes, ma'am.

17 Q. Okay. And when you were at the children's center, if
18 the officer would have asked you for your phone, would you
19 have given it to him?

20 A. Yes, ma'am.

21 Q. And when did you have a boyfriend? Do you remember what
22 grade?

23 A. I was in fifth grade.

24 Q. Okay. And you had -- Ms. Ford had asked you about some
25 pictures on your phone of a penis?

1 A. Yes, ma'am. Yep.

2 Q. How did those get there?

3 A. I had had a Snapchat account, and there was something
4 that I posted. It was, like, a few questions that you get
5 to -- if you get the questions right, then you can have my
6 Snap password, like my login information. So somebody got it
7 right and I gave it to them.

8 Q. Who got it right?

9 A. Their name was Kenzie (phonetic). They identified as
10 female, but they were male. They were born male.

11 Q. Okay.

12 A. And they got my questions right, so I gave them my login
13 information. They -- I had a friend named Kevin also, an
14 online friend, and they would text back and forth from my
15 account as well. And Kevin sent Kenzie the nudes through my
16 account.

17 Q. And what did you do with those after?

18 A. I mean -- after?

19 Q. After your mom asked you about them.

20 A. I mean, I deleted my Snap account.

21 Q. And what did you mean by "penetration"?

22 A. You said what do I mean by "penetration"?

23 Q. Mm-hmm.

24 A. Actually going inside.

25 Q. Going inside of what?

1 A. My vagina.

2 Q. Okay. And why did you tell your mom no when she asked?

3 A. I was scared.

4 Q. What were you scared of?

5 A. Her response, how she would feel.

6 Q. Mm-hmm. What do you mean "how she would feel"?

7 A. I knew that she loved him, so I didn't want to break her
8 heart.

9 Q. What was your plan?

10 A. My initial plan was to go to college and leave it in the
11 past.

12 Q. But that did change?

13 A. Yes, ma'am.

14 Q. Okay.

15 MS. HERRING-LASH: Those are all the questions I have
16 now.

17 THE COURT: Any recross?

18 MS. FORD: No, your Honor.

19 THE COURT: Okay. All right. You can step down from
20 the witness stand. Okay?

21 THE WITNESS: Yes, ma'am.

22 (Witness excused.)

23 THE COURT: The State can call its next witness.

24 MS. FRIES: The State calls MINOR 2.

25 CLERK OF THE COURT: Please raise your right hand and

1 place your left hand on the Bible.

2 (Witness sworn.)

3 CLERK OF THE COURT: Please be seated.

4 Please state your full name, spelling your last name
5 directly into the microphone.

6 THE WITNESS: MINOR 2 .

7 MINOR 2 ,

8 called as a witness on behalf of the State, being first duly
9 sworn, was examined and testified as follows:

10 DIRECT EXAMINATION

11 BY MS. FRIES:

12 Q. Good morning, MINOR 2 .

13 A. Good morning.

14 Q. Can you tell us where you live?

15 A. North Romney Street.

16 Q. And who lives there with you?

17 A. Right now, just me and my sister and my mom and my
18 cousin.

19 Q. How long has your cousin lived there?

20 A. He's been there since about last year, December.

21 Q. Okay. And how long have you lived there?

22 A. Pretty much I've lived there since I was about fifth
23 grade, I want to say.

24 Q. And do you work?

25 A. Yes, ma'am.

1 Q. Where?

2 A. The Abbey, of Coming Street.

3 Q. And who's your sister?

4 A. MINOR 1 .

5 Q. Is she your twin?

6 A. Yes.

7 Q. And do you know Mr. Wigfall?

8 A. Yes.

9 Q. How do you know him?

10 A. He is my mom's -- he was my mom's ex-boyfriend.

11 Q. Did he live with you at that address?

12 A. Yes.

13 Q. And when did he move in?

14 A. He moved -- he started living there pretty much when we
15 moved there.

16 Q. And did Mr. Wigfall work?

17 A. Yes.

18 Q. When did he work?

19 A. He worked, I want to say, morning shifts.

20 Q. Okay. Did your mom work?

21 A. Yes, ma'am.

22 Q. When did she work?

23 A. Night shifts most of the time.

24 Q. So would Mr. Wigfall care for you and MINOR 1 in the
25 evenings when your mom was at work?

1 A. Yes, ma'am.

2 Q. How often would it be you, MINOR 1, and Mr. Wigfall in
3 the home?

4 A. It would be pretty often. Either I would be at work
5 around the time or if I was at practice.

6 Q. And how many bedrooms do y'all have?

7 A. It's three.

8 Q. Okay. I'm now going to show you what's been marked as
9 State's Exhibit 4.

10 (Exhibit displayed on screen in open court.)

11 BY MS. FRIES:

12 Q. And where is your bedroom in this photo?

13 A. It's not in this picture.

14 Q. Where -- is it to the left side? The right side?

15 A. Oh, it's on the left.

16 Q. Okay. And you can point to the -- point on the screen
17 and it will -- if you tap it. Okay. So --

18 A. Well, and these two rooms that are shown aren't my room.

19 Q. Whose room is where that dot is?

20 A. That's MINOR 1's room.

21 Q. Okay. And whose room is to the left?

22 A. That's my mom's room.

23 Q. Okay. So where would your room be if it was shown in
24 the photo? Would it be to the left side or to the right
25 side?

1 A. It's on the left.

2 Q. Okay. So now I'm going to show you what's been marked
3 as State's Exhibit 5.

4 (Exhibit displayed on screen in open court.)

5 BY MS. FRIES:

6 Q. What does this photo show?

7 A. That still shows my sister and my mom's rooms.

8 Q. And when the three of you were in the home, where would
9 you usually be?

10 A. Most of the time I'd be in my room. If not, then I'd be
11 in the living room.

12 Q. Okay. When you would be in your room, would you
13 typically have the door open or shut?

14 A. It was usually closed.

15 Q. What would you be doing in your room?

16 A. Either a lot of time I used to read. So if I was
17 reading, I'd just, you know, read.

18 Q. Did you ever see anything inappropriate between MINOR 1
19 and Mr. Wigfall?

20 A. No, ma'am.

21 Q. If you were in your room, could you see MINOR 1 and your
22 mom's rooms from your room?

23 A. No.

24 Q. Would it be possible for someone to go back and forth
25 between their rooms without you knowing?

1 A. Yes.

2 Q. And did you ever see Mr. Wigfall smoking marijuana?

3 A. Yes.

4 Q. Did you know if MINOR 1 smoked marijuana with
5 Mr. Wigfall?

6 A. No, ma'am.

7 Q. And have you ever seen a gas mask in the home?

8 A. I've seen it, but I've just never really seen him, like,
9 use it.

10 MS. FRIES: Beg the Court's indulgence.

11 Q. [By Ms. Fries] You said you'd sometimes be working in
12 the evenings?

13 A. Yes.

14 Q. Did you also say that you had practice?

15 A. I would have either football or wrestling practice some
16 of the time.

17 Q. Okay. And that's -- so you would sometimes be there
18 during the evenings?

19 A. I would either be at practice and then go straight back
20 to work. I would leave practice and go to work.

21 Q. Okay.

22 MS. FRIES: I have no further questions.

23 CROSS-EXAMINATION

24 BY MS. FORD:

25 Q. Hi, MINOR 2 .

1 A. Hi.

2 Q. You didn't have a job when you were 13 years old,
3 correct?

4 A. I believe not, no.

5 Q. I'm sorry?

6 A. I don't believe so.

7 Q. Okay. You didn't start working until closer to the time
8 that Marcus had to move out, correct?

9 A. No, that's incorrect. I was already working when he was
10 still in the house.

11 Q. Right. But you weren't working when you were 13?

12 A. I'm not sure, no.

13 Q. You did not have a job when you were 13 years old,
14 correct?

15 A. Correct.

16 Q. You didn't have a job when you were 14 years old?

17 A. I don't recall.

18 Q. Okay.

19 A. I know I started -- I worked my first job when I was in
20 high school. I was in either tenth or ninth grade when I got
21 my first job.

22 Q. Okay. And you told the detective that you didn't
23 actually start playing -- that was football and wrestling you
24 told her?

25 A. I started wrestling my ninth-grade year. Football was I

1 was there, but just didn't practice.

2 Q. Okay. So football, you didn't really go to football
3 practice until you were about 16 years old, correct?

4 A. Yes.

5 Q. You actually started getting more into sports after
6 Marcus moved out of the house?

7 A. That's incorrect.

8 Q. I'm sorry?

9 A. That's incorrect.

10 THE COURT: Just try to speak up. It's hard to hear
11 you.

12 BY MS. FORD:

13 Q. You said that's correct?

14 A. That's incorrect.

15 Q. That's incorrect?

16 A. I was already -- I just wasn't playing as much. I was
17 always there, just never played because I never had my
18 physical.

19 Q. Okay. But you were typically home?

20 A. No.

21 Q. So you're denying that you would be home?

22 A. I was home, but not always all the time.

23 Q. Well, not every single day. But you would typically be
24 home with Marcus and MINOR 1 ?

25 A. Yes, ma'am.

1 Q. Because Marcus did demolition work, correct?

2 A. Yes.

3 Q. So he would go to work fairly early in the morning,
4 correct?

5 A. Yes.

6 Q. And he would get home late in the day sometimes?

7 A. No. I mean, not late. I would say most of the time he
8 got home, it was probably around 3:00.

9 Q. Okay.

10 A. If not, by 5:00.

11 Q. By 5:00?

12 A. 5:30 at the most.

13 Q. And your mom's work, she worked at the school, correct?

14 A. Yes.

15 Q. That was her primary job?

16 A. Yes.

17 Q. And a lot of times you and **MINOR 1** would actually be with
18 her?

19 A. Yes.

20 Q. And sometimes y'all would actually help her do her work?

21 A. Yes.

22 Q. And occasionally she worked at Wendy's?

23 A. She worked Wendy's at night shift when she was done
24 working at the school.

25 Q. But Wendy's was only for a few hours a couple of nights

1 a week, correct?

2 A. Yes.

3 Q. And you looked at some pictures of the hallway. All the
4 rooms are all together in that one hallway, correct?

5 A. Correct.

6 Q. And you never heard anything while you were in your room
7 reading your book or whatever, correct?

8 A. Correct.

9 Q. And Marcus lived with y'all for a while, correct?

10 A. He lived with us since we moved into the house.

11 Q. Okay. So by the time that MINOR 1 told people about
12 this, it had been a while, though. Several years. Correct?

13 A. Yes, ma'am.

14 Q. And you never saw any type of inappropriate action
15 between the two, correct?

16 A. No, ma'am.

17 Q. If your sister had come to you for help, you would have
18 helped her, of course, correct?

19 A. Yes, ma'am.

20 Q. And you love your sister?

21 A. Yes, ma'am.

22 Q. She's your twin, correct?

23 A. Yes, ma'am.

24 Q. You want to help her in any way you can, correct?

25 A. Yes, ma'am.

1 MS. FORD: Beg the Court's indulgence?

2 THE COURT: Mm-hmm.

3 BY MS. FORD:

4 Q. MINOR 2, before you got a job, often you would play
5 video games with Marcus, correct?

6 A. Yes, ma'am.

7 Q. So a lot of times you were in the living room with
8 Marcus playing games?

9 A. Yes, ma'am.

10 Q. And he would have his brother and/or cousin there as
11 well, correct?

12 A. Yes. A few times, but not often.

13 Q. Okay. They worked with him? Or at least at times,
14 correct?

15 A. I know one of them worked with him, yes.

16 Q. Okay. So he would come over every day, pretty much, and
17 play games?

18 A. Not every day.

19 Q. But before you worked -- and you're not sure of that
20 timing -- but you would play video games with him as well?

21 A. Yes, ma'am.

22 MS. FORD: No further questions.

23 THE COURT: Okay. Any redirect?

24 MS. FRIES: Just briefly.

25

REDIRECT EXAMINATION

BY MS. FRIES:

Q. MINOR 2, after being in the living room, would you then go into your room?

A. Typically, I would go to my room.

MS. FRIES: Nothing further, Judge.

THE COURT: Okay.

MS. FORD: No, your Honor.

THE COURT: Okay. All right. You can step down from the witness stand. Thank you so much.

(Witness excused.)

THE COURT: You want to do one more before lunch? Is your next witness ready?

MS. HERRING-LASH: Your Honor, may we approach?

THE COURT: Sure.

(A discussion was held off the record at the bench in the presence of the jury but outside the hearing of the jury.)

MS. HERRING-LASH: The State would call Ivy Grinnage.

CLERK OF THE COURT: Please raise your right hand and place your left hand on the Bible.

(Witness sworn.)

CLERK OF THE COURT: Please be seated.

Please state your full name, spelling your last name directly into the microphone.

1 THE WITNESS: Ivy Grinnage, I-V-Y, G-R-I-N-N-A-G-E.

2 IVY GRINNAGE,
3 called as a witness on behalf of the State, being first duly
4 sworn, was examined and testified as follows:

5 DIRECT EXAMINATION

6 BY MS. HERRING-LASH:

7 Q. Good morning, Ivy. It's nice to meet you. We haven't
8 met yet.

9 A. Good morning.

10 Q. Where do you live?

11 A. Rock Hill, South Carolina.

12 Q. And how long have you lived in Rock Hill?

13 A. Approximately two years now.

14 Q. And did you first move there to go to school?

15 A. Yes, ma'am.

16 Q. And what are you doing there now?

17 A. I work full time at a candle warehouse.

18 Q. And do you know MINOR 1 ?

19 A. Yes, ma'am.

20 Q. And how do you know MINOR 1 ?

21 A. We were close friends from high school.

22 Q. And did you go to Early College High School with her?

23 A. Yes, ma'am.

24 Q. Were you all in the same grade?

25 A. No. She was a grade below me.

1 Q. And how did you meet?

2 A. In the hallway during lunchtime, we started talking
3 about music. And from then we quickly formed a friendship.

4 Q. Did you all both enjoy music?

5 A. Yes, ma'am.

6 Q. And did you get to know her fairly well?

7 A. Yes, ma'am.

8 Q. Did you visit her in her home, or was it confined to
9 school?

10 A. Confined mostly to school. Yes, ma'am.

11 Q. And would you talk with her on the phone, I guess, or
12 text or whatever?

13 A. Yes, ma'am.

14 Q. And did there come a time when she told you about being
15 sexual assaulted, yes or no?

16 A. Yes, ma'am.

17 Q. And do you know where you were when she told you?

18 A. At home.

19 Q. And do you know when that was?

20 A. During the evening time of a school day.

21 Q. And what had happened at school that day?

22 A. She was very irritable and quiet, which is very unlike
23 her. She's very joyful and happy, always singing. She'd
24 been very aggravated and quiet. And if somebody would press,
25 like, what was wrong with her, she would kind of blow up,

1 which was very unlike her.

2 Q. And do you know what school year that was?

3 A. I believe 2019-2020.

4 Q. Was it -- do you know if it was spring? Fall?

5 A. I believe the fall, maybe winter, like going into that
6 season.

7 Q. Of '19?

8 A. Yes, ma'am.

9 Q. And so you said it was that evening you talked to her on
10 the phone?

11 A. Yes, ma'am.

12 Q. And did she tell you where she was when she was
13 assaulted?

14 A. She said her home.

15 Q. And did she tell you when it had happened?

16 A. It had been happening for a while.

17 Q. And what was her demeanor like when she was talking to
18 you?

19 A. Calm but solemn.

20 Q. And did you all discuss this a lot?

21 A. No, ma'am.

22 Q. Did you tell anyone?

23 A. No, ma'am.

24 Q. And why not?

25 A. I didn't want to betray her trust.

1 Q. Did she want you to tell?

2 A. No, ma'am.

3 Q. And did you know about this court?

4 A. No, ma'am.

5 Q. Have you talked to MINOR 1 about this since she told her
6 mom?

7 A. No.

8 Q. How did you find out about it?

9 A. You contacted me.

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

11 Q. [By Ms. Herring-Lash] Did you talk to MINOR often on
12 the phone at night back then?

13 A. Yes, ma'am. Yes.

14 Q. I'm sorry. And did you ever overhear anything in the
15 background?

16 A. There was one night sometime later, after we had the
17 initial conversation, we were just talking on the phone like
18 normal, and I could hear a voice in the background call her.

19 Q. Mm-hmm.

20 A. And --

21 Q. Was it a female or a male?

22 A. It was a male voice. But immediately, her entire mood
23 changed and she's like, "I gotta go," and hung up.

24 MS. HERRING-LASH: Those are all the questions I have,
25 Ivy. If you would answer any that Ms. Ford has for you.

1 MS. FORD: Beg the Court's indulgence?

2 THE COURT: Sure.

3 CROSS-EXAMINATION

4 BY MS. FORD:

5 Q. Ivy, so you're telling us that MINOR 1 told you this over
6 the phone?

7 A. Yes, ma'am.

8 Q. Okay. So it's your testimony that it was not at school
9 then?

10 A. No.

11 Q. Okay. And you told us that your relationship with Ivy
12 -- I'm sorry, with MINOR 1 was primarily, as far as you being
13 together, was at school?

14 A. Yes, ma'am.

15 Q. Okay. And after MINOR 1 told you, you never told her
16 mom, correct?

17 A. No.

18 Q. You never told -- went to any type of authority
19 figure --

20 A. No.

21 Q. -- such as school? At school they make it clear that
22 you can tell people, like a guidance counselor, correct?

23 A. Right.

24 Q. And you never told anybody then?

25 A. No, ma'am.

1 Q. And police, they actually never went to talk to you
2 about this case or anything like that?

3 A. (Indicated.)

4 Q. So then this would have been 2019, you believe?

5 A. Yes, ma'am.

6 Q. So that's quite a while ago at this point, correct?

7 A. Yes.

8 Q. And you told us that you are done in school. You were
9 -- you felt that you and **MINOR 1** were pretty close?

10 A. Yes.

11 Q. And you care for her?

12 A. Deeply, yes, ma'am.

13 Q. And the time you told us about hearing a male, you never
14 heard that male say anything sexual, correct?

15 A. No, ma'am.

16 MS. FORD: Beg the Court's indulgence?

17 No further questions, your Honor. Thank you.

18 MS. HERRING-LASH: No followup.

19 THE COURT: Okay. You can step down. You're excused.
20 Thank you.

21 (Witness excused.)

22 THE COURT: All right, ladies and gentlemen. The next
23 witness may be a little bit lengthier, so given the time of
24 day, we'll go ahead and break for lunch. It's a little
25 before 12:00. I'm just going to ask that y'all be back by

1 1:15, and we'll get started then. Once again, please don't
2 discuss the case or do any independent research. And we'll
3 see you back at 1:15.

4 (The jury was released for lunch and exited the
5 courtroom at 11:51 a.m.)

6 (The following proceedings were had outside the presence
7 of the jury.)

8 THE COURT: Okay. Let's talk just kind of generally
9 about our witnesses we anticipate calling this afternoon,
10 just to kind of have a game plan. I know you said the mother
11 will be next.

12 MS. HERRING-LASH: Yes, your Honor. The mother will be
13 next, and then the responding officer.

14 THE COURT: Okay.

15 MS. HERRING-LASH: And then the detective.

16 THE COURT: Mm-hmm.

17 MS. HERRING-LASH: And then the forensic interviewer.

18 THE COURT: Mm-hmm.

19 MS. HERRING-LASH: Then the nurse and then the blind
20 expert.

21 THE COURT: What expert? What was the expert?

22 MS. HERRING-LASH: Carole Swiecicki. She's the blind
23 expert.

24 THE COURT: Okay. Okay. That's a lot.

25 MS. HERRING-LASH: And that's it.

1 THE COURT: Okay. That's it for the State's case?

2 MS. HERRING-LASH: Yes, your Honor.

3 THE COURT: Okay. I'm not sure --

4 MS. HERRING-LASH: I don't know that we'll get all of
5 them today.

6 THE COURT: No. I was going to say I think if we're
7 lucky, we'll get through the forensic interviewer. And
8 that's probably -- I might be a little enthusiastic. So I
9 would say we'll either get through the lead detective or
10 we'll get through the forensic interviewer, but I doubt we'll
11 get to the nurse or the blind expert today. Just to let
12 y'all kind of plan. Okay?

13 MS. HERRING-LASH: Okay.

14 THE COURT: All right. Well, we'll be at ease as well.
15 I'll see y'all back at 1:15.

16 (Court recessed.)

17 (Court resumed outside the presence of the jury.)

18 THE COURT: Is the next witness ready?

19 MS. HERRING-LASH: Yes, your Honor. We did make one
20 change. We're going to call the interviewer, Alix Desch,
21 before the detective since she's really short.

22 THE COURT: Sure. Got it.

23 All right. You can bring the jury back in.

24 THE BAILIFF: Yes, ma'am.

25 THE COURT: If y'all have proposed charges, you can

1 e-mail them to me anytime this afternoon or tonight or
2 whatever. That would be fine.

3 (The jury entered the courtroom at 1:23 p.m.)

4 THE BAILIFF: All jurors are present, your Honor.

5 THE COURT: Thank you so much. Please be seated.

6 And ladies and gentlemen, I haven't told you this yet,
7 but I will tell you. If you need a break at any time or need
8 to use the bathroom, feel free to wave me down. Or if it's
9 easier to write a note and pass it over to the bailiffs,
10 they'll get it to me and we'll take a break any time, no
11 problem at all. We take breaks anyway, as y'all have seen.
12 But if you ever need one, don't wait too long. Go ahead and
13 pass a note or get my attention and we'll take one. Okay?

14 All right. I think we're ready to proceed.

15 The State can call its next witness.

16 MS. HERRING-LASH: The State would call Kandra Pear.

17 CLERK OF THE COURT: Please raise your right hand and
18 place your left hand on the Bible.

19 (Witness sworn.)

20 CLERK OF THE COURT: Please be seated.

21 Please state your full name, spelling your last name,
22 and speak directly in the microphone.

23 THE WITNESS: Kandra Pear, P-E-A-R.
24
25

1 KANDRA PEAR,
2 called as a witness on behalf of the State, being first duly
3 sworn, was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MS. HERRING-LASH:

6 Q. Good afternoon, Ms. Pear.

7 A. Hello.

8 Q. Where do you live?

9 A. [REDACTED] North Romney Street, [REDACTED]

10 Q. And how long have you lived there?

11 A. Probably like five, six years now.

12 Q. And who lives with you now?

13 A. Currently my daughter [REDACTED] MINOR 1, my son [REDACTED] MINOR 2
14 [REDACTED], and myself.

15 Q. And what year were they born?

16 A. 2003.

17 Q. And they're twins?

18 A. Yes.

19 Q. What are your children doing now?

20 A. Currently they work.

21 Q. And has anyone else lived with the three of you all?

22 A. Yes, ma'am.

23 Q. And who was that?

24 A. Marcus Wigfall.

25 Q. When did you first meet him?

1 A. Around 2014.

2 Q. How old were the kids when you met?

3 A. About 10.

4 Q. Okay. So that would have probably been like 2013?

5 A. Yeah, about the end of 2013.

6 Q. And how did you meet him?

7 A. Through Facebook.

8 Q. Did you know relatives of his?

9 A. Yes. His cousin.

10 Q. And where were you living?

11 A. In Goose Creek off of Red Bank Road with my mom.

12 Q. And did you all begin a relationship?

13 A. Yes. In my mind, it was a relationship. Yes, ma'am.

14 Q. And when did you all move in together?

15 A. Around 2015.

16 Q. And did you live where you're living now?

17 A. Yes, ma'am.

18 Q. And did he work at that time?

19 A. At first he was working at a temp agency when we first
20 met.

21 Q. Mm-hmm.

22 A. And then eventually he got hired on to a company called
23 DECO.

24 Q. Is that the demolition company?

25 A. Yes, ma'am.

1 Q. And that has been like a permanent job?

2 A. Yes, ma'am.

3 Q. And were you working at the time?

4 A. At the time, at first I was working at Morningside
5 Middle School, but I also had a second job at the Wendy's off
6 Ashley Phosphate.

7 Q. And what were you doing at Morningside?

8 A. The janitorial supervisor of the mid -- between mid and
9 night shift.

10 Q. And were the kids in school?

11 A. Yes, ma'am.

12 Q. Did they go to your school?

13 A. Not at first.

14 Q. When they went to middle school, did they change to your
15 school?

16 A. Yes, ma'am.

17 Q. And where did they go to high school?

18 A. MINOR 2 went to Burke High School, and MINOR 1, she went
19 to Trident Early College High School.

20 Q. And did the four of you, the two kids and you and
21 Mr. Wigfall, did you all do things together?

22 A. Yes, ma'am.

23 Q. What kind of things would you all do as a family?

24 A. We'd go to family outings. His family would have
25 gatherings like for Easter and holidays. My family would

1 have gatherings for holidays like Christmas and Thanksgiving.

2 And we all would go together to those.

3 Q. So you all were pretty much living as a family for those
4 years?

5 A. Yes, ma'am.

6 Q. When did you find out about the assaults that we're here
7 about?

8 A. I believe it was June 8 of 2020.

9 Q. And what happened that day?

10 A. I came home on a lunch break. And as I usually do, I
11 come in the house. The kids were in their rooms,
12 respectively.

13 Q. Uh-huh.

14 A. MINOR 1 came out into the living and asked could she talk
15 to me, and I told her yes.

16 Q. Okay. You won't be able to say, you know, what she
17 said, but how was she acting at that point?

18 A. You could tell she was uncomfortable. Her face --
19 facial expression was she was sad.

20 Q. Mm-hmm.

21 A. She wasn't -- it wasn't a good talk. You could tell it
22 wasn't a good talk.

23 Q. Mm-hmm. Was she emotional or crying or anything.

24 A. She started crying. Yes, ma'am.

25 Q. Was that unusual for MINOR 1 ?

1 A. Yes.

2 Q. What is she normally like?

3 A. Even though she is usually reserved to herself, she
4 still has a bubbly personality. She likes to joke, have fun.
5 That's just how she normally is.

6 Q. What do you mean "reserved to herself"?

7 A. She doesn't really associate with many people.

8 Q. Mm-hmm.

9 A. Like, she likes her music, so she'll be in her room
10 singing or writing songs, stuff like that.

11 Q. And so she had a conversation with you that day?

12 A. Yes, ma'am.

13 Q. And what did you do after that conversation?

14 A. I got upset, and I made a phone call to one of my
15 friends to have a discussion about what I needed to talk to
16 him about, what she had just talked about. Initially, I
17 tried to call Mr. Wigfall, but I couldn't reach him because
18 he was at work.

19 Q. Did you eventually get to talk to him?

20 A. Yeah. I talked to him when he was on his lunch break.
21 He called to find out what was -- I called him so much for.
22 So I told him what was told to me and asked him what was
23 going on and why would she say something like that. And he
24 said he didn't know and that we would talk when he got off of
25 work because his break was about over.

1 Q. Okay. And after you found out or after she told you
2 what she told you, did you think back about any things that
3 you had noticed between the two of them?

4 A. Yes.

5 Q. What?

6 A. I think back to times when she was in my bedroom and she
7 wasn't supposed to be while I'm at work.

8 Q. Like, how would you find out about that?

9 A. When I come home, if I go -- I go straight in my room
10 and she's sitting on the floor and he's in the bed.

11 Q. Mm-hmm.

12 A. He appears to be sleeping, but she's sitting on the
13 floor. So I get on her about being in my room, and she
14 brushes it off as she's watching TV. And I'm like, "No. Not
15 when I'm not home. You can watch TV in the living room," or
16 something. "You're not allowed in my bedroom when I'm not
17 home."

18 Q. Did you ever notice them -- her being combative towards
19 you?

20 A. Yes. There was an incident when me and him were having
21 a conversation in the kitchen. I'm not sure -- I can't
22 remember what it was about, but me and him were discussing
23 something. And she said something inappropriate to me. I
24 don't remember if it was about my appearance or it was just
25 -- it was a catty situation. So it was like another female

1 addressing another female when it came to a male. And I
2 looked at her and I asked her what was her problem, and I
3 grabbed her and I told her, I said, "You need to go in your
4 room." And he looked and he started giggling. So I looked
5 at him and I said, "That's not funny." I said, "I don't know
6 what y'all got going on, but it's not funny."

7 Q. And did he ever question you about MINOR 1 ?

8 A. Yeah. He asked me what I would do if she ever got
9 pregnant. And I looked at him and I said, "Why would she get
10 pregnant? How would she get pregnant? Are you planning on
11 getting her pregnant?" And he looked at me and he was like,
12 "No." And I was like, "Well, why would you ask me that?
13 She's not into guys, so that's not something I feel I have to
14 worry about."

15 Q. Did he ask you about MINOR 2 ?

16 A. No.

17 Q. Now, going back to June 8, when she told you about this,
18 did she tell you when the assaults happened?

19 A. She didn't tell me any specific dates or anything. I
20 believe she said it was happening around, like, for the past
21 three years.

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

23 A. My bedroom and her bedroom.

24 Q. And what did you do? Did you take her to work, or did
25 y'all -- what happened?

1 A. We talked for a little bit. And I told her if she
2 didn't want to go to work, she didn't have to go to work.
3 She said that she was fine and she would go to work, so she
4 went to work.

5 Q. And did you routinely pick Marcus up from work?

6 A. Yes.

7 Q. Did you that day?

8 A. Mm-hmm.

9 Q. And what happened when y'all got home?

10 A. When we got home, we sat and talked. I brought my son
11 in the living room, and I asked him had he ever seen or heard
12 anything in the house when I wasn't home or, you know, when
13 it was just them in the house.

14 Q. And did anything happen with her possessions?

15 A. Yes. The stuff that she had in her room? Yes.

16 Q. What happened?

17 A. When me and him, after we had the talk, he got upset and
18 he just started mumbling stuff and going back and forth in
19 her room and taking the stuff out of her room that he had
20 either purchased or got from different job sites that he'd
21 brought home.

22 Q. Mm-hmm. Did you know about all those things?

23 A. Some of the stuff, yes, I was aware of. Some of the
24 stuff, no.

25 Q. And what did he do with them?

1 A. He put them in the kitchen area, and he told MINOR 2 that
2 if he wanted any of the stuff, that he could take them and he
3 can have them.

4 Q. And but those were MINOR 1 's things?

5 A. Yeah, the stuff that he purchased.

6 Q. And what happened when MINOR 1 got home?

7 A. When she got home, the three of us sat down. I excused
8 MINOR 2 to his room. Eventually I called him back to ask
9 certain questions, but initially it was just MINOR 1, myself,
10 and Mr. Wigfall. And I just sat there and asked both of them
11 questions and just waited on a reply from both.

12 Q. And did he tell you about anything that had happened?

13 A. He admitted that he had saw her naked. He saw her
14 naked.

15 Q. And what was that situation?

16 A. He said that he was -- he was having a conversation with
17 her. She had asked him how she would know if she liked a
18 guy.

19 Q. Mm-hmm.

20 A. And he told her that if you could take your clothes off
21 in front of a guy, then you would know you like the guy.
22 According to him, he said he went to use the restroom, and
23 when he came back she was completely naked. His initial
24 response to me was, "I couldn't do it. I just couldn't do
25 it, so I just closed the door." So I had asked him, I said,

1 "Couldn't do what?" And he just shut down and just went off
2 to the room, to our bedroom.

3 Q. Now, did -- had he told you about her doing that?

4 A. No, not before that.

5 Q. So when it happened he did not tell you?

6 A. No.

7 Q. And did you on that same evening look at her Snapchat?

8 A. Yes. I looked at her Snapchat, yes.

9 Q. And what were you looking at it for?

10 A. I was looking because I was told that she was
11 conversating with a 30-year-old man and that she had
12 inappropriate pictures in her phone.

13 Q. And who told you that?

14 A. Mr. Wigfall.

15 Q. Did you find any conversations?

16 A. I didn't find any conversations, no.

17 Q. But did you find pictures?

18 A. I found a picture, yes.

19 Q. Of what?

20 A. A male's private part.

21 Q. And did you question her about that?

22 A. Yes. I asked her what it was about.

23 Q. Now, you can't say what she said, but did she explain to
24 you?

25 A. Yes.

1 Q. Did Mr. Wigfall leave that night?

2 A. No. He didn't leave initially that night because he
3 couldn't get in contact with his mom.

4 Q. Mm-hmm.

5 A. So he stayed inside the room with me that night --

6 Q. Mm-hmm.

7 A. -- and decided that he wanted to, I guess, hold me all
8 night so I would be assured that he was in the bed with me
9 all night. But I told him that morning when he got up that
10 he needed to take his stuff with him and that he would be
11 going to his mom's house when he got off of work and couldn't
12 come back to the house.

13 Q. And did you allow him to come back to the home?

14 A. No.

15 Q. And did he take all of his stuff?

16 A. No.

17 Q. And what happened with the stuff that he left there?

18 A. I threw them out.

19 Q. You what?

20 A. I threw them out.

21 Q. And how did that come about?

22 A. It was a situation a year and a half later. I was
23 DoorDashing for a friend of mine, and it wasn't under my
24 name. It was under someone else's name. And I had gotten
25 the address, and I recognized the street name as being his

1 mom's street name.

2 Q. Mm-hmm.

3 A. So because I recognized the street name, I was excited
4 because I figured I'd stop by and say hi. But when I pulled
5 up, it was his house and a female's name was on the receipt.
6 So I knocked on the door, and he opened the door. He let me
7 in, and he just had a look on his face. And I was like,
8 "What's going on?" And I asked him who was the person on the
9 receipt. He said it was his food, he -- and he just tried to
10 take the food. I threw the food on the ground and I threw
11 the drink on him and I left.

12 Q. And then what did you do?

13 A. I text him and I called him and I asked -- was trying to
14 ask him what he wanted me to do with the rest of his stuff.

15 Q. Mm-hmm.

16 A. He never responded. He never replied. And when he
17 finally did answer the phone, his response was, "Get me a
18 storage, B," and "B" meaning the nigger curse word. So he
19 hung up the phone on me. So I asked my son to help me load
20 his stuff up in the car, because I'm not free storage, and I
21 went and I dumped it all in his mom's yard.

22 Q. Now, from the time on the June, I guess it would have
23 been the 9th when he left --

24 A. Mm-hmm.

25 Q. -- had you seen him?

1 A. Yes. I had been --

2 Q. Go ahead.

3 A. I had been seeing him. The car that I had at that time
4 was in both our names.

5 Q. Mm-hmm.

6 A. So I felt that until we could get everything figured out
7 of what actually happened and what was going on, I just felt
8 like because his name was on the car and he was still helping
9 me pay for the car, I would take him to work and take him
10 home. So those was what I was doing. I'd pick him up in the
11 morning when he went to work, and I'd take him home and I'd
12 go home myself or go back to work or whatever I needed to do.

13 Q. And did you still have some affection for him?

14 A. In my heart, I still love him.

15 Q. Mm-hmm.

16 A. I still love him. I don't know how to not.

17 Q. Mm-hmm. Has that been difficult?

18 A. Yeah.

19 Q. Did he ever come back around **MINOR 1** after that?

20 A. No.

21 Q. And he never tried to?

22 A. Huh-uh.

23 Q. He never, you know, tried to do anything like that?

24 A. (Indicated.)

25 Q. And so when you -- that DoorDash thing happened, you

1 were kind of mad about him having another woman?

2 A. I wasn't mad. The female really wasn't even the issue.

3 Q. Uh-huh.

4 A. The issue was because I gave him the benefit of the
5 doubt, and I tried to stay by his side while being by her
6 side to try to figure everything out of what had happened,
7 why it happened, and -- why?

8 Q. Have you had some issues since then?

9 A. Yeah.

10 Q. What has that been about?

11 A. Trying to mentally cope with feeling like a failure as a
12 parent and not --

13 MS. FORD: Objection, relevance.

14 MS. HERRING-LASH: We can move on.

15 THE COURT: Okay. We can move on. She answered it.
16 Okay.

17 BY MS. HERRING-LASH:

18 Q. Have you tried self-harm?

19 A. Yes.

20 MS. FORD: Objection, relevance.

21 THE COURT: I'll agree.

22 Ladies and gentlemen, you should strike the last
23 statement from the witness and not give it any consideration.

24 Go ahead.

25

1 BY MS. HERRING-LASH:

2 Q. Has MINOR 1 -- when you -- going back to when MINOR 1 told
3 you, did she ask you to call the police?

4 A. No. Initially, she didn't want to because she thought
5 about his kids and she didn't want his kids to grow up
6 without a parent. But as a parent and going through this
7 situation, I felt that it was necessary because something
8 happened. My child --

9 MS. FORD: Objection, vouching.

10 BY MS. HERRING-LASH:

11 Q. You can't -- yeah, you can't talk about --

12 A. Okay.

13 Q. Just try to -- I know it's hard. Try to answer just the
14 question. I know it's difficult.

15 But did they come to your home, police officers?

16 A. Yes.

17 Q. And what happened when they came to your home?

18 A. They spoke to me and asked basically why I had called,
19 and I explained to them the situation. They allowed me to
20 exit the living room, and they sat and spoke to her about
21 whatever they needed to talk to her about.

22 Q. And did they refer you all eventually to be questioned
23 somewhere else?

24 A. Yes, ma'am.

25 Q. And did you take MINOR 1 there?

1 A. Mm-hmm. Yes, ma'am.

2 MS. HERRING-LASH: The Court's indulgence?

3 THE COURT: Yes.

4 MS. HERRING-LASH: Those are all the questions I have,
5 Ms. Pear. If you would answer any that Ms. Ford has.

6 THE WITNESS: Yes.

7 CROSS-EXAMINATION

8 BY MS. FORD:

9 Q. Hello, Ms. Pear.

10 A. Hi.

11 Q. Kandra, you like to watch a lot of legal type of shows,
12 correct?

13 A. I'm sorry. I don't understand what you're asking me.
14 You mean, like *Law & Order* and stuff like that?

15 Q. Yeah.

16 A. Yes.

17 Q. Okay. And a lot of times in those shows, cases come up
18 that are sexual in nature; is that fair to say?

19 A. Mm-hmm. Yes.

20 Q. And so about a year before **MINOR 1** came to you, that
21 prompted you to ask her to -- for safety reasons, "Hey, is
22 anybody touching you or doing anything to you?" Correct?

23 A. Yes.

24 Q. And at that time she indicated no, right?

25 A. She said no.

1 Q. And when this all came about, when she approached you,
2 she asked, "Hey, remember that time you asked me? Well,
3 something is happening."

4 A. Mm-hmm.

5 Q. Correct?

6 A. Correct.

7 Q. You talked about, you know, MINOR 1 had a lot of items in
8 her room that Marcus had given her?

9 A. Yes, ma'am.

10 Q. He would also buy a lot of things for MINOR 2 as well?

11 A. Not as much, but he did buy stuff for him.

12 Q. Okay. He gave things to both of the kids?

13 A. Yes.

14 Q. And going to MINOR 2 -- when this all came about, you
15 were in shock by a lot of it; is that fair to say?

16 A. Yes.

17 Q. And you didn't really understand how it could have
18 happened in your home?

19 A. Correct.

20 Q. And MINOR 2 would always be home with Marcus and MINOR 1?

21 A. Yeah, up until he started working. So yeah.

22 Q. Okay. So he didn't start working until, what, 15 or 16
23 years old?

24 A. About 16.

25 Q. About 16 years old? And he got a job -- his first job

1 was at the Citadel, correct?

2 A. Yes.

3 Q. And he worked in, basically, the mess hall?

4 A. Mm-hmm.

5 Q. You actually helped get him that job because you knew
6 some people who worked there?

7 A. I knew some people that worked there, but MINOR 2 actually
8 got the job without me knowing. I didn't find out that he
9 had the job until after he got the job when he needed me to
10 bring him his social security card to his orientation.

11 Q. Well, after he got the job, MINOR 1 ended up getting a
12 job there as well?

13 A. Yes.

14 Q. And they would typically work shifts together?

15 A. Yes.

16 Q. Because you actually felt more comfortable knowing that
17 MINOR 1 was with her brother when going back and forth?

18 A. Yes.

19 Q. Okay. So they would work together. And MINOR 2 also,
20 he ended up participating in sports?

21 A. Yes.

22 Q. But that wasn't until he was older?

23 A. About 11th-grade year he started doing football.

24 Twelfth grade -- 11th-grade year, he started doing football,
25 but then he stopped. He didn't want to do it no more, and he

1 started trying to wrestle, football. He tried different
2 sports, but he didn't like them so he stopped.

3 Q. Okay. But that wasn't until his 11th-grade year?

4 A. Yeah, that was his 11th-grade year.

5 Q. And so when this all came out, MINOR 1 and MINOR 2, that
6 was their 11th-grade year, correct?

7 A. Um, yeah.

8 Q. Okay.

9 A. About 10th, 11th, yeah.

10 Q. So work and sports, they didn't really start until close
11 to that time period?

12 A. Mm-hmm.

13 Q. Okay. And MINOR 2, when he was at home, he would
14 typically have his door open?

15 A. Usually.

16 Q. Okay. So when he was reading, he would just tend to
17 have the door open?

18 A. If he read. Most of the time he was playing video
19 games.

20 Q. He would play video games with Marcus at times?

21 A. Mm-hmm.

22 THE COURT: Try to say yes or no if you can.

23 THE WITNESS: Yes.

24 THE COURT: Thank you.

25

1 BY MS. FORD:

2 Q. So I want to go a little into your work. You at some
3 point worked at Wendy's?

4 A. Yes.

5 Q. And so that was just for a couple of nights a week; is
6 that fair to say?

7 A. Probably like three or four nights a week.

8 Q. Okay. Now you're saying three or four nights a week?

9 A. It was like Monday -- I'd, like, go alternate days based
10 on what I had to do at my other job.

11 Q. So then --

12 A. And it was mostly on the weekends.

13 Q. Towards the weekends?

14 A. Yeah.

15 Q. And that was just a side job for a little more money?

16 A. Yes.

17 Q. Okay. And when you would work, it wasn't unusual for
18 you to go home during a break and pop by unannounced?

19 A. No, it wasn't unusual.

20 Q. Okay. So that was one reason you had confusion over how
21 this could have happened?

22 A. Yeah, because certain nights -- some nights, if I had
23 time between -- because my jobs are, you know, one is in
24 North Charleston, like off of Rivers Avenue near Montague
25 area, and the other job is up Ashley Phosphate near the mall.

1 So if I had, like, maybe an hour, hour-and-a-half gap time, I
2 could run home and then go to my other job. But that was
3 very seldom.

4 Q. You didn't have that Wendy's job the whole time you were
5 with Marcus, correct?

6 A. No.

7 Q. That was just maybe a year?

8 A. Yeah, probably about a year.

9 Q. And at the time **MINOR 1** disclosed to you, you hadn't
10 worked at Wendy's for a bit, correct?

11 A. I had probably just started working at Wendy's when she
12 told me. I had recently been thinking about quitting working
13 there, but Marcus kept saying that we needed the extra money
14 and I should go to work.

15 Q. Okay. But you weren't there for that long, necessarily?

16 A. What do you mean?

17 Q. You didn't work at Wendy's for three years straight?

18 A. No, probably not three years straight. About a year and
19 a half.

20 Q. Okay. Now, I want to talk about you told you -- er, you
21 told us that Marcus, when this came out, you confronted him
22 about it?

23 A. Mm-hmm.

24 Q. And he denied anything sexual happened?

25 A. Yes. He denied touching her.

1 Q. Okay. And he just told you about this incident of
2 seeing her undressed?

3 A. Yes.

4 Q. Okay. So whatever he told you, that did not stop you
5 from continuing with a sexual relationship with Marcus after
6 he was arrested?

7 A. I tried to have intercourse with Marcus maybe two or
8 three times. One time it didn't work out because he couldn't
9 get an erection. The other two times I wasn't comfortable.
10 But other than that, it was just me taking him to and from
11 work.

12 Q. Okay. So you're saying that -- and Marcus was arrested
13 in the summer of 2020?

14 A. Mm-hmm.

15 Q. And the incident you told us about with the DoorDash,
16 that was September of 2022?

17 A. Mm-hmm.

18 Q. So that was --

19 A. Because I had been --

20 Q. -- over two years, correct?

21 A. About -- yeah, about a year and a half. I had been
22 taking him to and from work as long as I had my vehicle.
23 When I lost my vehicle, I didn't take him to work no more so
24 I didn't see him.

25 Q. You lost your vehicle. You were in an accident --

1 A. Mm-hmm.

2 Q. -- correct?

3 A. March 3.

4 Q. Okay. And you told us that when you got a DoorDash call
5 to his house, that you were excited to see him?

6 A. I was excited because I knew the street. I didn't know
7 that was his address. I didn't know the number of his house.
8 So I knew that was the name of the street. So yeah, I was
9 excited because I was going on his street and I hadn't talked
10 to him in a few days because he said he was sick and he
11 didn't want to see anyone.

12 Q. Okay. So you hadn't talked to him in just a few days?

13 A. Yes.

14 Q. Okay. So you got to his house, and the DoorDash order
15 was in a female's name?

16 A. Uh-huh.

17 Q. So you knock on the door and he answers the door?

18 A. Mm-hmm.

19 THE COURT: Try to say yes or no.

20 THE WITNESS: Yes. I'm sorry.

21 THE COURT: That's okay.

22 BY MS. FORD:

23 Q. And because the DoorDash order was in a female's name,
24 you believed that you had caught him in the act of sleeping
25 with another woman?

1 A. That wasn't the only reason. It was two things of --
2 how many things can you eat? It was two things -- two items
3 of each thing in one bag. So I didn't care about the female.
4 It's the audacity that you have to have done what you have
5 done, to lie to me and make me believe that you weren't that
6 type of person and that I could trust you and I could stand
7 by you until the very end of everything to make sure that you
8 weren't that type of person. And then you have the audacity
9 to sit there and still lie to me.

10 I was tired of him lying to me. I didn't care about the
11 female. The female was beside the point. The point was you
12 came into my life and you flipped a table in my life that was
13 highly unnecessary. You knew personal things that I had been
14 through, and you still chose to do the things that you did to
15 my child, regardless.

16 Q. Well, Ms. Pear, this day, this -- these feelings, you
17 were -- until you found out that there was another female
18 there, you were okay seeing him?

19 A. No, I was not okay with seeing him. I was still upset.
20 Every day I saw him I asked him questions about what he did,
21 how did this happen, why did this come about, why is she
22 saying this, why is she saying that. He chose not to answer
23 those questions to me, but chose to talk to other people
24 about our situation. But I can't get answers? That's not
25 fair.

1 Q. Okay. Well, Ms. Pear, you actually tried to get in his
2 house to fight the female that day?

3 A. No, I didn't. That's not true. I didn't. I tried to
4 get in his house, yes. He let me in his house. I stood
5 respectfully in the living room holding the bag, asking him
6 what was this about. He said, "I don't know what you're
7 talking about. This is my food." So he tried to grab the
8 bags out of my hand. I dropped the bags on the floor and I
9 hit him with the drink.

10 Q. Because you were upset you thought he was lying about --

11 A. I was upset because you're sitting here doing all this
12 stuff when you know you've been wrong this entire time. No,
13 you're not allowed to go be with nobody else because you're
14 -- something's wrong with you. You need help. What are you
15 going to do? Go get another female who has another daughter
16 so you can do the same thing? Then I failed as a person
17 because I've -- I've already failed one time, protecting my
18 own child.

19 So yes, if I have to stay in his good graces to make
20 sure that he doesn't do this to anybody else's child, I'll
21 take that sacrifice. I will sacrifice my entire soul for my
22 child and anybody else's child that needs protection because
23 he's a monster.

24 Q. So your story is that you continued to have a
25 relationship with him and sleep with him for over two

1 years --

2 A. I did not sleep --

3 Q. -- to --

4 A. -- with him for --

5 Q. -- so that he wouldn't --

6 A. -- the whole two years.

7 Q. -- date another woman?

8 A. No, I didn't sleep with him for the whole two years.

9 Q. Well, the last time you slept with him was September
10 2022?

11 A. On the 20th of September?

12 Q. No. September 2022. Last September.

13 A. I didn't have sex with him in September. No. The last
14 time I had sex with him was -- the last time I had sex was,
15 like, October. And that was sex period.

16 Q. After you left --

17 A. When he got caught, he got caught in September. I
18 hadn't seen him after that whole situation.

19 Q. Okay. After you left that day --

20 A. Yes.

21 Q. -- his property was still in your house, correct?

22 A. Yes.

23 Q. So you took his property --

24 A. From my house.

25 Q. -- and went back to his house and threw everything on

1 the yard, correct?

2 A. Yes. When I called him and asked him, "What you want me
3 to do with it?" and he told me, "Get a storage, B," okay. I
4 have a storage for you: your house, your yard.

5 Q. And this didn't just happen one time. It happened
6 twice. You brought more property back a week later?

7 A. Yeah, because he had more stuff in my house.

8 Q. He still has items there.

9 A. No, he doesn't.

10 Q. He has fishing rods.

11 A. No. Those aren't at my house anymore. Everything went
12 into the trash.

13 Q. Okay. So you got rid of that in the past month.

14 A. The fishing rods that I have I bought with my money.

15 Q. Okay.

16 A. Any fishing rods you see in my kitchen, those -- I
17 bought those with my money. The ones that he brought to my
18 home I threw away. Yes, I like fishing and I like crab and I
19 got a whole crab bucket in my kitchen. Why? Because I paid
20 for those with my money, and I use them.

21 Q. Well, Ms. Pear, I want to talk about what you testified
22 to, that when **MINOR 1** told you these things, you went back
23 thinking of situations that you had seen.

24 A. Okay.

25 Q. Okay? So today you told us about an incident in which

1 you just thought her behavior was strange as if she was like
2 another women who was, like, jealous basically of --

3 A. Yeah. It was like as if -- it's like two females that
4 are in a sexual relationship with one man, and one female
5 doesn't know, but the other female is aware of both
6 situations, but she's supposed to be a secret. So she says
7 -- if she can hear something going on between the guy and the
8 girl and she gets upset by it or it's something that she
9 don't like and she gets combative towards that female, yeah,
10 I was the female that she was being combative with. And it
11 made me look at her like, "What's going on?"

12 Q. Okay, Ms. Pear. So you told us about that. But back
13 when **MINOR 1** disclosed, you talked to multiple people about
14 your conversation with **MINOR 2** --

15 A. I talked --

16 Q. -- about what was going on?

17 A. -- to two people.

18 Q. Well, you talked to the police officer who came to the
19 scene?

20 A. Mm-hmm.

21 Q. You talked to Detective Christophersen?

22 A. Aren't those people I necessarily have to talk to if I
23 want to press charges?

24 Q. I'm just asking if you talked to people. That's all I'm
25 asking.

1 A. I mean, those people I could feel would be irrelevant
2 because I have to talk to them because the purpose of talking
3 to them is to press charges. Now, I mean, if you're talking
4 about outside people --

5 Q. No, I'm not. I'm talking about literal people involved
6 in this court system.

7 A. Well, yeah, I had to talk to all of them.

8 Q. I'm not talking about your friends.

9 A. Okay. Well, yeah, I talked --

10 Q. You talked to -- when **MINOR 1** was taken to be examined,
11 you talked to the nurse?

12 A. Yes.

13 Q. You talked to the people at the Dee Norton Lowcountry
14 Children's Center?

15 A. Yes.

16 Q. You talked to DSS?

17 A. Yes.

18 Q. Because DSS got involved in this case?

19 A. Yes.

20 Q. And you indicated to everybody that you hadn't seen
21 anything that made you think there was anything sexual going
22 on?

23 A. No, I hadn't seen anything inappropriate, as for them --
24 you mean as in them touching each other or being close to
25 each other or anything like that, no. Sexually, no. I

1 hadn't seen them doing any of that.

2 Q. You indicated there was nothing that made you suspect
3 anything.

4 A. I told them since day 1 about the situation in the
5 kitchen when she combatted -- became combative at me.

6 Q. Okay. You never told LCC that.

7 A. I talked to the Dee Norton about that.

8 Q. You never told MUSC that.

9 A. I never -- we didn't go to MUSC. They had us come to
10 the Dee Norton Center.

11 Q. You never told the nurse that.

12 A. Where was this nurse?

13 Q. At the Lowcountry --

14 A. If that's the people --

15 Q. -- Children's Center.

16 A. -- at the Dee Norton Center, yes, I did. I asked for a
17 polygraph test for both of them. I requested on numerous
18 occasions different things to be done to get to the bottom of
19 this.

20 Q. That is not what I'm asking.

21 A. Well, this is what I'm telling you.

22 Q. I'm asking specifically, did you tell -- you didn't tell
23 anybody at the time that you saw these things that made you
24 suspicious?

25 A. I told everyone about them being -- us being in the

1 kitchen and having that conversation.

2 Q. Okay. Well, in truth, that didn't come out until
3 September 2022 when you thought --

4 A. No. That came out before then. That came out way
5 before then.

6 Q. So you're telling us then, your testimony is that you
7 had these suspicions and yet you continued to see him for
8 over two years and have sex with him?

9 A. I did not have sex with him. And yes, I continued to
10 physically see him.

11 Q. You already said you had sex with him.

12 A. I had sex with him -- I tried to have sex with him maybe
13 three times. Once it didn't work. Twice I was
14 uncomfortable.

15 Q. So you two were just pals for the two --

16 A. I never came to his house to chill and sit down and
17 associate with him. Outside of me pulling up in front of his
18 house, him getting in my car, and me dropping him off to
19 work, and him getting in my car at his job and me bringing
20 him to his house and him getting out and going into his home,
21 I didn't stay at his house.

22 Q. Okay. You would just go to his house to have sex.

23 A. On those three occasions we did.

24 Q. Okay. So Kandra, I want to switch to another topic for
25 a bit. The solicitor had asked not you, but **MINOR 1** did

1 briefly go to counseling?

2 A. Okay. Yes.

3 Q. She didn't complete counseling?

4 A. That was between her and the counselor.

5 Q. Okay. Well, you had to go to counseling with her --

6 A. No.

7 Q. -- at times for family counseling?

8 A. We've never -- we physically went to counseling, but
9 after a while they started doing over-the-phone counseling
10 with her because of her job schedule and because of our
11 schedules not matching up with their schedule. So what they
12 did, they just called up on the phone. Whatever
13 conversations they had with her, she has her own cell phone
14 and they spoke to her as needed. And they called me when
15 they needed to speak to me.

16 Q. Okay. Well, at one point you raised a concern about you
17 and **MINOR 1** arguing over her lying?

18 A. Yes. But that was over simple stuff. Like, it was
19 never over her lying about -- it was stuff about her lying
20 about taking out the trash, her lying about washing the
21 dishes. Not her lying about somebody doing something to her.

22 Q. Well, we already mentioned that DSS was involved for a
23 bit.

24 A. Mm-hmm.

25 Q. And they asked you information about your kids, of

1 course, correct?

2 A. Correct.

3 Q. And they asked you to give three descriptors for each of
4 your children?

5 A. Okay.

6 Q. Three things that stood out to you. And you told DSS
7 that **MINOR 1** is fun, correct?

8 A. Correct.

9 Q. That's one word. Your second word was "outgoing"?

10 A. Correct.

11 Q. And the third word, or third phrase, "She lies"?

12 A. I don't recall saying she lies, but --

13 Q. She lied at times.

14 A. According to what she's lying about. Like, you're
15 trying to switch this and make it seem like she's lying about
16 him doing this stuff. It don't defeat the fact that he did
17 it.

18 Q. Well, the bottom line to the question is that you were
19 asked for three things to describe your daughter, and one of
20 those three things you chose was that she lies, correct?

21 A. I plead the Fifth because I can't agree with you on that
22 because that's --

23 Q. You plead the Fifth?

24 A. That's out of context because what she would lie about
25 is not something that detrimental. She, yes, lied about

1 taking out the trash. Lying about taking a shower, lying
2 about washing the dishes, stuff like that, yes. But her
3 lying about somebody physically doing harm to her or somebody
4 being physical with her or something like -- no, my daughter
5 has never lied about anybody touching her.

6 Q. Well, that's still one of your three main descriptors.

7 And I want to talk about the picture. You did look at
8 **MINOR 1**'s phone and you found a picture of a man's penis?

9 A. Mm-hmm.

10 Q. And you knew to look there because Marcus had indicated
11 to you that there was something on there, correct?

12 A. Correct.

13 Q. Snapchat things actually, they disappear pretty quickly.
14 That's what Snapchat -- that's the benefit of Snapchat,
15 correct?

16 A. Yes.

17 Q. Okay.

18 MS. FORD: Beg the Court's indulgence.

19 Q. [By Ms. Ford] Er, so that -- that picture would have
20 been actually on her phone then?

21 A. I couldn't tell. Like, I don't do Snapchat, so I don't
22 know how Snapchat operates. So I know, like, from my
23 friends, like, if they pull something, it disappears.
24 Whether or not somebody sends it to her it will disappear, I
25 have no clue.

1 Q. Okay.

2 MS. FORD: Beg the Court's indulgence?

3 THE COURT: Okay.

4 BY MS. FORD:

5 Q. A few more questions.

6 Ms. Pear, Marcus was arrested for these charges,
7 correct?

8 A. Yes.

9 Q. Of course. But he did -- he bonded out, obviously,
10 because you saw him, correct?

11 A. I don't remember what day I saw him, but I didn't see
12 him that day.

13 Q. Okay. But you actually picked him up from the jail?

14 A. I may have, but I'm not sure.

15 Q. And you talked about a message in which he called you
16 "B." But "B" is actually your nickname?

17 A. No. When I said that he said, "Get me" -- I can't curse
18 in here, can I?

19 Q. Well, you --

20 A. He said the word --

21 Q. Okay.

22 A. -- that day. And him calling me "B" is irrelevant to
23 that statement because, no, he didn't say, "Get me a storage,
24 B," as in saying "B." No, not the letter B. He called me by
25 the word.

1 Q. Okay. And he actually gave you \$85 for the storage?

2 A. He gives me money all the time, so I'm not sure if that
3 was for the storage. I sent him text messages of how much
4 the storage would cost.

5 Q. Okay. And that was \$85?

6 A. Some of them was like 60-something. Some less. I don't
7 know.

8 Q. Okay. So there was a discussion about --

9 A. A storage.

10 Q. -- putting his items in storage.

11 And you were aware, just going back, Marcus had given
12 **MINOR 1** a Taser?

13 A. Yes. For Christmas he bought a Taser and a knife for
14 her.

15 Q. Okay. So he gave those items to **MINOR 1** for a Christmas
16 gift then?

17 A. Mm-hmm. Yes, ma'am.

18 Q. For her protection?

19 A. Yes.

20 Q. And when this all came about, one thing that I asked you
21 is why she wouldn't have used those on him?

22 A. Yeah. I asked her why she didn't use it.

23 Q. Okay.

24 MS. FORD: Beg the Court's indulgence?

25 THE COURT: Okay.

1 MS. FORD: I have no further questions.

2 THE COURT: Any redirect?

3 REDIRECT EXAMINATION

4 BY MS. HERRING-LASH:

5 Q. Just a few questions, Ms. Pear.

6 Did -- when you looked at the phone, Marcus had told you
7 to look for a conversation, correct?

8 A. Yes, ma'am.

9 Q. And you found the pictures while looking for the
10 conversation?

11 A. Yes, ma'am.

12 Q. Did any law-enforcement officer ever sit down and do a
13 formal detailed written statement from you?

14 A. I've sat down with so many officers.

15 Q. Well, just two, right?

16 A. I've sat down at home with an officer, then at the Dee
17 Norton Center with an officer.

18 Q. And what did the one at the Dee Norton Center -- did
19 they do a written statement from you, a formal statement?

20 A. Yeah. They wrote some stuff down. They didn't have me
21 write nothing, but they wrote some stuff down. And then they
22 separated us and continued on and talked to her. They took
23 her phone because of the Snapchat stuff. And that was it.

24 Q. And when you -- the DoorDash thing, you have told us you
25 did throw his stuff out; is that correct?

1 A. Yes, ma'am.

2 Q. So did you ever put anything in storage?

3 A. No, ma'am.

4 Q. And how many times did you have sexual intercourse with
5 him, are you saying?

6 A. We tried on -- we tried two occasions.

7 Q. Mm-hmm.

8 A. But -- and the third time when we tried, he couldn't get
9 an erection.

10 Q. And why did you do that knowing what your daughter had
11 said?

12 A. A part of me -- I don't know. It's the human side of me
13 I still love him.

14 Q. Mm-hmm.

15 A. I still have some type of care for him. I wanted all of
16 this to not be real.

17 Q. Mm-hmm.

18 A. I wanted -- I wanted it to go away. I wanted to believe
19 that he loved me, that he wouldn't do something like this. I
20 believed that the Court would hurry up so we could go to
21 court. I believed that I could come up with money for a
22 polygraph test. Pick one.

23 MS. HERRING-LASH: Well, thank you.

24 THE WITNESS: You're welcome.

25 THE COURT: Any other questions?

1 RECROSS-EXAMINATION

2 BY MS. FORD:

3 Q. Just, Ms. Pear, is it fair to say things changed a lot
4 in September of 2022?

5 A. No. Things changed before September '22.

6 Q. Well, they changed again in September of 2022?

7 A. They were more clear.

8 Q. Okay. After you found --

9 A. It was more clear that he could be a -- he could lie.

10 Q. Okay.

11 A. Questioning whether or not he could lie was one thing,
12 but confirming that he was a liar was something completely
13 different.14 Q. Okay. But you have maintained you were not in a
15 relationship with him?16 A. I didn't feel like we were in a relationship because I
17 told him that -- even when he was talking about after he got
18 off his monitor we could get a house and we would be
19 together, let the kids keep the other apartment and it would
20 just be me and him, I told him I didn't think that would work
21 and I didn't think that we could ever live together because I
22 got goddaughters, I got nieces, I got other female children
23 that trusts -- that the mothers and parents trust them with
24 me.

25 Q. Okay. Well, September 2022, that's when you stopped

1 communication with Marcus?

2 A. No. That's not -- that's when most of it stopped, but I
3 had been barely communicating with him before then. He had
4 barely start -- been talking to me. We'd barely been talking
5 to each other because he was telling me he was sick.

6 Q. Okay. Well, it's fair to say you were mad in September
7 of 2022?

8 A. I was mad June 8 of 2020. Like, I mean, I was mad. But
9 the fact that I kept talking to him doesn't defeat me being
10 mad or not being mad. It didn't change that I loved him or
11 didn't love him. Nothing changed. I was hurt and I was
12 upset, regardless of when the date was, regardless to what he
13 had done, regardless of who he was with. He still touched my
14 daughter, like --

15 Q. You didn't know what to believe?

16 A. Right. You pretended that you were this upstanding guy,
17 a protector, somebody that I could trust with my kids. And I
18 trusted you with my kids. You trusted me with your kids. In
19 a million years I would never do that.

20 MS. FORD: All right. No further questions.

21 THE COURT: All right. You can step down from the
22 witness stand.

23 (Witness excused.)

24 THE COURT: The State can call its next witness.

25 MS. FRIES: The State calls Detective Nikolas Perez.

1 THE COURT: Can I see the attorneys real quick while
2 he's coming in here, please?

3 (A discussion was held off the record at the bench in
4 the presence of the jury but outside the hearing of the
5 jury.)

6 THE COURT: All right. Go ahead. You can proceed.

7 CLERK OF THE COURT: Please raise your right hand, place
8 your left hand on the Bible.

9 (Witness sworn.)

10 CLERK OF THE COURT: Please be seated.

11 Please state your name, spelling your last name directly
12 in the microphone.

13 THE WITNESS: It's Nikolas Perez, last name P-E-R-E-Z.

14 NIKOLAS PEREZ,
15 called as a witness on behalf of the State, being first duly
16 sworn, was examined and testified as follows:

17 DIRECT EXAMINATION

18 BY MS. FRIES:

19 Q. Good afternoon, Detective Perez. Where are you
20 employed?

21 A. I'm employed with the City of Charleston Police
22 Department.

23 Q. And how long have you been employed there?

24 A. Since June of 2018.

25 Q. And what's your role?

1 A. Currently I'm a detective with the special victims unit.

2 Q. Have you always been a detective?

3 A. No.

4 Q. What was your role prior to that?

5 A. Prior to that I was an investigator, and prior to that I
6 was a patrol officer.

7 Q. And were you a patrol officer in June of 2020?

8 A. Yes.

9 Q. What were your duties as a patrol officer?

10 A. As a patrol officer, I was responsible for patrolling my
11 beat, preventing crimes, and responding to calls I was
12 dispatched to take a report.

13 Q. And were you dispatched to [REDACTED] North Romney Street,
14 [REDACTED], on June 11, 2020?

15 A. Yes.

16 Q. And what county is that located in?

17 A. That's in the County of Charleston.

18 Q. And approximately what time did you arrive to that
19 address?

20 A. Approximately 7:30 a.m.

21 Q. What were you dispatched to that address for?

22 A. I was dispatched to a report of a sexual assault of a
23 juvenile that had occurred in the past.

24 Q. Was anyone with you?

25 A. Yes. I had a trainee with me.

1 Q. And what did you do when you arrived?

2 A. I went upstairs to the apartment. I knocked on the
3 door, and it was answered by Kandra Pear, the victim's
4 mother.

5 Q. Did Kandra explain why she called?

6 A. Yes.

7 Q. And as a result of that explanation, what did you do?

8 A. I conducted a basic interview with MINOR 1, the victim,
9 and then an interview with Kandra.

10 Q. And was Kandra present during the interview with MINOR 1?

11 A. She was separated. She was sitting in the kitchen when
12 the interview started. I was in the living room. And then
13 she stepped out to the bedroom during the middle of the
14 interview.

15 Q. And did MINOR 1 agree to speak with you?

16 A. Yes.

17 Q. And do you normally interview children of sexual assault
18 for details?

19 A. Yes.

20 Q. Was your interview limited in purpose, though, as to
21 MINOR 1

22 A. Yes.

23 Q. And is it normal for you to interview a victim regarding
24 an assault rather than explain it?

25 A. Yes.

1 Q. And why is that?

2 A. I interview the victim because she's the one with the
3 facts of what's going on.

4 Q. Was it also because of her age?

5 A. Yes. She was -- yes.

6 Q. And what are the main things that you were trying to
7 learn from MINOR 1?

8 A. I was trying to establish what crime had occurred, that
9 it occurred in the City of Charleston's jurisdiction, and a
10 timeframe of what had occurred.

11 Q. And how were you able to narrow down that timeframe?

12 A. While speaking to her, I asked her to think of events
13 that had occurred in her life. We were able to narrow it
14 down based on what school she was attending for when the
15 events started. And then we used a cell phone text message
16 to determine the last incident.

17 Q. And what was her demeanor like?

18 A. Started off she was nervous, but she was clearly able to
19 communicate, seemed very intelligent. Once her mother
20 stepped out, she calmed down and she was able to talk more
21 clearly.

22 Q. Okay. And was it normal for MINOR 1 not to have had a
23 sexual-assault exam done?

24 A. Yes.

25 Q. What is the criteria for a sexual-assault exam?

1 A. If the sexual assault has occurred within 120 hours.

2 Q. And was the last incident past that timeframe?

3 A. Yes.

4 Q. Is there another type of exam that is done once that
5 timeframe has passed?

6 A. Yes. When they go to the Dee Norton Child Advocacy
7 Center, they'll be offered a medical exam.

8 Q. And after speaking with MINOR 1, what did you do?

9 A. After speaking with MINOR 1, I contacted my supervisor
10 and we contacted central detectives.

11 Q. And did a detective come out immediately?

12 A. No.

13 Q. Why is that?

14 A. It was a past -- a historical sexual assault that was
15 being reported, so they would conduct a followup.

16 Q. And were you worried about Mr. Wigfall coming back into
17 the home?

18 A. Initially I was. I discussed that with Kandra. She
19 said that he had no -- the defendant had no keys to the
20 residence and he had left earlier that week. They were
21 advised on how to contact law enforcement.

22 Q. Okay.

23 MS. FRIES: Beg the Court's indulgence?

24 THE COURT: Okay.

25 MS. FRIES: No further questions.

1 THE COURT: Any questions for this witness?

2 CROSS-EXAMINATION

3 BY MS. FORD:

4 Q. Hello.

5 A. Hi.

6 Q. MINOR 1 showed you some text messages?

7 A. Yes.

8 Q. And you did look at them, correct?

9 A. Yes.

10 Q. But you did not take her phone into evidence?

11 A. No.

12 Q. And taking a phone into evidence is actually something
13 quite routinely done, correct?

14 A. Yes.

15 Q. So the actual phone could be taken into evidence or you
16 could request a phone to do an extraction, correct?

17 A. As an initial responding officer, that's not something I
18 would usually do, no.

19 Q. But if something is deemed to be a piece of evidence,
20 you could take it into evidence?

21 A. Yes.

22 Q. You're certainly not prohibited from doing that?

23 A. No.

24 Q. And you were able to speak to both Ms. Pear and MINOR 1
25 that day?

1 A. Yes.

2 Q. In asking MINOR 1 some details, you were interested in
3 finding out how often things may have occurred?

4 A. Yes.

5 Q. At this point she only mentioned oral sex?

6 A. I would have to look back in my report, but I believe
7 the initial incident, she reported that she had touched his
8 penis with her hand. The last incident was oral, yes.

9 Q. But she did tell you that basically it had happened over
10 100 times?

11 A. She described it as approximately two times a week.

12 Q. Okay.

13 A. Based on the timeframe.

14 Q. For about three years?

15 A. Yes.

16 Q. And when talking to Ms. Pear, she never mentioned to you
17 seeing anything herself, correct?

18 A. No.

19 MS. FORD: Beg the Court's indulgence?

20 THE COURT: Mm-hmm.

21 MS. FORD: No further questions, your Honor.

22 THE COURT: Okay. Any followup questions, Ms. Fries?

23 MS. FRIES: No, your Honor.

24 THE COURT: Okay. You can step down. Thank you, sir.

25 (Witness excused.)

1 THE COURT: Is your next witness ready?

2 MS. FRIES: The State calls Alix Desch.

3 CLERK OF THE COURT: Please raise your right hand and
4 place your left hand on the Bible.

5 (Witness sworn.)

6 CLERK OF THE COURT: Please be seated.

7 Please state your full name, spelling your last name
8 directly in the microphone.

9 THE WITNESS: My name is Alix Desch. My last name is
10 spelled D-E-S-C-H.

11 ALIX DESCH,
12 called as a witness on behalf of the State, being first duly
13 sworn, was examined and testified as follows:

14 DIRECT EXAMINATION

15 BY MS. FRIES:

16 Q. Good afternoon, Alix.

17 A. Good afternoon.

18 Q. Where do you work?

19 A. I work at Dee Norton Child Advocacy Center.

20 Q. And how long have you worked there?

21 A. I've worked there almost seven years now.

22 Q. And please tell the jury what your educational
23 background is.

24 A. Sure. So I received my undergraduate Bachelor of
25 Science in psychology, and then I went on to receive my

1 Master of Social Work degree from the University of
2 Pennsylvania.

3 Q. And as part of your job, do you aid law enforcement in
4 interviewing victims?

5 A. Yes, I do.

6 Q. Is that a policy that law enforcement needed to help in
7 their investigation?

8 A. Yes, it is.

9 Q. And in that capacity, did you see MINOR 1 ?

10 A. Yes.

11 Q. When did you see her?

12 A. If you hold on one second, I will pull out my paperwork,
13 because I don't recall the exact date off the top of my head.

14 So based on my records, I saw MINOR 1 on two
15 separate occasions. The first was on June 18 of 2020,
16 followed by a second session on June 23 of 2020.

17 Q. And why were there two separate sessions?

18 A. During MINOR 1 's initial interview session, we actually
19 took a lot of time in that interview, and there was a medical
20 exam scheduled as well. So due to timing and wanting to make
21 sure she had the opportunity to complete her medical exam, we
22 halted the interview and kind of put it on pause and
23 scheduled to come back to finish the interview portion of the
24 appointment.

25 Q. And who accompanied her to that interview?

1 A. She was brought to that interview by her mother.

2 Q. And when accompanied by a parent, do they typically sit
3 in on the interview?

4 A. No. So a part of the interview process at Dee Norton is
5 that family members or caregivers are not allowed to actually
6 be in the interview while it's taking place. It is held
7 one-on-one with myself as the interviewer and the child. And
8 then our law-enforcement partners are able to live observe
9 through closed-caption television. So they can see what's
10 occurring, but they're not actually in the room.

11 Q. So is that interview audio and video recorded.

12 A. Yes, it is.

13 Q. And are you aware of a rule that allows that interview
14 to be played in court?

15 MS. FORD: Objection, relevance.

16 THE COURT: Sustained. Go ahead.

17 BY MS. FRIES:

18 Q. Did **MINOR 1** tell you about being sexual assaulted?

19 A. Yes.

20 MS. FORD: Objection. I think this is cumulative, your
21 Honor, based on the bolstering of the other witnesses and
22 everything.

23 THE COURT: Overruled. I'll allow it as phrased.

24 BY MS. FRIES:

25 A. Yes.

1 Q. And did she tell you where it happened?

2 A. Yes, she did.

3 Q. Where?

4 A. She reported that it took place in her bedroom, as well
5 as her mother's bedroom.

6 Q. Did she tell you when it happened?

7 A. She gave a timeframe that it initially began, starting
8 when she was in approximately seventh or eighth grade, so
9 about 13 years old, and that it had gone on multiple times
10 since then.

11 Q. And when was that last time you saw MINOR 1?

12 A. To my recollection, the last time I saw her was on
13 June 23. Typically when I conduct an interview with a child,
14 I don't have any reason to see them again afterwards and I'm
15 not involved in any of their future services at our center.

16 Q. Did you make any referrals to her?

17 A. So we make standard --

18 MS. FORD: Objection, vouching.

19 THE COURT: Overruled. Go ahead.

20 BY MS. FRIES:

21 A. At Dee Norton, we a make standard recommendation for
22 every child that comes to our center to have their case
23 staffed with our multidisciplinary team so that we can all
24 convene and discuss with the investigators what's going on,
25 as well as referring for a mental-health assessment to see if

1 any ongoing support or treatment is needed after an initial
2 consult.

3 Q. And is that pretty standard?

4 A. Yes, ma'am.

5 Q. Do you know if she followed through with that referral?

6 A. I don't have those records in front of me, but I have
7 been informed that she did follow up --

8 MS. FORD: Objection.

9 THE COURT: Sustained. She can only testify of her own
10 personal knowledge.

11 MS. FRIES: Thank you. No further questions.

12 CROSS-EXAMINATION

13 BY MS. FORD:

14 Q. Hello.

15 A. Hi.

16 Q. You told us that MINOR 1's mother came with her?

17 A. That's correct.

18 Q. And it's typical to try to get some background
19 information from the parent or the other person who may have
20 brought a child to the interview with you, correct?

21 A. Yes.

22 Q. So in this case, Ms. Pear did give some background
23 information?

24 A. Yes, she did.

25 Q. She didn't mention seeing anything of concern herself or

1 witnessing anything of concern, correct?

2 A. Based on the records that I have from my initial meeting
3 with Ms. Pear, she did state that she had been told by MINOR 1
4 that something had happened, but she didn't witness it.

5 Q. Okay. She didn't note anything of concern that she
6 personally witnessed?

7 A. Not to my recollection and not based on the report in
8 front of me.

9 Q. Okay. And MINOR 1, you did ask her, and it's typical to
10 ask people who you interview, about making sure they have
11 safe people they can go to, correct?

12 A. Yes.

13 Q. And because you want to make sure that if anything comes
14 up, if they have any concerns, that they have someone that
15 they can go to?

16 A. Yes.

17 Q. And in this case, you did ask that of her, correct?

18 A. Yes.

19 Q. Okay. And she had indicated her mom was her Number 1
20 person she could go to?

21 A. I don't have it written in front of me, but based on my
22 recollection, yes.

23 Q. Okay.

24 MS. FORD: Beg the Court's indulgence?

25 THE COURT: Sure.

1 MS. FORD: I have no further questions.

2 THE COURT: Okay. Any followup?

3 MS. FRIES: No followup.

4 THE COURT: Okay. All right. You can step down from
5 the witness stand. Thank you so much.

6 THE WITNESS: Thank you.

7 (Witness excused.)

8 THE COURT: Okay. We'll take a quick break right now,
9 ladies and gentlemen, for about five or ten minutes. And
10 we'll be at ease. See you back then shortly.

11 (The jury exited the courtroom at 2:28 p.m.)

12 (The following proceedings were had outside the presence
13 of the jury.)

14 THE COURT: Okay. So the next witness is the lead
15 detective?

16 MS. HERRING-LASH: Yes, your Honor.

17 THE COURT: Okay.

18 MS. HERRING-LASH: Detective Christophersen.

19 THE COURT: And then anybody else you think could go
20 today?

21 MS. HERRING-LASH: I told the nurse it wouldn't be
22 today.

23 THE COURT: Yeah, that's okay. I'm just trying to --
24 actually, I think that might be a little longer anyway.
25 Okay.

1 MS. HERRING-LASH: But his statement, we will have the
2 30-minute long --

3 THE COURT: Yeah. Yeah. I knew that would be a little
4 longer.

5 Okay. Great. We'll see everybody back in a few
6 minutes. We'll be at ease.

7 (Court recessed.)

8 (Court resumed outside the presence of the jury.)

9 THE COURT: Are we all set?

10 MS. HERRING-LASH: Yes, your Honor.

11 THE COURT: Okay. All right. You can bring the jury
12 back in.

13 THE BAILIFF: Yes, ma'am.

14 (The jury entered the courtroom at 2:43 p.m.)

15 THE BAILIFF: All jurors are present, your Honor.

16 THE COURT: Excellent. Thank you so much.

17 All right. The State can call its next witness.

18 MS. HERRING-LASH: The State would call Detective
19 Michael Christophersen.

20 (Witness sworn.)

21 CLERK OF THE COURT: Please be seated.

22 Please state your full name, spelling your last name
23 directly in the microphone.

24 THE WITNESS: Good afternoon. My name is Michael
25 Christophersen. My last name spelling is

1 C-H-R-I-S-T-O-P-H-E-R-S-E-N.

2 MICHAEL CHRISTOPHERSEN,
3 called as a witness on behalf of the State, being first duly
4 sworn, was examined and testified as follows:

5 DIRECT EXAMINATION

6 BY MS. HERRING-LASH:

7 Q. Detective Christophersen, where do you work?

8 A. I work for the City of Charleston Police Department.

9 Q. And how long have you been in law enforcement?

10 A. I've been in law enforcement about 15 years.

11 Q. And how long in your current position?

12 A. I've been in the special victims unit about three years
13 now.

14 Q. And back in June of 2020 you were in the special victims
15 unit?

16 A. Yes, ma'am.

17 Q. At that point in time, how long had you been in the
18 unit?

19 A. June of 2020, I had been in the special victims unit
20 about three months. I started in March of 2020, when the
21 pandemic began.

22 Q. And what is the special victims unit?

23 A. The special victims unit is a very unique investigative
24 unit. It's unlike homicide or violent crimes, burglary,
25 property-related offenses. In the special victims unit,

1 we're doing -- we're investigating crimes oftentimes of a
2 sexual nature. For example, sexual assaults of adults,
3 sexual assaults of children, domestic violence, missing and
4 vulnerable children, human trafficking, and vulnerable
5 adults, things of that nature.

6 Q. And were you assigned to this case?

7 A. Yes, ma'am.

8 Q. And when were you assigned the case?

9 A. I was assigned this case on June 16, 2020.

10 Q. And what is the first thing that you did?

11 A. The first thing that I did is I referred this case to
12 DSS as a mandated reporter, and I also referred this case to
13 the Dee Norton Child Advocacy Center so **MINOR 1** could be
14 interviewed.

15 Q. Is that common practice to refer for the interview to be
16 done out of the police department?

17 A. Yes, ma'am.

18 Q. And do you use the center for those interviews?

19 A. Yes, ma'am. It's consistent with agency policy, as well
20 as what CPD considers to be best practices.

21 Q. And did you observe the interview?

22 A. Yes, ma'am.

23 Q. And did you participate in the interview?

24 A. No.

25 Q. Did you observe it, like, through a mirror or something?

1 A. I was able to observe the interview through a computer.
2 There's an observation room, and so as the interview is
3 taking place, Dee Norton Child Advocacy Center has sort of a
4 live feed I'm able to watch on a monitor.

5 Q. And what was the date of the first interview?

6 A. The first interview took place on June 18, 2020.

7 Q. And was that recorded?

8 A. Yes, ma'am.

9 Q. And was it completed that day?

10 A. No, ma'am.

11 Q. And why not?

12 A. So just like, you know, as was previously testified to,
13 MINOR 1 had a medical exam scheduled on the 18th as well. And
14 so to ensure that that medical examine could be completed, a
15 second date was selected to complete the interview portion.

16 Q. And did you attend both?

17 A. Yes, ma'am.

18 Q. When was that next interview?

19 A. The second interview was on June 23, 2020.

20 Q. And did you talk to MINOR 1 yourself for a brief time?

21 A. I spoke with her after the second interview.

22 Q. And what was the main purpose of that interview?

23 A. The main purpose of me speaking with MINOR 1 was to
24 review the aforementioned text messages from her cell phone
25 and subsequently get copies of those text messages.

1 Q. And how did you get those copies?

2 A. So when I met with MINOR 1, I was actually able to
3 physically hold her cell phone, see the text messages
4 directly from her cell phone, and to get copies of those text
5 messages. While in my presence, MINOR 1 took screenshots of
6 those text messages and e-mailed them directly to me.

7 Q. Did you take her phone?

8 A. No, ma'am.

9 Q. And why not?

10 A. Well, at the time, MINOR 1 had presented her phone to the
11 initial responding officer, now Detective Perez, which was
12 already previously discussed. She had referenced the text
13 messages during her interview at the Dee Norton Child
14 Advocacy Center. And then I was able to personally view the
15 text messages directly on the phone. So at that time, there
16 was no -- there did not appear to be any concern as to the
17 authenticity of those text messages.

18 Q. But you did not take the phone to look for other text
19 messages?

20 A. I'm sorry?

21 Q. You did not take the phone to look for other text
22 messages?

23 A. No, ma'am.

24 Q. And why not?

25 A. There weren't any other text messages referenced during

1 the course of the investigation.

2 Q. So MINOR 1 never said he had texted her before?

3 A. I don't recall other text messages being referenced in
4 her interview or directed to me subsequent to her interview.

5 Q. Did you talk with Kandra Pear?

6 A. Yes.

7 Q. And what was the purpose of -- where were you when you
8 talked to her?

9 A. I spoke with Ms. Pear following the second interview at
10 Dee Norton. That's where I spoke with her.

11 Q. And what was the purpose of that interview?

12 A. So the purpose of me speaking with Ms. Pear was for
13 several things. Number 1, I wanted to obtain what we call a
14 positive identification of Mr. Wigfall. That's where she
15 presents biographical identification about him, and she
16 positively identified him using his photograph.

17 MS. FORD: Objection, hearsay.

18 THE COURT: Sustained. Just try to make sure that
19 you're not quoting anybody else or saying what anybody else
20 said.

21 BY MS. HERRING-LASH:

22 A. So positive identification. The second reason was to
23 establish that Mr. Wigfall did reside with Ms. Pear and her
24 children until MINOR 1 disclosed sexual abuse. And then
25 finally, the third purpose of my communication with her was

1 to learn about her work schedule.

2 Q. Did you do a formal interview with her?

3 A. No.

4 Q. Take a written statement?

5 A. No. At CPD, Charleston Police Department, we actually
6 don't utilize written statements.

7 Q. But you didn't do any kind of formal interview?

8 A. No. The context of my communication with her was just
9 as I laid out.

10 Q. Did you talk with the other witnesses that MINOR 1 had
11 mentioned?

12 A. No.

13 Q. And why not?

14 A. Well, I didn't, and it's something that I probably could
15 have done. Again, in context of the time, you know, I had
16 been with special victims unit three months. We were kind of
17 right in the height of the pandemic. And there are things
18 now, being a detective in SVU for three years, I can go back
19 and maybe reflect on things that could have been done
20 differently.

21 Q. And did you contact Mr. Wigfall?

22 A. Yes.

23 Q. And how did you contact him?

24 A. I contacted Mr. Wigfall via telephone using the number
25 provided to me by Ms. Pear.

1 Q. And when you called him, did you identify yourself?

2 A. Yes.

3 Q. And did you tell him he did not have to talk with you?

4 A. Yes.

5 Q. And did he, in fact, agree to meet with you?

6 A. Yes.

7 Q. When you made that phone call to him to set up the
8 meeting, was it audio recorded?

9 A. Yes, ma'am.

10 MS. HERRING-LASH: Your Honor, may I approach the
11 witness?

12 THE COURT: Yes.

13 BY MS. HERRING-LASH:

14 Q. I'm going to show you a disk and see if you recognize
15 this disk?

16 A. Yes, ma'am.

17 Q. And what is that?

18 A. That is audio from a phone call that I made to
19 Mr. Wigfall.

20 Q. And how do you recognize it?

21 A. I recognize it by my initials here, and I dated it.

22 MS. HERRING-LASH: Your Honor, at this time, we would
23 offer this disk into evidence.

24 THE COURT: Any objection?

25 MS. FORD: Just my prior objection. Even though I don't

1 think we discussed this one in particular, it was my
2 understanding this was not going to be played.

3 THE COURT: Do we need to take this up outside the
4 jury's presence, do you think?

5 MS. FORD: I think so, your Honor.

6 THE COURT: Okay. Yeah. We'll take a quick break,
7 ladies and gentlemen. We need to discuss something outside
8 your presence. And I'll bring you back in momentarily.

9 (The jury exited the courtroom at 2:53 p.m.)

10 (The following proceedings were had outside the presence
11 of the jury.)

12 THE COURT: Okay. What is this marked, just so we have
13 a record of it?

14 MS. HERRING-LASH: It will be Number 9.

15 THE COURT: State's 9 --

16 MS. HERRING-LASH: Yeah.

17 THE COURT: -- will be the CD? Okay. And so this
18 contains the phone call --

19 MS. HERRING-LASH: The phone call.

20 THE COURT: -- that led up to the other interview --

21 MS. HERRING-LASH: Yes, your Honor.

22 THE COURT: -- that we did in pretrial? Okay.

23 Yeah, I don't know that we squarely discussed the
24 introduction of this at pretrial. So what's your objection,
25 Ms. Ford?

1 MS. FORD: And if I can just have a moment to review my
2 notes. When I had talked to Ms. Herring-Lash, my
3 understanding is at that time she wasn't planning on playing
4 it. I don't think there's anything objectionable, just
5 before it was played I wanted to double check.

6 THE COURT: Yeah. You want to take a minute and
7 re-listen to it, I'm happy to give you time to do that.

8 MS. FORD: Yes, your Honor.

9 THE COURT: We'll just be at ease for a few minutes,
10 everybody.

11 (Off the record.)

12 MS. FORD: Your Honor, I appreciate the time. I just,
13 again, I was mostly concerned -- I knew there was nothing
14 that my client said of concern, but I was concerned of
15 possible vouching issues like with the other recorded
16 statement. I didn't really hear anything like that.

17 The only thing -- and this is more the line of
18 questioning that might come after this -- the detective
19 several times mentions "Well, I just want to get your side of
20 the story." I know sometimes it's elicited, and I would
21 object. I will do this on the -- you know, while it's
22 happening, but I figure I may as well get it out now.

23 But sometimes answers are elicited to suggest that
24 "Based on his statement, I believe that I have enough
25 evidence, so then I decide to arrest him." And so then it

1 becomes a vouching type of issue. So I would object to it
2 turning into that, your Honor.

3 THE COURT: Mm-hmm.

4 MS. FORD: In general, I think the conversation is not
5 as much evidentiary value of 13 minutes of them talking where
6 to meet. I gather that mostly is to establish that my client
7 was willing to meet with them. But so I don't see the point
8 of playing it. However, I don't find anything in it
9 particularly objectionable.

10 THE COURT: Okay. Ms. Herring-Lash?

11 MS. HERRING-LASH: Your Honor, I did tell Ms. Ford --
12 and I did not plan on playing it. When I changed my mind is
13 considering that it does go toward some of the factors that
14 the case law talks about into the voluntariness of his
15 statement. And I'm just not aware of where we're at as far
16 as needing to put that in the record for the jury to hear. I
17 know you have decided --

18 THE COURT: Right. Well, and they are instructed that,
19 obviously, in the end. There is a portion of the jury charge
20 that deals with prior statements. And part of that charge
21 does ask the jury to make findings as to the voluntariness of
22 statements made. So I do think for that purpose, you know,
23 there's some probative value. But I'm happy to, you know --
24 over your -- er, what you think might be going to objections,
25 and then followup questions. We'll just keep our ears open

1 for that, and I'll try to make a quick ruling and I'll let
2 you get the -- stand up and make your objections if it
3 becomes necessary. But --

4 MS. FORD: Yes, your Honor.

5 THE COURT: -- I'll let it in for now. And what -- that
6 is -- again, that's State's 9?

7 MS. HERRING-LASH: That's State's 9, your Honor.

8 THE COURT: Okay. So we can bring the jury back in,
9 Mr. Pryor.

10 (The jury entered the courtroom at 3:13 p.m.)

11 THE BAILIFF: All jurors are present, your Honor.

12 THE COURT: Okay. Thank you.

13 All right. Please proceed.

14 MS. HERRING-LASH: Your Honor, at this time, I was going
15 to offer into evidence State's Exhibit Number 9.

16 THE COURT: Okay. It will be admitted.

17 (State's Exhibit Number 9 admitted into evidence.)

18 MS. HERRING-LASH: And may I publish it?

19 THE COURT: You may.

20 BY MS. HERRING-LASH:

21 Q. And once again, this is a phone call that you made to
22 Mr. Wigfall?

23 A. Yes.

24 Q. What was the date of that phone call?

25 A. The date of the phone call was on June 23, 2020.

1 (Audio played in open court.)

2 BY MS. HERRING-LASH:

3 Q. And Detective Christophersen, did you, in fact, go to
4 the parking lot?

5 A. Yes, ma'am.

6 Q. And did you interview Mr. Wigfall there?

7 A. Yes, ma'am.

8 Q. And was he in custody?

9 A. No.

10 Q. Was he free to leave?

11 A. Yes.

12 Q. Was that explained to him?

13 A. Yes. So upon making contact with Mr. Wigfall in the
14 7-Eleven parking lot, first thing I did upon making contact
15 with him, I gave him my business card, which had my name and
16 contact information on it for full transparency. I then
17 immediately afterwards told him that he was not under arrest,
18 he was not detained, he did not have any warrants for his
19 arrest, and then I even told that him he was free to leave,
20 quote, at any time.

21 Q. And did he appear to understand what you were explaining
22 to him?

23 A. Yes. He did not appear intoxicated or show any signs of
24 impairment. He was standing upright and engaged in
25 communication. Also, it's worth noting that he was waiting

1 for me when I arrived. I was actually 18 minutes late
2 getting there. So I arrived at about 5:48 p.m., and our
3 meeting was at 5:30. So he was there before I was.

4 Q. And did you have anyone with you?

5 A. Yes, ma'am.

6 Q. And how many people?

7 A. Just my supervisor was with me.

8 Q. And did you make any threats to get him to talk to you?

9 A. No.

10 Q. Did you control or use techniques to trick him while
11 talking?

12 A. No.

13 Q. Did you, in fact, tell him more than once he was free to
14 leave?

15 A. Yes.

16 Q. Did you leave him there that day?

17 A. Yes.

18 Q. And did you have a warrant for him that day?

19 A. No.

20 Q. How long after that did you take warrants out?

21 A. Warrants weren't drafted until six days after we met and
22 had our conversation.

23 MS. HERRING-LASH: And your Honor, at this time we would
24 offer the recorded body cam of that conversation, which has
25 been marked as State's Exhibit Number 8.

1 THE COURT: Okay. Admitted over defense objection?

2 MS. FORD: Yes, your Honor. Renewing my prior
3 objection.

4 THE COURT: Admitted over the objection.

5 (State's Exhibit Number 8 admitted into evidence.)

6 THE COURT: Go ahead.

7 MS. HERRING-LASH: May I publish it, your Honor?

8 THE COURT: You may.

9 (Video played in open court.)

10 BY MS. HERRING-LASH:

11 Q. And Detective, I think you said several days later you
12 took out warrants?

13 A. Six days later.

14 Q. And they were served?

15 A. On July 2.

16 Q. And was that your last involvement in the case?

17 A. Yes, ma'am.

18 MS. HERRING-LASH: No further questions. If you would
19 answer any that Ms. Ford has.

20 CROSS-EXAMINATION

21 BY MS. FORD:

22 Q. Hi, Detective.

23 A. Hey, good afternoon.

24 Q. You told us that back in June of 2020 you were fairly
25 new to the SVU unit, correct?

1 A. Yes.

2 Q. But you had still been in law enforcement for over ten
3 years at that point?

4 A. Yes. About 15.

5 Q. And it is common in many different types of cases to
6 just talk to a variety of witnesses?

7 A. Yes.

8 Q. That's actually pretty routine in murders and robberies
9 and other charges to talk to witnesses, correct?

10 A. Yes.

11 Q. Now, a phone is a very common item taken into evidence;
12 is that fair to say?

13 A. I don't know that I would agree with that. I guess I
14 would need more context of what we're discussing. But the
15 vast, vast majority of cases I've worked in 15 years, phones
16 are not a common thing to take into evidence.

17 Q. So you're denying that when someone is arrested, for
18 example, that pretty much always their phone is taken?

19 A. Can you ask that again? I'm sorry.

20 Q. When people are arrested, pretty much always their phone
21 is taken into evidence?

22 A. No. I would disagree with that statement.

23 Q. Well, police do have the ability to take phones into
24 evidence, correct?

25 A. In specific circumstances, sure.

1 Q. People sometimes give police their phones to look
2 through.

3 A. Is that a statement or a question?

4 Q. Yes. Well, I'm asking -- I'm making a statement for you
5 to agree with or disagree with.

6 A. I would need more context, I guess, to that statement.

7 Q. Okay. Well, sometimes they'll even have consent forms
8 that people can sign saying, "Here, you can look through my
9 phone."

10 A. Again, and I'm not trying to be difficult, but context
11 is very important. So when would we use a consent form?
12 What are the circumstances? Who are we meeting with? Is
13 that person in custody? Out of custody? Is this a witness?
14 A victim? There's just -- that's not a simple yes-or-no
15 answer.

16 Q. Okay. Well, I'm asking about in general. And I'm
17 asking do you have the capability?

18 A. Again, in general, yes, there is a consent form in
19 general terms. But again, when we would use that is very
20 specific.

21 Q. Okay. Well, you actually have someone at CPD who works
22 in the department where they can extract information from
23 phones?

24 A. Yes.

25 Q. Do you agree with that?

1 A. Yes.

2 Q. So there is a person whose job it is to extract
3 information?

4 A. Yes.

5 Q. Okay. In this case, we've seen some text messages. And
6 those text messages you received through screenshots that
7 were e-mailed to you, correct?

8 A. No. I saw them directly on MINOR 1's phone. How I
9 obtained copies of them was screenshots e-mailed to me. But
10 how I viewed them was directly on the mobile device.

11 Q. But when you viewed them, you viewed them but you did
12 not scroll through her text messages, correct?

13 A. Correct.

14 Q. To look through any prior text messages?

15 A. Correct.

16 Q. Or to look at any subsequent text messages, correct?

17 A. That's correct.

18 Q. Or to see any communication that MINOR 1 may have had
19 with other people about this case or other situations,
20 correct?

21 A. Correct.

22 Q. Now, through your investigation, you did learn that her
23 mother had actually found the picture of a man's penis on her
24 phone, correct?

25 A. So what I learned is that MINOR 1's mother, Ms. Pear, had

1 found a picture of a penis on her Snapchat account. However,
2 there was an explanation as to provided that -- there was an
3 explanation provided about that. I'm not going to get into
4 that, but there was an explanation provided that MINOR 1 had
5 given her account information to somebody else and this other
6 person was communicating with this third party. And so
7 MINOR 1 explained that, and she no longer had access to her
8 Snapchat account.

9 And further, things like Snapchat and other social media
10 platforms, they have a retention span where content is
11 automatically deleted and it's not preserved. And it's been
12 my experience, having done search warrants with Snapchat,
13 that that content is gone by the time search warrants are
14 obtained.

15 And finally, yes, I am aware that there was a Snapchat
16 picture. However, there was never any allegation that that
17 picture had anything to do with Mr. Wigfall, which is why
18 we're here.

19 Q. Well, since you work in the SVU unit, you're aware that
20 when someone at the Dee Norton Lowcountry Children's Center
21 is interviewing kids, they interview them -- they may be
22 there for a specific reason, like in this situation there was
23 an allegation, correct?

24 A. Yes.

25 Q. But they also ask about other things. They ask about

1 the living situation in the home, correct?

2 A. Yes.

3 Q. If they have witnessed drug or alcohol use, correct?

4 A. In general they ask those things. However, there are
5 other different types of interviews. But I don't know that
6 I'm specialized enough to speak on those other types of
7 interviews.

8 Q. Well, they always ask, "Is there anybody else" -- er,
9 "Is there anybody who's doing anything to you or making you
10 do things to them?" Correct?

11 A. I guess what kind of things? Can you be more specific?

12 Q. Well, sexual things in this case -- like in this case.

13 A. Right. That's why she was there was this is a
14 sexual-assault allegation.

15 Q. Right. The point is they ask -- they make sure that a
16 kid is safe in general, correct?

17 A. Yes. Yes.

18 Q. They don't just specifically ask about one specific
19 allegation, correct?

20 A. Correct.

21 Q. And it's not uncommon when investigating one matter,
22 there might be more things that come to your attention during
23 that investigation, correct?

24 A. Yes, sometimes.

25 Q. Okay. So if another -- if something else illegal comes

1 to your attention while you were investigating one situation,
2 you are able to investigate that additional illegal
3 situation, correct?

4 A. Again, it depends. For example, we need to establish
5 jurisdiction. Sometimes kids disclose things that occur in
6 other states. There's been times where children have
7 disclosed things that have actually happened in other
8 countries.

9 Q. Well, if they disclose something that happened in
10 another state, any other jurisdiction, you would report that,
11 correct?

12 A. Somebody would make a referral.

13 Q. Okay. And in this case, as we saw on the video we just
14 watched, Marcus told you that she had been texting with a
15 30-some-year-old male, correct?

16 A. I think he used the phrase "talking," not "texting."

17 Q. Well, the point is you never actually looked at MINOR 1's
18 phone past those few messages that she ended up
19 screenshotting, or whatever tense, correct?

20 A. So couple things unpacked there. To your latter point,
21 correct about the text messages. I viewed the text messages
22 that she showed Detective Perez, that she described in her
23 interview, and that she physically showed me. Those are the
24 text messages that I have a copy of. Those were the ones
25 that have been consistently reported as dealing with

1 Mr. Wigfall and the reason we're here.

2 The second part of what you had asked, again, him --
3 Mr. Wigfall saying that he allegedly heard her talking to
4 some other person, yeah, that's what he said. Allegedly, he
5 reports that that transpired.

6 Q. Okay. Well, ultimately, when you were looking at
7 **MINOR 1**'s phone, you were trying to corroborate what she said,
8 what she revealed, correct?

9 A. Yes.

10 Q. Okay. So that was your only concern in looking at her
11 phone?

12 A. No.

13 Q. Okay. Well, all you did was look at the text messages
14 that she showed you, correct?

15 A. Correct. I did only look at those text messages.
16 However, if there was a discrepancy in what was actually
17 physically on her phone versus what she was disclosing during
18 her interview, that could be a whole separate issue. So it
19 wasn't necessarily to corroborate what she was saying as much
20 as take a look at those messages for myself and determine if
21 there was evidentiary value in them.

22 Q. Now, Detective, in this case you did talk -- you told us
23 how you didn't talk to many people in this case; is that fair
24 to say? Like, people who were mentioned?

25 A. I don't know if I agree with your categorization of

1 "many."

2 Q. Okay.

3 A. But there were people that I did not speak with, and
4 then there was plenty of people who I did speak with.

5 Q. Okay. Well, you did not speak to MINOR 2 ?

6 A. Correct.

7 Q. And he was the other person living in the home who was
8 present at the time of these incidents, correct?

9 A. That's correct.

10 Q. Okay. And you didn't --

11 A. Well, let me actually clarify that. He was living at
12 the home; however -- and he previously testified to this --
13 there were many times that he actually wasn't at the home.
14 He would be at practice or doing something else.

15 Q. Okay. Well, during your investigation, you had reason
16 to believe that he at least could have been home and you
17 failed to even try to talk to him, correct?

18 A. Like I said earlier, you know, hindsight being 20/20, I
19 can't stress enough that we were three months into a global
20 pandemic. We were reworking protocols. I was three months
21 into a very unique unit, the special victims unit. And there
22 are things three years later that I can certainly reflect on
23 and maybe do differently next time. But I'm glad he was here
24 today to speak for himself.

25 Q. You didn't speak to Ivy, correct?

1 A. Correct.

2 Q. And then Marcus, in his video, he mentioned a couple of
3 MINOR 1 's friends who were over, Desiree and, I believe,
4 Denasia or something like that. You never attempted to find
5 out who those girls were, correct?

6 A. Correct.

7 Q. And we've also talked a lot about Wendy's and how Kandra
8 worked at Wendy's at some point. You even specifically told
9 us that one reason you were talking to Kandra, I believe, was
10 to try to figure out her Wendy's schedule, correct?

11 A. Yes.

12 Q. Now, Wendy's is a big corporation; is that fair to say?

13 A. Yes.

14 Q. And they keep records?

15 A. Mm-hmm.

16 Q. And you could have gone to Wendy's and you could have
17 requested her work schedule over the past few years?

18 A. Mr. Wigfall corroborated it himself.

19 Q. Well, Mr. Wigfall said two days -- about two days a
20 week, correct?

21 A. Yes.

22 Q. Some people throughout this trial have mentioned more
23 days than that. Wouldn't having the records have helped
24 establish how often and for how long she actually worked at
25 Wendy's?

1 A. I think that the important thing here is that, Number 1,
2 those numbers are caveated with "about," "approximately."
3 It's an estimate. And one thing that we do know consistently
4 throughout this trial is that everyone agrees that Ms. Pear
5 did work at Wendy's, it was in the evening, and it was
6 certainly more than one time a week.

7 Q. So let's go back a little to Ms. Pear. So you did
8 specifically meet with Ms. Pear, correct?

9 A. I spoke with her after MINOR 1's interview.

10 Q. Okay. So she did have her own little interview where
11 you recorded your conversation with her, correct?

12 A. As I previously testified to, I took a recorded
13 statement for the purposes of obtaining the positive
14 identification of Mr. Wigfall, discussing that he resided
15 with them until MINOR 1 disclosed sexual abuse by him, and her
16 telling me that she worked at Wendy's a couple nights a week,
17 approximately.

18 Q. Now, if she had said, "Hey, I want to tell you some more
19 information," or "I have some more information," you would
20 have allowed her to talk to you further, correct?

21 A. Yes.

22 Q. Okay. And at no point did she mention that she had seen
23 things that concerned her -- personally that she had seen
24 things between Marcus and MINOR 1, correct?

25 A. So prior to taking the recorded statement, the alleged

1 Snapchat picture was addressed. But beyond that, I don't
2 recall anything else.

3 Q. Okay. So she never mentioned a situation where she and
4 Marcus were having an argument in the kitchen and then MINOR 1
5 chimed in, correct?

6 A. I don't recall that.

7 Q. Okay. Now, Marcus, I think we could all see from the
8 video and hear from the recording, he was very willing to
9 meet with you?

10 A. Yes.

11 Q. Okay. So he was cooperative?

12 A. Yes.

13 Q. He admitted to giving her marijuana?

14 A. Yes.

15 Q. But he did deny that there was any sexual contact
16 between them?

17 A. Well, he said that he wouldn't want to engage in oral
18 sex with her because it would make him want to have sexual
19 intercourse with her.

20 Q. Well, he --

21 A. A 30-year-old grown man did -- yes, he did say that
22 about a teenage girl.

23 Q. But did he say that anything sexual had happened between
24 them? He did not, correct?

25 A. Correct. He said he would not want to engage in oral

1 sex with her because otherwise he'd want to have sexual
2 intercourse with her, yes.

3 Q. He said he had not. It's a yes-or-no question.

4 A. That's correct.

5 MS. FORD: Beg the Court's indulgence?

6 THE COURT: Uh-huh.

7 MS. FORD: No further questions.

8 MS. HERRING-LASH: No other questions, your Honor.

9 THE COURT: Okay. You can step down from the witness
10 stand. Thank you very much.

11 (Witness excused.)

12 THE COURT: Okay, ladies and gentlemen. At this point
13 in the afternoon, we are going to go ahead and break for the
14 day, and we'll come back tomorrow. I'm sticking to my
15 hopeful that we'll finish up tomorrow, but I don't like to
16 make any promises in that regard. But that's the outlook
17 right now. So I'm going to release you for the afternoon
18 and, once again, instruct you not to do any independent
19 research and don't talk about the case at all. And we'll see
20 you back again tomorrow morning at 9:30. Thank you so much.

21 (The jury was released for the day and exited the
22 courtroom at 4:19 p.m.)

23 (The following proceedings were had outside the presence
24 of the jury.)

25 THE COURT: All right. So it looks like we have two

1 more witnesses in the morning for the State. Is that right?

2 MS. HERRING-LASH: Yes, your Honor.

3 THE COURT: Okay. And then we'll switch sides after
4 that. So I'm hopeful we can finish tomorrow. I want the
5 attorneys to at least be prepared for that possibility
6 because it looks like it could be happening. Okay?

7 MS. FORD: Yes, ma'am.

8 THE COURT: And once again, any requested charges, I
9 know obviously we haven't gotten everything in yet, but any
10 anticipated charges or requested charges, feel free to send
11 my way, directly to me. And we'll see you in the morning at
12 9:30.

13 MS. FORD: Yes, ma'am.

14 (Court recessed at 4:20 p.m., to resume at 9:30 a.m.,
15 Wednesday, February 8, 2023.)

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1 (Court resumed at 9:23 a.m., Wednesday, February 8,
2 2023, outside the presence of the jury.)

3 THE COURT: All right. So attorneys, I received a note
4 today, this morning, just a few moments ago, that says, "Your
5 Honor, can 111 please have something to prop his legs up on,
6 such as a crate. Yesterday's session took a hard toll on him
7 without being able to have his legs touch the ground all day.
8 Thank you for your consideration. Juror 111."

9 So we have tried to make an accommodation by flipping
10 over a can and putting some coffee-table books on top of his
11 chair. And the bailiffs assisted me with that process. So I
12 just wanted to let y'all know that that was requested and
13 that, otherwise, no issues. So that was Court's 3.

14 (Court's Exhibit Number 3 marked for the record.)

15 THE COURT: Are we waiting on anyone?

16 THE BAILIFF: No, your Honor. Everybody's here.

17 THE COURT: Everybody's here? Okay.

18 All right. I have not received any specific jury charge
19 requests overnight, so I take it no one has anything in
20 particular.

21 MS. HERRING-LASH: I do not, your Honor.

22 THE COURT: Okay. Could y'all just send me -- just
23 because my bench book is so old it still says "lewd acts,"
24 can y'all send me just the charge for the CSC with a minor,
25 third degree? I think it's just the statute, but if you

1 could just e-mail that to me.

2 MS. HERRING-LASH: I'll do it at lunch, if that's okay.

3 THE COURT: Yeah. Yeah, yeah. Whenever. That's fine.

4 No rush. I'll just plug it in.

5 MS. FORD: Your Honor, I didn't have any particular or

6 specific. I guess I would just request a

7 circumstantial-evidence charge, like the --

8 THE COURT: Yes. That's definitely in there.

9 MS. FORD: But other than that, I have nothing.

10 THE COURT: And then -- okay. And then do you know --

11 and we can re-address this, but do you know if he'll -- do

12 you think he'll testify, or are you certain yet?

13 MS. FORD: Um --

14 THE COURT: You're still discussing that option right

15 now?

16 MS. FORD: Well, this morning he informed me he does not

17 believe he's going to testify, but we'll have to see how this

18 the State's case goes.

19 THE COURT: Yeah, we'll re-evaluate. Okay. Do you know

20 -- and this is just purely scheduling. But do you have any

21 other witnesses at this point in time? Do you have any you

22 want to call?

23 MS. FORD: No, your Honor. I do not.

24 THE COURT: Okay. And again, I'm not holding you to

25 anything, just trying to get a general idea of schedule.

1 So just for y'all's information, we are ordering lunch
2 in for the jury today, just to try to get this done today.
3 So I think we hopefully can do that.

4 MS. HERRING-LASH: About the charges, I just had one
5 question. I don't know if you included that specific charge
6 on child witnesses. I did not request it because she's not
7 really a child.

8 THE COURT: I did not because of the fact that she is
9 not a minor as she testifies. I think that applies as they
10 testify.

11 MS. HERRING-LASH: Yeah. And I think that, according to
12 what some of the appellate lawyers have told me, they think
13 that it may eventually be a problem with commenting on the
14 facts, just like the corroboration was.

15 THE COURT: Yeah, yeah.

16 MS. HERRING-LASH: So trying to prevent a problem.

17 THE COURT: Right. Yeah. I'm not putting that in there
18 because, like I said, I think that only applies when they
19 actually testify as a minor.

20 So anything else? And again, if you think of something
21 later, that's fine. We can also take this up before we
22 charge the jury.

23 Ms. Ford, any other thoughts?

24 MS. FORD: No particular thoughts about the
25 instructions. I would say as far as the expert goes, of

1 child abuse, the blind witness, I will make a general
2 objection, but I'm -- I mean, I'm aware of the case law.
3 It's just --

4 THE COURT: Yeah.

5 MS. FORD: It's continuously being addressed.

6 THE COURT: Sure. Yeah.

7 MS. FORD: And I didn't want to not address it in
8 case --

9 THE COURT: Definitely. Yeah.

10 MS. FORD: -- it changes. But just in general, I would
11 argue that that testimony is indirect -- at least that it's a
12 blind witness, but indirectly vouching and would be
13 bolstering her testimony. And so we would object, but we do
14 understand the case law at the current moment.

15 THE COURT: Right. Okay. Sure. Appreciate that. And
16 you'll have a chance to renew that objection at the
17 appropriate time as well.

18 MS. FORD: Yes, your Honor.

19 THE COURT: Obviously.

20 So all right. Anything else before we bring the jury
21 back in?

22 MS. HERRING-LASH: Not from the State.

23 THE COURT: Okay. All right. Well, we can bring them
24 in.

25 THE BAILIFF: Okay.

1 THE COURT: Whenever they're ready. We're a little
2 early --

3 THE BAILIFF: Yes, ma'am.

4 THE COURT: -- so whenever they're ready to go.

5 MS. HERRING-LASH: Your Honor, while we're waiting, I'd
6 like to just give the Court the CV for the nurse practitioner
7 that will be testifying.

8 THE COURT: Oh, okay. Do you want -- there's two
9 copies. Do you want me to give one as a court's exhibit?

10 MS. HERRING-LASH: Yes, your Honor.

11 THE COURT: Okay. Or a State's exhibit for ID? How do
12 you want to do it? I guess it would be State's ID only at
13 this point in time?

14 MS. HERRING-LASH: And I also have two for the blind
15 expert, if you want to go ahead and mark it.

16 THE COURT: Okay.

17 MS. HERRING-LASH: Yeah.

18 THE COURT: Okay. A copy for me and a copy for the --

19 MS. HERRING-LASH: Yes.

20 THE COURT: All right. Okay. So these can be the next
21 two State's, for ID only.

22 MS. HERRING-LASH: And Ms. Ford has a copy.

23 THE COURT: Okay. Thank you.

24 (State's Exhibits Numbers 10 and 11 marked for
25 identification only.)

1 (The jury entered the courtroom at 9:29 a.m.)

2 THE BAILIFF: All jurors are present, your Honor.

3 THE COURT: All right. Thank you so much.

4 All right. Welcome back, ladies and gentlemen. We are
5 ready to go forward.

6 The State can call their next witness.

7 MS. HERRING-LASH: The State would call Stephanie
8 Petersen.

9 CLERK OF THE COURT: Please raise your right hand and
10 place your left hand on the Bible.

11 (Witness sworn.)

12 CLERK OF THE COURT: Please be seated.

13 Please state your full name, spelling your last name
14 directly in the microphone.

15 THE WITNESS: Stephanie Petersen, P-E-T-E-R-S-E-N.

16 STEPHANIE PETERSEN,
17 called as a witness on behalf of the State, being first duly
18 sworn, was examined and testified as follows:

19 DIRECT EXAMINATION

20 BY MS. HERRING-LASH:

21 Q. Ms. Petersen, where do you work?

22 A. Medical University of South Carolina.

23 Q. And what are your duties there?

24 A. I'm a family nurse practitioner. And I see kids who
25 have -- they're suspected abuse or neglect, in the clinic

1 setting as well as in the hospital.

2 Q. And what is the difference in the clinic setting and the
3 hospital?

4 A. We see kids in the hospital when they're within a
5 timeframe to collect forensic evidence, like -- trace
6 evidence like hair, semen, saliva. And then we see them in
7 the clinic if it's beyond that 96-hour time window.

8 Q. I'm sorry. Really what I'm kind of referring to is what
9 is your clinic setting as opposed to a hospital?

10 A. Oh. The clinic setting is at the Child Advocacy Center,
11 so we have a medical center within the CAC.

12 Q. And what's your educational background?

13 A. I have been in nursing for 19 years, about. And the
14 past four and a half I've been working in the division of
15 child abuse.

16 Q. What were predominantly your duties before you got to
17 the medical university?

18 A. My prior position?

19 Q. Mm-hmm.

20 A. So as a family nurse practitioner, I did a year in
21 family practice. The majority of my practice has been in
22 urology, and that was about five years there.

23 Q. And what kind of training have you had at the medical
24 university for the position you have there?

25 A. We start with a 27-hour course through the Midwest CAC,

1 the Child Advocacy Center.

2 Q. Mm-hmm.

3 A. And that's the foundation for coming into the field.
4 Then we do about a 12-week apprenticeship with another
5 provider in child abuse, and that's one-on-one. For PSANE,
6 the pediatric sexual assault nurse examiner, we have about
7 three months one-on-one with another PSANE, and then we're --
8 we have oversight for another six months by a PSANE. And all
9 of our documentation is reviewed by a board-certified
10 child-abuse pediatrician.

11 Q. And so have you gone through all of that pediatric SANE
12 nurse training?

13 A. Yes.

14 Q. And have you had your SANE nurse exams reviewed by a
15 pediatric forensic physician?

16 A. Yes. Every exam.

17 MS. HERRING-LASH: Your Honor, at this time I would
18 offer Ms. Petersen as an expert in pediatric SANE exams.

19 THE COURT: Any objection?

20 MS. FORD: No, your Honor.

21 THE COURT: Ladies and gentlemen, normally folks who
22 testify from the witness stand can't give you their opinion.
23 They can only tell you about things they've seen or they've
24 heard or things like that. There is an exception for folks
25 we deem to be an expert in some science or field. This

1 witness will be deemed an expert in the area of pediatric
2 SANE exams. So she'll be allowed to give her opinions in
3 that area. Now, you don't have to accept her opinions. It's
4 just information for you to use in any way that you see fit.

5 Please proceed.

6 BY MS. HERRING-LASH:

7 Q. Now, I think you started to get into this, but I will
8 ask you. Are there two kinds of SANE exams that you perform?

9 A. Yes.

10 Q. And what are those?

11 A. So we do an outpatient exam or inpatient if they're in
12 the ER.

13 Q. Mm-hmm. And what is the difference in the exams?

14 A. If they're in the ER, they're within a timeframe of 96
15 hours where we can collect forensic evidence. And if they're
16 outside that timeframe, we can see them in the clinic.

17 Q. And what do you mean by "collect forensic evidence"?

18 A. We use swabs and collect something that -- like saliva,
19 semen, hair, that sort of evidence on the patient.

20 Q. And why don't you do that after 96 hours?

21 A. It would be washed away. So with showering, brushing
22 the teeth, urinating, eating, washes away that evidence.

23 Q. And those are pretty standard protocols?

24 A. Yes.

25 Q. And we've been talking about SANE, but what does that

1 stand for?

2 A. Sexual assault nurse examiner.

3 Q. And did you see MINOR 1 ?

4 A. I did.

5 Q. And when and where did you see MINOR 1 ?

6 A. I saw her on June 18, 2020. And I saw her at Dee Norton
7 Child Advocacy Center.

8 Q. And who referred her?

9 A. DSS, the Department of Social Services.

10 Q. And who came with her?

11 A. Her mother did.

12 Q. And what type of exam did you perform on MINOR 1 ?

13 A. An outpatient exam.

14 Q. And that was because it had been more than 96 hours?

15 A. Yes. Correct.

16 Q. And what did you do first?

17 A. When I'm seeing a patient in the office, the first thing
18 I do is review the demographic information, the referral
19 intake, so any medical history that's available to me. And
20 then I usually talk to DSS or law enforcement, if they're
21 present for that day. And then we start to see the patient.

22 Q. Do you get a medical history from the caregiver who --

23 A. Oh, yes. Yes.

24 Q. And did you meet with MINOR 1 before the exam?

25 A. Yes. With my adult, since I try to meet them before.

1 Q. And did you get a medical history from her?

2 A. I got the medical history from the mom.

3 Q. You may not have it.

4 A. Yeah, I got the history from her mom.

5 Q. Was there any pertinent medical finding?

6 A. She was a premature baby.

7 Q. And any other physical pertinent finding?

8 A. From her medical history?

9 Q. Mm-hmm.

10 A. No.

11 Q. And then did you do any kind of interview with MINOR 1 as
12 to why she was there?

13 A. I did not.

14 Q. And why was that?

15 A. Because she had completed most of a forensic interview
16 when I saw her.

17 Q. And is that your best practice to not interview the
18 child?

19 A. Yes, so they don't have to repeat themselves. And also,
20 it's a neutral fact-finding interview.

21 Q. And did you begin with a general physical exam of
22 MINOR 1?

23 A. Yes, after I had her do the adolescent health
24 questionnaire.

25 Q. Mm-hmm. And what does that entail, the physical exam?

1 A. It's a head-to-toe assessment, everything from eyes,
2 ears, nose, throat, a full skin exam, and then we do the
3 genital exam.

4 Q. Were there any pertinent medical findings from her
5 general history exam?

6 A. She had an elevated blood pressure.

7 Q. Mm-hmm. Did you also find obesity?

8 A. Yes.

9 Q. So obesity and an elevated --

10 A. Blood pressure.

11 Q. -- blood pressure?

12 A. Mm-hmm.

13 Q. And then you did a genital exam?

14 A. Correct.

15 Q. And explain what the genital exam is.

16 A. The genital exam is when the examiner looks at the area
17 comprised of the reproductive organs.

18 Q. Mm-hmm.

19 A. And those organs are inside as well as external. And
20 the internal starts at where the mucosal tissue starts, so
21 just beyond the lips.

22 Q. So if it's within the mucosa, it's within the genital
23 area?

24 A. Correct.

25 Q. And how does -- how was she positioned for this exam?

1 A. Lithotomy, which is she is laying on her back on the
2 exam table and her feet are up in foot rests.

3 Q. And did you have any findings?

4 A. No.

5 Q. And you knew from, I guess, the history that there had
6 been a history of some kind of sexual contact?

7 A. Correct.

8 Q. And did your findings being normal rule out that
9 contact?

10 A. No.

11 Q. Why not?

12 A. We expect a normal exam. The majority of children who
13 experience sexual abuse have normal exams.

14 Q. Is there any research regarding that?

15 A. Yes.

16 Q. And what is that research based on? What population?

17 A. Pregnant adolescents.

18 Q. And what were the findings on pregnant adolescents?

19 A. The majority of -- I think there were 36 adolescents in
20 the paper, and only two had findings that were indicative of
21 penetrative trauma.

22 Q. And why is that?

23 A. It's for multiple reasons.

24 There's the timing. So if there was an injury, that can
25 heal. And it heals very quickly because that tissue is very

1 vascular. It's like the tissue inside the mouth. So if you
2 burn your mouth on pizza, it's almost healed the next day.
3 It's similar to that kind of tissue, so it heals very
4 quickly.

5 That area of the body is also meant to stretch, so there
6 is -- there can be penetrative trauma without visible injury
7 or scarring.

8 Q. And was that the only appointment you had with MINOR 1 ?

9 A. Yes.

10 MS. HERRING-LASH: The Court's indulgence?

11 THE COURT: Uh-huh.

12 MS. HERRING-LASH: Those are all the questions I have,
13 Ms. Petersen, so if you will answer any Ms. Ford has for you.

14 THE WITNESS: Mm-hmm.

15 CROSS-EXAMINATION

16 BY MS. FORD:

17 Q. Hello. Ms. Herring-Lash asked you about you gathering
18 general medical history, correct?

19 A. Mm-hmm.

20 Q. And you did have a note that MINOR 1 experiences
21 headaches?

22 A. Yes.

23 Q. So in particular, there was an indication that she
24 experienced frequent headaches, that she always had a
25 headache, correct?

1 A. That's what I wrote in my report.

2 Q. Now, ultimately, your testimony has been that you didn't
3 find anything of concern during your exam, correct?

4 A. Correct.

5 Q. One reason that -- er, you testified in this case you
6 did not ask MINOR 1 particular questions about the
7 allegations, true?

8 A. Correct.

9 Q. But you did gather information from the other people who
10 had interviewed her?

11 A. Yes. I spoke with the forensic interviewers.

12 Q. And sometimes that may be important because it may
13 direct your attention to what you need to pay close attention
14 to --

15 A. Mm-hmm.

16 Q. -- is that fair to say?

17 A. Yes.

18 Q. In this particular case, because of what you had
19 learned, there was a concern for a possible genital trauma
20 and so you found the need to use a high-definition
21 magnification, I guess, camera; is that correct?

22 A. That's standard.

23 Q. Okay. One area that you did look at was MINOR 1 's hymen?

24 A. Correct.

25 Q. And there are a variety -- well, actually, let's go

1 into -- just to make sure we have a definition for a hymen.

2 A hymen is a thin membrane that stretches across the vagina;
3 is that fair to say?

4 A. Yes.

5 Q. Okay. And many people may think the hymen totally
6 covers the opening of the vagina until it's stretched out,
7 but that is not usually the case. Would you agree with that?

8 A. I would agree.

9 Q. But a lot of people tend to think that?

10 A. Correct.

11 Q. It's a myth, you could say?

12 A. It's a misunderstanding.

13 Q. But for the vast majority of people, hymens are not
14 seals that cover the opening?

15 A. Correct.

16 Q. And hymens actually can be stretchy?

17 A. Right. It's meant to stretch.

18 Q. And flexible?

19 A. Mm-hmm.

20 Q. So they're not necessarily going to be rigid?

21 A. No.

22 Q. Okay. And that's why it can be difficult to determine
23 by examining any woman if she is, for example, a virgin; is
24 that fair to say?

25 A. We do not confirm virginity.

- 1 Q. Occasionally there can be tears to the hymen, though?
- 2 A. There can be.
- 3 Q. And that can be from a variety of things; is that fair?
- 4 A. Like a complete tear?
- 5 Q. Well, tearing can come from penetrative sex, correct?
- 6 A. Penetrative trauma.
- 7 Q. It can also come from tampons even?
- 8 A. I have not read that.
- 9 Q. Okay. Well, sex is not the only thing that can create
- 10 some type of trauma?
- 11 A. I guess, like, a blunt-force trauma or a penetrative
- 12 trauma.
- 13 Q. Or fingers?
- 14 A. That would be penetrative.
- 15 Q. Digital? Okay. There are a variety of different forms
- 16 of hymen -- er, shapes; is that correct?
- 17 A. Mm-hmm.
- 18 Q. Okay. And one of the most typical kind would be a
- 19 crescentic? Crescentic -- I'm not sure if I'm pronouncing
- 20 that correctly.
- 21 A. Mm-hmm.
- 22 Q. And that is the type that you found **MINOR 1** to have,
- 23 correct?
- 24 A. Yes. That's what I documented.
- 25 Q. There are some less common types of hymens, and one such

1 type would be -- let's see. And again, I'm not sure if I'm
2 pronouncing this correctly, but imperforate?

3 A. Imperforate?

4 Q. Okay.

5 A. Mm-hmm.

6 Q. And that is not -- MINOR 1 did not have that, correct?

7 A. Correct.

8 Q. And that type, just so we understand, that is a hymen in
9 which no opening to the vagina is present?

10 A. Correct.

11 Q. And so a procedure may need to be done in order to help
12 ease that, correct?

13 A. Possibly. Or it could change as estrogen increases
14 during puberty.

15 Q. There's another type called the microperforate, and that
16 would be when there's a very small opening, correct?

17 A. Correct.

18 Q. And so that can be another form where there might be
19 particular issues such as a lot of pain, correct?

20 A. I don't -- I don't recall seeing a patient that has pain
21 with microperforate. I guess there could be, but usually
22 it's just found incidentally.

23 Q. Okay. But that's a particularly small opening, correct?

24 A. Yes.

25 Q. And MINOR 1 did not -- was not found to have that type of

1 a hymen, correct?

2 A. Correct.

3 Q. So basically, MINOR 1 's exam showed that she was typical
4 and average, correct?

5 A. Mm-hmm. Yes.

6 MS. FORD: Beg the Court's indulgence?

7 THE COURT: Uh-huh.

8 MS. FORD: I have no further questions.

9 THE COURT: Okay. Any redirect?

10 MS. HERRING-LASH: Yes, your Honor.

11 REDIRECT EXAMINATION

12 BY MS. HERRING-LASH:

13 Q. Ms. Ford asked you about the high-definition, I guess,
14 photography?

15 A. Yes.

16 Q. Why is that done?

17 A. We do that -- well, it helps us get through our exam
18 faster. And sometimes, you know, as children move on the
19 table, it can be easier to see a still image and we can blow
20 it up. And also, with our child-abuse pediatricians who
21 review all of our reports, they also review our pictures.

22 Q. So it's for peer review?

23 A. Correct.

24 Q. You were asked about the hymen. Tell us about the
25 female anatomy as far as from the beginning all the way up.

1 A. So externally is the labia majora, also known as the
2 lips. And there's labia minora inside of that, which has the
3 mucosal tissue.

4 Q. Mm-hmm.

5 A. There's the clitoris, the urethra opening, then the
6 hymen, then the vagina, cervix at the top of the vagina, and
7 then the internal structures.

8 Q. So the hymen and the vagina are pretty far in?

9 A. Yeah. So it's within that mucosal surface.

10 Q. And the genital area is where?

11 A. The genital is where that mucosal surface is inside of
12 the lips.

13 Q. So the genital area begins before the hymen?

14 A. Oh, correct.

15 Q. Do patients complain of pain from labial penetration?

16 A. They could.

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

18 THE COURT: Any recross?

19 MS. FORD: Just a few.

20 THE COURT: Okay.

21 RECROSS-EXAMINATION

22 BY MS. FORD:

23 Q. Just to make sure, the hymen is typically found just
24 inward of the vagina?

25 A. No. Just before.

1 Q. Okay. But it's not deep inside a person, correct?

2 A. I mean, it's situated -- it depends on the person's
3 anatomy, but it's -- I think it depends on how, like, the
4 pelvis is tipped. But it's within that mucosal region.

5 Q. Okay.

6 MS. FORD: No further questions.

7 THE COURT: Okay. All right. You can step down. Thank
8 you so much. You're free to leave.

9 (Witness excused.)

10 THE COURT: The State may call its next witness.

11 MS. HERRING-LASH: The State will call Carole Swiecicki.

12 MS. FORD: And your Honor, I'd, you know, raise the
13 objection discussed previously.

14 THE COURT: Okay. Can I -- while she's coming, can I
15 see the attorneys up here for a moment?

16 (The following sidebar discussion was held on the record
17 at the bench in the presence of the jury but outside the
18 hearing of the jury.)

19 THE COURT: Did she treat --

20 MS. HERRING-LASH: No.

21 THE COURT: Okay. All right. I just wanted to clear
22 that up.

23 MS. HERRING-LASH: And I think if -- we would be relying
24 on a 2022 case, *State versus Acker*.

25 THE COURT: Uh-huh.

1 MS. HERRING-LASH: I can give you the cite.

2 THE COURT: Yeah. I think I'll allow it.

3 MS. HERRING-LASH: Okay.

4 THE COURT: Okay. Thank you.

5 (The following proceedings were held in open court in
6 the presence and hearing of the jury.)

7 THE COURT: All right. Your objection is renewed
8 timely. I'll allow this witness to testify. If there's any
9 other objections specifically during testimony, they are to
10 be raised at the pertinent time. Okay?

11 MS. FORD: Yes, your Honor.

12 THE COURT: All right. Go ahead.

13 CLERK OF THE COURT: Please raise your right hand and
14 place your left hand on the Bible.

15 (Witness sworn.)

16 CLERK OF THE COURT: Please be seated.

17 Please state your full name, spelling your last name
18 directly in the microphone.

19 THE WITNESS: My name is Carole Swiecicki, last name is
20 S-W-I-E-C-I-C-K-I.

21

22

23

24

25

1 CAROLE SWIECICKI,
2 called as a witness on behalf of the State, being first duly
3 sworn, was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MS. HERRING-LASH:

6 Q. And where do you work, Dr. Swiecicki?

7 A. I'm a licensed psychologist and the owner at Harbor
8 Maple Counseling and Psychological Services.

9 Q. And what is that?

10 A. It's a private practice, psychology practice.

11 Q. And how long have you been there?

12 A. I've been there a year, owning that. And prior to that,
13 I was at the Dee Norton Child Advocacy Center providing
14 oversight to their problematic programs.

15 Q. How long were you at the Dee Norton Center?

16 A. I was there for nine years.

17 Q. And what is your educational background?

18 A. I have my master's in psychology, and also my bachelor's
19 degree and a Ph.D. in clinical psychology.

20 Q. And what's your professional background?

21 A. Professionally, I'm a licensed psychologist.

22 Q. And what professional background do you have as far as
23 employment?

24 A. So prior to working at Dee Norton, I was a psychologist
25 at a hospital-based children's advocacy center in Norfolk,

1 Virginia. And prior to that, I did a postdoctoral
2 fellowship, which is a year of training after getting your
3 Ph.D., at an outpatient clinic that was part of Saint John's
4 University.

5 Q. Has some of your work focused on research in the area of
6 child-abuse dynamics?

7 A. Yes.

8 Q. And what was that focus mainly?

9 A. Most of my research has focused on understanding
10 symptoms that children develop after experiencing sexual
11 abuse or physical abuse, and also characteristics involved in
12 treating children who experience trauma.

13 Q. What specialized training have you received in the area
14 of child-sexual-abuse dynamics?

15 A. My final year of clinical training, to get my Ph.D., was
16 an internship -- it's full time -- that I did at Medical
17 University of South Carolina as a trauma intern. And then
18 that postdoctoral fellowship here is also a training year
19 where I studied with a developer of one of the treatment
20 models for children who experience different types of
21 traumatic events.

22 Q. And have you also had clinical experience in that area?

23 A. Yes.

24 Q. What does that -- what did that entail?

25 A. I've --

1 Q. Just basically.

2 A. Sure. I've been licensed since 2007, and most of my
3 clinical work has been working with children and/or adults
4 who've experienced trauma, different types of trauma types
5 including sexual abuse.

6 Q. And where -- do you have any professional affiliations?

7 A. I'm a member of the American Psychological Association
8 and the Association for Behavioral and Cognitive Therapies.

9 Q. And have you published any peer-reviewed articles?

10 A. Yes.

11 Q. Can you give us just a small synopsis of those?

12 A. A couple of them have to do with developing measures,
13 like questionnaires related to people's experiences of
14 different trauma types. One was involved in preventing
15 sexual abuse, to understanding how caregivers receive
16 information and kind of what that process is like for them.

17 Q. Have there been -- how many, if you know, have you
18 published?

19 A. I'm not sure the exact number. On my resume it
20 separates things into peer-reviewed publications and also
21 presentations at conferences. I just never considered them,
22 so I would have to guess.

23 Q. Have you done presentations in the area of child sexual
24 abuse with anyone?

25 A. Yes.

1 Q. What are some of those?

2 A. Some of those again mostly involve understanding how
3 children describe their experiences, what their symptoms are,
4 you know, in terms of intrusive thoughts or sadness,
5 depression, anxiety, how they experience those things. And
6 then also, some of them are involved in engaging in therapy,
7 what makes it hard for children to come to therapy, what
8 makes it easier for them, how effective is treatment. And
9 those are generally the areas where I've worked.

10 Q. And have you testified in court as an expert in the area
11 of child-abuse dynamics?

12 A. Yes.

13 Q. How many times and in what courts?

14 A. I testified approximately 20 times, and in -- so prior
15 to coming to Charleston, I was in the Norfolk, Virginia, area
16 and testified in Portsmouth juvenile domestic court, Norfolk
17 criminal court, Virginia Beach court, and then here in the
18 Charleston area in Charleston general sessions court and
19 Berkeley court as well.

20 MS. HERRING-LASH: At this time, your Honor, I would
21 offer Dr. Swiecicki as an expert in the area of
22 child-sexual-abuse dynamics.

23 THE COURT: Any objection to her qualifications to
24 testify in that field?

25 MS. FORD: No, your Honor. Just nothing in addition to

1 my previous objection.

2 THE COURT: All right. Notwithstanding your other
3 objection that we discussed, I'll allow her to qualify as an
4 expert, ladies and gentlemen, in the field of
5 child-sexual-abuse dynamics. And once again, that is
6 information for you to use any way that you see fit. She'll
7 be allowed to give you opinion testimony in that area, but
8 you do not have to accept her opinion.

9 Go ahead.

10 BY MS. HERRING-LASH:

11 Q. Dr. Swiecicki, have you met any of the family members
12 involved in this case?

13 A. Not to my knowledge.

14 Q. Have you reviewed any files or paperwork or
15 documentation?

16 A. No.

17 Q. Do you know the age or gender of any of the potential
18 victims in this case?

19 A. No.

20 Q. And did you have any contact with this family when you
21 were at the center?

22 A. No. Well, not to my knowledge.

23 Q. Did you -- were you in a position to overview and
24 supervise clinicians that were doing interviews and such?

25 A. My position when I was at the center provided general

1 oversight but not direct supervision.

2 Q. And what does the term "delayed disclosure" mean?

3 A. Delayed disclosure, when we think about sexual abuse,
4 involves anything that's longer than one month after the
5 event happening. So disclosure that would be considered
6 immediate is telling within a month, and then anything longer
7 than that is delayed disclosure.

8 Q. So if a child tells within a month, that's considered
9 immediate?

10 A. Yes.

11 Q. And is this phenomena of delayed disclosure seen often
12 in your professional area?

13 A. Delayed disclosure is more common than immediate
14 disclosure. The research says that about 75 percent of
15 children delay their disclosure. So one out of four children
16 tells within that first month, and then the other three
17 delay. One out of the four pretty consistently delays until
18 adulthood and doesn't really tell anyone even until they're
19 in a study. And then two tell someone but not right away.

20 Q. Why don't kids tell right away? What does the research
21 say about some of the reasons?

22 A. So the research, and also my clinical practice, I
23 conceptualize it in two buckets: case-related factors and
24 child-related factors. The case-related factors include
25 things like how old the child was when the abuse started.

1 When children are younger when the abuse starts, they're more
2 likely to delay disclosure. The person -- when the offender
3 is somebody that's close to the family, those children are
4 more likely to delay disclosure. And then when it's chronic
5 abuse happening multiple times, those children are more
6 likely to delay disclosure.

7 And then factors within the child are things mostly that
8 have to do with what they think will happen if they tell.
9 Children weigh who they're going to tell and negative
10 consequences, and those vary widely, depending on the child,
11 what those things are. But very consistently they talk about
12 worries about what might happen if they tell someone.

13 Q. And have you seen this also, I think you mentioned, in
14 your clinical practice?

15 A. Yes.

16 Q. And are there other certain factors that impact their
17 telling outside of those?

18 A. I mean, those within-themselves factors really have to
19 do with, like, they weigh negative consequences related to
20 the offender, especially if it's someone that they know. You
21 know, it might be somebody in their family and they're
22 worried about what might happen to them or negative
23 implications for the family. Finances if it's somebody that
24 lives with them.

25 They worry about being upset. They worry about

1 upsetting other people in their life, like a parent that's
2 not the offender, that they worry about it being upsetting to
3 them. They worry about getting in trouble. So they really
4 -- they describe just a host of different things that they
5 think about as they're deciding who to tell and then kind of
6 when to tell.

7 Q. If a child does not tell the first time something
8 happens, can that affect the delay?

9 A. (Indicated.)

10 Q. How so?

11 A. That would -- I mean, from the research, that would
12 probably be conceptualized under chronic abuse. If children
13 don't tell the first time, a lot of times when they're
14 weighing -- especially I've seen this clinically. They
15 haven't told maybe something that happened that wasn't abuse
16 but was inappropriate. A lot of times with sexual abuse, it
17 starts out with something like a hug where somebody touches
18 on a part of the body but it's not abuse. And the offender
19 may say, "Don't tell anybody about this." And when the child
20 doesn't, they then worry they're going to get in trouble
21 because they didn't tell somebody about that.

22 So generally, what the literature would say is when it's
23 chronic abuse, kids are more likely to delay disclosure,
24 particularly if it starts when they're young, like younger
25 than about age 8 to 10.

1 Q. Can a child -- if a child sees the relationship with the
2 offender as special outside of the abuse, can that affect the
3 disclosure?

4 A. That hasn't been studied as much. I mean, defining the
5 relationship as "special" is kind of hard. In the studies,
6 people like to define things really clearly.

7 In my clinical experience, that would have to do with
8 whether the offender is somebody that's known to the
9 family --

10 Q. Mm-hmm.

11 A. -- which oftentimes it is. And so children worry about
12 how that will impact the person because it's usually someone
13 who has built trust with them. And there are other people in
14 their lives. And so that often leads them to delay
15 disclosure.

16 Q. And are threats necessary?

17 A. No. Children really think about lots of things that
18 might happen regardless of whether the offender has said
19 something. They do -- at least clinically, if the offender
20 says something bad will happen if you tell or don't tell,
21 children generally believe that something bad might happen
22 and delay disclosure and wait to tell.

23 Q. And is it common -- I guess in many cases you also deal
24 or know about the non-offending parent's reactions?

25 A. Yes.

1 Q. And is it common for a non-offending parent to not
2 believe or not protect?

3 A. It's actually -- it's surprising, I think, because we
4 think when somebody's non-offending, they would immediately
5 believe, but that's just not what the literature says or my
6 experience. Their initial response tends to kind of be, "How
7 could this have happened? I can't believe this happened."
8 Which the children oftentimes perceive as them not believing,
9 even though it's just kind of a shock type of reaction. And
10 in the research studies, about half of parents sort of have
11 an initial nonbelieving response, nonsupportive.

12 Q. And does the age of the child have some impact on the
13 disclosure?

14 A. The age of the child when the abuse started is what's
15 most consistently been found to be related to the disclosure.
16 So if they're younger when the abuse starts, they're more
17 likely to delay.

18 Q. And I think you mentioned considering consequences. Are
19 older children more likely? And how so?

20 A. Older children tend to be able to think about things in
21 more complex ways, so they're also more likely to think about
22 consequences and weigh some of those things in terms of
23 deciding whether and when to tell. If they are older when
24 the abuse starts, they also a lot of times can realize that
25 it's abuse and not -- that's my personal or professional

1 theory as to why if they're older when the abuse starts,
2 they're more likely to tell right away.

3 Q. And if the abuse has gone on, do they -- are more likely
4 to consider the consequences?

5 A. Yeah. So if they were one of those children who had
6 abuse start when they were a bit younger, as they get older,
7 they tend to be the children that weigh more of those
8 consequences, think about when to tell, what might happen
9 when they tell, as they get older because they're better able
10 to understand those things.

11 Q. And I asked you about threats, are threats necessary.
12 Did you see in your clinical experience or the research that
13 physical force and the child fighting back, how often does
14 that happen?

15 A. So when someone's exposed to danger, we think about the
16 biological response as fight, flight, or freeze. We have
17 stress hormones that happen. Those things happen with sexual
18 abuse as well. But generally, children respond with a danger
19 response or some sort of response like that, so fighting,
20 flighting, fleeing, or freezing. And nobody's really studied
21 very clearly, like, how often children respond with those
22 different things.

23 Q. Mm-hmm.

24 A. Clinically, what I have seen is that most times when
25 sexual abuse happens, it's someone that's older or there's a

1 power differential. And generally, children are socialized
2 to follow the rules and not fight back when people ask them
3 or tell them to do things. So clinically, I've seen that
4 most often children do not fight back, particularly because
5 they don't always know sort of what's going to happen and
6 it's happened more gradually.

7 Q. And has there been research that looks at how age
8 impacts who a child discloses to?

9 A. Yes.

10 Q. And what is that?

11 A. What the studies say is that as children get older,
12 they're most likely to tell a friend first. Young children
13 are most likely to tell their mother first. And then as they
14 get older, they tend to tell a friend or a sibling, somebody
15 that's similar in age. And sometimes those people tell
16 adults, and other times they actually don't tell anybody but
17 the one friend.

18 Q. And what is "grooming"?

19 A. Grooming is what the literature calls a desensitizing
20 process that offenders use. I hinted at this a few minutes
21 ago. Offenders will sometimes do inappropriate things that
22 aren't necessarily illegal or considered sexual abuse, but
23 it's hugging longer than, like, most people would hug or it's
24 touching private body parts when they're hugging. And those
25 things desensitize a child to more invasive types of abuse

1 later.

2 Q. And what are some of the things that may prompt a child
3 to tell?

4 A. The few studies that have been done that have asked,
5 like, "What made it so you did tell?" to children have to do
6 with adults asking them. You know, saying something like,
7 "Something seems off. Is something going on?" Or them
8 seeing a prevention program at school that defines what
9 appropriate and inappropriate touches are, and it gives
10 children the opportunity to tell somebody that tells them who
11 they can tell if something was happening.

12 Other studies that have asked children directly, they
13 talk about, like, a teakettle kind of thing, where they just
14 sort of -- the pressure to tell built up and they finally
15 decided and kind of weighed those factors and decided it was
16 time to tell. A lot of times that has to do with protecting
17 someone else in their life, like they're worried that a
18 cousin or a sibling is going to be abused and they want to
19 protect them, so they tell about it.

20 Q. So they may -- wanting to protect others may be a
21 prompter?

22 A. Yeah. And also wanting to end the abuse, although
23 that's not typically the first one that they say. That's
24 usually third or fourth in the list.

25 Q. And is disclosure usually a process or an event?

1 A. Disclosure is a process. That's pretty consistent in my
2 clinical experience and also the research. And what we mean
3 by that is that children oftentimes will tell part of it, as
4 opposed to telling everything the first time they tell. Some
5 of that they actually explicitly say is because they want to
6 see how the person reacts to the part that they're telling,
7 and then they'll tell more of it as they -- if it goes well.

8 Q. And if there have been multiple similar events, how can
9 that affect the memory of those events?

10 A. When any of us experience things over and over again, we
11 create scripts of them in our heads. It's similar to, like,
12 driving to work every day or driving to school. You don't
13 necessarily remember each specific one unless something
14 unusual happens.

15 The same thing happens with sexual abuse if it's
16 happened chronically. There tends to be, like, the typical
17 time that it happened. And then if it was a child's birthday
18 or a holiday, those maybe stand out. Or if the child got
19 physically hurt one of the times, those stand out. But
20 generally, if it's happened a lot of times, it tends to be
21 sort of the standard or typical abuse, and that's what kids
22 talk about when they come to us as professionals.

23 Q. Are there any common behavioral reactions of being
24 sexually assaulted, or do they just vary among every
25 individual?

1 A. Children who've experienced sexual abuse are at higher
2 risk for behavior problems like temper tantrums, sexual --
3 like risky sexual behaviors as teenagers, running away.
4 About a third of youth who've experienced sexual abuse
5 develop sort of severe behavioral or emotional problems. So
6 there's no, like, one sign or symptom, but they are at higher
7 risk.

8 Q. And some do not develop any?

9 A. A majority don't develop. I mean, two -- so that would
10 be two-thirds of youth don't develop severe symptoms.

11 Q. Are there any common emotional reactions? Or is that
12 the same?

13 A. It's similar. I mean, they're at higher risk for
14 emotional problems like nightmares, worries, fears. They're
15 at much higher risk, but again, there's still, like, a
16 minority of them that develop really severe symptoms like
17 those.

18 Q. And is there any research if children may develop some
19 kind of physical symptomology as --

20 A. Like hypertension?

21 Q. Mm-hmm.

22 A. So there's a couple of studies that have found that,
23 again, children who experience sexual abuse are at higher
24 risk for things like hypertension, obesity, asthma. It's
25 just -- it's a connection. There's not, like, every child

1 develops those things.

2 Q. There's nothing common to every child?

3 A. No.

4 Q. And what does -- what is a "flat affect"?

5 A. Affect is the emotion that we wear on our faces and
6 bodies, so it's like the visible emotions. And flat affect
7 is when that emotion is sort of flat or just kind of neutral
8 and not very emotional.

9 Q. And how do -- do children typically present this way?

10 A. It's another one of those symptoms that children who
11 have been sexually abused are at higher risk for, so numbing
12 is actually a symptom of posttraumatic stress disorder.

13 Q. Mm-hmm.

14 A. And numbing would be kind of that flat affect where you
15 just look numb, as opposed to looking like you have a lot of
16 emotion. It's, again, clinically one of those things that
17 they're at higher risk for, but not all of them display.

18 MS. HERRING-LASH: The Court's indulgence for one
19 moment.

20 Those are all the questions I have, Dr. Swiecicki. If
21 you would answer any that Ms. Ford has now.

22 CROSS-EXAMINATION

23 BY MS. FORD:

24 Q. Hi. There are a lot of reasons for obesity in children;
25 is that fair to say?

1 A. For obesity?

2 Q. Yeah.

3 A. Yes.

4 Q. Obesity is actually a fairly new issue in this country,
5 including with children?

6 A. Right. It's one of those things that they're at higher
7 risk for, but certainly lots of things contribute to.

8 Q. Okay. And when someone is abused, then that may
9 contribute to their blood pressure?

10 A. Not being a physician, I would say that's very
11 plausible, but not my area of expertise.

12 Q. Okay. And is it fair to say when someone's being
13 evaluated, whether in a situation like yours or in a medical
14 situation, their blood pressure may rise? I know you don't
15 necessarily test that yourself.

16 A. We've done it a little bit with kids because it's one of
17 those things that is a physical symptom connected a lot of
18 times to anxiety is, like, their heart beating fast or having
19 high blood pressure. And when we have physicians in our
20 office, they sometime will measure that so the kids
21 ultimately can learn that with coping skills, they can
22 control some of those symptoms.

23 Q. Okay. But being examined is probably -- it is a
24 stressful situation for a child often? Or sometimes?

25 A. Sure.

1 Q. You told us a bit about delayed disclosure. And you
2 basically testified that many kids don't tell right away,
3 correct?

4 A. About three out of four don't tell within that first
5 month.

6 Q. Okay. Well, there are some other studies that do have
7 some different results from that; is that fair to say?

8 A. That's kind of the summary. The studies really vary
9 depending on, like, criteria for entry into the study.

10 Q. So there is one study performed by Kogan, and in that
11 situation, basically immediate disclosure, which was within a
12 month, that study found that 43 percent reported immediately.

13 A. I would need to look at the inclusion criteria for that
14 one specifically. Typically the ones with the higher rate
15 initially are the ones that are looking at, like,
16 law-enforcement samples, samples that are more likely to be
17 sort of known, as opposed to a study that's maybe with adults
18 that were never -- you know, that are saying just a general
19 survey of adults later in life. Those tend to be people that
20 say they didn't tell anyone. So it depends on kind of how
21 they -- what they have the inclusion criteria in terms of
22 people in the study.

23 Q. So when you're citing that three-fourths of people
24 delay, that's based on just general surveys where people say,
25 "Yes, I was abused, but there was nothing ever reported," or

1 anything of that nature?

2 A. That's sort of the consistent -- when you look across
3 the different studies, pretty consistently about a fourth of
4 those disclosed initially, and then three tell at some point
5 later.

6 Q. But certainly kids do tell right away?

7 A. They do. Mm-hmm.

8 Q. And if someone reports that something -- er, something
9 just happened yesterday or a few days ago, that's not a red
10 flag that something didn't happen; is that fair to say?

11 A. Right.

12 Q. And as you testified before, older kids are more likely
13 to tell right away?

14 A. If they're older when the abuse started.

15 Q. Okay. And so by "older," what age do you mean?

16 A. They don't have, like, a cutoff. I was actually looking
17 to see if it's, like, preschool versus, you know, like school
18 age. I think it's what we call continuous data, so it
19 generally is the older a child is when the abuse starts, the
20 more likely they are to tell sooner.

21 Q. There are a variety of reasons for delayed disclosure.
22 Is that what you testified to?

23 A. Yes.

24 Q. Sometimes it's simply because they aren't asked,
25 correct?

1 A. For some children.

2 Q. I believe you testified that that's actually one reason
3 that may prompt a disclosure, when someone actually takes the
4 time to ask them about it?

5 A. Mm-hmm.

6 Q. And sometimes kids don't have access to someone who will
7 listen, correct?

8 A. (Indicated.)

9 Q. Or they may have a lack of vocabulary to tell, correct?

10 A. Yes.

11 Q. So those are reasons why -- or some reasons that a kid
12 may not tell?

13 A. Yes. And even when you say, you know, "someone to
14 tell," part of it is their perception of the person to tell.
15 So the people in their life may think they have someone to
16 tell, but if the child doesn't perceive those people as
17 supportive, they may think they don't have someone.

18 Q. I want to go to -- well, you testified to the people
19 that kids may disclose to. And the most common groups of
20 people to disclose to are their peers?

21 A. After they're about age 12 --

22 Q. Okay.

23 A. -- they're more likely to tell a peer first.

24 Q. Their peers. And their mom, of course?

25 A. Mm-hmm.

1 Q. Is it fair to say for kids in general, those are,
2 like -- peers and their mom are, like, two -- are some of the
3 most important people in their lives in general?

4 A. I think the data would definitely say that's true.

5 Q. Okay. Many kids actually do tell their mom first before
6 their peers?

7 A. For younger kids, they're more likely to tell their mom
8 before -- like, that's the first person that they tell. So
9 younger than between age, like 10 and 12.

10 Q. So according to some studies, 24 percent to 77 percent
11 for the first time actually told their mom. Does that sound
12 about right?

13 A. That sounds -- I don't -- I don't -- I don't have the
14 exact numbers memorized, but that sounds about right.

15 Q. And that 5 percent to 68 percent for the first time tell
16 their peers first. Does that sound about right as well?

17 A. That sounds accurate.

18 Q. So more tend to tell their moms in general?

19 A. Generally, those statistics have to do with the age of
20 the children in the study. When it's a younger child,
21 they're most likely to tell their mom first. And then the
22 older kids tend to tell a friend first.

23 Q. But those are pretty wide ranges in both sets of numbers
24 there?

25 A. Mm-hmm.

1 Q. Teens -- you've told us a lot about, you know, kids in
2 general, or a little bit. Is it fair to say that teens have
3 to deal with a lot of heavy issues at times?

4 A. I'm not sure exactly what you're asking, but certainly
5 they -- you know, there's a lot of stressors that people
6 face.

7 Q. Okay. There's peer pressure and online bullying?

8 A. I mean, it just depends. It's so subjective in terms
9 of, you know, some adults would say that peer pressure is
10 like a very minor thing. But teenagers a lot of times do
11 think that those are -- it depends very much on their
12 experience and their peer group and how supportive they are
13 and how supported they feel.

14 Q. Well, there are a lot of possible stressors for a
15 teenager outside of possible sexual abuse, correct?

16 A. Sure. Yes.

17 Q. And even teens have to deal with normal consensual
18 teenager sex, correct?

19 A. Again, depending on the child.

20 Q. You told us a lot -- er, a little about grooming. And
21 you told us about how it's not unusual to try to desensitize
22 a child; is that correct?

23 A. Grooming is the phrase that the field gives to behaviors
24 that are -- that would be desensitizing a child. Not all
25 abuse includes those behaviors.

1 Q. Okay. But it's not unusual for a situation to start out
2 with, like you testified to, a somewhat possibly an innocent
3 touch?

4 A. Yeah.

5 Q. Such as a hug?

6 A. Right. I think that's part of what's hard for children
7 is that some -- you know, a hug is not necessarily abuse. A
8 hug can be a positive experience. And offenders use those
9 things to desensitize a child, but in the midst of the things
10 that aren't abuse, children don't know that they're being
11 desensitized.

12 Q. But it's not uncommon to start out that way before they
13 get to the actual sexual-abuse part, correct?

14 A. Correct.

15 Q. So directing one's hand -- a man directing one's hand to
16 his penis, that would not necessarily be a situation about
17 desensitizing a kid to a sexual act?

18 A. Depending on the law. You know, we in the literature
19 would call that sexual abuse. Like, in most of the studies,
20 if there's actually touching of private parts that is
21 intentional, that would be defined as sexual abuse.

22 Q. Okay.

23 MS. FORD: Beg the Court's indulgence?

24 THE COURT: Uh-huh.

25 MS. FORD: No further questions, your Honor.

1 THE COURT: Okay.

2 MS. HERRING-LASH: Brief followup?

3 THE COURT: Uh-huh.

4 REDIRECT EXAMINATION

5 BY MS. HERRING-LASH:

6 Q. Is there any research regarding if -- how likely a child
7 is, perhaps, to tell the very first time they're asked? Or
8 do they always tell immediately upon being asked?

9 A. I don't know of any studies that have asked, you know,
10 how many times they were asked or if they told right away.

11 Q. Have you had any clinical experience regarding children
12 that have denied in interviews even?

13 A. Yes.

14 Q. And what is that?

15 A. So again, part of the literature is that we don't know
16 that abuse has happened unless there's corroborating
17 information. So there are a couple of studies with children
18 who have sexually-transmitted infections that were -- one
19 study in particular that was concerning for sexual abuse,
20 like, that was the only way medically that that could have
21 happened. And even among those children, only about half of
22 them told. And part of that was dependent on having a
23 supportive caregiver. So about 63 percent of children who
24 had a supportive caregiver told about the abuse, whereas only
25 17 percent of those that didn't perceive their caregiver as

1 supportive told.

2 Q. And that would be the child' perception of what a
3 supportive caregiver was?

4 A. Exactly.

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

6 THE COURT: Any recross?

7 MS. FORD: No, your Honor.

8 THE COURT: Okay. All right. You can step down. Thank
9 you so much. You're free to leave.

10 THE WITNESS: Thank you.

11 (Witness excused.)

12 THE COURT: Okay. Any other witnesses from the State?

13 MS. HERRING-LASH: No, your Honor. The State rests.

14 THE COURT: Okay. All right. Ladies and gentlemen, we
15 have reached a point in the trial where I need to excuse you,
16 so we'll take our morning break at this point in time. I'll
17 let you go to the jury room. Please, once again, don't
18 discuss the case. Thank you very much.

19 (The jury exited the courtroom at 10:26 a.m.)

20 (The following proceedings were had outside the presence
21 of the jury.)

22 THE COURT: Okay. I'm happy to entertain any motions at
23 this stage from either side.

24 Any from the State?

25 MS. HERRING-LASH: No, your Honor.

1 THE COURT: Any from the defense?

2 MS. FORD: Your Honor, at this time we would just renew
3 all our prior motions, and we would ask for a directed
4 verdict. We are aware of, first of all, that, you know, a
5 victim's word need not be corroborated. In this case I will
6 say that it's a bit confusing as to ages that she testified
7 to, as far as to what acts. I believe that was established.
8 But honestly, we couldn't in our notes find anything
9 specifically, since she was over age when she, you know,
10 revealed this. And I think, in general, she may have said
11 when it started.

12 THE COURT: Okay.

13 MS. FORD: But the solicitor might remember more. We
14 could not basically see that in our notes.

15 THE COURT: All right.

16 MS. HERRING-LASH: Your Honor, she testified she was in
17 the seventh or eighth grade, 13 or 14, when it began.

18 THE COURT: Uh-huh.

19 MS. HERRING-LASH: And she did not say that it ended. I
20 think that she was asked and acknowledged that she had said
21 the last -- the time she remembered last was when she was 15,
22 as far as the intercourse. She did not talk about it ongoing
23 after that indictment time period, but she did talk about it
24 ongoing from the first to the end.

25 And she had said -- I think that she said on the record

1 that the cunnilingus may have stopped a bit before the other.
2 So the indictment for the cunnilingus actually stops a bit
3 before the indictment for the sexual intercourse. But the
4 time of the indictment is for sexual battery or attempted
5 sexual battery throughout a time period --

6 THE COURT: Uh-huh.

7 MS. HERRING-LASH: -- that is covered from ages 13 to
8 15.

9 THE COURT: Okay. So there are two indictments that
10 we're really referring to here for criminal sexual conduct
11 with a minor in the second degree. The indictment ending in
12 113 covers the time period between August 2016 and July 30,
13 2018.

14 MS. HERRING-LASH: And that is when she turned -- from
15 the time she was 13 until 15.

16 THE COURT: Okay. And I believe there is testimony in
17 the record to support that.

18 And then we'll turn to the next indictment. I don't
19 believe -- I have notes that support that she testified to
20 that regard.

21 The next indictment ending in 114 for criminal sexual
22 conduct with a minor in the second degree deals with the
23 sexual intercourse between August 1, 2018, and July 30, 2019.

24 MS. HERRING-LASH: And that is her whole year of being
25 15.

1 THE COURT: Right. So I do believe that the indictments
2 are at least supported by obviously the victim's testimony.
3 I know we discussed her age range, and obviously she gave
4 testimony of the specific instances that she could recall.
5 We discussed sort of the ultimatum, if you want to call it
6 the "give oral or let mom die" situation. And then we
7 discussed the other specific instance regarding the "seven
8 minutes in heaven or get a whooping" situation. And in terms
9 of this timeline for those, my notes have that that was
10 established through her age range and the grade she was in.

11 Is that right, Ms. Herring-Lash?

12 MS. HERRING-LASH: Yes, your Honor. I think she said
13 seventh or eighth grade, and eighth grade was her dominant
14 memories.

15 THE COURT: Right. And then, of course, the text
16 messages that were introduced were the year she disclosed, in
17 2020. But they didn't -- I don't know that they really
18 pointed to a specific incident that occurred.

19 MS. HERRING-LASH: She did not talk about any specific
20 incident with that. It was outside of the timeframe.

21 THE COURT: Yeah. Yeah. She does say the penetration
22 started when she was 15 years old -- the "attempted
23 penetration" it was called. The oral I think she couldn't
24 specifically recall, but then I think she stated to you she
25 thought, like you just said, she thought she was in seventh

1 grade. Is that right? That's what I have, so I don't know.
2 There was sort of a little bit conflicting, but she did at
3 least say seventh grade at one point even though later she
4 says she couldn't recall specifically with the oral. So
5 there was at least enough evidence in the record to support
6 that being at least an issue for the jury to determine.

7 Okay. So your objections are all renewed timely. My
8 rulings remain, and your directed verdict motion respectfully
9 is denied at this time.

10 MS. FORD: Thank you, your Honor.

11 THE COURT: Okay. Obviously, I guess as to the other
12 indictments, we'll address the CSC with the minor, third
13 degree. That was the indictment ending in 112. This is when
14 -- is this the when she touched his penis? Is that the --

15 MS. HERRING-LASH: Your Honor, it is when she touched
16 his penis. And also, I don't think that it is
17 lesser-included on criminal sexual conduct with a minor. And
18 continuing touching, which happened during the -- what she
19 portrays as oral and intercourse, would also incorporate
20 touching for sexual gratification. If the jury were to
21 believe that there was never any kind of --

22 THE COURT: Penetration.

23 MS. HERRING-LASH: -- penetration, there could still be
24 the touching --

25 THE COURT: Uh-huh.

1 MS. HERRING-LASH: -- that is included because it is not
2 limited to -- it can be genital touching can --

3 THE COURT: Right.

4 MS. HERRING-LASH: -- be within that.

5 THE COURT: Okay. I just wanted to specifically address
6 that for the record.

7 And then it's contributing to the delinquency of a
8 minor, that's pretty clear. There's at least some evidence
9 in the record of the marijuana use in the household while the
10 defendant was present with the minor. So just again, just
11 want to reiterate that for the record. I think there's at
12 least some evidence to support this going to the jury.

13 All right. And so any other motions at this time?

14 MS. FORD: No, your Honor.

15 THE COURT: Okay. And Ms. Ford, do you need any
16 additional time to discuss with your client whether or not
17 he'd like to testify?

18 MS. FORD: Yes, your Honor. I would like a few moments.

19 THE COURT: That's fine. Let's take a break, everybody.
20 We'll be at ease for about ten minutes. Okay?

21 (Court recessed.)

22 (Court resumed outside the presence of the jury.)

23 THE COURT: Okay. Ms. Ford, did you have enough time to
24 discuss with your client whether or not he wants to testify?

25 MS. FORD: Just a moment, your Honor.

1 THE COURT: Yeah. Take your time. No rush.

2 MS. FORD: Your Honor, it's my understanding that my
3 client does not want to testify. He has been really
4 conflicted over it.

5 THE COURT: Mm-hmm.

6 MS. FORD: But --

7 THE COURT: Okay. Well, tell you what. I'm going to
8 read him his rights that I'm required to read him under the
9 law.

10 MS. FORD: Yes, ma'am.

11 THE COURT: And then I can give him some more time, and
12 he can let us know what he wants to do at that point. Okay?

13 MS. FORD: Yes, ma'am.

14 THE COURT: Does that sound okay?

15 All right. Mr. Wigfall, can you raise your right hand
16 for me?

17 (Defendant sworn.)

18 THE COURT: All right. You can put your hand down.

19 Mr. Wigfall, at this time I'm going to explain to you
20 certain rights that you have. Okay?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: If you don't understand anything I say,
23 please let me know. If you want me to explain anything in
24 more detail, please let me know that as well.

25 You understand?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: Okay. We have now reached the stage of the
3 trial where you may present your defense. You have the right
4 to claim the protections given to you by the Fifth Amendment
5 of our constitution, and that says, in part, that nobody is
6 compelled in any criminal case to be a witness against
7 himself. This means you cannot be required to testify in
8 this case. You have the right to testify on your own behalf.
9 However, nobody can make you testify. This is a personal
10 right that nobody can give up except for you.

11 You understand that?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: If you decide to testify, you will be
14 subject to the same rules that govern other witnesses, and
15 you may be examined and cross-examined on any relevant issue
16 in this case. In addition, if you have any prior convictions
17 on your record involving dishonesty or false statement or for
18 crimes that were punishable by imprisonment for more than one
19 year and I determine that the probative value of admitting
20 that would outweigh the prejudicial effect to you, the
21 solicitor would be able to introduce your prior record to
22 attack your credibility.

23 You understand that?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: If you decide to testify, this decision on

1 your part must be made freely, voluntarily, and
2 intelligently, with knowledge of these protections given to
3 you by the Fifth Amendment. If you decide not to testify, I
4 will tell the jury that they cannot give the fact that you
5 did not testify any consideration whatsoever and that there
6 is to be no prejudice to you because you did not testify.

7 If is left entirely up to you whether or not you want to
8 testify. I'm going to let you talk with your attorney some
9 more, and your family members or friends if you want, but the
10 final decision is going to be left entirely up to you.

11 You understand that?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: Do you understand everything I've explained
14 to you so far?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: Do you have any questions about what I've
17 explained to you?

18 THE DEFENDANT: No, ma'am.

19 THE COURT: Okay. Are you under the influence of any
20 drugs or alcohol today?

21 THE DEFENDANT: No, ma'am.

22 THE COURT: Okay. So it's fair to say that you
23 understand what's going on in general?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: Okay. All right. I'm going to give you a

1 few more minutes to discuss your decision of whether or not
2 you want to testify with whoever you'd like to talk about it
3 with. And after that, I'll come back to you for your
4 decision. Okay?

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: All right.

7 (Off the record.)

8 THE COURT: All right. Mr. Wigfall, have you made a
9 decision?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: And what is that?

12 THE DEFENDANT: I will not testify, ma'am.

13 THE COURT: Okay. All right. Thank you very much. You
14 can have a seat.

15 I find the defendant has waived his right to testify
16 intelligently and voluntarily, freely, after having time to
17 discuss his decision with his attorneys.

18 Ms. Ford, do you have any other witnesses at this time
19 that you need to call that have not already been called?

20 MS. FORD: No, your Honor.

21 THE COURT: Okay. All right. Well, at this time I
22 would love to take this opportunity, so that we're not having
23 the jury come in and out quite so much, maybe to discuss the
24 charge. We're a little further along a little sooner than I
25 think everybody thought we might be, so let's go ahead.

1 Is the best way for me to get this to you by e-mail? Do
2 you have a -- in other words, do you have a way to review
3 e-mail in the courtroom?

4 MS. HERRING-LASH: Yes, I do, your Honor.

5 MS. FORD: Yes, ma'am.

6 THE COURT: Okay. All right. Give me one minute and
7 I'll -- bear with me as I'm going through this.

8 All right. Ms. Herring-Lash, what's your e-mail
9 address?

10 MS. HERRING-LASH: debbie@scsolicitor9.org.

11 THE COURT: Okay. And Ms. Ford, are you
12 mford@charlestoncounty.org?

13 MS. FORD: Yes, ma'am.

14 THE COURT: All right.

15 I have a better charge now for the third degree.

16 MS. HERRING-LASH: I don't think much changed, but
17 the --

18 THE COURT: Yeah, I've got a better one. Okay. I'll
19 send that portion to you all separately.

20 I'll send you another one that would substitute the
21 third degree for the one I first had in there. It's a little
22 more explanatory of the different words.

23 Okay. Let's do the end when I've sent you the second
24 e-mail for the CSC third. Any exceptions or objections or
25 additions for those from the State or the defense?

1 MS. HERRING-LASH: No, your Honor.

2 THE COURT: All right. None from the State.

3 Ms. Ford, you need a little more time?

4 MS. FORD: Yes, your Honor. I'm almost done.

5 THE COURT: Okay. Take your time. I know -- I think
6 the circumstantial evidence, I think that's the one you're
7 requesting when all the circumstance must present in a --

8 MS. FORD: Yes, your Honor.

9 THE COURT: Okay.

10 MS. FORD: I do not have any objection, your Honor.

11 THE COURT: Okay. All right. So apart from obviously
12 the substitution for the third, which I've made now, and the
13 correction to the first name on page 2, that will be read as
14 sent to the attorneys.

15 How about let's turn to the verdict form now. And have
16 you had an opportunity to review that? That was an
17 attachment to the e-mail sent as well.

18 MS. HERRING-LASH: Mm-hmm.

19 MS. FORD: Yes.

20 THE COURT: Any objections, corrections, additions to
21 that?

22 MS. HERRING-LASH: No, your Honor.

23 MS. FORD: No, your Honor.

24 THE COURT: And I've got the timeframe. I took the
25 timeframe straight off the indictments, so I just want to

1 make sure. Okay? Okay.

2 MS. FORD: I think the date would be today.

3 THE COURT: The date, yeah. Thank you. Thank you for
4 that.

5 All right. Are y'all ready then to proceed with your
6 closings?

7 MS. HERRING-LASH: I am, your Honor.

8 MS. FORD: Yes, your Honor, if I may run to the
9 restroom.

10 THE COURT: Yeah. Take your time. I've got to print
11 this off anyway. We'll be at ease for a few minutes.
12 Everybody use the restroom and stretch your legs.

13 (Court recessed.)

14 (Court resumed outside the presence of the jury.)

15 THE COURT: Okay. Since the defense has elected not to
16 call witnesses, I'd like to go ahead and take up any other
17 renewed motions or new motions at this time. And so I'll
18 call them in and tell the jury that they're not going to
19 present any witnesses.

20 Any other motions other than your renewed?

21 MS. FORD: No, your Honor, not other than my renewed
22 motions.

23 THE COURT: Okay. All right. All prior rulings stand,
24 motions renewed for purposes of the record.

25 Anything else from the State or defense before we call

1 the jury back in?

2 MS. HERRING-LASH: No, your Honor.

3 THE COURT: Okay. Well, we can go ahead and bring them
4 in then, Mr. Ladson. Thank you.

5 And I've been told their lunch will be here about 12:30,
6 so that should work out just right.

7 (The jury entered the courtroom at 11:22 a.m.)

8 THE BAILIFF: All jurors are present, your Honor.

9 THE COURT: All right. Thank you so much.

10 Welcome back, ladies and gentlemen. All right.

11 And Ms. Ford, do you have any witnesses that you would
12 like to call at this time?

13 MS. FORD: No, your Honor. At this time the defense
14 rests.

15 THE COURT: All right. Thank you very much.

16 Ladies and gentlemen, the parties have presented the
17 evidence of the case, and it's time for the attorneys to make
18 their closing arguments at this time. Now, these arguments
19 of the attorneys are not evidence in the case. These are
20 their statements and arguments that are meant only to help
21 you understand the evidence and apply it to the law which I
22 will give you in the next part of the trial. You should
23 disregard any remark, statement, or argument that is not
24 supported by the evidence presented during the trial or the
25 law that I will explain to you after the arguments are over.

1 We will begin with the State.

2 Ms. Herring-Lash, happy to hear from you.

3 MS. HERRING-LASH: May it please the Court? Counsel.

4 Many of you may find the facts that you heard very
5 confusing and difficult to understand. The family
6 environment may have seemed strange, but really, many
7 families and children live in difficult situations. Many
8 parents do not react the way we would assume or think they
9 should. Kandra Pear's reaction was not perfect. It was not
10 what **MINOR 1** would have wanted, but perhaps what she expected.

11 We all think that we know what we would do if a loved
12 one hurt one of our children, but you really don't know until
13 it happens to you. Dr. Swiecicki explained to you that very
14 often the non-offending parent or spouse doesn't believe and
15 doesn't protect, more often than not. But Kandra Pear did
16 protect her child from further harm. Would the better course
17 of action been never to see Mr. Wigfall again? Yes. Much
18 better for **MINOR 1**, and easier for us to understand.

19 But human nature, especially when it comes to love, is
20 not clearcut and it's not perfect. You can see that Kandra
21 was mad, probably mad at the additional relationship, mad at
22 the destruction of her dreams, mad at him for what he did to
23 her daughter, mad at the entire situation. And she acted out
24 of that anger.

25 But I submit to you she did not make up what she was

1 saying because she was mad, things that she looked back on
2 and thinks, "Well, maybe that was strange," or "Maybe that
3 meant something." If she would have been thoroughly
4 questioned in the beginning, she would have more than likely
5 given these details. She questioned Marcus and MINOR 1 early
6 and often.

7 But the bottom line is it doesn't matter. Nothing she
8 did means this is true or not true. You have to put what she
9 did in perspective. She did search for the conversation that
10 he told her supposedly happened. She found no such thing.
11 She did find a picture that he had not mentioned, and she
12 turned that over to -- or told law enforcement about it. So
13 she did what she could do for that.

14 When you look and assess the voluntariness of his
15 interview, you can take into account that he set up where to
16 meet with law enforcement. He set up when to meet with them.
17 He spoke with just two officers. There was no coercion or
18 forced questioning during that. They were in a parking lot.
19 And it was really more conversational. And he said he wanted
20 to be there and talk.

21 There were a lot of questions throughout of witnesses
22 about, "Well, was he at home at night when Kandra was gone or
23 not?" But it's really undisputed. MINOR 1 says -- and Marcus
24 says, "Yes, I was responsible for taking care of these kids.
25 I took care of them most of the time." I think he says he

1 was even the one that took them out, bought all their
2 clothes, bought their shoes, and that he and MINOR 1 were like
3 two peas in a pod. They were always together.

4 And as far as MINOR 2, MINOR 2 was in the home when this
5 happened. He -- MINOR 1 says he was there. Mr. Wigfall says
6 he was there. He says -- MINOR 2 thought there may have been
7 times he was gone. I'm sure there were times that there were
8 two of them there. But there's not disputed that he was
9 there when the assaults occurred. He said that they would
10 all three be in the living room sometimes playing games,
11 sometimes a cousin or a brother over. But after the games,
12 he would go into his room and shut the door and read or
13 sleep, as a teenage boy is wont to do.

14 And his room -- one of the reasons that you saw the
15 pictures, his room is not -- I mean, this is not a huge
16 apartment. But his room is not close together as the other
17 two. Someone could walk between those two rooms without
18 having to go down the hall past his room.

19 And MINOR 1 said and told you she did not scream and
20 there was not a lot of noise. She even explained how
21 Mr. Wigfall would do a circle 8, I think she said, motion for
22 her to take off her clothes, rather than a conversation. And
23 Marcus Wigfall surely didn't want to make noise for MINOR 2
24 to hear because, as he was asked, he would try to protect his
25 sister. Both Marcus Wigfall and MINOR 1 said he would often

1 text her to come -- and sometimes innocently, but text was a
2 way they communicated, which would not, once again, be any
3 noise.

4 The main evidence that you have and the direct evidence
5 that you have is MINOR 1 's statement. When you're judging the
6 credibility of a witness, one of the things that you can look
7 at is the details that she was able to provide you about what
8 happened. And she was able to provide you some detail. She
9 did talk about it being so similar that some events did not
10 stand out. I think the expert mentioned that that is
11 episodic memory or, like, rote memory. Like every day when
12 you go to work, you may not remember the route, but if you're
13 in a wreck you're going to remember that day.

14 She explained how it began with him guiding her hand to
15 touch his penis. And after that, he gave her some marijuana
16 to relax her before the oral contact began. Now, MINOR 1 and
17 Mr. Wigfall both acknowledge they smoked marijuana when it
18 had nothing to do with the sexual assault. She even smoked
19 on her own sometimes. But he did give it to her the very
20 first time with the gas mask.

21 The oral, the first event was in her room. After that,
22 very often it was in her mom's room. She described to you
23 the position, that she would be near the edge of the bed with
24 her legs spread and up in the air and his face would be
25 between her legs and the oral contact would happen. They --

1 her top was left on, only her bottoms removed. And he left
2 all of his clothes on when that happened. She said she was
3 in the seventh or eighth grade, 13 or 14, when that began.

4 She did not know exactly how many times. When pressed,
5 for some reason, how many times, she said two or three times
6 -- two times a week, maybe three times in two weeks. The
7 real memory is, as she told you all, "often."

8 It is noted that -- or interesting that Kandra and
9 Mr. Wigfall both said she worked two times usually a week,
10 sometimes three.

11 Kandra said sometimes that she would come home between
12 jobs. One job was downtown. The second job was on Ashley
13 Phosphate. But if she made it to Ashley Phosphate and had to
14 work a few hours, even if she came home, most of you probably
15 know that commute. So there were hours that she would be
16 alone with Marcus and MINOR 2. Now, there was, I think
17 Kandra said, three times that she came home and actually
18 found MINOR 1 still in the room.

19 MINOR 1 says that eventually, around about age 15, is
20 when he began to penetrate her with his penis. She says to
21 you that it was not real all-the-way penetration. But when
22 asked what she thought that meant, she said full inside of
23 her. You -- I've read to you the definition of sexual
24 battery, and that is genital penetration, however slight.
25 The intrusion is "however slight" into the genital area,

1 which begins with her lips. It does not require hymenal
2 penetration, as the nurse explained to you what that
3 difference is.

4 She said the position of the intercourse would be her
5 laying, once again, with her legs spread, sometimes up over
6 his shoulders. But he would not be kneeling as he was with
7 the oral, but standing between her legs. And she did say
8 that she felt pain. The nurse said that labial penetration,
9 which is the lips, could cause pain. MINOR 1 has no idea what
10 the legal definition of penetration is.

11 A sexual battery is also cunnilingus, which is oral
12 contact to the female genitalia. It is also -- the criminal
13 sexual conduct third degree is the touching, the touching of
14 him putting her hand on his penis, but also any touching that
15 occurred during the other sexual acts. It is the touching
16 absent penetration.

17 You often also judge the credibility of people. And you
18 all, every day, when you think about it, you judge the
19 credibility of someone when they're talking to you, how they
20 act, what -- you know, just, you have lots of different ways
21 personally that you do. One of the ways that you often judge
22 credibility may be motive or bias. Motive of why a person
23 would say what they're saying.

24 And you can consider any motive that MINOR 1 may have
25 had. Mr. Wigfall thought or said that perhaps her motive was

1 that she had gotten a little job three weeks or so before she
2 made this disclosure, and he thought maybe that was why. But
3 a job at the Citadel mess hall part time would no way
4 supplement the income he was bringing in.

5 They all mentioned the discussions of marriage and
6 potential children as something that had recently began to
7 occur. **MINOR 1** says to you that was one of the reasons that
8 she told, that she didn't want something to happen to future
9 siblings. And he mentioned that, you know, she must not want
10 him to get married to her mother. But their plan was to buy
11 a house and get married.

12 If things were going well and he was the stepfather that
13 he says, she would want that. That would be a positive thing
14 that was going to happen, not negative. The only explanation
15 for telling because of the marriage would be if, in fact, she
16 was fearful of potential siblings. But in looking at the
17 explanations for recent fabrication, why she would make this
18 up right now, remember, she told Ivy in 2019, the fall of
19 2019, way before any of his alleged motives occurred.

20 Now, you may think, "Well, Ivy should have told
21 somebody." But she told you that she felt like she needed to
22 keep that confidence. When someone confides in you that
23 something like that has happened to them and they do not want
24 you to violate that confidence, it's really a big deal to
25 violate that kind of confidence.

1 And if you remember, Ivy was one year ahead of MINOR 1 in
2 school. So at that time in 2019, Ivy would have been in the
3 11th grade, not the adult that she appeared to be here today
4 when you're thinking about, "Well, why didn't she do
5 something?"

6 And she knew MINOR 1 's plans. And MINOR 1 's told you her
7 plans were to graduate and to leave. She didn't want to hurt
8 her mother. She didn't want to destroy the family. She just
9 wanted to get out. But things got to the point where she
10 just couldn't.

11 Now, you may find it strange that he would say things
12 like, you know, "oral or your mom dying" or "seven minutes in
13 heaven or a beating." But if you remember back when these
14 conversations -- because they were in the very beginning --
15 when these conversations would have happened, he was talking
16 to a middle schooler. And those are the kind of
17 conversations that a middle schooler would be used to, that a
18 middle schooler could relate to.

19 In his statement, he gives you some kind of strange
20 story about overhearing a conversation with a 32-year-old
21 man. Now, he doesn't tell you about that to explain why she
22 told or why she would tell. That was unrelated. He said
23 that to explain why she stripped in front of her stepfather.

24 Now, why she would say this conversation with this man
25 in front of him and not, you know, shut up when he walked in

1 the room, who knows. And he didn't tell her mother, you
2 know, "Hey, your daughter is online with a 32-year-old man
3 talking about sexual activity." He didn't tell her mother
4 that she stripped in front of him. That doesn't make any
5 sense. And he didn't really explain how he knew about the
6 conversation, either texts or overheard it, how he knew he
7 was 32.

8 But he also seems -- he said that they had a
9 conversation about, "Well, if he will please you," like if he
10 will do oral, but he didn't use those words. I will not use
11 the words that he used. "But if he won't do oral with you,
12 he'll want to do intercourse." Then that's -- you know,
13 that's not okay. He's thinking about himself. "But if he
14 wants to please you, then that's cool." Well, he's a
15 32-year-old man and she's his stepdaughter and she's a child.
16 It goes to show you he thinks of her as an adult and as
17 someone sexual.

18 When describing the reasons that he did not do this, one
19 of the reasons was, "I couldn't do oral to her without also
20 having intercourse." Those were not his words. Not "I
21 couldn't do oral to her because she's a child," but because
22 "I would just get an erection and have to do a lot more."
23 Then he pretty much also says that the reason he did not do
24 this to her is because she was too skinny. Not because she
25 was too young, but because she was just too skinny, that he

1 likes big girls.

2 He said he knew she wanted to be a boy. She told you
3 that she was a lesbian. But he didn't question the fact that
4 why was she talking about sex with some man.

5 You heard from Alix Desch, the interviewer at the
6 advocacy center, that MINOR 1 did make a disclosure to her.

7 And throughout the trial, you heard several objections
8 from everyone about hearsay or saying what other people said.
9 You may have noticed that you did hear people say what
10 Mr. Wigfall said and heard his interview. Other witnesses,
11 you can't hear their interviews or what they said. The rules
12 are different for Mr. Wigfall since he's a party to this
13 case.

14 Stephanie Petersen explained to you that a normal exam
15 does not rule out some kind of sexual penetration. The
16 research that she told you about, the adolescent females were
17 pregnant and they had completely normal exams. She explained
18 how the body is made to not become traumatized with that kind
19 of penetration.

20 And she also explained to you why she did not look for
21 DNA which, you know, you would expect to have a lot because
22 on TV they always have DNA. But when -- and it makes sense,
23 common sense, that after 96 hours -- and this had been much
24 more than 96 hours -- if you bathed and urinated, any body
25 fluids left on you would be gone. And that's why protocols

1 do not search for DNA. That's why Detective Perez was asking
2 -- er, trying to find out if the last event had been 96
3 hours.

4 The statute that he is charged under for the criminal
5 sexual conduct with a minor, because of the timing, ends the
6 day before her 16th birthday because it only applies to when
7 she was 15.

8 Dr. Swiecicki explained to you some areas that often lay
9 people may find difficult to understand. Why would a child
10 not tell? Why would a child not tell if asked? Then I think
11 she talked about research that children that had venereal
12 diseases denied any kind of sexual contact. Why would a
13 child just keep it a secret? Why would they not fight back?

14 And I think she talked about the children's experiences.
15 Why would a child react the way they reacted -- passively,
16 still being around the person? Why would a non-offending
17 caretaker not act protectively?

18 She told you these things not because she can tell you
19 that this happened or didn't happen. She didn't see MINOR 1
20 or know anything about this family. But it would be unfair
21 to you to ask you to judge the facts without the knowledge of
22 what the literature says about common reactions. And it
23 would be unfair to MINOR 1 to ask you to judge the credibility
24 without having information that is known to experts in this
25 area. And looking back over the evidence you've heard, we

1 just ask you to apply your common sense and the knowledge
2 that the experts gave you.

3 When you go back over the -- Judge McCoy will give you
4 the elements of the offenses. I gave them to you in the
5 beginning. If she has any difference, you go by her
6 explanation and not the one that I gave you.

7 She will tell you that your burden is beyond a
8 reasonable doubt. That is a high burden. But within that
9 explanation is the word "reasonable." And some things just
10 are not reasonable to doubt. It is not every doubt. It is
11 not any doubt. It is not all doubt. It is not like if
12 you're on TV sometimes, the shadow of a doubt. It is a
13 reasonable doubt for someone searching the truth.

14 There are few things in this world that any of us ever
15 know with absolute certainty. If you knew this with absolute
16 certainty, you would have been a witness and not a juror.
17 The criminal law does not require absolute certainty. If so,
18 there would never be a conviction.

19 It is proof beyond a reasonable doubt. You all came in
20 here on Monday and knew nothing about these people, nothing
21 about this situation. And if you now believe that **MINOR 1** was
22 sexually assaulted by Mr. Wigfall, the State has met that
23 burden.

24 We want to thank you for your service and attention and
25 ask you to find Mr. Wigfall guilty of what he did to **MINOR 1**

1 Hughes.

2 Thank you.

3 THE COURT: Thank you very much.

4 Ms. Ford, happy to hear from you.

5 MS. FORD: Thank you, your Honor. May it please the
6 Court?

7 THE COURT: Mm-hmm.

8 MS. FORD: MINOR 1 is simply not telling the
9 truth. That's not an easy thing to digest because no one
10 wants to think that someone would make up such allegations.
11 You got to hear from MINOR 1 yourself. She seems like she has
12 a sweet demeanor. She told you things that are difficult to
13 voice and that are very difficult to hear. But simply
14 because she says something happened does not make it so.

15 There's a new show out called *Poker Face*, and
16 essentially it's about a woman who has the ability, sort of a
17 gift, to be able to tell if people are lying. Well, in
18 reality, it's not that simple. So in order to make
19 decisions, you have to look at what makes sense, look at what
20 other people may have seen or heard or what they didn't see
21 or hear, and you have to look at the circumstances.

22 Here it's important to look to the details of what
23 MINOR 1 has claimed. And what she's told you, it sounds more
24 like the story of a girl who's heard about things, read about
25 things, whether it be from her friends or social media or

1 novels, but not from someone who has actually experienced
2 intercourse, for example.

3 She was very focused when she met with people, and she
4 admitted that she told people she was still a virgin. And
5 she made it clear that all of this had started with oral sex
6 but that eventually it did progress to attempted penetration.
7 But that's plural: numerous times of attempted penetration.

8 And she didn't say, "Oh, it just never went all the way
9 because he was being respectful" or "nice" or anything like
10 that. She made it sound like it was physically impossible.
11 She said that just the attempt was like a train going through
12 a brick wall. She told you that the reason that they never
13 actually had full-on sex is because that since she was a
14 virgin, that she was closed, that she wasn't open.

15 And again, this was not a one-time thing. This would
16 have been many times, at least over the course of a year or
17 more, that the attempted penetrations occurred. When **MINOR 1**
18 met with Ms. Desch, at that point she had even said she
19 wasn't even sure any oral had happened in the past year,
20 meaning that all that last year would have been the attempted
21 penetration time and again.

22 You heard from a nurse. And I know that it's really
23 awkward talking about someone's anatomy. But basically, her
24 findings were that **MINOR 1** is a normal girl, a normal young
25 woman. Her anatomy is common. There's nothing about it to

1 suggest that she would have been unpenetrable or that it
2 would have been excruciatingly painful to even -- for there
3 even to be an attempt or it to have felt like a train going
4 through a brick wall just from, you know, a mere attempt.
5 Nothing like that was present with MINOR 1 .

6 You heard from -- well, again, MINOR 1 's stories, they
7 really sound like someone who's just reading about things.
8 You even heard that the term she used for a male's penis was
9 she used the word "shaft." It doesn't seem like a typical
10 word a teenager would use, more like something you maybe read
11 in a romance novel even. None of it just --- just none of it
12 makes sense.

13 Marcus may have said it in a crass way from what you
14 heard in his statement when he met with police, but it
15 doesn't make sense that over the course of three years, two
16 times a week, over a hundred times, that things never
17 progressed to actual penetration. MINOR 1 was very clear that
18 it was not a rare thing.

19 You got to see some pictures of the apartment. And like
20 Ms. Herring-Lash said, it's a small place. You saw that
21 MINOR 2 's room was actually right by his mom's. They shared
22 a wall. They were right together. MINOR 2 was there.
23 Ms. Herring-Lash told you that. Ms. Pear told you that.
24 MINOR 1 told you that.

25 And obviously, he loves his sister. She's his twin. He

1 tried to help her out a bit and claimed, well, he wouldn't
2 have been home really. He was working or he would have been
3 at practice. But that's not the case.

4 When Kandra Pear testified -- and she hadn't seen her
5 son's testimony -- she actually poked a lot of holes in his
6 statement. He hadn't actually started to work until
7 basically around the time of the disclosure. He didn't start
8 to play sports until then. When he was working, MINOR 1
9 actually worked with him the same shifts because, again, she
10 was concerned for MINOR 1's safety going back and forth from
11 work. And so MINOR 2 was always there.

12 And while MINOR 2 told us on the stand, just like he was
13 trying to help his sister out by saying, oh, he was basically
14 not there, he also said his door would be closed. But you
15 heard from his mom that, in fact, he wasn't one to close his
16 door, that his door, when he was in his room, would typically
17 be open.

18 And he told us -- he told us in trial that he never
19 heard or saw anything that was of concern to him. He never
20 heard any sexual activity. He never saw any interactions
21 between Marcus and MINOR 1 that would have suggested anything.
22 And if this had been a one-time or two-time thing, or just a
23 handful of times, then sure, maybe it's possible he wouldn't
24 have seen or heard anything. But when it was going on
25 supposedly for multiple times a week for three years, it

1 seems highly impossible that he never would have seen or
2 heard anything.

3 And who else never saw or heard anything? Kandra Pear.
4 She told you two stories that stood out in her mind. Well,
5 first of all, those stories are both innocent enough. One
6 time she came home and Marcus was sleeping and MINOR 1 was on
7 her floor watching TV. It's not unusual for a kid to be in
8 their mom's room watching TV.

9 And then there was this other time where she thought
10 MINOR 1 had this strange reaction to her and Marcus fighting.
11 But if she had really felt that MINOR 1 was feeling some type
12 of way towards Marcus, then her actions afterwards would have
13 been very different.

14 And she's making these claims more than two years later.
15 She tried to claim she told all of this to people at the
16 beginning. But I specifically asked multiple people. I
17 asked Officer now Detective Perez and Detective
18 Christophersen and Ms. Desch. And Kandra, she talked to all
19 of them, and she didn't mention anything about seeing
20 anything of concern.

21 And the State tried to make it sound like, oh, she
22 didn't have a normal interview. No, she was questioned. She
23 talked to numerous -- again, numerous people. And she at no
24 time indicated that she saw anything. She only came up with
25 these two stories -- which are a stretch -- after her

1 relationship with Marcus declined.

2 When Kandra first heard about all this, she was a
3 supportive mom. She was upset, understandably. MINOR 1
4 didn't even want to go to police, but Kandra felt like she
5 had a responsibility. She was clearly in distress herself
6 about this. And Kandra went to police.

7 MINOR 1 told you that her mom -- or you heard that her
8 mom was her Number 1. She didn't indicate that she and her
9 mom had any difficulties in their relationship, that she
10 thought her mom wouldn't have believed her. There was no
11 testimony about that. So her mom was supportive.

12 But her mom had a lot of concern and doubt because,
13 after all, she knew her daughter. She knows her daughter
14 more than anyone else in this room. And a lot of things
15 didn't make sense to her.

16 She told us that, yeah, during her work schedule, she
17 had multiple different jobs and she would just randomly come
18 home. Nobody knew when she was coming home. She wouldn't
19 call anybody. And during that time, she never ever saw
20 anything. The most she could come up with was just, again,
21 seeing MINOR 1 on her floor watching TV while Marcus was
22 sleeping.

23 She didn't think it made sense because she knew that her
24 son was always home with his door open. She had never seen
25 anything. She didn't think it made sense because she knew

1 that MINOR 1 had a knife and a Taser. And apparently, she
2 believed that her daughter was the type of person who would
3 have defended herself.

4 And because all of this didn't make sense, she continued
5 a relationship with Marcus for over two years. You heard
6 that she picked him up from the jail. She seemed to think --
7 that's the thing she told us she pleaded the Fifth. But she
8 admits that she continued to take him to work and that they
9 would have a sexual relationship to a degree.

10 She tried to minimize their relationship; however, the
11 reactions she had just a few months ago, in September of
12 2022, to believing a woman was in his house is not the
13 reaction of a woman who is just in a friendly relationship
14 with a man and maybe they were having sex every once in a
15 blue moon.

16 She told you in her direct testimony with
17 Ms. Herring-Lash that when she got to Marcus's street, she
18 was excited. That was her term: "excited." Not like, "Oh,
19 this is Marcus's street. Maybe I'll see him. Maybe we'll
20 talk." She was excited. And she goes and then she sees the
21 order is in a woman's name. She doesn't see a woman, but
22 she's outraged and she throws food and a drink in his face.

23 And then what she does is she later comes back with his
24 belongings that have been in her house for over two years,
25 and she throws them all over his yard. But it didn't end

1 there. She came back a week later and she did it a second
2 time.

3 Obviously she was quite mad at Marcus, and anything she
4 was saying is now based on a woman who believes that she has
5 been scorned -- not because a man she loved molested her
6 daughter, but because she thinks Marcus cheated on her with
7 another woman. If her testimony at this trial had been just
8 six months ago, it would have been completely different.

9 So why did MINOR 1 do that? You know, obviously people
10 are going to be wondering about that. Again, it's not easy
11 to -- nobody wants to believe somebody would make this up.
12 As you heard from Marcus, he could only speculate. He
13 doesn't know. He wasn't trying to say MINOR 1's this terrible
14 human being. All anybody can really do is speculate because
15 no one knows the mind of someone, especially not the mind of
16 a teenage girl.

17 Marcus had been with the family for a while. You
18 actually heard they had been living at Bayside for quite a
19 while, and Marcus was there pretty much from the beginning.
20 And despite that, despite Marcus having lived there for so
21 long, MINOR 1 didn't refer to the third room other than her --
22 you know, there was her room and her brother's and her mom's.
23 The room didn't belong to her mom and Marcus. It was her
24 mom's room. She never considered Marcus part of the family.
25 So even though Marcus may have thought they had a good

1 relationship, she never testified to that. Who knows what a
2 child is thinking?

3 And you heard that Marcus and Kandra were talking about
4 maybe getting married and having kids. You did not hear, as
5 the State suggested, that this was a brand new conversation
6 that just started like a week before. So when the solicitor
7 mentioned Ivy and Kandra and MINOR 1 having maybe mentioned
8 something to her a few months prior, or earlier or basically
9 six or so months prior, there's no indication that Kandra and
10 Marcus weren't talking about it as far back as then.

11 And we know -- we heard from both Kandra and MINOR 1 that
12 Kandra basically planted this seed about a year prior to this
13 disclosure. There were a lot of legal shows in the house --
14 *Law & Order*, *SVU* -- where a lot of stuff like this is
15 discussed. And Kandra told you that she was watching some of
16 these shows and it occurred to her, "Well, I need to talk to
17 my daughter," because that's something that parents do
18 sometimes to make sure that their children are safe and to
19 let their children know that they're there for them.

20 So Kandra had that conversation with MINOR 1 about a year
21 before this disclosure, when things would have been going on.
22 And she said, "No. Nothing's going on." And she
23 specifically referred to that conversation when she did tell
24 her mom in June of 2020. So again, the seed had been
25 planted.

1 When a nearly 17-year-old -- and again -- er, MINOR 1 ,
2 she was nearly 17. Her birthday was in July. This was June.
3 So she was almost 17. And when your mom is talking about
4 getting married, that could create a lot of reasonable
5 turmoil for a child, because she's almost an adult. And so
6 if Marcus and her mom had a baby, she likely would have been
7 18 at that point. They would have been in a small apartment.
8 Or maybe they were going to buy a house.

9 But maybe there wouldn't have been room for MINOR 1 in
10 that home. Maybe MINOR 1 wouldn't have been part of that new
11 family that they were creating, or not in the same way.
12 Maybe she would have been told, like many 18-year-olds are,
13 "Well, you're 18. Time to do it on your own. You can't live
14 here anymore. I don't have the space right now. We're
15 having a new kid. We need that room for the baby." So
16 again, hearing about your mom getting married at that age
17 would be pretty upsetting when you think about the possible
18 reality of what might come.

19 But teens also get into all sorts of things they don't
20 tell anybody about. There's online bullying. There are, you
21 know, a variety of things that kids have to deal with online.
22 And it's hard to know. Marcus, though, what you did hear is
23 that he tried to be really open with the kids -- maybe too
24 open, some people might think. But it's clear that he cared
25 for their safety.

1 You heard about marijuana. He admitted -- he was quite
2 open to police that he had given MINOR 1 some marijuana. You
3 did hear from the nurse that MINOR 1 admitted to having
4 headaches all the time, and so this is something that she was
5 dealing with. And as you saw or heard from Detective
6 Christophersen, during their meeting, he -- when he's going
7 to the marijuana, he starts off like, "Well, marijuana's not
8 really -- you know, it's not that big of a deal. It's nearly
9 legal."

10 A lot of people simply don't consider marijuana that
11 bad. A lot of people think it should be legal medically,
12 if nothing else. So Marcus giving MINOR 1, who is nearly 17,
13 some marijuana, while it was not necessarily or certainly not
14 a wise decision and it may not be a decision that many people
15 would make, he thought he was helping her out.

16 And he didn't consider marijuana to be this horrible
17 thing. You even heard him tell the story of a man that he
18 knew, the guy in Mount Pleasant. I know I've seen him, a man
19 with dreads who will hand out newspapers. And it was his
20 understanding, from what he had learned, that that man had
21 actually went to Harvard. And things went south when someone
22 spiked his marijuana, basically rolled something else up with
23 it, and it ruined his life.

24 And he clearly was very concerned about MINOR 1 having --
25 or making sure she wasn't putting herself in unsafe

1 situations. A lot of parents you hear -- you know, commonly
2 you hear parents -- stories of parents who might say, "Well,
3 I don't want you to drink, but if you're going to drink, I
4 prefer you drink here," or "I prefer you call me to pick you
5 up so you don't drink and drive, so you don't put yourself in
6 a vulnerable position." That is something parents do.
7 Parents can say, "I don't agree with this. I don't want you
8 to do this. But if you are going to do it, I know the
9 reality is that kids are going to do things, and I want you
10 to be safe." That's not so outrageous.

11 There's the conversation that he had about MINOR 1
12 talking to a male. Well, even though MINOR 1 is a lesbian,
13 she admitted that there were times where she did pursue or
14 think or try to figure out, "Well, maybe I do like -- see if
15 I like guys." Because kids -- again, she's at that age kids
16 are trying to determine their sexuality.

17 And what Marcus said was actually corroborated, because
18 Kandra did find things on her phone to suggest that there was
19 communication with a male. There was a picture of a male's
20 penis on her phone. And MINOR 1 gave this story that, "Oh, I
21 didn't know it was on there. I gave someone my account
22 information." Well, that makes no sense. And again, kids
23 lie about things like that. But it makes no sense, and it
24 does corroborate Marcus's story that she was talking to
25 somebody.

1 And again, when he was talking to her, he was just
2 letting her know, "Look, you shouldn't be doing this. I'm
3 not for it. But if you're going to do things, there's
4 nothing I can do. But it's on you because I'm telling you
5 it's bad." But he was giving her advice. And again, some
6 people might think it's inappropriate, but he clearly was
7 trying to look out for her that when you're in a
8 relationship, it's not just one-sided.

9 Now, that doesn't suggest that what MINOR 1 was saying
10 about all the oral sex was true, because, again, while Marcus
11 said it in a crass way, it doesn't mean that hundreds of
12 times or over a hundred for three years, that someone's only
13 going to perform oral sex on another person or only attempt
14 to penetrate.

15 You saw some text messages in this case. Well, the text
16 messages just show that Marcus was calling for MINOR 1, just
17 like many parents have to do. I know in my household growing
18 up, I was one of six, and so there was a lot of yelling in my
19 house from my mom, my dad, calling us and trying to get us to
20 come to dinner or to do chores or whatever. There's nothing
21 bad or suggestive of someone asking a kid to come out so they
22 can, you know, talk about chores or, again, whatever.

23 You heard of some presents. Well, you also heard that
24 Marcus bought things for both MINOR 1 and MINOR 2. And MINOR 1
25 didn't make a big deal about the gifts. She didn't at any

1 time say, "Oh, yeah, he would buy me presents for doing
2 things." Other people were trying to make a big deal about,
3 "Oh, he would buy her things." But adults buy kids things,
4 especially adults who are in a parental-type figure. I know
5 that I buy presents for my nieces and nephews. That is not
6 an unusual thing.

7 There are a few things that the expert testified to
8 regarding how sexual abuse in kids may progress. And she
9 told you that it's not uncommon for someone to start out with
10 something innocent. So -- before they get to the sexual
11 abuse. Like, there might be prolonged hugging or just
12 touching that, in and of itself, might be like, "Well, is
13 this something?" or you might not even think that would be so
14 innocent.

15 But in this case, according to MINOR 1 's testimony, nope,
16 it's full-on, first time, gave this very harsh choice, "your
17 mom dies or oral sex." And then he made her touch his penis.
18 He didn't make her touch his penis for three years after
19 that, but that's how it all began. And as Dr. Swiecicki
20 testified to, touching -- a man making a child touch his
21 penis would be considered sexual assault in and of itself.
22 It's certainly not innocent touching.

23 The next thing MINOR 1 went to was, "oh, seven minutes in
24 heaven or a beating." Well, seven minutes in heaven is like
25 a high school thing. So again, it makes sense that MINOR 1

1 would have heard of that. It makes no sense that Marcus
2 started out with these two huge things, these choices of
3 basically death to your mom, a beating for you, and then the
4 next three years, oh, just nothing. Just like, "Oh, I won't
5 fully penetrate," and, "We're going to have this casual, you
6 know, relationship."

7 It just makes no sense how she tells that it started out
8 one way and then none of that happened again. MINOR 1 never
9 said that she was actually afraid of him or anything like
10 that. She gave these outrageous scenarios to make it seem
11 worse just because it just makes no sense.

12 Now, ultimately, I mentioned how the person who knows
13 MINOR1 best is her mom. And Kandra was asked about her case.
14 DSS got involved for a bit. And they asked her -- they
15 weren't trying to elicit any information to harm MINOR 1, but
16 they asked her, "Tell us three things about your daughter."
17 Three things. Three characteristics.

18 And what did Kandra say? Well, one of the
19 characteristics: "She lies." Now, Kandra tried to minimize
20 that and said, "Oh, no. Well, it's just about small things."
21 But it's one of three. She didn't say her daughter was
22 loving or kind or truthful or smart. She said, "She lies."
23 That's one of her three defining characteristics, according
24 to her mother.

25 Now, it's really easy to be biased against people when

1 they're charged with such an offense. At the beginning of
2 this trial, Judge McCoy actually asked the whole jury panel
3 certain questions. And a lot of people were excused because
4 they admitted they could not be unbiased. You heard from
5 Detective Christophersen, for example. And it's clear he
6 could not be unbiased. He only looked for what he thought
7 would corroborate MINOR 1 's story. He didn't even try to
8 question people like MINOR 2 , who he was told was there. He
9 didn't even bother.

10 But your job, which is the difficult one, is to look at
11 this from a neutral perspective to try to determine, again,
12 what makes sense. And the State has to prove to you that
13 Marcus did these things. They have to prove to you beyond a
14 reasonable doubt.

15 And as I mentioned at the beginning of this trial, that
16 is an extraordinarily high burden. Would a reasonable person
17 hesitate to act? Yes, they would. They would hesitate
18 because there's a lot of doubt here. There's a lot of doubt
19 because Marcus is innocent. And we would ask you to find him
20 not guilty.

21 Thank you.

22 THE COURT: All right. Ladies and gentlemen, we're
23 going to the part of the trial now where I will read you the
24 law that applies to the case. This will take approximately
25 15 to 20 minutes. Does anybody need a restroom break at this

1 time, or can we push on through? If you do need a restroom
2 break, it's no problem. Just put your hand up and let know
3 me know.

4 All right. We're going to pish on through, hearing
5 none.

6 Ladies and gentlemen, during this trial you and I have
7 had certain duties to perform. As the trial judge, it's been
8 my responsibility to preside over this trial. And I've also
9 had the duty to rule on the admissibility of the evidence
10 that has been offered during this trial.

11 You are to consider only the evidence before you. If
12 there was any testimony that was stricken from the record in
13 this case during this trial, you must disregard that
14 testimony. You are to consider only the testimony which has
15 been presented from the witness stand and any exhibits which
16 have been introduced into the record in the case.

17 I now have the additional duty to charge you on the law
18 that applies to this case. As the presiding judge, I am the
19 sole judge of the law of this case. And it's your duty as
20 jurors to accept and apply it as I now state it to you.

21 You will notice I am reading this portion, and that is
22 so that I ensure to give it to you as accurately as possible.
23 If you already have an idea as to what the law is or what the
24 law should be and it doesn't agree with what I will now tell
25 you, you must abandon that idea because you have taken an

1 oath to accept the law and apply the law exactly as I now
2 state it to you.

3 In every case tried in this court before a jury, the
4 jury becomes the sole and exclusive judge of the facts in the
5 case. The trial judge cannot comment on or make any
6 statement to the jury about the facts in the case. Since
7 you, the jury, are the sole judge of the facts in this case,
8 do not think from anything I have said during the progress of
9 this case that I have any opinion about the facts in this
10 case. I can assure you I do not. This is a matter solely
11 for you, the jury, to determine. As jurors, it's your duty
12 to determine the effect, the value, the weight, and the truth
13 of the evidence presented during the trial.

14 When I use the word "defendant," I refer to Mr. Marcus
15 Wigfall. The defendant here has been accused in what we call
16 indictments. These are pieces of paper on which accusations
17 against the defendant are placed. Indictments are not
18 evidence in the case. Now, to these indictments the
19 defendant has rendered a plea of not guilty, which then
20 places upon the State the burden of proving beyond a
21 reasonable doubt that the defendant is guilty.

22 In this state and in this country, a person who is
23 accused of a criminal offense is never required to come in
24 and prove himself or herself innocent. This principle of law
25 is called the presumption of innocence. Each of you is

1 required under our law and by your oath to actively presume
2 that the defendant is not guilty. The presumption of
3 innocence is maintained at all times throughout the trial of
4 this case and is only removed when and if the State brings in
5 enough evidence to persuade you beyond a reasonable doubt
6 that the defendant is guilty.

7 So what is reasonable doubt? A reasonable doubt is a
8 doubt which makes an honest, sincere, conscientious juror
9 hesitate to act. Proof beyond a reasonable doubt is proof
10 that leaves you firmly convinced of the defendant's guilt.
11 There are very few things in this world that we know with
12 absolute certainty. And in criminal cases, the law does not
13 require proof that overcomes every possible doubt.

14 If, based on your consideration of the evidence, you are
15 firmly convinced that the defendant is guilty of the crimes
16 charged, you must find him guilty. If, on the other hand,
17 you think there is a real possibility that he is not guilty,
18 you must give him the benefit of the doubt and find him not
19 guilty. As the sole fact-finders, you should have listened
20 closely to the evidence presented. Weighing the evidence is
21 entirely a mental process, and you must weigh it using your
22 good judgment and your common sense.

23 Ladies and gentlemen, cases can be present -- or
24 evidence can be presented in one of two ways: direct
25 evidence or indirect evidence, which is also called

1 circumstantial evidence. Now, direct evidence is when
2 someone comes in and testifies to the commission of a crime
3 that they perceived through their own senses. For example,
4 if the witness saw someone commit a crime. Indirect
5 evidence, or circumstantial evidence, is when someone
6 testifies as to different events that occurred and when you
7 link them all together, they point to the commission of a
8 crime.

9 One or both methods can be used to present a case.
10 Crimes may be proven by circumstantial evidence. The law
11 makes absolutely no distinction between the weight or value
12 to be given to either direct or circumstantial evidence, nor
13 is a greater degree of certainty required of circumstantial
14 evidence than of direct evidence.

15 However, to the extent the State relies on
16 circumstantial evidence, all of the circumstances must be
17 consistent with each other, and when taken together, point
18 conclusively to the guilt of the accused beyond a reasonable
19 doubt. If these circumstances merely portray the defendant's
20 behavior as suspicious, the proof has failed. The State has
21 the burden of proving the defendant guilty beyond a
22 reasonable doubt, and this burden rests with the State
23 regardless of whether they rely on direct evidence,
24 circumstantial evidence, or some combination of the two.

25 The evidence you are to consider consists of the

1 testimony of the witnesses and the exhibits that have been
2 offered and received during trial. Objections and rulings
3 and matters that may have been excluded from the record are
4 not to be considered by you in any fashion. If it appears to
5 you that I have commented on at any point during this trial
6 any fact, either during the trial or the beginning of these
7 instructions, you must disregard that entirely.

8 Also, the remarks of the attorneys, I'll reiterate, are
9 not evidence. Their statements and their arguments are
10 intended to help you understand the evidence and apply the
11 law, but you should disregard any remark, statement, or
12 argument which is not supported by the evidence or the law as
13 given to you by the Court.

14 So how do you decide the facts of the case? You do it
15 through the exercise of your good judgment, the application
16 of your common sense, your sense of logic and reason, and
17 your everyday life experiences. Every day in your lives you
18 judge credibility. You make decisions every day with regard
19 to whether people are believable, persuasive, convincing, or
20 not. You do the same thing as a juror.

21 In deciding believability, you may consider, What was
22 the manner and appearance of the witness who testified? Was
23 he or she straightforward or hesitant in answering? Was the
24 testimony of a witness consistent or inconsistent? How did
25 the witness come to know the facts that he or she testified

1 to? Or what was his ability to know these facts? Is there
2 some reason a witness would want to give testimony which
3 would help or hurt one side or the other? In other words,
4 was the witness biased or prejudiced?

5 In determining the question of credibility or
6 believability of witnesses, you may believe one witness
7 against several or several witnesses against one. You may
8 believe a part of the testimony of a witness and reject the
9 remaining part of the testimony of that same witness. You
10 may believe the testimony of a witness in its entirety or
11 reject the testimony of a witness in its entirety. You are
12 to consider all the evidence in this case and determine what
13 you believe to be the facts of this dispute.

14 The rules of evidence ordinarily don't permit witnesses
15 to testify to opinion or conclusion. An exception to this
16 rule exists for witnesses we call expert witnesses. A
17 witness who, by education and experience, has become an
18 expert in some art, science, or profession may state an
19 opinion as to the relevant material matter in which that
20 witness claims to be an expert and may also state the reasons
21 for that opinion.

22 You should consider any expert opinion received in
23 evidence in this case, and like any other evidence, give it
24 the weight you think it deserves. If you decide the opinion
25 of an expert witness is not based on sufficient education and

1 experience or if you conclude the reasons given in support of
2 that opinion are not sound or that the opinion is outweighed
3 by other evidence, you may disregard that opinion entirely.

4 An expert witness's testimony is to be given no greater
5 weight than that of any other witness simply because that
6 witness is an expert. Furthermore, you are not required to
7 accept an expert's opinion even if it's not contradicted.

8 A statement alleged to have been made by the defendant
9 has been admitted into evidence in this case. And while the
10 Court has determined that the statement is admissible, I
11 instruct you that you make the ultimate decision of whether
12 or not the defendant made the statement. If this defendant
13 did make the statement, you must determine whether the
14 statement was made by the defendant voluntarily and of his
15 own free will. This means that the statement was not caused
16 by pressure, force, fear, threats, coercion, or intimidation,
17 or by hope or a promise of leniency or reward of any kind.

18 In determining whether the statement was voluntary, you
19 should consider both the characteristics of the defendant and
20 the details of the questioning. Some of the factors that you
21 must consider are: 1, the age of the defendant; 2, the
22 defendant's education or lack of education; 3, the
23 defendant's mental ability or capacity; 4, the defendant's IQ
24 or intelligence; 5, the defendant's background and
25 environment; 6, the place and length of the detention; and 7,

1 the nature of the questioning.

2 You must carefully consider all the surrounding
3 circumstances before you give any weight to an alleged
4 statement. The State has the burden of proving beyond a
5 reasonable doubt that the alleged statement was voluntary.
6 If you determine it was, you may give the statement any
7 further consideration that you deem proper. You must decide
8 what weight, if any, should be given to the alleged
9 statement. If you determine the alleged statement was not
10 free and voluntarily, you should not consider it at all.

11 I instruct you and I emphasize that the fact the
12 defendant did not testify in this trial is not a factor to be
13 considered by you in any way in your deliberation and in your
14 consideration on the question of the guilt or innocence of
15 the defendant. It must not be considered by you in any
16 manner whatsoever. A defendant has a constitutional right to
17 remain silent, and the assertion of this right must not be
18 considered by you in your deliberations.

19 I repeat, under your oath, you are to draw no conclusion
20 whatsoever from the fact that the defendant in this case did
21 not testify. The fact that this defendant did not testify
22 should not even be discussed in the jury room. The burden of
23 proof, as I have stated to you, is on the State. The
24 defendant is not required to prove his innocence. The burden
25 of proof remains on the State to prove guilt beyond a

1 reasonable doubt.

2 I now have the duty to charge you on the law that
3 applies to the case. As the presiding judge, I'm the sole
4 judge of the law in this case, and it's your duty to accept it
5 and apply it as I now state it to you. As I've already told
6 you, you are to determine the facts in this case, and when it
7 comes to the law, you have to accept the following legal
8 principles. You obviously can't change the law. You will
9 take it as I give it to you. You find the facts as you see
10 them and apply the law to those facts, and that's how you
11 reach a verdict.

12 The defendant is charged with contributing to the
13 delinquency of a minor. A minor is a person who is less than
14 18 years old. The State must first prove beyond a reasonable
15 doubt that the defendant was over 18 years of age. The State
16 must then prove beyond a reasonable doubt that the defendant
17 knowingly and willfully encouraged, aided, or caused a minor
18 to do any act which caused or influenced the minor to violate
19 a law or municipal ordinance.

20 The defendant is charged with second-degree criminal
21 sexual conduct with a minor. The State must prove beyond a
22 reasonable doubt that the defendant engaged in sexual battery
23 with the victim. A sexual battery is sexual intercourse,
24 cunnilingus, fellatio, anal intercourse, or any intrusion,
25 however slight, of any part of a person's body or of any

1 object into the genital or anal openings of another person's
2 body, except when this intrusion is accomplished for
3 medically-recognized treatment or diagnostic purposes.

4 The State must then prove beyond a reasonable doubt that
5 the victim was at least 11 years old but not more than 14
6 years old at the time of the sexual battery and/or that the
7 victim was less than 16 years old but at least 14 years old
8 and that the defendant was either in a position of familial,
9 custodial, or official authority to coerce the victim to
10 submit or that the defendant was older than the victim.

11 Consent, willingness, indifference, or ignorance on the
12 part of the minor, if any, as to what was taking place does
13 not in any way affect the charge of criminal sexual conduct
14 with a minor because an unmarried woman under the age of 14
15 cannot legally consent to sexual intercourse.

16 The defendant is also charged with committing criminal
17 sexual conduct with a minor in the third degree. I instruct
18 you that our code of law states that a person is guilty of
19 criminal sexual conduct with a minor in the third degree if
20 the actor is over 14 years of age and the actor willfully and
21 lewdly commits or attempts to commit a lewd or lascivious act
22 upon or with the body or its parts of a child under 16 years
23 of age with the intent of arousing, appealing to, or
24 gratifying the lust, passions, or sexual desires of the actor
25 or the child.

1 However, a person may not be convicted of a violation of
2 the provision of this section if the person is 18 years of
3 age or less when the person engages in consensual lewd or
4 lascivious conduct with another person who is at least 14
5 years of age.

6 The State must first prove beyond a reasonable doubt
7 that the defendant was over the age of 14. The State must
8 then prove the victim was a minor. A minor is a person under
9 the age of 18. Lastly, the State must prove that the
10 defendant willfully and lewdly committed or attempted a lewd
11 or lascivious act on or with the body or its parts of a child
12 under the age of 16 years with the intent to arouse, appeal
13 to, or gratify the lust, passions, or sexual desires of the
14 defendant or the child.

15 Now, "willfully" is defined as voluntarily and
16 intentionally, with a specific intent to do something the law
17 forbids. "Lewd" means obscene, lustful, indecent, or
18 lecherous. "Lascivious" is defined as tending to incite
19 lust, lewdness, indecent, obscene, or tending to deprave the
20 morals in respect to sexual relations.

21 Ladies and gentlemen, you are not supporters or
22 promoters for the State of South Carolina or this defendant.
23 You do not serve as jurors to reward friends or punish
24 enemies. You have been selected by both the State and this
25 defendant as fair and impartial jurors. It is your duty to

1 determine the facts in this case, giving to this defendant
2 the benefit of every reasonable doubt. Then to the facts
3 which you determine, you take and apply the law which has
4 been given to you by me, and thus arrive at a verdict. When
5 you have accomplished this and written your verdict, you will
6 have satisfied your oath as jurors and you will have
7 discharged your duty to the State, to Mr. Wigfall, and to the
8 Court.

9 Your verdict must be a unanimous one, meaning all 12 of
10 you must agree. You will be asked to render a verdict on
11 each of the four charges.

12 Mr. Foreman, when the jury agrees on a verdict, you will
13 indicate by checking the line next to the verdict and signing
14 your name as foreperson. You will then knock on the jury
15 room door and inform the bailiff that you have reached a
16 verdict. At that time, we will receive you back into the
17 courtroom.

18 I ask now that you return to your jury room but do not
19 yet begin to deliberate until you are told to do so by the
20 clerk or the bailiff. There are a few additional matters I
21 must discuss with these attorneys before you begin. Thank
22 you very much.

23 (The jury exited the courtroom at 12:35 a.m.)

24 (The following proceedings were had outside the presence
25 of the jury.)

1 THE COURT: All right. Any exceptions or objections to
2 the charge as read by the Court from the State?

3 MS. HERRING-LASH: No, your Honor.

4 THE COURT: Any from the defense?

5 MS. FORD: No, your Honor.

6 THE COURT: All right. Obviously I went back, as we
7 discussed early in the trial, and inserted the portion
8 regarding the statement of the defendant, which was
9 applicable in this.

10 All right. I would ask that you just review the
11 evidence that was admitted during the trial, as well as the
12 verdict form, which I'll hand to the bailiff and they can
13 hand it to the jury.

14 Any objections to me dismissing the alternate at this
15 time from the State or the defense?

16 MS. HERRING-LASH: No, your Honor.

17 MS. FORD: No, your Honor.

18 THE COURT: Okay. I'll do that and come back.

19 (Court recessed.)

20 (Court resumed outside the presence of the jury.)

21 THE COURT: All right. The alternate has been released.

22 All set? Okay. All right. We'll go ahead and let them
23 begin deliberating. Their lunch is here as well. And if
24 y'all decide to leave the courtroom, obviously you can leave
25 the courtroom, but just make sure that I have a way to

1 contact you if there's a note or a verdict.

2 (The jury was instructed to begin deliberations on the
3 verdict at 12:38 p.m.)

4 (Court recessed.)

5 THE COURT: I have a note from Juror 69. I'll mark it
6 as a Court's exhibit.

7 (Court's Exhibit Number 4 marked for the record.)

8 THE COURT: Okay. It says, "The audio of evidence State
9 Exhibit 8 does not work. James Diamond, Juror 69."

10 So was 8 the call or the body cam? Do y'all know?

11 MS. HERRING-LASH: I think it was the body cam. I'm not
12 absolutely positive.

13 THE COURT: Madam Court Reporter?

14 COURT REPORTER: 8 is the body cam.

15 THE COURT: It's the body cam? Okay. All right.

16 MS. HERRING-LASH: It is what --

17 THE COURT: So bring them back in here to watch the
18 whole thing again, I guess. I don't know. How'd y'all get
19 it to play in here?

20 MS. HERRING-LASH: John explained the issue is it only
21 plays in media and -- John can explain it.

22 UNIDENTIFIED MALE: So it's Windows Media. And what I
23 did was the disk that's in evidence, I put it on the computer
24 and dragged the file off the disk onto the desktop. The disk
25 has buffering issues if you play straight off the disk. So

1 just drag it off to the desktop and it plays flawlessly.

2 THE COURT: Well, I can't really do all that for the
3 jury. So anytime we have any kind of evidence on a disk, it
4 needs to be really easy to access. Because if it's not, we
5 need to figure out another way for easy access.

6 MS. HERRING-LASH: I think the problem is --

7 THE COURT: It should be --

8 MS. HERRING-LASH: -- is when you redact it, it runs
9 into that.

10 THE COURT: Okay. I get it. We'll have to just bring
11 them back in here and have to do it. Because I can't reduce
12 all that to writing and, you know, make sure they know how to
13 drag stuff around like that. Plus, anything they're viewing
14 it on, really has the -- they are essentially locked out of
15 functions. They're literally locked out. Basically, they
16 can't do anything else on it, so I don't think they can do
17 all that.

18 So get it cued up.

19 Okay. All right. And we have another note that says,
20 "Request for the definitions of the charges according to the
21 law." So it's not -- I would submit -- especially in a case
22 like this, I would submit one proposal would be to give them
23 a cleaned-up copy of the charge. Or if y'all want me to read
24 it all back out, I can do that as well. What do y'all have
25 -- what do you think? I'm happy to take any suggestions.

1 MS. HERRING-LASH: I think that -- it doesn't matter to
2 me which form, but I do think you need to give them the whole
3 thing, not just the statute.

4 THE COURT: Correct. That's right. Yeah. If I gave
5 them a copy, it would be the entire charge. Or if I reread
6 the definitions of the specific charges, I would obviously
7 have to recharge either reasonable doubt -- well, I'm happy
8 to do it either way. Doesn't matter to me. Y'all can tell
9 me what you prefer.

10 MS. FORD: I would prefer reading them, your Honor, just
11 to --

12 THE COURT: Okay. I'm happy to do it.

13 MS. FORD: Yes, your Honor.

14 THE COURT: We're having to bring them back in here
15 anyway to review the video, so I'll do that.

16 We'll mark this other notes as Court's 5.

17 (Court's Exhibit Number 5 marked for the record.)

18 THE COURT: So I will reread the specific instruction,
19 the charge portions that dealt with the three types of
20 charges. And then I will recharge reasonable doubt. Okay?

21 And then -- I think we'll first view the video, and then
22 I'll do that. And then we'll release them. Okay?

23 So when y'all have it ready, let me know and we'll bring
24 the jury in. Okay?

25 MS. HERRING-LASH: I think it's ready, your Honor.

1 THE COURT: Okay. You can bring the jury back in then.
2 Thank you.

3 (The jury entered the courtroom at 3:10 p.m.)

4 THE BAILIFF: All jurors are present, your Honor.

5 THE COURT: Okay. Thank you so much.

6 All right. Ladies and gentlemen, we got your notes. So
7 we're going to go ahead and cue up that audio/video -- that
8 was State's Exhibit 8 -- and play that first, and then I'll
9 address the other note after that. All right?

10 So go ahead.

11 (Video played in open court.)

12 THE COURT: Thank you.

13 Okay. I'll now recharge you on the particular charges
14 that you've requested.

15 The defendant is charged with contributing to the
16 delinquency of a minor. A minor is a person who is less than
17 18 years old. The State must first prove beyond a reasonable
18 doubt that the defendant was over 18 years of age. The State
19 must then prove beyond a reasonable doubt that the defendant
20 knowingly and willfully encouraged, aided, or caused a minor
21 to do any act which caused or influenced the minor to violate
22 any law or any municipal ordinance.

23 The defendant is charged with second-degree criminal
24 sexual conduct with a minor. The State must prove beyond a
25 reasonable doubt that the defendant engaged in a sexual

1 battery with the victim. A sexual battery is sexual
2 intercourse, cunnilingus, fellatio, anal intercourse, or any
3 intrusion, however slight, of any part of a person's body or
4 of any object into the genital or anal opening of a person's
5 body, except when the intrusion is accomplished for
6 medically-recognized treatment or diagnostic purposes.

7 The State must then prove beyond a reasonable doubt that
8 the victim was at least 11 years old but not more than 14
9 years old at the time of the sexual battery and/or that the
10 victim was less than 16 years old but at least 14 years old
11 and that the defendant was either in a position of familial,
12 custodial, or official authority to coerce the victim to
13 submit or that the defendant was older than the victim.

14 Consent, willingness, indifference, or ignorance on the
15 part of the minor, if any, as to what was taking place does
16 not in any way affect the charge of criminal sexual conduct
17 with a minor because an unmarried woman under the age of 14
18 cannot legally consent to sexual intercourse.

19 The defendant is also charged with committing criminal
20 sexual conduct with a minor, third degree. I instruct you
21 that our code of law states that a person is guilty of
22 criminal sexual conduct with a minor in the third degree if
23 the actor is over 14 years of age and the actor willfully and
24 lewdly commits or attempts to commit a lewd or lascivious act
25 upon or with the body or its parts of a child under 16 years

1 of age with the intent of arousing, appealing to, or
2 gratifying the lust, passions, or sexual desires of the actor
3 or the child.

4 However, a person may not be convicted of a violation of
5 the provisions of this section if the person is 18 years of
6 age or less when the person engages in consensual lewd or
7 lascivious conduct with another person who is at least 14
8 years of age.

9 The State must first prove beyond a reasonable doubt
10 that the defendant was over the age of 14. The State must
11 then prove the victim was a minor. A minor is a person under
12 the age of 18. Lastly, the State must prove that the
13 defendant willfully and lewdly committed or attempted a lewd
14 or lascivious act on or with a body part of a child under the
15 age of 16 with the intent to arouse, appeal to, or gratify
16 the lust, passions, or sexual desires of the defendant or the
17 child.

18 "Willfully" is defined as voluntarily and intentionally,
19 with the specific intent to do something the law forbids.

20 "Lewd" means obscene, lustful, indecent, or lecherous.

21 "Lascivious" is defined as tending to incite lust, lewdness,
22 indecent, obscene, or tending to deprave the morals in
23 respect to sexual relations.

24 Reasonable doubt is a doubt which makes an honest,
25 sincere, conscientious juror hesitate to act. Proof beyond a

1 reasonable doubt is proof that leaves you firmly convinced of
2 the defendant's guilt. There are very few things in this
3 world that we know with absolute certainty. And in criminal
4 cases, the law does not require proof that overcomes every
5 possible doubt.

6 If, based on your consideration of the evidence, you are
7 firmly convinced that the defendant is guilty of the crime
8 charged, you must find him guilty. If, on the other hand,
9 you think there is a real possibility that he is not guilty,
10 you must give him the benefit of the doubt and find him not
11 guilty.

12 Ladies and gentlemen, I will now discharge you back to
13 your jury room where you may continue your deliberations.

14 (The jury exited the courtroom to resume deliberations
15 on the verdict at 3:46 p.m.)

16 (The following proceedings were had outside the presence
17 of the jury.)

18 THE COURT: All right. We'll be back at ease until we
19 get another note or a verdict.

20 MS. HERRING-LASH: Do you want me to give this back to
21 the clerk?

22 THE COURT: Please. Yes, please give it back.

23 All right. Thank you.

24 (Court recessed.)

25 (Court resumed outside the presence of the jury.)

1 (Court's Exhibit Number 6 marked for the record.)

2 THE COURT: Okay. So we've received another note from
3 the jury. It's been marked as Court's Exhibit 6. It just
4 says, "How much time do we have left today for deliberations?
5 Juror Number 69."

6 So I can just write back and say they can take as much
7 time as they need. I'm not going to put a time limit on the
8 jury. I don't think there's really any other appropriate
9 response. I think, yeah, we can offer them to order dinner
10 if they need to, if it would be necessary. Obviously, we'll
11 just make sure nobody's hungry or anything.

12 MS. HERRING-LASH: Is it appropriate to let them know
13 they could come back?

14 THE COURT: What do you think about that, Ms. Ford?

15 MS. FORD: Your Honor, I'm not opposed to that. I don't
16 know if any of them have issues with timing with children, so
17 I am concerned about at least not asking about that, if
18 anybody feels the pressure.

19 THE COURT: Yeah. I'm happy to just write on here that,
20 you know, there's no time limit, but if they have the need to
21 come back tomorrow, then we can. How about that?

22 MS. FORD: Yes, ma'am.

23 MS. HERRING-LASH: Just because if they have to get home
24 to do something --

25 THE COURT: Right. Yeah.

1 MS. HERRING-LASH: -- and feel pressure to --

2 THE COURT: I get it. Yeah. Okay. So Ms. Herring-Lash
3 and Ms. Ford, y'all just come up here. I'll write this and
4 let y'all look at it. I'm writing, "There is no time limit.
5 If you want to come back tomorrow, let us know." Okay?

6 MS. HERRING-LASH: Mm-hmm.

7 MS. FORD: Yes, ma'am.

8 THE COURT: Okay. Good deal. All righty. So we'll
9 just -- Mr. Ladson, you can just give this back to them.
10 That's got the answer on it. And we'll await any other
11 response.

12 THE BAILIFF: Yes, ma'am.

13 THE COURT: Okay. Thank y'all.

14 (Off the record.)

15 THE COURT: Okay. Another note. "We do not need to be
16 provided dinner. We believe we will have a verdict within
17 the hour. Juror Number 69."

18 All right. Back at ease.

19 (Court's Exhibit Number 7 marked for the record.)

20 (Court recessed.)

21 (Court resumed outside the presence of the jury.)

22 THE COURT: All right. This note says, "Can we get the
23 confines of the fourth charge, criminal sexual conduct with a
24 minor, third degree, written out according to the letter of
25 the law?"

1 So they are asking for a written copy of this.

2 Thoughts? Suggestions? Anything from the State or defense?

3 MS. HERRING-LASH: Could you just read it to them again?

4 THE COURT: I can. I can read it to them and read out
5 the reasonable doubt charge again.

6 MS. HERRING-LASH: I just think that that case is that
7 you can't send part of the charge back.

8 THE COURT: There's no doubt. I can't send part.

9 MS. HERRING-LASH: Yeah.

10 THE COURT: I can only send the entire thing --

11 MS. HERRING-LASH: Mm-hmm.

12 THE COURT: -- if we went that route. So that's the
13 other option. Do either of you have a preference?

14 MS. HERRING-LASH: It may be better to send the entire
15 thing rather than writing it.

16 MS. FORD: Sending it, I don't object to that. There
17 may -- there may be confusion with the 18/16-year-old stuff.
18 I don't know, because it was mentioned --

19 THE COURT: Yeah, I can see that. That's probably what
20 it is, you know, because it does mention both. He's got to
21 be this old and she's this old, but then there's that caveat,
22 "However, if it's consensual between these ages." That gets
23 confusing, so that's probably what it is.

24 MS. FORD: So I have no objection to sending the
25 instructions back.

1 THE COURT: Okay. So it will take longer, but that's
2 okay, because I've got to go back and just make sure any
3 citations or anything like that are totally removed. But it
4 might not take too much longer. I'll have you look at it
5 before we send it back.

6 (Court's Exhibit Number 8 marked for the record.)

7 THE COURT: I'm going to take out the -- in the headings
8 where it cites the statute numbers and just leave the title.
9 And then a couple of parenthetical phrases that I did not
10 read will be removed where it says from, like, you know,
11 "Charge only the applicable sections below." Obviously,
12 like, that I will take out.

13 And I'm really just going through here to make sure
14 there's not any footnotes or any cases cited or anything like
15 that.

16 All right. Y'all can come up and take a look at it.
17 And it's really more that I really can't change anything more
18 than that.

19 MS. HERRING-LASH: Yeah, we're just reading the third
20 degree.

21 THE COURT: Yeah. Okay.

22 Okay. All right. So this will be marked as the next
23 Court's exhibit. Yeah, Court's exhibit. So that will be 9.

24 (Court's Exhibit Number 9 marked for the record.)

25 THE COURT: And it will be given to the bailiffs to give

1 to them.

2 All right. We'll be back at ease.

3 (Court recessed.)

4 (Court resumed outside the presence of the jury.)

5 THE COURT: Okay. Mr. Ladson, was there a knock on the
6 door?

7 THE BAILIFF: Yes, ma'am.

8 THE COURT: Did they indicate they have a verdict?

9 THE BAILIFF: Yes, ma'am.

10 THE COURT: Okay. You can bring them in.

11 (The jury entered the courtroom at 6:21 p.m.)

12 THE COURT: Okay. Thank y'all very much.

13 THE BAILIFF: All jurors are present, your Honor.

14 THE COURT: All right. Mr. Foreman, I understand the
15 jury reached a verdict. Is that correct?

16 JURY FOREPERSON: Yes, your Honor.

17 THE COURT: Okay. You can just pass that form right
18 there to Mr. Ladson, and he'll pass it to me.

19 Okay. All right. I'll hand this to the clerk for
20 publication.

21 CLERK OF THE COURT: The State of South Carolina, County
22 of Charleston, in the Court of General Sessions, the State of
23 South Carolina versus Marcus Wigfall.

24 Indictment Number 2021-GS-10-00115, as to the charge of
25 contributing to the delinquency of a minor, we, the jury,

1 unanimously find the defendant guilty.

2 Indictment Number 2021-GS-10-00113, as to the charge of
3 criminal sexual conduct with a minor, second degree,
4 timeframe August 2016 to July 30, 2018, victim 14 years of
5 age or less but at least 11 years of age, we, the jury,
6 unanimously find the defendant not guilty.

7 Indictment Number 2021-GS-10-00114, as to the charge of
8 criminal sexual conduct with a minor, second degree,
9 timeframe August 1, 2018, to July 30, 2019, victim 14 years
10 of age to less than 16 years of age, we, the jury,
11 unanimously find the defendant not guilty.

12 Indictment Number 2021-GS-10-00112, as to the charge of
13 criminal sexual conduct with a minor, third degree, we, the
14 jury, unanimously find the defendant guilty.

15 Signed by Mr. Foreperson, Wednesday, February 8, 2023,
16 Charleston, South Carolina.

17 THE COURT: Okay. Thank you very much.

18 All right. Ladies and gentlemen, I make it a point
19 never to comment on a jury's verdict, but I thank you for
20 your service today.

21 And are there any posttrial motions from the State
22 before I excuse the jury?

23 MS. HERRING-LASH: No, your Honor.

24 THE COURT: Any from the defendant?

25 MS. FORD: Your Honor, we would just ask that the jury

1 be polled.

2 THE COURT: Okay. So ladies and gentlemen, the jury
3 polling will consist of the clerk reading out your jury
4 number only. She'll just ask if that represents your verdict
5 and if that still represents your verdict, and you'll just
6 answer either yes or no to those questions that she asks you.
7 Okay?

8 All right. Go ahead.

9 CLERK OF THE COURT: Ladies and gentlemen of the jury, I
10 will call out your number. And when I do, please raise your
11 hand. I will then ask you each to answer two questions yes
12 or no.

13 Juror Number 20, is this your verdict?

14 JUROR: Yes.

15 CLERK OF THE COURT: Is it still your verdict?

16 JUROR: Yes.

17 CLERK OF THE COURT: Juror Number 69, is this your
18 verdict?

19 JUROR: Yes.

20 CLERK OF THE COURT: Is it still your verdict?

21 JUROR: Yes.

22 CLERK OF THE COURT: Juror Number 27, is this your
23 verdict?

24 JUROR: Yes.

25 CLERK OF THE COURT: Is it still your verdict?

1 JUROR: Yes.

2 CLERK OF THE COURT: Juror Number 218, is this your
3 verdict?

4 JUROR: Yes.

5 CLERK OF THE COURT: Is it still your verdict?

6 JUROR: Yes.

7 CLERK OF THE COURT: Juror Number 227, is this your
8 verdict?

9 JUROR: Yes.

10 CLERK OF THE COURT: Is it still your verdict?

11 JUROR: Yes.

12 CLERK OF THE COURT: Juror Number 236, is this your
13 verdict?

14 JUROR: Yes.

15 CLERK OF THE COURT: Is it still your verdict?

16 JUROR: Yes.

17 CLERK OF THE COURT: Juror Number 294, is this your
18 verdict?

19 JUROR: Yes.

20 CLERK OF THE COURT: Is it still your verdict?

21 JUROR: Yes.

22 CLERK OF THE COURT: Juror Number 215, is this your
23 verdict?

24 JUROR: Yes.

25 CLERK OF THE COURT: Is it still your verdict?

1 JUROR: Yes.

2 CLERK OF THE COURT: Juror Number 66, is this your
3 verdict?

4 JUROR: Yes.

5 CLERK OF THE COURT: Is it still your verdict?

6 JUROR: Yes.

7 CLERK OF THE COURT: Juror Number 148, is this your
8 verdict?

9 JUROR: Yes, ma'am.

10 CLERK OF THE COURT: Is it still your verdict?

11 JUROR: Yes.

12 CLERK OF THE COURT: Juror Number 132, is this your
13 verdict?

14 JUROR: Yes.

15 CLERK OF THE COURT: Is it still your verdict?

16 JUROR: Yes.

17 CLERK OF THE COURT: Juror Number 111, is this your
18 verdict?

19 JUROR: Yes.

20 CLERK OF THE COURT: Is it still your verdict?

21 JUROR: Yes.

22 CLERK OF THE COURT: Your Honor, the jury has been
23 polled and the verdict stands.

24 THE COURT: Okay. Thank you very much.

25 All right. Any other motions before I release the jury

1 from the State or the defense?

2 MS. HERRING-LASH: Not from the State.

3 MS. FORD: No, your Honor.

4 THE COURT: Okay. Thank you so much. Once again,
5 ladies and gentlemen, you have fulfilled your jury service.
6 We thank you for that this week. I know it's been a long
7 day, and I'm sure you're all ready to get home. You're
8 obviously released from jury duty the rest of this week. And
9 the good news is you won't have to serve on any other juries,
10 if you don't want to, in this court for another three years.

11 The next portion of this will be the sentencing part,
12 and that is for me to do. You are welcome to stay if you
13 want to, but you are certainly under no obligation to stay.
14 And they won't be offended whatsoever if you get up and walk
15 out at any time. The bailiffs will help you get back to your
16 cars and everything. Just make sure you have everything you
17 need and all your belongings. Okay?

18 So once again, I appreciate your service this week and
19 your attention. And you are free to leave.

20 (The jury was excused from service at 6:26 p.m.)

21 THE COURT: Does the State have sentencing sheets
22 prepared?

23 MS. HERRING-LASH: I have someone over there to print
24 them off.

25 THE COURT: Okay. Just be aware that that third-floor

1 hallway can pose some issues after 5:00, so you may need some
2 assistance getting those to us.

3 MS. HERRING-LASH: Yes, ma'am.

4 (Off the record.)

5 THE COURT: All right. We're ready to go forward. I've
6 been handed two sentencing sheets indicating the convictions
7 on the two counts. One is the contributing to the
8 delinquency of a minor, which can carry up to three years.
9 The other is the criminal sexual conduct with a minor, third
10 degree, which can carry 0 to 15 years. I'll hear from the
11 State first, and then I'll hear from the defense. Okay?

12 MS. HERRING-LASH: Thank you, your Honor.

13 Your Honor, we -- I think that MINOR 1 does not want to
14 address the Court. She just didn't want to say anything. I
15 think the mother just wanted to say that she thanks the
16 judicial system.

17 THE COURT: Okay.

18 MS. HERRING-LASH: We would just ask -- I don't want to
19 go into the facts. You heard the facts. We would ask you
20 for a substantial sentence based on everything that MINOR 1
21 has gone through. He has a prior juvenile conviction for
22 criminal sexual conduct in the third degree. He has a prior
23 possession of marijuana in 2011, a DUS in 2011, and a
24 possession of marijuana in 2019.

25 THE COURT: Okay. All right. Ms. Ford, I'll hear from

1 you and I'm happy to hear from anybody who'd like to speak.

2 MS. FORD: Yes, your Honor. May it please the Court?

3 I would like to briefly address his prior adjudication.

4 THE COURT: Okay.

5 MS. FORD: He was a child. He was 12 years old.

6 THE COURT: Mm-hmm.

7 MS. FORD: The allegation was he had someone of a
8 similar age, 11 years old.

9 THE COURT: Mm-hmm.

10 MS. FORD: That situation wasn't anything like this.

11 THE COURT: Right.

12 MS. FORD: This case, your Honor, I completely
13 understand there's a guilty conviction. We understand there
14 could be a situation in which the jury may have believed that
15 something happened, but the State couldn't prove beyond a
16 reasonable doubt certain acts.

17 I don't necessarily think the verdicts are inconsistent
18 because I do think it's possible that that was believed. But
19 the question from the jury does cause me concern, because
20 what came into my mind is that perhaps they were thinking
21 that, well, the fact that he saw her undressed could be lewd
22 -- could be a CSC third, whereas the law does require
23 touching of some sort.

24 THE COURT: Mm-hmm.

25 MS. FORD: I don't know. I do plan to send out juror

1 questionnaires.

2 THE COURT: Mm-hmm.

3 MS. FORD: I know that may be for another day. I just
4 wanted to raise -- put that on the record. I'm uncertain of
5 what happened there, but we do understand there could be a
6 world in which they felt that there was something, but just
7 not enough for the other offenses.

8 THE COURT: Uh-huh.

9 MS. FORD: Your Honor, my client is joined here today by
10 his mother Annette. He actually, as a child, as a
11 5-year-old, he was taken from his parents' custody because
12 they, unfortunately, suffered from some substance-abuse
13 issues.

14 THE COURT: Mm-hmm.

15 MS. FORD: And he and his siblings were placed into
16 foster care, so he actually went through numerous foster care
17 homes. He was molested by a teenager foster care -- a foster
18 sibling when he was 6 years old. After that, he continued to
19 go to other foster homes. Eventually he ended up with a
20 woman who she frequently took in kids. And she established a
21 bond with Marcus and adopted him.

22 So he has two mothers, because he was able, at some
23 point, to meet up with his biological mother again. She's
24 here. His adoptive mother was here yesterday. So he still
25 has a relationship with both of them. So fortunately, he has

1 the support of both of them.

2 I will say -- just briefly go into the other offense
3 because I realize that may be of concern. He does -- when he
4 sat and talked to me about that, he opened up to me. He was
5 quite tearful about that. That is something that weighs on
6 him deeply.

7 THE COURT: Mm-hmm.

8 MS. FORD: And he actually had a lot of remorse, and he
9 was affected deeply by how his actions affected others. So
10 he is someone who sees that and who has sympathy and who is
11 deeply sorry for any harm that he caused to others.

12 In this current situation, your Honor, he ended up in a
13 relationship with Ms. Pear. And one reason he would buy the
14 kids items is because he grew up in foster care and he didn't
15 have all of those things. So it meant a lot to him. I know
16 Ms. Pear admitted at one point, either in the interview or
17 something, that he was very family oriented, that family
18 means a lot to him.

19 You've heard a little bit from him in his statements to
20 police and things like that. And he never bad-mouthed
21 MINOR 1. He denied that he did anything, of course, but he
22 never called her names. He never said, "Oh, she's this and
23 that." He just said he didn't understand.

24 One thing, I'm not sure if it was picked up on the
25 video, but he did -- when he was saying, "She could have

1 chosen anything. She chose this," what he was referring to
2 is because she knew, of course, that he, you know, had the
3 history when he was a child himself. So that is what he was
4 referring to in his statement to police.

5 As you may have picked up on during the trial, he's a
6 really hard worker. He worked at DECO for seven-plus years.
7 He was only in his 20s when he was arrested, I believe 29 at
8 the time. So obviously that's a great work history for
9 someone at that age. Because it involves a lot of travel, he
10 could not go back there after he's released from jail.

11 THE COURT: Mm-hmm.

12 MS. FORD: But he got a job after he was released, and
13 he's been there for several years at CP&P. It's concrete,
14 pipe, and precast work. So he's a really hard worker.

15 He does have two children of his own, your Honor, two
16 sons. They mean a great deal to him. He -- because he's
17 such a hard worker, he actually pays a good bit in child
18 support, nearly \$700. He's not behind on that. So
19 basically, for the past more than two years since he's been
20 out, he's been working hard, paying his child support, paying
21 for his GPS monitor that he's been on.

22 There haven't been any violations, your Honor. I talked
23 to his bondsman, Ms. Bird, at one point. She was actually
24 planning to come to the trial at some point. I'm not sure if
25 she did. But she didn't note any issues with Marcus.

1 He actually -- the person who did his ankle monitor is
2 Robinson, and he -- I know sometimes you hear stories that,
3 you know, my clients will tell us that the bondsman, whoever,
4 are like, "Oh, you can just, like, do this little thing."
5 And when he talked to Mr. Robinson, he was like, "You can't
6 walk outside your house. You can't go to the doctor," even
7 though, of course, he could. But he took that very
8 seriously, and other than going to work, he has been at home
9 for the past over two years.

10 We would ask for credit for house arrest, your Honor.
11 That's why we were mentioning that. He did spend 139 days in
12 jail. And then after that, he was on house arrest for 810
13 days, and that is a total of 949 days. So we would ask for
14 credit for all of that.

15 Obviously, we understand this is a case where there's a
16 lot of heartache for a variety of reasons. We understand,
17 certainly, you know, the position that MINOR 1 is in. But
18 I do think it's important to note that he was not found
19 guilty of the mysterious allegations against him, that he was
20 found guilty of a more minor allegation. We do think that's
21 important to note. But yeah, I know it's difficult because
22 we don't know exactly specifically if it was for just that --
23 the initial touching of the penis or if it was just a
24 catch-all, your Honor.

25 THE COURT: I noticed the attempt language in there as

1 well.

2 But okay. Does anybody want to speak?

3 MS. FORD: No, I do not believe so, your Honor.

4 THE COURT: Okay.

5 MS. FORD: Just I note I hope the family can put this
6 behind them. You know, Marcus, he's obviously not with -- as
7 you heard, he's no longer with Ms. Pear, so there's no danger
8 there. He didn't at any time try to reach out or to contact
9 MINOR 1. Hopefully, she can find some peace.

10 But we would ask if you'd consider probation, your
11 Honor. He would be willing to do counseling. He, of course,
12 will be on GPS monitor because of this charge. And so we
13 would ask for that, your Honor. But again, we do ask for 949
14 days credit.

15 THE COURT: Okay. And has the solicitor's office been
16 provided with any monitoring report for violations or
17 anything.

18 MS. HERRING-LASH: No, your Honor. We would be opposed
19 to the credit just because he was going to work during this
20 time.

21 And I don't know if it matters or not, but the rap sheet
22 has him at 14 when he was convicted.

23 THE COURT: Okay. The bond order that put him on the
24 monitor, what were the provisions, Ms. Ford? It was not just
25 strict house arrest, he could actually go to work?

1 MS. FORD: Oh, yes, your Honor. He was allowed to go to
2 work and medical, so that wasn't an issue.

3 THE COURT: Yeah.

4 MS. FORD: But -- and I've never heard of someone saying
5 he shouldn't get credit just because he could work. But he
6 did work, of course, which was very important so he could pay
7 his bills and everything. But again, when he wasn't working,
8 he was always home.

9 THE COURT: All right. Okay. Anything else from the
10 State or the defense?

11 MS. HERRING-LASH: No, your Honor.

12 MS. FORD: No, your Honor.

13 THE COURT: All right. Okay. On the charge of the
14 contributing to the delinquency of a minor -- this is
15 Indictment 2021-GS-10-00115 -- the sentence of the Court is
16 that you be committed to the state Department of Corrections
17 for a term of three years. You'll get credit for 139 days of
18 incarceration thus far.

19 On the charge of criminal sexual conduct with a minor in
20 the third degree -- this is indictment 2021-GS-10-112 -- the
21 sentence of the Court is that you be committed to the state
22 Department of Corrections for a term of 15 years, provided
23 that on the service of 12 years, the balance is suspended to
24 probation for five years. You'll get credit for 139 days
25 thus far.

1 And those sentences will run concurrently.

2 Good luck.

3 MS. HERRING-LASH: Thank you, your Honor.

4 (End of proceedings.)

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CERTIFICATE OF REPORTER

State of South Carolina

County of Charleston

I, Jamie L. Bickett, an Official Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and evidence introduced in the hearing of the captioned case in the Court of General Sessions for Charleston County, South Carolina.



Court Reporter
License No. 083-002613

Dated this 9th day
of May, 2023.

M

Marcus
+1 843-668- [REDACTED]



393

Apr 17



11:58 PM

Apr 23

Cum here plz

Apr 23 4:51 PM

....

Apr 23 4:58 PM

Apr 24

Mama say twann can throw the grease away but save a small cup with some in it

Apr 24 2:54 PM

Apr 29

You had call?

Apr 29 11:19 AM

Y'all cam come now if y'all want



M

Marcus

+1 843-668- [REDACTED]



Aunty tiffy braiding my head and I told her to leave hair out for u to cut, can u cut it ?

May 17 4:17 PM

K

May 17 4:17 PM

Thank u .

May 17 4:18 PM

Jun 3

Lmfao i told her u aint gone wear that shit

Jun 3 6:09 AM

Jun 6

Just no i aint never told u no wen u always wanted sumthin ijs

Jun 6 10:19 PM

Ok .

Jun 6 10:20 PM

Jun 8

Please put my controller on the charger when you take your phone off thanks

Jun 8 6:14 AM

Ok

Jun 8 8:13 AM



DHL/0369500
WITNESSES

Charleston City Police Department

AGENCY CASE NUMBER

2020-07162

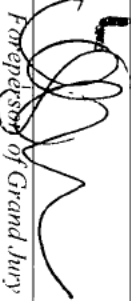
ARREST WARRANT NUMBER

2020A1010203581

DATE OF ARREST

07/02/2020

ACTION OF GRAND JURY



APR 20 2021
Date

VERDICT

Foreperson of Petit Jury

Date

DOCKET NO. 2021-GS-10-00112

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

APRIL TERM 2021

FILED

5/6/2021 4:32:36 PM

JULIE J. ARMSTRONG

CLERK OF COURT

THE STATE

VS.

MARCUS ALEXANDER WIGFALL

A.K.A. Marcus Wigfall

B/M DOB: [REDACTED] 990

Indictment for

CRIMINAL SEXUAL CONDUCT WITH A
MINOR, THIRD DEGREE

SC Code § 16-03-0655(C)

CDR Code. 3661

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

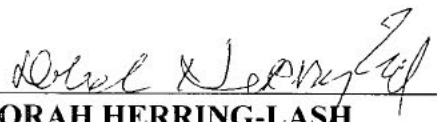
INDICTMENT

At a Court of General Sessions, convened on April 2021, the Grand Jurors of Charleston County present upon their oath:

CRIMINAL SEXUAL CONDUCT WITH A MINOR, THIRD DEGREE

That in Charleston County, South Carolina, between August of 2016 and July 30th 2019 the Defendant, Marcus Alexander Wigfall, who was over fourteen (14) years of age, did willfully and lewdly commit or attempt to commit a lewd or lascivious act upon or with the body, or its parts, of **MINOR 1**, a child under sixteen years of age, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of the defendant or the child; in violation of Section 16-3-655(C), South Carolina Code of Laws, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



DEBORAH HERRING-LASH
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF CHARLESTON

STATE

INDICTMENT/CASE#: 2021-GS-10-00112

VS.

MARCUS ALEXANDER WIGFALLAKA: Marcus WigfallRace: Black Sex: M Age: 32DOB: 1990SS#: [REDACTED]Address: [REDACTED] horeside Way

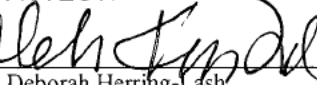
City, State,

Zip: Mt Pleasant, SC 29464-4231DL#* [REDACTED] SID# [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐A/W#: 2020A1010203581Date of Offense: 01/01/2017S.C. Code §: 16-03-0655(C)CDR Code #: 3661

SENTENCE SHEET

In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Criminal Sexual Conduct with a Minor, Third Degree (0-15 years)In violation of § 16-03-0655(C) of the S.C. Code of Laws, bearing CDR Code # 3661☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☒ Mandatory GPS ☐ § 17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:


Deborah Herring-Lash,
Assistant Solicitor

15083

SC Bar #

Defendant

Attorney for Defendant

73776

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of 15 days/months/years/Time Served ☐ Youthful Offender Act not to exceed ____ yearsand/or to pay a fine of \$____; provided that upon the service of 12 days/months/years/Time Served and or paymentof \$____; plus costs and assessments as applicable*; the balance is suspended with **probation** for 5months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC.130 days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

398

STATE MARCUS
VS. ALEXANDER
WIGGALLINDICTMENT/CASE#: 2021-GS-10-00112☐ **PTUP** after _____ months/years**And Other Terms Listed Below:**

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
- ☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling ☐ May serve W/E beginning: _____
- ☒ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
- ☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- ☐ Other: _____

☐ **RESTITUTION:** ☐ **Deferred** ☐ **Def. Waives Hearing** ☐ **Ordered**

Total \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal consecutive weekly/monthly pmts. of \$ _____ Beginning _____ \$ _____

§14-1-206 (Assessments 107.5%) \$ _____ \$ _____

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____

§56-5-2995 (DUI Assessment) \$12 \$ _____

§56-1-286 (DUI Breath Test) \$25 \$ _____

§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§14-1-213 (Drug Court Surcharge) \$150 \$ _____

§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs) \$41 \$ _____

§50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ OK3% to County (if paid in installments) TBD \$ 3.75-18.75☒ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees \$500 \$ 500.00☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund TBD \$ OK**TOTAL** \$ 128.75 OK 643.75Clerk of Court/Deputy Clerk:
Court Reporter:Cherale Gray
Jamie Bickle

Presiding Judge:

Judge Code:

Sentence Date:

J. Meloy
2764
2/8/2023

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,

RECEIVED

Jun 03 2024

SC Court of Appeals



Joanna K. Delany
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 3rd day of June, 2024.

RECEIVED

Jun 03 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Charleston County

Honorable Jennifer B. McCoy, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MARCUS A. WIGFALL,

APPELLANT

APPELLATE CASE NO. 2023-000236

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Amended Record on Appeal in the above-referenced case has been served upon Andrew D. Powell Esquire, at the primary e-mail address listed in the Attorney Information System (AIS); this 3rd day of June, 2024.



Joanna K. Delany
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT