

THE STATE OF SOUTH CAROLINA
In the Supreme Court

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S.C. SUPREME COURT

Appeal from Greenville County Court of Common Pleas
The Honorable R. Scott Sprouse, Circuit Court Judge

App. Case No. 2024-000090

David Quintan Jones, #00391227,.....Petitioner,

v.

State of South Carolina,.....Respondent.

APPENDIX VOLUME I

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STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSIONS
COUNTY OF GREENVILLE	)	2020-GS-23-2981;
	)	2021-GS-23-1820-1823
	)	
	)	
THE STATE	)	
	)	PLAINTIFF)
VS.	)	TRANSCRIPT OF RECORD
	)	
DAVID QUINTAN JONES	)	
	)	DEFENDANT)

June 5-8, 2023
Greenville, South Carolina

B E F O R E:

THE HONORABLE PERRY H. GRAVELY, Judge; and a
jury.

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Attorneys for the State

WILLIAM YARBOROUGH, ESQ.
Attorney for the Defendant

APRIL HERRON
Official Court Reporter

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11	1	Note from the Jury	133	
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1 June 5, 2023

2 THE COURT: All right, ladies and gentlemen,
3 we'll have -- oh, we're waiting on one more?

4 THE BAILIFF: Yes, sir.

5 THE COURT: Okay.

6 THE BAILIFF: If we can do a count?

7 (WHEREUPON, a count was done of the jury by the
8 bailiff.)

9 THE COURT: The State ready?

10 MRS. SUSTAKOVITCH: Yes, Your Honor.

11 THE COURT: Defense ready?

12 MR. YARBOROUGH: Yes, sir.

13 THE COURT: All right, ladies and gentlemen, we
14 are getting ready to select a jury on the first case
15 up. And it's The State vs. David Quintan Jones. The
16 questions that I'm going to ask you at this point are
17 a little bit different than you heard before. The
18 purpose of these questions are twofold. One is to
19 make sure -- to give the attorneys a little more
20 information about you. They are a little more
21 specific to this case. And also, to make sure that
22 you can be fair and impartial in the trial of this
23 case.

24 Now, as we get into some of these questions, I
25 will tell you, due to the nature of the charge, some

1 of these are very sensitive questions. And kind of
2 information that you -- many of you may not want to
3 reveal. So what we do there is the lawyers, will
4 have you stand up here with the court reporter just
5 so you don't have to announce some of this to
6 everybody in the jury panel. But it is information
7 that we have to have. At this point, I'm going to
8 read to you indictments. And always before I read
9 indictments, I always preface that with saying,
10 indictments are merely allegations made by The State.
11 This is not evidence and these are allegations which
12 The Defendant has denied and pled not guilty to.
13 This just shows what The State -- the allegations
14 that they plan to attempt to prove. But this would
15 not be considered evidence.

16 The charges, there are five separate
17 indictments. And they are for criminal sexual
18 conduct with a minor first degree, okay. And the
19 indictments are similar in the time period that we're
20 talking about and the location. The first one that
21 David Quintan Jones, did in Greenville County,
22 between February 1st, 2016 and April 16th, 2019,
23 commit a sexual battery on an alleged victim with
24 initials [REDACTED], as follows. By digitally penetrating
25 [REDACTED], who was less than 11 years old. The next one is

1 The Defendant did perform cunnilingus on [Child], who was
2 less than 11 years old. The next indictment, that
3 The Defendant made [Child] perform fellatio on him and she
4 was less than 11 years old. That next indictment is
5 that The Defendant did anally penetrate [Child], who was
6 less than 11 years old. And the final indictment is
7 that The Defendant did have vaginal intercourse with
8 [Child], who was less than 11 years old.

9 So first of all, is there anyone who knows
10 anything about this case? If so, please stand.

11 (There was no response.)

12 Okay. At this time, I would ask that The
13 Defendant --

14 Mr. Jones, if you would stand and just face the
15 jury. All right. Thank you. You may be seated.

16 All right, is there anybody related by blood or
17 marriage, have a close personal, social or business
18 relationship with David Quintan Jones? If so, please
19 stand.

20 All right, there was no response.

21 At this time, I would ask that the attorneys
22 introduce themselves and anybody from their office
23 which will be assisting in this case.

24 MRS. SUSTAKOVITCH: Good morning, my name is
25 Christy Sustakovitch. I'm a prosecutor with the 13th

1 Circuit Solicitor's Office. This is Walker Miller,
2 my co-counsel. And this is Lindsey Kicklighter, my
3 investigator.

4 MR. YARBOROUGH: Good morning, I'm Bill
5 Yarborough, I'm a lawyer here in Greenville. I have
6 a practice. It's my pleasure to represent Mr. Jones.
7 Thank you.

8 THE COURT: All right, is there anybody related
9 by blood or marriage, have a close personal, business
10 or social relationship with any of the attorneys or
11 staff members that will be participating in this
12 case? If so, please stand.

13 (There was no response.)

14 All right. Has anybody ever been involved in a
15 matter where the attorneys represented you or where
16 the attorneys were involved in any matter that you
17 were in? Even if they were on the other side. If
18 so, please stand.

19 (There was no response.)

20 Okay. Now, what I'm going to do is tell you
21 possible witnesses in the trial. And the same
22 questions, are you related by blood or marriage, have
23 a close personal, social, business relationship with
24 any of these individuals? When you hear a name that
25 you recognize, just stand and then I'll follow up

1 with you. Investigator Laura Jones, Greenville
2 County Sheriff's Office; Investigator Shannon McHale,
3 Greenville County Sheriff's Office; Marita Jones;
4 [REDACTED] ZJ [REDACTED] Child [REDACTED] Dr. Erin Bhatia, Parkside
5 Pediatrics; Danielle Schoviak, Parkside Pediatrics;
6 Melissa Collins, Julie Valentine Center; Dyneshia
7 Kilgore; Tonya Stewart; Dr. Mary Fran Croswell;
8 Shauna Galloway-Williams; Investigator Dan Acord with
9 The Greenville County Sheriff's Office; Joanna
10 McDuffie, Richland County Sheriff's Office; Chief Jim
11 Steward, Richland County Sheriff's Office; Lieutenant
12 Brian Godfrey, Richland County Sheriff's Office; Emma
13 Dunning and William Dunning.

14 All right, is there anybody related by blood or
15 marriage, have a close personal, business or social
16 relationship with any of those witnesses? If so,
17 please stand.

18 THE COURT: All right, your name and number?

19 PROSPECTIVE JUROR: 182, Mariam Setian.

20 THE COURT: What was your number again?

21 PROSPECTIVE JUROR: 182.

22 THE COURT: Okay. And how do you respond to
23 that?

24 PROSPECTIVE JUROR: I'm on the board of the
25 Julie Valentine Center.

1 THE COURT: Okay. I believe that would be a
2 basis for cause.

3 MR. YARBOROUGH: Yes, sir, Your Honor.

4 MRS. SUSTAKOVITCH: Yes, sir, Your Honor.

5 THE COURT: All right and I'm going to excuse
6 you from this case and if you can just stay here
7 until we finish up this process.

8 All right. Anyone else?

9 (There was no response.)

10 Okay. Is there any member of the jury panel
11 formed or expressed an opinion about any matter or
12 issues involved in this case? If so, please stand.

13 Okay, and no response.

14 Is there any member of the jury panel or member
15 of your immediate family related by blood or marriage
16 or connected socially or close social relationship
17 with Greenville County Sheriff's Office or somebody
18 from the Richland County Sheriff's Office? If so,
19 please stand.

20 (There was no response.)

21 In other words, are you related to or have a
22 close personal friend that works for the Greenville
23 County Sheriff's Office or Richland County Sheriff's
24 Office?

25 Yes, your name and number?

1 PROSPECTIVE JUROR: Chase McAbee, 126.

2 THE COURT: Okay, how do you respond to that?

3 PROSPECTIVE JUROR: Blake Wolfe, he's one of the
4 investigators for Greenville County, he's a close
5 friend of mine.

6 THE COURT: Okay. And could you still be fair
7 and impartial in the trial of this case?

8 PROSPECTIVE JUROR: Yes, sir.

9 THE COURT: All right, thank you.

10 All right. Is there any member of the jury
11 panel have -- related by blood or marriage, have a
12 close personal, business or social relationship with
13 anyone who works for the Greenville County
14 Solicitor's Office for the 13th Circuit Solicitor's
15 Office? If so, please stand.

16 Okay, there was no response.

17 Is there any member of the jury panel or member
18 of your immediate family a contributor to any group
19 or organizations which promotes alleged victims
20 rights or law enforcement such as MADD or SADD or any
21 other advocacy group which promotes the interest of
22 law enforcement or any group that is against law
23 enforcement? If so, please stand.

24 Okay and no response.

25 Is there any member of the jury panel who's read

1 any newspaper articles, seen any postings on any
2 social media or any internet site about The Defendant
3 or any matters related to this case? If so, please
4 stand.

5 Okay and no response.

6 Is there any member of the jury panel a member
7 of any political, religious, social, industrial,
8 fraternal, law enforcement or other organizations
9 whose beliefs or teaching would prejudice him or her
10 either against The State or The Defendant in this
11 matter? If so, please stand.

12 (There was no response.)

13 Okay, and as I told you before, if you need to
14 bring -- anything you would like to bring to my
15 attention without saying in front of everybody else,
16 then I'll have that opportunity for that. Does any
17 member of the jury panel or member of your immediate
18 family ever worked for any organization, agency or
19 business which investigated or counseled victims or
20 victims families who have been sexually assaulted or
21 molested? If so, please stand.

22 PROSPECTIVE JUROR: Does a guardian ad litem
23 count?

24 THE COURT: Yes, that would be okay. First of
25 all, your name and number?

1 PROSPECTIVE JUROR: Number 70, Patricia Fuller.

2 THE COURT: All right. And what is your
3 response?

4 PROSPECTIVE JUROR: My husband is a guardian ad
5 litem at present.

6 THE COURT: Okay, for what county?

7 PROSPECTIVE JUROR: Greenville.

8 THE COURT: Okay. Do you believe that you could
9 still be fair and impartial in the trial of this
10 case?

11 PROSPECTIVE JUROR: Yes, sir.

12 THE COURT: All right, thank you.

13 Anyone else?

14 Yes, your name and number?

15 PROSPECTIVE JUROR: Morgan Stiles, 196. I have
16 a sister who's an attorney for DSS and was also a
17 guardian at one time.

18 THE COURT: Okay, what was her name?

19 PROSPECTIVE JUROR: Amanda Stiles.

20 THE COURT: All right, could you still be fair
21 and impartial in the trial of this case?

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: All right, thank you.

24 Anyone else?

25 PROSPECTIVE JUROR: Judge, foster family.

1 THE COURT: What's your name and number?

2 PROSPECTIVE JUROR: Daniel Wackerhagen, 217.

3 THE COURT: Okay and because of --

4 MR. YARBOROUGH: What was the number?

5 THE COURT: 117.

6 PROSPECTIVE JUROR: 217.

7 THE COURT: 217, okay. And again you say --
8 what was your response?

9 PROSPECTIVE JUROR: I'm a foster parent.

10 THE COURT: Okay, could you still be fair and
11 impartial in the trial of this case?

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: All right, thank you.

14 Has any member of the jury panel or member of
15 your immediate family -- this is one y'all want to
16 come up here, I'll be glad to talk with you. Has
17 been a complainant to law enforcement or any other
18 agency regarding allegations involving sexual assault
19 or molestation? If so, please stand and I'll address
20 that up here.

21 All right and no response.

22 Is any member of the jury panel or member of
23 your immediate family ever been involved in law
24 enforcement? For any agency? If so, please stand.

25 Yes, your name and number?

1 PROSPECTIVE JUROR: Angela McNeely, 134, my
2 husband's a retired police officer.

3 THE COURT: Where did he work?

4 PROSPECTIVE JUROR: Akron, Ohio.

5 THE COURT: All right. Could you still be fair
6 and impartial in the trial of this case?

7 PROSPECTIVE JUROR: Yes.

8 THE COURT: All right, thank you.

9 Anyone else?

10 (There was no response.)

11 All right, this is one that I will ask you to
12 stand but I will ask that you come up here. Any
13 member of the jury panel or member of your immediate
14 family, including children or close friend, been a
15 victim of sexual abuse or sexual assault? If so,
16 please stand.

17 All right, no one.

18 Okay, is there any member of the jury panel
19 aware of any bias or prejudice towards The State or
20 The Defendant in this case? If so, please stand.

21 (There was no response.)

22 All right. Is there anyone that would like to
23 present any information to The Court, like I said up
24 here, that has not been covered by any of the
25 questions that I've asked?

1 (There was no response.)

2 Okay. Is there any member of the jury panel
3 know any reason whatsoever that they cannot be fair
4 and impartial in the trial of this case? If so,
5 please stand.

6 (There was no response.)

7 All right. Any additional questions from The
8 State?

9 MRS. SUSTAKOVITCH: Can we approach just
10 briefly?

11 THE COURT: Yes.

12 (WHEREUPON, an off-the-record bench conference
13 was held in the presence of the jury but out of
14 the hearing of the jury.)

15 THE COURT: All right, is there any member of
16 the jury panel or member of your immediate family,
17 either you or a member of your family, ever been
18 accused of a sexual abuse or sexual assault or have
19 been a victim of sexual abuse or sexual assault? And
20 at this point, if you would come up front.

21 Your name and number again?

22 PROSPECTIVE JUROR: It's Angela McNeely, 134.

23 THE COURT: Okay.

24 PROSPECTIVE JUROR: My brother [indiscernible]
25 sex [indiscernible] sex offender since he was 16, I

1 believe.

2 THE COURT: Okay, 134?

3 PROSPECTIVE JUROR: Yes.

4 THE COURT: Could you be fair and impartial in
5 the trial of this case?

6 PROSPECTIVE JUROR: I think so.

7 THE COURT: Okay, thank you.

8 All right, anyone else while I'm standing up
9 here?

10 (There was no response.)

11 THE COURT: All right. All right, any other
12 questions from The State?

13 MRS. SUSTAKOVITCH: None from The State, Judge.

14 THE COURT: Any other questions--

15 MR. YARBOROUGH: No, sir, Judge.

16 THE COURT: -- from the Defense. All right.

17 All right, you may proceed.

18 THE CLERK: Okay. When I say your name, please
19 stand and await for further instruction.

20 Juror number 148, Johnathan North.

21 (Johnathan North, a white male, stood.)

22 What says The State?

23 MRS. SUSTAKOVITCH: Please present the juror.

24 THE CLERK: What says The Defendant?

25 MR. YARBOROUGH: Please swear the juror.

1 THE CLERK: Sir, please have a seat in the jury
2 box.

3 THE COURT: You can move up to the front row.

4 THE CLERK: Juror number 118, Kathryn Little.

5 (Kathryn Little, a white female, stood.)

6 What says The State?

7 MRS. SUSTAKOVITCH: Please present this juror.

8 THE CLERK: What says The Defendant?

9 MR. YARBOROUGH: Please excuse the juror.

10 THE CLERK: Ma'am, you may be seated, you've
11 been excused from this case.

12 Juror number 70, Patricia Fuller.

13 (Patricia Fuller, a white female, stood.)

14 What says The State?

15 MRS. SUSTAKOVITCH: Please present the juror.

16 THE CLERK: What says The Defendant?

17 MR. YARBOROUGH: Please swear the juror.

18 THE CLERK: Ma'am, please gather your things and
19 have a seat in the jury box.

20 Juror number 154, Prity Parikh.

21 (Prity Parikh, a Asian female, stood.)

22 What says The State?

23 MRS. SUSTAKOVITCH: Please present the juror.

24 THE CLERK: What says The Defendant?

25 MR. YARBOROUGH: Please excuse the juror.

1 THE CLERK: Ma'am, you may be seated, you've
2 been excused from this case.
3 Juror number 55, Lisa Desatnik.
4 (Lisa Desatnik, a white female, stood.)
5 What says The State?
6 MRS. SUSTAKOVITCH: Please present this juror.
7 THE CLERK: What says The Defendant?
8 MR. YARBOROUGH: Please swear the juror.
9 THE CLERK: Please have seat in the jury box.
10 Juror 196, Morgan Stiles.
11 (Morgan Stiles, a white female, stood.)
12 What says The State?
13 MRS. SUSTAKOVITCH: Please present this jury.
14 THE CLERK: What says The Defendant?
15 MR. YARBOROUGH: Please excuse the juror.
16 THE CLERK: Ma'am, you may be seated, you've
17 been excused from this case.
18 Juror number 161, Alma Pineda.
19 (Alma Pineda, a Hispanic female, stood.)
20 What says The State?
21 MRS. SUSTAKOVITCH: Your Honor, may we approach
22 briefly?
23 THE COURT: Yes.
24 (WHEREUPON, an off-the-record bench conference
25 was held in the presence of the jury but out of

1 the hearing of the jury.)

2 MRS. SUSTAKOVITCH: Please excuse the juror.

3 THE COURT: All right, you may be seated.

4 THE CLERK: You may be seated, you've been
5 excused from this case.

6 Juror number 119, Brijida Lopez.

7 (Brijida Lopez, a Hispanic female, stood.)

8 What says The State?

9 MRS. SUSTAKOVITCH: Please excuse the juror.

10 THE CLERK: Ma'am, you may be seated, you've
11 been excused from this case.

12 Juror number 49, Mary Crutts.

13 (Mary Crutts, a white female, stood.)

14 What says The State?

15 MRS. SUSTAKOVITCH: Please present this juror.

16 THE CLERK: What say The Defendant?

17 MR. YARBOROUGH: Please swear the juror.

18 THE CLERK: Ma'am, please have a seat in the
19 jury box.

20 Juror number 139, Thaxton Miller.

21 (Thaxton Miller, a white male, stood.)

22 What says The State?

23 MRS. SUSTAKOVITCH: Please excuse this juror.

24 THE CLERK: Sir, you may be seated, you've been
25 excused from this case.

1 Juror number 107, Walter Kucaba.
2 (Walter Kucaba, a white male, stood.)
3 What says The State?
4 MRS. SUSTAKOVITCH: Please present this juror.
5 THE CLERK: What says The Defendant?
6 MR. YARBOROUGH: Please swear the juror.
7 THE CLERK: Sir, please have a seat in the jury
8 box.
9 Juror number 150, Paul Overly.
10 (Paul Overly, a white male, stood.)
11 What says The State?
12 MRS. SUSTAKOVITCH: Please present the juror.
13 THE CLERK: What says The Defendant?
14 MR. YARBOROUGH: Please swear the juror.
15 THE CLERK: Sir, please have a seat in our jury
16 box.
17 Juror number 30, William Burrows.
18 (Williams Burrows, a white male, stood.)
19 What says The State?
20 MRS. SUSTAKOVITCH: Please present this juror.
21 THE CLERK: What says The Defendant?
22 MR. YARBOROUGH: Please swear the juror.
23 THE CLERK: Sir, please have a seat in our jury
24 box.
25 Juror number 183, Daniel Sherry.

1 (Daniel Sherry, a white male, stood.)
2 What says The State?
3 MRS. SUSTAKOVITCH: Please present this juror.
4 THE CLERK: What says The Defendant?
5 MR. YARBOROUGH: Please swear the juror.
6 THE CLERK: Sir, please have a seat in our jury
7 box.
8 Juror number 126, Chase McAbee.
9 (Chase McAbee, a white male, stood.)
10 What says The State?
11 MRS. SUSTAKOVITCH: Please present this juror.
12 THE CLERK: What says The Defendant?
13 MR. YARBOROUGH: Please excuse the juror.
14 THE CLERK: Sir, you may be seated, you've been
15 excused from this case.
16 Juror number 152, Jonathan Pait, Jr.
17 (Jonathan Pait, Jr., a white male, stood.)
18 What says The State?
19 MRS. SUSTAKOVITCH: Please excuse this juror.
20 THE CLERK: Sir, you may be seated, you've been
21 excused from this case.
22 Juror number 64, Joseph Forbes.
23 (Joseph Forbes, a white male, stood.)
24 What says The State?
25 MRS. SUSTAKOVITCH: Please excuse this juror.

1 THE CLERK: Sir, you may be seat, you've been
2 excused from this case.

3 Juror number 65, Sandra Francis.

4 (Sandra Francis, a white female, stood.)

5 What says The State?

6 MRS. SUSTAKOVITCH: Please present this juror.

7 THE CLERK: What says The Defendant?

8 MR. YARBOROUGH: Please excuse the juror.

9 THE CLERK: Ma'am, you may be seated, you've
10 been excused from this case.

11 Juror number 128, Courtney McCrary.

12 (Courtney McCrary, a white female, stood.)

13 What says The State?

14 MRS. SUSTAKOVITCH: Please present this juror.

15 THE CLERK: What says The Defendant?

16 MR. YARBOROUGH: Please swear the juror.

17 THE CLERK: Ma'am, please have a seat in our
18 jury box.

19 Juror number 195, Roger Stewart.

20 (Roger Stewart, A white male, stood.)

21 What says The State?

22 MRS. SUSTAKOVITCH: Please present this juror.

23 THE CLERK: What says The Defendant?

24 MR. YARBOROUGH: Please swear the juror.

25 THE CLERK: Sir, please have a seat in our jury

1 box.

2 Juror number 216, Amy Veil.

3 (Amy Veil, a white female, stood.)

4 What says The State?

5 MRS. SUSTAKOVITCH: Please present this juror.

6 THE CLERK: What says The Defendant?

7 MR. YARBOROUGH: Please excuse the juror.

8 THE CLERK: Ma'am, you may be seated, you've
9 been excused from this case.

10 Juror number 115, Krishni Lester.

11 (Krishni Lester, a black female, stood.)

12 What says The State?

13 MRS. SUSTAKOVITCH: Please present this juror.

14 THE CLERK: What says The Defendant?

15 MR. YARBOROUGH: Please swear the juror.

16 THE CLERK: Ma'am, please have a seat in our
17 jury box.

18 Juror number 189, Barry Smith.

19 (Barry Smith, a white male, stood.)

20 What says The State?

21 MRS. SUSTAKOVITCH: Please present this juror.

22 THE CLERK: What says The Defendant?

23 MR. YARBOROUGH: Please swear the juror.

24 THE CLERK: Sir, please have a seat in our jury
25 box.

1 THE COURT: Two alternates.
2 MR. YARBOROUGH: Two and one?
3 THE COURT: Yes.
4 THE CLERK: Juror number 43, Sarah Clark.
5 (Sarah Clark, a white female, stood.)
6 What says The State?
7 MRS. SUSTAKOVITCH: Please present this juror.
8 THE CLERK: What says The Defendant?
9 MR. YARBOROUGH: Please swear the juror.
10 THE CLERK: Ma'am, please have a seat in our
11 jury box.
12 THE COURT: All right, next alternate.
13 THE CLERK: Juror number 38, John Chapman.
14 (John Chapman, a white male, stood.)
15 What says The State?
16 MRS. SUSTAKOVITCH: Please excuse this juror.
17 THE CLERK: Sir, you may be seated, you've been
18 excused from this case.
19 Juror number 34, Cong Cap.
20 (Cong Cap, a Asian male, stood.)
21 What says The State?
22 MRS. SUSTAKOVITCH: Please present this juror.
23 THE CLERK: What says The Defendant?
24 MR. YARBOROUGH: Please swear the juror.
25 THE CLERK: Sir, please have a seat in our jury

1 box.

2 THE COURT: All right, any objection or
3 exception to the jury selection process from The
4 State?

5 MRS. SUSTAKOVITCH: None from The State.

6 THE COURT: From The Defense?

7 MR. YARBOROUGH: No, sir, Your Honor.

8 THE COURT: All right, talk to this crowd first.
9 All right, ladies and gentlemen, y'all have been
10 selected for the jury, we've got some other matters
11 that we have to go over in this case and also another
12 matter. So what we're going to do is break for --
13 we're going to start this case at 3:00. We need to
14 start it today. And I realize that gives y'all a
15 long time. But we should be able to start with
16 opening statements and a couple short witnesses so
17 you will be finished by 5:00 today. So let me tell
18 you a couple of rules. Do not discuss the case. I
19 know you don't know anything about it but it's very
20 important that you not discuss it among yourselves or
21 with anybody -- anybody else. Also, do not do any
22 type of research about this case. Do not Goggle the
23 attorneys, the parties, the law, anything about this.
24 Because everything that you need to get for this case
25 you'll get under our court rules.

1 And you also disregard any kind of media
2 coverage, I'm not aware of any. If there's any
3 social media, can't look at anything like that,
4 please do not look at any of that. And finally,
5 should anybody contact you, other than somebody from
6 the clerk's office, please let the bailiffs know when
7 you get back at 3:00. At this time, follow the
8 bailiff, he'll direct you where you need to be back
9 at three o'clock, all right. So see you this
10 afternoon.

11 (WHEREUPON, the jury left open court at
12 approximately 12:07 a.m.)

13 THE COURT: All right, for the rest of the
14 panel, y'all need to go back downstairs. I'm not
15 sure exactly -- I know they got another trial they're
16 going to try to start today and I'm not sure if
17 they're going to try to squeeze that in before lunch
18 but anyway, they'll give you that information
19 downstairs. I don't know if I'll see y'all later on
20 in the week but I want to, again, express my
21 appreciation for you coming in. I realize you
22 probably feel like you didn't have a choice but it
23 really is important that we have jurors to serve when
24 we have to have cases before us. So thank you very
25 much for your service. Like I say, go back

1 downstairs and they'll give you additional
2 instructions.

3 (WHEREUPON, the jury venire was excused at
4 approximately 12:08 p.m.)

5 THE COURT: All right. I will entertain any
6 pretrial motions from The State.

7 MRS. SUSTAKOVITCH: Thank you, Your Honor, may
8 it please the Court. The State has a few pretrial
9 motions. The first is the standard motion for rape
10 shield, which I've given to Defense Counsel and I'll
11 provide The Court with a copy of. I don't know if
12 anything that Defense -- The Defense plans to elicit
13 in this case that would be in contravention of rape
14 shield but I did want to put it on the record now and
15 talk about it, if there is something.

16 THE COURT: All right, anything from the --
17 what's The Defense's position on this?

18 MR. YARBOROUGH: Your Honor, at this point, we
19 don't know of any information like that that might
20 come out.

21 THE COURT: All right, if that changes, let us
22 know.

23 MR. YARBOROUGH: All right, I'll let you know.

24 THE COURT: All right. So you consent to their
25 motion in limine on that?

MELISSA COLLINS-DIRECT BY MRS. SUSTAKOVITCH

1 MR. YARBOROUGH: At this juncture.

2 THE COURT: Right.

3 MRS. SUSTAKOVITCH: Next, Your Honor, The State
4 will be moving to admit a forensic interview that was
5 done in this case with the minor victim. She was
6 eight years old at the time the interview was done.
7 And The State will be moving to permit it pursuant to
8 17-23-175. I've given Defense Counsel a copy of the
9 motion. Here's one for Your Honor.

10 Your Honor, at this time, The State would like
11 to call the forensic interviewer and lay the voir
12 dire for admission of the tape.

13 THE COURT: All right, you may proceed.

14 MRS. SUSTAKOVITCH: The State calls Melissa
15 Collins.

16 THE CLERK: Please pause at the end of the
17 bench.

18 MELISSA COLLINS, after being duly
19 sworn[,] testified as follows: {F}

20 THE CLERK: Thank you, please be seated. State
21 your name for the record.

22 THE WITNESS: Melissa Collins.

23 DIRECT EXAMINATION

24 BY MRS. SUSTAKOVITCH:

25 Q Okay, can you move that just a tiny bit? There

MELISSA COLLINS-DIRECT BY MRS. SUSTAKOVITCH

1 you go. Ms. Collins, where are you employed?

2 A The Julie Valentine Center.

3 Q And can you tell The Court your training and
4 background?

5 A Yes. So I am a forensic interviewer at the
6 Julie Valentine Center. I have Bachelor's of Arts in
7 Psychology from Clemson University. And I have a Master
8 of Social Work from the University of North Carolina at
9 Willmington. I am a license independent social worker
10 clinical practice and I'm licensed in the State of South
11 Carolina. And I conduct forensic interviews at the Julie
12 Valentine Center.

13 Q And when did you graduate first from Clemson?

14 A Clemson was December of 2011.

15 Q All right. And then your Master's, when did you
16 get that?

17 A 2014.

18 Q All right. How long have you been employed with
19 the Julie Valentine Center?

20 A Since 2017, so coming on six years.

21 Q And what are your duties at the Julie Valentine
22 Center?

23 A I conduct forensic interviews, I -- I work with
24 community partners. Most of my role and responsibility
25 has to do with forensic interviews but I also do some

MELISSA COLLINS-DIRECT BY MRS. SUSTAKOVITCH

1 parent education courses.

2 Q And can you tell The Court, roughly, how many
3 forensic interviews you've conducted over the years?

4 A My best estimate is 961, as of today.

5 Q What is a forensic interview?

6 A A forensic interview is a neutral, fact-finding
7 interview with a child conducted by a trained professional
8 and part of the investigation.

9 Q And are the child's parents allowed to be in the
10 room when you're conducting a forensic interview?

11 A No. No one else is allowed in the room, it's me
12 and the child.

13 Q And just, briefly, can you tell The Court how a
14 interview is conducted?

15 A Yeah. So it is in a room, like I said with just
16 me and the child. It is audio and video recorded.
17 Observers, who are investigating the situation. So only
18 investigative parties are able to watch the interview from
19 a different room, a observation room, they're able to
20 watch it in realtime. The interview involves, you know,
21 rapport building and then transition to the topic of
22 concern, exploring the narrative of the report, if any.
23 And then there's a closure at the end.

24 Q What type of questioning format is used in a
25 forensic interview?

MELISSA COLLINS-DIRECT BY MRS. SUSTAKOVITCH

1 A A forensic interview is open-ended questions.
2 So it would be opened questions, followed by more specific
3 clarifying questions, if needed, and then right back to
4 the open-ended questions. So it's all neutral,
5 non-leading questions.

6 Q And why is that important to have non-leading
7 questions in a forensic interview?

8 A Because it yields reliable -- the most reliable
9 information.

10 Q Did you, in fact, conduct a forensic interview
11 in this case that's led you to be in court today?

12 A Yes, ma'am.

13 Q What was the date that you conducted that
14 forensic interview?

15 A May 1st, 2019.

16 Q What was the name of the child that you
17 conducted the interview on?

18 A It was [Child]

19 Q How old was [Child] at the time that you
20 conducted the interview?

21 A She was eight years old at the time of the
22 interview.

23 Q What person or agency referred [Child] over to
24 you?

25 A Investigator Shannon McHale with the Greenville

MELISSA COLLINS-DIRECT BY MRS. SUSTAKOVITCH

1 County Sheriff's Office.

2 Q I'm showing you what's marked as --

3 (WHEREUPON, State's Exhibit No. 1 was marked for
4 identification only.)

5 BY MRS. SUSTAKOVITCH:

6 Q I'm showing you what's marked as State's Exhibit
7 1 for purposes of this hearing.

8 Just, for the record, this is a complete
9 copy of the forensic interview with no redactions. All
10 right.

11 THE COURT: Y'all expect to be redactions--

12 MRS. SUSTAKOVITCH: Your Honor, I believe
13 there's three that will be appropriate that we'll
14 discuss at the appropriate time.

15 THE COURT: Okay, just making sure.

16 MRS. SUSTAKOVITCH: Yes, sir.

17 BY MRS. SUSTAKOVITCH:

18 Q And so would you take a look at State's Exhibit
19 1, for purposes of this hearing and tell me what that is?

20 A This is a DVD copy of the reported forensic
21 interview.

22 Q And again, what date is on that interview? Or
23 when did you conduct the interview?

24 A May 5th -- I'm sorry, 5/1 -- so May 1st.

25 Q Have you watched this interview recently?

MELISSA COLLINS-DIRECT BY MRS. SUSTAKOVITCH

1 A Yes, ma'am.

2 Q Does State's Exhibit 1 fairly and accurately
3 depict the interview that you had with Child on
4 May 1st, 2019?

5 A Yes.

6 Q And State's 1, has there been any alterations or
7 deletions or anything like that made to this interview?

8 A No, ma'am.

9 Q So this is a full and complete copy?

10 A Yes, ma'am.

11 MRS. SUSTAKOVITCH: Your Honor, at this time,
12 The State moves to admit State's 1 for purposes of
13 this hearing.

14 THE COURT: All right, any objection, as far as
15 this hearing?

16 MR. YARBOROUGH: For purpose of this hearing.

17 THE COURT: All right. Yes.

18 (WHEREUPON, State's Exhibit No. 1 was admitted
19 into evidence.)

20 MRS. SUSTAKOVITCH: And, Your Honor, at this
21 time, The State normally moves to publish or provide
22 it to Your Honor for in-camera review.

23 THE COURT: All right, I'll review it.

24 MRS. SUSTAKOVITCH: All right, please answer any
25 questions The Defense counsel has.

MELISSA COLLINS-CROSS BY MR. YARBOROUGH

1 CROSS-EXAMINATION

2 BY MR. YARBOROUGH:

3 Q You conducted the interview in this case?

4 A Yes, sir.

5 Q You're not supposed to use leading questions;
6 correct?

7 A No, sir, no.

8 Q Okay. Tell me how you're taught to handle one
9 of these interviews?

10 A The training is really comprehensive. It's a
11 five day, 40-hour training. It would be difficult for
12 someone very quickly -- you know, open-ended questions.
13 Clarifying questions certainly when needed but a return to
14 open-ended questions.

15 Q Okay. So that's my point, is you're supposed to
16 use open-ended questions; right?

17 A In -- yes, sir, you're supposed to use
18 open-ended and, you know, a closed question may be
19 necessary for clarifying. And then open-ended questions
20 again, yes, sir.

21 Q Okay. But questions like what should you say
22 implies an answer; correct?

23 A I'm--

24 Q If you said that on the tape, if you said, What
25 should you say if somebody asks you about--

MELISSA COLLINS-CROSS BY MR. YARBOROUGH

1 MRS. SUSTAKOVITCH: Your Honor, I'm going to
2 object as to -- Your Honor's going to view this video
3 and make a determination on whether Your Honor
4 believes it's leading or non-leading and whether it
5 meets the requirements of 17-23-175.

6 THE COURT: I mean, I'll let him --
7 You can proceed.

8 BY MR. YARBOROUGH:

9 Q Just for clarity, I'm just saying you're trained
10 not to do that; right?

11 A There is an education part, at the very end of
12 the interview, that's part of the Child First Protocol,
13 where we do ask a child what they -- who they could tell
14 if someone ever -- if someone ever does touch them.

15 Q Okay.

16 A Nor not hurt them or if anything happens along
17 the line of abuse or neglect. That is part of the Child
18 First Protocol that's used in South Carolina.

19 Q If there was a term like sexual abuse on there,
20 that would be a -- that would be something that a child
21 would normally know; right?

22 A If the child brings it up -- and now I would use
23 the child's words regardless of what those words are.

24 Q Okay. And so what if you said something like,
25 you said that daddy is one that did that. That would be

MELISSA COLLINS-CROSS BY MR. YARBOROUGH

1 unappropriate; right?

2 A If the child had previously said that daddy was
3 the one that did that and I was referencing a previous
4 statement, that would be appropriate to call the child's
5 attention back to what we were talking about so that she
6 would know what I was talking about.

7 Q But with that you would have to say that -- that
8 daddy had previously said that or done that; right? I
9 mean, in order to bring them back you had to have had it
10 to start with; right?

11 A It -- I would typically use that reference
12 something the child had previously said. I'm not sure if
13 you're referencing the specific point.

14 Q Well, my question is, is that leading?

15 A So that would be an example of the clarifying
16 questions. So I'm bringing her back to the point to
17 clarify more about something that she had brought up.

18 Q Okay. And so we can -- Judge Gravely can judge
19 for himself --

20 A Sure --

21 Q -- about that; correct?

22 A Yes, sir.

23 MR. YARBOROUGH: Thank you, I don't have any
24 further questions for you. Thank you.

25 THE COURT: Any redirect?

1 MRS. SUSTAKOVITCH: Your Honor, did you want to
2 ask questions post redactions or do that after you
3 watch?

4 THE COURT: We can do that after I watch it.

5 MRS. SUSTAKOVITCH: Nothing further.

6 THE COURT: All right.

7 You can step down subject to my review of the
8 video. So thank you.

9 All right, anything else in regard to that?

10 MRS. SUSTAKOVITCH: Nothing further in regards
11 to the forensic interview.

12 MR. YARBOROUGH: I previously just filed a
13 motion. I'll let you look at it then we can argue it
14 afterwards.

15 THE COURT: Okay, yeah, let me look at that and
16 I'll be glad to. . .

17 MR. YARBOROUGH: I'd ask you look to at my
18 motion.

19 THE COURT: Okay, that addresses any concerns
20 you have?

21 MR. YARBOROUGH: It does.

22 THE COURT: All right.

23 MRS. SUSTAKOVITCH: Your Honor, the only thing I
24 would add about that motion that Defense Counsel
25 filed, The State has no intentions to try to qualify

1 a forensic interviewer as a expert. That would be
2 wholly inappropriate and would be a mistrial. So we
3 have no plans to do that.

4 THE COURT: Okay. All right. Anything else
5 from The State?

6 MR. MILLER: Yes, Your Honor, at this time, we
7 have a State v. Denno motion in regards to two
8 statements The Defendant made, as well as the excited
9 utterance.

10 THE COURT: All right.

11 MR. MILLER: In regards to the motion of the
12 excited utterance, The State calls Investigator
13 Shannon McHale.

14 THE COURT: All right, come forward to be sworn.

15 SHANNON MCHALE, after being duly sworn,
16 testified as follows:

17 THE CLERK: Please state your name for the
18 record.

19 THE WITNESS: Shannon McHale.

20 DIRECT EXAMINATION

21 BY MR. MILLER:

22 Q Investigator McHale, where are you employed?

23 A Greenville County Sheriff's Office.

24 Q And how long have you been at the sheriff's
25 office?

SHANNON MCHALE-DIRECT BY MR. MILLER

1 A Since 2015, so coming up on eight years.

2 Q What have your roles been within the sheriff's
3 office?

4 A I originally was assigned to uniform patrol. I
5 was then an investigator with the Crimes Against Children
6 Unit. I'm currently a investigator with the homicide
7 unit.

8 Q Did you become involved in the case of The State
9 vs. David Jones?

10 A Yes.

11 Q How did you become involved?

12 A We received a DSS referral to us regarding
13 allegations of sexual abuse.

14 Q Okay. Do you recall when that occurred?

15 A I believe April 15th of 2019.

16 Q Okay. And what was the first step of your
17 investigation?

18 A First step was to determine if there was already
19 a previous report about this, as we had received this call
20 from DSS. And then we made contact with the family to
21 do -- meet with them and establish a safety plan and begin
22 the investigation.

23 Q Okay. Where did you meet with the family?

24 A At the incident location at Address.

25 Q Who did you speak -- just briefly, who did you

SHANNON MCHALE-DIRECT BY MR. MILLER

1 speak with while you were out there?

2 A The minor victim, **Child** her brother,
3 **ZJ**, Marita Jones and David Jones.

4 Q And who is Marita?

5 A Marita is the mother of **Child**

6 Q Who did you speak with first?

7 A I spoke first with **Child**

8 Q Who did you speak with after **Child**

9 A I believe I spoke with both Marita and David
10 together.

11 Q Okay. And after you spoke with both of them,
12 who did you speak with?

13 A I believe I spoke again with **Child**

14 Q Okay. After you spoke with **Child** a second
15 time, what was her demeanor like in this interaction?

16 A In this interaction she was forthcoming with
17 answers but reluctant to give a lot of details.

18 Q Okay. Was this the last time that you spoke
19 with **Child**

20 A No.

21 Q When was the last time that day that you spoke
22 with **Child**

23 A I spoke with **Child** a total of three times. The
24 last one being after my second interview with Marita.

25 Q Okay. How did her demeanor, if at all, change

SHANNON MCHALE-DIRECT BY MR. MILLER

1 the last time you spoke with [Child]

2 A [Child] was a lot more visibly upset. She was
3 sniffing, she -- you could hear a distinct, like, gurgle
4 to her voice.

5 Q Okay. And from your impression, what was
6 causing the distress?

7 A It was in regards to the allegations and
8 disclosing everything that had occurred.

9 Q The overall case of the sexual assault?

10 A Yes.

11 Q Okay. Did [Child] make any statements to you
12 while she was under stress?

13 A Yes.

14 Q And did she make those in response to a question
15 you were asking?

16 A No, I was just advising her that I was there to
17 help and make sure that people were getting the help they
18 needed.

19 Q Okay. What was it that [Child] said?

20 A She stated, I want to save my daddy, though.

21 MR. MILLER: Your Honor, this would be the
22 statement of an excited utterance.

23 THE COURT: Can you repeat that?

24 THE WITNESS: She stated, I want to save my dad,
25 though.

SHANNON MCHALE-DIRECT BY MR. MILLER

1 THE COURT: Save?

2 THE WITNESS: Save, yes sir.

3 THE COURT: Okay.

4 MR. YARBOROUGH: I'm sorry, I can't really get
5 that last part. What words she said, I wanted to
6 what?

7 THE WITNESS: I want to save my daddy, though.

8 BY MR. MILLER:

9 Q Did she make that statement while she was under
10 distress?

11 A Yes.

12 Q Unprompted?

13 A Yes.

14 Q To you?

15 A Yes.

16 MR. MILLER: Your Honor, this would be the
17 statement that The State would want to move in as an
18 excited utterance under the Rule 803(2).

19 THE COURT: Mr. Yarborough?

20 MR. YARBOROUGH: Your Honor, first of all, it's
21 classic hearsay. I'm not sure the reliability of the
22 statement is fairly and accurately presented at this
23 time. And I think -- I think it -- it's something
24 that should probably be brought up at a later time.
25 At this point, I don't think the admissibility, we

SHANNON MCHALE-DIRECT BY MR. MILLER

1 don't know enough about the circumstances or the
2 situation around which that statement was made. And
3 further, I -- I can't imagine any situation that it's
4 admissible but there may be some point, at some time,
5 that, you know, The State could revisit that and try
6 to admit it. But, at this time, I don't think
7 they've shown--

8 THE COURT: It's almost a reverse motion in
9 limine.

10 MR. MILLER: Well, we wanted to clear it up and
11 not be a surprise with The Court as to what the--

12 THE COURT: Right and I agree with
13 Mr. Yarborough. I think that -- I think that has to
14 be addressed more at the time -- after the
15 foundation's been laid.

16 MR. MILLER: As we get closer--

17 THE COURT: I guess, I just never have ruled on
18 one where -- I mean, the Jackson v. Denno is one
19 thing, but.

20 MR. MILLER: For context, this is after time,
21 place and disclosure was made by **Child** and under
22 that rule you're not allowed to state the name. So
23 The State wanted to bring it to the attention that
24 while this was close to a time and place disclosure,
25 which builds up into this statement as one of the

SHANNON MCHALE-DIRECT BY MR. MILLER

1 final statements is left with, I want to save my
2 daddy, though. And that's why we're wanting to bring
3 it to attention so it wouldn't be a surprise or cause
4 anything later. And we would be happy to fully
5 address it later but definitely did not want this to
6 come up and just be completely unknown as we were
7 going down that road.

8 THE COURT: Okay.

9 MR. YARBOROUGH: Your Honor, I -- I think that
10 it's going to end up being several -- if I think
11 correctly, it's going to be several weeks after the
12 last allegation. And so I think -- I just ask The
13 Court to revisit it at the time. First of all, it's
14 hearsay. And second of all, I can't imagine any
15 circumstances that's admissible. I see what he's
16 trying to say but, at this point, I don't think I
17 understand enough of what he means or the
18 circumstances of which that is taken to be able to
19 ask The Court to make a ruling.

20 THE COURT: Well, I have to address it at the
21 time, anyway. So I'm going to -- I guess as we get
22 ready to do that, we may want to take a break and
23 discuss it.

24 MR. MILLER: Yes, sir.

25

SHANNON MCHALE-DIRECT BY MR. MILLER

1 BY MR. MILLER:

2 Q In regards to -- to continue on, did you ever
3 have the opportunity to speak with The Defendant?

4 A Yes.

5 Q After this day on April 15th, 16th, when you
6 were at Address?

7 A Yes.

8 Q How did that occur or how did it become arranged
9 for you to speak with The Defendant?

10 A I actually spoke with Mr. Jones the day -- the
11 initial on the 15th and I arranged to meet with him at a
12 later date. I believe the 22nd at the county square, at
13 our office, to speak.

14 Q And was it known that you were a law enforcement
15 officer?

16 A Yes.

17 Q Okay. Did The Defendant, did he wish to speak
18 with you?

19 A Yes.

20 Q Did he want to speak with you?

21 A Yes.

22 Q Okay. What -- when you say at the county
23 square, your office, what office is that?

24 A It's the Greenville County Sheriff's Office.
25 Specifically, the SID office, which is Specialized

SHANNON MCHALE-DIRECT BY MR. MILLER

1 Investigations Division.

2 Q All right. Do you remember what time of day
3 this occurred?

4 A Not without reviewing my report.

5 Q Okay. Anyway, did The Defendant come
6 voluntarily?

7 A Yes.

8 Q Did he come on his own freewill?

9 A Yes.

10 Q Was he detained at all?

11 A No.

12 Q Was he free to leave at any time?

13 A Yes.

14 Q Okay. Did he wish to be there and wish to speak
15 with you?

16 A Yes.

17 Q If he, at any time, wanted to not speak with
18 you, what would have happened?

19 A We would have ceased all questions.

20 Q Okay. When you spoke to The Defendant, did he
21 appear lucid?

22 A Yes.

23 Q Did he appear to understand your questions?

24 A Yes.

25 Q Did his responses, did they appear coherent,

SHANNON MCHALE-DIRECT BY MR. MILLER

1 coherently made?

2 A Yes.

3 Q Okay. Did he appear under the influence of any
4 drugs or alcohol?

5 A No.

6 Q Okay.

7 Your Honor, at this time --

8 Well, do you recognize this?

9 A It's copy of the -- or it's a DVD of my
10 interview with Mr. David Jones.

11 Q How do you recognize that?

12 A It has my signature at the bottom.

13 Q Just to recap, this was freely and voluntarily
14 given by The Defendant?

15 A Yes.

16 Q He could have left at any time?

17 A Correct.

18 Q He was not detained?

19 A Correct.

20 Q He was not under arrest?

21 A Yes.

22 Q He was not in custody?

23 A Correct.

24 MR. MILLER: Your Honor, at this time, for
25 purposes of this hearing, The State would move to

SHANNON MCHALE-DIRECT BY MR. MILLER

1 admit -- this is an unredacted copy, there would be
2 proposed redactions that we would discuss at a later
3 time -- The Defendant's statement made to
4 Investigator Shannon McHale.

5 THE COURT: Any objection?

6 MR. YARBOROUGH: I don't have any objection at
7 this point. There's one -- one issue that, I think,
8 Mr. Miller and I agree on, we're not dealing with
9 that right now. The statement about the girl coming
10 into his bedroom, is that?

11 MR. MILLER: That's the next Denno hearing,
12 we're not planning to play the statement at the Denno
13 hearing, just deals with the admissibility of the
14 statement and of the actual substance of itself.
15 When we get to admissibility -- we can --

16 THE COURT: Okay --

17 MR. MILLER: -- any redactions to be made.

18 MR. YARBOROUGH: That's fine, Your Honor.

19 THE COURT: So no objection for purposes of this
20 hearing?

21 MR. YARBOROUGH: No, sir.

22 (WHEREUPON, State's Exhibit No. 2 was marked for
23 identification and received into evidence.)

24 MR. MILLER: Your Honor, that's all for this
25 witness.

1 THE COURT: All right, cross-examination?

2 MR. YARBOROUGH: No, sir, Your Honor, thank you.

3 THE COURT: All right, how long is this?

4 MR. MILLER: I believe this statement is about
5 45 minutes to an hour.

6 THE COURT: Do you have any Jackson v. Denno
7 issues?

8 MR. YARBOROUGH: I don't, Your Honor. He
9 doesn't make any admissions.

10 THE COURT: Okay. So no objection then as far
11 as the--

12 MR. YARBOROUGH: The freely and voluntariness,
13 no, sir, Your Honor.

14 THE COURT: All right. Don't need to review --
15 if there's no objection to it, I don't need to review
16 it --

17 MR. YARBOROUGH: There's --

18 THE COURT: Y'all got to discuss certain
19 redactions it sounds like.

20 MR. YARBOROUGH: Yes, sir.

21 THE COURT: But as the statement as a whole, you
22 don't have any objections to it?

23 MR. YARBOROUGH: No, sir. He came freely and
24 voluntarily, understood his rights, he made the
25 statement.

1 MR. MILLER: Your Honor, for the record, just to
2 clarify, this is the unredacted --

3 THE COURT: Right.

4 MR. MILLER: -- video of The Defendant's
5 statement.

6 THE COURT: This is State's Exhibit?

7 MR. MILLER: Number 2, Your Honor.

8 THE COURT: Number 2. All right.

9 MR. MILLER: Your Honor, may Investigator McHale
10 step down?

11 THE COURT: Yes, you may.

12 MR. MILLER: At this time, The State would call
13 Investigator Laura Jones to the stand.

14 LAURA JONES, after being duly sworn, testified
15 as follows: {F}

16 THE CLERK: Thank you, please be seated. State
17 your name for the record.

18 THE WITNESS: Laura Jones.

19 DIRECT EXAMINATION

20 BY MR. MILLER:

21 Q Investigator Jones, where are you employed?

22 A Greenville County Sheriff's Office.

23 Q How long you been with the sheriff's office?

24 A Been with Greenville County since 2004.

25 Q What roles have you had with the sheriff's

LAURA JONES-DIRECT BY MR. MILLER

1 office?

2 A I started uniform patrol, after three years went
3 to investigations. Which included auto theft, arson,
4 homicide. And then moved to the Office of Professional
5 Standards.

6 Q And your educational background?

7 A I have a Bachelor's of Science in Psychology
8 from Presbyterian College. And I have Master's in
9 Criminal Justice from Anderson University.

10 Q How many years at the sheriff's office?

11 A Twenty-one total law enforcement, so 18, 19 at
12 The Greenville County Sheriff's Office.

13 Q And your current rank?

14 A I'm a Sergeant.

15 Q Sergeant. Did you become involve in the case of
16 The State vs. David Jones?

17 A I did.

18 Q How did you become involved?

19 A I was contacted by Investigator Shannon McHale
20 and asked to assist with a interview of David Jones.

21 Q Of The Defendant?

22 A Yes.

23 Q Okay. Where did your interview take place?

24 A In my office.

25 Q In your office. And what building is that

LAURA JONES-DIRECT BY MR. MILLER

1 located in?

2 A That's at the law enforcement center.

3 Q Okay. Was David Jones there freely and
4 voluntarily?

5 A Yes, he was.

6 Q If he wanted to not speak with you, could he
7 have not spoken to you?

8 A That's correct.

9 Q Did you have him in custody at the time?

10 A No, sir.

11 Q Was he detained at the time?

12 A No, sir.

13 Q Okay. Did you go over the rights of The
14 Defendant with him?

15 A Yes, I did.

16 Q Hand you a document, do you recognize this
17 document?

18 A Yes, I do.

19 Q What is it?

20 A The Waiver of Rights form.

21 Q Of who?

22 A Of David Jones.

23 Q What rights did you go over with him?

24 A I went over all of his rights. You want me to
25 read through it?

LAURA JONES-DIRECT BY MR. MILLER

1 Q Is it a true and accurate copy of it, as it's
2 made for court rules?

3 A Yes.

4 Q Does it appear to be tampered with, other than
5 any edits made for court rules?

6 A No, sir.

7 MR. MILLER: Your Honor, at this time, The State
8 would move to admit for this hearing, the Miranda of
9 Waiver of rights warned of The Defendant.

10 THE COURT: All right, any objection?

11 MR. YARBOROUGH: No, sir.

12 THE COURT: In without objection.

13 MR. MILLER: That will be State's Exhibit No. 3.

14 (WHEREUPON, State's Exhibit No. 3 was marked for
15 identification and received into evidence.)

16 BY MR. MILLER:

17 Q And looking at this form, Sergeant Jones, what
18 rights did you go over with The Defendant?

19 A I advised him that he had the right to remain
20 silent. Advised him that anything could be used against
21 him in court. And that he was entitled to talk to a
22 lawyer and have him present now or any time during
23 questioning. If he could not afford a lawyer, one will be
24 appointed for him without cost. And if he decided to
25 answer questions now, he may stop answering questions at

LAURA JONES-DIRECT BY MR. MILLER

1 any time. And also that he understood each of these
2 rights and he wished to waive them. Meaning that he
3 wished to talk to me.

4 Q And is that memorialized where he wished to
5 waive those rights and speak to you?

6 A Yes.

7 Q How is is memorialized?

8 A He agreed and initialed beside each of one those
9 lines that I just read through and then signed on the
10 bottom.

11 Q So these are his initials and his signature on
12 the paper?

13 A Yes, sir.

14 Q Did he appear clear minded when you spoke with
15 him?

16 A Yes.

17 Q The entire time when you initially spoke with
18 him, when you went over the rights with him?

19 A Yes.

20 Q Did he appear to understand the rights?

21 A Yes, he did.

22 Q Did he appear to be under the influence of any
23 drugs or alcohol?

24 A No, sir.

25 Q Did he appear to understand your questions?

LAURA JONES-DIRECT BY MR. MILLER

1 A Yes, he did.

2 Q Did his responses or statements made, did they
3 appear to be coherently made?

4 A Yes.

5 Q Were you speaking with him of his own freewill?

6 A Yes, sir.

7 Q And he appeared clear minded and lucid?

8 A He did.

9 MR. MILLER: Okay, Your Honor, at this time, we
10 would move that statements made to Investigator Laura
11 Jones were made freely and voluntarily of clear mind
12 after a waiver of rights.

13 THE COURT: Is that recorded or?

14 BY MR. MILLER:

15 Q Was this recorded?

16 A It was at the time, yes.

17 Q Is there a recording of it?

18 A No, there's not.

19 Q What occurred [verbatim] to the recording?

20 A Unbeknownst to me at the time, the recording
21 equipment was not working properly. It showed that it was
22 working properly on my end and I didn't realize that it
23 was not working properly until after this when I went to
24 review it in order to write my reports.

25 Q And were you following your standard practice as

LAURA JONES-CROSS BY MR. YARBOROUGH

1 you were doing that?

2 A Yes.

3 Q And so is this a failure of technology?

4 A Yes.

5 Q Okay. There was no willful act on your part or
6 anything to not have this recording?

7 A No, sir.

8 MR. MILLER: Your Honor, at this time, we would
9 move the. . .

10 THE COURT: Any objection?

11 Yes.

12 CROSS-EXAMINATION

13 BY MR. YARBOROUGH:

14 Q So that you don't have the video or the
15 recording; right?

16 A Correct. I normally audio and video.

17 Q Okay. So I read your report, do you have your
18 notes from that interview?

19 A Any notes that I have, yes. That I took during
20 the interview, I have, yes, sir.

21 Q I'm specifically talking about the one statement
22 that we're all kind of concerned about, which is the
23 statement about, allegedly, the little girl getting in the
24 bed. Okay, do you have your notes from that?

25 A I did not take verbatim notes during that part

LAURA JONES-CROSS BY MR. YARBOROUGH

1 of the interview.

2 Q Okay. So you're relying on your recall at that
3 time?

4 A Yes, I wrote--

5 Q So you don't have any notes and you don't have
6 the video or the audio, you're just -- what you wrote in
7 your report is all you got?

8 A I wrote the report right after I conducted the
9 interview. I think the following day.

10 Q So, again, without notes; right?

11 A Correct.

12 Q So you never took any notes?

13 A I did take some notes during different parts of
14 my interview. At the end, towards the end of the
15 interview when he disclosed to this to me--

16 Q What did, specifically, do you know? What did
17 he disclose to you? What did he disclose to you?

18 A That there was one incident where his
19 daughter -- where he woke up on a Saturday morning and his
20 daughter had crawled into the bed with him. He lifted up
21 the sheets and he said that she was performing oral sex on
22 him.

23 Q And you don't have any notes from that? There's
24 no any kind of video or audio; right?

25 A That's correct.

LAURA JONES-CROSS BY MR. YARBOROUGH

1 MR. YARBOROUGH: Your Honor, I object to the
2 admissibility of this. The reason the -- supposed to
3 protect both The Defendant and The State and make
4 sure it's fairly and accurately done. Not only do we
5 not have any audio or video, we also don't have any
6 notes, anything. All we have is a general
7 recollection of what she wrote a day later. Which my
8 client strongly disagrees with.

9 THE COURT: I'm not sure there's a requirement
10 that it has to be recorded or anything like that. I
11 mean, I realize you have some objection. Do you have
12 any -- as far as Jackson v. Denno, do you any--

13 MR. YARBOROUGH: I don't have any objection to
14 Jackson v. Denno --

15 THE COURT: Right --

16 MR. YARBOROUGH: -- but I do have objections --
17 well, not only to what I just said but to the
18 relevance of that statement in regards to this case.
19 That's a separate statement that he made that, I
20 think, could be seen to be prejudicial but.

21 THE COURT: I mean, it's definitely
22 prejudicial --

23 MR. YARBOROUGH: The way it's said -- the way
24 it's said, I don't think it's the intention of being
25 prejudicial. So the problem we now have is this. Is

LAURA JONES-REDIRECT BY MR. MILLER

1 that not only do we not have any notes or audio or
2 anything, the context in which it was said is --
3 becomes very important. And so, that's why I object.
4 Well, first of all, I object because it is
5 prejudicial and I don't think it's relevant. But
6 two, the context in which it was said in, now because
7 of the lack of any type of reproductive mechanism on
8 the part of this officer, it doesn't exist. So I
9 don't know what the note said and I don't know what
10 the audio. It would be like trying to take a
11 statement from a Defendant and then not having any
12 notes and not have any audio or anything and then so
13 the statement that is taken, okay, I went and
14 interviewed the guy this week and I read him his
15 rights and this is all I had. You know, we don't
16 know the specific -- the exact way that that was laid
17 out. I would object to it.

18 THE COURT: Okay.

19 MR. MILLER: I was going to do a redirect
20 question about the --

21 THE COURT: Yes.

22 MR. MILLER: Okay, may it please the Court?

23 THE COURT: Okay.

24 REDIRECT EXAMINATION

LAURA JONES-REDIRECT BY MR. MILLER

1 BY MR. MILLER:

2 Q Did you write a report --

3 A Yes, sir --

4 Q -- regarding this interview?

5 A Yes.

6 Q Did you document the interview in your report?

7 A Yes, I did.

8 Q Did you document the statements made in your
9 report?

10 A Yes.

11 Q It was made close in time to the interview?

12 A Yes, sir.

13 MR. MILLER: Thank you.

14 THE COURT: All right, you want to respond to it
15 in argument?

16 MR. MILLER: Judge, I would say -- I don't
17 believe there's any objection under Jackson v. Denno.
18 I think -- he says prejudicial, Rule 403, clearly,
19 also lays out, that is the prejudicial value
20 substantially outweighs the probative. There is a
21 great amount of probative value. And there's also
22 more than the one statement as to what was said as
23 well. That is one of the statements that could be
24 elicited as well from the overall statement. That's
25 just one aspect that, I believe, that Mr. Yarborough

1 is focusing on. But also it substantially outweighs,
2 not that it's prejudicial but substantial probative
3 value. Here, The Defendant is talking about engaging
4 in a sexual act with his the daughter, which is what
5 we're here about. That is incredibly probative.
6 Under whatever circumstances he describes them as,
7 the statement of his own freewill made, that the jury
8 should be allowed to hear. When it comes to the
9 electronic issue, I don't believe there's -- that is
10 there's a technical error, that was found later,
11 going through standard practice of failure of
12 equipment. And that would be the weight of the
13 evidence for the jury to consider. That they could
14 consider, well, we don't have it to see, it was there
15 and we don't have it, that would just be in the
16 purview of the jury, the state would argue, as to
17 weight of the evidence, not admissibility.

18 THE COURT: Are y'all asking me to rule on the
19 admissibility of this now or just Jackson v. Denno?

20 MR. MILLER: Well, The State was only doing
21 Jackson v. Denno, Your Honor.

22 THE COURT: And he just turned it into another
23 one.

24 MR. YARBOROUGH: I did -- I have --

25 THE COURT: Well, I --

1 MR. YARBOROUGH: -- just go ahead and deal with
2 it.

3 THE COURT: I mean, so you don't have any
4 objection to Jackson v. Denno?

5 MR. YARBOROUGH: I don't have any questions
6 but--

7 THE COURT: I mean, I don't think that there's a
8 requirement that it has to be video taped, kind of
9 like a DUI where it has to be, you know, statutorily
10 video taped. And, I mean, I believe its probative
11 value outweighs its prejudicial value. And, I
12 believe, it goes more to the weight. I mean, you
13 will be able to cross-examine on that but I believe,
14 otherwise, it's admissible.

15 MR. YARBOROUGH: Thank you, Your Honor.

16 MR. MILLER: Thank you, Your Honor.

17 THE COURT: Anything else?

18 All right, you may step down.

19 Anything else from The State?

20 MRS. SUSTAKOVITCH: Just for point of
21 clarification, when we were on the trial docket last
22 time in January, the Defense Counsel provided The
23 State with two motions. Motion to exclude expert
24 testimony. I believe they were thinking Melissa
25 Collins, we were going to try to make her an expert,

1 which, of course, we're not. But then also they made
2 another motion to exclude the blind expert that we
3 intend to call, which is Shauna Galloway-Williams.

4 Do you not intend to do that--

5 MR. YARBOROUGH: I can do it when she comes. I
6 mean, I always object to that, Your Honor. I think
7 there's an ongoing battle with -- about blind
8 experts. So yes, I do object. Just so you know, I
9 object and I don't think it's relevant. I don't
10 think it -- I think it's much more prejudicial than
11 probative. The jury should be able to rely on each
12 case and not have somebody come in and say this.

13 MRS. SUSTAKOVITCH: And, Your Honor, just in
14 response to that. The State filed a -- beg the
15 Court's indulgence one moment. A response to Defense
16 Counsel's motion and I'll provide it to The Court.

17 THE COURT: And, I guess, for the motion, I
18 guess, you're really just laying your objection to
19 her testimony.

20 MR. YARBOROUGH: Yes, sir.

21 THE COURT: In the form of a motion.

22 MR. YARBOROUGH: And I have it here, Your Honor.

23 MRS. SUSTAKOVITCH: Your Honor, that--

24 THE COURT: I think you gave it to --

25 MR. YARBOROUGH: I gave it to you?

1 THE COURT: No, that was the other one.

2 MRS. SUSTAKOVITCH: Your Honor, The State, for
3 planning purposes, intends to call --

4 MR. YARBOROUGH: It's in the same one--

5 THE COURT: Okay.

6 MRS. SUSTAKOVITCH: The State intends to call
7 Shauna Galloway-Williams. The State relies on well
8 settled case law, at this point, that under State vs.
9 Brown and a progeny of cases, this is a expert that's
10 never met with the victim, doesn't know the case law,
11 doesn't know anything about it. She is here to
12 simply educate the jury as to the dynamics of child
13 sexual abuse. And to aide the finder of fact in
14 topics that are outside the general knowledge of the
15 jury. And I believe that the case law is settled on
16 this point. While Defense Counsel does not like that
17 she can testify, I believe that the courts have held,
18 consistently, that under that fact scenario,
19 Ms. Galloway-Williams would be an admissible witness.
20 We intend to call her, I believe, Wednesday morning,
21 Your Honor.

22 THE COURT: Okay.

23 MRS. SUSTAKOVITCH: And we would ask for a
24 preliminary ruling because Ms. Galloway-Williams is
25 out of the country right now and she is making every

1 effort to get back for this case. So if there's any
2 real argument about this, we would. . .

3 MR. YARBOROUGH: Your Honor, there is a real
4 argument about it. I think The Court's aware of
5 numerous cases that are out there. I mean, I don't
6 know why you need a blind expert to come in here and
7 testify about the dynamics of child sexual abuse.
8 The jury's being told, these are the charges, this is
9 what is before the court. They're going to judge the
10 witnesses, they're going to judge the credibility of
11 those witnesses. They don't need a expert to come in
12 here and say these are the dynamics of what happens.
13 That makes -- every time I hear it, it just makes my
14 blood boil.

15 MRS. SUSTAKOVITCH: And I appreciate that,
16 Judge. We just, I guess, just week before last
17 before Your Honor with this exact same issue. And
18 while Mr. Yarborough does not like that Shauna
19 Galloway-Williams is admissible, the case law is, in
20 fact, that under that scenario she is admissible. It
21 is not within the standard knowledge of a juror terms
22 like delayed disclosure. Why children delay
23 disclosure and all those different topics that would
24 be relevant, in a case such as this one, to explain.

25 MR. YARBOROUGH: And what happens over and over

1 again, just like it did last time, is they start
2 asking specific questions that kind of feedback into
3 the -- the -- into what's going on in this case. And
4 there's no point in it, Your Honor. The case should
5 be on its own basis. And all that does is bring an
6 issue in that's not relevant and it's not important
7 to how the jury can determine the facts of the case,
8 not some expert's devine opinion about these are the
9 dynamics of child sexual abuse. Well, I mean, she
10 probably can testify that these are the dynamics of,
11 you know, running a circus, I don't know. But she --
12 it makes no sense to me, Your Honor.

13 THE COURT: All right. Well, I think the
14 Supreme Court has weighed in and says that these are
15 allowable expert testimony. I mean, as to the
16 specifics, I mean, we need to address those at the
17 time with objections.

18 MR. YARBOROUGH: Yes, sir.

19 THE COURT: But I believe that based on what The
20 State has presented and the case law, that it's --
21 it's admissible expert testimony.

22 MR. YARBOROUGH: Thank you, Your Honor.

23 MRS. SUSTAKOVITCH: Thank you, Your Honor. One
24 very last thing, I know Your Honor is going to review
25 the forensic interview and I did just want to pass up

1 State vs. Clark, if this could save us some time on
2 the back end. This is a case that does talk about --
3 I heard Defense Counsel asking a lot of questions of
4 Ms. Collins related to whether the questions -- may I
5 approach, Your Honor?

6 THE COURT: Yes.

7 MRS. SUSTAKOVITCH: Whether the questions were
8 leading or not leading or this or that. And this
9 case just provides instruction about that, that
10 argument should be where we just did it, in front of
11 Your Honor. Once Your Honor makes a ruling on that,
12 it's not for us to have that all hashed out in front
13 of the jury. So I just offer that up as Your Honor
14 looks at the video.

15 THE COURT: All right.

16 MRS. SUSTAKOVITCH: Thank you.

17 THE COURT: Anything else from The State?

18 MRS. SUSTAKOVITCH: No, sir.

19 THE COURT: Anything else from The Defendant?

20 MR. YARBOROUGH: No, sir, Your Honor.

21 THE COURT: All right, I'll review the testimony
22 and let y'all know what I come up with. I guess I
23 need to review one but I don't need to review two;
24 correct? Because that was the Jackson v. Denno.
25 State's Exhibit 1 is the one I need to review.

1 MRS. SUSTAKOVITCH: Thank you, Your Honor.

2 THE COURT: Correct? He didn't have--

3 MRS. SUSTAKOVITCH: Yes, sir --

4 THE COURT: -- objection to Jackson v. Denno --

5 MRS. SUSTAKOVITCH: -- just State's Exhibit 1.

6 THE COURT: When do we need to address the
7 redactions or have y'all agreed to that?

8 MRS. SUSTAKOVITCH: Well, I don't know that it's
9 been agreed to. The State has three places--

10 THE COURT: All right, y'all want to talk about
11 that and then let me know if we need to address it?

12 MRS. SUSTAKOVITCH: Sure and I'd love to put
13 them on the record after lunch.

14 THE COURT: Okay. All right, y'all want to be
15 in here just a little bit early? I know the jury's
16 not coming back until 3:00, so just as soon as you
17 get through with your. . .

18 MR. YARBOROUGH: I'll just come on, if that's
19 okay.

20 THE COURT: Yeah. And we can address anything
21 else we need to before the jury comes.

22 MR. YARBOROUGH: Thank you, Your Honor.

23 THE COURT: All right.

24 MRS. SUSTAKOVITCH: Your Honor, is the plan
25 still to do openings and like two witnesses?

1 THE COURT: Yes. You said they're pretty short?

2 MRS. SUSTAKOVITCH: Yes, sir.

3 THE COURT: Okay.

4 (WHEREUPON, State's Exhibit No. 4 was marked for
5 identification only.)

6 (WHEREUPON, a lunch break was taken.)

7 THE COURT: All right, before lunch we had that
8 motion regarding the video, I have reviewed State's
9 Exhibit 1, which is the forensic interview of the
10 alleged victim. So I'll be glad to hear any
11 arguments from counsel on the video. I also
12 received, assuming it's introduced, these are the
13 agreed upon redactions. Are y'all going to make that
14 an exhibit?

15 MRS. SUSTAKOVITCH: Yes, sir, we can make that a
16 Court's Exhibit.

17 THE COURT: Okay.

18 MRS. SUSTAKOVITCH: It's been provided to
19 Defense Counsel.

20 THE COURT: All right, I'll hear from the
21 admissibility of this recording.

22 MRS. SUSTAKOVITCH: May it please the Court,
23 Your Honor. The State is moving to admit the
24 forensic interview in this case under 17-23-175. As
25 outlined in my motion, Judge, The State offers the

1 following facts in support of it. The statement was
2 given in response to questioning conducted during an
3 investigative interview, which is required by
4 statute. There's an audio and visual recording of
5 the statement that's been preserved by electronic
6 means, as required by the statute. The child is
7 going to be testifying and will be subject to
8 cross-examination about the offense. The State
9 believes and would contend that the totality of the
10 circumstances surrounding this, have a guarantee and
11 trustworthiness to them, Your Honor. And for those
12 different reasons, we would ask Your Honor to allow
13 admittance of this forensic interview.

14 THE COURT: All right, Mr. Yarborough.

15 MR. YARBOROUGH: First of all, I believe it's
16 classic hearsay. But backing up from there, Your
17 Honor, the child's going to be available to testify.
18 They can testify to something that's not -- The State
19 can use to refresh their memory. I do -- although,
20 The State has redacted a good chunk of stuff that
21 was -- which, I think, was leading or inappropriate
22 statements. However, you want to say that. And
23 they've taken those out. But my feeling about the
24 tape in total is that any bit of, you know, person
25 comes talks to a child and they use any form of

1 leading or improper statements, is what I was trying
2 to conduct earlier, that once that starts, it -- it,
3 in total, it makes the entire tape no good. Because
4 the child has been prompted, told, you know, think
5 about things this way, this is a bad idea. You know,
6 the -- and I would just ask The Court, and I know The
7 Court looked at it, I'd ask The Court not to admit
8 the tape.

9 THE COURT: All right. Well, I believe --
10 I'll hear from you.

11 MRS. SUSTAKOVITCH: Do I need to argue?
12 Additionally, Your Honor, I would just state that
13 these interviews have been admitted since 2006, when
14 the legislature specifically created this statute to
15 allow for these types of statements from children
16 during their passage of Jessie's Law.

17 THE COURT: Well, and I -- and as to whether,
18 since the child is testifying, as to that argument, I
19 mean, the statute specifically allows for that.
20 Because it requires in order for this interview to be
21 introduced, the victim has to testify. So I think
22 that the statute itself kind of acknowledges that
23 that is going to be the -- I realize it's kind of the
24 dual testimony.

25 MR. YARBOROUGH: It is and it's bolstering. And

1 I know The Court--

2 THE COURT: I don't think you can bolster your
3 own testimony.

4 MR. YARBOROUGH: Well, it is because what
5 happens is that the child testifies, then the tape
6 comes in and so because the child testified and said
7 it one way or said it another way, then it's
8 bolstering. I mean, it's -- it's taken -- I'm not
9 going to beat a dead horse.

10 THE COURT: No and I think you're on the record
11 with that. But I just think that maybe the way the
12 statute is written, it specifically allows for not
13 only the testimony but also the forensic interview.
14 Although, there may have been some leading questions
15 in there. I think with some of the redactions that
16 had been provided and also I don't think that they're
17 the type of leading questions that was in the form of
18 manipulating and takes away from the trustworthiness
19 of the interview. It clearly -- the factors that I
20 need to look at, I think that they properly
21 established her training and investigative
22 interviews. I think overall the questions as to the
23 event were of a nature that were not leading and were
24 open ended. There's definitely a detail account of
25 the offense. I think it has an internal coherence,

1 her overall testimony. And I think that overall it
2 has a guarantee of trustworthiness and I'm going to
3 allow it subject to the reactions.

4 And that's my understanding, these redactions
5 have been agreed upon?

6 MRS. SUSTAKOVITCH: Yes, sir, Your Honor. The
7 State -- these are three that The State found, I
8 believe, that it's going into areas where, based on
9 prior case law, it should be taken out. One is where
10 it's talking about, my mommy told me to tell the
11 truth. That naturally should be taken out. And then
12 some of the rapport questions, the rapport building,
13 where the interviewer, just for the record, is saying
14 things like, you know, we're here to tell what
15 happened and what truthfully happened. The State
16 recognizes those should come out.

17 Are there any additional redactions? Because
18 we're happy to take anything else that's of concern
19 to Defense Counsel to look at that and discuss it.

20 THE COURT: Well, not everything concerning, you
21 don't have to take everything out.

22 MRS. SUSTAKOVITCH: No, no, no. We're happy to
23 discuss it.

24 MR. YARBOROUGH: Judge, I just want to note for
25 the record that I'm objecting to the tape.

1 THE COURT: Right.

2 MR. YARBOROUGH: But I do think that they have
3 made some redactions. I'm not agreeing that that is
4 everything that could be redacted because as The
5 Court just pointed out, I want it all out. But under
6 these circumstances, I think I'm protected on the
7 record.

8 THE COURT: Right. And you agree to those
9 redactions subject to your objections on the--

10 MR. YARBOROUGH: Yes, sir.

11 THE COURT: All right. All right.

12 Anything else from The State before we begin?

13 MRS. SUSTAKOVITCH: Nothing from The State.

14 THE COURT: Anything else from The Defense?

15 MR. YARBOROUGH: No, sir, Your Honor.

16 THE COURT: All right, if the jury's ready,
17 bring them in.

18 As you know, I'll start with a brief -- I'll do
19 my little preliminary instructions to the jury and
20 then turn it over to y'all.

21 Dona, you ready to swear them in?

22 THE CLERK: Yes, sir.

23 (WHEREUPON, State's Exhibits Nos. 5-14 were
24 marked for identification only.)

25 (WHEREUPON, the jury entered open court at

1 approximately 3:08 p.m.)

2 THE COURT: All right, ladies and gentlemen,
3 hope you enjoyed your long lunch, probably get a nap
4 and everything else in there. So we worked
5 throughout the lunch, so we weren't just idly sitting
6 by. I got some information to tell you kind of about
7 what's going to be happening but before I do that, I
8 will have our clerk administer the oath.

9 THE CLERK: Please stand and raise your right
10 hand. The correct response to the oath is, I will.

11 (WHEREUPON, the jury was sworn.)

12 THE COURT: All right, before I turn it over to
13 the attorneys for opening statements, I want to give
14 you a little bit of information, kind of a roadmap of
15 the trial. But first I always like to start off by
16 letting you know some of the -- you already met the
17 attorneys and the parties involved. But I wanted to
18 make sure you knew who the other people were in the
19 courtroom. Seated in front of me is the court
20 reporter, she takes down all the testimony and keeps
21 a record of that. And we have the clerk of court,
22 who administers the oath and is kind of in charge of
23 the courtroom and the evidence. Seated to my right
24 is my law clerk, he's a law school graduated, helps
25 me with any type of research, anything needed there.

1 I always say the most important people for your
2 concern are the bailiffs. We have fantastic bailiffs
3 here in Greenville County. If you have any questions
4 or comments, please direct that to the bailiffs. If
5 there's anything that I need to be apprized of,
6 they'll let me know. So that's who you need to
7 communicate with.

8 You know, what is your role in this matter?
9 Your role is to determine what the facts of the case
10 are, okay. That's going to be your decision. You
11 know, what I mean by that, at the end of the trial
12 you will be handed a verdict form as to the charges
13 that will be presented to you. And you will find --
14 and how you determine the facts is you'll find --
15 I'll go over the burden in just a moment. If you
16 find that The State has met its burden on these
17 charges, then you would find The Defendant guilty.
18 If you find that The State has not met its burden,
19 then you would find The Defendant not guilty. So
20 that's the questions that you will be asked at the
21 conclusion of the trial.

22 Now, how do you make that decision? You're
23 going to be making decisions as the evidence is
24 presented. And evidence may be several forms. It
25 may be by way of testimony from witnesses, it may be

1 from video statements, it may be from exhibits, it
2 may be stipulation of counsel, all of those things.
3 And everything, every piece of evidence, you're to
4 give it the weight and value which you feel is
5 appropriate, okay. And The State has that sole
6 burden in this case. The Defendant has absolutely no
7 burden to prove anything. To prove that he is not
8 guilty. That is not -- he has no burden whatsoever.
9 The State has the burden to prove him guilty beyond
10 all reasonable doubt, okay. And as to each element
11 of each charge.

12 Now that's a higher burden than if anybody's
13 ever been involved in a civil matter, that's a much
14 lower, that's more likely than not by preponderance
15 of the evidence. This is a criminal matter. And a
16 criminal matter requires beyond a reasonable doubt.
17 I'll give you some more definitions regarding that at
18 the conclusion of the trial. So you will listen to
19 the evidence or you will take the evidence, you'll
20 give it the weight and value that you feel is
21 appropriate. You will also take the law that I give
22 you at the conclusion of the trial. And you will put
23 those two together and that's how you will determine
24 what the facts of the case are.

25 Now, my role is totally different. And if

1 there's anything that I do or say that makes you
2 think I have an opinion of the facts, then you to
3 disregard that because that's not my job. My job is
4 to preside over the trial, rule on objections. Now,
5 you will hear objections from time to time, most
6 likely from The State or counsel for The Defense. We
7 have very specific rules of evidence and court rules
8 that apply in every criminal case. And that's what
9 the basis of objections are. It's not -- it is for
10 the purpose so that all of those rules are properly
11 followed. And sometimes they're quite intricate and
12 very specific. Also, sometimes it may be that we
13 have to take some of those matters up outside your
14 presence. And it's not to really keep anything from
15 you, it's just so that we can hear all the arguments
16 and so that we can have the case presented to you
17 more efficiently. And we'll send you out at that
18 point so we can protect the record there.

19 As I told you in the very beginning, the -- I
20 read to you from indictments. Indictments, just like
21 the fact that somebody may be charged or arrested,
22 that's not evidence. The indictments that I read to
23 you, as I mentioned, were merely the allegations
24 brought by The State. Those are the formal papers
25 that brings this matter to court. That's what The

1 State has to prove. But it's not evidence before
2 you. The evidence will be, again, the testimony, the
3 various factors that I mentioned to you.

4 As we go I'm going to ask that -- this is the
5 type of trial and it should be, from talking with the
6 attorneys, I expect that we will have today, we'll
7 have testimony tomorrow and we should go into
8 Wednesday. And then it should be, from talking to
9 the attorneys, I think that you will have the case
10 sometime Wednesday for your deliberations. So not --
11 it's not going to be an extremely long case but it's
12 going to be a very important case for both The State
13 and The Defendant.

14 Now, you will have all of the information, all
15 of the exhibits that will be presented to you
16 throughout the trial. I'm going to ask that you not
17 take notes. I think it's important that you pay very
18 close attention to all witnesses. And due to the
19 fact that it will only been a couple of days, won't
20 be anything if you have to look back at something,
21 way back several days or weeks before.

22 The procedure of the trial, we'll start off with
23 opening statements by the attorneys. Now, opening
24 statements, that's not evidence. That's a summary
25 that the attorneys will be presenting to you of what

1 the case is going to be about. Then we have the
2 evidentiary phase. Again, that will be witnesses and
3 whatever evidence is presented. After all of the
4 evidence has been presented, and the parties rest,
5 then they will have closing arguments by the
6 attorneys and we'll have -- I'll charge you on the
7 law. And after that, you will begin your
8 deliberations in the jury room and determine what the
9 verdict should be.

10 Now, we'll try to take breaks every hour or so.
11 Sometimes that kind of depends on where we are with
12 witnesses. If one witness may be going longer than
13 that, then, of course, we're not going to try to take
14 a break during the middle of a witness' testimony.
15 Sometimes we have to. If any of you have to take a
16 break, indicate to the bailiff or get his attention
17 so that he can direct to me that we need to take a
18 break. We realize this is a inconvenience to you and
19 we try to make you as comfortable as possible. So if
20 any issue should arise, let the bailiff know and we
21 can take a break as soon as possible.

22 We will try to break -- we usually try to break
23 as close to five o'clock as possible. Sometimes that
24 may be 4:30 because of where the witnesses may be
25 coming in for the next day. If it looks like we're

1 going to go after 5:00 for any reason, and I'm not
2 talking way after 5:00, but if it looks like we may
3 have a witness that may run us over 5:00, I'll let
4 y'all know, make sure that y'all can make any, you
5 know, if you have to take any step or action just to
6 make sure something's covered, we'll let you know
7 that. But I try to make sure we leave before 5:00.

8 Usually, we start in the mornings about 9:30.
9 And sometimes -- sometimes we say we're going to
10 start at 9:30 and you have back there and we're
11 getting ready to start and realize there may be some
12 issue here. So sometimes if you get here at 9:30 and
13 you're like, Godly, I thought that Judge told us to
14 be here at 9:30, we're waiting here for a few
15 minutes. And I do apologize for that. But like I
16 say, sometimes we end up with issues we have to
17 address before we bring you out. So it's not like
18 we're running late or getting that extra cup of
19 coffee, we're actually in here working on something.

20 And I will tell you every time you break,
21 they're four kind of rules that are very, very
22 important that you follow. First one, very important
23 one is, that you not discuss the case. And that's
24 among yourself. Because once you start talking about
25 the case, then you start making up your mind. You

1 shouldn't start making up your mind until you've
2 heard all the evidence and you heard the law. Also,
3 it's important that you not discuss the case with
4 your friends or family in the evenings or any kind of
5 breaks because then you're actually getting outside
6 influence. It's important that everything that you
7 get to -- or everything that you need to consider
8 that you're getting in this courtroom under our court
9 rules.

10 The other thing I will tell you, every time when
11 you break for the evening or for lunch is do not
12 research the case. That's very important too. You
13 will get all the law that you need to apply in this
14 courtroom. You don't need to Goggle the law, you
15 don't need to Google the attorneys, you don't need to
16 Google the incident, anything whatsoever. Everything
17 that you need to be considering, you need to be
18 getting from this courtroom. I'm not aware of any
19 kind of media coverage but if there should be, you're
20 not to view any of that, including any social media.
21 Then I'll also tell you that if you should get
22 contacted, which I don't expect, but if you are
23 contacted by anybody other than somebody from the
24 clerk's office, you need to let the bailiffs know
25 about that. So with that being said, I will now turn

1 it over to the attorneys for their opening
2 statement.

3 The State.

4 OPENING STATEMENT

5 MR. MILLER: Thank you, Your Honor, may it
6 please the Court.

7 Good afternoon. As you heard earlier, my name
8 is Walker Miller, I'm a solicitor in the 13th Circuit
9 Solicitor's Office. And just to refresh, this is
10 Christy Suskatovitch, also a solicitor in the office.
11 This is Lindsey, an investigator in our office that
12 we're fortunate to work with. What the job title
13 solicitor means, so that everybody's clear, is we're
14 prosecutors and some states called the job title
15 district attorney. We represent The State in
16 criminal matters in the 13th Circuit in Greenville
17 and Pickens County. And we primarily work in
18 Greenville County.

19 Now, as you heard as the indictments were read
20 out a little bit ago just now, we're in a criminal
21 matter, The State of South Carolina vs. David Jones,
22 on five counts of criminal sexual conduct in the
23 first degree with a minor. I just want to give a
24 little bit of a warning or heads-up. These are
25 crimes that involve testimony, evidence, about

1 topics, words, phrases, body parts that isn't really
2 used in day-to-day life. Isn't said very often. But
3 that is what we're here about today. And those are
4 going to be, as Your Honor says, questions that you
5 have to answer. And as Your Honor said, he will
6 charge you on the law later on. But I want to give a
7 brief summation, just a brief overview, just a little
8 bit of a idea of what we're talking about. But his
9 Honor will charge the law and that is the law.

10 So this crime can be said as a person performs a
11 sexual battery on a minor. In this case, as you'll
12 hear, the minor's name is **Child** And she's the
13 daughter of The Defendant, David Jones. Now, sexual
14 battery, that's the other big part of this crime.
15 What is a sexual battery? It is penetration however
16 slight. There's more than one type, as you can hear,
17 as being read from the indictments. The indictments
18 talked about vaginal sexual intercourse -- those
19 words, that is penis into a vagina. Anal sexual
20 intercourse, digital penetration. Digital means the
21 finger. Cunnilingus and fellatio, that would be oral
22 sex on the vagina, oral sex on the penis.

23 So that is what Christy and I intend to prove to
24 you all over these next few days beyond a reasonable
25 doubt. And make no mistake, the burden lies here, it

1 lies with us. It lies solely at this table. And
2 beyond a reasonable doubt, I think the way we talk
3 about what it is, I think is also to talk about what
4 it is not. It is not 100 percent. When something is
5 not 100 percent, that means that it's not that every
6 question has to have an answer, every what if has to
7 have a conclusion. It is not 100 percent. As you
8 heard His Honor mention, it is greater than the civil
9 burden of beyond the preponderance of the evidence,
10 more likely than not. So we're in those goal posts.

11 What it also is not, what you will not hear His
12 Honor charge you on the law on beyond a reasonable
13 doubt, is any type of exact number. Any type of
14 exact number of where you feel you have to be. So
15 let's talk a little bit about what it is and how it's
16 talked about. Some people refer to it as a doubt to
17 which a reason can attach. And it's important that a
18 reason -- a reasonable doubt. Think of it as a bar
19 of reasonableness.

20 It's also discussed as the hesitate to act.
21 Hesitate to act. I like to pause on this for a
22 second. Because when you do get the case after the
23 evidence is presented, after the closing arguments
24 and Christy has a chance to come up here and give you
25 the closing arguments on the case, you go back to

1 deliberate. And you think, hold on a second, I got a
2 question I want to talk about something. That's not
3 hesitating to act. That is fulfilling your oath and
4 your job as a juror and having deliberations. That's
5 what that is.

6 But after you deliberate and you discuss the
7 evidence and you know this is true, then you are
8 firmly convinced, you're firmly convinced beyond a
9 reasonable doubt. And how do you know when you're
10 firmly convinced of something? I'm going to venture
11 for most people, this is probably some new territory,
12 being a juror on a criminal sexual conduct case. No
13 one gave you a policy and procedure handbook on how
14 to do it, no one said here's how to do it. But
15 everybody here has two things with them in the jury
16 room here today in this courtroom. That's your life
17 experience and your common sense. [indiscernible]
18 they're your best tool. Think of your common sense
19 as your guiding light when this evidence is presented
20 to you and when you go to deliberate and you think
21 about it and make your decision. Your common sense
22 is absolutely the most important thing you have and
23 everybody has with them everyday.

24 So let's talk about the case just a little bit
25 and what you can expect to hear over the next few

1 days. As I mentioned, this case involves **Child**
2 We're going to talk about the timeframe of when
3 **Child** was six, seven, eight years old. And during
4 this time, she's living with her dad, The Defendant,
5 David Jones, her mother, Marita and older brother by
6 about three years, **ZJ**. There were living at Address
7 le se in Simpsonville. You'll hear a
8 little bit about this neighborhood and about this
9 house. It's a nice two-story house in a nice
10 neighborhood.

11 You will hear how **Child** and **ZJ**, like a lot of
12 kids their age, they had activities they liked to do.
13 They would draw, go outside and play sports, play
14 video games. You'll hear a little bit about their
15 life. You'll also hear that, at this time, Marita,
16 she was working at a bank, she still is. But she was
17 working at a bank, had to go into a bank each day.
18 You'll hear that David Jones had a security company.
19 And he didn't have that same schedule. The kids,
20 **Child** and **ZJ**, also had their schoolwork. During
21 this timeframe they were homeschooled.

22 And so what happened is that David Jones was the
23 parent who stayed at home with **Child** and **ZJ**
24 throughout the day. And you'll hear more about that
25 and what transpired in this house. You'll hear about

1 this house at Address. You'll hear about how
2 it's a two-story house, as I told you. The bedrooms
3 are on the top. You'll hear about the few rooms in
4 this house. There will be one room that you'll
5 probably hear a little more about than most but I'm
6 not discounting the other rooms. But this room as
7 you're going to hear is called the Man Cave. It was
8 up on the second floor with the other bedrooms. And
9 you'll hear about how this was a room where there was
10 a lot of electronics, this was the room where things
11 took place, where you could play video games.

12 But you'll also hear about what happened in
13 early 2019 is there was a fire at Address.
14 There was a fire in the Man Cave. So after the fire
15 the family had to move. And they moved in with
16 Marita's parents at 1 Moreland Way in Simpsonville.
17 You're going to hear about that house as well.
18 You're going to hear about the rooms in that house
19 and what happened in that house. And what you'll
20 also hear about is throughout this time, it's kind of
21 after this fire what comes to light, what started to
22 come about.

23 And that is the reality of **Child** life.
24 You'll hear how it started to make it's way known
25 after this fire. What was happening to **Child** behind

1 closed doors. That's important to know because these
2 crimes don't happen out in the public. They don't
3 happen for others to see. They happen behind closed
4 doors. It's important to remember that. You'll hear
5 this evidence, apply your common sense as you hear
6 this evidence.

7 As you heard His Honor say, there's different
8 types of evidence. Obviously, you're not going to
9 [indiscernible] you're not going to hear about DNA,
10 complicated forensics medical exam, that is simply
11 evidence that we do not have. But as you heard His
12 Honor, there are other types of evidence. A major
13 type of evidence just about in every criminal case
14 comes from somebody called to the stand. They walk
15 right down here, they come right up to this witness
16 stand and they take the stand, they'll be up here.
17 They'll look out at 14 adults they don't know and
18 they're going to give you their testimony about their
19 life involving criminal sexual conduct in the first
20 degree with a minor.

21 That is evidence. And under the law, the
22 evidence is equal. It's direct, it's circumstantial,
23 it's for you to weigh. Use your common sense when
24 you weigh that evidence. Make no mistake, that is
25 evidence. And after the evidence is presented to

1 you, Christy is going to have the chance to come up
2 here where I'm standing now and give you the closing
3 argument. It's just a lawyer's way of saying, going
4 through the evidence with you. Going through the
5 case. What's been presented. And showing how David
6 Jones is guilty of these indictments beyond a
7 reasonable doubt. Which is why at the end we're
8 asking for a verdict. A verdict that justice
9 deserves.

10 And so I've asked you to use your common sense.
11 I'm going to ask something else of you. Keep your
12 eye on the ball. Keep your eye on the ball. What I
13 mean by that are those five indictments. Those five
14 questions His Honor said at the end you'll have to
15 answer. Because that is what we're here about. Not
16 some side stream [indiscernible] those five
17 questions. And the evidence to those five questions.
18 Keep your eye on the ball. Use your common sense.

19 And as His Honor said, this case is important.
20 It's not just important for his attorney,
21 Mr. Yarborough, David Jones or myself or Christy,
22 it's important for **Child** as well. And you'll get to
23 see her. It's important for her as well. It's a
24 very important day. And I mention that because His
25 Honor said this is not what you had planned for the

1 week of June 5th. No one thought I was going to come
2 into court, get a summons for jury duty and now let
3 alone, I'm in a criminal sexual conduct trial. Say
4 that because I have friends that will get it and
5 they'll call me and say, hey, how do I get out of
6 this? How do I get out? My honest response to that
7 is, You don't. You don't get out. You need to go.
8 You need to show up. You answer the questions.
9 Because it is so important. This job you're doing is
10 so important.

11 We're going to be here a few days. We know
12 everybody has something going on in their life. This
13 isn't what you had planned. I know everybody has
14 something going on. But this is very important.
15 That's why I want to thank for your time and
16 attention in this matter. Thank you.

17 MR. YARBOROUGH: May it please the Court, Your
18 Honor?

19 THE COURT: Yes, sir, you may proceed.

20 OPENING STATEMENT

21 MR. YARBOROUGH: Good afternoon. How are y'all?
22 Let me introduce myself to you. I spoke to you
23 briefly when y'all were coming in for jury selection.
24 My name is Bill Yarborough, been in Greenville,
25 basically, all my life. Practice law here for as

1 long as I can remember. I have a lot of gray hair on
2 my head. I want to tell you that today it's my
3 pleasure to represent David Jones.

4 Stand up, David.

5 And those are his parents sitting back there in
6 the courtroom.

7 You can sit down.

8 I liked everything Mr. Miller had to say and but
9 what I want to tell you is this. All he said was
10 what he thinks, right? Because today is David Jones'
11 day in court. Today is his day. And it's an
12 important day and it's his day. What I didn't hear
13 Mr. Miller say was right now, at this very moment,
14 David Jones is an innocent man. All that stuff that
15 Mr. Miller just said, they got to prove something.
16 They got to put the witnesses on the stand, like he
17 said. And they got to prove it and they got to prove
18 it beyond a reasonable doubt.

19 Now, the cool thing that happened in here a
20 little while ago and what I love to see happen over
21 and over in my career, is you guys walked in here and
22 you took an oath. You took an oath with Judge
23 Gravely and you said that you promised, you swear, to
24 carry out your duty and listen to this case. Don't
25 have any friends when you walked in this courtroom.

1 You don't have any friends in this courtroom. It's
2 your job to listen to the evidence and give David
3 Jones his day in court. It's The State's job to
4 prove the evidence. It's not their job to walk in
5 here and tell you all the great stuff about -- and
6 this is not fun stuff to talk about, okay. Let me
7 just say that to start off with. I have trouble with
8 it. I've got girls, I don't like to talk about this.
9 But that don't have anything to do with why we're
10 here. We've got to deal with something that's very,
11 very important. And can they prove him guilty beyond
12 a reasonable doubt?

13 Now, in this world we know that people have
14 different reasons why they come to anywhere and say
15 something that may not be true. Maybe something
16 going on in their life. Maybe something that went on
17 in their life in the past. Maybe something they want
18 from somebody for somebody else. Maybe because they
19 don't like somebody. Sometimes people come in the
20 courtroom and don't tell the truth. I'll submit to
21 you that they're two sides of this case. We're going
22 to present evidence to show that there was a lot
23 going on in this little girl's life. You know,
24 that's hard. That's hard. But there was a lot going
25 on. There was a big fire in the house, had to move

1 in with her grandmother. There was a lot of stuff
2 going on.

3 And, you know, if she had gotten taken away from
4 the things that she liked. She knew her parents were
5 fighting. Heard them fighting back and forth. And
6 you're going to learn why they were fighting. They
7 didn't have the best of marriages. Trying to work
8 through things. Little girl hears stuff, says stuff.
9 And sometimes they say things that aren't true.

10 You know, you're not here to make any friends or
11 any enemies. It's your job to walk in this courtroom
12 and listen to the evidence as presented by The State
13 and listen to some of the questions I ask. And what
14 I'm going to ask you to do is this. I'm going to
15 tell you that we will call witnesses, okay. We will
16 call witnesses about why stuff happened. I'm asking
17 you -- because they go first, right? So I'm over
18 here saying, please, listen to us. We're going
19 second but please listen to us, we will go second.
20 We've got something to say, okay.

21 But let me tell you this. This man right here.
22 Stand up again, David.

23 He really doesn't have to do anything. He
24 doesn't have to walk into this courtroom and do a
25 darn thing. Judge Gravely just told you that. It's

1 their job to prove him guilty beyond a reasonable
2 doubt. Mr. Miller talks about shadow of a doubt, all
3 this doubt, I don't know about all that stuff. I
4 heard something when I was in law school about beyond
5 a reasonable doubt. It was, you know, if you had a
6 box and you had a cat and you took the box and put
7 the cat in there and then put a rat in there and you
8 tied a string around it and came back 30 minutes
9 later and you opened the box and there's nothing out
10 on the sides or anything else and the rat's gone,
11 that's beyond a reasonable doubt. That cat ate that
12 rat; right? But come back, put the cat in there, you
13 put the rat in there, tie it up real tight, come back
14 30 minutes later, the rat's gone. You go, hmm. Then
15 you look around, there's a little hole in there. And
16 you go, uh. I guess maybe the rat either got eaten
17 or it went away. It got out, it crawled out.

18 You know, just don't listen to their side of the
19 case, just take it for what it's worth. There's two
20 sides to every case. And it's their job to make sure
21 that that rat didn't crawl out of that box and that
22 hole. It's their job to prove him guilty beyond a
23 reasonable doubt. He doesn't have to prove anything.

24 Now, I will tell you that on April the 2nd there
25 was a fire. I think you're going to see some

1 pictures of fire that was there. They're going to
2 talk, it was in the room that had the computers in
3 it. I think they're going to call it a Man Cave or
4 whatever they want to call it, they can call it that.
5 But a fire took place, looks like some kind of -- I
6 don't think they ever said exactly why there was a
7 fire but there was a fire. I think it had to do with
8 some kind of technology or electricity stuff. That
9 was on the 2nd of April, 2019.

10 You're going to learn that about 15 days later,
11 there was some kind of talk with a DSS worker or
12 something. And there was a report of allegedly this
13 happened. You're going to hear some stories back and
14 forth about whether or not they believe that was or
15 could have been true. And you're going to learn that
16 at that point, David Jones said, look, I'll come down
17 and tell you what I know about this. I'm going to
18 sit down, I will be happy to talk to y'all. And
19 didn't go down there with a lawyer or anything, went
20 down there, signed his rights. They'll put in the
21 Advice of Rights form and said he signed it and he
22 talked to the police officers.

23 There will be some question about exactly what
24 he said but I think it's pretty clear that he said
25 that he didn't do this. And I think that after that,

1 you'll have to judge what other people did. You'll
2 have to look at what the grownups did and then look
3 at what the children did. And then I want you to
4 listen to what my client did. And I think at the end
5 of the day, no matter what Mr. Miller says, and no
6 matter how hard these types of cases are to listen
7 to, that you're going to have to find him not guilty
8 because he didn't do it. Thank you.

9 THE COURT: All right, State may call your first
10 witness.

11 MRS. SUSTAKOVITCH: Thank you, Your Honor, may
12 it please the Court. The State calls Dr. Erin
13 Bhatia.

14 I apologize, Your Honor, she is in the restroom.
15 So sorry. We'll switch and call Dan Acord, Your
16 Honor.

17 THE COURT: All right.

18 DAN ACORD, after being duly sworn, testified as
19 follows: {F}

20 THE CLERK: Thank you, please be seated. State
21 your name for the record.

22 THE WITNESS: My name is Daniel Acord.

23 DIRECT EXAMINATION

24 BY MR. MILLER:

25 Q Mr. Acord, where are you employed?

DAN ACORD-DIRECT BY MR. MILLER

1 A I'm currently employed by the Greenville County
2 Sheriff's Office.

3 Q How long you've been with the sheriff's office?

4 A Over 23 years.

5 Q And what roles have you had at the sheriff's
6 office?

7 A I started my career in 1999 in uniform patrol
8 division. In 2005, I took a voluntary additional position
9 with the bomb squad. In 2006, I graduated from the FBI
10 Hazardous Device School to be a public safety bomb
11 technician. And I held that designation while working in
12 uniform patrol up until 2016 when the sheriff's office
13 created an arson bomb unit. And I was a part of that
14 until 2019 when I let my bomb technician certification
15 lapse and I've been doing fire investigations ever since.

16 Q What kind of training do you have for fire
17 investigations?

18 A I've been to The National Fire Academy in
19 Emmitsburg, Maryland. It's run by FEMA and the ATF. And
20 I've also been through several classes there as well as at
21 the Emergency Training Center, which is down in
22 Huntsville, Alabama.

23 Q Do you recall if you were ever called out to the
24 address of Address in Simpsonville?

25 A Yes, sir, I was.

DAN ACORD-DIRECT BY MR. MILLER

1 Q When were you called out there?

2 A That was April 1st in 2019.

3 Q What county is that location?

4 A That's in Greenville County.

5 Q Why were you called out to that address?

6 A The fire department requested me due to a fire
7 investigation at that residence. And they were not sure
8 how the fire started. They were asking for some
9 assistance.

10 Q I'm sorry, if you could say that again, I'm not
11 sure everyone could hear you.

12 A I'm sorry. The fire department called and asked
13 for some assistance with a fire at that address. They did
14 not know what caused the fire.

15 Q Are you commonly called out to house fires?

16 A Typically, yes, sir.

17 Q All right. So when you go out to the house,
18 what are the steps that you take in order to do your job?

19 A Typically, if the homeowner is present we speak
20 with the homeowner, which I did in this instance. Then we
21 have a systematic approach with fire investigations where
22 I photograph the house and structure, then, eventually,
23 what we call a excavation aid with the fire department
24 where we move items in a room to try to find out where the
25 fire started.

DAN ACORD-DIRECT BY MR. MILLER

1 Q And you recall what the house looked like, in
2 general?

3 A It was a two-story house. It was rather new
4 construction.

5 Q And what kind of fire was this?

6 A Ultimately, I classified the fire as
7 undetermined. I didn't know what had caused the fire,
8 could not pinpoint one specific item.

9 Q Where in the house did the fire happen?

10 A It was in the upstairs. It wasn't being used as
11 a bedroom, I assumed it was probably a bedroom but there
12 were several computers and other things. I think it was
13 referred to as a Man Cave. And has some comic books and
14 drawing [indiscernible] RC cars, a couch, things like that
15 in it.

16 Q And as part of your investigation were pictures
17 taken?

18 A Yes, sir, they were.

19 Q Hand you what's been premarked as State's
20 Exhibit 5 through 14.

21 A Yes, sir.

22 MR. YARBOROUGH: Without objection, Your Honor.

23 THE COURT: All right, this is what exhibit
24 numbers?

25 MR. MILLER: Five through 14, Your Honor.

DAN ACORD-DIRECT BY MR. MILLER

1 THE COURT: All right, in without objection.
2 (WHEREUPON, State's Exhibits Nos. 5-14 were
3 admitted into evidence.)

4 MR. MILLER: Your Honor, if we could switch to
5 the. . .

6 THE COURT: Yeah.

7 BY MR. MILLER:

8 Q This is marked as State's Exhibit 13. Is this
9 Address?

10 A Yes, sir, it is.

11 Q And if you could point behind you, where is the
12 location of the fire on the exterior of the house that you
13 can look?

14 A Second floor of the two windows to the right are
15 the room -- what we call the room of origin, that's where
16 the fire originated from.

17 Q And you were told that that room was called what
18 by the family?

19 A They referred to it as the Man Cave.

20 Q You call it the room of origin. What is the
21 room of origin mean?

22 A That's just the room where the fire started.

23 Q This is State's Exhibit 9, what are we looking
24 at here?

25 A That's is a picture of the room of origin.

DAN ACORD-DIRECT BY MR. MILLER

1 Q State's Exhibit 11.

2 A Same. That's from the doorway of the room going
3 out towards the front of the house. You can see the fire
4 truck through the window there.

5 Q Exhibit 12?

6 A Same as the room of origin, it's just to the
7 inside left of the doorway.

8 Q Exhibit 10?

9 A Inside the room of origin facing toward to entry
10 door to the room.

11 Q When you say the room, this is the room of
12 origin?

13 A Room of origin, yes, sir.

14 Q Okay. And state's Exhibit 5?

15 A That's a picture from the master bedroom.

16 Q What would be this line across here?

17 A That's what we call a line of demarcation. It's
18 just where the heat of the hot gas layer comes down to
19 that level before the fire was extinguished.

20 Uninterrupted that line will eventually sink down to the
21 floor. And then shortly thereafter, the room typically
22 goes into what's called flashover.

23 Q And exhibit 6?

24 A That's a picture of the master bedroom closet.

25 Q And seven?

DAN ACORD-DIRECT BY MR. MILLER

1 A That's a zoomed in picture.

2 Q Of the closet?

3 A Of the closet, yes, sir, I'm sorry.

4 Q Exhibit 8?

5 A That was one of the children's bedrooms.

6 Q And 14?

7 A Typically, what we do we'll take a photograph of
8 either the cross street or sign to show where we are.

9 Q So the fire predominately stayed in that room of
10 origin, did it spread anywhere throughout the house?

11 A No, fortunately the door to that room was closed
12 at the time of the fire, which prevented the fire from
13 spreading further into the house prior to intervention
14 from the fire department.

15 Q So the room of origin had a door that closed?

16 A It was closed, yes, sir.

17 Q It was closed, okay. That would be the Man
18 Cave?

19 A That would, yes, sir.

20 Q Okay. Now, looking at this, how from your
21 training and experience, were you able to get an idea of
22 temperatures that went on in that room?

23 A Typical temperatures in the average house to
24 start a fire can range anywhere from 1300 to 1800 degrees.
25 Given what we call the fuel load. Whether that be the

DAN ACORD-DIRECT BY MR. MILLER

1 couches, the [indiscernible], the phones, things like
2 that. If there's wood, that can add to the temperatures.
3 Just depends what's in the room. But, obviously, from the
4 damage, again, it exceeded some of those temperatures or
5 got into that temperature range.

6 Q And what kind of items were you able to
7 determine or through your investigation, were in the room
8 of origin?

9 A There was several computers. There was some
10 computer chairs, a desk, a couch. There was a large
11 circular ring that I couldn't identify that later the
12 victims were able to tell me that was a large clock that
13 was on the wall, a decorative type clock. There was some
14 bookcases and a birdcage. I did find some batteries in
15 the fire debris where the origin of the fire, I believe,
16 started. They were RC remote control cars.

17 Q And what kind of state would electronics be in
18 after a fire like this?

19 A I have never been able to recover from a fire
20 scene an electronic device that I was able to extract data
21 from due to the high temperatures in there. The weak
22 point on all your electronics is the solder. Which has a
23 very low melting temperature. And this would have
24 exceeded greatly that temperature.

25 Q So the electronics and any data on the equipment

DAN ACORD-CROSS BY MR. YARBOROUGH

1 would have been destroyed?

2 A In my experience they would have never been able
3 to be recovered. Either from the fire or the suppression
4 efforts from the fire department from getting wet.

5 Q All right. And were you able to determine the
6 cause of the fire?

7 A I was not. I narrowed it down to a reciprocal
8 or power strip, lithium battery pack. I couldn't
9 determine which one of those three it was so we had to
10 rule this undetermined.

11 Q Was anybody -- are you aware if anybody was at
12 home at the time of the fire?

13 A They were not home, they had left to go eat
14 dinner prior to the fire.

15 MR. MILLER: Please answer any questions the
16 Defense Counsel has.

17 THE WITNESS: Yes, sir.

18 CROSS-EXAMINATION

19 BY MR. YARBOROUGH:

20 Q Thank you for coming. Do you work for The
21 Greenville Fire Department?

22 A Greenville County Sheriff's Office.

23 Q Okay. And so you went out to investigate the
24 fire and you investigated it and it looked like it was
25 natural causes or some type of electrical or something

DAN ACORD-CROSS BY MR. YARBOROUGH

1 like that?

2 A It's possibly electrical, I couldn't say for
3 sure.

4 Q And that happens at times?

5 A It does, yes, sir.

6 Q Was the house 50, 60 percent destroyed, 100
7 percent destroyed, can you say?

8 A From fire damage I would say the damage is
9 limited more or less to that room, maybe a little out in
10 the hallway.

11 Q Was that down below where you were showing those
12 pictures? Let me show you State's Exhibit 5, let me show
13 you that.

14 A Yes, sir.

15 Q Is that -- is that below or is that in the room?

16 A That is on the same level as the room of origin.

17 Q All right. Was State's Exhibit 5, was that room
18 hurt?

19 A Not damaged by the fire. There was soot damage
20 and water damage.

21 Q Water damage, okay. So what you're saying there
22 was damage, it wasn't necessarily fire, it was like the
23 fireman coming in and trying to put out the fire and the
24 stuff getting wet; is that it?

25 A Correct, yes, sir. Oftentimes when they look,

DAN ACORD-CROSS BY MR. YARBOROUGH

1 it's what's called an extension of fire in the attic or
2 something, that they will pull ceilings and walls to try
3 to make sure that no fire still exists.

4 Q All right. A lot of times that causes damage as
5 well?

6 A Correct, yes, sir.

7 Q So the insurance paid out on that, then it would
8 have been reasonable that it was more than just that room;
9 right?

10 A Oh, yeah for sure, yes.

11 MR. YARBOROUGH: Okay, thank you. No further
12 questions, Your Honor.

13 THE COURT: Any redirect?

14 MR. MILLER: No, Your Honor.

15 THE COURT: All right, thank you, you may step
16 down.

17 MR. MILLER: May this witness be excused from
18 subpoena, Your Honor?

19 THE COURT: Any objection?

20 MR. YARBOROUGH: No objection.

21 THE COURT: All right.

22 MRS. SUSTAKOVITCH: Your Honor, now The State
23 calls Dr. Erin Bhatia.

24 THE COURT: Okay.

25 THE CLERK: Place your left hand on the Bible,

ERIN BHATIA-DIRECT BY MRS. SUSTAKOVITCH

1 raise your right hand.

2 ERIN BHATIA, after being duly sworn(,) testified
3 as follows:{F}

4 THE CLERK: Thank you, please be seated. State
5 your name for the record.

6 THE WITNESS: Erin Bhatia.

7 DIRECT EXAMINATION

8 BY MRS. SUSTAKOVITCH:

9 Q Good afternoon, Dr. Bhatia, where are you
10 employed, ma'am?

11 A Parkside Pediatrics.

12 Q And could you scoot up just a little bit, make
13 sure the jury can all hear you. How long have you been a
14 physician at Parkside Pediatrics?

15 A I have been there for the past, almost, six
16 years.

17 Q What is your role there? What type of doctor
18 are you?

19 A I'm a general pediatrician.

20 Q All right. I'm going to show you what's marked
21 as State's Exhibit 4 for identification. Do you recognize
22 that item?

23 A Yes, I do.

24 Q What is that?

25 A That's a medical document that I wrote the day I

ERIN BHATIA-DIRECT BY MRS. SUSTAKOVITCH

1 saw the patient -- or saw the person.

2 Q Are you nervous?

3 A Yes, I'm a little nervous.

4 Q That's okay.

5 A It's my first time.

6 Q Will that assist you in testifying to the jury?

7 A Yes.

8 Q If you have a copy?

9 A Yes.

10 Q All right. So let's tell the jury a little bit

11 about your background. Where did you attend college,

12 Dr. Bhatia?

13 A I did junior college at Wallace College in
14 Dothan, Alabama. Then I went to Troy University in Troy.
15 And then I got my [indiscernible] concentration in biology
16 degree. Went to Auburn, got my Master's in nutrition and
17 then went to UAP and got -- became -- got my registered
18 [indiscernible], did my internship there and then I went
19 on to medical school.

20 Q Where did you go to medical school?

21 A University of South Alabama, Mobile.

22 Q All right. Are you certified in general
23 pediatrics?

24 A Yes.

25 Q And what year did you become certified; ma'am?

ERIN BHATIA-DIRECT BY MRS. SUSTAKOVITCH

1 A 2013.

2 Q All right. So going back to Parkside, how many
3 physicians are at Parkside Pediatrics?

4 A Oh, that's a good number. Greater than 30 to 40
5 employees.

6 Q Okay. So tell the jury a little bit about what
7 are the normal range of visits that you have with children
8 when they come to your office?

9 A You mean age wise or?

10 Q Yes, ma'am.

11 A Usually, newborn right outside the hospital, up
12 to college age. We do have some that continue to stay
13 with us through college.

14 Q Are you familiar with a patient or a child by
15 the name of Child

16 A Yes.

17 Q And are you aware of when she became -- was she,
18 in fact, a patient at Parkside Pediatrics?

19 A Yes, she was.

20 Q When did she become a patient at Parkside
21 Pediatrics?

22 A September of 2002, I think. Let me think about
23 it. It was when she turned two years old. It was in
24 2012.

25 Q All right. And so she was two years old in

ERIN BHATIA-DIRECT BY MRS. SUSTAKOVITCH

1 2012?

2 A Uh-huh.

3 Q And in your position as a pediatric physician at
4 Parkside Pediatrics, do you have the opportunity to review
5 **Child** medical records from the time she was two when
6 she became a patient?

7 A Yes.

8 Q Okay. And in your position as a pediatric -- a
9 pediatrician, rather, at Parkside, is it in the normal
10 course of business that you would review what other
11 physicians have done in their visit with **Child**

12 A Yes.

13 Q And have you been able to look back at those
14 medical records in preparation for your testimony today?

15 A Yes.

16 Q Okay. And can you tell the jury **Child** date
17 of birth?

18 A It is April 27, 2010.

19 Q I'm sorry?

20 A I'm sorry, **2010**

21 Q Okay.

22 A This is where the nerves catch me.

23 Q That's okay, a lot of people get nervous. So
24 can you tell the jury the difference in say a well check
25 at Parkside or when a patient comes in and there's a

ERIN BHATIA-DIRECT BY MRS. SUSTAKOVITCH

1 concern of sickness. A sick visit.

2 A Yeah, a sick visit is just depending on the
3 chief complaint. So if they're here because they have a
4 runny nose, we focus on those respiratory symptoms. If
5 it's a well-child check, we focus on the general patient,
6 whether it be everything from vision, hearing, development
7 and a full detailed exam.

8 Q Okay. And so going back to the well check at a
9 physicians office. Say you're coming in and you're
10 looking at a two year old, a three year old. Is this -- a
11 four year old, rather. At these visits, if it's a well
12 check, are you doing any specific exam of genitalia or
13 anything like on the child, in any real specific way for a
14 well check?

15 A Usually, just cursory. You're going to get a
16 general view of it and just also, as they get older,
17 seeing where they are from a puberty standpoint.

18 Q All right. And what systems are checking during
19 a well check of a child?

20 A Everything from respiratory, cardiac, your GI,
21 from a abdominal exam; neurologically, ears, nose and
22 throat. Pretty much head to toe.

23 Q And as you testified, you're not doing a
24 in-depth genitalia exam?

25 A No.

ERIN BHATIA-DIRECT BY MRS. SUSTAKOVITCH

1 Q Is the parent usually in the room with the child
2 during the well check?

3 A Yes, always.

4 Q Tell us about sick visits. Just, in general,
5 what are those like?

6 A Sick visits depend on what the patient is there
7 for. If they are coming in for a sore throat, you are
8 focusing solely on those things that could cause a sore
9 throat. If you're here for a ear infection, you're
10 focusing on the ears, the lungs, the heart, you're not
11 necessarily going below the waist.

12 Q Dr. Bhatia, in your training as a general
13 pediatrician, are you specialized in being able to look at
14 children, where there's a concern of chronic sexual abuse?

15 A No.

16 Q I want to go back to **Child** And you stated
17 that she became a patient in 2012; correct?

18 A Yes.

19 Q Can you tell me from reviewing her records, do
20 you recall when her last well check visit was with
21 Parkside?

22 A I think it was in July of 2016. I think it was
23 a five year welfare check.

24 Q All right. And just remembering her birthday,
25 she, actually, would have been --

ERIN BHATIA-DIRECT BY MRS. SUSTAKOVITCH

1 A She would have almost been six at that point.
2 It was like July 19th and then her birthday was,
3 obviously, in **Birth month**

4 Q Okay. So she was a little behind --

5 A Behind.

6 Q -- on getting the well check. But it was a
7 general well check; correct?

8 A Yes.

9 Q And going back to that visit, July 29th, 2016,
10 who brought **Child** to that well check, if you can recall?

11 A I think it was both of her parents.

12 Q Okay.

13 A To that one.

14 Q All right. And was there a cursory check of her
15 general body, at that time?

16 A Yes.

17 Q Okay. Anything standing out with that?

18 A No.

19 Q All right. Dr. Bhatia, I want to take you to
20 August -- excuse me, April 15th of 2019, were you working
21 that day?

22 A I was.

23 Q And in what capacity were you working that day?

24 A I was seeing patients throughout the day. Both
25 well check, sick visits, that was a Monday.

ERIN BHATIA-DIRECT BY MRS. SUSTAKOVITCH

1 Q That was a Monday?

2 A Uh-huh.

3 Q Was it early in the morning?

4 A It was very early in the morning.

5 Q All right. And had you ever seen **Child**
6 prior to April 15, 2019?

7 A No.

8 Q So it's early in the morning, roughly, what time
9 would you say?

10 A I feel like it was seven or eight something, it
11 was pretty early.

12 Q All right.

13 A I may have it documented but.

14 Q That's okay. And this is your report from that
15 day; correct?

16 A Yes.

17 Q All right. And so how did you come in contact
18 with **Child** on that day?

19 A She was there for a sick visit with her mother.
20 And my understanding was she was there for some tonsil
21 concerns, lymph nodes little concerns and some
22 [indiscernible] complaints.

23 Q All right. So it's early in the morning. Is
24 Parkside Pediatrics packed out on Mondays?

25 A Sometimes.

ERIN BHATIA-DIRECT BY MRS. SUSTAKOVITCH

1 Q Sometimes, okay.

2 A Sometimes it is. It's usually first thing in
3 the morning it's sick visits, it's not usually your well
4 child checks as much. But in open access, that's the
5 early morning hours that's usually a lot of -- several
6 sick patients are coming in in short intervals between
7 each other.

8 Q And just to clarify, you testified the concern
9 was swollen tonsils and vaginal pain?

10 A So there was something about nodes, lymph nodes,
11 ear and tonsils. And then there was mention in the chief
12 complaint about some intermittence, something about
13 vaginal pain.

14 Q All right. Who was in the room with **Child** when
15 you were meeting with her?

16 A Her mom.

17 Q All right. And can you tell or explain to the
18 jury what happened during that interaction with **Child** in
19 that visit?

20 A So when I was talking to **Child** and her mother,
21 I was just trying to find out about the tonsils, mainly,
22 and see what was going on there. Mom actually looked to
23 be getting upset and bothered and asked me to step out of
24 the room. And so we left her there, walked outside the
25 room and then shifted to another room next door.

ERIN BHATIA-DIRECT BY MRS. SUSTAKOVITCH

1 Q Okay. And just to peel it back a little bit,
2 you say upset and bothered, what was the mother's name,
3 again? What was her name?

4 A It was Marita.

5 Q Marita. What was Marita's demeanor like? When
6 you said she was getting upset, what, if anything, can you
7 recall?

8 A I remember her being tearful, her face kind of
9 crumbling almost and seeming really bothered by something.
10 But not saying anything yet until she asked us to step out
11 of the room.

12 Q Okay. When you say tearful, was she crying?

13 A Yes.

14 Q So as part -- when you walk outside the room,
15 who's in the room with **Child** at this point?

16 A She was by herself at that point.

17 Q And then you're outside the room and you're with
18 Marita --

19 A Uh-huh.

20 Q Tell the jury what happens then.

21 A So then we proceeded -- I, actually, had a empty
22 room right next door. So we went ahead and stepped into
23 that room for her to talk a little bit further. Just
24 privately.

25 Q Okay. And at this point, Marita is crying and

ERIN BHATIA-DIRECT BY MRS. SUSTAKOVITCH

1 upset. What did -- did she indicated to you at this point
2 what--

3 A Yes.

4 Q -- what she was there for?

5 A Yeah. At this point, she was like -- she
6 divulged that--

7 Q If she stated an identity of a perpetrator,
8 please don't--

9 A I'm not--

10 Q -- say that.

11 A I'm not.

12 Q Okay, go ahead.

13 A So she divulged that **Child** had told her
14 recently that -- that she had been -- had intercourse in
15 various ways. And she was really here to just see, if
16 like, could I tell whether she was being abused. And kind
17 of bringing it to our attention.

18 Q All right. And so help the jury. Mom's upset,
19 she's crying, **Child** in the other room. And now you're
20 tasked with figuring -- trying to figure out if you can
21 tell if she's been abused; right?

22 A Yes.

23 Q So what, if anything, do you tell Marita, at
24 this point?

25 A I tell her I can't tell her those things, as a

ERIN BHATIA-DIRECT BY MRS. SUSTAKOVITCH

1 general pediatrician. I'm, obviously, glad that she came
2 to us but we really need to report that to law
3 enforcement. Well, actually, have July Valentine where
4 they have forensic pediatricians that go into more
5 detailed examinations, they know how to question. So I am
6 not able to be able to decide those to tell her one way or
7 the other, based on just having a visit with **Child** She
8 needed to go further and look more into it.

9 Q And again, are you a doctor specialized in
10 treating children where there's a concern of sexual abuse?

11 A No.

12 Q So, at this point, after your conversation with
13 Marita, do you go back into the room to, in fact, see

14 **Child**

15 A Yes, I do.

16 Q And looking at your notes, do you see or have a
17 notation of where you spoke with the mother? I believe we
18 already covered that but.

19 A Yes.

20 Q It is noted in your report that--

21 A It was--

22 Q I'll draw your attention to that.

23 A It was down here.

24 Q Yeah, right.

25 A There it is right here.

ERIN BHATIA-DIRECT BY MRS. SUSTAKOVITCH

1 Q Did you, actually, noted that you spoke with the
2 mother of the child separately from **Child**

3 A I did.

4 Q So you come back into the room and now what, if
5 anything -- did you start questioning **Child** about whether
6 she had been abused or not?

7 A No.

8 Q And why or why not?

9 A Because one, I didn't want to mix up any
10 stories, that wasn't the purpose of -- I wasn't trained in
11 that aspect, she needed someone that was more trained in
12 that. And I didn't want to confuse the issue anyways. So
13 I focused solely on the chief complaints with the tonsils,
14 with, okay, what's going on with the intermittent pain?
15 Making sure of urine, making sure you don't have a UTI,
16 urinary infection, that sort of thing. So I avoided that
17 conversation with **Child**

18 Q Okay. Is her mom still crying at this point or
19 has she --

20 A She actually calmed down.

21 Q She's calmed down?

22 A Uh-huh.

23 Q All right. And then I want to go back to
24 previous doctors visits with **Child** at Parkside. Again,
25 what was **Child** last well check that you can recall?

ERIN BHATIA-DIRECT BY MRS. SUSTAKOVITCH

1 A So that was the -- I think it was July 19th,
2 2016. I think that was.

3 Q And so that, you testified, would be when she
4 was around six years old?

5 A Yeah, almost six.

6 Q And so she did not have another well check when
7 she was seven, eight --

8 A No.

9 Q -- nothing like that?

10 A No.

11 Q And the well checks would be the time if there
12 was a cursory look at the genitalia, it would have
13 happened then; correct?

14 A Correct.

15 Q But there were no well checks?

16 A No.

17 Q What were the types of visits that **Child** had
18 from the time she was six, seven, eight?

19 A Usually, they were respiratory related. She did
20 have where there were breathing problems, A typical
21 pneumonia, upper respiratory infections, throat concerns,
22 that sort of thing. So always sick visits.

23 Q All right. Apart from your visit with **Child**
24 **██████** on that date, did you have any other visits with
25 her?

ERIN BHATIA-DIRECT BY MRS. SUSTAKOVITCH

1 A No.

2 Q And on that date again, how old was she?

3 A She was about eight and a half.

4 Q Are you familiar with the term mandatory
5 reporter?

6 A Yes.

7 Q And what does that term mean?

8 A It means you're required, you're obligated to,
9 if you have a reason to believe or you're concerned that
10 someone is neglected or abused, you have to report it.

11 Q So based on what's happened here, were you put
12 into a mandatory reporter situation?

13 A Yes.

14 Q Explain that to the jury. By law what are you
15 supposed to do, at this point?

16 A So, at this point, and I told this to her mother
17 as well. At this point -- well, actually, I reached out
18 first to Julie Valentine and kind of figured that out.
19 Then spoke with our office manager and I'm required to
20 either reach out to law enforcement or DSS. And kind of
21 report these concerns. So that's where I had my office
22 management kind of help me in that regard.

23 Q Okay. And then back to **Child** you did not ask
24 for any questions about whether she was sexually abused?

25 A No.

ERIN BHATIA-DIRECT BY MRS. SUSTAKOVITCH

1 Q Did you, in fact, do any type of exam on her
2 that day after the conversation with the mom?

3 A I did, yeah.

4 Q What, if anything did you do during that exam?

5 A So besides ear, nose and throat aspect, checking
6 the sides of the tonsils, the concern of the lymph nodes
7 because there was some intermittent vaginal complaints
8 that were nonspecific. I kind of just generally talked
9 about it and did look. So had her, you know, take her
10 clothes off from the lower aspect and just looked
11 generally just to see if there was anything that was
12 abnormal but nothing in depth.

13 Q Okay. And did this cursory exam that you have
14 in any way indicate to you whether **Child** had been
15 sexually abused or not?

16 A No.

17 Q So at the end of the exam, you stated that you
18 told Marita -- tell the jury a little bit about that, how
19 did you leave things with **Child** mom, Marita?

20 A So I just kind of clarified everything. You
21 know, I was like, I, as a physician, general pediatrician,
22 cannot give you anything definitive. I'm going to go
23 ahead and do a referral to Julie Valentine, where they do
24 have pediatricians there that can help in investigating
25 this and examining this. I'm also going to have to report

ERIN BHATIA-CROSS BY MR. YARBOROUGH

1 it to, and I'll figure that process out, probably through
2 DSS. And so I let her know that you need to also go ahead
3 and move forward with talking to law enforcement so they
4 can get that ball rolling. And then it's out of my hands
5 from that aspect. So I'll put the referral in, I'll keep
6 you posted on anything I hear but I need you to go ahead
7 and move forward with this.

8 Q And going back briefly to when it was you and
9 Marita outside the room, when you explained to her that
10 you were not going to be able to tell her one way or
11 another, was she still crying or did she calm down or what
12 happened then?

13 A Yeah, she calmed down. She understood. She had
14 calmed down. She knew, you know, we had a long time at
15 that point to kind of go through this. And so she knew
16 what she needed to do and she was still processing it.

17 Q All right. Apart from this interaction, did you
18 have anymore interaction with Marita or with **Child**

19 A I did not.

20 MRS. SUSTAKOVITCH: Please answer any questions
21 that the Defense Counsel has.

22 THE COURT: Cross-examination.

23 MR. YARBOROUGH: Thank you, Your Honor, briefly.

24 CROSS-EXAMINATION

25 BY MR. YARBOROUGH:

ERIN BHATIA-CROSS BY MR. YARBOROUGH

1 Q Hello?

2 A Hey.

3 Q How are you?

4 A Good.

5 Q I'm Bill Yarborough.

6 A Nice to meet you.

7 Q Nice to see you. Let me understand this. So on
8 April 15th, 2019, they came in doing a regular check;
9 right?

10 A During a sick visit, yes.

11 Q And you met with **Child** mother?

12 A Yes.

13 Q And with **Child** and then -- and then she stepped
14 out; is that right?

15 A Yes, sir.

16 Q And then you stepped out with her?

17 A Correct.

18 Q And, at that point, she told you about some
19 disclosure of something happening?

20 A Correct.

21 Q And so based on that you tried to calm her down
22 a little bit; is that right?

23 A Yeah.

24 Q Then your job after that was -- well, you had
25 mandatory reporting. So that was going to happen?

ERIN BHATIA-CROSS BY MR. YARBOROUGH

1 A Yeah.

2 Q So you went back in and did a welfare check on
3 the little girl; right?

4 A Yes.

5 Q And, at that point, you didn't see any -- you
6 couldn't find anything; right?

7 A No.

8 Q And -- okay. They denied, at that point, there
9 was no bleeding, no discharge, anything like that?

10 A Yeah, no.

11 Q And did you, at that point, did you do any other
12 test on her vagina?

13 A I did a urinalysis that checked. I didn't do
14 any test on her vagina per se, no.

15 Q Okay.

16 A That's where I leave that to forensics.

17 Q Okay.

18 A Based on what they need to do. I did a
19 urinalysis and based on that urine test I can test for
20 like gonorrhea and chlamydia --

21 Q Right.

22 A But that's just through the urine stream without
23 having to -- her mom knew in the other room that we would
24 have to do this. But I did not discuss it in front of

25 Child

ERIN BHATIA-REDIRECT BY MRS. SUSTAKOVITCH

1 Q Okay.

2 A So nothing else needed to be done.

3 Q Everything was normal?

4 A Everything was okay there, yes.

5 Q Okay. And so you fulfilled your role, you
6 checked and didn't find any bleeding, didn't find any
7 discharge. And then you made sure everybody checked, you
8 made sure SLED got called and you made sure Greenville
9 County got called. And you sent them to the Julie
10 Valentine Center; is that right?

11 A Correct.

12 Q And that's all you know about this?

13 A That's all I know.

14 MR. YARBOROUGH: Great, thank you for coming.

15 THE WITNESS: Thank you.

16 THE COURT: Any redirect?

17 MRS. SUSTAKOVITCH: Just very briefly.

18 REDIRECT EXAMINATION

19 BY MRS. SUSTAKOVITCH:

20 Q Dr. Bhatia, to be clear, when Marita was upset
21 and stepped in the other room, did any of the conversation
22 about her concerns of what Child had told her, was any of
23 that said in front of Child

24 A No, not at all.

25 Q And it was a separate room; correct?

ERIN BHATIA-REDIRECT BY MRS. SUSTAKOVITCH

1 A Completely separate, no one else heard anything.
2 It was only between her and myself.

3 MRS. SUSTAKOVITCH: Thank you, no further
4 questions.

5 THE COURT: All right, you may step down. Thank
6 you.

7 MRS. SUSTAKOVITCH: Your Honor, may she be
8 excused?

9 MR. YARBOROUGH: Sure.

10 THE COURT: All right, you may be excused.
11 Thank you.

12 MRS. SUSTAKOVITCH: Your Honor, may we approach
13 briefly?

14 THE COURT: Yes.

15 (WHEREUPON, an off-the-record bench conference
16 was held in the presence of the jury but out of
17 the hearing of the jury.)

18 THE COURT: They've indicated they were more
19 efficient than they thought they were going to be.
20 So instead of calling another witness, we'll just --
21 we got some things we got to go over. So we're going
22 to go ahead and break early. But I'm going to give
23 you an assignment before you leave. The original 12,
24 I'm sorry alternates, you're not participating in
25 this. You need to select your foreperson, okay.

1 Foreperson just has a few extra duties. Their duty
2 is to lead the discussions when you begin your
3 deliberations and do any communications with the
4 court that's needed. Go back to your jury room, just
5 determine who is going to be the foreperson, let the
6 bailiff know, just write on a piece of paper. And at
7 that point, you can leave. Be back in your jury room
8 in the morning at 9:30. And we'll begin at that
9 time.

10 All right. Okay, remember, you're going to get
11 tired of hearing this but it is important. Don't
12 discuss the case among yourselves or anybody else.
13 Do not do any type of research about anything
14 whatsoever, about any issues, any parties in the
15 case. Do not pay any attention to any media coverage
16 that may be out there, including any social media.
17 If anyone contacts you other than somebody from the
18 clerk's office, then please let the bailiffs know in
19 the morning. All right, do your homework assignment
20 about picking your foreperson. Then otherwise, we'll
21 see you in the morning.

22 (WHEREUPON, the jury left open court and was
23 excused for the day at approximately 4:16 p.m.)

24 THE COURT: All right, anything from The State
25 before we break?

1 MRS. SUSTAKOVITCH: No, Your Honor.

2 THE COURT: Anything from The Defense?

3 MR. YARBOROUGH: No, sir, Your Honor.

4 THE COURT: I'm not sure when you're going to be
5 doing the forensic interview, it was very difficult
6 for me to hear on my computer. Which means, I think
7 it's going to be very difficult for them to hear.

8 MRS. SUSTAKOVITCH: Okay.

9 THE COURT: Possible, may want to check that
10 out.

11 MRS. SUSTAKOVITCH: Thank you, Your Honor.

12 THE COURT: Also, can y'all approach about
13 something else?

14 (WHEREUPON, an off-the-record bench conference
15 was held.)

16 (WHEREUPON, Court's Exhibit No. 1 was marked for
17 identification only.)

18 (WHEREUPON, the proceedings were concluded for
19 the day to be reconvened on June 6, 2023.)
20
21
22
23
24
25

1 June 6, 2023

2 (WHEREUPON, State's Exhibits Nos. 15-19 were
3 marked for identification only.)

4 THE COURT: I am being assisted by Judge Daniel
5 Martin.

6 JUDGE MARTIN: Good morning.

7 THE COURT: All right, anything from The State
8 before we bring the jury in?

9 MRS. SUSTAKOVITCH: Nothing the from The State.

10 THE COURT: Anything from The Defense?

11 MR. YARBOROUGH: No, sir, Your Honor.

12 THE COURT: All right, as soon as Will comes in
13 we'll. . .

14 All right, if the jury is ready, bring them in.

15 (WHEREUPON, the jury entered open court at
16 approximately 9:42 a.m.)

17 THE COURT: Good morning, ladies and gentlemen,
18 I hope everybody had a good evening. As you can see,
19 I have an assistant with me today. This is Judge
20 Danny Martin from Charleston. He's just been
21 recently appointed. And one of the things for judges
22 that have been recently appointed, they sit in with
23 other judges. So that's kind of what his purpose is
24 here today.

25 So, as you will recall, we ended yesterday, The

1 State was in their case. And, at this point, they're
2 still in their case. I'll ask The State to call
3 their next witness.

4 MRS. SUSTAKOVITCH: Thank you, Your Honor. May
5 it please the Court, The State calls Dyneshia
6 Kilgore.

7 THE CLERK: Pause right here, please. Place
8 your left hand on the Bible, raise your right hand.

9 DYNESHIA KILGORE, after being duly sworn,
10 testified as follows:

11 THE CLERK: Thank you, please be seated. State
12 your name for the record.

13 THE WITNESS: Dyneshia Kilgore.

14 DIRECT EXAMINATION

15 BY MRS. SUSTAKOVITCH:

16 Q Good morning, where are you employed, ma'am?

17 A Greenville County Sheriff's Office.

18 Q And can you speak up just a little bit?

19 A Yes, ma'am.

20 Q Okay. What is your position there?

21 A I work on uniform patrol as a deputy sheriff.

22 Q Can you tell the jury, as a deputy on uniform
23 patrol, what do you do on a daily basis?

24 A I respond to calls, complete reports, traffic,
25 search warrants.

DYNESHIA KILGORE-DIRECT BY MRS. SUSTAKOVITCH

1 Q And how long have you been employed as a deputy
2 with Greenville County?

3 A Since March of 2022.

4 Q Now, prior to being at Greenville County, did
5 you work somewhere else?

6 A Yes, ma'am, Greenville County Department of
7 Social Services.

8 Q When did you start at DSS?

9 A 2017.

10 Q And what was your position there?

11 A I was an investigator.

12 Q And tell the jury, as an investigator for DSS,
13 what did that entail? What were your job duties?

14 A Whenever a report came in of suspected child
15 abuse or neglect, I would have to go within a certain
16 timeframe to complete an investigation.

17 Q Are you familiar with a man by the name of David
18 Jones?

19 A Yes, ma'am.

20 Q And did a case investigation come about that's
21 led you to come to court today and testify?

22 A Yes, ma'am.

23 Q How did you become involved in the
24 investigation?

25 A We received an investigation of allegations of

DYNESHIA KILGORE-DIRECT BY MRS. SUSTAKOVITCH

1 sexual assault.

2 Q All right. And what date did you become
3 involved?

4 A April 15th, 2019.

5 Q All right. Do you have a copy of your report up
6 there with you?

7 A Yes, ma'am.

8 Q And if you need to refresh your memory, you can
9 look at that.

10 A Okay.

11 Q All right. So on that date, April 15th, 2019,
12 do you recall what day of the week it was?

13 A I do not recall what day of the week it was.

14 Q That's fine. So you get this phone call, who
15 contacted DSS that there was a situation involving a child
16 that needed to be investigated?

17 A The doctor at Parkside Pediatrics.

18 Q And what was the message from Parkside
19 Pediatrics that you were being asked to investigate?

20 A Possible criminal sexual conduct with a minor.

21 Q All right. Once you were contacted by Parkside
22 Pediatrics, is that standard that you would begin
23 investigating at that point?

24 A Yes, ma'am, depending on the timeframe, that the
25 investigating and everything wants to go out within zero

DYNESHIA KILGORE-DIRECT BY MRS. SUSTAKOVITCH

1 to two hours or two to 24.

2 Q Okay. And explain the difference between zero
3 to two and two to 24, in your response time.

4 A Zero to two is when we have to respond within
5 two hours. Two to 24, we have two to 24 hours, depending
6 on what the allegations are.

7 Q And so zero to two would be a heightened level
8 of response for more serious charges?

9 A Yes, ma'am.

10 Q All right. I want to show you what's marked --
11 what's marked as State's Exhibit 15, 16, 17, 18 and 19.

12 A Okay.

13 Q And can you take a look at those and see if you
14 recognize them?

15 A Yes, ma'am, I do.

16 Q And what are they?

17 A These are pictures of when we respond to Address
18 Address.

19 Q And do they -- are you in some of these
20 photographs?

21 A Yes, ma'am, I have on the white shirt.

22 Q And do they fairly and accurately represent what
23 was going on that day at Address?

24 A Yes, ma'am.

25 MRS. SUSTAKOVITCH: Your Honor, at this time,

DYNESHIA KILGORE-DIRECT BY MRS. SUSTAKOVITCH

1 The State moves to admits 15 through 19.

2 THE COURT: Fifteen through 19 in without
3 objection.

4 (WHEREUPON, State's Exhibits Nos. 15-19 were
5 admitted into evidence.)

6 BY MRS. SUSTAKOVITCH:

7 Q All right. So you get on scene, I'm going to
8 walk you through a couple of these. Got to warm up just a
9 little bit. All right, let's take these first. So you're
10 at Address ; correct?

11 A Yes, ma'am.

12 Q And I'm trying to take this in order for you.
13 Who are you there to meet at this location?

14 A The Jones family.

15 Q All right. Looking at this photograph, and you
16 can stand up if you want. Do you see yourself in that
17 picture?

18 A Yes, ma'am. I have on a white shirt and black
19 pants.

20 Q Who is the lady with the blue shirt on?

21 A Investigator McHale.

22 Q And do you see in a distance the Jones' car
23 coming up?

24 A Yes, ma'am.

25 Q All right. Now, at this point, do you know who

DYNESHIA KILGORE-DIRECT BY MRS. SUSTAKOVITCH

1 is coming in the Jones' car?

2 A I spoke with the mom, Mrs. Marita, asked her to
3 bring her children.

4 Q All right. Did you expect anybody else in the
5 car?

6 A No, ma'am.

7 Q All right. So they get on scene, I'm going to
8 fast forward here. What am I looking at here?

9 A Myself and Investigator McHale speaking with
10 Marita and the children.

11 Q Just to help the jury kind of get -- who is this
12 person right here?

13 A That's Mrs. Marita.

14 Q And then right here, who is this?

15 A **Child**

16 Q All right. How old was **Child** at the time?

17 A Eight, if I'm not mistaken.

18 Q Who is this person right beside **Child**

19 A Mr. Jones.

20 Q So **Child** is sandwiched in there between them?

21 A Uh-huh.

22 Q Who's the little fella -- well, not little but
23 who's the fella back there?

24 A **ZJ**.

25 Q All right. And how old was **ZJ**, at the time?

DYNESHIA KILGORE-DIRECT BY MRS. SUSTAKOVITCH

1 A Eleven.

2 Q All right. And then I believe this is just a
3 little bit out of order. This is them arriving on scene;
4 correct?

5 A Yes, ma'am.

6 Q And you and Investigator McHale out there;
7 correct?

8 A Yes, ma'am.

9 Q All right. And as far as the house, we've seen
10 some photographs previously admitted, but was the family
11 living at this house at the time?

12 A No, ma'am, they had recently had a house fire.

13 Q So once you got the call from Parkside
14 Pediatrics, how did you find the Jones family to talk with
15 them? Did you check with Salvation Army or other places
16 to find out where they might be living?

17 A Yes, ma'am. Just due to them having a house
18 fire, I reached out to the Salvation Army to see if they
19 had a address for them.

20 Q All right. And we're going to hear more from
21 Investigator McHale later, but this is Investigator
22 McHale; correct?

23 A Yes, ma'am.

24 Q So once the family gets on scene, were you part
25 of Investigator McHale interviewing **Child** when she first

DYNESHIA KILGORE-DIRECT BY MRS. SUSTAKOVITCH

1 got on scene?

2 A No, ma'am.

3 Q Okay. What were you doing when she pulled
4 **Child** over to the side?

5 A I was speaking with Mr. Marita or Mr. David
6 about the allegations that we had received.

7 Q All right. And after Investigator McHale
8 showed -- just so I'm clear, she's over here with **Child**
9 by herself; right?

10 A Yes, ma'am.

11 Q All right. Then Investigator McHale, does she
12 come back to you?

13 A Yes, ma'am. We all came back together.

14 Q All right. And, at that point, did she get,
15 Investigator McHale, give you an idea of what she and
16 **Child** had talked about?

17 A Yes, ma'am.

18 Q Was **Child** at that point, disclosing the
19 identity of the person who had abused her?

20 A No, ma'am.

21 Q At this point, did you, in fact, speak with
22 **Child**

23 A I did because I had to speak with her separately
24 to just go over the allegations and kind of get her take
25 on what had happened.

DYNESHIA KILGORE-DIRECT BY MRS. SUSTAKOVITCH

1 Q All right. And I see you have something in
2 front of you, what is in front of you?

3 A It's my dictation from that day.

4 Q Can we mark it for identification?

5 A Yes, ma'am.

6 MRS. SUSTAKOVITCH: Actually, we don't really
7 have to do that, April, we're fine.

8 BY MRS. SUSTAKOVITCH:

9 Q So going forward, after Investigator McHale
10 comes back, **Child** has not identified the perpetrator.
11 When you spoke with **Child** were you by yourself?

12 A I was.

13 Q And tell me what, if anything, you said to
14 **Child** at this point.

15 A I just let **Child** know that I was there -- who I
16 was, what I was there for and that she needed to tell the
17 truth so that we can kind of make sure that she's safe.
18 And to let her know that if anything did happen that it's
19 not her fault and that adults are supposed to keep
20 children safe.

21 Q Okay. When you told her that if whatever
22 happened it wasn't her fault, did you observe any change
23 in her demeanor?

24 A Yes, ma'am, she asked -- it isn't--

25 Q And you can't --

DYNESHIA KILGORE-DIRECT BY MRS. SUSTAKOVITCH

1 MR. YARBOROUGH: Objection, hearsay. Objection
2 to anything that she said.

3 MRS. SUSTAKOVITCH: Yes.

4 THE COURT: Sustained.

5 BY MRS. SUSTAKOVITCH:

6 Q You can't say what **Child** said right there.

7 A Okay.

8 Q But, at this point, you told her that it's not
9 her fault, whatever's happened?

10 A Right.

11 Q Let me ask you this, without stating the
12 identity of the perpetrator --

13 A Uh-huh.

14 Q -- if she gave one, did **Child** -- or did she
15 disclose to you then that she had been the victim of
16 sexual abuse?

17 MR. YARBOROUGH: Objection, hearsay.

18 MRS. SUSTAKOVITCH: Your Honor, that's
19 admissible under time and place.

20 THE COURT: Right. And overruled.

21 MR. YARBOROUGH: Okay.

22 BY MRS. SUSTAKOVITCH:

23 Q And so, at this point, without stating the
24 identity of the perpetrator, did **Child** indicate to you
25 whether she had been the victim of sexual abuse?

DYNESHIA KILGORE-DIRECT BY MRS. SUSTAKOVITCH

1 A She did.

2 Q And when she disclosed this to you, without
3 stating the name of that perpetrator, did she, in fact,
4 tell you who it was?

5 A She did, she said her father.

6 MRS. SUSTAKOVITCH: No --

7 MR. YARBOROUGH: Objection, Your Honor.

8 THE COURT: Overruled -- I mean, sustained.

9 MRS. SUSTAKOVITCH: We will withdraw that
10 question.

11 THE COURT: And I'm going to ask that it be
12 stricken, too.

13 MRS. SUSTAKOVITCH: Yes.

14 MR. YARBOROUGH: Okay.

15 BY MRS. SUSTAKOVITCH:

16 Q Okay. So again, did she indicate to you the
17 timeframe that the abuse took place?

18 A She did.

19 Q All right. And what was the timeframe?

20 A Three years.

21 Q All right. And so you speak to **Child** and after
22 you spoke to her, what did you do with **Child** Did you
23 bring her back over to her mom or anything like that?

24 A Yes, ma'am, I had to speak with Mrs. Marita
25 again.

DYNESHIA KILGORE-CROSS BY MR. YARBOROUGH

1 Q All right. And just wrapping things up, after
2 you spoke with **Child** did you speak with any other people
3 on scene?

4 A I spoke with **ZJ**.

5 Q And did you also speak with this Defendant,
6 Mr. David Jones?

7 A I did.

8 Q All right. Did that conclude your involvement
9 in this case?

10 A It did.

11 MRS. SUSTAKOVITCH: Please answer any questions
12 that Defense Counsel has.

13 THE COURT: All right, cross-examination.

14 CROSS-EXAMINATION

15 BY MR. YARBOROUGH:

16 Q Good morning.

17 A Good morning.

18 Q You were called to the scene to do your normal
19 DSS investigation; correct?

20 A Correct.

21 Q Okay. And when you go out there, your main
22 focus is to protect the child; right?

23 A Yes, sir.

24 Q And that's what you were doing that day;
25 correct?

DYNESHIA KILGORE-CROSS BY MR. YARBOROUGH

1 A Correct.

2 Q At that point, you weren't a trained police
3 officer?

4 A No, sir.

5 Q You are a trained police officer now?

6 A I am.

7 Q You work for Greenville County?

8 A I do.

9 Q Okay. And was everybody there seem to be pretty
10 calm, at the time?

11 A Yes, sir.

12 Q I mean, the mother wasn't fussing and upset or
13 anything, at that point?

14 A No, sir.

15 Q Right. And my client, Mr. Jones, is sitting
16 over there --

17 You want to stand up.

18 He was cooperative, at the time, right?

19 A He was.

20 Q And you were just there to protect the best
21 interest of the child; right?

22 A Correct.

23 MR. YARBOROUGH: Okay. No further questions,
24 thank you.

25 THE COURT: Any redirect?

ZJ -DIRECT BY MR. MILLER

1 MRS. SUSTAKOVITCH: None from The State, thank
2 you.

3 THE COURT: All right, thank you, you may step
4 down.

5 MRS. SUSTAKOVITCH: May this witness be excused,
6 Judge?

7 THE COURT: Yes.

8 MRS. SUSTAKOVITCH: Thank you, Your Honor.

9 MR. MILLER: Your Honor, at this time, The State
10 calls **ZJ**.

11 THE COURT: All right.

12 THE CLERK: Please pause right here, please.

13 Place your left hand on the Bible, raise your right
14 hand.

15 **ZJ**, after being duly sworn(,) testified
16 as follows:{F}

17 THE CLERK: Thank you, please be seated. State
18 your name for the record.

19 THE WITNESS: **ZJ**.

20 DIRECT EXAMINATION

21 BY MR. MILLER:

22 Q Good job talking into the microphone, **ZJ**, I
23 was going to ask you to do that. If you'll just talk into
24 the microphone, make sure that everybody can hear you.

25 **ZJ**, how old are you?

ZJ -DIRECT BY MR. MILLER

1 A I'm 15 years old.

2 Q Where do you live right now?

3 A Charleston, Monks Corner.

4 Q Where do you go to school now?

5 A I do school online, Connections Academy.

6 Q Okay. What are some things that you like to do
7 for fun?

8 A I like to play basketball, play games.

9 Q What kind of games?

10 A NBA 2 game.

11 Q And you live in Charleston now, have you always
12 lived in Charleston?

13 A I haven't.

14 Q Where have you lived before?

15 A I lived in Greenville, Simpsonville, Charleston
16 now.

17 Q And do you know David Jones?

18 A I do.

19 Q What is his relationship to you?

20 A My father.

21 Q Do you think of him that way still?

22 A I don't.

23 Q Okay. And how you feeling right now?

24 A I feel sad.

25 Q Okay. Tough to testify right now?

ZJ -DIRECT BY MR. MILLER

1 A It is.

2 Q Okay. Got some tissue right there if you need
3 them, **ZJ**. It's okay, take a minute. Is it important
4 for you to testify today?

5 A It is.

6 Q Okay. **ZJ**, I want to ask you, do you recall
7 living at Address?

8 A I do.

9 Q When you were living there, who were you living
10 with?

11 A I was living with my father and my mother and my
12 sister.

13 Q Okay. What's your sister's name?

14 A **Child** **Child**

15 Q Is she your younger sister?

16 A Yes, sir.

17 Q Okay. And do you remember at Address,
18 was it a one-story house, a two-story house?

19 A Two-story house.

20 Q Okay. Where was your bedroom in the house?

21 A My bedroom, it was next to my bathroom.

22 Q Okay. Where was the kitchen?

23 A It was downstairs.

24 Q What other rooms are in the house?

25 A I don't know.

ZJ -DIRECT BY MR. MILLER

1 Q Did your sister have a bedroom?

2 A She did.

3 Q Okay. So you said your parents had a bedroom.

4 A They did.

5 Q Okay. You said you were homeschooled now, were
6 you homeschooled then?

7 A I was.

8 Q Is that with Connections Academy or was it
9 different?

10 A It was Connections Academy.

11 Q Where would you do your school work in the
12 house?

13 A I would do it in the Man Cave.

14 Q In the Man Cave?

15 A Yes, sir.

16 Q What's the Man Cave?

17 A It was like -- it was my dad's room, play games
18 and stuff.

19 Q Okay. Where was that room in the house?

20 A It was next to my bedroom.

21 Q Okay. Who named it the Man Cave?

22 A He did.

23 Q He did. What all was in the Man Cave?

24 A A bunch of computers, games, comic books, stuff
25 like that.

ZJ -DIRECT BY MR. MILLER

1 Q Okay. And do you remember what your mom was
2 doing for work at that time?

3 A She worked at TD Bank.

4 Q Okay. And what about David Jones?

5 A He was a police officer.

6 Q Okay. And what about your sister, was she
7 homeschooled too?

8 A She was.

9 Q Okay. Where would she do her school work?

10 A She would also do it in the Man Cave.

11 Q Okay. Were y'all in different grades?

12 A We were, we are.

13 Q Okay. And would either of your parents stay at
14 home with you during the day?

15 A My dad.

16 Q David Jones did?

17 A David Jones.

18 Q Okay. And around what time of day would y'all
19 finish your school work?

20 A It really varied. I say, like, around three
21 o'clock we would. Like, whenever we were done.

22 Q Would y'all finish before your mom would get
23 home from work?

24 A We would.

25 Q Okay. What video games did you like to play

ZJ -DIRECT BY MR. MILLER

1 then?

2 A I would play Minecraft, any game, I just love
3 the games.

4 Q You just love the games. Was there any
5 furniture in the Man Cave?

6 A There was. There was a couch, there was a table
7 in the middle, chairs around it. There was a desk with
8 computers on it. Stuff like that.

9 Q Okay.

10 (WHEREUPON, State's Exhibits Nos. 20 & 21 were
11 marked for identification only.)

12 BY MR. MILLER:

13 Q **ZJ**, I'm going to show you a picture that's
14 marked as State's Exhibit 20, do you recognize that?

15 A I do.

16 Q Are you familiar with it?

17 A I am.

18 Q What is it?

19 A It's a screen shot from the video that we shot
20 of my dad, my father.

21 Q Is that a true and accurate representation?

22 A It is.

23 Q Does it appear to be altered in any way?

24 A It's not altered.

25 MR. MILLER: Your Honor, at this time, The State

ZJ -DIRECT BY MR. MILLER

1 would move State's Exhibit 20 into evidence.

2 THE COURT: Any objection?

3 MR. YARBOROUGH: No, sir.

4 THE COURT: All right, in without objection.

5 (WHEREUPON, State's Exhibit No. 20 was admitted
6 into evidence.)

7 BY MR. MILLER:

8 Q **ZJ**, if you'll show the jury, tell the jury,
9 which room are we in right now?

10 A The Man Cave.

11 Q Okay. And who is this?

12 A That's my sister.

13 Q And what is this right here?

14 A That's the couch that was in the Man Cave.

15 Q Okay. And what's this area here?

16 A That area, I don't remember what that area was.
17 I remember what was there.

18 Q And what would be on the right? What's this
19 right here?

20 A Oh yeah, that's one of the computers that was in
21 the Man Cave.

22 Q Okay. So **ZJ**, I want to talk to you a little
23 bit about, you said you like to play video games. Would
24 you get to play video games during the week?

25 A We were able to.

ZJ -DIRECT BY MR. MILLER

1 Q Would you get to play them whenever you wanted
2 to?

3 A We would have to ask.

4 Q Who would you have to ask?

5 A We would have to ask our father.

6 Q Okay. And who would typically ask?

7 A **Child**

8 Q And why would she go ask?

9 A Because he usually say yes to her.

10 Q Okay. Now, were the -- I just want to get it
11 straight. So during the day, it was you, **Child** and your
12 dad, David Jones, at the house?

13 A Yes, sir.

14 Q Were there times when it was just you and **Child**
15 alone?

16 A Very rarely.

17 Q Were there times that you and David Jones were
18 alone?

19 A Rarely. Like, if mommy and **Child** had like
20 girls day out.

21 Q Okay. And were there times that David Jones and
22 **Child** were alone?

23 A I don't remember.

24 Q You don't remember?

25 A Yeah.

ZJ -DIRECT BY MR. MILLER

1 Q Okay. Do you ever remember them being in a
2 room -- or being in a separate room and them being in a
3 room?

4 A I do.

5 Q And what room do you remember them being in?

6 A The Man Cave.

7 Q The man cave. Would the door of the Man Cave be
8 opened or shut?

9 A Shut.

10 Q Do you ever recall, if it all, hearing anything
11 coming from the room?

12 A I do.

13 Q What, as best you can describe what you heard,
14 please tell the jury.

15 A One time I was downstairs and I heard like, I
16 don't know how to explain it. Like, like, you know,
17 somebody like stepping upstairs, it's kind of like it was
18 a motion, I don't know how to explain it. But the door
19 kind of like rattle a little bit. I've heard that.

20 Q And, **ZJ**, do you recall their being a fire at
21 the house?

22 A I do.

23 Q Okay. Where did y'all go after the fire?

24 A We lived with our grandparents.

25 Q Did they live close by?

ZJ -DIRECT BY MR. MILLER

1 A They did, like 20 minutes away.

2 Q Okay. Do you remember the address?

3 A I don't remember the address.

4 Q And were y'all still in school when you lived
5 with your grandparents?

6 A We were.

7 Q And were your grandparents living there?

8 A They were.

9 Q Okay. And, **ZJ**, be a tough question, what was
10 the health of your grandfather at the time?

11 A He had one leg.

12 Q How would he get around?

13 A With like either crutches or with a wheelchair.

14 Q Wheelchair, okay. When you were living at your
15 grandparents house, was your mom still working at the
16 bank?

17 A She was.

18 Q Would she still leave during the day?

19 A Yes, sir.

20 Q Okay. Now, at your grandparents house, were
21 there ever times that **Child** and your dad, David Jones,
22 would be alone in a room together?

23 A Yes, sir.

24 Q Would you, if at all, did you ever hear any
25 noises?

ZJ -DIRECT BY MR. MILLER

1 A I did. And -- yes, I did.

2 Q You did. Were they similar to the noises you
3 heard at Address?

4 A I could hear them more clearly.

5 Q Okay. Now, **ZJ**, I want you to listen to how
6 I'm phrasing this question. Without stating anybody
7 names, did **Child** ever disclose to you that she had been
8 the victim of sexual assault?

9 A She did.

10 Q Do you remember which house you were in?

11 A I was in my grandparents house.

12 Q Okay. And again, as you answer these questions,
13 don't state a name. How did you feel after you heard
14 that?

15 A I was in -- I was in shock. I didn't know how
16 to feel, I couldn't cry. I was -- I -- I don't know, I
17 was in disbelief.

18 Q And about how old were you?

19 A Eleven years old.

20 Q You were 11, okay. Did you tell anybody about
21 it?

22 A I didn't.

23 Q Do you recall a time being in the car in the
24 Publix parking lot?

25 A I do.

ZJ -DIRECT BY MR. MILLER

1 Q Was anyone else in the car?

2 A My mom and **Child**

3 Q Okay. And again, without saying anybody's name,
4 do you recall if **Child** said that she was the victim of
5 sexual assault?

6 MR. YARBOROUGH: Objection, hearsay.

7 MR. MILLER: Time and place, Your Honor.

8 THE COURT: All right, overruled.

9 BY MR. MILLER:

10 Q All right. Let me state it again so we're
11 clear. Without stating anybody's name, did **Child**
12 disclose to you that she had been the victim of sexual
13 assault?

14 A She did.

15 Q Okay. Where did y'all go after the Publix
16 parking lot?

17 A We went back to my grandparents house.

18 Q Okay. Okay. Again, don't state anybody's name,
19 but how were you feeling at that time, as well?

20 A I felt -- I felt weird. Like, I already knew
21 but now it's real. It's really real.

22 Q Were you eating anything at all that day?

23 A We had chicken.

24 Q Okay. Do you remember anything about the
25 chicken.

ZJ -DIRECT BY MR. MILLER

1 A I couldn't even taste it.

2 Q Okay.

3 MR. YARBOROUGH: Just a minute, Your Honor.

4 (WHEREUPON, the attorneys were having an
5 off-the-record conversation.)

6 MR. YARBOROUGH: That's fine, without objection,
7 Your Honor.

8 THE COURT: Okay.

9 BY MR. MILLER:

10 Q **ZJ**, let me show you a disk, it's marked as
11 State's Exhibit 21, do you recognize this disk?

12 A I do.

13 Q How do you recognize it?

14 A You showed me the disk yesterday.

15 Q So you viewed it?

16 A I viewed the video.

17 Q Did you mark anything on the video to show that
18 you viewed it?

19 A I did. I marked my initials and then the date.

20 Q Okay. And what video is it?

21 A It's naked video where he's showing around the
22 Man Cave. Like around all the computers and stuff.

23 Q Who is he?

24 A My father.

25 Q Okay. And is that a true and accurate

ZJ -DIRECT BY MR. MILLER

1 representation?

2 A It is.

3 Q Okay.

4 Your Honor, at this time, move State's
5 Exhibit 21 into evidence.

6 THE COURT: All right, you said you don't have
7 an objection?

8 MR. YARBOROUGH: I don't have an objection, I'm
9 just trying to clarify which one.

10 THE COURT: Okay.

11 (WHEREUPON, State's Exhibit No. 21 was admitted
12 into evidence.)

13 BY MR. MILLER:

14 Q ZJ, while that's loading up, I just want to
15 ask you another question. Do you recall after April 15th
16 when investigators came -- do you recall when
17 investigators came out to Address?

18 A I do.

19 Q And do you recall after that going to church?

20 A Like right after?

21 Q Well, a few days after?

22 A I do, I remember going to church, yes, sir.

23 Q Okay. And did you see David Jones at church
24 that day?

25 A I did.

ZJ -DIRECT BY MR. MILLER

1 Q Did he give you anything?

2 A He gave me a Easter egg behind his back.

3 Q Okay. And what happened to that Easter egg?

4 A My mom took it.

5 Q Now, when we say Easter egg, are we talking
6 about an actual egg that's been dyed or like a plastic
7 egg?

8 A It was a plastic egg. I believe it had candy in
9 it.

10 Q Okay.

11 (WHEREUPON, State's Exhibit No. 21 was
12 published.)

13 MR. MILLER: Judge, can we make sure everybody
14 on the jury can hear?

15 BY MR. MILLER:

16 Q **ZJ**, who is that on the scene?

17 A That's me.

18 Q Who's speaking on the video?

19 A My father.

20 (WHEREUPON, State's Exhibit No. 21 was continued
21 to be published.)

22 BY MR. MILLER:

23 Q Who did we just see on scene there, **ZJ**?

24 A My sister, **Child**

25 (WHEREUPON, State's Exhibit No. 21 was

ZJ NES-CROSS BY MR. YARBOROUGH

1 continued to be published.)

2 Q **ZJ**, just a couple more questions.

3 A Okay.

4 Q You testified earlier that **Child** and David
5 Jones would be in the Man Cave and was the door shut?

6 A Yes, sir.

7 Q Do you recall what you would be doing?

8 A I would either be playing games or eating lunch
9 downstairs.

10 Q Okay. All right.

11 Please answer any questions The Defense
12 counsel may have, **ZJ**.

13 THE COURT: Cross-examination.

14 CROSS-EXAMINATION

15 BY MR. YARBOROUGH:

16 Q How you doing?

17 A Not good.

18 Q I'll be brief. Is that video fairly and
19 accurately represent the Man Cave, your dad's office?

20 A It represents it.

21 Q Okay. And you said that -- that when your mom
22 was home and your dad worked as a police officer; is that
23 what you said?

24 A Can you repeat the question?

25 Q Yeah. What did your dad do for a living?

ZJ -CROSS BY MR. YARBOROUGH

1 A He was a police officer.

2 Q Okay. And a police officer and was he also an
3 investigator, did y'all -- are you aware of that?

4 A I'm not sure, I just know he was a police
5 officer.

6 Q All right. Did he help you with your homework
7 and stuff?

8 A He did.

9 Q And so y'all were -- y'all were homeschooled and
10 your mom helped you with your homework?

11 A She was usually at work when we were doing
12 homeschool, so mostly him.

13 Q Okay. And then who would -- would your
14 grandmother help you with your homework when your dad was
15 working?

16 A When we were living with our grandparents.

17 Q So that's when you were living with your
18 grandparents. You moved to your grandparents house right
19 after the fire; right?

20 A Yes, sir.

21 Q You didn't live over there before?

22 A Not before.

23 Q Okay. And the fire kind of -- that was -- the
24 house was done, uh?

25 A Pretty much.

ZJ -CROSS BY MR. YARBOROUGH

1 Q Were you able to get your clothes and stuff out
2 or not?

3 A I don't remember. I just remember -- I don't
4 remember.

5 Q All right. Right after that y'all moved to
6 Charleston?

7 A After the fire?

8 Q Well, no, after you were at your grandmother's
9 house and then y'all went to Charleston? You live in
10 Charleston now?

11 A Yeah, we live in Charleston now.

12 Q And so are you homeschooled in Charleston?

13 A I'm homeschooled in Charleston.

14 Q What grade are you in?

15 A I'm in tenth, going to the 11th.

16 Q Well, good. How you doing in school?

17 A I'm doing pretty good, straight A's.

18 Q That's awesome. And you like playing video
19 games so you like going into the Man Cave or your dad's
20 office so y'all could play video games in there?

21 A I liked going in there.

22 Q And your sister liked to play video games, as
23 well?

24 A She did.

25 Q Okay. And your dad worked a lot when he was in

ZJ -CROSS BY MR. YARBOROUGH

1 there; right?

2 A I think so.

3 Q And did you ever go with your dad when he would
4 patrol neighborhoods and stuff?

5 A We did.

6 Q Yeah. So is he a pretty hardworking guy?

7 A I'd say so.

8 Q Had a good relationship with him?

9 A I had a great relationship with him.

10 Q Great?

11 A Uh-huh.

12 MR. YARBOROUGH: Okay, thank you. I don't have
13 any further questions.

14 THE COURT: Any redirect?

15 MR. MILLER: No, Your Honor.

16 THE COURT: All right, you may step down.

17 All right, we're going to take a short break,
18 ladies and gentlemen.

19 And I forgot to acknowledge, Mr. North, I
20 believe, you've been appointed to be the foreperson,
21 thank you for serving in that role.

22 At this point, if you'd step back in your jury
23 room, do not discuss the case, we'll bring you out in
24 just a few minutes.

25

ZJ -CROSS BY MR. YARBOROUGH

1 (WHEREUPON, the jury left open court at
2 approximately 10:24 a.m.)

3 THE COURT: All right, I believe The State
4 wanted to bring up something? Bring something up at
5 this point?

6 MRS. SUSTAKOVITCH: Yes, sir. The next witness
7 is going to be **Child** Your Honor, The State
8 will be eliciting testimony from **Child** about the
9 date on April 15th, that's already been testified to
10 where DSS -- Ms. Kilgore that testified came out and
11 also the lead investigator who will be testifying,
12 came out, they spoke to **Child** And, initially, when
13 **Child** is on scene speaking to Investigator McHale,
14 she does not want to say who has been sexually
15 abusing her. She's worried about that person going
16 to jail and she just does not want to say the
17 identity. It was Dyneshia Kilgore, that when she
18 spoke with **Child** told **Child** that she wasn't going
19 to be in trouble, that it was okay to say. And
20 that's when **Child** said that it was her dad and gave
21 more particulars about that.

22 They continued to be on scene here for about an
23 hour they were out there. And there's a point where
24 the mother, Dyneshia and the lead detective are over
25 here talking, this is all going to come out in

1 testimony. And [Child] goes over and she's back with
2 [ZJ] and her father. And it's at that point that The
3 State is going to put in evidence that David Jones
4 told [Child] to recant her story. And I wanted to
5 play for The Court the recantation. And then Your
6 Honor can make a determination on how -- what, if
7 any, of this can come in.

8 The State plans to hit it head on and just --
9 but she's going to testify next. Talk about the fact
10 that she's out there on scene, she doesn't want to
11 tell the initial lady the identity of the
12 perpetrator. She does finally tell Dyneshia Kilgore.
13 And then this Defendant told her to come back and say
14 it was a boy on the bus. And you'll hear this. Can
15 we play it? It's short.

16 THE COURT: Yes.

17 (WHEREUPON, a video was published.)

18 MRS. SUSTAKOVITCH: Your Honor, it's the last
19 part where she is crying saying -- it's clearly an
20 excited utterance at the end there where she says, I
21 want to save my daddy, though. She's explaining why
22 she came up with the boy on the purple bus. We just
23 want direction from The Court on how to handle this.
24 Mr. Miller was bringing that up pre-trial and this is
25 the full context of what he was trying to talk to you

1 about then, if it makes more sense now.

2 THE COURT: Definitely makes more sense now.

3 MRS. SUSTAKOVITCH: Yeah, that what we've got.

4 THE COURT: Mr. Yarborough.

5 MR. YARBOROUGH: I'm kind of in -- Your Honor, I
6 think the -- the investigator's statements there are
7 hearsay. I think that -- I think that she can ask
8 the girl what -- bouncing back, two parts. One, I
9 think the investigator's statements are hearsay. I
10 think she can ask the young lady what she said at the
11 time. And then if she doesn't say what she said,
12 then she can play that. But I don't think she can
13 play the investigator's questions. I think those
14 questions would be hearsay. I think the other stuff
15 would just be strictly, you know, did you say this at
16 this time. I guess that's a statement she's made. I
17 understand the excited utterance part. Now, that she
18 said that over. So I would object to the -- to the
19 investigator's -- what she said. But the little
20 girl, I think that -- I think that would make sense.
21 Being excited utterance.

22 MRS. SUSTAKOVITCH: Your Honor, we agree then.
23 I definitely want to protect the record for appellate
24 review.

25 THE COURT: Actually, that's exactly what I

1 wrote down, those three things that the officer
2 said -- well, we're not going to let in so I think
3 we're all on the same page.

4 MRS. SUSTAKOVITCH: Yes, sir, I agree with that.
5 So what we will do is just shorten -- if we can have
6 time to shorten this to, I want to protect my daddy.
7 That will be the only thing that we will play during
8 **Child** testimony.

9 MR. YARBOROUGH: Wait a second. The first part
10 of it she can play is what she said she says that it
11 was the boy on the bus.

12 THE COURT: Right.

13 MR. YARBOROUGH: I mean, she would be able to
14 play that, I mean, as a whole; correct? You're going
15 to play the part on the bus and then--

16 MRS. SUSTAKOVITCH: Which parts do you want out,
17 Judge?

18 THE COURT: I mean, I think that her statement
19 about it was a little boy on the bus.

20 MR. YARBOROUGH: Right.

21 THE COURT: And then take out the part where the
22 officer's saying, you just want to protect your dad,
23 tell me the truth, all that stuff out.

24 MR. YARBOROUGH: Right.

25 THE COURT: And then the very we end when the

1 girl's saying something and it's very difficult to
2 hear. But what she says at the end, just what the
3 little girl says.

4 MR. YARBOROUGH: Correct.

5 THE COURT: All right.

6 MR. YARBOROUGH: I think the complete -- yeah.

7 MRS. SUSTAKOVITCH: All right. Can we go back
8 and have time to --

9 THE COURT: Yes.

10 MRS. SUSTAKOVITCH: --fix this and make sure
11 that Mr. Yarborough gets to listen.

12 THE COURT: Right.

13 And tell the jury we've got a few things we've
14 got to go over and we'll bring them out when we can.

15 MRS. SUSTAKOVITCH: Thank you, Your Honor.

16 THE COURT: All right, we'll just take--

17 How long will that take?

18 MRS. SUSTAKOVITCH: Probably about 15 minutes.

19 THE COURT: All right, we'll take a 15 minute
20 break.

21 MRS. SUSTAKOVITCH: Thank you, Your Honor.

22 (WHEREUPON, a short break was taken.)

23 THE COURT: All right, y'all got everything
24 worked out?

25 MRS. SUSTAKOVITCH: I do, Judge. It's very

1 brief. Could we just play it and make sure --

2 THE COURT: Okay.

3 MRS. SUSTAKOVITCH: -- that Mr. Yarborough's
4 good with that? And also, I would say planning
5 purposes wise, the victim's next. And I -- we expect
6 it to take a while. I don't know if Your Honor would
7 want to break then. The next witness is a forensic
8 pediatrician that's going to take a while. So
9 probably need a break for lunch.

10 THE COURT: Right, that's probably -- let's see
11 where we are. But if it gets after 12, then I
12 usually like to break before we start another
13 witness.

14 MRS. SUSTAKOVITCH: Okay, thank you.

15 THE COURT: But we'll let you go -- you know,
16 this kind of the way my rule is, if it's after 12 and
17 there's a break in witnesses, then that's a good time
18 to stop. But, I mean, you can go all the way to
19 1:00, if you need to as far as a witness on the
20 stand.

21 MRS. SUSTAKOVITCH: Thank you, Your Honor. So
22 this has been redacted, I believe in agreement with
23 Defense Counsel.

24 THE COURT: All right. You should be able to
25 play it.

1 (WHEREUPON, a video was published.)

2 MRS. SUSTAKOVITCH: If anything additional we
3 can take it out.

4 MR. YARBOROUGH: That's fine, Your Honor, the
5 way it is. It's fine.

6 THE COURT: All right, you don't have any
7 objection then to what has been presented? I mean,
8 my ruling was kind of the part about why protect your
9 dad was part of that.

10 MR. YARBOROUGH: Yeah, I thought they were
11 taking -- that's what I thought they were taking out.

12 THE COURT: Yeah, I mean, my ruling was the part
13 where she says, Why protect your dad.

14 MR. YARBOROUGH: Yeah.

15 THE COURT: The question of, Why protect your
16 dad.

17 MRS. SUSTAKOVITCH: Oh, I apologize, I did not
18 understand. So I'm going back -- I'm sorry, Your
19 Honor. She says, Why are you trying to protect a boy
20 and get your dad in trouble?

21 THE COURT: I guess, protect your dad--

22 MR. YARBOROUGH: I think that's at the end,
23 protect your dad part.

24 MRS. SUSTAKOVITCH: Tell you what, Judge, you
25 want to see a copy of the transcript?

1 THE COURT: Yes.

2 MRS. SUSTAKOVITCH: Okay. And this is not made
3 to be introduced in the trial.

4 THE COURT: Yeah, I understand.

5 MRS. SUSTAKOVITCH: If this will help at all.

6 THE COURT: Well, you've got it marked through
7 on here but it didn't--

8 MR. YARBOROUGH: It didn't get cut out.

9 THE COURT: I think you're saying now to help
10 protect your dad is what I thought I heard on there.
11 You've got it marked out in red but I don't think
12 that--

13 MR. YARBOROUGH: It didn't come out.

14 MRS. SUSTAKOVITCH: I'm sorry.

15 THE COURT: I mean, I think that's the part I
16 think that I heard, how to protect your dad.

17 MRS. SUSTAKOVITCH: Oh. Oh.

18 Lindsey, the part that says, I think you're
19 saying a fib now to help protect your daddy.

20 MR. YARBOROUGH: But it was on there.

21 (WHEREUPON, technical issues were being worked
22 out.)

23 (WHEREUPON, a video was published.)

24 THE COURT: All right, I guess, I heard, why you
25 protect and kind of your dad, I heard the word dad.

1 But I think that that--

2 MR. YARBOROUGH: Okay.

3 MRS. SUSTAKOVITCH: So we took out the
4 objectionable part?

5 THE COURT: Yeah, you did. Sorry about that.

6 MRS. SUSTAKOVITCH: Okay, no problem.

7 THE COURT: All right, anything?

8 MR. YARBOROUGH: No, sir.

9 THE COURT: All right, based on the--

10 MR. YARBOROUGH: I'm with you.

11 THE COURT: Okay. All right, it's in without
12 objection. And I'll tell the jury we had to -- had
13 technical difficulty getting the audio ready to play,
14 that was what the problem was. And then I had
15 another matter to get into.

16 All right, bring the jury in. If they're ready.

17 (WHEREUPON, the jury entered open court at
18 approximately 11:27 a.m.)

19 THE COURT: This turned into that when your
20 mother said she was going to the grocery store for
21 five minutes and come out, that's kind of what
22 happened. Sorry about that. One thing we had some
23 technical difficulties with getting the audio that
24 you're going to hear in the next witness to be able
25 to play, that was one issue. Then I got caught up in

1 another matter. We do apologize for sending you back
2 there for the five minutes while we were in the
3 grocery store kind of thing. Anyway, hold that
4 against me, not against either of the parties and all
5 that. We're aware of the time, too. What it looks
6 like we'll probably go through the next witness and
7 then we'll break for lunch.

8 So with that being said, The State call your
9 next witness.

10 MRS. SUSTAKOVITCH: Thank you, Your Honor, may
11 it please the Court. The State calls [REDACTED] Child

12 THE CLERK: Just pause right here. Place your
13 left hand on the Bible, raise your right hand.

14 [REDACTED] Child after being duly sworn(,)testified
15 as follows:{F}

16 THE CLERK: Thank you, please be seated. State
17 your name for the record.

18 THE WITNESS: [REDACTED] Child

19 DIRECT EXAMINATION

20 BY MRS. SUSTAKOVITCH:

21 Q Good morning, [REDACTED] Child

22 A Good morning.

23 Q Are you nervous?

24 A Yes, very.

25 Q Can you scoot up just a little, want to make

Child DIRECT BY MRS. SUSTAKOVITCH

1 sure the jury can hear you. So tell us how old are you,

2 **Child**

3 A I'm 12 years old.

4 Q If you could not move the chair. There you go.
5 When's your birthday?

6 A **Birth month & day**

7 Q So you're going to turn 13 then?

8 A Yes.

9 Q So where do you live now, **Child**

10 A I live in Moncks Corner.

11 Q All right. What county is Moncks Corner in?

12 A I'm not sure.

13 Q That's okay. And if I ask you a question and
14 you don't know the answer, that's exactly what you should
15 say. Do you have siblings, **Child**

16 A Yes, I have a brother named **ZJ**.

17 Q How old is **ZJ**?

18 A He's 15 turning 16.

19 Q Now, are you in school right now?

20 A I'm in online school.

21 Q And what's the name of your online school?

22 A Connections Academy.

23 Q How long have you been doing that?

24 A For a long time.

25 Q Do you like it?

Child DIRECT BY MRS. SUSTAKOVITCH

1 A Uh-huh.

2 Q All right. Do you miss going to public school
3 or no?

4 A No, not really.

5 Q All right. So you said **ZJ**, when's his
6 birthday, do you remember?

7 A His birthday is **2007**

8 Q And how old is he going to be on his birthday?

9 A Sixteen.

10 Q All right. So tell me about living down in
11 Monks Corner, who do you live with **Child**

12 A My mom, my stepdad and my brother.

13 Q What's your mom's name?

14 A Marita?

15 Q What's your stepdad's name?

16 A Sebastian.

17 Q And how long has your mom been with Sebastain?
18 How long has he been your stepdad?

19 A I'm not sure.

20 Q Okay. I want to go back to Connections Academy,
21 online schooling. What are your favorite classes with
22 Connections Academy?

23 A I love English and science.

24 Q And with online schooling, does the teacher come
25 on and talk to you, are you like in little boxes, how does

Child DIRECT BY MRS. SUSTAKOVITCH

1 that work?

2 A You usually go to zoom like meetings.

3 Q Okay. And you have an emogi or an icon and they
4 can see you?

5 A Yes.

6 Q Kind of like when COVID happened and we went and
7 had online school?

8 A Yes.

9 Q Okay. So what do you want to be when you grow
10 up?

11 A I want to be a lawyer.

12 Q Oh, okay. Why do you want to be a lawyer?

13 A Because I want to be able to like help people.

14 Q Okay. I want to talk about when you were
15 younger, **Child** Going back a couple of years, can you

16 think back to when you were in kindergarten?

17 A (The witness nods.)

18 Q All right. So let's go back and take the jury
19 back in time because now you're 12. But when you were in
20 kindergarten, how old were you when you started
21 kindergarten?

22 A I'm not sure.

23 Q All right. Let's go with your birthday again.
24 Tell me that again.

25 A **Birth month & day**

Child DIRECT BY MRS. SUSTAKOVITCH

1 Q All right. So Birth month & day what year was it?

2 A 2010.

3 Q 2010. So five years later, would you have
4 started kindergarten?

5 A Most likely.

6 Q All right. And tell me, do you remember the
7 name of your kindergarten teacher?

8 A I think her name was Ms. Frets.

9 Q Ms. Frets?

10 A (The witness nods.)

11 Q Okay. And when you think back, I know it's been
12 a while, but sometimes it's helpful to just think back in
13 your mind. When you think of Ms. Frets' room, can you
14 tell the jury a little bit about what it looked like when
15 you came in there?

16 A It was like really colorful. And there was like
17 a circle carpet. And there was chairs, like a lot stacked
18 in the corner. It was another corner that had books and
19 stuff.

20 Q Did you like that class?

21 A Uh-huh.

22 Q And did you have a best friend or anything in
23 that class?

24 A I had a best friend named Friend

25 Q Okay. So did you guys have field day in

Child DIRECT BY MRS. SUSTAKOVITCH

1 kindergarten?

2 A We did.

3 Q So I want to go -- that would have been
4 August 27, 2015, sound about right? I want to go to the
5 next grade, first grade. How old would you have been in
6 first grade?

7 A I'm not sure.

8 Q Okay. Okay. So tell me about what school you
9 went to in first grade.

10 A I don't remember.

11 Q That's fine. But you lived here in Greenville
12 County; correct?

13 A I did.

14 Q And, Child just before we get going, you
15 testified you're nervous to be in court today?

16 A (The witness nods.)

17 Q Have you been worrying about being here?

18 A Yes.

19 Q And can you explain to the jury the difference
20 in the truth and a lie?

21 A The truth is something that, like, actually
22 happened. And a lie is something that was made up or
23 something that never happened.

24 Q And is it good to tell a lie?

25 A No, not at all.

Child DIRECT BY MRS. SUSTAKOVITCH

1 Q You promise today to tell this jury only the
2 truth?

3 A I promise.

4 Q Child I want to show you a few pictures. Do
5 you remember, showing you what's been admitted as State's
6 Exhibit 17, do you remember that house?

7 A Yes.

8 Q All right. Do you remember the address for --
9 I'm going to put it on the projector. Do you remember
10 having to remember the address for this house?

11 A I believe it was Address.

12 Q Okay. And so we're going to talk about people
13 in this picture in a little bit but yes, Address;
14 right?

15 A (The witness nods.)

16 Q So if you could take the jury back a little bit,
17 are you aware of the fire that happened at that house?

18 A I am.

19 Q All right. So I want to take the jury back
20 before the fire. And Child coming in the front door of
21 that house, what would the jury be seeing?

22 A Well, the stairs, I think, were on the right
23 side. And then we had like this cool living room and
24 kitchen on the left.

25 Q Yeah.

Child DIRECT BY MRS. SUSTAKOVITCH

1 A And then be like the staircase.

2 Q All right. So when you went up the staircase,
3 what would you be seeing then?

4 A On the right, there would be like a bannister
5 sort of thing and then my room would be there and then to
6 the right a little bit more there would be a bathroom.

7 Q All right. And then were there any other
8 bedrooms upstairs?

9 A Yeah, if you look to the left, I think there was
10 like a Man Cave. And then if you go forward, **ZJ**'s room.
11 And forwarded again, my parents room.

12 Q Okay. And I'm going to show you what's been
13 admitted. **Child** could you turn around and look at this
14 picture? Well, I'll show it to you, I'm sorry. Do you
15 recognize that picture?

16 A I do.

17 Q Okay. And I'm going to put it on the projector.
18 What are you recognizing in this picture?

19 A Myself in the Man Cave and books and computers.

20 Q So tell the jury a little bit about the Man
21 Cave.

22 A So the Man Cave was like this really cool room.
23 There were books, drawing, games, there was a lot of stuff
24 you can just do in there. We usually just hang out in
25 there and play games and such.

Child DIRECT BY MRS. SUSTAKOVITCH

1 Q All right. And when it's called the Man Cave,
2 who was the man that the Man Cave is named after, whose
3 room was it?

4 A David's.

5 Q All right. So, **Child** I want to talk to you
6 about David. Who is David?

7 A My biological dad.

8 Q Do you consider him your father?

9 A Yes.

10 Q Do you consider him your biological dad?

11 A I do.

12 Q And, **Child** do you see him in this courtroom?

13 A I do.

14 Q Could you point him out?

15 A Right there.

16 MRS. SUSTAKOVITCH: Your Honor, let the record
17 reflect the victim is pointing out The Defendant.

18 THE COURT: So noted.

19 BY MRS. SUSTAKOVITCH:

20 Q **Child** has anyone ever touched you in way that
21 you did not like?

22 A Yes.

23 Q And who did that?

24 A David.

25 Q **Child** I want to -- before we go into all the

Child DIRECT BY MRS. SUSTAKOVITCH

1 specifics of that, I want to talk about body parts. So
2 the jury can know exactly what you're talking about, okay?
3 What do you call the front part of a female, a girl or a
4 lady, the front part of a female, where you would go to
5 the bathroom?

6 A A vagina.

7 Q Okay. And you're how old again now?

8 A Twelve years old.

9 Q Do you remember when you were like eight years
10 old, do you remember what you may have called it?

11 A Yes.

12 Q What did you call it when you were eight?

13 A Cauliflower.

14 Q How did you get the name cauliflower for your
15 vagina?

16 A I think my mom or dad came up with it.

17 Q Okay. And then I want to talk about the
18 backside of a female, what do you call this part where a
19 lady or a girl would go to the restroom?

20 A Butt.

21 Q Okay. And what would you call the top part on a
22 female or a girl?

23 A The breast.

24 Q All right. And I know this is embarrassing but
25 we have to just make sure that the jury can understand

Child DIRECT BY MRS. SUSTAKOVITCH

1 what you're saying. We're going to go through a boy now.
2 The front part of a boy or a man, what would you call the
3 front part where they go to the restroom?

4 A A penis.

5 Q Okay. And what about the back part where they
6 go to the restroom?

7 A A butt.

8 Q All right. **Child** you testified that -- and
9 you're calling him David, is there a reason you're calling
10 him David?

11 A Yes.

12 Q Can you explain that?

13 A Well, I have a different dad now so.

14 Q Okay. You testified he started touching you in
15 ways you don't like. Where was your mother when this
16 started happening?

17 A She would usually be at work or hanging out with
18 friends or just out somewhere.

19 Q All right. And where would your brother be when
20 this would be happening?

21 A He usually would be in his room or playing with
22 his friends somewhere.

23 Q All right. And I want to take you back to, so
24 we're clear, this house at Address. You see it
25 behind you, sweetie?

Child DIRECT BY MRS. SUSTAKOVITCH

1 A (The witness nods.)

2 Q Where, when your dad would touch you in ways
3 that you didn't like, where would that happen in that
4 house?

5 A In the Man Cave or in my parents room.

6 Q In your parents room, okay. I'm going to show
7 you what's previously been admitted as pictures from the
8 fire, so it's going to look different. But do you
9 recognize State's Exhibit 8?

10 A That's my room, my old room.

11 Q Okay. And do you recognize State's Exhibit 5?

12 A Yes, that was their room.

13 Q All right. I'm just going to put it up for a
14 second. All right, **Child** so this is your room?

15 A It was.

16 Q Is there anything you see in that room that you
17 wish you could have kept?

18 A Those are, like, all of my Hello Kitty's, I
19 really miss those. I wish I could have saved them from
20 that.

21 Q And four years ago, this was one of the Hello
22 Kitty's?

23 A Yes.

24 Q All right. Showing you State's Exhibit 5.
25 You're saying this was your mom and dad's room?

Child DIRECT BY MRS. SUSTAKOVITCH

1 A Yes.

2 Q And your dad abused you there too?

3 A Yes.

4 Q Okay. I'm showing you what's marked as State's
5 Exhibit 6, do you recognize that, sweetie?

6 A Yes, that's our parents closet.

7 Q All right. Did your dad ever abuse you in the
8 closet?

9 A I believe so, yes.

10 Q Okay. I want to go back through a little bit.

11 **Child** going back to the different ways that your dad
12 abused you, did David Jones ever put his private part in
13 your vagina?

14 A Yes.

15 Q And when he did that, how did that feel?

16 A It kind of hurt.

17 Q All right. And where would David Jones put his
18 penis in your vagina? Which rooms at Address?

19 A In the Man Cave, in my parents room and in my
20 room.

21 Q Okay. And back four years ago when you're
22 calling your vagina your cauliflower, he was putting his
23 penis in your cauliflower?

24 A Yes.

25 Q **Child** I want to take you back, did David Jones

Child DIRECT BY MRS. SUSTAKOVITCH

1 ever put his penis in what you call your butt?

2 A Yes.

3 Q And where did David Jones put his penis in your
4 butt? Was it at Address?

5 A Yes.

6 Q And when he would do that, would that ever hurt
7 or how would that feel?

8 A It would hurt, like, really bad.

9 Q It would hurt, like, really bad?

10 A (The witness nods.)

11 Q Would that happen in the Man Cave?

12 A Yes.

13 Q Did David Jones ever put anything on his penis
14 when he would put it your butt?

15 A Vaseline.

16 Q Did that help it not hurt?

17 A Yes.

18 Q Did you tell him that it hurt?

19 A Yes.

20 Q Child did your dad ever take his hand and put
21 his fingers into your body in any way that you didn't
22 like?

23 A Yes.

24 Q Where did he put his hands or his fingers?

25 A In my butt and in my vagina.

Child DIRECT BY MRS. SUSTAKOVITCH

1 Q When he would put his fingers in your vagina,
2 what can you remember that feeling like?

3 A I remember it feeling just really weird.

4 Q And where did that happen?

5 A In the Man Cave, in their room, in my room and
6 in the closet.

7 Q **Child** did David Jones ever put his mouth on
8 your cauliflower or your vagina?

9 A Yes.

10 Q How did it feel when David Jones did that?

11 A It felt kind of weird.

12 Q Did you want him to do that?

13 A No.

14 Q What, if anything, did he say to you when he was
15 doing that?

16 A I remember him asking if it felt good and if it
17 hurt.

18 Q Okay. So he licked your vagina?

19 A (The witness nods.)

20 Q Did you ever have to lick any part of him?

21 A Yes.

22 Q What did you have to lick?

23 A His penis.

24 Q Okay. So you're 12 now, four years ago you were
25 eight; correct?

Child DIRECT BY MRS. SUSTAKOVITCH

1 A (The witness nods.)

2 Q Did you ever see anything come out of your dad's
3 penis?

4 A Yes.

5 Q What did you see come out of his penis?

6 A Come.

7 Q Did you know what that was when you were eight
8 years old?

9 A No.

10 Q Did you understand why your dad wanted you to
11 suck on his penis?

12 A No.

13 Q Did you -- when these things were happening and
14 you were inside the Man Cave, was the door opened or was
15 the door shut?

16 A Shut.

17 Q Was your brother somewhere else in the house or
18 was he there watching?

19 A Somewhere else in the house?

20 Q Where was your mom?

21 A Out of the house.

22 Q **Child** has anybody else ever touched your body
23 or abused you like that?

24 A No.

25 Q **Child** I want to talk a little bit about the

Child DIRECT BY MRS. SUSTAKOVITCH

1 Man Cave. When you're in the Man Cave, what would you do
2 in the Man Cave with your dad, what types of things would
3 you get to do in the Man Cave? Did you study in the Man
4 Cave?

5 A We would study, play games, draw, color.

6 Q Okay. And were there ever -- I know you
7 testified he abused you in the Man Cave, were there ever
8 things you wanted to do, like play video games or watch
9 movies, were there things you wanted to do in the Man Cave
10 too?

11 A Yes, I would want to go and play games like
12 Roblox.

13 Q So if you wanted to play a game like Roblox, how
14 would you get to play Roblox?

15 A I would have to do those things with him.

16 Q So you would have to suck on his penis or do
17 some of those sexual things and then you could play
18 Roblox?

19 A Yes.

20 Q What is Roblox so if somebody on the jury
21 doesn't know, what is Roblox?

22 A Roblox is like a Lego style game where you can
23 play online with other people.

24 Q Okay. **Child** how old were you when these
25 things started happening to you with your dad?

Child DIRECT BY MRS. SUSTAKOVITCH

1 A Five or six.

2 Q Okay. So you would have been in kindergarten or
3 first grade?

4 A Yes.

5 Q And when they were happening to you, did you
6 tell your mom right away or did you wait?

7 A No, I waited.

8 Q Who was the first person that you can remember
9 telling that you were being sexually abused?

10 A My brother.

11 Q Why did you decide to tell your brother?

12 A Because I thought I could, like, trust him more.
13 I just needed to let someone know.

14 Q Okay. And so tell me about when you told ZJ,
15 what did you tell ZJ?

16 A I told ZJ that we had been doing those things
17 together.

18 Q What was ZJ's reaction?

19 A He kept on nagging me to tell mom.

20 Q He wanted you to tell your mom?

21 A (The witness nods.)

22 Q Okay. Did you, in fact, tell your mom?

23 A I waited a little bit but I eventually did.

24 Q And tell me about when you told your mom.

25 A Me, my mom and ZJ were inside the car in the

Child DIRECT BY MRS. SUSTAKOVITCH

1 parking lot, David was in the store and I told my mom what
2 happened.

3 Q Okay. So you told your mom and you said he was
4 in some kind of store?

5 A Yes.

6 Q Do you remember how your mom took the news that
7 he'd been sexually abusing you?

8 A She responded calmly. And she told me not to,
9 like, let him know that I told but she would take care of
10 it. And then she said I was brave to tell.

11 Q Okay. Do you remember -- so was this on the
12 weekend or a weekday when you finally told your mom what
13 had been going on with you?

14 A I don't remember.

15 Q Okay. Do you remember your mom, shortly after
16 telling her about the abuse, do you remember her taking
17 you to Parkside Pediatrics?

18 A Yes.

19 Q What is Parkside Pediatrics?

20 A I believe it's a medical place for children.

21 Q Okay. And after your mom took you to Parkside
22 Pediatrics, do you remember -- I'm going to show you a
23 couple of pictures. All right. So you went to Parkside
24 Pediatrics. And then do you remember having to come out
25 and meet with DSS and law enforcement here?

Child DIRECT BY MRS. SUSTAKOVITCH

1 A Yes.

2 Q All right. Let me take you back -- can you see
3 that screen, sweetie? Wherever it's easier to see it. Do
4 you see yourself there?

5 A I do.

6 Q And where is your dad?

7 A He's beside me.

8 Q Right here?

9 A Uh-huh.

10 Q And who's that?

11 A My mom.

12 Q All right. So I want to show you -- do you
13 remember meeting with a police lady?

14 A I do.

15 Q Look right here, do you remember that police
16 lady?

17 A I do.

18 Q Do you see her in the courtroom?

19 A I do.

20 Q All right. And one last thing, do you remember
21 this lady right here, see the African American lady right
22 here?

23 A I do.

24 Q Okay. Do you remember her being the DSS lady?

25 A I don't remember her.

Child DIRECT BY MRS. SUSTAKOVITCH

1 Q Okay, that's fine. All right. So when you go
2 over and you're on scene, when the police lady took you to
3 the side, did you immediately tell her that it was your
4 dad or?

5 A No.

6 Q What happened there?

7 A I just remember stating that I wasn't going to
8 be comfortable saying anything. I just really didn't want
9 him to get in trouble.

10 Q So you're seeing the police there and you're
11 whole family is there and you don't want him to get in
12 trouble. So do you tell her the identity of who's abusing
13 you or do you not?

14 A No, I don't.

15 Q Did you explain to her why you don't want to
16 tell her who's doing these things?

17 A Because I don't want that person to get in
18 trouble.

19 Q All right. The lady from DSS, do you remember
20 on scene telling about what happened to you at that point,
21 later while you're on scene?

22 A (The witness shook her head.)

23 Q Okay. So you talked to the police lady and you
24 talked about the abuse happening to you, do you remember
25 that?

Child DIRECT BY MRS. SUSTAKOVITCH

1 A I do.

2 Q Child do you remember when you were on the
3 scene, telling that police lady that it wasn't your dad
4 that was abusing you, that it was some boy?

5 A Yes, ma'am, I remember that.

6 Q Okay. I want to show you what's been marked as
7 State's Exhibit -- oops, I need to mark it, sorry.

8 (WHEREUPON, State's Exhibit No. 22 was marked
9 for identification only.)

10 BY MRS. SUSTAKOVITCH:

11 Q Child I'm showing you what's been marked as
12 State's Exhibit 22. I'm going to take it out so you can
13 see the disk. Do you recognize that?

14 A I do.

15 Q Do you recognize any signatures or dates on it?

16 A Yes.

17 Q What's the signature on it?

18 A Child

19 Q Have you listened to this prior to court today?

20 A I have.

21 Q Is this a fair and accurate representation of
22 you talking about this boy that you said abused you?

23 A Yes.

24 MRS. SUSTAKOVITCH: Your Honor, The State, at
25 this time, moves to admit State's Exhibit 22, subject

Child DIRECT BY MRS. SUSTAKOVITCH

1 to The Court's rulings?

2 THE COURT: All right, subject to any--

3 MR. YARBOROUGH: Pursuant to -- yeah, thank you,
4 Your Honor.

5 (WHEREUPON, State's Exhibit No. 22 was admitted
6 into evidence.)

7 MRS. SUSTAKOVITCH: Permission to publish?

8 THE COURT: Yes, you may.

9 MRS. SUSTAKOVITCH: Thank you.

10 (WHEREUPON, State's Exhibit No. 22 was
11 published.)

12 BY MRS. SUSTAKOVITCH:

13 Q **Child** you started crying at the end and you
14 said, I need to save my daddy, though?

15 A Uh-huh.

16 Q What did you think you needed to save your daddy
17 from?

18 A Going to jail.

19 Q Okay. And I want to clarify one thing for the
20 jury. So when you first are out there on scene with your
21 whole family -- I'm sorry. And you testified that you
22 didn't want to tell Investigator McHale the name of the
23 person that was abusing you. I want to show you again,
24 this is the DSS lady, Dyneshia Kilgore; do you remember
25 her?

Child DIRECT BY MRS. SUSTAKOVITCH

1 A I don't.

2 Q Okay. You don't remember telling her that--

3 MR. YARBOROUGH: Objection, Your Honor, she says
4 she doesn't remember her.

5 MRS. SUSTAKOVITCH: Okay.

6 THE COURT: Right, it's sustained.

7 MRS. SUSTAKOVITCH: All right.

8 BY MRS. SUSTAKOVITCH:

9 Q Well, let me say this, do you remember talking
10 to Shannon McHale that day?

11 A I do.

12 Q All right. And do you remember that day telling
13 Shannon McHale that your dad has sexually abused you for
14 several years?

15 A Yes.

16 Q And do you remember telling Shannon McHale that
17 your father made you do these sex acts with him so that
18 you could play on the computer?

19 A Yes.

20 Q And do you remember telling Shannon McHale that
21 you didn't know that it was bad to do that because you
22 were eight?

23 A Yes.

24 Q And do you remember telling Shannon McHale that
25 The Defendant put his penis in your mouth?

Child DIRECT BY MRS. SUSTAKOVITCH

1 A Yes.

2 Q And in your vagina?

3 A Yes.

4 Q And your anus, your butt?

5 A Yes.

6 Q And you also said that he would rub his penis
7 against your face?

8 A Yes.

9 Q And you also said that he licked your vagina, do
10 you remember that?

11 A I do.

12 Q **Child** was it difficult to come here today?

13 A Yes.

14 Q And when these things were happening to you, did
15 you -- did you do anything to harm yourself or have
16 trouble dealing with what happened to you?

17 A Yes, I've been cutting myself.

18 Q When you say you've been cutting yourself, what
19 does that mean?

20 A Like cutting yourself on your arm and stuff.

21 Q What do you cut yourself with?

22 A Either a knife or the razor on a pencil
23 sharpener.

24 Q And that's helped you deal with the abuse?

25 A No, not really.

Child CROSS BY MR. YARBOROUGH

1 Q So you were cutting yourself because of why?

2 A I felt like I was doing something wrong. I was
3 trying to like punish myself for doing it.

4 Q You thought you were doing something wrong by
5 being involved in these sex acts with your dad?

6 A Yes and by telling.

7 Q And by telling?

8 A (The witness nods.)

9 Q Okay. Besides cutting yourself, did you have
10 any other thoughts of self harm?

11 A Yes, I had attempted suicide a few times.

12 Q And why was that?

13 A Because I just -- I was tired of all of it.

14 Q Do you believe it's important for the jury to
15 know what your dad did do to you?

16 A Yes.

17 MRS. SUSTAKOVITCH: Please answer any questions
18 that the Defense Counsel has.

19 THE COURT: Cross-examination.

20 MR. YARBOROUGH: Thank you, Your Honor.

21 CROSS-EXAMINATION

22 BY MR. YARBOROUGH:

23 Q Good morning, **Child** how are you?

24 A I'm okay.

25 Q How old are you now?

Child CROSS BY MR. YARBOROUGH

1 A Twelve years old.

2 Q And so when you said you reported all of this,
3 this was three or four years ago?

4 A Yes.

5 Q Okay. And you would have been, like, how old
6 then, like, eight?

7 A Yes.

8 Q And I think they showed a picture of you when
9 you were eight, you were -- State's Exhibit 20, is that
10 you?

11 A Yes.

12 Q Okay. In that picture you're about eight years
13 old?

14 A I believe so.

15 Q Okay. And when you were about eight years old,
16 there's been a really bad fire in your house; right?

17 A Yes.

18 Q And that's a picture of the house when the fire
19 went off?

20 A Yes.

21 Q And it was right after the fire that y'all moved
22 in with your grandmother; isn't that right?

23 A Yes.

24 Q Okay. And so it was about four days after you
25 moved in with your grandmother that the police came to the

Child CROSS BY MR. YARBOROUGH

1 house and DSS came to the house; right?

2 A I think so.

3 Q Okay. Well, it was -- okay. About that amount
4 of time; right?

5 A I think so.

6 Q You don't really remember exactly?

7 A I don't remember the exact time.

8 Q Okay. And, at that point, when you first said
9 something to them, you tried to stop and say, look, it was
10 a boy on the bus. You tried to stop it at that point?

11 A Yes.

12 Q Because you didn't want to go any further with
13 this story; right? That's what you wanted to stop; right?

14 A What story?

15 Q The story about what happened with you and your
16 dad -- well, I guess, you call him David, that's your dad;
17 right?

18 A My biological dad, yes.

19 Q Well, back then you called him dad? You called
20 him dad, you didn't call him David; right?

21 A Yes.

22 Q Okay. And so, at that point, you told them --
23 you said that on the tape, you didn't want this to go any
24 further; right? You said it was a boy on the bus; right?

25 A Yes, which it wasn't.

Child CROSS BY MR. YARBOROUGH

1 Q Okay. And after that -- well, let me ask you
2 this. Right before that, your parents had been fighting a
3 lot, your mom and your dad had been fighting a lot?

4 A No.

5 Q You hadn't heard them fighting recently before
6 that?

7 A No, not at all.

8 Q Okay. Did you -- when you moved in with your
9 grandparents, weren't they fighting a good bit at that
10 point?

11 A No.

12 Q Because the house had burned down?

13 A No, they were very calm.

14 Q Okay. Did you -- after all -- all of this you
15 had to start going to -- you went to a doctor over at the
16 Julie Valentine Center; is that right?

17 A Yes.

18 Q Okay. And you talked to them; right?

19 A I did.

20 Q Okay. And they talk about stuff like this;
21 right?

22 A I think so.

23 Q Well, you talked to them about it; right?

24 A Yes.

25 Q Okay. And you did all of that back when you're

Child CROSS BY MR. YARBOROUGH

1 eight years old?

2 A I believe so, yes.

3 Q All right. Well, you hadn't seen your dad since
4 2019; right?

5 A I think so.

6 Q Okay. And you moved to Charleston, where is
7 that Monks Corner?

8 A Yes.

9 Q And you have a new dad in your life; right?

10 A I do.

11 Q Okay. And your mom's got a new man in his
12 [verbatim] life; right?

13 A Yes.

14 Q Okay. And y'all live down there as a family?

15 A Yes.

16 Q And your grandmother's not around anymore?

17 A Yeah, she died.

18 Q All right. And your other grandparents, they're
19 here, they're back in the courtroom; right?

20 A Yeah.

21 Q You haven't seen them either, have you?

22 A No.

23 Q Did -- there was a -- your brother liked to go
24 outside and played when y'all lived at the house that
25 burned down?

Child CROSS BY MR. YARBOROUGH

1 A Yes.

2 Q And he'd come in and out of the house a lot;
3 right?

4 A Yes.

5 Q Okay. And he would like to come up into your
6 dad's room, you call it the Man Cave, but he liked to come
7 up there and play games too; right?

8 A Yes.

9 Q Okay. And he got to play on the computer;
10 right?

11 A (The witness nods.)

12 Q You would get to play on the computer; right?

13 A Yes.

14 Q Okay. And, at that point, your dad had an
15 investigation service; is that right?

16 A Yes.

17 Q What was -- he -- do you remember what did he do
18 for a living?

19 A I think he was a police officer.

20 Q Okay. And he was proud of that?

21 A He was.

22 Q Okay. And in that area in there, there's comic
23 books all kinds of stuff; right? It was a fun area to
24 play. It was also where your dad worked; right? He had
25 his work stuff in there?

Child CROSS BY MR. YARBOROUGH

1 A I think so.

2 Q Okay. And after -- after the house burned down,
3 were you mad at your dad?

4 A No.

5 Q You weren't mad at him?

6 A No.

7 Q Did you -- you said you've been cutting
8 yourself, are you okay?

9 A Yes, I'm okay.

10 Q You're not going to do that anymore; right?

11 A No.

12 Q Okay, good. You know that's not a good thing;
13 right?

14 A Yes.

15 Q Okay. And the important thing's to take care of
16 yourself; right?

17 A Yes.

18 Q Okay. Did -- when y'all were outside those
19 pictures they keep showing you, you told the police
20 officers that this didn't happen; right?

21 A I said that, yes.

22 Q You said that. And that was -- that time was,
23 basically, the last time you saw your dad; right?

24 A Yes.

25 MR. YARBOROUGH: I don't have any further

Child REDIRECT BY MRS. SUSTAKOVITCH

1 questions. Thank you.

2 THE COURT: Any redirect?

3 MRS. SUSTAKOVITCH: Just very briefly.

4 REDIRECT EXAMINATION

5 BY MRS. SUSTAKOVITCH:

6 Q Child e, when you were talking about saying the
7 boy on the bus. And you were asked why you were saying
8 that. When you said, I want to save my daddy, though.
9 Did you love your daddy then?

10 A Yes.

11 Q When you're eight years old, did you look up to
12 him?

13 A Yes.

14 Q Did you have any idea why he was doing these
15 things to you?

16 A No.

17 MRS. SUSTAKOVITCH: No further questions.

18 THE COURT: Thank you, you may step down.

19 I believe you said the next witness is a little
20 bit lengthy?

21 MRS. SUSTAKOVITCH: Yes, sir.

22 THE COURT: Ladies and gentlemen, we're going to
23 break for lunch until 1:30, does that work for
24 everybody? You know my four rules. Don't discuss
25 the case. Do not do any type of research about the

1 case. Do not review any type of media coverage
2 including social media. If anybody contacts you
3 other than someone from the clerk's office, let the
4 bailiffs know. Otherwise, I will see you back at
5 1:30. All right, have a good lunch.

6 (WHEREUPON, the jury left open court at
7 approximately 12:04 p.m.)

8 THE COURT: All right. Anything else from The
9 State before we break for lunch?

10 MRS. SUSTAKOVITCH: No, sir.

11 THE COURT: From The Defense?

12 MR. YARBOROUGH: No, sir.

13 THE COURT: All right, be ready to go at 1:30.

14 MRS. SUSTAKOVITCH: Yes, sir.

15 (WHEREUPON, a lunch break was taken.)

16 (WHEREUPON, State's Exhibits Nos. 23-25 were
17 marked for identification only.)

18 THE COURT: All right, The State ready?

19 MRS. SUSTAKOVITCH: The State is ready. The
20 State just wanted to remind you, our next witness we
21 are definitely not going to be stating the identity
22 of the perpetrator. It's Dr. Mary Fran Croswell,
23 just wanted to put that on the record, make sure
24 everybody is aware.

25 THE COURT: Okay, anything from The Defense

1 before we get the jury?

2 MR. YARBOROUGH: No, sir.

3 THE COURT: All right.

4 (WHEREUPON, the jury entered open court at
5 approximately 1:40 p.m.)

6 THE COURT: All right, ladies and gentlemen, as
7 you will recall The State was still in their case in
8 chief.

9 So, at this time, I ask The State to call their
10 next witness.

11 MRS. SUSTAKOVITCH: Thank you, Your Honor, may
12 it please the Court. The State calls Dr. Mary Fran
13 Croswell.

14 MARY FRAN CROSWELL, after being duly
15 sworn[, } testified as follows: {F}

16 THE CLERK: Thank you, please be seated. State
17 your name for the record.

18 THE WITNESS: Mary Fran Ratford Croswell.

19 DIRECT EXAMINATION

20 BY MRS. SUSTAKOVITCH:

21 Q Good afternoon, Dr. Croswell, what is your
22 occupation?

23 A I am child abuse pediatrician with Prisma
24 Health.

25 Q How long have you been a pediatrician with

MARY FRAN CROSWELL

1 Prisma Health?

2 A I have been in this capacity as a child abuse
3 pediatrician since 2006 there.

4 Q All right. And I want to give the jury a little
5 bit of background. Can you explain to them your work
6 experience, at the present time?

7 A So my initial work experience after my residency
8 was as a general pediatrician for three years, until I
9 moved into this role as a child abuse pediatrician for the
10 past 16 years.

11 Q And can you tell them, just backing up a little
12 further, where did you go to college, what was your degree
13 and postgraduate studies?

14 A I completed my undergraduate degree from Wake
15 Forrest University. I completed my medical degree from
16 the University of Louisville School of Medicine. I
17 completed a pediatric residency here at what was then
18 Greenville Health System. And that's the extent of my
19 background.

20 Q Okay. So going onto child abuse, can you tell
21 the jury, are you licensed or have board certifications in
22 that area?

23 A Yes. So I'm licensed to practice medicine in
24 The State of South Carolina. I am board certified both in
25 general pediatrics in the subspeciality of child abuse

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1 pediatrics.

2 Q And are you a member of any other boards related
3 to that?

4 A Yes. I am part of the Health [indiscernible]
5 Society which is a medical professional society for child
6 abuse pediatricians. I am involved in the American
7 Academy of Pediatrics section on child abuse. As well as
8 we have a statewide network, which is called The South
9 Carolina Child Abuse Medical Response System.

10 Q And particularize training in the area of child
11 abuse, can you -- I know you've got a long career, but can
12 you give the jury some of the highlights of your training
13 in that specific area?

14 A So I've done extensive continue medical
15 education, specifically in the area of child sexual abuse.
16 Both prior to starting in this field and then ongoing
17 while I've been in the field.

18 Q And have you traveled to different seminars and
19 different seminars like that throughout the years?

20 A Yes.

21 Q And have you been, not just a student or
22 participant, but have you also taught at these different
23 trainings?

24 A Yes, I have.

25 Q And have you had occasion to perform

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1 examinations on children where there's a concern of sexual
2 abuse?

3 A Yes, I have.

4 Q Roughly, how many children would you say you've
5 examined where there's a concern of that?

6 A It would be probably 1,500, rough estimate. If
7 I'm averaging over the course of my career.

8 Q Okay. And just to refresh my recollection on
9 when you came to Prisma Health, can you tell me again when
10 that was?

11 A 2006.

12 Q Okay. Going forward to what you presently do,
13 can you explain your work on a daily basis right now with
14 seeing children where there's a concern of sexual abuse?

15 A So in my field we see children both in the
16 inpatient and outpatient world. Primarily most sexual
17 abuse is evaluated at the outpatient world through the
18 different child advocacy centers. Myself and my team
19 cover the child advocacy centers throughout the Upstate of
20 South Carolina. So we travel to Spartanburg, Anderson,
21 Greenwood to perform these evaluations. Occasionally, a
22 child has to be admitted to the hospital due to injuries
23 related to the sexual abuse and then I would evaluate them
24 on the inpatient side.

25 Q All right. Have you testified in the courts of

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1 this state in the area of pediatrics and child sexual
2 abuse?

3 A Yes, I have.

4 Q How many times, Dr. Croswell, have you testified
5 in that area?

6 A I would estimate about 50 times.

7 Q And in which courts have you testified?

8 A Family court and criminal court.

9 Q And you've been qualified as a expert in family
10 court or general sessions in the area of pediatrics and
11 child sexual abuse?

12 A Yes, I have.

13 MRS. SUSTAKOVITCH: Your Honor, at this time,
14 The State moves to admit Dr. Croswell as an expert in
15 pediatrics and child sexual abuse.

16 THE COURT: Any objection or voir dire of this
17 witness?

18 MR. YARBOROUGH: Not in that area, no, sir, Your
19 Honor.

20 THE COURT: All right, any objection?

21 MR. YARBOROUGH: No, sir.

22 THE COURT: All right. Then she is qualified as
23 a expert in the field of pediatric child sexual
24 abuse.

25 Ladies and gentlemen of the jury, normally a

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1 witness can only testify what they directly observed
2 or heard or -- they cannot give their opinions and
3 conclusions. An exception to that rule is when
4 somebody has been qualified as a expert and then they
5 can give their opinion based on their experience or
6 education, their training, their job skills and so
7 forth. And in this case, she has been qualified as a
8 expert in pediatric and child sexual abuse. And like
9 all evidence you're to give it the weight and value
10 which you feel is appropriate.

11 So you made proceed.

12 MRS. SUSTAKOVITCH: Thank you, Your Honor.

13 BY MRS. SUSTAKOVITCH:

14 Q Dr. Croswell, did you preform an exam on a child
15 that's led you to be in court today to testify?

16 A Yes, I have.

17 Q And what's the name of the child that you
18 examined?

19 A Her name is Child

20 Q How old was Child when you examined her?

21 A She was eight years old.

22 Q And when did you perform this exam?

23 A It was on April 24th, 2019.

24 Q How did Child get referred to you?

25 A She was referred by Investigator McHale from the

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1 Greenville County Sheriff's Office.

2 Q And who brought **Child** to her exam?

3 A Her mother did.

4 Q All right. Just to educate the jury, are there
5 different types of exams when there's a concern of sexual
6 assault?

7 A Yes. There are both acute and chronic exams.

8 Q Okay. And starting first, can you tell the jury
9 what an acute exam would be?

10 A So an acute exam is when a child discloses
11 sexual abuse within 72 hours of the last contact having
12 happened. If that occurs, they're usually recommended to
13 be evaluated in the emergency room where an evidence
14 collection kit can be performed. After that time, greater
15 than 72 hours, we would consider that a chronic sexual
16 abuse exam and that child would be referred to the child
17 advocacy center for a medical exam.

18 Q And is one type of exam in your experience more
19 common than the other?

20 A The chronic sexual exam is much more common as
21 children often don't disclose right away. It's usually
22 days, weeks, years, later, if at all.

23 Q All right. And so what type of exam did **Child**
24 have on this date?

25 A She had a chronic exam.

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1 Q All right.

2 (WHEREUPON, State's Exhibit No. 26 was marked
3 for identification only.)

4 BY MRS. SUSTAKOVITCH:

5 Q Dr. Croswell, can you walk the jury through a
6 chronic medical examine on a child, roughly, [Child] age?
7 What is the child asked to do in that situation?

8 A So in our practice, the child advocacy center is
9 met by a child life specialist, who is someone who is
10 trained to provide developmentally appropriate education
11 on what medical procedure is about to happen. She brings
12 the child to the exam room. And goes through the process
13 of what exactly we'll be doing during that exam with the
14 caregiver and the child. Then I will take the caregiver
15 to obtain a medical history on the child. Then I will
16 talk to the child by him or herself to obtain an
17 independent history about what has happened. Then next
18 we'll perform a physical exam. Which is a head to toe
19 exam. The last part of the exam is for sexual abuse
20 evaluations is for the use of a colposcope. Which is a
21 piece of medical equipment that allows us to have a bright
22 light, magnification system as well as photo document --
23 the ability to photo document any findings. Once that is
24 done, we will recommend any lab work that needs to be done
25 based on the information that has been provided. And then

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1 make any recommendations at that point in time.

2 Q All right. Dr. Croswell, I'm showing you what's
3 marked as State's Exhibit 26, do you recognize what that
4 is?

5 A Yes.

6 Q What is that?

7 A It's a drawing of the female genitalia.

8 Q And will this drawing assist you in explaining
9 to the jury the general anatomy of a female?

10 A Yes.

11 MRS. SUSTAKOVITCH: All right. Your Honor, at
12 this time, The State moves to admit State's Exhibit
13 26.

14 THE COURT: Any objection?

15 MR. YARBOROUGH: No, sir. That's just a
16 drawing; right?

17 MRS. SUSTAKOVITCH: Yes, it's not an actual
18 picture.

19 (WHEREUPON, State's Exhibit No. 26 was admitted
20 into evidence.)

21 BY MRS. SUSTAKOVITCH:

22 Q Dr. Croswell, just to help the jury understand,
23 back to a chronic medical exam, you've got, say **Child**
24 let's walk through this picture. And if you could just
25 generally describe the anatomy of a young female child.

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1 MRS. SUSTAKOVITCH: Your Honor, can we have --

2 THE COURT: You have to turn them back on.

3 MRS. SUSTAKOVITCH: Oh. Are we okay just to
4 continue with that?

5 THE COURT: Should be just a minute.

6 MRS. SUSTAKOVITCH: Okay.

7 THE COURT: Are they on?

8 THE JURY: They're coming on.

9 THE COURT: Times out at lunchtime every time.
10 All right, you can proceed.

11 BY MRS. SUSTAKOVITCH:

12 Q So, Dr. Croswell, feel free to stand up, if you
13 want. Can you just walk us through the general anatomy of
14 a female child?

15 A Sure. So when you first approach the female
16 anatomy, the first thing you're going to see are the outer
17 labia. Which are layers of tissue that cover the
18 internal -- the interior portion. Once that's pulled
19 aside, you'll see two other layers of tissue called the
20 labia minora is the scientific term, which is the inner
21 labia. And then beneath that you'll find two openings.
22 One is the urethra, where the urine comes out. And then
23 inferior to that is the vaginal opening. The vaginal
24 opening is either -- it's partially covered by a layer of
25 tissue called the hymen, which is not represented here but

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1 it just partially covers this outer layer of the vagina.

2 Q All right, thank you. Dr. Croswell, going back
3 to the chronic medical exam, **Child** is asked to -- what
4 position is she asked to get into during the exam?

5 A So she is on -- on her back with her knees
6 opened to the side to -- in order to -- so that I can
7 visualize her genitalia.

8 Q Okay. And the colposcope, what does that do
9 again?

10 A Again, it's a bright light. It has like a
11 microscope lenses to magnify the findings on her
12 genitalia. And then it has a camera attached to be able
13 to photo document that exam.

14 Q All right. Dr. Croswell, is part of your
15 medical diagnosis and treatment of any child where there's
16 a concern of sexual abuse, is it important for you to find
17 out the suspected form of trauma so you can treat the
18 child?

19 A Yes. One of the reasons I do a independent
20 history with the child is to understand exactly what it is
21 that has or hasn't happened. So that can guide my
22 physical exam, as well as inform how -- what lab tests
23 that I need to do, as well as any recommendations I want
24 to make for the child.

25 Q All right. Did you initially speak with **Child**

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1 and her mother or just **Child** as we go into this?

2 A Initially, mom stepped out of the room and I was
3 speaking just to **Child**

4 Q And mom being Marita?

5 A Yes.

6 Q So mom -- Marita steps out of the room and
7 you're speak with **Child** were you able to determine the
8 chief medical complaints that you were following up on, at
9 that time?

10 A Not initially.

11 Q All right. So, let's walk through that. Do you
12 recall that meeting with **Child**

13 A Yes, I do.

14 Q And do you have any specific memory of **Child**
15 **Child** that day?

16 A Yes, I do.

17 Q Can you relay that to the jury?

18 A When I initially began talking to **Child** she
19 appeared nervous.

20 MR. YARBOROUGH: Your Honor, I object to that.
21 That's all information that **Child** -- that would all
22 be hearsay.

23 MRS. SUSTAKOVITCH: She's describing her
24 demeanor and what she observed of the child.

25 THE COURT: All right [indiscernible] of what

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1 she said. Otherwise, I sustain in that regard.

2 MRS. SUSTAKOVITCH: Your Honor, may we approach?

3 THE COURT: Yes.

4 MRS. SUSTAKOVITCH: Okay.

5 (WHEREUPON, an off-the-record bench conference
6 was held in the presence of the jury but out of
7 the hearing of the jury.)

8 BY MRS. SUSTAKOVITCH:

9 Q So, Dr. Croswell, going back to **Child** do you
10 specifically remember your interaction with her?

11 A Yes. As she began to share information, there
12 was truly a visible change in her demeanor. That was --
13 made it very memorable in my career.

14 Q All right. Without stating the identity of the
15 perpetrator, if she gave you one, did **Child** when she was
16 meeting with you one-on-one, was she able to identify who
17 sexually abused her?

18 A Not when it was one-on-one.

19 Q All right. So when she was not able to tell you
20 that, what, if anything, did you do?

21 A So I asked her if there was something that
22 scared her about talking to me? And she expressed fear
23 that I would have to call the police. And then -- so she
24 didn't feel comfortable talking anymore without her mom
25 not being there.

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1 Q Okay. And just -- we'll try not to talk about
2 what **Child** said. But at this point, what did you do with
3 **Child** Did you allow the mom to come back in or what did
4 you do?

5 A I allowed the mom to come back in.

6 Q All right. So, at this point, without stating
7 the identity of the perpetrator, did you again ask whether
8 she was the victim of sexual abuse?

9 A Yes.

10 Q And was **Child** at that point, able to clearly
11 identify, without stating the name, who that person was?

12 A Yes.

13 Q And what, if anything, did you notice about her
14 demeanor?

15 A Once -- she just became visibly more confident
16 and empowered is just the word I would use to describe
17 that visible change I saw in her.

18 Q Now, did Marita stay in the room for the rest of
19 the exam or just the very beginning when she said who the
20 abuser was?

21 A She left immediately after that.

22 Q All right. At this point, when you're back and
23 it's just you and **Child** did **Child** indicate to you the
24 timeframe that the abuse had occurred?

25 A Yes.

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1 Q What did she tell you, doctor?

2 A She said it started in 2016 and had occurred
3 most recently as April of 2019, that month that I was
4 seeing her.

5 Q All right. Back to medical diagnosis and
6 treatment of a child, did you ask **Child** the specific
7 types of trauma that she had suffered that you were there
8 to examine for?

9 A Yes, I did.

10 Q Can you relay what those specific forms were?

11 A Penial/vaginal contact or penetration,
12 penial/anal contact or penetration, oral or mouth contact
13 of **Child** on his penis. And fondling of her genitalia.

14 Q Okay. And so I'm clear and the jury's clear,
15 who's all in the room during this conversation?

16 A It's myself, **Child** and the child life
17 specialist.

18 Q Okay. So I first want to go through each one of
19 those and talk about what your finding was. Dr.~Croswell,
20 as to the oral sex, can you talk about what your finding
21 was related to an allegation of oral sex on **Child** Or
22 that she was involved in oral sex encounter?

23 A So her mouth exam was normal. There were no --
24 there were no abnormalities on her exam.

25 Q Okay. And so the complaint was that she had to

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1 perform oral sex on the perpetrator?

2 A That's correct.

3 Q Do you do STD testing and things like when
4 there's a concern about that type of contact?

5 A Yes, I do.

6 Q All right. And what were the results of that?

7 A We do throat swab for gonorrhea and chlamydia,
8 which were negative.

9 Q All right. Then I want to go to the
10 vaginal/penial complaint. As to the vaginal genital area,
11 what was the finding on **Child** exam?

12 A She had a normal exam.

13 Q Now, can you explain to the jury what that means
14 when you say a normal exam?

15 A So when I'm looking at the genitalia--

16 Q You want me to put this back?

17 A That's okay. I'm looking for any, you know,
18 bruising, bleeding, tears that would be acute findings.
19 Everything was very normal on her exam on the day that I
20 evaluated her.

21 Q Okay. And can you explain to the jury, in your
22 experience in conducting medical exams, how often do exams
23 come back normal, quote unquote, when there's a history of
24 sexual abuse?

25 A So there have been multiple medical studies

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1 looking at physical exam findings in child sexual abuse.
2 And overwhelmingly -- the overwhelming majority of those
3 cases, there are no specific findings of sexual abuse on
4 the physical exam. And those numbers can range anywhere
5 from 80 percent to greater than 97 percent of the time,
6 depending on what study that you're looking at.

7 Q And can you explain to the jury a little further
8 why might an exam come back normal when there is a history
9 of vaginal/penial penetration or contact?

10 A So I think there are a couple of different
11 reasons. One is that the area involved is the mucosal
12 tissue. And so if there is a type of injury to that area
13 it can heal very rapidly, you know, within days without
14 leaving a physical sign of the injury. Secondly, is the
15 perception of penetration. A child doesn't necessarily
16 have or shouldn't have the knowledge of full penetration.
17 So perceiving the penis entering the labia and either
18 having what can be labial intercourse or rubbing against
19 the vagina opening, may not be what we perceive as
20 penetration into the vagina but it's perceived as the
21 child going inside her.

22 Q Okay. Moving forward the anal exam, did you
23 examine **Child** anal area?

24 A Yes, I did.

25 Q And what, if anything, were the result of that

MARY FRAN CROSWELL

1 exam?

2 A She had normal -- a normal anal exam.

3 Q And when you have a history of anal penetration
4 by a penis, is it surprising to you that that would come
5 back normal?

6 A No.

7 Q Can you explain that?

8 A Again, the anus is also made of mucosal tissue
9 so injuries can, in that area, can heal rapidly.
10 Secondly, if you think about the anus, it is controlled by
11 a muscle called the anal sphincter that's designed to
12 constrict and then relax to allow large objects, bowel
13 movements, to pass through. The same can happen, the anal
14 sphincter can relax to allow objects to enter without
15 resulting in injury from that.

16 Q All right. And finally, as to, I believe you
17 said, digital fondling of the hand in the vaginal area.
18 What, if anything, did you find related to that concern?

19 A I did not find any specific findings on the
20 genitalia.

21 Q Did that in anyway surprise you based on the
22 allegations?

23 A No.

24 Q Okay. Dr. Croswell, back to the treatment and
25 diagnosis of **Child** you said that you had a STD test

MARY FRAN CROSWELL-CROSS BY MR. YARBOROUGH

1 done?

2 A Yes.

3 Q And all of those, what were the results?

4 A They were all negative.

5 Q All right.

6 Please answer any questions that the
7 Defense Counsel has.

8 THE COURT: Cross-examination.

9 MR. YARBOROUGH: Thank you, Your Honor.

10 CROSS-EXAMINATION

11 BY MR. YARBOROUGH:

12 Q Good afternoon, how are you?

13 A I'm well.

14 Q Just cut through all of it. You -- you
15 brought -- she was brought in for you to examine her for
16 child sexual abuse; correct?

17 A That's correct.

18 Q And so you did that examination; right?

19 A Yes.

20 Q And you found no medical evidence of child
21 sexual abuse?

22 A I found nothing on her physical exam specific
23 for child sexual abuse.

24 Q Okay. And her mother brought her in and she was
25 much easier to talk to with her mother in the room about

MARY FRAN CROSWELL-CROSS BY MR. YARBOROUGH

1 it?

2 A She was able to start sharing information once
3 her mother was in the room.

4 Q But when you -- when you did the -- when you did
5 the final examination of the vagina and the rectum and the
6 mouth and the breast, was the mother in the room or out?

7 A We usually give the child the choice. And she
8 was -- she was in the room.

9 Q She was in the room. And when you looked at the
10 vagina, you found a normal external female genitalia;
11 right?

12 A That's correct.

13 Q And you found a crescent shaped hymen?

14 A That's correct.

15 Q And so the hymen had not been torn?

16 A That is not necessarily the case--

17 Q Wait a second, I'll let you explain but I'm
18 asking you a question. Was the hymen torn?

19 A There was no separation in the hymen at the time
20 that I saw her.

21 Q And it was found smooth; correct?

22 A Yes.

23 Q And there was no bruising?

24 A No.

25 Q No lacerations?

MARY FRAN CROSWELL-CROSS BY MR. YARBOROUGH

1 A No.

2 Q No scraping?

3 A No.

4 Q And you said something with the rectum. You say
5 the rectum goes back -- like, if you discharge something
6 it goes back to the original place? It was a normal
7 rectum that you examined?

8 A That's correct.

9 Q That's correct. And was this girl eight? How
10 old was she when you examined her?

11 A She was eight years old.

12 Q Okay. And just so the prosecution doesn't get
13 back up here, you have an explanation that hymen's can
14 regrow; right? That's your--

15 A The hymen can heal.

16 Q Can heal. But that -- that's a very small girl;
17 correct?

18 A Yes.

19 Q Okay. And but --

20 Will you stand up, David?

21 He's a rather large man?

22 A Yes.

23 Q Okay. And if, as I believe, if this little girl
24 had been, for lack of a better word, raped 20 or 30 times,
25 wouldn't you have expected the hymen to have been torn?

MARY FRAN CROSWELL-CROSS BY MR. YARBOROUGH

1 A So there can be tears in the hymen that have
2 been shown in the medical literature to heal.

3 Q Right.

4 A There can be types of contact with the genitalia
5 that may not involve full vaginal penetration.

6 Q Well, I'm not going to ask you how old you are
7 but I'm going to tell you I'm 63 years old, okay. Would
8 you agree men in 40, 50--

9 MRS. SUSTAKOVITCH: Your Honor, can we approach?

10 MR. YARBOROUGH: I'll ask the question a
11 different way.

12 MRS. SUSTAKOVITCH: Okay.

13 BY MR. YARBOROUGH:

14 Q There has been, historically, just as much
15 information saying that the hymen would be torn during sex
16 is not correct?

17 A That is not the case. In fact, there's a
18 medical study on pregnant teenagers who have normal intact
19 hymens. Which would show that it, you know, can be
20 penetrated without--

21 Q Can be? Can be?

22 A In that particular study, the majority of them
23 were.

24 Q No, I'm not -- I don't disagree with you about
25 your study, what I'm saying is I'm talking about somebody

MARY FRAN CROSWELL-CROSS BY MR. YARBOROUGH

1 that has been penetrated 20 or 30 times by a grown man.

2 Are you saying that the hymen would not be torn?

3 A Not -- depending on what penetration means and
4 that's why--

5 Q But -- but if the allegations are criminal
6 sexual conduct--

7 MRS. SUSTAKOVITCH: Your Honor --

8 MR. YARBOROUGH: Okay, can I --

9 MRS. SUSTAKOVITCH: -- allow the witness to
10 finish--

11 MR. YARBOROUGH: Sure, yeah, finish.

12 MRS. SUSTAKOVITCH: Badgering.

13 BY MR. YARBOROUGH:

14 Q If I was badgering you, I apologize. I'm sorry.
15 Go ahead and answer the question.

16 A So I think it's, again, depending on the
17 interpretation of penetration, on one hand. But there are
18 medical studies that show and follow children who have had
19 hymenal tears to the point that they're well healed and
20 without visible injury to the hymen. So, I can't tell you
21 that it was or wasn't torn. But what I can tell you is
22 that it was normal and that's still consistent with the
23 information that was provided to me by my patient.

24 Q Okay. But in your report you said it was a
25 crescent shaped hymen with smooth uninterrupted margins;

MARY FRAN CROSWELL-REDIRECT BY MRS. SUSTAKOVITCH

1 correct?

2 A That is correct.

3 Q And you said no vaginal discharge; correct?

4 A That's correct.

5 Q Normal anal sphincter tone without fissure. I
6 don't know what that word is. Fissure, what's that word?

7 A It's a small tear.

8 Q Okay, no tear?

9 A No tear.

10 Q No lacerations or bruising; correct?

11 A That's correct.

12 Q Okay, thank you. And I apologize if you felt
13 like I was badgering you, thank you.

14 THE COURT: All right, redirect?

15 MRS. SUSTAKOVITCH: Just very briefly.

16 REDIRECT EXAMINATION

17 BY MRS. SUSTAKOVITCH:

18 Q Dr. Croswell, so want to hit a few highlights.
19 Back to the study. There's various sexual battery in this
20 case that were concerns; correct?

21 A Yes.

22 Q All right, one by one. For vaginal/penial
23 contact, you just testified there's a study. Could you
24 tell us a little bit more about that with teenage girls
25 and the findings of that study?

MARY FRAN CROSWELL-REDIRECT BY MRS. SUSTAKOVITCH

1 A Yeah. So there was a study of pregnant
2 teenagers, teenage females, who had, obviously, been
3 penetrated in order to be pregnant. And I don't remember
4 the exact number but the majority of those, you know,
5 females had hymens that were appeared to be normal on
6 their exam.

7 Q And the mucosal tissue in the vaginal area, does
8 that repair itself quickly?

9 A Yes, it does.

10 Q As far as what you just relayed about children
11 don't always understand penetration, could you explain
12 that a little further related to the anatomy of a child?

13 A So, you know, if there's something going
14 through, you know, talk about the labia majora, labia
15 minora, there's something going through those tissues
16 touching the outside of the vaginal opening that may seem
17 like penetration, even though it may not penetrate fully
18 into the hymen, as adults think of penetration.

19 Q And moving on to an allegation of oral sex on a
20 child. If -- would you be surprised if there's no finding
21 if the allegation is a child being licked in their labia
22 area, would you expect to find anything?

23 A No, I would not.

24 Q Okay. And then with anal sex, you testified her
25 findings were normal?

MARY FRAN CROSWELL-RECROSS BY MR. YARBOROUGH

1 A Yes.

2 Q And as far as the anus, could you explain to the
3 jury, a little bit more, about why having a normal exam is
4 what you would expect there?

5 A Again, mucosal tissue, so it heals very rapidly.
6 And then just the way that the body is designed, there is
7 a muscle called the anal sphincter; which it relaxes to
8 allow objects to pass and then constricts back in its
9 normal state. So that ability to relax can occur for both
10 directions of things either entering the anus or leaving
11 the anus.

12 Q And would lubrication of some type assist in
13 also having a more excepted normal exam for the anal exam?

14 A It very well could.

15 MRS. SUSTAKOVITCH: No further questions, thank
16 you.

17 MR. YARBOROUGH: Just one question, Your Honor.

18 THE COURT: All right.

19 RECROSS-EXAMINATION

20 BY MR. YARBOROUGH:

21 Q You cited a study dealing with teenagers?

22 A Yes.

23 Q How old was this girl?

24 A She was eight.

25 MR. YARBOROUGH: Thank you.

MARY FRAN CROSWELL-RECROSS BY MR. YARBOROUGH

1 THE COURT: All right, thank you, you may step
2 down.

3 MRS. SUSTAKOVITCH: Your Honor, may this witness
4 be excused?

5 THE COURT: Any objection?

6 MR. YARBOROUGH: None at all, thank you.

7 MRS. SUSTAKOVITCH: Your Honor, may we approach
8 related to the next witness?

9 THE COURT: Yes.

10 (WHEREUPON, an off-the-record bench conference
11 was held in the presence of the jury but out of
12 the hearing of the jury.)

13 THE COURT: Ladies and gentlemen, we need to
14 take a short break, this is going to be a real short
15 break. As soon as I said that I probably jinxed it.
16 All right, go back in your jury room, don't discuss
17 the case, we'll bring you back out in just a few
18 minutes.

19 (WHEREUPON, the jury left open court at
20 approximately 2:15 p.m.)

21 THE COURT: All right.

22 MR. MILLER: Your Honor, I just want to bring to
23 the Court's attention, the next witness is
24 Investigator Shannon McHale and we have a Denno
25 hearing overall interview of The Defendant. The

1 State did proposed redactions, that we would address.
2 I've given the transcript of the x out where The
3 State has proposed redactions. Just wanted to make
4 sure that we're in agreement on what those redactions
5 are with The Defense before we get. . .

6 THE COURT: All right.

7 MR. YARBOROUGH: I didn't know that they gave me
8 what they were -- I've got something in my hand that
9 I think --

10 Is that what you're referring to? Just let me.

11 . .

12 THE COURT: It had disappearing ink and you have
13 to pour lemon on it before you could read it.

14 MR. MILLER: And, Judge, I'll say when it
15 references a polygraph--

16 THE COURT: Do you need to discuss that with
17 your client? You want a few minutes?

18 MR. YARBOROUGH: I mean, it looks to me like. .

19 .

20 THE COURT: Chat with him and then--

21 MR. YARBOROUGH: I don't think I have what
22 you're talking about.

23 MR. MILLER: This is our own trial preparation
24 work product.

25 THE COURT: Why don't y'all chat and figure it

1 out.

2 MR. MILLER: Judge, I guess while we're here
3 with the jury out, I believe there was a statement
4 made in regards that Mr. Yarborough had a Denno
5 hearing related to future a witness that we're not
6 doing yet. That would be Investigator Laura Jones
7 that we have the other Denno hearing related to about
8 there was a statement, I believe, Mr. Yarborough was
9 taking exception to, making a 403 argument about, in
10 regards to in the interview with Laura Jones of The
11 Defendant stating that, at one point, **Child** while
12 he was asleep, crawled into his bed and started to
13 perform oral sex on him. There are other statements
14 in that interview The State would seek to introduce,
15 we wanted to address that now while the jury was out.

16 THE COURT: And that's not related to this
17 witness?

18 MR. MILLER: No, that is a different witness. I
19 believe Mr. Yarborough said that he is fine with the
20 proposed redactions on this interview but while the
21 jury was out, didn't know if we wanted to go ahead
22 and discuss--

23 THE COURT: Is that your next witness?

24 MRS. SUSTAKOVITCH: Your Honor, the schedule--

25 MR. MILLER: The one after next.

1 MRS. SUSTAKOVITCH: I'm sorry to interrupt.
2 Just planning purposes, we've got Shannon
3 McHale, the mother of the victim and then
4 Investigator Laura Jones. And depending on where we
5 stop, I didn't know if we were going to get to the
6 forensic interview today, we can kind of look at
7 that. But the next three, if we could figure out if
8 there's any objection to the statements coming in.
9 One is this statement to Shannon McHale that was
10 already discussed. Then the mom will be next. Then
11 Investigator Laura Jones, Judge, that one was he came
12 in to take a polygraph. We certainly know that no
13 comments about the polygraph will be admissible. But
14 it was statements he made at the polygraph that The
15 State is seeking to elicit. Where he says he woke up
16 one morning and his child -- his daughter was
17 performing oral sex on him. The State is intending
18 to put that in.

19 MR. MILLER: In addition to other statements.

20 THE COURT: All right. And what's the basis for
21 putting that in?

22 MR. MILLER: The -- Investigator Laura Jones
23 there was a interview, there was a Waiver of Rights
24 form, he freely and voluntarily gave a statement as
25 well to Investigator Jones. That was the same one we

1 discussed earlier. The Denno hearing is they have
2 the equipment failure where there was the audio/video
3 but the equipment --

4 THE COURT: All right, we've already addressed
5 that one; right?

6 MR. MILLER: Well, there were statements, I
7 believe, Mr. Yarborough is -- then we went from a
8 Denno kind of went into a bit of a 403 that he wanted
9 to exclude that one specific statement, is the only
10 one I'm aware of, that that's the one The State would
11 seek to introduce as well as others but--

12 THE COURT: Right.

13 MR. MILLER: We did have a Denno hearing on that
14 but I don't know if there was the formal ruling as
15 far as Mr. Yarborough's 403 on that--

16 THE COURT: I think I just kind of, you know,
17 like wanted to get more into it. And the basis for
18 introducing that statement--

19 MR. MILLER: He's admitting to a sexual act with
20 the victim.

21 MR. YARBOROUGH: I don't think that's what he
22 admitted to, Your Honor. I think -- and that's the
23 problem, none of it is on tape. And, I mean, no
24 notes. It's just some report that was typed up
25 several days later. He doesn't -- he denies saying

1 that. You know, I think -- I was going to ask the
2 wife about what he said. I mean, I think they talked
3 about it at some point.

4 MR. MILLER: Judge, I would say that would be
5 weight of the evidence. And that would be for the
6 jury to consider and subject to cross-examination.
7 Not an admissibility argument under 403 or under
8 Denno, that would be purely weight of the evidence
9 for the jury to consider to give it any weight they
10 wanted to either way.

11 MR. YARBOROUGH: And didn't they say -- maybe I
12 misunderstood them. But I thought he was down there
13 to take a polygraph exam--

14 MRS. SUSTAKOVITCH: Judge, if I could clear this
15 up, I'm sorry. The mom in this case is going to
16 testify that after the allegations came out, that
17 this Defendant called her up and wanted to meet at
18 Barnes and Noble. And The Defendant told the
19 victim's mom about this incident. Where he woke up
20 and just all of a sudden, there's **Child** performing a
21 blow job on him. So he said that to the victim's mom
22 and she's going to testify to that.

23 Also, independently, with Investigator Laura
24 Jones, The State's seeking admission of that to law
25 enforcement. Because the jury can decide whether or

1 not to believe the victim's mom. They can sit there
2 and weigh that and witness credibility and believe
3 anything they want. But the fact that he said the
4 same thing in the situation that he did after waiving
5 his rights and voluntarily coming down, that
6 statement should come in to Laura Jones. Because
7 he's saying the same thing. Now, while he's going to
8 try to argue it's an accident or--

9 MR. YARBOROUGH: Accident--

10 MRS. SUSTAKOVITCH: Or he's the victim. I guess
11 he's the victim of his own daughter. That he woke up
12 and was just -- but those statements come in, Judge.
13 Because The State -- clearly, he's admitting to being
14 involved in a sexual act, which is the substance of
15 what we're here for. And it's going to be The
16 State's position, frankly, it's preposterous what
17 he's saying. But that's why it needs to come in from
18 law enforcement as well. Because he stated that
19 after waiving Miranda, freely and voluntarily. And
20 that would be why The State would seek to admit it.

21 THE COURT: Mr. Yarborough.

22 MR. YARBOROUGH: Your Honor, I think it's
23 extremely prejudicial and it doesn't go--

24 THE COURT: I mean, isn't all the evidence that
25 The State's presenting prejudicial?

1 MR. YARBOROUGH: You know, that's--

2 THE COURT: I mean, isn't that the whole purpose
3 of the prosecution?

4 MR. YARBOROUGH: It is the purpose of the
5 prosecution but they are certain rules to protect The
6 Defendant. And I think in this case there are rules
7 that -- that -- this goes beyond anything that --
8 that statement -- if that statement was made to law
9 enforcement there should have been some -- should
10 have been taped, there should have been some notes,
11 there should have been something. I can argue that
12 to the jury but just having that police officer
13 testify that that's what he said is extremely
14 prejudicial under the circumstances. As I
15 understand, he was down there to take a polygraph.
16 And it was like why would she say this or something
17 like that? I think that's right. And that's what he
18 told them. I mean, it's -- it's -- you know -- so we
19 can't put the whole -- because the polygraph
20 information not coming in, we can't do the whole --
21 whole -- put it all in together so they understand
22 the facts and circumstances of why he might have said
23 that. And so it -- yeah, it goes to the weight and
24 it is prejudicial. And so I'd ask The Court not to
25 allow it.

1 THE COURT: Well, I mean, I believe that that's
2 the basis, I'm going to deny -- I'm going to overrule
3 your objection.

4 MR. YARBOROUGH: Oh and I--

5 MRS. SUSTAKOVITCH: Thank you, Your Honor.

6 MR. YARBOROUGH: -- I go back into my -- I
7 forgot, I wanted to say that violates the
8 confrontation clause because there's nothing --
9 there's nothing there that -- he -- he can't question
10 her, all she's got is some report that she wrote two
11 days later.

12 THE COURT: I mean, confrontation clause is
13 confront the witness. And you do have the ability to
14 do that.

15 MR. YARBOROUGH: Well, I can't confront the
16 witness with it because I don't have any notes.

17 THE COURT: Well, you can cross-examine her.

18 MR. YARBOROUGH: Thank you, Judge.

19 THE COURT: All right, anything else?

20 MR. MILLER: Nothing from The state.

21 THE COURT: All right, ready for the jury?

22 MR. YARBOROUGH: Yes, sir.

23 THE COURT: All right, State's ready for the
24 jury?

25 MRS. SUSTAKOVITCH: Yes, sir.

1 THE COURT: All right, bring the jury in.

2 (WHEREUPON, the jury entered open court at
3 approximately 2:28 p.m.)

4 THE COURT: While the --

5 Do you expect Galloway-Williams, is that going
6 to be your last witness tomorrow?

7 MRS. SUSTAKOVITCH: Yes, sir, and it will be
8 tomorrow morning.

9 THE COURT: Okay.

10 All right, State may call your next witness.

11 MR. MILLER: Thank you, Your Honor, may it
12 please the Court. The State calls Investigator
13 Shannon McHale.

14 SHANNON MCHALE, after being duly
15 sworn[,] testified as follows: {F}

16 THE CLERK: Please be seated. State your name
17 for the record.

18 THE WITNESS: Shannon McHale.

19 DIRECT EXAMINATION

20 BY MR. MILLER:

21 Q Investigator McHale, where are you employed?

22 A I'm currently employed at the Greenville County
23 Sheriff's Office.

24 Q And how long have you been with sheriff's
25 office?

SHANNON MCHALE-DIRECT BY MR. MILLER

1 A Coming up on eight years.

2 Q What were you doing before the sheriff's office?
3 Educational background?

4 A I attended Greenville -- oh, sorry. I attended
5 Georgia College State University where I double majored in
6 political science and criminal justice. I worked in the
7 private sector before eventually working in law
8 enforcement.

9 Q What is your current role with the sheriff's
10 office?

11 A I'm an investigator in the homicide unit.

12 Q Okay. What other roles have you had?

13 A Prior to coming into the homicide unit I was
14 initially hired at the sheriff's office working uniform
15 patrol. And then after that I was an investigator with
16 the Crimes Against Children Unit in the Special
17 Investigation Division.

18 Q Okay. And were you -- what unit were you in in
19 2019?

20 A The Crimes Against Children Unit.

21 Q And a little bit about that unit, how do cases
22 come to the Crimes Against Children Unit?

23 A There's three primary ways. We can get a report
24 made to law enforcement, uniform patrol goes out there,
25 either calls an investigator or gets referred out to the

SHANNON MCHALE-DIRECT BY MR. MILLER

1 division for investigation is one. We can have a walk-in
2 either to our specific office or the front desk at the law
3 enforcement center. Or we can also receive a DSS
4 referral.

5 Q Okay. And are you familiar with this case?

6 A Yes.

7 Q Why are you familiar with it?

8 A I was the lead investigator.

9 Q How did this case come to you?

10 A We received a DSS referral.

11 Q And are you familiar with David Jones?

12 A Yes.

13 Q Do you see him in the courtroom here today?

14 A Yes.

15 Q And could you point him out?

16 A He's sitting over there wearing a blue shirt.

17 MR. MILLER: Your Honor, let the record reflect
18 the witness has identified The Defendant.

19 THE COURT: Yes.

20 BY MR. MILLER:

21 Q You said you got a DSS report?

22 A Yes.

23 Q And when you get a report like this, what kind
24 of response do you need to do?

25 A We consider this, essentially, an emergency

SHANNON MCHALE-DIRECT BY MR. MILLER

1 response, it needs to be addressed immediately. And is
2 consistent with DSS zero to two policy.

3 Q And what kind of call was it that came in? What
4 type of case?

5 A It was allegations of sexual abuse.

6 Q Okay. So where did you respond initially? Or
7 did you go and respond, did you do any prior work before
8 that?

9 A When we received the information, I conducted a
10 check with our system to see if it had been reported
11 previously to law enforcement at all. That's where I
12 learned of the address involved in this incident and did
13 some background check there.

14 Q What's the address there?

15 A Address in Simpsonville.

16 Q What county is that in?

17 A That's in Greenville County.

18 Q What was the background check or history check?

19 A In researching call history, I learned that
20 there was a fire that had occurred at the beginning of
21 April 2019.

22 Q And did you select the meeting location?

23 A No.

24 Q Who did?

25 A DSS.

SHANNON MCHALE-DIRECT BY MR. MILLER

1 Q When you responded to the scene who was present?

2 A When I initially responded to the scene it was
3 myself, Dyneshia Kilgore with DSS and two deputies with
4 uniform patrol.

5 Q What is everybody's role at the scene?

6 A DSS conducts their own separation investigation
7 for the department of social services. And the uniform
8 patrol deputies are there for scene security and officer
9 presence.

10 Q So is this you?

11 A Yes.

12 Q Who is this?

13 A That's Dyneshia Kilgore with DSS.

14 Q Here?

15 A One of the uniform patrol deputies.

16 Q Where are y'all right now?

17 A We are at the corner of Rio Grande and Carl
18 Street and actually in the yard of Address.

19 Q Okay. And what's going on at that moment in
20 time?

21 A We are waiting on the Jones to arrive and I
22 believe they're pulling up in that video.

23 Q Who are you expecting to arrive?

24 A Marita Jones, the mother, and potentially the
25 children.

SHANNON MCHALE-DIRECT BY MR. MILLER

1 Q So you weren't expecting anybody else?

2 A No.

3 Q You weren't expecting -- did you see the picture
4 earlier in court of that that showed everybody who
5 arrived?

6 A Yes.

7 Q So that was not how you were expecting this to
8 go?

9 A Correct.

10 Q When they arrived, what's the first step you do?

11 A I briefly make contact with the family and
12 really focusing on **Child** And separated her from Marita
13 and David and speak to her one-on-one separately.

14 Q So you speak to **Child** separately?

15 A Yes.

16 Q Why do you want to speak with her separately?

17 A To let her not be influenced by anyone, not have
18 any of the adults answer the questions for her, to kind of
19 put her in a neutral area and not to have her distracted
20 at all.

21 Q Okay. And when you're talking with her, is this
22 a full interview?

23 A It's just a brief interview, introduction to
24 myself and just to kind of confirm a crime did occur.
25 Nothing extensive.

SHANNON MCHALE-DIRECT BY MR. MILLER

1 Q Okay. And you were able to speak with her
2 alone?

3 A Yes.

4 Q Okay. And where was everybody else located?

5 A They were on one side of the property near the
6 vehicles. I had stepped over with [Child] to a separate
7 area on the side of the property.

8 Q Okay. While you were speaking with [Child] and
9 if it was disclosed, do not say the name of the
10 perpetrator, but did [Child] disclose to you that she had
11 been the victim of sexual assault?

12 A Yes.

13 Q Having heard that, what are the next steps that
14 you need to take in your investigation?

15 A After her initial disclosure, our plans would be
16 to set up a forensic interview through the Julie Valentine
17 Center. We would also, initially on scene, of course,
18 speak with the parents, kind of get some background
19 information. Advise them what the next step is in this
20 investigation.

21 Q Okay. So getting information, does that sort of
22 fulfill your reason for the initial response?

23 A Yes.

24 Q Okay. And you mentioned the forensic interview,
25 what is a forensic interview?

SHANNON MCHALE-DIRECT BY MR. MILLER

1 A A forensic interview is a special interview
2 conducted with the children. It's conducted by a
3 certified individual. It's done by a third party. It's
4 neutral and fact finding.

5 Q Okay. And I want to go back to when you said
6 **Child** did disclose that she was sexually assaulted. If
7 it was disclosed, without saying the name, did **Child** give
8 the name of the person that had performed the sexual
9 assault?

10 A No.

11 Q Okay. So you said after speaking with **Child**
12 who did you go speak with next?

13 A I then met with Marita and David. And Dyneshia
14 Kilgore was present as well.

15 Q Okay. So in that discussion, it was -- just to
16 be clear, it was you, Dyneshia Kilgore, Marita Jones and
17 David Jones?

18 A Yes.

19 Q Okay. And what is that conversation typically
20 about? What's going on there?

21 A That's to explain the allegations. To kind of,
22 again, go over the next steps in the investigation, to
23 obtain background information, contact information.

24 Q Okay. At this point, was anybody able to leave
25 where y'all were? Leave the house, leave the yard?

SHANNON MCHALE-DIRECT BY MR. MILLER

1 A No one was under arrest.

2 Q Okay. What about the uniform patrol officers?

3 A So, at that point in time, because my invest --
4 in speaking with **Child** and speaking with the parents, I
5 went and contacted -- spoke with uniform patrol, the two
6 deputies there and advised them that they were free to
7 leave and go back and be available for service and answer
8 more calls.

9 Q Okay. Why, at that point in time, did you feel
10 that you didn't need them there anymore?

11 A We were just planning on finishing up some
12 paperwork with DSS and the family.

13 Q So you were expecting this interaction to be
14 over fairly soon?

15 A Yes.

16 Q Okay. Was it?

17 A No.

18 Q Okay. So after you spoke with the uniform
19 officers, what were the next steps you took?

20 A I then went back over to Marita and David and
21 spoke to them.

22 Q Okay. After you spoke with them, did you speak
23 with anybody else?

24 A Yes, I walked back over to **Child** standard
25 process, kind of let them know, hey, thank you for

SHANNON MCHALE-DIRECT BY MR. MILLER

1 speaking with me. And that just because we're done here
2 doesn't mean you won't be seeing me again.

3 Q Did you ever speak with [ZJ]?

4 A At that point, no.

5 Q Okay.

6 A After speaking with [Child] yes.

7 Q After you spoke with [Child] yes?

8 A Yes.

9 Q And who was present this time when you were
10 speaking with [Child]

11 A Dyneshia Kilgore.

12 Q Okay. Was there any difference in [Child]
13 demeanor in this time that you were speaking with her?

14 A Yes. The first time she was uncertain, nervous,
15 not forthcoming with certain information. Specifically,
16 related to who the individual was. Who had sexually
17 abused her. The second time I spoke with her she was much
18 more forthcoming with both answers and details.

19 Q And without stating the name during this
20 interaction with [Child] where it was just you, Dyneshia
21 Kilgore and [Child] did [Child] give the name of the person
22 who had been sexually abusing her?

23 A Yes.

24 Q And did -- you said [Child] gave more information
25 about the types of sexual abuse?

SHANNON MCHALE-DIRECT BY MR. MILLER

1 A She did.

2 Q Okay. And after this interaction you went and
3 spoke with [ZJ]?

4 A Yes.

5 Q Okay. What were you -- generally, what did you
6 want to speak with [ZJ] about?

7 A It was due to some of the stuff [Child] had
8 spoken with me to speak to [ZJ].

9 Q Okay. Would this had been a full on interview
10 as well?

11 A No.

12 Q After you speak with [ZJ], is there anyone else
13 you speak with?

14 A We then meet with the parents. Specifically, I
15 spoke with Marita.

16 Q How did that interaction come about?

17 A When I went to speak with the family, Marita
18 gave us indication that she wanted to speak with me and
19 Dyneshia Kilgore one-on-one.

20 Q Okay. So I just want to be clear, this
21 interaction were you having now with just yourself,
22 Dyneshia Kilgore and Marita?

23 A That's correct, yes.

24 Q And because the situation did not go how you
25 think it would go, the uniform officers, were they around

SHANNON MCHALE-DIRECT BY MR. MILLER

1 anymore?

2 A No, they had already been available for calls
3 and left the scene.

4 Q Okay. So there wouldn't have been any other
5 adult around, other than The Defendant, that would have
6 been present around the children?

7 A Correct.

8 Q And I want to talk a little bit about Marita.
9 Did her demeanor change at all in this interaction?

10 A Yes.

11 Q How so?

12 A When I first interacted with her, Marita almost
13 appeared to have a front. This time when I spoke with her
14 she was quieter, whispering -- when she tried to get away
15 from David to speak with us one-on-one, she began to
16 whisper and talk quieter.

17 Q Was Marita more forthcoming with information?

18 A Yes.

19 Q Okay. About how long did that interaction take
20 place?

21 A Approximately 14 minutes.

22 Q Okay. And after that interaction, do you speak
23 with anybody else?

24 A After speaking with Marita again, I go over and
25 speak with **Child** one last time.

SHANNON MCHALE-DIRECT BY MR. MILLER

1 Q Okay. And what do you go and speak with **Child**
2 about?

3 A This time the conversation was investigation on
4 scene was over. And again, I was going to just kind of
5 let her know what was going on.

6 Q Okay. And what was **Child** demeanor like?

7 A She was visibly upset, nervous and wanted to
8 speak with me about something.

9 Q And were you in the courtroom earlier for
10 **Child** testimony?

11 A Yes.

12 Q And did you hear what was played over the audio?
13 I believe it would have be State's Exhibit 22?

14 A Yes.

15 Q Okay. Is that the last interaction you had with
16 **Child**

17 A Yes.

18 Q Where she gave that statement?

19 A Yes.

20 Q Okay. After that interaction with **Child** what
21 happened? What do you do next?

22 A After I speak with **Child** really, at that
23 point, we again wrapped it up. And allowed Marita, David,
24 **ZJ** and **Child** to leave.

25 Q Is there any type of plan that's put into place?

SHANNON MCHALE-DIRECT BY MR. MILLER

1 A Yes, we implement -- DSS implements what's
2 called a safety plan.

3 Q What, in general, is a safety plan?

4 A A safety plan is kind of an agreement put in
5 place with the family listing that Marita would need to
6 take care of making sure that other than the ride home,
7 David would have no more interactions with **Child**

8 Q So David having no more interactions with
9 **Child** that was the result of that safety plan?

10 A Yes.

11 Q Where were Marita, **ZJ** and **Child** going to go?

12 A They were going to go to Marita's mother and
13 father's house located at 1 Moreland Place or Way.

14 Q Okay. And Investigator McHale, before we move
15 on, I need to go back. I'm sorry, I meant to ask you a
16 question, I didn't. Going back to the initial
17 conversation you had with **Child**

18 A Uh-huh.

19 Q Where I believe you stated she did not -- she
20 did not identify who did the assault. Was she giving
21 any -- what was her demeanor? What was going on with her
22 there? What was her demeanor?

23 A So during my first interaction with her she was
24 willing to speak briefly about the assault but unwilling
25 to identify who the abuser was. However, when I was

SHANNON MCHALE-DIRECT BY MR. MILLER

1 speaking with her, I noted that she kept glancing over
2 towards her father.

3 Q Did you bring that to her attention?

4 A Yes.

5 Q And then what was **Child** demeanor like after
6 you did that?

7 A She appeared shocked and upset.

8 Q Okay. So now I want to go back to after the
9 safety plan's in place, you then leave Address?
10 Place?

11 A Yes.

12 Q Okay. And I believe you stated Marita, **ZJ** and
13 **Child** are going to live with Marita's parents?

14 A Yes.

15 Q And are you aware of the physical health,
16 whether Marita's parents are living or not?

17 A Unfortunately, at this time, both grandparents
18 are deceased.

19 Q And what -- was this the final steps, was this
20 everything that you did as part of your investigation?

21 A No.

22 Q What else happened in your investigation?

23 A I sent referrals to the Julie Valentine Center
24 for what's called a forensic medical exam and a forensic
25 interview.

SHANNON MCHALE-DIRECT BY MR. MILLER

1 Q And did you have an opportunity to meet with The
2 Defendant?

3 A Yes.

4 Q How did that come about?

5 A Well, on scene speaking with Mr. Jones, we
6 arranged to speak on the 22nd at the Special
7 Investigations Division office.

8 Q Was he forced to with speak you?

9 A No.

10 Q Okay. Did anybody promise him anything to speak
11 with you?

12 A No.

13 Q Did he want to speak with you?

14 A Yes.

15 Q Did he speak with you on his own freewill?

16 A Yes.

17 Q Speak with you voluntarily?

18 A Yes.

19 Q And you interviewed him on the 22nd?

20 A Yes.

21 Q Where did the interview take place?

22 A In our SID office in county square.

23 (WHEREUPON, State's Exhibit No. 27 was marked
24 for identification only.)
25

SHANNON MCHALE-DIRECT BY MR. MILLER

1 BY MR. MILLER:

2 Q Investigator McHale, I'm handing you a disk, do
3 you recognize this disk?

4 A Yes.

5 Q What is it?

6 A It is a copy of the interview with David Jones.

7 Q Have you viewed it?

8 A Yes.

9 Q How do you know that you viewed it?

10 A I have my initials on the disk.

11 Q And other than anything subject to court rulings
12 and rules of evidence, is that a true and accurate copy of
13 the interview?

14 A Yes.

15 Q Does it appear to be tampered with in any way?

16 A No.

17 MR. MILLER: Your Honor, at this time, The State
18 would move State's Exhibit, I believe, it's exhibit
19 25 -- 27 into evidence.

20 THE COURT: All right, subject to --

21 MR. YARBOROUGH: Yes, sir, subject to my
22 previous objection.

23 (WHEREUPON, State's Exhibit No. 27 was admitted
24 into evidence.)
25

SHANNON MCHALE-DIRECT BY MR. MILLER

1 BY MR. MILLER:

2 Q And while that's loading up I just want to ask
3 you a couple questions. So again, was -- when you were
4 interviewing David Jones on this day, was he in custody?

5 A He was not in custody.

6 Q Okay. Was he free to leave at any time?

7 A Yes.

8 Q Did he appear lucid to you?

9 A Yes.

10 Q Clear minded?

11 A Yes.

12 Q Under the influence of any drugs or alcohol?

13 A No.

14 (WHEREUPON, State's Exhibit No. 27 was
15 published.)

16 BY MR. MILLER:

17 Q Who's that on the screen?

18 A That was myself on the screen.

19 Q And David Jones understood that you were a
20 police officer?

21 A Yes.

22 Q Investigation McHale, I believe y'all were
23 talking about the type of work Mr. Jones was doing?

24 A Yes.

25 Q What type of work was he doing?

SHANNON MCHALE-DIRECT BY MR. MILLER

1 A He was a private security officer.

2 Q Okay.

3 (WHEREUPON, State's Exhibit No. 27 was continued
4 to be published.)

5 THE COURT: Counsel, I think -- I don't think
6 anybody can hear well.

7 A JUROR: It's a little loud.

8 THE COURT: Really having trouble hearing what
9 he's saying. Maybe cut it down a little bit, see if
10 that. . .

11 (WHEREUPON, State's Exhibit No. 27 was continued
12 to be published.)

13 THE COURT: Can y'all hear it?

14 (WHEREUPON, members of the jury panel shook
15 their heads.)

16 THE COURT: Pause it, let's pause it.

17 (WHEREUPON, an off-the-record bench conference
18 was held in the presence of the jury but out of
19 the hearing of the jury.)

20 THE COURT: I mean, I think everybody agrees
21 that we're having difficulty hearing that. Whether
22 it was loud, I turned it down, that didn't help any.
23 They have something they may be able to do but we're
24 going to have take a break to figure that out. So --
25 but I think it's important that we should be able to

SHANNON MCHALE-DIRECT BY MR. MILLER

1 hear this. So let's take a break, don't discuss the
2 case and we'll bring you back out as soon as we got
3 everything worked out. Thank you.

4 (WHEREUPON, the jury left open court at
5 approximately 2:54 p.m.)

6 MRS. SUSTAKOVITCH: Judge, we can turn up the
7 audio file right now and see if it's better? Then
8 we'll do the redactions if you think it is. I
9 apologize.

10 THE COURT: So this is just the audio?

11 MRS. SUSTAKOVITCH: Yes, sir. The one you just
12 watched that has audio/video and then there's a file
13 that's just audio. I think the audio sounds better
14 but.

15 (WHEREUPON, technical difficulties were being
16 worked out.)

17 THE COURT: All right, let's just briefly go
18 back on the record and we'll take a break.

19 So you can step down if you need to. But before
20 you step down, you already started your testimony so
21 you cannot discuss your testimony with attorneys or
22 anybody. All right. Otherwise, you can step down.

23 (WHEREUPON, a short break was taken.)

24 THE COURT: All right, you can come on up.

25 Is everybody okay? My understanding is we are

SHANNON MCHALE-DIRECT BY MR. MILLER

1 now putting up the audio file only. Y'all have
2 redacted it, you reviewed it and everybody's good
3 with it?

4 MR. YARBOROUGH: Yes.

5 MR. MILLER: Yes, sir.

6 THE COURT: All right. So do we -- and you've
7 listened to it, y'all going to lay the foundation?

8 MR. MILLER: Yes, sir. And I put the clerk --
9 or the court reporter get it premarked and we'll lay
10 the foundation and play it.

11 MR. YARBOROUGH: You'll explain to the jury when
12 you're explaining to them that we couldn't hear that
13 one --

14 THE COURT: Right --

15 MR. YARBOROUGH: -- that he would be sitting
16 there talking to her if--

17 THE COURT: Right. I'm going to tell them I
18 took a nap and that's why it took so long. I'll take
19 the blame. All right.

20 Okay, The State ready for the jury?

21 MRS. SUSTAKOVITCH: Yes, sir.

22 MR. YARBOROUGH: Yes, sir.

23 THE COURT: And I'll just tell them exactly what
24 we we're doing.

25 MRS. SUSTAKOVITCH: Right.

SHANNON MCHALE-DIRECT BY MR. MILLER

1 THE COURT: Yeah.

2 MRS. SUSTAKOVITCH: Our IT guy says it's base or
3 something, I don't think.

4 THE COURT: Yeah.

5 Okay, bring the jury in.

6 (WHEREUPON, the jury entered open court at
7 approximately 4:00 p.m.)

8 (WHEREUPON, State's Exhibit No. 28 was marked
9 for identification only.)

10 THE COURT: I told them I was going to tell
11 y'all I would take the blame and say I took a nap but
12 that wouldn't be true. Sometimes our technological
13 ability does not keep pace with the technology. Let
14 me just tell you exactly what they were doing. They
15 were not able to correct the video where you could
16 hear it. So what we've done -- what they've done is
17 that now you will hear just the audio of the video.
18 And my understanding it's a lot clearer. But they
19 had to -- what took us so long was they had to make
20 sure that the audio file was the same as the video
21 that they agreed on was going to be put in the
22 record. So that's kind of what they had to do and so
23 that's what took all the time there. So you will
24 hear an audio. It's the same video that you just saw
25 but it will be the audio, okay. So thank you for

SHANNON MCHALE-DIRECT BY MR. MILLER

1 your patience.

2 All right, with that being said, you may
3 continue.

4 MR. MILLER: Thank you, Your Honor.

5 BY MR. MILLER:

6 Q Investigator McHale, showing you a disk that's
7 been premarked as State's Exhibit 28, do you recognize it?

8 A Yes.

9 Q How do you recognize it?

10 A It has my signature on it.

11 Q What it is?

12 A It's a audio copy -- it's a copy of the audio
13 recording of my interview with Mr. Jones.

14 Q So that is the audio copy of that video that we
15 started?

16 A Yes.

17 Q It's the same audio?

18 A Yes.

19 Q It is a true and accurate copy?

20 A Yes.

21 Q Has it appeared to be tampered with in any way?

22 A No.

23 Q Other than for court rulings?

24 A Yes.

25 Q Thank you.

SHANNON MCHALE-DIRECT BY MR. MILLER

1 At this time, Judge, The State would move
2 to admit State's Exhibit 28 into evidence.

3 THE COURT: Any objection?

4 MR. YARBOROUGH: No, sir.

5 (WHEREUPON, State's Exhibit No. 28 was admitted
6 into evidence.)

7 (WHEREUPON, State's Exhibit No. 28 was
8 published.)

9 BY MR. MILLER:

10 Q Investigator McHale, you were just talking to
11 The Defendant about other males that **Child** would be
12 around; correct?

13 A Correct.

14 Q And was his answer to that, There weren't any
15 other that he can think of.

16 Is that correct?

17 A Correct.

18 (WHEREUPON, State's Exhibit No. 28 was continued
19 to be published.)

20 BY MR. MILLER:

21 Q Investigator McHale, you were just questioning
22 there The Defendant if they had sex discussions with

23 **Child**

24 A Yes.

25 Q And his response to that was?

SHANNON MCHALE-DIRECT BY MR. MILLER

1 A Not sex discussions just touching discussions.

2 Q Thank you.

3 (WHEREUPON, State's Exhibit No. 28 was continued
4 to be published.)

5 BY MR. MILLER:

6 Q Investigator McHale, you were again asking about
7 other males coming in the house, why are you asking about
8 that?

9 A To identify possibly if there was another
10 individual who was sexually abusing her.

11 Q And his response about the other males that were
12 coming was that -- were there any others around?

13 A None unsupervised around them.

14 Q Okay.

15 (WHEREUPON, State's Exhibit No. 28 was continued
16 to be published.)

17 BY MR. MILLER:

18 Q Investigator McHale, just a few more questions.
19 I believe you testified earlier that you also set up a
20 medical exam for **Child**

21 A Yes.

22 Q Did you attend the medical exam?

23 A No.

24 Q I believe you stated earlier that you also set
25 up a forensic interview for **Child**

SHANNON MCHALE-DIRECT BY MR. MILLER

1 A Yes.

2 Q Did you attend the forensic interview for

3 Child

4 A Yes.

5 Q When was -- do you recall about how far off the
6 forensic interview occurred date was?

7 A Let me check my notes real quick. I believe it
8 was set up for May -- May 1st.

9 Q It is typical for a little time, that's not a
10 great amount of time, that's about two weeks, is that
11 standard?

12 A That is standard.

13 Q Okay. And I believe you also testified earlier
14 a little bit about what a forensic interview is. But why,
15 again, do you request a forensic interview?

16 A To again ensure that the child is being
17 interviewed in a proper way by a independent third party,
18 who is going to be asking neutral fact-finding questions
19 in a non leading way.

20 Q And I believe, also, are you the only person
21 that spoke with The Defendant?

22 A Yes.

23 Q Did any other officer speak with The Defendant?

24 A Law enforcement, no.

25 Q Laura Jones?

SHANNON MCHALE-DIRECT BY MR. MILLER

1 A Yes, sorry. During my interview I was the only
2 one present. Investigator Jones did interview him at a
3 later date.

4 Q Sorry, I didn't ask that clearly for you. And I
5 believe you heard testimony earlier that the grandparents
6 house is at 1 Moreland Way in Simpsonville?

7 A Yes.

8 Q What county is that in?

9 A Greenville County.

10 Q Greenville County, okay. And did you ever,
11 through your investigation, hear about an incident with a
12 Easter egg and [REDACTED]?

13 A Yes.

14 Q What is your knowledge about that?

15 A Mr. Jones had provided a Easter egg to David --
16 or sorry. Mr. Jones had provided a Easter egg to [REDACTED]
17 shortly after this investigation had begun. I believe
18 Easter Sunday was actually right after our investigation
19 had begun. He had provided this to [REDACTED]. Marita did get
20 the Easter egg. And in it had instructions about checking
21 an email.

22 Q Did you -- would that be [REDACTED]'s email?

23 A Yes.

24 Q Did you attempt to check [REDACTED]'s email?

25 A Yes.

SHANNON MCHALE-CROSS BY MR. YARBOROUGH

1 Q Were you able to locate anything of evidentiary
2 value?

3 A The email had been deleted by the time I was
4 made aware of it.

5 Q And were you able to recover the email?

6 A No.

7 MR. MILLER: Please answer any questions that
8 Defense Counsel may have.

9 MR. YARBOROUGH: Quickly, Your Honor. I'll be
10 short.

11 THE COURT: Okay.

12 CROSS-EXAMINATION

13 BY MR. YARBOROUGH:

14 Q My client, Mr. Jones, came down and freely and
15 voluntarily gave you a statement?

16 A Yes.

17 Q And you're the chief investigator in this case?

18 A Yes.

19 Q And you sat down and talked to him, he answered
20 all your questions?

21 A Yes.

22 Q And that was the tape of that interview or kind
23 of the video tape or whatever. And you're aware that
24 there had been a fire at that house; correct?

25 A Yes.

SHANNON MCHALE-CROSS BY MR. YARBOROUGH

1 Q Did you do any investigation at the house?

2 A No, sir.

3 Q Okay. And did -- you discussed the Easter egg
4 thing, that was between David and his son; right?

5 A That's correct, yes.

6 Q Okay. And you don't know anything more about it
7 other than that; right?

8 A Correct.

9 MR. YARBOROUGH: Okay, I don't have any further
10 questions, thank you.

11 THE COURT: Any redirect?

12 MR. MILLER: No, Your Honor.

13 THE COURT: Thank you, you may step down.

14 All right, it's 15 till 5:00, it's really not
15 time to start another witness, at this time. So
16 we'll go ahead and break for the day and start back
17 at 9:30 in the morning. Is that good with everybody?
18 My four rules, don't discuss the case among
19 yourselves or anybody. Don't do any type of research
20 about anything involved in this case. Please
21 disregard any media coverage or social media about
22 this. And if anybody contacts you other than
23 somebody from the clerk's office, please let the
24 bailiffs know. All right, y'all have a good evening
25 and I will see y'all in the morning.

1 (WHEREUPON, the jury left open court at
2 approximately 4:44 p.m.)

3 THE COURT: All right, for planning purposes,
4 witnesses, how many witnesses?

5 MRS. SUSTAKOVITCH: Your Honor, we have four
6 more witnesses. One being the forensic interview.

7 THE COURT: So the morning should be. . .

8 MRS. SUSTAKOVITCH: Yes, sir.

9 THE COURT: The way we're going may go into
10 Friday.

11 MRS. SUSTAKOVITCH: We can go quicker. Yes, we
12 have Investigator Jones, who's not that long.

13 THE COURT: And, I guess, we'll, you know,
14 hopefully get this to the jury tomorrow. So do y'all
15 have any -- do y'all have any charges? Just pretty
16 much what we had last time.

17 MR. YARBOROUGH: Yeah, I'll grab that charge you
18 did last time, I thought that was good.

19 THE COURT: I'll let y'all look at it before we
20 do that. All right, anything else before we break
21 for the day?

22 MRS. SUSTAKOVITCH: No, sir, we're going to
23 check the forensic interview before we leave to make
24 sure the audio is correct.

25 THE COURT: Okay.

1 Anything else from The Defense?

2 MR. YARBOROUGH: No, sir.

3 THE COURT: All right, have a good evening.

4 (WHEREUPON, the proceedings were concluded for
5 the day to be reconvened on June 7, 2023.)

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1 June 7, 2023

2 THE COURT: All right, The State ready?

3 MRS. SUSTAKOVITCH: Your Honor, there's one
4 issue we want to bring up with The Court, the first
5 witness is Marita Jones, she is Marita Murray now,
6 the mother of the Victim, **Child** The State is
7 planning to introduce two brief parts of jail calls
8 that were made when this Defendant -- shortly after
9 he was arrested. He was arrested on the 3rd and
10 these two calls are on the 4th. We just wanted to
11 let Your Honor know that we intend to say that these
12 were shortly after he was arrested and we want to
13 make sure there's no objection from Defense Counsel.
14 Jail calls come in all the time. The fact that
15 somebody goes to jail when they're arrested is
16 normal. And I think that -- I don't know where The
17 Defense is going in this case but these calls
18 certainly show that the mom was supportive of The
19 Defendant when he got arrested. She was telling him
20 not to break, to stay strong for the family. Those
21 are relevant because of where I anticipate this case
22 may go.

23 THE COURT: All right.

24 Mr. Yarborough.

25 MR. YARBOROUGH: Your Honor, my -- my concerns

1 were that at the end of -- at the end of both of them
2 I think you can kind of hear that blurb that Securus
3 or whatever the name of the company that has it. And
4 they also remark on the outside there it says, Jail
5 calls. If -- if The Court will tell the jury that
6 they were made when he was arrested so that there's
7 not some kind of idea that he's been sitting in jail
8 for a long time because that would be improper.

9 THE COURT: Well, I mean, I think the way
10 they're going to introduce them would be like this
11 was within a few days of--

12 MRS. SUSTAKOVITCH: It was the very next day.

13 THE COURT: Right.

14 MR. YARBOROUGH: Okay.

15 THE COURT: And --

16 MR. YARBOROUGH: Yeah, that's fine if that's
17 clear.

18 THE COURT: All right. Yes.

19 MRS. SUSTAKOVITCH: Okay.

20 THE COURT: Good morning, how are you?

21 All right, so The State's ready?

22 MRS. SUSTAKOVITCH: Yes, sir.

23 THE COURT: Defense ready?

24 MR. YARBOROUGH: Yes, sir.

25 THE COURT: All right, when the jury is ready

1 bring them in.

2 (WHEREUPON, the jury entered open court at
3 approximately 9:55 a.m.)

4 THE COURT: All right, ladies and gentlemen, I
5 hope everybody had a good evening. We're now back,
6 still in The State's case. Sorry about the delay, we
7 had a few things to go over. Maybe I should tell
8 y'all to come at 10:00 but then it will be 10:30, so
9 sorry about that. That happens.

10 Anyway, at this time then, The State call your
11 next witness.

12 MRS. SUSTAKOVITCH: Thank you, Your Honor, may
13 it please the Court. The State calls Marita Jones,
14 now Murray.

15 THE CLERK: Please raise your right hand.

16 MARITA MURRAY, after being duly

17 sworn[,] testified as follows: {F}

18 THE CLERK: Thank you, please be seated. State
19 your name for the record.

20 THE WITNESS: May name is Marita Murray.

21 DIRECT EXAMINATION

22 BY MRS. SUSTAKOVITCH:

23 Q Mrs. Murray, you can -- can I call you Marita?

24 A Yes.

25 Q Can you pull the microphone just towards you?

MARITA MURRAY-DIRECT BY MRS. SUSTAKOVITCH

- 1 A Okay.
- 2 Q All right. Where were you born, ma'am?
- 3 A Where was I born?
- 4 Q Yes.
- 5 A Born in New Jersey.
- 6 Q All right. Do you have any children?
- 7 A I do.
- 8 Q What are their ages?
- 9 A They are 12 and 15.
- 10 Q All right. Can you tell me their names?
- 11 A Child and ZJ.
- 12 Q Now, Child what is her date of birth?
- 13 A Her date of birth is 2010
- 14 Q How old is she now?
- 15 A She's 12.
- 16 Q And what about ZJ, when is his birthday?
- 17 A It's tomorrow, it's 2007
- 18 Q So ZJ turns 16 tomorrow?
- 19 A Tomorrow.
- 20 Q All right. So I want to get a little background
- 21 so the jury knows about you. Tell me about where all you
- 22 lived growing up?
- 23 A I've lived in several places. I've lived in New
- 24 Jersey, Maryland, Virginia. My daddy was military so we
- 25 moved a lot.

MARITA MURRAY-DIRECT BY MRS. SUSTAKOVITCH

1 Q All right. How old are you now?

2 A I am 44 years old.

3 Q All right. And when did you move to South
4 Carolina, Marita?

5 A We moved to South Carolina several times. So
6 the last time, 1997. No, no, no, 1994, maybe.

7 Q All right. Do you know The Defendant in this
8 case, David Jones?

9 A I do.

10 Q How do you know him?

11 A He was my husband.

12 Q When did you meet him?

13 A I meet him June 6th, 2006.

14 Q And can you tell me a little bit about how you
15 met him?

16 A Yes. We met -- I knew of him in Irmo High
17 School. He was -- he went -- I didn't talk to him at that
18 time but I saw him in Barnes & Noble's in Columbia, South
19 Carolina and that's where we met. Where we officially
20 met.

21 Q How old were you when you met?

22 A I think I was 26.

23 Q All right. And what were you doing in Columbia?
24 Were you working, things like that?

25 A Yeah, I lived and worked in Columbia, at the

MARITA MURRAY-DIRECT BY MRS. SUSTAKOVITCH

1 time.

2 Q Okay. So going back a little bit further before
3 we talk about this Defendant and your life with him, where
4 did you go to high school?

5 A I went to school at Irmo High School.

6 Q And did go to college somewhere?

7 A I did. I went to Winthrop University in Rock
8 Hill?

9 Q Did you have any post graduate studies?

10 A I did.

11 Q What was your degree in?

12 A Master's in -- Master's in Business in
13 Accounting.

14 Q And where was that from?

15 A That was from University of Phoenix.

16 Q All right. So going back to you graduate
17 college, what's your first job?

18 A My first job is TD Bank. Well, it was Carolina
19 First Bank, at that time.

20 Q All right. Taking you to when you met this
21 Defendant. Again, tell me how you met him.

22 A I went to Barnes & Noble's and saw him in the
23 computer section. And then I went to the Christian
24 section and we kind of ran into each other at that time.

25 Q And how would you characterize when you met him,

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1 was this love at first sight, did you, you know, did you
2 date a long time prior to getting married?

3 A We did not date a long time at all prior to
4 getting married. It wasn't love a first sight but we had
5 a good time, you know. Once I met him, he seemed like
6 such a great guy.

7 Q How long did you date him before you got
8 married?

9 A Two and a half months.

10 Q When did you get married?

11 A August 26, 2006.

12 Q All right. All right. So during the first
13 years of your marriage, did this Defendant work?

14 A He worked on and off, yes.

15 Q And tell me about that.

16 A He would work at -- he does -- he's extremely
17 great when it comes to computers so had a lot of side jobs
18 doing his computers but he worked at Wal-Mart security.
19 And he worked, I think, Best Buy at one time, loss
20 prevention. But he more so did more things on the side.
21 He didn't keep the jobs that long when he was working for
22 people.

23 Q Now, did you think this Defendant was a police
24 officer?

25 A He told me later that he used to be a police

MARITA MURRAY-DIRECT BY MRS. SUSTAKOVITCH

1 officer.

2 Q Okay. Were aware that he was not a police
3 officer that attended the academy?

4 A No, I didn't know that.

5 Q Okay. I want to move forward to Greenville.
6 When did you move to Greenville?

7 A We moved to Greenville, I want to say it was
8 around maybe 2012.

9 Q And how old was **Child** at the time?

10 A She was -- well, she was a arm baby. I call it
11 arm baby, younger than one, I believe.

12 Q Okay. And so you moved to Greenville, why did
13 you move here?

14 A For a job promotion.

15 Q And where did you move when you moved here?
16 What part of Greenville?

17 A I moved to the Mauldin area.

18 Q When you say I, was it your whole family?

19 A Our whole family.

20 Q All right. So you moved to Mauldin, and what's
21 your job at that time?

22 A I was a credit underwriter, at the time.
23 Commercial credit underwriter at TD Bank.

24 Q All right. So when the kids get to school age,
25 where did you -- where did **Child** go to school?

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1 A [Child] went, I believe, it was Greenbrier. I
2 believe it was in Mauldin at Greenbrier Elementary School.

3 Q What about [ZJ], where did he go to school?

4 A He was at Greenbrier Elementary School, as well.

5 Q Okay. Did you ever live at Address?
6 place?

7 A Yes, we did.

8 Q Okay. And tell me about that, when did you buy
9 that house?

10 A We bought that house, I think it was
11 October 2017.

12 Q All right. We've seen pictures introduced into
13 evidence, tell me about the house. Were you proud of the
14 house, was it a nice house for y'all?

15 A We were so existed. It was -- to us it was a
16 beautiful home. It was in a neighborhood that we were
17 trying to get into. It was supposed to be a good
18 neighborhood, a gated neighborhood, it was really nice.

19 Q Was this the nicest --

20 A It was two --

21 Q Okay, go ahead, I'm sorry.

22 A -- two story.

23 Q Okay. Was this the nicest house you lived in?

24 A At the time, it was the nicest house we lived
25 in.

MARITA MURRAY-DIRECT BY MRS. SUSTAKOVITCH

1 Q All right. So describe to the jury the layout
2 of the house. What was the house like? First floor you
3 come in and what are we going to be looking at?

4 A Okay, first floor you come in --

5 Q You can look at -- yeah --

6 A Okay, first floor when you come in, on the right
7 was like a living area and then there were stairs. You go
8 straight ahead, on the left-hand side was the kitchen, on
9 the right-hand side was like a living room. Then we had
10 the stairs that kind of go up and around. And then there
11 was one, two, three, four bedrooms upstairs. Along with
12 the washer and dryer. So **Child** room was over here.
13 Then what we call the Man Cave was on the left-hand side.
14 **ZJ**'s room and then our master bedroom in the back.

15 Q And just so I understand the Man Cave, who built
16 the Man Cave or put all the stuff in there for the Man
17 Cave?

18 A Oh, that was David.

19 Q We've seen some video of the Man Cave, was that
20 where David liked to hang out?

21 A Oh yeah, it was nice.

22 Q And what all did he have in there?

23 A He had several computers and arcade. He had one
24 of those beds that can be a sofa or a bed, like sofa bed.
25 And he had a table.

MARITA MURRAY-DIRECT BY MRS. SUSTAKOVITCH

1 Q Uh-huh.

2 A He had several desks, several chairs. One time
3 he had a birdcage, decorations. It was an ultimate Man
4 Cave.

5 Q Okay. What, if anything, did the children do in
6 the Man Cave?

7 A They actually studied up there. At some point,
8 it was around 2018, they started being homeschooled.

9 Q Uh-huh.

10 A So their school time was in there. If we had --
11 if we wanted to have like a family night, it was in there.
12 Because he had like a big screen so we could look at
13 movies, play games, we did a lot things up there.

14 Q Would ZJ n and Child in this homeschooling,
15 where would you be when he would be homeschooling the
16 kids?

17 A We had someone -- I was in the morning. I was
18 at work during the morning.

19 Q And for work, did you -- where -- did you work
20 outside the home or?

21 A Yeah, I worked at the bank at 200 Carolina
22 Parkway.

23 Q And again, which bank was it?

24 A That was TD Bank.

25 Q And with your job, apart from going into the

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1 office, did you go into the office every day?

2 A Yeah, pretty much.

3 Q Monday through Friday?

4 A Yeah, Monday through Friday. I'm an early bird
5 so I would get there about 7:00, before anybody. I
6 usually would turn on the lights, not leave around 6:00,
7 5:00 or 6:00.

8 Q So during the times that you would leave and go
9 to work, who are the children left in the care and custody
10 of?

11 A They were with David.

12 Q And did you have any concern that **Child** might
13 be being abuse by David during these times that you left
14 the house?

15 A No.

16 Q What about travel, did you travel with your job?

17 A I did. I had to travel quite a bit. I had to
18 travel to New Jersey, Maine and Canada often for my job.

19 Q And during the times that you traveled, who kept
20 the children?

21 A David.

22 Q All right. You gave me the address for the
23 house, Address?

24 A Rio Grande Place.

25 Q What county is that in?

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1 A That is in Greenville County.

2 Q All right. Do you still live in that house?

3 A No.

4 Q So what happened with that house?

5 A On April 1st we had a fire.

6 Q Of what year, ma'am?

7 A April 1st, 2019.

8 Q Okay. And the fire, we've seen pictures entered
9 into evidence related to the fire, but it destroyed the
10 Man Cave; correct?

11 A Yes, it did.

12 Q And it damaged other rooms in the house?

13 A Yes, it did.

14 Q Do you have any clue how that fire started, what
15 happened there?

16 A We still don't know. I -- I -- they said it
17 might have be been electrical but we just don't know.

18 Q So after the fire on April 1st, 2019; were you
19 guys able to stay in the home or did you have to go
20 somewhere else?

21 A No, we had to go somewhere else. We were
22 primarily at my daddy and mom's house.

23 Q And did you get any help from agencies?

24 A Yes.

25 Q Tell me about that.

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1 A They would give us -- they gave us, like, if we
2 wanted to stay in a hotel sometimes, like, stuff for food.

3 Q Who is they?

4 A American Red Cross, primarily. But we had other
5 areas. There were churches that helped, as well. Because
6 we lost everything.

7 Q All right. And just so I'm clear on the
8 timeline, the fire was April 1st, 2019. How long did you
9 guys live at Address prior to the fire? How
10 many years would you guesstimate?

11 A I would say -- it was October 2017, '18,
12 maybe -- maybe a year and a half.

13 Q Okay. And so you were living there prior in
14 2017 into '18?

15 A Uh-huh.

16 Q And then the fire is in '19?

17 A In '19, exactly.

18 Q And then when once the fire happens, where did
19 you go again?

20 A Primarily, it was my parents house, 1 Moreland
21 Way.

22 Q And the kids went with you?

23 A Oh, yeah.

24 Q In that house -- tell me about your father, was
25 he able to get around or did he have some disability?

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1 A So daddy had one leg, he lost it in the service
2 when he was 19. So he was primarily in a wheelchair but
3 he could walk on crutches. He was 82, at the time.

4 Q And is your father still living?

5 A No, lost daddy in 2020.

6 Q I'm sorry. As far as your mother, what's her
7 name.

8 A Marcilla Dickson.

9 Q Is she living?

10 A She just passed.

11 Q And when did she pass?

12 A She passed January 17th.

13 Q Of this year?

14 A Of this year.

15 Q All right. Were there times at 1 Moreland Way
16 that the children were left in the care and custody of
17 this Defendant alone?

18 A Yes.

19 Q All right. I want to fast forward to -- is
20 there a time -- you testified that you were not aware that
21 **Child** was being sexually abused by David Jones for years
22 at the Address. Did you become aware -- did she
23 finally disclose to you that she was being abused at some
24 point?

25 A She did.

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1 Q All right. And without stating the identity of
2 the perpetrator, if she gave you one, I want you to talk
3 us through that disclosure. Where you were when you found
4 out that **Child** had been the victim of sexual abuse?

5 A I was in the Publix parking lot in Mauldin.

6 Q And who was with you?

7 A In the car, at the time, it was me, **ZJ** and
8 **Child**

9 Q Where was David Jones?

10 A In Publix.

11 Q What was he doing in Publix?

12 A Getting us some food. It was raining that day
13 so he offered to run in there so we didn't all have to go
14 in.

15 Q All right. Without stating what **Child** said to
16 you, did **Child** disclose to you, at that point, that she
17 had been sexually abused?

18 A She did.

19 Q And was she clear on -- without stating the
20 identity, was she clear on the identity of who did it?

21 A She was.

22 Q Your reaction to this is what?

23 A Shock.

24 Q Okay. Was **ZJ** able to hear when **Child**
25 disclosed that she had been sexually abused?

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1 A Yes.

2 Q What was **ZJ**'s reaction that you saw in your
3 presence?

4 A He was -- don't say what he said; right?

5 Q Right, that's hearsay, you can't. But what was
6 his reaction?

7 A Was--

8 Q Was he calm, was he upset, was--

9 A He knew before I did, so.

10 Q Oh, okay. He knew about it before you did?

11 A Right.

12 Q Okay. You mean prior to that day at Publix?

13 A Prior to that day.

14 Q Okay. But you find out in the car. Do you
15 remember, was it a Friday night, Saturday night, when was
16 it?

17 A That was on Saturday night.

18 Q Okay. So David Jones comes -- you find out this
19 information, David Jones come back to the car. Do you
20 confront him --

21 A No --

22 Q -- and say I just heard this?

23 A No.

24 Q Why not?

25 A Because I first wanted to get her checked out at

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1 a doctor. So I was like I just wanted to get her checked
2 out first. My first thought was a doctor can tell me
3 what's happening. I just thought that was the best move,
4 that would be Monday.

5 Q I want to fast forward to April 15th, Monday,
6 April 15th.

7 A Okay.

8 Q You get up that morning, what do you do?

9 A Me and **Child** go -- if you go before eight
10 o'clock, they'll see you and you don't have to get an
11 appointment. So we went there early to get a visit. At
12 the time, she was having some issues with her tonsils, so
13 used that as the excuse. So we went to see the doctor --

14 Q So when you say use that as an excuse, you were
15 really wanting to find out about the sexual abuse?

16 A Absolutely.

17 Q And you figured the doctor would be able to
18 check it out?

19 A Oh yeah, I thought she could do it.

20 Q All right. So did you, in fact, meet with the
21 doctor that morning?

22 A I did.

23 Q And you said it was around 7:00 that you went,
24 you went early?

25 A Yes, went early.

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1 Q Do you recall the pediatrician's name?

2 A I do, yes, Dr. Bhatia.

3 Q Okay. So you meet with Dr. Bhatia, without
4 stating the identity of the perpetrator, do you disclose
5 to her the information that you found out from **Child**

6 A I do.

7 Q Okay. At this point, do you remember how you
8 were acting?

9 A Yes.

10 Q What was going on with you?

11 A I asked to move to a different room. And I was
12 telling her what she told me. I did not tell her who it
13 was until later.

14 Q All right. And don't want to get into what
15 other people said because that's hearsay. What was your
16 reaction at this point? Are you talking to Dr. Bhatia,
17 are you calm, are you upset, what are you?

18 A I'm crying. I had to look strong in front of
19 the kids. But when I moved away from her, I couldn't stop
20 crying.

21 Q All right. So Dr. Bhatia talks to you?

22 A Uh-huh.

23 Q And does Dr. Bhatia explain to you what she can
24 and can't do?

25 A Uh-huh.

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1 Q All right. And so then do you come back --

2 Child not with you; is that correct?

3 A She's not, she's in the other room.

4 Q Okay. Do you go back in the room where Child
5 is?

6 A I do, I make sure I don't look like I've been
7 crying and go back in the room.

8 Q And then does Dr. Bhatia talks with Child and
9 concludes that visit?

10 A Uh-huh.

11 Q All right. And so was your goal of being able
12 to have her give a thumbs up, thumbs down on sexual abuse,
13 did that work out for you or was that not the way it
14 worked?

15 A That's not the way it works.

16 Q All right. So were you told -- what was the
17 name of the pediatrics office?

18 A Parkside Pediatrics.

19 Q Did -- what, if anything, did you understand
20 about Parkside and what they were going to have to do with
21 notifying authorities?

22 A I understood that -- she told me about JVC and I
23 understood that she was going to have to report it.

24 Q All right. So I want to -- so you knew that
25 police and DSS were going to be called? Did you know

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1 that?

2 A Yeah, it wasn't -- I guess I wasn't that clear
3 until they actually called me.

4 Q Yep.

5 A But I didn't know what having to report meant.

6 Q Okay. Give me one second.

7 MRS. SUSTAKOVITCH: Your Honor, could I see the
8 screen?

9 THE COURT: Yeah.

10 BY MRS. SUSTAKOVITCH:

11 Q All right. So, Marita, sorry, that's a little
12 blurry. Now, do you see -- is this your car back there in
13 a distance?

14 A Yes.

15 Q And do you recognize this lady?

16 A Yes, she was the DSS lady.

17 Q And do you recognize the lady right here?

18 A Yes, that's the detective.

19 Q Do you see her in the courtroom?

20 A I do.

21 Q All right. So, at this point, why were you
22 coming back to the house?

23 A Because I received a call from DSS and she was
24 like come here now. So okay, let's go.

25 Q All right. And then we just have a few more

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1 pictures of them waiting on you guys?

2 A Okay.

3 Q All right. So you get out of the car and is
4 this **Child**

5 A Yes, that's **Child** That's David.

6 Q All right. And then do you see **ZJ**?

7 A That's **ZJ**.

8 Q At this point, does David Jones know that
9 they're about to ask him about whether he sexually abused
10 **Child**

11 A I can't remember.

12 Q All right. So you get there and do you recall
13 talking with DSS?

14 A Uh-huh.

15 Q Was David Jones with you?

16 A He was right beside me.

17 Q Okay. Do you recall seeing **Child** go off with
18 Investigator McHale?

19 A (The witness nods.)

20 Q And speak with her?

21 A I do.

22 Q And do you recall having seeing -- or let me ask
23 you this. At some point, do you ask Investigator McHale
24 and Dyneshia Kilgore to speak privately with them?

25 A I do.

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1 Q And why are you trying to speak privately with
2 them?

3 A Because I wanted to tell them truthfully what I
4 was told.

5 Q Okay. And without stating the identity of the
6 perpetrator, did you, in fact, tell them the information
7 that you had been given related to who the perpetrator was
8 and the details of the abuse?

9 A I did.

10 Q All right. During this conversation with
11 Kilgore and with McHale, it's the three of you; correct?

12 A Right.

13 Q Where is David Jones and **Child**

14 A They're over on the side kind of far away.
15 They're near the -- maybe near the detective, I'm not
16 sure. It's far enough away where they couldn't hear.

17 Q All right. Okay. They couldn't hear what you
18 were saying to them but it is -- isn't it also true, you
19 couldn't hear what David Jones might be saying to **Child**
20 correct?

21 A No, no, no.

22 Q All right. I want to go back to after this
23 abuse is disclosed on that day 4/15, fast forward to the
24 next weekend. What is the next weekend?

25 A Next weekend, might have been around Easter.

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- 1 Q Right. Did you go to church on Easter Sunday?
- 2 A I did.
- 3 Q And did ZJ go to church?
- 4 A Yes.
- 5 Q And did Child go to church?
- 6 A She did.
- 7 Q Who did they go to church with?
- 8 A It was me.
- 9 Q And was David Jones going to church?
- 10 A He ended coming to church, yes.
- 11 Q Did you have contact with David Jones?
- 12 A Yes.
- 13 Q Can you tell me about that?
- 14 A Yes. I took Child to the children's church.
- 15 For whatever reason, ZJ's church was -- they were going
- 16 to be with us in the main place. And we ran into David.
- 17 And he gave an Easter egg to him. I think it had some
- 18 candy in it --
- 19 Q And this is on Easter Sunday?
- 20 A Easter Sunday, yes.
- 21 Q A plastic egg, real egg?
- 22 A Plastic egg.
- 23 Q Okay.
- 24 A Plastic egg with like candy in it.
- 25 Q And let me ask you this before we go forward.

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1 Based on what DSS told you, is David Jones supposed to
2 have any contact with --

3 A No --

4 Q -- ZJ ?

5 A No.

6 Q Or Child at this point?

7 A No.

8 Q Okay. Go ahead.

9 A I, said, You cannot, you cannot.

10 So he already went and sat on a different
11 pew.

12 Q Yep.

13 A I took the -- I took the egg that he'd given to
14 ZJ.

15 Q And did ZJ get a chance to open it?

16 A He never saw it.

17 Q He didn't get to open it and see what was
18 inside?

19 A No.

20 Q All right. So you open it and what happens?

21 A There was a piece of candy and a small piece of
22 paper in it that said, When you go home, pull up your
23 Connections email.

24 Q Okay. And the note was from who?

25 A That was from David.

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1 Q So the note says, Go home and check your
2 Connections email. This was supposed to get to [ZJ] not
3 you; right?

4 A Right.

5 Q So do you go home? What do you do with that
6 information?

7 A I go home and I pull up [ZJ]'s Connections
8 email. I never let [ZJ] know there was the paper in it.

9 Q Okay. And when you pulled up the email, what,
10 if anything, did you see?

11 A I saw a note to [ZJ].

12 Q What did it say?

13 A It said, Tell [Child] to tell them it was all a
14 dream and that she's not in trouble. Save me.

15 Q Okay. Did [ZJ] ever read that note?

16 A He never read that note.

17 Q After you intercepted the egg?

18 A Yeah.

19 Q What, if anything, happened to that email?

20 A I deleted that email.

21 Q Why did you delete it?

22 A I didn't want him to ever see it because he was
23 not supposed to be talking to him.

24 Q All right. So this is Easter Sunday. I want to
25 go with medical exams. Were you present on April 24th,

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1 2019 when [Child] saw Dr. Mary Fran Croswell?

2 A Yes, ma'am, I was.

3 Q All right. And did you take her to that
4 appointment?

5 A I did.

6 Q I want to fast forward to May 1st, 2019. Did
7 you take [Child] to her forensic interview?

8 A I did.

9 Q And were you allowed to stay in the room for
10 that?

11 A No.

12 Q Were you allowed to ever view that forensic
13 interview?

14 A I have never seen it to this day.

15 Q You haven't seen it to this day?

16 A No.

17 Q So you don't truly know the full scope of abuse
18 to [Child] at this point?

19 A I only know what the pieces she told me.

20 Q Okay. After the investigation began on
21 April 15th, when you guys went to Parkside Pediatrics,
22 David Jones was not allowed to be around the kids;
23 correct?

24 A No.

25 Q Where did he go? Where did he go live?

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1 A He lived in between his office, he had a
2 business office and he had recently gotten a contract in
3 Spartanburg that they actually gave him an apartment to
4 live in.

5 Q All right. So during this time, what are your
6 feelings? Are you calm, are you confused? What is going
7 on in Marita's brain?

8 A I was operating as shock, love and stupidity.

9 Q Uh-huh.

10 A Looking back.

11 Q Uh-huh.

12 A I'm trying to be super mom, super protector.
13 I'm protecting everybody.

14 Q Okay. Did you after that initial date of 4/15,
15 have additional personal, one-on-one, contact with David?
16 Did you meet with him somewhere?

17 A I did.

18 Q Tell me about how you came in contact with The
19 Defendant.

20 A He reached out to me and I agreed after work one
21 day to meet him at La Parrilla and we had dinner.

22 Q What kind of restaurant is La Parrilla?

23 A It's a Mexican restaurant.

24 Q Okay.

25 A And then after that we went to Barnes & Noble's

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1 and sat outside on a bench. Am I allowed to say?

2 Q Yeah. Okay, so at this point, you sit on a
3 bench, does David Jones talk to you and give you
4 information?

5 A He told me he had been praying. This whole time
6 I'm encouraging him, please, please, please, pray, pray
7 pray.

8 Q And before we get into this, can I just,
9 timeline wise, from April 15th, how far into this
10 investigation is this?

11 A This is probably like in the middle.

12 Q He hasn't been arrested yet or anything?

13 A No, no.

14 Q They're still looking in the case.

15 A They're still looking into the case.

16 Q Okay, go ahead.

17 A In fact, it was right before **Child** forensic
18 interview. Her forensic interview was coming up.

19 Q Her forensic interview was coming up?

20 A Right.

21 Q Okay. Did David Jones reach out to you and want
22 to have this dinner and meet?

23 A Right.

24 Q All right. Did he call you up or how did y'all
25 meet?

MARITA MURRAY-DIRECT BY MRS. SUSTAKOVITCH

1 A He called me.

2 Q All right. So we're now on a park bench at
3 Barnes & Noble's, what happens next?

4 A So he tells me, says he's been praying and God
5 told him that he needed to confess.

6 Q Okay.

7 A He said he did not do this.

8 Q Okay.

9 A He specified that.

10 Q Uh-huh.

11 A He said but he should have told me when this
12 happened. But he said, You know we sleep naked; right?

13 I said, We do not sleep naked.

14 He said, Oh, okay, we sleep naked. He said
15 one day that he was laying in the bed sleeping naked. And
16 he woke up and **Child** had her mouth on him. And he said,
17 You know when a man wakes up in the morning that he has to
18 pee. So he peed in her mouth. And he said, Marita, you
19 know I don't never whip her but I whipped her that day.

20 Q I want to be clear I understand this. What he
21 needs to confess to you is he's saying you weren't there?

22 A I wasn't there.

23 Q And he's asleep in his room?

24 A He's asleep in his room.

25 Q And he wakes up?

MARITA MURRAY-DIRECT BY MRS. SUSTAKOVITCH

1 A She snuck in, he said she snuck in.

2 Q And **Child** performing oral sex on him?

3 A Yes, she's performing oral sex on him.

4 Q And he's surprised?

5 A And he's floored. He's surprised. And he said,
6 Marita, I -- I whipped her that day. And he said she said
7 she wanted to show him that she loved him.

8 Q He said that **Child** said she wanted to show him
9 love.

10 A That she loved him.

11 Q Okay. So -- and he said that he whipped her?

12 A He said, I whipped her.

13 Q Did you, at any time -- and did he say it left
14 bruising or anything like that on her?

15 A No, no bruising.

16 Q Okay. So after this story about the oral sex,
17 that he's kept to himself, did he tell you anything else
18 that we need to know?

19 A He also stated that, you know, I think one time,
20 also, that I gave her a comic book that had some stuff in
21 it.

22 Q Okay. So this is important to David to tell you
23 about the oral sex and the comic book?

24 A Uh-huh.

25 Q Okay. All right. I want to move forward. I

MARITA MURRAY-DIRECT BY MRS. SUSTAKOVITCH

1 have to ask some private stuff about your sexual relations
2 with your ex husband.

3 A Uh-huh.

4 Q Did you guys ever have sex in the closet?

5 A We did not have sex in the closet.

6 Q Did you ever, when you moved in to Address

7 Address, do something called christening the house, the
8 closet?

9 A No, we did not christen the house.

10 Q Did you christen the house in the bedroom, ever?
11 Like, have sex in there and call it christening the house?

12 A We had sex in the bed.

13 Q Right. Did you ever christen the house?

14 A No, we did not christen the house.

15 Q Okay. Did you engage with anal sex with him?

16 A No, I did not. That's exit only for me. And he
17 said the same thing, that that would -- he said, oh,
18 that's too gay. That's what he would say.

19 Q So he did not want to engage in anal sex with
20 you?

21 A Right. He said he didn't -- he -- well, he
22 would play like he was to going and say, ha, ha, I'm just
23 kidding, just kidding.

24 Q As far as you, kind of hate to be this personal,
25 but do you engage in anal sex?

MARITA MURRAY-DIRECT BY MRS. SUSTAKOVITCH

1 A No, no. For me that's exit only.

2 Q All right. Oral sex, were you having oral sex
3 with him?

4 A Very little. I'm very bad at it and he's very
5 bad at it.

6 Q Vaseline, did you ever use Vaseline in your
7 house?

8 A He used a lot of Vaseline which was unnecessary
9 because I produce a lot. So I would even ask him why are
10 you always using Vaseline? Which was very confusing to me
11 because I produce a lot.

12 (WHEREUPON, State's Exhibits Nos. 29 & 30 were
13 marked for identification only.)

14 BY MRS. SUSTAKOVITCH:

15 Q Marita, I'm -- so after the investigation was
16 completed, were you aware that this Defendant was --
17 naturally, he was charged; correct?

18 A Yes.

19 Q Shortly after he was arrested, did you, in fact,
20 speak to him when he was first arrested?

21 A I did.

22 Q I'm showing you what's marked as State's Exhibit
23 29 and 30. Do you recognize what I'm showing you?

24 A Yes.

25 Q How do you recognize what I'm showing you?

MARITA MURRAY-DIRECT BY MRS. SUSTAKOVITCH

1 A I initialed them.

2 Q Okay. And what are these?

3 A These are calls made to him.

4 Q All right. And were these -- was your voice on
5 this call?

6 A Yes, my voice is on those calls.

7 Q And is his voice on those calls?

8 A Yes, his voice is on those calls.

9 Q Okay. And do these fairly and accurately
10 represent the portion of the calls that you listened to?

11 A They do.

12 MRS. SUSTAKOVITCH: Your Honor, at this time,
13 The State moves to admit State's 29 and 30.

14 THE COURT: Any objection?

15 MR. YARBOROUGH: No, sir, Your Honor. And I
16 believe that we agreed that they would stipulate that
17 these were the day of the arrest.

18 MRS. SUSTAKOVITCH: It was the very next day.

19 MR. YARBOROUGH: Very next day.

20 THE COURT: All right.

21 (WHEREUPON, State's Exhibits Nos. 29 & 30 were
22 admitted into evidence.)

23 BY MRS. SUSTAKOVITCH:

24 Q Before we play them, so he's arrested and I
25 think you testified you're confused, there's a lot going

MARITA MURRAY-DIRECT BY MRS. SUSTAKOVITCH

1 on with you?

2 A Uh-huh. I'm trying to protect everybody.

3 Q You're trying to protect everybody?

4 A Uh-huh.

5 MRS. SUSTAKOVITCH: Okay, go ahead.

6 Is the volume all the way up, Judge?

7 THE COURT: Yes.

8 MRS. SUSTAKOVITCH: Okay. These calls are hard
9 to listen to.

10 (WHEREUPON, State's Exhibit No. 29 was
11 published.)

12 MRS. SUSTAKOVITCH: Okay, can you play the next
13 one?

14 (WHEREUPON, State's Exhibit No. 30 was
15 published.)

16 BY MRS. SUSTAKOVITCH:

17 Q Marita, he's just been arrested for sexually
18 assaulting your daughter. And you sound like you're
19 supporting him, telling him not to break. Help me
20 understand what's going on.

21 A Early on I, like I said earlier, I operated in
22 shock, stupidity and love. I became almost his mom too.
23 So I'm on the side, I'm hearing the kids crying, Daddy's
24 not to going to jail, Daddy's not going to go to jail, he
25 just needs help, he just needs help. And I'm like, okay.

MARITA MURRAY-DIRECT BY MRS. SUSTAKOVITCH

1 And he's calling me and he's been my best friend, what I
2 consider my best friend, for 13, 14 years. And I'm like,
3 okay, don't break. We believe God, we believe God. I
4 look back now and I hear the stupidity. I couldn't then.
5 I had -- that's early on. I hadn't lived **Child** suicide
6 attempts. I hadn't lived through any impact. I hadn't
7 gone further so I -- I was different then.

8 Q You said you hadn't lived through **Child**
9 suicide attempts, can you tell the jury the impact you
10 observed through the years on **Child**

11 A It took her about a year, I'd say about the same
12 time for me, but it took her a year to realize he had --
13 took her a year to realize what was done to her was wrong.
14 Throughout the years, she had started cutting herself.
15 She had times where she wanted to kill herself--

16 MR. YARBOROUGH: Your Honor, I'm going to
17 object. I think--

18 MRS. SUSTAKOVITCH: We can move alone.

19 THE COURT: Yeah, sustained.

20 BY MRS. SUSTAKOVITCH:

21 Q Moving along, so are you still married to David
22 Jones?

23 A No, I'm not married to him.

24 Q When was your divorce final?

25 A It was final, I think, January 2021. COVID made

MARITA MURRAY-CROSS BY MR. YARBOROUGH

1 it -- made us -- took a long time. It was a long time for
2 the process.

3 Q So even though these jail calls was right when
4 he's arrested, you're saying, Don't break, we're going to
5 stick together. You ended up realizing that you need to
6 divorce?

7 A Oh, yeah, yeah. I knew then. I told him ahead
8 of time. We knew. I -- yeah, I knew we were going to
9 divorce.

10 Q Are you remarried now?

11 A I am remarried.

12 Q And who is your new husband?

13 A He's over there.

14 Q What's his name?

15 A His name's Sebastian.

16 Q Okay. And as far as **Child** does she appear to
17 be coping better now?

18 A Oh, yeah.

19 MRS. SUSTAKOVITCH: Please answer any questions
20 that the Defense Counsel has.

21 THE COURT: Cross-examination?

22 MR. YARBOROUGH: Certainly.

23 CROSS-EXAMINATION

24 BY MR. YARBOROUGH:

25 Q Good morning, how are you?

MARITA MURRAY-CROSS BY MR. YARBOROUGH

1 A I'm okay.

2 Q Nice to see you again. You don't -- don't
3 really know anything about this particular case except for
4 what happened after you were told about it; right?

5 A I don't understand your question.

6 Q What I'm saying is that your knowledge of
7 everything is like you said, it was in the Publix parking
8 lot forward?

9 A Right.

10 Q Okay. And it shocked you; right?

11 A Yes.

12 Q Okay. And, at that point, you took **Child** to
13 one doctor, the doctor on that morning you were talking
14 about. And they -- they disclosed that's how the next
15 thing happened. You didn't learn anymore information at
16 that point; right? You didn't -- there was no
17 confirmation or denial?

18 A No confirmation or denial.

19 Q Right. So -- so they said that you needed to
20 talk to somebody else. So you took -- you took **Child** to
21 another doctor?

22 A I did.

23 Q Right. And, at that point, there was no
24 confirmation one way or another, they said you should go
25 to the Julie Valentine Center; right?

MARITA MURRAY-CROSS BY MR. YARBOROUGH

1 A Well, the Julie -- I thought consult was at the
2 Julie Valentine Center.

3 Q That doctor was at the Julie Valentine Center?

4 A I think she was connected, I believe so. It's
5 been so long.

6 Q Okay, okay. So she was -- well, you know,
7 it's -- it's a while ago. But anyway, after that you go
8 and -- and it's like Mrs. Sustakovitch just said to you,
9 you weren't present for the forensic interview, that was
10 just something that happened later; right?

11 A Uh-huh.

12 Q And throughout this process you -- you said you
13 were supporting David early on; right?

14 A I did.

15 Q But there was significant problems in your
16 marriage before any of this came up; right?

17 A No.

18 Q Was there not a -- did y'all not have some
19 fights about some girl that David was supposedly seeing at
20 this Skateland?

21 A Oh, that was back in 2016.

22 Q Okay.

23 A We're talking 2019. Now, by that time, we
24 cleared.

25 Q But you were upset with him for being

MARITA MURRAY-CROSS BY MR. YARBOROUGH

1 unfaithful; right?

2 A At 2016 when that occurred, when I found out,
3 that same day I thought he had a heart attack, so we kind
4 of -- like, he went down, he had called the ambulance. So
5 when something like that happens, it kind of shifted.
6 Like, he had gotten where he stopped talking to her. So
7 listen, it wasn't something that was. . .

8 Q So he had medical issues from 2016 until?

9 A No, that day when I found out, his response was
10 like a heart.

11 Q Okay. But there was problems in your -- that
12 was a problem in your marriage; right?

13 A Cheating, yeah.

14 Q And you didn't want him to have -- you didn't
15 want him to have that contract out there anymore?

16 A What contract?

17 Q The one at Skateland where he was doing the--

18 A Oh, yeah, I wanted him to get rid of that way
19 before then because it just wasn't the best one. But
20 that -- that didn't. . .

21 Q But that was -- he was a -- he did security for
22 places like that; right? He did security--

23 A Yeah, that's his business.

24 Q -- for where y'all lived. He was a security
25 guard?

MARITA MURRAY-CROSS BY MR. YARBOROUGH

1 A Yes, that was his business, yes.

2 Q And he had done security at, I think you said
3 Wal-Mart, Best Buy, some other places. And, at some
4 point, he actually worked for the Richland County
5 Sheriff's Office; right?

6 A Yes.

7 Q Right. I mean --

8 A That was before we were married.

9 Q Right. And -- and that -- and that didn't -- he
10 didn't enjoy that and so he got his own firm and he liked
11 the tech stuff, that's what you said. He liked doing the
12 technical side of things?

13 A He loved both. He loved both.

14 Q Uh?

15 A He loved both. He loved law enforcement and he
16 loved computers.

17 Q Okay. And did he help support your family? You
18 were the breadwinner?

19 A Yeah. So his business started doing very well
20 but he put the money back in the business.

21 Q Right.

22 A I was the one that was paying the bills.

23 Q Paying the bills.

24 A Uh-huh.

25 Q And then there's a fire at -- what's that

MARITA MURRAY-CROSS BY MR. YARBOROUGH

1 address Address?

2 A Address.

3 Q Address. I wrote it down, couldn't see it,
4 Address. There's a fire and this fire takes place
5 and y'all actually go over to live with your mother?

6 Mother and Dad. And does David go with y'all?

7 A Yes, he did for the first --

8 Q Okay. And y'all were over there about, would
9 you say, four or five days before the incident where you
10 were at Publix?

11 A Before -- no that was 13 days. April 1st --

12 Q Thirteen days, okay. And so I just wasn't -- I
13 thought you said that y'all had gone and lived somewhere
14 else before that with The American Red Cross or something,
15 was that wrong?

16 A No. They offered to where we could go to
17 hotels, if we needed to.

18 Q Okay. But you didn't take advantage of that --

19 A Yeah --

20 Q -- was confusion to me--

21 A Yeah, we might have.

22 THE COURT: Make sure just one person speaks at
23 a time so the court reporter gets it, okay.

24 MR. YARBOROUGH: Thank you, Your Honor.

25

MARITA MURRAY-CROSS BY MR. YARBOROUGH

1 BY MR. YARBOROUGH:

2 Q So, at that point, the house has been destroyed;
3 right?

4 A Uh-huh.

5 Q And you're working and you're the main
6 breadwinner; right?

7 A Yeah, I paid the bills but his company does a
8 very good job, just that he was. . .

9 Q Okay. And would it -- would it be safe to say
10 that -- that your parents and David sometimes did not get
11 along great -- with your mom? With your mom?

12 A No.

13 Q No?

14 A Everybody love mom, no.

15 Q Okay, okay. But did -- were they okay with
16 y'all living with them?

17 A They were okay. Dad was 82. So every now and
18 then if the kids got obnoxious or something--

19 Q What?

20 A Daddy was 82.

21 Q Okay.

22 A So sometimes that's why we were like, let's go
23 take a breather because they were too loud.

24 Q Right.

25 A But other than that, they had no problem with us

MARITA MURRAY-CROSS BY MR. YARBOROUGH

1 there.

2 Q All right. And -- and after the -- after those
3 phone calls, you're talking to him but you decided you've
4 got to move on; right?

5 A Yes, sir.

6 Q You're going to move on. And so you filed for
7 divorce. It takes, I think you said it was January 20th,
8 2021, because of COVID it took a little bit longer than
9 normal?

10 A Yeah because you have to be separated for a year
11 prior.

12 Q Okay.

13 A So started in April 2019 to April 2020.

14 Q So it took a little bit longer but you -- you --
15 you started that process of filing for divorce--

16 A Started the process, yes.

17 Q And, at that time, when the -- when the divorce
18 is going on, there were also settling the claim on the
19 house; right?

20 A No. The settling the claim on the house --
21 because I couldn't do anything for that year, so that's
22 way later.

23 Q So you settled the claim later?

24 A No, no, the divorce.

25 Q Okay. So gotcha, gotcha.

MARITA MURRAY-CROSS BY MR. YARBOROUGH

1 A The claim on the house was why he was -- we were
2 still together.

3 Q Right. Okay. So you're still together. And --
4 but that money from the sale of the house, you get that
5 money; right?

6 A Right. Well, the house was in my name, it was
7 mine. It was going to come in anyway.

8 Q Okay. But y'all were married?

9 A Yeah, we were married.

10 Q When you bought the house?

11 A Yes, sir.

12 Q Okay. Okay. And David didn't fight you over
13 the money on the house; right?

14 A No, there was no need to fight me.

15 Q Okay.

16 A It was all to pay back the stuff.

17 Q He gave you the divorce. Maybe that's a easier
18 way to say it, he gave you the divorce, correct?

19 A Yeah. Maybe, like a year later, yeah.

20 Q Yeah, okay. And you have no idea what caused
21 the fire at the house; right?

22 A I have no idea. They -- I think they tried to
23 say it was like electricity. But they said sometimes
24 people take shortcuts when they're building the newer
25 houses.

MARITA MURRAY-CROSS BY MR. YARBOROUGH

1 Q All right. And -- and you tried to do what you
2 think is best by your daughter; right?

3 A Yeah.

4 Q And that is cooperating with the people at the
5 Julie Valentine Center; right? They helped you through
6 this process?

7 A They did.

8 Q Okay.

9 Just a second, Your Honor.

10 When you moved in with your parents, did
11 they-- did they want you to get a divorce from David?

12 A They -- no, because they didn't know at that
13 time.

14 Q Did they -- did they know about the incident
15 before at Skateland where there had been a problem with
16 y'all's marriage?

17 A Oh, they knew about that then but they didn't --
18 that was 2016. My dad actually talked me through it
19 because he had an affair at one time. And how they
20 ministered -- he kind of ministered us through it or
21 ministered me through it. So that was not -- that had
22 nothing to do with 2019.

23 Q Okay.

24 A That stopped in 2016.

25 Q Okay. And did -- did you spend a lot of time

MARITA MURRAY-REDIRECT BY MRS. SUSTAKOVITCH

1 with David's parents?

2 A Not that much because he kept wanting to be
3 separate. He didn't -- he always talked so bad about his
4 stepdad. So he was always trying to stay away from his
5 step dad. He loved his mom but talked bad about his
6 stepdad. And he always talked about his stepdad giving
7 him a hard childhood. So he would go MIA for a while.
8 And I think he let them think it was me but it was not.

9 Q Okay. All right.

10 Thank you, I don't have any further
11 questions.

12 THE COURT: Redirect?

13 MRS. SUSTAKOVITCH: Just very briefly.

14 REDIRECT EXAMINATION

15 BY MRS. SUSTAKOVITCH:

16 Q Since Defense Counsel brought this up, what
17 happened in 2016 was what?

18 A He had -- I found out he was cheating.

19 Q And you worked through that?

20 A We worked through that that year because he had
21 gotten -- we worked through that.

22 MRS. SUSTAKOVITCH: Thank you, no further
23 questions.

24 THE COURT: All right, thank you, you may step
25 down.

LAURA JONES-DIRECT BY MR. MILLER

1 The State call your next witness.

2 Everybody good over here?

3 MR. MILLER: State calls Sergeant Laura Jones.

4 THE COURT: Come around to be sworn.

5 LAURA JONES, after being duly sworn{,}testified
6 as follows:{F}

7 THE CLERK: Thank you, please be seated. State
8 your name for the record.

9 THE WITNESS: Laura Jones.

10 DIRECT EXAMINATION

11 BY MR. MILLER:

12 Q Sergeant Jones, where are you employed?

13 A I am at the Greenville County Sheriff's Office.

14 Q How long you been at the sheriff's office?

15 A Been in law enforcement since 2001. Came to the
16 sheriff's office in 2004.

17 Q Where were you before the Greenville County
18 Sheriff's Office?

19 A I was with the Greenwood Police Department.

20 Q Okay. What is your educational background
21 before where you got into law enforcement?

22 A I have my undergrad Bachelor of Science in
23 Psychology from Presbyterian College. And I have a
24 Master's in Criminal Justice from Anderson University.

25 Q Okay. What was your first job in law

LAURA JONES-DIRECT BY MR. MILLER

1 enforcement?

2 A Initially, started in uniform patrol, answering
3 911 calls, responding the scene and such, initially.

4 Q How long did you do that?

5 A About six years total. Including from Greenwood
6 City and then when I moved up here, did about three more
7 years on uniform patrol.

8 Q What are some other positions you've held in the
9 sheriff's office?

10 A So after uniform patrol I was interested in
11 investigations. So I moved up and went in our criminal
12 investigative division. Started initially in auto theft
13 and arson cases, eventually. And then made it to homicide
14 and worked homicide for several years. And now, I'm
15 assigned the Office of Professional Standards as a
16 sergeant in that office.

17 Q Is a sergeant a supervisory role?

18 A Yes, sir.

19 Q What is the Office of Professional Standards?

20 A So you may be more familiar with something like
21 internal affairs. In easier terms, we police the police.
22 So if there's any complaints from the public or any
23 issues, any officers involved shootings, any accusations
24 of excessive force, any integrity issues that come into
25 question about a deputy's action, we do an internal

LAURA JONES-DIRECT BY MR. MILLER

1 investigation to see if they violated policy or worse. So
2 we are there to maintain the integrity of the entire
3 sheriff's office.

4 Q How long have you been in law enforcement total?

5 A Twenty-two years.

6 Q Twenty-two years. You're currently in OPS but
7 have you ever had any training in interviews, interviewing
8 people?

9 A Yes, numerous classes. Obviously, when I was in
10 other types of investigations like homicide and arson and
11 things like that, I attended classes that pertain to
12 those. I also -- I teach interviewing and interrogation
13 courses. And have attended several pertaining to
14 interviews involving sexual assault cases. With both
15 adults and children.

16 Q Okay. And are you familiar with David Jones?

17 A Yes, I am.

18 Q How did you become involved in this case?

19 A So I was contacted by Investigator McHale and
20 she asked me to assist with a interview with David Jones.
21 To conduct my own interview with David Jones.

22 Q Did you have any other involvement in this case
23 in any way, shape or form?

24 A Not at all.

25 Q Okay.

LAURA JONES-DIRECT BY MR. MILLER

1 A I made no decisions of any of this case.

2 Q Did you meet with anybody other than David
3 Jones?

4 A No, sir. I've never met any of the family, the
5 victim or her parents or her mom. Didn't see them until I
6 showed up to court this week.

7 Q And do you remember what day you met with David
8 Jones?

9 A I believe it was May 2nd, 2018.

10 Q Okay. Do you remember, just generally, where
11 you took the statement?

12 A Yes. My office is at the law enforcement center
13 in the basement. And I have an interview room inside
14 along with my office that is separate, kind of. So I
15 interviewed him in that interview room.

16 Q Okay. Did you identify yourself as law
17 enforcement?

18 A I did.

19 Q Okay. So he knew he was speaking to law
20 enforcement?

21 A Yes. I identified myself as law enforcement but
22 I did not visibly have a badge or a gun on. I don't like
23 to do that during interviews to make them more
24 comfortable.

25 Q Was he forced to speak with you?

LAURA JONES-DIRECT BY MR. MILLER

1 A Not at all.

2 Q Was he speaking with you voluntarily?

3 A Absolutely.

4 Q Did he want to speak with you?

5 A Yes.

6 Q Okay. Did he appear lucid when he spoke with
7 you?

8 A He did.

9 Q Did he appear clear minded?

10 A He did.

11 Q Did he appear to be to under the influence of
12 any drugs or alcohol?

13 A No, sir.

14 Q Okay. Was he threatened or coerced to speak
15 with you?

16 A No, sir.

17 Q Was he promised anything to speak with you?

18 A No, sir.

19 Q Okay. Was he free to leave when he was speaking
20 with you?

21 A Yes.

22 Q Okay. And did you go over any type of rights
23 with him?

24 A Yes, went over the full Miranda rights with him.

25 Q Okay. I'm going to show you what's been

LAURA JONES-DIRECT BY MR. MILLER

1 previously marked as State's Exhibit 3. Do you recognize
2 this document?

3 A Yes, sir.

4 Q What is it?

5 A It's a Waiver of Rights form.

6 Q Is it the Waiver of Rights form that you went
7 over with David Jones?

8 A It is. It has his -- the case number, his full
9 name, date of birth, the date that we were in there in the
10 office and then the actual rights that I read through with
11 him.

12 Q Is it a true and accurate representation?

13 A Yes, it is.

14 MR. MILLER: Your Honor, at this time, we would
15 move to admit State's Exhibit 3 into evidence.

16 THE COURT: Any objection?

17 MR. YARBOROUGH: No objection to that, Your
18 Honor. I did want to note for the record my previous
19 objections to her testimony about this issue after
20 that.

21 THE COURT: Okay. All right, so noted. This is
22 in without objection.

23 (WHEREUPON, State's Exhibit No. 3 was received
24 into evidence during previous testimony.)

25 BY MR. MILLER:

LAURA JONES-DIRECT BY MR. MILLER

1 Q Investigator Jones, if you could look behind you
2 and we'll explain to the jury, what are we looking at
3 here?

4 A So this is a standard Waiver of Rights form that
5 I use anytime I conduct an interview. It, obviously, has
6 basic information at the top. The case number, that 19
7 dash number is the case number. And his full name, date
8 of birth and the date that we were in there in the office.

9 Q What are the rights that are being waived?

10 A I read to him that he has the right to remain
11 silent, that anything he says can be used against him in
12 court. That he's entitled to talk to a lawyer now or have
13 him present now or anytime during questioning. If you
14 cannot afford a lawyer, we will get one for you without
15 costs. And if you decide to answer questions now, you may
16 stop questioning at any time if you choose. And then the
17 bottom line says, you understand each of these rights and
18 you wish to waive them. I read all that to him, but I
19 also, in addition, asked to ensure that he can read and
20 write as well.

21 Q Okay. And did he state whether he could read
22 and write?

23 A Yes.

24 Q Okay. Did he state whether he understood these
25 rights?

LAURA JONES-DIRECT BY MR. MILLER

1 A Yes, he did.

2 Q And that he was freely and voluntarily waiving
3 them?

4 A Yes.

5 Q I see waived is actually underlined?

6 A Yes. I always underline it that I understand
7 each of these rights and I wish to waive them. Meaning,
8 that you wish to talk to me in interview to make sure they
9 understand that.

10 Q What are these markings down the side here?

11 A So after I read it to him, I have him -- and he
12 says he understands it, I ask him to initial each line,
13 just to show that I have read those to him. And then a
14 signature at the bottom if he was willing to waive his
15 rights.

16 Q And whose signature is this?

17 A That is mine.

18 Q And whose signature is this?

19 A That is David Jones.

20 Q Was this interview recorded?

21 A It was.

22 Q How was it recorded?

23 A So it is audio and video recorded. All of our
24 interviews are audio and video recorded. Anytime where in
25 there with anyone.

LAURA JONES-DIRECT BY MR. MILLER

1 Q Did the equipment properly function for this
2 interview?

3 A Unfortunately, it did not.

4 Q When do you discover that?

5 A I did not discover that until later on when I
6 went to review this case several weeks later.

7 Q In the process that you were following at the
8 time, was that the process that you had used and other
9 officers in previous interviews?

10 A Yes, it was.

11 Q And the equipment was, to the best of your
12 knowledge, properly functioning?

13 A I thought it was in working order.

14 Q Okay. Have y'all since enacted any changes
15 since this occurred?

16 A Yes. In this case, though, the video worked but
17 the audio went out after the initial first minute of the
18 recording. Since then, since that happened, we got the
19 sheriff's office to install a full audio/video system in
20 the room. And additionally, I have another one, set of
21 another backup. So we have a backup system now so this
22 doesn't happen in the future.

23 Q Was this case kind of the spark for that?

24 A Yes. It's the first one where I discovered it
25 wasn't working. But it, unfortunately, didn't work under

LAURA JONES-DIRECT BY MR. MILLER

1 several cases.

2 Q Do you memorialize -- did you memorialize your
3 interaction with David Jones in another form?

4 A Yes, I wrote a incident report.

5 Q You wrote a incident report. Can you tell the
6 jury a little bit about, in general, what is a incident
7 report?

8 A So a incident report, in general, like when you
9 call the sheriff's department out to the house and have to
10 take a report for something, whether it be a theft or
11 whatever, it gives the basic information of who's calling,
12 what the issue is and you put the facts to the case. Like
13 your process of the investigation. So mine, in this case,
14 is referred to as a supplemental report. Because the
15 initial report was taken by the lead investigator. So I
16 do a supplemental report to do to put my -- to detail or
17 memorialize my part in the investigation. Which was
18 solely this interview with David Jones.

19 Q And did you write this report close in time to
20 the interview?

21 A Yes, within a few days.

22 Q Was it a quick process to write this report?

23 A No.

24 Q Did you have other things going on, at that
25 time, that you had to do as well?

LAURA JONES-DIRECT BY MR. MILLER

1 A Yes, I conduct several different
2 responsibilities. So sometimes I can't write it
3 immediately right after I finish the interview. I have
4 other interviews to conduct. And like I said, I work in
5 the Office of Professional Standards so I do it as quickly
6 as I can but sometimes it's not immediate. Meaning, it's
7 not the same day necessarily.

8 Q Okay. And do you review your report for
9 accuracy?

10 A Yes.

11 Q Okay. So it's not just a quick process to
12 writing it?

13 A No.

14 Q And did you bring your report with you?

15 A Yes, sir, I did.

16 Q If at any time you need to refresh your memory,
17 you will be able to reference your report.

18 A Yes, thank you.

19 Q And I'd like to start off a little bit about
20 this interview with The Defendant, what do you initially
21 discuss with him?

22 A So when they first come into the room, like I
23 said before, I don't wear a badge around my neck and I
24 don't wear a gun on my side in these interviews. That's
25 intimidating to some people and I don't want to appear

LAURA JONES-DIRECT BY MR. MILLER

1 that way. I want them to be as comfortable as they can
2 be. Especially, different interviews on topics such as
3 this. Because they're very, you know, we have to discuss
4 a lot of private information, a lot of intimate things.
5 So I want them to be as comfortable as possible.
6 Initially -- again, I don't sit behind my desk, I sit over
7 in front of them, just to have a conversation. I
8 initially get background information. Kind of the family
9 dynamic from them. As I said, I haven't had any contact
10 with any other family members or anything so I don't know
11 that. So I talked to them just to kind of build a rapport
12 and get to know the family dynamic.

13 Q And when you're talking about building a
14 rapport, are you taking notes the entire time during this
15 interview with him?

16 A I take notes some when we are discussing
17 background type information like, you know, how many
18 children they have, where they live, what they do for a
19 living, things like that. Just to get to know him. And I
20 take a little bit of notes like that just so I don't
21 forget when it comes time. Because that's just kind of a
22 background phase, not the actual meat and potatoes, I
23 guess, of the interview.

24 Q What you'd be more focused on later?

25 A Correct. I don't take notes the entire time, I

LAURA JONES-DIRECT BY MR. MILLER

1 only do during the background phase, during the actual
2 interview where we've got to discuss very personal things,
3 such as these allegations and such, I want them to have my
4 full attention. So I don't want to be distracted by
5 having to look down or wait or tell them to wait so I can
6 write something down. I want them to know that I'm fully
7 with them and not distracted taking notes.

8 Q From your training and experience, have you
9 found whether or not that allows people to feel more
10 comfortable or build a better rapport?

11 A It seems to build a better rapport and make them
12 more comfortable in a way that, you know, sometimes if
13 you're talking to somebody and all of a sudden and they
14 stop to write something down, you're like, oh, what did I
15 say wrong or did I -- you know, obviously, that was
16 important or something like that. So I don't like to have
17 the distraction and want them to be as comfortable as
18 possible of because I feel like there's a better chance
19 that maybe they will open up and talk with me.

20 Q Talk about some of the background information
21 here. Did you find out or previously know about the -- if
22 he had any children?

23 A Yes. I was made aware that there were two
24 children in the house.

25 Q And boy or girl?

LAURA JONES-DIRECT BY MR. MILLER

1 A There was one boy and one girl.

2 Q And do you recall their relative ages?

3 A I can look in the report.

4 Q Okay.

5 A I'm thinking about 8 and 11 but I'll have to
6 look at my report to check it, if that's all right. Son's
7 11, daughter's eight, at the time.

8 Q Okay. Did you learn about where they went to
9 school?

10 A He told me they were homeschooled.

11 Q Did he tell you who stayed home with them during
12 the day?

13 A He said he did. He did and his wife went to
14 work and he stayed home to homeschool the children.

15 Q Did he say where they did the school work in the
16 house?

17 A He referred to it as his Man Cave.

18 Q Okay. Did he talk a little bit about that room,
19 the Man Cave, about what was in it?

20 A He did. He wanted to talk about that a lot.
21 There was -- he said that there were several computers in
22 there. Desktops and laptops, if I'm not mistaken. And he
23 talked a lot about his comic books that he had, like a
24 collection, I guess, of comic books. And he spoke about
25 that a lot because those were lost in the fire.

LAURA JONES-DIRECT BY MR. MILLER

1 Q And does the interview shift more towards what's
2 going on with the case?

3 A Yes.

4 Q And do you make sure that he's aware of what the
5 allegations are against him?

6 A Yes.

7 Q All right. And that's so just everybody is on
8 the same page?

9 A Yes.

10 Q Okay. Now, did you -- did he admit or deny the
11 allegations?

12 A He denied them several times.

13 Q Okay. Did you talk about them, about these
14 allegations that were made, if he had any thoughts on
15 where they could come from?

16 A Yes. In any child cases when allegations are
17 made, I always like to go over to make sure if somebody's
18 denying those type of allegations, I always like to go
19 over and say was there any type of normal parenting duties
20 that could have occurred that were misconstrued by the
21 child or anything like that? That was denied. And then
22 he mentioned later in the interview, mentioned that there
23 was two different incidents. He said he saw -- or he had
24 given her a stack of his comic books that he thought were
25 appropriate for children or more cartoon like comic books.

LAURA JONES-DIRECT BY MR. MILLER

1 Q Was there anything further about what he said
2 about the comic books?

3 A Yes. He said one day he noticed that she was
4 looking at a comic book that he had given her. And he
5 opened it, and I apologize but these are his words, that
6 there was a picture of a girl getting eat out. Is what he
7 told me.

8 Q Now, from your training and experience from
9 these kinds of cases, what do you -- what is your
10 interpretation of getting eat out?

11 A That there was a female having oral sex
12 performed on her in the book.

13 Q Did he give any other type of explanation as
14 to--

15 A Yes, sir.

16 Q -- the source? What would that be?

17 A He did. He said, well, maybe it's because
18 she -- she walked in on me and my wife christening the
19 house.

20 Q Would she be the daughter, **Child**

21 A She -- **Child** I'm sorry. He said that they
22 were christening the house and having sex in the closet
23 and that **Child** walked in on them. And so that's maybe
24 where she got some of these ideas in her head.

25 Q Was there any -- is that all the explanations or

LAURA JONES-DIRECT BY MR. MILLER

1 was there another one?

2 A If I can refer to my report for just a minute,
3 please.

4 Q Yeah.

5 A If you're referring to when he said that she
6 committed a sexual act on him.

7 Q Now, I want to be clear about that. Your
8 testimony is that The Defendant stated that **Child**
9 committed a sexual act on him?

10 A Yes. Towards the end of the interview, although
11 it was denied previously throughout the interview, he said
12 that -- he explained to me that one morning, it was a
13 Saturday morning when his wife had already gone to work.
14 He was in the bed naked. That he work up, lifted up the
15 sheet and found that his daughter, **Child** was -- and
16 again I apologize, in his words, Giving him a blow job.
17 Want me to explain the rest of the process of what he told
18 me?

19 Q Well, let's go through your interpretation of a
20 blow job.

21 A Oral sex being performed on him by his daughter.

22 Q And did he say if **Child** said why that was being
23 done?

24 A She said she wanted to make him happy.

25 Q So let me be clear. So David Jones told you

LAURA JONES-DIRECT BY MR. MILLER

1 that **Child** was trying to make him happy is what he told
2 you?

3 A Yes, sir.

4 Q Okay. Did you discuss with The Defendant that
5 **Child** was having vaginal pain?

6 A Yes. I referred -- specifically, I have a copy
7 of the original lead investigator's report and their with
8 me when I'm interviewing. So I can go over the
9 allegations in detail so they're fully aware of that. And
10 then a portion that **Child** had been having vaginal pain.
11 We had just discussed these allegations. And then talked
12 about her having vaginal pain. And he made the comment
13 that that's probably was caused it.

14 Q And I just kind of want to ask you, during this
15 interview, what was his demeanor?

16 A He was very calm. Kind so nonchalant. I found
17 it interesting that there was not much reaction at all or
18 expression when I was going through the--

19 MR. YARBOROUGH: Objection, Your Honor. She's
20 not a psychologist.

21 MR. MILLER: This was just her impression of his
22 demeanor during the interview. This would be her
23 presence -- it's not even a hearsay--

24 THE COURT: I'll let her explain what she
25 observed but, you know, don't go anything further

LAURA JONES-CROSS BY MR. YARBOROUGH

1 than that.

2 BY MR. MILLER:

3 Q Did he express a lot of emotion?

4 A No emotion whatsoever.

5 Q Okay.

6 Please answer any questions that the
7 Defense Counsel has.

8 THE WITNESS: Sure.

9 THE COURT: Cross-examination.

10 CROSS-EXAMINATION

11 BY MR. YARBOROUGH:

12 Q You're the -- how are you?

13 A I'm good, how are you?

14 Q I'm good. Good to see you.

15 A Good to see you.

16 Q I've just got a couple of questions.

17 A Sure.

18 Q You don't have any of this reflected in your
19 notes that you took that day; right?

20 A The initial -- the notes that I took are just a
21 background family dynamic.

22 Q Right.

23 A Personal information for him. But not the
24 actual interview is not in those. As I explained before,
25 I don't like to write while I'm speaking with someone.

LAURA JONES-CROSS BY MR. YARBOROUGH

1 Q So there are no notes of that; correct?

2 A Correct.

3 Q And although you said that you set up both oral
4 and video, there's none of that; correct?

5 A There is video but it goes silent about,
6 roughly, a minute into the recording.

7 Q So there's no way to tell what David said that
8 day?

9 A Other than what I put in my incident reports,
10 yes.

11 Q But that incident report was produced later;
12 right?

13 A Shortly after, a few days later.

14 Q So you're going back and looking at your
15 recollection; right?

16 A It was very fresh in my head the next few days.

17 Q But none of this was your notes?

18 A Right, I don't write while I'm doing a
19 interview.

20 Q Right. None of it was in your notes and it
21 wasn't recorded. It was videoed but it was not recorded.
22 You can't -- you can't go back and look and hear exactly
23 what he said; right?

24 A That's correct.

25 Q And you can't really -- you don't know what his

LAURA JONES-CROSS BY MR. YARBOROUGH

1 demeanor was except for what your recollection is?

2 A I was in the interview so I know what his
3 demeanor was.

4 Q I know but you had never met him before; right?

5 A That's correct.

6 Q So you don't know what his normal demeanor is;
7 correct?

8 A That's correct.

9 Q It's just your observations, your opinions?

10 A That's correct.

11 Q Okay. And none of it's recorded?

12 A Correct.

13 Q There's no notes to it?

14 A Correct.

15 MR. YARBOROUGH: Thank you, no further
16 questions.

17 THE COURT: Redirect?

18 MR. MILLER: No, Your Honor.

19 THE COURT: All right, you may step down.

20 MR. MILLER: We request Sergeant Jones can be
21 relieved of subpoena.

22 MR. YARBOROUGH: No objection.

23 THE COURT: All right, she's relieved.

24 Ladies and gentlemen, this would be a good time
25 for a break so we'll take a short morning break. And

LAURA JONES-CROSS BY MR. YARBOROUGH

1 don't discuss the case and we'll bring you out in
2 just a few minutes. Hopefully.

3 (WHEREUPON, the jury left open court at
4 approximately 11:11 a.m.)

5 THE COURT: All right, let's take a 10 minute
6 break.

7 MRS. SUSTAKOVITCH: Your Honor, I just want to
8 let you know for planning purposes, we just have two
9 more witnesses. Ms. Galloway-Williams, who's outside
10 and we have the forensic interviewer. The forensic
11 interview is about 40 minutes long. The State would
12 love to get this finished before lunch. If we're in
13 the mood to do that and just power through the rest.

14 THE COURT: Yes, I think we are.

15 MRS. SUSTAKOVITCH: Uh?

16 THE COURT: I think we are.

17 MRS. SUSTAKOVITCH: Okay, good. I just want to
18 make sure--

19 MR. YARBOROUGH: You're in the mood, Judge?

20 THE COURT: Yeah, I--

21 MRS. SUSTAKOVITCH: I just want to make sure the
22 forensic interviewer stays.

23 THE COURT: Right. And may be a good time to
24 break and then we have all the discussions we have to
25 hear. Yeah, that works out good.

1 MRS. SUSTAKOVITCH: Okay, thank you.

2 THE COURT: As long as our 10 minute break is a
3 10 minute break.

4 MRS. SUSTAKOVITCH: Yeah, we're good.

5 THE COURT: Okay.

6 (WHEREUPON, a short break was taken.)

7 THE COURT: State ready?

8 MRS. SUSTAKOVITCH: One thing, Your Honor,
9 housekeeping. When we discussed the recantation
10 earlier and Your Honor ruled that certain things
11 needed to come out, I did not make the original audio
12 a Court's Exhibit. And by way of a clear record, I
13 would like to admit this as a Court's Exhibit.

14 THE COURT: Okay, any objection to that?

15 MR. YARBOROUGH: No.

16 THE COURT: That was already played already?

17 MRS. SUSTAKOVITCH: Yes, sir. Just to show what
18 we took out.

19 THE COURT: Yeah, okay.

20 (WHEREUPON, Court's Exhibit No. 2 was marked for
21 identification only.)

22 MRS. SUSTAKOVITCH: This will be Court's Exhibit
23 2.

24 THE COURT: All right, anything else?

25 MRS. SUSTAKOVITCH: No, sir.

1 THE COURT: Anything else from The Defense?

2 MR. YARBOROUGH: No, sir.

3 THE COURT: All right, bring the jury in.

4 Did you have something?

5 MR. YARBOROUGH: I did. I have something
6 before -- is the jury coming in right now?

7 THE COURT: Hold them.

8 MR. YARBOROUGH: I just wanted to note my
9 objections. I think I put it on the record the other
10 day about Ms. Galloway-Williams testimony. And that
11 it's -- it's not probative of any issue. She just --
12 just discussing psychological opinions. And she
13 couldn't be talking about this individual case
14 because all that is bolstering The State's case
15 because she has no personal knowledge of this
16 particular case.

17 THE COURT: Okay.

18 MRS. SUSTAKOVITCH: The State rather relies on
19 State vs. Brown, 411 S.C. 332. Thank you, Your
20 Honor.

21 THE COURT: All right, I think based on the
22 Brown decision I will allow her testimony. It is my
23 understanding it's a expert -- independent blind
24 expert?

25 MRS. SUSTAKOVITCH: Yes, sir. She has never met

1 the victim nor read the file.

2 THE COURT: All right.

3 Bring the jury in if they're ready.

4 (WHEREUPON, the jury entered open court at
5 approximately 11:17 a.m.)

6 THE COURT: All right, State call your next
7 witness.

8 MRS. SUSTAKOVITCH: Thank you, Your Honor, The
9 State calls Shauna Galloway-Williams.

10 SHAUNA GALLOWAY-WILLIAMS, after being duly
11 sworn[,] testified as follows: {F}

12 THE CLERK: Thank you, please be seated. State
13 your name for the record.

14 THE WITNESS: Shauna Galloway-Williams.

15 DIRECT EXAMINATION

16 BY MRS. SUSTAKOVITCH:

17 Q Good morning, Ms. Galloway-Williams, where are
18 you employed?

19 A I'm the CEO of the Julie Valentine Center.

20 Q And what is the Julie Valentine Center?

21 A We are the child abuse sexual assault recover
22 center. We provide prevention, education, advocacy,
23 crisis intervention and counseling services to anyone who
24 may have been impacted by child abuse and/or sexual
25 assault.

SHAUNA GALLOWAY-WILLIAMS-DIRECT BY MRS. SUSTAKOVITCH

1 Q All right. And how long have you been at the
2 JVC?

3 A I've been in my current role as CEO for 15 years
4 now. Prior to that I was the clinical director. And
5 prior to that I worked on contract as part of my role with
6 the department of mental health. So total time that I've
7 been in this field is a little over 25 years.

8 Q All right. And you just touched on this but
9 could you tell the jury a little bit more about the
10 specific types of services the JVC offers in the Upstate?

11 A Sure. We provide prevention education services,
12 that is education in the community, to schools, churches,
13 faith communities. Anyone who may desire or be interested
14 in education around these issues. We also provide
15 advocacy and crisis intervention. So that means that 24
16 hours a day, seven days a week our hotline is available to
17 anyone who may need it. Counseling services to children
18 and adults who may have been impacted by child abuse
19 and/or sexual assault. And then our child advocacy
20 program which provides forensic interviews, forensic
21 medical exams and case management.

22 Q Ms. Galloway-Williams, I want to go specifically
23 to your education. Can you take us through where you went
24 to school, when you graduated, that sort of thing?

25 A I have a Bachelor's Degree in Psychology from

SHAUNA GALLOWAY-WILLIAMS-DIRECT BY MRS. SUSTAKOVITCH

1 Winthrop University. I have a Master's Degree in
2 Counseling from Clemson University. And I'm licensed as a
3 professional counselor in The State of South Carolina.

4 Q All right. And as far as training, can you give
5 the jury some idea about the training that you have in the
6 area of child sexual abuse?

7 A Sure. Specifically, over 200 hours of skills
8 based training specific to assessing and working with
9 children and families which may have been impacted by
10 child abuse or child maltreatment. Additionally, 22
11 hours, at least, each year of continuing education.
12 Again, mostly in the area of child abuse and assault. And
13 that's been consistent since my licensure in 2004.

14 Q And as far as your licensure in 2004, what again
15 is that in?

16 A I'm a licensed professional counselor in The
17 State of South Carolina.

18 Q What medical professions and organizations are
19 you a part of?

20 A I am part of The South Carolina Coalition
21 Against Domestic Violence and Sexual Assault. I
22 previously served on that board. I'm also a member of The
23 South Carolina Network of Children's Advocacy Center. I
24 was also a previous board member. And also, have been the
25 founding member of Silent Tears.

SHAUNA GALLOWAY-WILLIAMS-DIRECT BY MRS. SUSTAKOVITCH

1 Q And you did talk about some of the education
2 that you have. Have you, in fact, taught at some of those
3 trainings and can you elaborate on that?

4 A Yes. I'm also an adjunct faculty member at USC
5 Upstate at the Child Advocacy Studies Program. I teach
6 three different undergraduate courses, specific to the
7 area of child maltreatment. Additionally, I regularly
8 present at local, statewide and national conferences in
9 the area of child abuse and sexual assault.

10 Q How many years of experience do you have in
11 counseling child victims where there's a concern of child
12 sexual assault or abuse?

13 A Specifically, counseling since 2001. So that
14 would be 22 years. But in total working in this area,
15 even prior to completing my Master's, that would be over
16 25 years.

17 MRS. SUSTAKOVITCH: All right. Your Honor, at
18 this time, The State moves to admit
19 Ms. Galloway-Williams as a expert in child sexual
20 abuse dynamics.

21 THE COURT: All right, any objection or voir
22 dire?

23 MR. YARBOROUGH: I don't have any voir dire,
24 Your Honor. I note my previous objections to her
25 testimony.

SHAUNA GALLOWAY-WILLIAMS-DIRECT BY MRS. SUSTAKOVITCH

1 THE COURT: And I believe based on prior
2 discussions and as indicated, State v. Jones
3 [verbatim], I will qualify her as in child sex abuse
4 dynamics.

5 Ladies and gentlemen, as I told you yesterday,
6 an expert can testify about conclusions and opinions
7 that they have, which is a little different than a
8 lay witness who cannot testify about those things.
9 And they can do that based on their education,
10 training and experience. And you're to give it the
11 weight and value which you feel is appropriate.

12 You may proceed.

13 MRS. SUSTAKOVITCH: Thank you.

14 BY MRS. SUSTAKOVITCH:

15 Q And I didn't ask you this but have you been
16 qualified as an expert in the State of South Carolina?

17 A Yes.

18 Q And in child abuse dynamics?

19 A Yes.

20 Q How many times?

21 A Over 60 times.

22 Q In which court?

23 A In general sessions in various circuits across
24 the state.

25 Q All right. Ms. Galloway-Williams, what does it

SHAUNA GALLOWAY-WILLIAMS-DIRECT BY MRS. SUSTAKOVITCH

1 mean in your profession when someone talks about the term
2 delayed reporting, what does that mean?

3 A Well, in our profession we know that the vast
4 majority of children and adults, who have specifically
5 been sexually abused, they delay disclosure or delay
6 reporting. There are a number of reasons why that is.
7 One of the main reason is fear. Fear of the consequences
8 of reporting that. Fear of what will happen to
9 themselves, you know, fear of what will happen to the
10 person that may have done this to them. Even fears about
11 what may happen to their family or their friends. The
12 reason a lot of those fears are generated is because most
13 times children are abused by someone they know, they love
14 and they trust. And many times that person is also
15 someone that's known love and trusted by their family.
16 And someone that's also known love and trusted by the
17 community. And so for those reasons children may fear
18 that they, again, that there may be consequences for their
19 disclosures.

20 Sometimes children don't have the words to
21 describe what's happened to them. Developmentally they
22 just may not have context to describe sexual behavior,
23 they may not understand how to -- how to or who to report
24 that to. They may have been threatened. If they tell
25 something will happen to them or someone they love. And

SHAUNA GALLOWAY-WILLIAMS-DIRECT BY MRS. SUSTAKOVITCH

1 that may play directly into those fears they already have.
2 Children may have been told already and not been believed
3 or not been supported. And so there are a variety of
4 reasons why children don't tell right away.

5 Q As far as the time spans that you've seen in
6 your 25 years in the field, what are the time spans for
7 delay reporting that you've seen?

8 A Well, typically, we consider delay reporting the
9 time that spans from the time that the incident may have
10 occurred, until the time that the child may have had a
11 safe adult to tell. So delayed reporting doesn't have a
12 specific timeframe. But it just means that the child
13 didn't tell at the first opportunity that they had to tell
14 someone, that would be a delay reporting. And that can be
15 days, that can be weeks, that can be years. In fact, many
16 of the adults that I've worked with and that we work with
17 at our center, never told anyone at all when they were
18 children and may be telling someone for the first time
19 when they walk through our doors.

20 Q And you touched on this but in your training and
21 experience, it is common or uncommon for children who have
22 been abused by family -- or to be abused, rather, by
23 family members or people in a position of trust?

24 A Yes.

25 Q Why is that?

SHAUNA GALLOWAY-WILLIAMS-DIRECT BY MRS. SUSTAKOVITCH

1 A It's more common for children to be abused by
2 someone that they know, love and trust. Many times that's
3 because of these relationships that someone abusing a
4 child has developed with that child or have developed with
5 their caregivers. There's confusion for the child around
6 that relationship and whether or not they should tell.
7 Because a child can still love the person that's doing
8 this to them and not like what is happening. So that
9 makes it even more challenging for them to tell someone.

10 Q Is it common or uncommon in your experience for
11 the non-offending caregiver, the one that didn't abuse the
12 child, to have their own issues once the disclosure comes
13 out?

14 A And so non-offending caregivers are those
15 caregivers that were not responsible for any type of
16 abuse. And typically, we would hope that a non-offending
17 caregiver would be supporting and believing of the child.
18 However, we know that, again, this person that may abuse
19 their child may also be someone that they know, love and
20 trust. And so it may be challenging for them to believe
21 that this has happened. It may be challenging for them to
22 initially respond appropriately. Sometimes the
23 non-offending caregiver may even be dependent on the
24 person that's done this to their child. Their family may
25 be facing, you know, the consequence of losing a home or

SHAUNA GALLOWAY-WILLIAMS-DIRECT BY MRS. SUSTAKOVITCH

1 car or financial support. And so sometimes non-offending
2 caregivers are faced with what I call impossible decision,
3 where they need and want to support their child but
4 they're also consequences and risks in doing that as well.

5 Q In your experience, is it common or uncommon for
6 children who have been abused to have that abuse happen
7 over years?

8 A Certainly. There are children who have been
9 abused where it can be repeated. Repeated incidents of
10 abuse. And just as I said previously with delayed
11 disclosure, you know, the longer that delay happens, the
12 longer that the person has access to the child. You know,
13 that can continue for weeks, months, years and into later
14 life for sure.

15 Q It is common or uncommon for children not to
16 understand that the abuse is wrong at the time it's
17 happening?

18 A As they develop mentally, depending on the
19 child's age and type of abuse that is being inflicted on
20 them, it may be confusing. They may not be able to
21 articulate with words what is happening to them.
22 Particularly, younger children who may not have sexual
23 knowledge. They may not know the words to describe what's
24 happening to them. They again, may have been told not to
25 tell. And sometimes the type of abuse that children

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1 experience, may be done in such a way that it's confusing.
2 You know, sometimes abuse is happening during grooming
3 activities, bathing, changing clothes, putting a child to
4 bed. And so the abuse is happening and can be confusing
5 because it's also happening during caregiving or a time
6 when the child would be expecting someone to be caring for
7 them as well.

8 Q You mentioned the term grooming, is it common or
9 uncommon for people that abuse children to use grooming in
10 a way of rewards or gifts or what have you, to entice a
11 child to be involved in a sexual incident?

12 A Yes. So when we talk about grooming and
13 contacts, we're talking about things that are done to
14 develop a trusting relationship with the child. And
15 really to ensure that the child does not tell. And that
16 can be done through gifts. Those gifts can be actual
17 tangible items. It can be a gift of more time and
18 attention and affection. Those gifts could be, you know,
19 an exchange for what's happened. Grooming can also
20 involve introducing a child to sexual behaviors over time.
21 So really sort of getting a child comfortable with sexual
22 behaviors. It may start with sexual jokes. It may start
23 with progressing to images, videos and even a progression
24 of the type of touching that may be happening. All of
25 that that's really developing that trusting relationship

SHAUNA GALLOWAY-WILLIAMS-DIRECT BY MRS. SUSTAKOVITCH

1 with the child.

2 The other thing I'll say about grooming is
3 that when children receive or feel that they've received
4 these gifts, they sometimes feel even more responsible for
5 the behavior that's occurred. Which may lead them to
6 having a more difficult time telling. Because the child
7 feels as if they played a role in what happened. So if
8 they received a gift, they may also feel as if they are
9 responsible for or guilty for what's happened. And they
10 may feel worried or embarrassed and not want to tell
11 because they're worried they might get in trouble
12 themselves.

13 Q In your field, what does the term recantation
14 mean?

15 A Recantation means that when a child has made a
16 statement or made a disclosure and takes back some or all
17 of that disclosure.

18 Q And what factors can come into play that
19 influence a child's desire to recant abuse?

20 A The same -- many of the same dynamics that keep
21 a child from being able to tell right away, are the same
22 dynamics that would influence a child to change their
23 statement or recant their statement. So for example, if
24 those fears that they feared and worried about are
25 actually realized. So for example, if they feared that

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1 they might have to move or leave their home or if they
2 fear that the person that did this might have to face some
3 kind of consequences and that actually happened, then that
4 may lead a child to decide that they need to change their
5 statement. If the child was not supportive -- or
6 supported and believed, if the child did not feel that --
7 that others supported them in their disclosure, then they
8 might lead a child to take her statement back. And
9 sometimes it's the influence of others telling them to do
10 that, may lead them to recant or take their story back.

11 Q I'm sorry, the last part you said, the influence
12 of others telling them to recant --

13 A Yes --

14 Q -- can impact them?

15 A Yes.

16 Q All right. In your training and experience,
17 just a few more things, is there one way for a child to
18 deal with chronic child sexual abuse or are there various
19 ways that a child can deal with that?

20 A There are various ways that the child may
21 present behaviorally or emotionally. There's not one
22 specific way that you would expect that a child is going
23 to act. You might have a child who, you know, on the
24 outside you don't see any behaviors of concern. And
25 they're internalizing what's happening to them. And on

SHAUNA GALLOWAY WILLIAMS-CROSS BY MR. YARBOROUGH

1 the extreme of that, you may have a child who is self
2 harming and suicidal. So there's not any particular
3 behaviors that would be -- those behaviors are not
4 diagnostic of whether someone has been abused or not. So
5 there's not an expectation of that.

6 Q All right. Ms. Galloway-Williams, have you ever
7 met with or interviewed anyone related to this case?

8 A No, I have not.

9 Q You ever met the Victim, Child

10 A I have not.

11 Q Have you read the case file or do you have any
12 knowledge of any of the facts in this case?

13 A I do not.

14 Q And is the purpose of your testimony here today
15 to just educate the jury on the hallmarks of child sexual
16 abuse?

17 A Yes.

18 MRS. SUSTAKOVITCH: Thank you, please answer any
19 questions the Defense counsel has.

20 THE COURT: Cross-examination.

21 CROSS-EXAMINATION

22 BY MR. YARBOROUGH:

23 Q You're the CEO of the child advocacy center?

24 A Of the Julie Valentine Center, yes.

25 Q The Julie Valentine Center?

SHAUNA GALLOWAY WILLIAMS-CROSS BY MR. YARBOROUGH

1 A Correct.

2 Q And that's -- this young lady was a patient at
3 your center?

4 A Yes.

5 Q And as the CEO there, that's your job is to run
6 the center, you're the boss, the command?

7 A I am CEO, yes.

8 Q Are you well paid for that?

9 A That's a interesting question. As non-profit
10 executive director, I--

11 Q That's your salary; right?

12 A I am paid for my job. And I am paid
13 appropriately.

14 Q And you wouldn't work unless you were paid
15 appropriately; right?

16 A I currently need to work, yes.

17 Q Okay. I mean, you're -- you spent hours and
18 hours of studying this stuff so you would expect to be
19 paid well; right?

20 A I do expect to be compensated. Yes, I don't
21 volunteer my services because I'm not independently
22 wealthy.

23 Q Okay. And so you're here -- you're here
24 testifying as the CEO of the child advocacy center; right?

25 A My salary is not dependent in any way on my

MELISSA COLLINS-DIRECT BY MRS. SUSTAKOVITCH

1 testimony here. I'd be paid if I were here or if I were
2 still on vacation.

3 MR. YARBOROUGH: Thank you.

4 MRS. SUSTAKOVITCH: Just to clarify.

5 REDIRECT EXAMINATION

6 BY MRS. SUSTAKOVITCH:

7 Q Do you receive any payment for coming in and
8 testifying related to this case today?

9 A I am paid a salary by the center regardless of
10 whether I'm here or if I'm at the office or if I'm on PTO.

11 MRS. SUSTAKOVITCH: Okay, thank you.

12 THE COURT: All right, you may step down. Thank
13 you.

14 All right, State call your next witness.

15 MRS. SUSTAKOVITCH: The State calls Melissa
16 Collins.

17 (WHEREUPON, State's Exhibit No. 31 was marked
18 for identification only.)

19 Melissa Collins, after being duly

20 sworn[,] testified as follows: (F)

21 THE CLERK: Please be seated. Please state your
22 name for the record.

23 THE WITNESS: Melissa Collins.

24 DIRECT EXAMINATION

25 BY MRS. SUSTAKOVITCH:

MELISSA COLLINS-DIRECT BY MRS. SUSTAKOVITCH

1 Q Good morning, Ms. Collins, for a few more
2 minutes. Where are you employed, ma'am?

3 A Julie Valentine Center.

4 Q And can you tell the jury what your position
5 there is?

6 A Yes, I am a forensic interviewer at the Julie
7 Valentine Center.

8 Q And explain to the jury, what is a forensic
9 interviewer?

10 A A forensic interviewer conducts forensic
11 interviews with children. So a forensic interview is a
12 neutral, fact-finding interview of a child conducted by a
13 trained professional as part of an investigation.

14 Q How long have you been conducting forensic
15 interviews?

16 A Since 2017. So coming on six years.

17 Q And roughly, how many forensic interviews would
18 you estimate you've done?

19 A I have done, by my best count, 961 forensic
20 interviews.

21 Q All right. And so can you help the jury
22 understand, when you have a forensic interview, are the
23 child's parents or guardians allowed to be in the
24 interview room?

25 A No, no.

MELISSA COLLINS-DIRECT BY MRS. SUSTAKOVITCH

1 Q And why or why not?

2 A Just to keep everything neutral.

3 Q All right. So who is actually in the interview
4 room while the forensic interview is happening?

5 A It is just me and the child in the room. There
6 is a camera that's explained to the child. Where
7 investigative parties can observe the interview from a
8 different room.

9 Q All right. And what's the reason other parties
10 are observing it?

11 A So that everyone has the same information in
12 realtime.

13 Q And what type of questioning format is used with
14 forensic interviewing?

15 A Non-leading, non-suggestive questions. So
16 open-ended questions when possible, then clarifying
17 questions as needed after that.

18 Q Did you perform a forensic interview in this
19 case?

20 A Yes, I did.

21 Q And what date did you perform that interview?

22 A May 1st, 2019.

23 Q And what was the child's name that you conducted
24 the forensic interview on?

25 A [REDACTED] Child

MELISSA COLLINS-DIRECT BY MRS. SUSTAKOVITCH

1 Q How old was **Child**

2 A At the time of the interview she was eight years
3 old.

4 Q Ms. Collins, do you recall who brought **Child** to
5 your office for the forensic interview?

6 A She was brought by her mother, Marita Jones.

7 Q And did you make an audio and a video recording
8 of the interview that you conducted with **Child**

9 A Yes, ma'am, I did.

10 Q All right. I'm showing you what's marked as
11 State's Exhibit 31. What is that?

12 A This the DVD of the interview that I did with
13 **Child**

14 Q And have you watched it recently?

15 A Yes, ma'am, I have.

16 Q And subject to The Court's prior rulings, apart
17 from that, is it a true and accurate depiction of the
18 interview that you had?

19 A Yes, ma'am, it is.

20 Q And does this copy appear to be altered or
21 deleted, subject to court rulings, in any way?

22 A No.

23 Q All right.

24 Your Honor, at this time, The State moves
25 to admit State's 31.

MELISSA COLLINS-DIRECT BY MRS. SUSTAKOVITCH

1 MR. YARBOROUGH: Note my previous objections.

2 THE COURT: Your previous objection is noted.

3 (WHEREUPON, State's Exhibit No. 31 was admitted
4 into evidence.)

5 MRS. SUSTAKOVITCH: Your Honor, we intend to
6 publish it. Permission to publish it?

7 THE COURT: Yes, you may.

8 (WHEREUPON, State's Exhibit No. 31 was
9 published.)

10 BY MRS. SUSTAKOVITCH:

11 Q Ms. Collins, very briefly, two final things.

12 A Sure.

13 Q I'm showing you what's marked as State's Exhibit
14 24 and 25, do you recognize those?

15 A Yes.

16 Q And what are those?

17 A These are -- we call them the anatomical
18 diagrams that we used in **Child** forensic interview.

19 Q All right.

20 Beg the Court's indulgence.

21 And we saw in the interview some things on
22 a easel. I'm showing you what's marked as State's Exhibit
23 23, do you recognize that? You can open it if you need
24 to.

25 A Yes.

MELISSA COLLINS-DIRECT BY MRS. SUSTAKOVITCH

1 Q What is that?

2 A This is the first page of the easel paper, the
3 one that we both wrote on during that interview.

4 Q Okay.

5 Your Honor, at this time, The State moves
6 to admit State's Exhibit 24, 25 and find the number 23.

7 THE COURT: Twenty-three through 25, any
8 objection?

9 MR. YARBOROUGH: No objection.

10 (WHEREUPON, State's Exhibits Nos. 23-25 were
11 admitted into evidence.)

12 MRS. SUSTAKOVITCH: Thank you.

13 BY MRS. SUSTAKOVITCH:

14 Q Last question, Ms. Collins. During the
15 interview, I want to take you back to a time period around
16 13:50, you were asking Child some questions and you asked
17 her if she was okay.

18 Can we play that?

19 (WHEREUPON, State's Exhibit No. 31 was
20 published.)

21 BY MRS. SUSTAKOVITCH:

22 Q Just since you're right there with Child can
23 you explain what happened there?

24 A Oh, yes, ma'am. She gagged right there and I
25 asked to make sure that she was okay.

MELISSA COLLINS-CROSS BY MR. YARBOROUGH

1 MRS. SUSTAKOVITCH: All right, thank you. No
2 further questions.

3 THE COURT: Cross-examination?

4 MR. YARBOROUGH: Yes, sir, briefly.

5 CROSS-EXAMINATION

6 BY MR. YARBOROUGH:

7 Q You work for the Julie Valentine Center?

8 A Yes, sir.

9 Q And how long have you worked there?

10 A I started in 2017 so this is my sixth year.

11 Q Sixth year. And so that's your full-time,
12 permanent employment?

13 A Yes.

14 Q And you just take -- you just do these
15 interviews, right?

16 A I have other roles and responsibilities but my
17 primary role is forensic interviews, yes, sir.

18 Q Okay. And what are your other roles and
19 responsibilities?

20 A I -- I am a leader for a parent education
21 course, I -- when I was hired I had a caseload of therapy
22 clients, that's not the case anymore. Forensic interviews
23 fills my time. I'm on a multi-disciplinary team, we have
24 a meeting every week.

25 MR. YARBOROUGH: I have no further questions.

MELISSA COLLINS-CROSS BY MR. YARBOROUGH

1 Thank you.

2 THE COURT: Any redirect?

3 MRS. SUSTAKOVITCH: None from The State.

4 THE COURT: All right, you may step down.

5 MRS. SUSTAKOVITCH: Your Honor, at this time,
6 The State rests.

7 THE COURT: All right, ladies and gentlemen, The
8 State has rested their case in chief, which means
9 they have put in the evidence for their case in
10 chief. It's a good time for us to break for lunch.
11 There's some thing that we will be going over with
12 the attorneys. So please be back in your jury room
13 at two o'clock, we'll proceed at that point. All
14 right, remember the four rules. Don't discuss the
15 case amongst yourselves or anyone, don't do any type
16 of research, do not look at any type of media
17 coverage, including social media, if anybody contacts
18 you other than someone from the clerk's office,
19 please let the bailiffs know when you get back. All
20 right, see you back at two o'clock.

21 (WHEREUPON, the jury left open court at
22 approximately 12:34 p.m.)

23 THE COURT: All right, anything from The State?

24 MRS. SUSTAKOVITCH: Nothing from The State.

25 THE COURT: From Defense Counsel?

1 MR. YARBOROUGH: The Defense would move for a
2 directed verdict in all of those indictments that are
3 presented. One, they're vague and ambiguous to both
4 time and place. They outline several different
5 charges that are all seem to be run together and
6 there was -- it's over an extended period of time.
7 We believe it's so vague and ambiguous that the jury
8 would not be able to specifically look at specific
9 incidents and find The Defendant guilty. So based on
10 that I'd ask for the case to be dismissed.

11 THE COURT: I believe, again, it's not for me to
12 determine whether he's guilty or not guilty but
13 determine there was evidence sufficient as set forth
14 in the indictments, I find that there was and that
15 this is a factual issue for the jury. So your motion
16 is denied.

17 MR. YARBOROUGH: Thank you, Your Honor.
18 Briefly, I think we're going to come back after lunch
19 and I'd like to -- could you go ahead and ask my
20 client if he intends to testify?

21 THE COURT: You want me to do that now?

22 MR. YARBOROUGH: You can do it either way, I
23 just -- I expect him to testify but I think--

24 THE COURT: Okay, I'll go through that process
25 with him now and that way he can give me the final

1 decision after lunch.

2 MR. YARBOROUGH: Okay, thank you.

3 THE COURT: All right, Mr. Jones, if you would
4 stand at this time, raise your right hand.

5 DAVID JONES, after being duly sworn(,) testified
6 as follows:{F}

7 EXAMINATION

8 BY THE COURT:

9 Q All right. We've come to the -- first of all,
10 are you under the influence of any alcohol, drugs,
11 medication today?

12 A No, Your Honor.

13 Q Have any health or mental issues which would
14 keep you from understanding what's going on?

15 A No, Your Honor.

16 Q All right. The State has rested their case.
17 That means it's the opportunity for The Defense to put any
18 evidence that they feel is appropriate. And that could be
19 by way of other testimony or evidence and also your own
20 testimony. Of course, you have the right to testify. And
21 you're subject to any cross-examination as any other
22 witness.

23 Is there any prior record that would be
24 subject to cross-examination?

25 MRS. SUSTAKOVITCH: I don't believe so, Your

DAVID JONES-EXAMINATION BY THE COURT

1 Honor.

2 THE COURT: All right.

3 BY THE COURT:

4 Q So there wouldn't be a criminal record for you
5 to be brought up. But you also have the right not to
6 testify. As I'm sure your attorney's explained to you.
7 That means that, you know, you don't have nothing to prove
8 in this case. As any in case and you can exercise your
9 Constitutional right by not testifying. If you do not
10 testify, then that means that I will tell the jury that
11 they're not even to consider that in their deliberations
12 because The State has the burden whether you testify or
13 not. And the decision is ultimately yours. You can
14 consult -- what I'm going to do is during the lunch break,
15 you can consult with anybody, your attorney and family
16 members. And then I'm going to ask you when we come back
17 from lunch, if you made a decision whether you're going to
18 testify or not.

19 Now, I'm sure, also, your attorney's
20 testified -- I mean, has indicated to you, there are some
21 strategic reasons for not presenting any evidence. And
22 that is he would get the last argument. Sometimes that is
23 important in certain cases and sometimes it's not. But
24 I'm just saying, that's one of the considerations that I'm
25 sure your attorney will discuss with you. So what I'll do

DAVID JONES-EXAMINATION CONTINUED BY THE COURT

1 when we come back from lunch, I'll ask if you had
2 sufficient time, whether you understand your rights and
3 whether you wish to testify. So that's what we'll discuss
4 after lunch. All right.

5 All right. So be back in at five till
6 2:00, we jut need five minutes. All right, five till
7 2:00.

8 MRS. SUSTAKOVITCH: Thank you, Your Honor.

9 (WHEREUPON, a lunch break was taken.)

10 EXAMINATION CONTINUED

11 BY THE COURT:

12 Q All right, when we broke, Mr. Jones, I asked
13 you, advised you, of all your rights about being able to
14 testify and present evidence. I told you that you could
15 talk with your attorney about that. Have you had
16 sufficient time to discuss this with your attorney?

17 A Yes, Your Honor.

18 Q Do you understand or have any questions about
19 your rights?

20 A No questions.

21 Q Do I need to go over those with you again?

22 A No, sir.

23 Q All right. So the -- so the question I have for
24 you, based on your knowledge that you have the right to
25 testify but you also have a right not to testify, what is

DAVID JONES-EXAMINATION CONTINUED BY THE COURT

1 your wish?

2 A I wish to testify.

3 Q You do wish to testify?

4 A Yes, Your Honor.

5 Q All right. And you need anymore time to discuss
6 this with your attorney or anyone?

7 A No.

8 THE COURT: Okay. Well, I find that it is --
9 that that decision has been knowingly and voluntarily
10 made with the understanding he has the right to not
11 testify and invoke his Constitutional rights. So
12 that will be -- I'm going to let you do that.

13 All right, is The State ready?

14 MRS. SUSTAKOVITCH: Yes, sir, The State is.

15 THE COURT: The Defense ready?

16 MR. YARBOROUGH: Yes, sir.

17 THE COURT: All right, bring the jury in.

18 (WHEREUPON, the jury entered open court at
19 approximately 2:05 a.m.)

20 THE COURT: All right, ladies and gentlemen, as
21 you will recall, The State rested their case before
22 lunch. And now is the opportunity for The Defense to
23 present their case. Or his case.

24 So, Mr. Yarborough, you may proceed.

25 MR. YARBOROUGH: I call David Jones.

1 THE COURT: Mr. Jones, if you'd come forward to
2 be sworn.

3 MR. MILLER: Your Honor, can we approach for one
4 second?

5 THE COURT: Yes.

6 (WHEREUPON, an off-the-record bench conference
7 was held in the presence of the jury but out of
8 the hearing of the jury.)

9 THE COURT: We just realized that the evidence
10 hasn't been brought back out.

11 All right, now you made proceed, sir.

12 MR. YARBOROUGH: Call David Jones.

13 THE COURT: Mr. Jones, come forward and be
14 sworn.

15 THE CLERK: Place your left hand on the Bible,
16 raise your right hand.

17 DAVID JONES, after being duly sworn(,) testified
18 as follows:{F}

19 THE CLERK: Thank you, please be seated. State
20 your name for the record.

21 THE WITNESS: David Quintan Jones.

22 DIRECT EXAMINATION

23 BY MR. YARBOROUGH:

24 Q David, let's tell the jury a little bit about
25 yourself. Where were you born and where did you go to

DAVID JONES-DIRECT BY MR. YARBOROUGH

1 high school, where did you grow up?

2 A Okay. I was born in St. Matthews, South
3 Carolina. I went to Irmo High School.

4 Q And what did you do for a living?

5 A For a living I was a security expert. I started
6 off with the Richland County Sheriff's Department, I did
7 law enforcement for a short time. But since I got my own
8 computer company, I no longer needed to work there.

9 Q Okay. And so tell us a little bit about what
10 kind of business you did.

11 A With my security business, we did security
12 investigations. We did apartment complexes. We did
13 skating rinks. We even helped some of the law enforcement
14 out with the Richland County Sheriff's Department with the
15 gang unit. So I was responsible with talking to
16 teenagers. Now, in Greenville I spoke with Ms. Jones and
17 she's at the Nicholtown Community Center, so I did
18 security out there for a short time. I did HOA
19 communities. And I did special events as well.

20 Q Okay. And are your parents in the courtroom
21 today?

22 A Yes, they are.

23 Q Okay. They're in the back there?

24 A They're in the back.

25 Q Let's -- were you married? Have you ever been

DAVID JONES-DIRECT BY MR. YARBOROUGH

1 married?

2 A I've been married once.

3 Q Okay. And who were you married to?

4 A To Marita.

5 Q And that's the lady that testified in here?

6 A That's correct. That's correct.

7 Q And did you -- did y'all have some children of
8 your marriage?

9 A Yes, we did.

10 Q And who are those children?

11 A Two beautiful kids. We had **ZJ**n and **Child**

12 Q All right. And did you love those children?

13 A Yes, I do.

14 Q Still do?

15 A I still do.

16 Q How long were y'all married?

17 A We were married for about 13 years.

18 Q Thirteen years. Were you pretty good friends
19 with her parents?

20 A Yes, I was very good friends with them. More
21 friends with her parents than mines.

22 Q Y'all spent a lot of time with her parents?

23 A Yes, we did. Yes, we did.

24 Q Okay. And, you know, let's just get down to the
25 heart of this thing. Do you -- do you remember when these

DAVID JONES-DIRECT BY MR. YARBOROUGH

1 allegations were made?

2 A Yes, yes, I do.

3 Q And right prior to that, had y'all been having
4 some marriage difficulties?

5 A Yes, there was marriage difficulty, there was a
6 lot of insecurities with the marriage. And I can't blame
7 her for it, I blame me for it. Because I'm the reason why
8 she was so insecure in our marriage.

9 Q And when you -- you say you blame yourself, is
10 that because you weren't the most faultful of husbands?

11 A That's correct. That's correct.

12 Q All right. And she knew about that?

13 A She knew about it.

14 Q You shared it with her?

15 A Yes, I did.

16 Q And so did that make it sometimes hard for you
17 to do your own personal business?

18 A It didn't make it hard, it's just sometimes when
19 doing personal business, she would get involved. For
20 example, I had to interview some female employees and she
21 would feel ify and it would be embarrassed to have her
22 present. She was present on maybe one or two interviews
23 with females that I had with getting hired on with my
24 security company. And it's kind of embarrassing because
25 being insecure the way she was, she would make sure

DAVID JONES-DIRECT BY MR. YARBOROUGH

1 there's no funny business. And then they ask me why
2 afterwards, why she said that. And I have to explain to
3 them why.

4 Q Right. And you could understand why she was
5 upset?

6 A I understand, I understand why. I'd be upset
7 too.

8 Q All right. And been some talk about something
9 called the Man Cave, were you proud of that, of your room?

10 A Yes. It was my -- it was a business. I did a
11 lot of business and stuff in there.

12 Q That was your security business was in there?

13 A That's my security business.

14 Q And was it also set up so that the family could
15 use the computers and do that kind of stuff?

16 A That's correct. I had several computers
17 equipment in that room. I done a lot of programming. So
18 I had some of my program friends come over. And I had
19 cameras set up all through the house as well.

20 Q Okay. And did you -- did that place get burned
21 down?

22 A Yes, it did.

23 Q About when did that happen?

24 A That happened April the 1st of 2019.

25 Q Okay. And do you remember the fire? Where were

DAVID JONES-DIRECT BY MR. YARBOROUGH

1 you when the fire took place?

2 A We went to a Chinese restaurant that day. And I
3 got a call, actually, from one of my HOA representatives.
4 I did security for my neighbor security.

5 Q What's HOA?

6 A That's homeowners association.

7 Q Okay. And you were the security for that?

8 A I was the security for that entire community.
9 It was a gated community, Brick River Shoals. And I was
10 responsible for the safety of the entire neighborhood.
11 And that day I got a call from Julie, I forgot her last
12 name, but she gave me a call and she said, You know your
13 house is burned down. And since it was April Fool's, I
14 thought she was joking. So I didn't take her seriously.
15 And she said, for real, your house is burning down. And
16 that's when we responded and we saw the house being burned
17 down.

18 Q Right. And then after that, did your wife --
19 did y'all move in with your inlaws?

20 A Yes, we did.

21 Q How long were you at that house?

22 A We were there that night, from that night on
23 until the allegations.

24 Q Okay. And how was -- was that a very stressful
25 time for your family?

DAVID JONES-DIRECT BY MR. YARBOROUGH

1 A It was, it was. Marita seemed -- the marriage
2 was doing a little bit better but it started when the --
3 like after the fire the kids lost everything, staying with
4 her parents. So it was stressful more for the kids too
5 because not only all the stuff that they worked hard for
6 and was rewarded is now being burned away. And so now
7 they didn't have that anymore.

8 Q So they keep on talking about this day where
9 y'all pulled up in front of the house to meet the police
10 officer and the DSS people, did you know what they were
11 there to meet for?

12 A No. Marita told me to come along with her. And
13 I wasn't expecting to meet law enforcement or anyone over
14 there. I didn't know until I saw the police cars. And
15 then I thought, oh man, this is something more serious.
16 Not just going to be a regular talk.

17 Q Did that surprise you?

18 A It surprised me, I didn't know what to expect.

19 Q All right. Did you try to cooperate with
20 everybody that day?

21 A Yes, I did. Yes, I did, full cooperation.

22 Q Did you feel like you were -- you and your wife
23 were working through whatever was going on?

24 A Yes, yes.

25 Q Okay. And when did you realize that -- that

DAVID JONES-DIRECT BY MR. YARBOROUGH

1 your daughter was saying that you had -- you had touched
2 her inappropriately?

3 A It was during the time when they investigated us
4 at that time.

5 Q It was that day?

6 A It was that day, that's when I found out.

7 Q And did you -- did you agree to cooperate with
8 law enforcement?

9 A I agreed, I agreed. I fully agreed to
10 cooperate.

11 Q All right. And so you went down to see the
12 police officer that was at the sheriff's office; is that
13 right?

14 A That's correct.

15 Q And that's that tape of your talking to them; is
16 that correct?

17 A Yes, it is.

18 Q Did you answer their questions freely and
19 voluntarily?

20 A I sure did.

21 Q And you waived your Constitutional rights?

22 A Yes, I did.

23 Q Did you think you had anything to worry about?

24 A I didn't have nothing to worry about. Because
25 my main thing was telling the truth and get everything out

DAVID JONES-DIRECT BY MR. YARBOROUGH

1 in the open. My parents raised me if anything's wrong,
2 let it be known. And that's what I did that day. I put
3 everything out in the open and told them the truth.

4 Q And is that tape fairly and accurately represent
5 what you said that day?

6 A Yes, it does.

7 Q Okay. And did you tell the police officers you
8 did this?

9 A I told them I didn't do it.

10 Q Right. And have you always told them you didn't
11 do it?

12 A That's correct.

13 Q And is that because you didn't do it?

14 A That's because I didn't do it.

15 Q All right. Did there come a time where they
16 asked you to come back down to the police station?

17 A Yes, they did.

18 Q Okay. And, at that time, did you answer their
19 questions?

20 A I answered all their questions that law
21 enforcement gave me.

22 Q Okay. And you've heard the police officer
23 testify about what you said that day, did you think your
24 testimony was being taped? Did you believe the tape and
25 the camera were working that day?

DAVID JONES-DIRECT BY MR. YARBOROUGH

1 A I believed they was. They informed me of it.
2 And I'm familiar with police procedures. So I assumed
3 that they're going to provide me with video tape in this
4 courtroom so I can see myself and hear myself.

5 Q Right. And what did the police officer say, did
6 that fairly and accurately represent what you said?

7 A No, it did not represent what I accurately said.

8 Q Okay. And just tell the jury what you actually
9 said that day.

10 A When I explained to the officer I said, when I
11 woke up that Saturday morning, I saw **Child** I said I had
12 to pee. And I said she had her tongue stuck out. And I
13 even showed them my tongue being stuck out. I never said
14 **Child** gave me a blow job or anything like that. I don't
15 know how that got miss in construed. But I respect law
16 enforcement and what they do but I just don't like the
17 lies.

18 Q Okay. So that was not -- that part of it was
19 not true? They misconstrued was you said that day?

20 A They misconstrued. I told them, I told DSS the
21 same thing about **Child** having her tongue stuck out. And
22 I told Marita the same thing.

23 Q You told your wife?

24 A I told her the same thing.

25 Q All right. And have you ever inappropriately

DAVID JONES-DIRECT BY MR. YARBOROUGH

1 touched your daughter?

2 A No, I haven't.

3 Q What's the -- would you lock the door in the Man
4 Cave with your daughter in there?

5 A No, I wouldn't lock it. There's times when the
6 kids play around in the house, they play hide and seek.
7 Or they may have another child at the house and they're
8 running around and they would close the door behind
9 themselves. Sometimes I do close the door in the Man Cave
10 because I had parakeets in there and I have the cage open.
11 So that door has to be closed so the parakeets don't run
12 around the house. There was another time where I closed
13 the door because I had a cat in the house and the cat was
14 scratching at the door trying to get into the door. And
15 that's all the doors in the house. And also had a dog in
16 the house, as well, at another time. And the door had to
17 be closed to keep the dog out of the rooms. Those were
18 the only time those doors are closed.

19 Q Okay. And did you tell the -- did you try to
20 tell the police all that?

21 A Yes, I did.

22 Q Did you feel like they were listening to you?

23 A They seemed to be attentive and listening to me.
24 And I thought everything was recorded.

25 Q Right. Did you -- did you feel like you should

DAVID JONES-DIRECT BY MR. YARBOROUGH

1 have been charged in this case?

2 A I feel like I shouldn't have been charged in
3 this case. They should investigate thoroughly and look at
4 all the facts. Because the truth weighs higher than all
5 the lies, that's what I believe.

6 Q Okay. And I think you told them during the
7 interview that there were tape recorders in the Man Cave?
8 Those video cameras you see in those tapes?

9 A Yes. Numerous times I told the investigator
10 that there was cameras all around the house. Even when
11 they initially came at me at the house during the initial
12 investigation and the questions, I told them I had cloud
13 cameras with SD cards. Now, cloud camera means that you
14 have information stored online and you can access that
15 information anytime you want to. I have a SD card as a
16 backup so in case you can't access it online, you can pull
17 up the SD card and look at the information. I also
18 explained to them that I had two cameras inside the Man
19 Cave. And you can look at the video and see for yourself,
20 there's two cameras mounted on the wall and there's an
21 additional camera mounted inside the Man Cave facing the
22 door. And those cameras can be accessed 24/7 around the
23 clock. And that's cloud camera and SD card.

24 In the other rooms in the house, in both
25 the kids room, there was one camera mounted on the wall

DAVID JONES-DIRECT BY MR. YARBOROUGH

1 and they were hard mounted so you can't pull them off the
2 wall. You can't even disconnect it from the wall because
3 I super glued it in there. This was another camera in the
4 master bedroom, there was an additional camera in the
5 hallway upstairs and there was two cameras downstairs.
6 One in the living room and one in the small --

7 THE COURT REPORTER: Sir, can I ask you to step
8 back from the mic, please.

9 THE WITNESS: Oh, okay.

10 THE COURT REPORTER: Thank you.

11 THE WITNESS: My apologies.

12 There was also one in the little small living
13 room as you walk into the house. There was one in
14 there. I put security cameras in the house because
15 one time we caught ZJ kissing one of the
16 neighborhood girls, so I went crazy. So I put
17 cameras everywhere in the house so that we can make
18 sure nothing else like that -- or anything else
19 happens, we can access that information anytime we
20 want to.

21 Q All right. Did you love your children?

22 A Yes, I do.

23 Q Now, I'm not going to go into details about the
24 allegations in this case, but did you do any of those
25 things she said?

DAVID JONES-DIRECT BY MR. YARBOROUGH

1 A I can't push myself to do anything like that. I
2 love my kids. And as a father, I try to lead a good role
3 as my parents raised me to do. They raised me
4 [indiscernible] don't participate with [indiscernible]
5 disposal and that's how I live my life. Even with the
6 marriage, when our marriage be broken up so I tried to
7 reconcile. I tried to make it right with Marita's
8 parents, I tried to make it right with the kids. Because
9 the day of the fidelity [verbatim] -- this is what
10 happened folks. There was an online post that was made by
11 a woman that I met at Skateland. And it pissed Marita off
12 because she saw the message and I didn't make it known to
13 her until after the fact. And when she brought it to me,
14 I apologized to her. But she looked at the message and
15 she saw the part where I tried to break it off with this
16 woman. I told her, I know I have issues with my marriage
17 but I want to work this out. That's what I told the
18 woman. I tried to break it off with her but she continued
19 to write me. The kids were present when me and Marita was
20 getting into it. So now the kids thinking oh, my loving
21 daddy not so loving anymore. He don't love mom, maybe he
22 don't love us. That's what I think they felt at that
23 time. So as a man, I apologized to Marita, I apologized
24 to my kids and I also apologized to Marita's parents. And
25 I think that's what -- that made them kind of resent me

DAVID JONES-DIRECT BY MR. YARBOROUGH

1 from that day forward.

2 Q And you felt like you and Marita were Bible
3 people, y'all went to church and stuff together; is that
4 correct?

5 A Yes, we did. Yes, we did.

6 Q And you felt like that was the collapse of your
7 marriage?

8 A It's the beginning of the collapse things
9 started--

10 Q Then the fire after that?

11 A Then the fire after that.

12 Q And then it was a struggle for everybody once
13 you moved in with her parents?

14 A Yes, it was. Yes, it was.

15 Q Did -- did you actually -- they talked about you
16 seeing them at church, I think that was Easter?

17 A It was Easter.

18 Q And did -- did you give your son an Easter egg?

19 A Yes, I did. When we first went into the church
20 I called **ZJ**, I gave him a hug and I handed him a Easter
21 egg.

22 Q And did you tell him to contact you on your
23 internet?

24 A Yes, I did. I wrote him a message telling him
25 to check his email.

DAVID JONES-DIRECT BY MR. YARBOROUGH

1 Q And what did you tell him in that email?

2 A On the email to ZJ I put greetings. I told
3 him to tell the truth. I said, tell your sister to stop
4 lying on daddy. And I told him to make sure he bring
5 everything out in the open.

6 Q Okay. Did you want him to tell the truth?

7 A I want him to tell the truth.

8 Q Did you want everybody to tell the truth?

9 A Yes, I do.

10 Q And the truth was that you didn't do this?

11 A The truth is that I didn't do this. If
12 something did happen, go ahead and tell momma and don't be
13 ashamed to do it.

14 Q Okay. And did you feel like you cooperated with
15 law enforcement?

16 A I did to the best of my knowledge I cooperated
17 fully.

18 Q And do you feel like you tried to cooperate with
19 your wife?

20 A Yes, to the best of my knowledge I cooperated
21 with Marita. I answered all her questions. I tried to
22 make things right with her and her parents, the best way I
23 could as a father. But things still didn't -- it just --
24 from that first fidelity [verbatim], in her mind, there's
25 no reconciliation for that. Ever since that first

DAVID JONES-DIRECT BY MR. YARBOROUGH

1 fidelity. She was never over it. That wound was still
2 there. So that's how all this stuff -- she even told me
3 even after the fact, if you would have gotten rid of
4 Skateland -- and she wrote -- she wrote this to me on the
5 computer. She said, if you would have gotten rid of
6 Skateland--

7 MR. MILLER: Your Honor, I would object. He's
8 saying this is what Marita said, this would be
9 hearsay.

10 THE WITNESS: Okay, to the best of my knowledge,
11 there was a message on my computer and the message
12 said--

13 THE COURT: I'm going to overrule, I'll let him
14 go.

15 BY MR. YARBOROUGH:

16 Q Go ahead.

17 THE COURT: Back up just a little bit, you're a
18 little too close to the microphone.

19 THE WITNESS: There was a message on my computer
20 and it stated, If you would have given up Skateland
21 where that woman you met was, I would have trusted
22 you more. I would have gave you the benefit of the
23 doubt.

24 But I explained to her, that if I had given up
25 Skateland, two of my employees that relied on that

DAVID JONES-DIRECT BY MR. YARBOROUGH

1 contract would have lost their employment. So in
2 order for me to prove my love to her by giving up
3 Skateland, I told her I couldn't that. But I
4 eliminated the problem. Since the woman was the
5 problem, I eliminated her.

6 Q Right.

7 A I band her from Skateland. Just to show her
8 that I love her.

9 Q And Skateland was a contract that you had for
10 security?

11 A Yes, it was. It was located at 7514 Whitehorse
12 Road.

13 Q Okay. And there's been some talk about the fire
14 and the -- and the proceeds from that fire, did -- did you
15 give her all the money from the burning of the house?

16 A I didn't know she even received the money. I
17 asked her several times did she receive it and she said
18 no.

19 Q Was that y'all's house?

20 A She owned it, it was in her name. It's in her
21 name. The only thing I owned--

22 Q Had y'all owned it together? I mean, had y'all
23 lived there together during your divorce [verbatim]?

24 A Yes.

25 Q And did you give her a divorce?

DAVID JONES-DIRECT BY MR. YARBOROUGH

1 A I didn't give her a divorce, she gave me a
2 divorce. I wouldn't sign the papers because I didn't want
3 the divorce. It's against my religion to divorce.

4 Q Is there anything else that you want this jury
5 to know?

6 A I guess I would say, I tried everything to
7 reconcile the relationship. Because in order for you to
8 [indiscernible] the tree down, you got to get to the root
9 of the problem. And the root of the problem through all
10 of this is the infidelity. And I think that planted a
11 seed. And that seed planted into Marita's head and made
12 her resent me for a long time. [indiscernible] other
13 actions. I don't know. And it also effected my own kids.
14 And the hard thing for me to do is sit here and see the
15 allegations that my kid had against me. And that hurts as
16 a father. Because I love my kids. I still love Marita.
17 But I know that I have to move on. And I respect that.
18 There's nothing I can do now. But all I can do is keep on
19 loving because I'm a loving father. I love my kids. And
20 I love them enough to not touch them.

21 Q And you did not touch your daughter?

22 A No, I did not.

23 Q And you're not guilty of these charges?

24 A I'm not guilty of these charges. You can see
25 the truth weighs more than lies.

DAVID JONES-CROSS BY MR. MILLER

1 MR. YARBOROUGH: Thank you.

2 THE COURT: Cross-examination.

3 MR. MILLER: Thank you, Your Honor.

4 CROSS-EXAMINATION

5 BY MR. MILLER:

6 Q Mr. Jones, you testified earlier that you left
7 the Richland County Sheriff's Office because you had?

8 A A computer business, that's correct.

9 Q But the truth is you were fired?

10 A Yes, for infidelity -- I mean, not for
11 infidelity, I'm sorry. For insubordination, I didn't show
12 up on time.

13 Q So the truth is that you were fired, you agree
14 with that? For not showing up on time, not fulfilling
15 your duties?

16 A That's correct.

17 Q Okay.

18 A I'm not embarrassed by that.

19 Q Okay. Just glad we got the truth out on that.

20 A That's correct.

21 Q Now, you said a lot about Marita here recently
22 and talked about your marriage a lot recently, right now.
23 And you met with Investigator McHale?

24 A Yes, I did.

25 Q And you wanted to fully cooperate with her?

DAVID JONES-CROSS BY MR. MILLER

1 A That's correct.

2 Q Would you agree with me that if you're fully
3 cooperating, would that mean that you are fully and
4 truthfully answering the questions that are asked of you?

5 A That's correct.

6 Q That's correct. Do you remember when
7 Investigator McHale asked you about how your marriage was
8 going with Marita?

9 A I don't remember. I don't recall.

10 Q You don't recall. Would you agree with me that
11 Investigator McHale asked you, How are you and Marita?

12 And your response was, We're good. Very
13 good. Good other than this little rough patch.

14 A Okay. Yes, now, I do. Now, I do, yes, sir.

15 Q Okay. So that wouldn't have been a full, honest
16 response to Investigator McHale then if what today you're
17 saying is the truth?

18 A Well, to me the truth we were doing good and
19 this rough patch caused us to fall out.

20 Q Well, it's a very different answer then?

21 A It is, I would agree with you on that.

22 Q All right. And you testified earlier, you're
23 the father of **Child** and **ZJ**?

24 A Yes, sir to the best of my knowledge I'm their
25 biological father.

DAVID JONES-CROSS BY MR. MILLER

1 Q And you know what **Child** birthday is?

2 A That's correct.

3 Q So you would have known when she was six years
4 old?

5 A Yes, sir.

6 Q You would have known when she was seven years
7 old?

8 A That's correct.

9 Q You would have known when she was eight years
10 old?

11 A Yeah.

12 Q Okay. So you would have known that in April of
13 2019 she was eight?

14 A That's correct.

15 Q And y'all were living, in this timeframe, y'all
16 were living at Address?

17 A Yes, sir, in Simpsonville.

18 Q Simpsonville. And the house was in Marita's
19 name?

20 A That's correct.

21 Q Okay. And all the bedrooms are upstairs?

22 A All the bedrooms were upstairs.

23 Q The Man Cave was upstairs?

24 A That's correct.

25 Q And you named the room the Man Cave?

DAVID JONES-CROSS BY MR. MILLER

1 A Yes, I did.

2 Q You put the sign up that said, The Man Cave
3 Established 2017?

4 A Yes, sir.

5 Q And that video we saw earlier, that was your
6 video, you shot that video?

7 A Yes, sir.

8 Q Okay. And y'all had a lot of electronics in the
9 Man Cave?

10 A That's correct.

11 Q A lot of computers?

12 A Yes.

13 Q You have to give a yes or no for the court
14 reporter to take it down.

15 A My apologizes.

16 Q No problem. A lot of screens, keyboards?

17 A Screens, keyboards, cameras.

18 Q Cameras. Those cameras all burned up in the
19 fire; is that correct?

20 A That's correct.

21 Q Okay. And that fire started in the Man Cave?

22 A It started in the Man Cave.

23 Q And we saw those pictures, those are accurate
24 pictures of the Man Cave after the fire; right?

25 A Those are accurate pictures.

DAVID JONES-CROSS BY MR. MILLER

1 Q Okay. So everything, essentially, got destroyed
2 in there?

3 A Everything. Well, as far as the Man Cave took
4 the blunt of the damage. I guess everything else was
5 mostly smoke damage.

6 Q I was talking about the Man Cave, sorry about
7 that.

8 A That's okay.

9 Q I'll rephrase that. In the Man Cave pretty much
10 everything got destroyed?

11 A Yes, sir, that's correct.

12 Q But before the fire, that's where the
13 homeschooling would happen?

14 A That's correct.

15 Q And you are the parent who stayed home and
16 homeschooled?

17 A I'm the parent that stayed home.

18 Q Marita went to work at the bank?

19 A Yes.

20 Q She would get back five or six o'clock?

21 A Yes, sir.

22 Q Okay. The school work with Child and ZJ,
23 that would end around three o'clock.

24 A Maybe a little longer, depending on what they're
25 doing. Sometimes have to do a little longer.

DAVID JONES-CROSS BY MR. MILLER

1 Q Okay. But not until six o'clock?

2 A That's correct.

3 Q Not until five o'clock?

4 A Well, sometimes it does go a little later now.
5 Sometime we do work assignments at night, that's very
6 rarely.

7 Q All right. Go back, would you agree with me
8 when you talked to Investigator McHale, you told her 3:00,
9 sometimes 4:00?

10 A Yes. Yes.

11 Q Okay. All right. So you also said that you
12 three were always around each other, never apart; is that
13 right?

14 A Yes.

15 Q Okay. **Child** and **ZJ**, they were in different
16 grades, though?

17 A They were in different grades, that's correct.

18 Q They had different work?

19 A That's correct.

20 Q It would seem to make sense that they would
21 finish their work at different times, they wouldn't always
22 finish at the same time?

23 A Well, sometimes. Because they're sometimes
24 they're not around the teacher all the time. So sometimes
25 doing assignments when the teacher's not present.

DAVID JONES-CROSS BY MR. MILLER

1 Q So sometimes is not every time.

2 A Sometimes is not every time.

3 Q Okay, that's what I was asking. And y'all
4 played video games in the Man Cave?

5 A Yes.

6 Q Okay. **Child** liked to play video games?

7 A Yes.

8 Q **ZJ** liked to play video games?

9 A He loves video games.

10 Q And you were the one to keep him focused on the
11 school work?

12 A Yes, sir.

13 Q So it makes sense then they couldn't just play a
14 video game whenever they would want to during the week?

15 A No. Well, sometimes not in the Man Cave all the
16 time with them. Sometimes I have to leave them to go
17 outside. Remember, I'm security of the neighborhood.
18 So -- so sometimes I have to go outside sometimes.

19 Q Okay. That's wasn't what I was asking. They
20 couldn't just play whenever they wanted, especially, if
21 you were there?

22 A If I'm there, they're not going to play.
23 They're not going to play if I'm there, they're going to
24 do school work first, then play.

25 Q If they wanted to play, they would need to get

DAVID JONES-CROSS BY MR. MILLER

1 permission?

2 A Sometimes, sometimes. Don't need to ask all the
3 time to play games. It's just that while they're doing
4 school work, they're not allowed to play games.

5 Q But, at least, sometimes you just said that
6 would have to get permission?

7 A At least sometimes.

8 Q At least sometimes?

9 A That's correct.

10 Q Okay. And the person they have to get
11 permission from would have been you?

12 A During school time. If their mom is home, they
13 can ask either one of us.

14 Q Well, when mom's not home you're the person to
15 ask?

16 A I'm the person.

17 Q Okay. And you had a lot of comic books in
18 there?

19 A Yes, I did.

20 Q Okay. And you gave, at some point, **Child** a
21 stack of comic books?

22 A I gave **Child** a stack of Disney books. On the
23 front and back you see Disney. But sometimes when you get
24 comic books from Mr. K's, they put a mixture of comic
25 books in there. So you don't know exactly what's in

DAVID JONES-CROSS BY MR. MILLER

1 there. And that's what I handed her.

2 Q And that's when you're talking to Investigator
3 Laura Jones that there was that comic book that you said
4 you didn't know was in there that had the girl getting eat
5 out?

6 A Yes.

7 Q Okay. Just making sure. So that did happen?

8 A That did happen.

9 Q Okay. And that's how you say **Child** could have
10 maybe learned some of this stuff?

11 A Maybe she could have learned from there. I
12 wasn't sure, I was just speculating.

13 Q Okay. But as you did say with Investigator
14 McHale, **Child** never really looked at anything over PG
15 level and she was into Hello Kitty and Sparkles?

16 A Yeah, that's my little girl, she likes Hello
17 Kitty. She's not interested in those types of things,
18 that's the attention I wish to make. She's not interested
19 in looking at anything above PG level. I was describing
20 her character.

21 Q Okay. So she didn't go seek it out?

22 A She didn't go seek it out, it was there. It
23 wasn't intentionally put there either. I just discovered
24 it after the fact.

25 Q Okay, that wasn't my question.

DAVID JONES-CROSS BY MR. MILLER

1 A I apologize.

2 Q That's all right. And so that's where you say
3 she could have learned this stuff. Did you look at this
4 comic later?

5 A Rephrase the question.

6 Q The comic book that had the girl getting eat
7 out, did you look at it later?

8 A I looked it right then, that's how I found out
9 and I threw it away after I found out.

10 Q Okay. So you didn't look at it in a lot of
11 detail?

12 A I didn't look at it in a lot of detail. Once I
13 seen that, that one part, I threw it away. And I found
14 out she had more of the same comic book that she already
15 read and I threw those away too.

16 Q So **Child** had more of those?

17 A Yeah, I think two or three of those in that
18 stack. But she already read the first two.

19 Q But I though you said she didn't seek that kind
20 of stuff out. She was into Hello Kitty and Sparkles?

21 A Yeah, she's into Hello Kitty. She don't look
22 for that type of stuff.

23 Q All right. It just sounded like you said she
24 had others that she was looking at before. You didn't
25 want to look through which ones your were handing her?

DAVID JONES-CROSS BY MR. MILLER

1 A No, it was all in plastic. It was gift so I
2 gave it to her. So I didn't look at it. I looked at it
3 front and back like I said earlier, and I saw Disney.
4 Disney on the front, Disney on the back. So I didn't
5 speculate anything inside being inappropriate.

6 Q And in the middle of this, Disney on the front,
7 Disney in the back, is a pornographic comic book?

8 A Yes, some in the middle. It wasn't on the front
9 or the back so it had to be in the middle somewhere. It
10 was [indiscernible].

11 Q Okay. Now, would it be from that comic book
12 where **Child** -- you said that y'all had talks with **Child**
13 and **ZJ** about touching but nothing further than that?

14 A Nothing further because **ZJ** -- because **Child**
15 was so young, I didn't want to talk to her about sex.
16 She's so young I didn't want to bring up that subject.
17 But I did talk to **ZJ** about that. Especially, after that
18 kissing incident.

19 Q Okay. Just **Child** just about touching.

20 A About touching.

21 Q Okay. And so there's this comic book and
22 there's this talk about touching. Is it from those places
23 then that she would learn that her mouth would get soggy
24 after a long amount of time from a penis being in it?

25 A I don't know. I don't know where she learned

DAVID JONES-CROSS BY MR. MILLER

1 that from.

2 Q And it wouldn't be from there that she would
3 learn that her anus would hurt from a penis being in it?

4 A No.

5 Q No. It wouldn't be from there that her vagina
6 hurt from a penis being in it?

7 A No, not from a comic book.

8 Q It wouldn't be from there that she felt
9 vibrating in her vagina from a finger?

10 A No.

11 Q No. It wouldn't be from there that white pee
12 comes out of a penis.

13 A Depending on how a child interprets white pee.
14 Maybe that comic book had something like that in there.
15 Like I said, I didn't look at the whole comic book. So
16 maybe that would have been in there.

17 Q But the comic book you saw was a girl getting
18 eat out?

19 A Yes.

20 Q Which would be oral sex being performed on a
21 girl.

22 A That's correct. But they may have had other
23 pictures in there.

24 Q Okay. And it certainly wouldn't be from Hello
25 Kitty or Sprinkles [verbatim]?

DAVID JONES-CROSS BY MR. MILLER

1 A No.

2 Q No. Okay. As you side earlier, y'all went to
3 your grandparents house after the fire? Or Marita's
4 parents house, **Child** and **ZJ**'s grandparents?

5 A Yes.

6 Q Okay. And there's enough room in that house, it
7 wasn't tight quarters.

8 A They were tight quarters.

9 Q Well, do you remember when you were interviewing
10 with Investigator McHale, you said that y'all had plenty
11 of room in the house, you didn't feel cramped and it
12 wasn't tight quarters?

13 A Just wasn't thinking right there. But as far as
14 tight quarters, as far as moving a wheelchair, I would say
15 there were tight corners in there.

16 Q Oh, for the wheelchair. But for the space for
17 everybody, you were asked, Is it correct that y'all had
18 plenty of room in that house?

19 And you said, It didn't feel cramped and
20 there wasn't tight quarters.

21 A I do remember [indiscernible] but I do remember
22 telling her that they had plenty of room in there and I
23 was referring to the rooms, not the actual space in
24 between the rooms. Just to make that clear for the court.

25 Q Okay. And also, you were asked about if **Child**

DAVID JONES-CROSS BY MR. MILLER

1 would lie about stuff. Do you remember telling that

2 **Child** would -- it only be about small stuff?

3 A Small stuff. I wouldn't expect her to lie about
4 anything big but.

5 Q And you'd agree that even touching, that's not
6 small stuff?

7 A That's not small stuff.

8 Q That's not small stuff, no. And there's this
9 whole thing about riding a bus. **Child** didn't ride a bus
10 during homeschool; did she?

11 A No, she didn't.

12 Q No. Okay. So in that timeframe, when y'all
13 were at Rio Grande, she was being homeschooled, she wasn't
14 on a bus?

15 A That's correct.

16 Q That's correct. Okay. And I kind of want to
17 also talk about, you mentioned friends earlier, do you
18 remember telling Investigator McHale for **Child** -- you're
19 talking about focusing on school work. For **Child** not to
20 worry about making friends?

21 A To not worry about making friends in school and
22 focus on school work.

23 Q Focus on school work so don't worry about making
24 friends, do you remember that?

25 A Don't worry about making friends because when

DAVID JONES-CROSS BY MR. MILLER

1 she was trying to make friends, that is when she would get
2 in trouble.

3 Q Okay. But you do agree that you did say that?

4 A I did say that.

5 Q Okay. And the other talk about your question
6 about Investigator McHale about other males and also
7 talking about there was Marita's dad, he didn't have a
8 leg; did he?

9 A He only had one leg.

10 Q Right. And you told Investigator McHale, you
11 couldn't see how he could do it?

12 A That's correct.

13 Q You had your programmer friends who would you
14 come over but you also kept a close eye on them and
15 couldn't see how they could do it?

16 A That's correct.

17 Q And **Child** never mentioned any other adult male
18 to you or Marita?

19 A No.

20 Q No. Okay. And do you remember in your talks
21 about with, you know, you had those talks of the ice cream
22 man or scenarios; do you recall that?

23 A Yes, I remember that.

24 Q Do you recall in the interview saying, Don't let
25 them get their hands on you because kids are so weak what

DAVID JONES-REDIRECT BY MR. YARBOROUGH

1 can they do?

2 A Yes, they weak, they can't defend themselves
3 against an adult male or female.

4 Q Okay. So would you then agree with me that the
5 only adult male that was that continuously around **Child**
6 the only person that could have done this, is you?

7 A I'm not going to agree on that. I'm going to
8 agree that she's around me during homeschool. She's not
9 continually around me.

10 Q But when you were asked about it continuously,
11 there was no one else anybody could think of?

12 A There's no one else I can think of, at the
13 moment.

14 MR. MILLER: No further questions.

15 THE COURT: Redirect?

16 REDIRECT EXAMINATION

17 BY MR. YARBOROUGH:

18 Q He asked you about the thing with the bus. I
19 mean, did you know that -- that she had said something
20 about the bus?

21 A No. I don't know what he's referring to.

22 Q You never told her to say anything?

23 A No, I never told her to say that.

24 Q And you never tried to influence them in any way
25 except to tell them to tell the truth; right?

DAVID JONES-REDIRECT BY MR. YARBOROUGH

1 A That's correct. And I made no contact with them
2 after that. I followed the rules just like they told me
3 to, make no contact.

4 Q You lost your wife, lost your family through all
5 that, y'all are divorced?

6 A Yes.

7 MR. YARBOROUGH: I don't have any further
8 questions.

9 THE COURT: All right, you may step down.

10 MR. MILLER: Brief?

11 THE COURT: No, he can step down.

12 All right, anything else?

13 MR. YARBOROUGH: No, sir.

14 THE COURT: Does The Defense rest?

15 MR. YARBOROUGH: Defense rests.

16 THE COURT: Do y'all anticipate any rebuttable
17 witnesses?

18 MRS. SUSTAKOVITCH: None from The State, Judge.

19 THE COURT: All right, ladies and gentlemen,
20 therefore that concludes all of the evidence that
21 you're going to be presented with. So with the
22 conclusion. Now, what I have to do is go over with
23 the attorneys the charge and kind of the final stage
24 and make sure we got everything in order. That will
25 take probably about 15 minutes. Then, at that point,

1 we'll come out and we'll have closing statements by
2 the attorneys. And then we'll have a charge on the
3 law, then you can go back and begin your
4 deliberations. But at this point, it's still not
5 proper to have any discussions about the case. So if
6 you'll step back in your jury room, we'll bring you
7 out just as soon as possible.

8 (WHEREUPON, the jury left open court at
9 approximately 2:42 p.m.)

10 THE COURT: All right, anything from The State?

11 MRS. SUSTAKOVITCH: No, sir.

12 THE COURT: Anything from The Defense?

13 MR. YARBOROUGH: Just renew my motions, Your
14 Honor.

15 THE COURT: All right, as I said before, I
16 believe this is a factual issue for the jury.

17 Let's take five minutes, then y'all come back in
18 chambers, we can discuss the jury charge and then we
19 can present, you know, anything that we need to put
20 on the record and go into closing arguments.

21 MRS. SUSTAKOVITCH: Your Honor, can we have
22 about 10 minutes --

23 THE COURT: Okay.

24 MRS. SUSTAKOVITCH: -- break to get ready for
25 closing?

1 THE COURT: Yes.

2 MRS. SUSTAKOVITCH: Okay.

3 THE COURT: I'll give you a little bit of time--

4 MRS. SUSTAKOVITCH: I'm sorry, Judge?

5 THE COURT: Also, after we do the jury charge
6 conference, I'll give you some additional time there
7 too.

8 MRS. SUSTAKOVITCH: Okay.

9 (WHEREUPON, a short break was taken.)

10 THE COURT: All right, based on our discussions,
11 I'm going to bring the jury out just briefly and ask
12 them to make sure what their wish is as far as going
13 forward this afternoon or first thing -- or start
14 back first thing in the morning. And then I'm going
15 to send them back and then we can put anything on the
16 record as far as the charge. So, all right.

17 Tell the jury they're going to come in just
18 briefly. So they'll know this isn't a final part.

19 (WHEREUPON, the jury entered open court at
20 approximately 3:15 p.m.)

21 THE COURT: I brought you in briefly just to ask
22 you a question, then I'm going to send you back out
23 and you send me back the answer. Is it 3:15 now, I
24 expect with closing arguments and the charge that I
25 give you, it could be 4:30 or after before we send

1 you back to deliberate. So therefore, you will be --
2 obviously, will be after 5:00 for your deliberations.
3 And again, I can't tell you how long your
4 deliberations are and I don't want you to discuss the
5 case. But so what I want you to do is talk -- y'all
6 talk among yourselves. Do y'all want to run through
7 today or come back first thing in the morning? Just
8 let the bailiff know and we'll abide by whatever your
9 decision is. Okay, so step back there and -- what it
10 is is he'll give us your decision and then we'll call
11 you back when we need to.

12 (WHEREUPON, the jury left open court at
13 approximately 3:16 p.m.)

14 THE COURT: All right, The State have anything?
15 All right, back on the record. We went through the
16 charge in chambers, The State want any objections or
17 exclusions you want to--

18 MRS. SUSTAKOVITCH: Nothing from The State, Your
19 Honor.

20 THE COURT: All right.

21 From The Defense?

22 MR. YARBOROUGH: No, sir. But I did want to
23 renew my motion --

24 THE COURT: Okay.

25 MR. YARBOROUGH: -- for directed verdict. And

1 I'll take -- specifically outlined there are five
2 separate indictments that all appear to be out of one
3 specific type of crime. And I think it's just hard
4 to distinguish, individually. And so I think that
5 only one count should go back to the jury. That's
6 my--

7 THE COURT: Okay.

8 Yes.

9 MRS. SUSTAKOVITCH: Your Honor, each sexual
10 battery is a different charge for CSC with a minor.
11 And in this case you have anal, you have digital, you
12 have vaginal, you have oral sex, both ways, all five
13 indictments, if the jury believes this victim and the
14 evidence that has been put before it, would also
15 substantiate a conviction for CSC with a minor first.

16 THE COURT: Okay. All right. And I think I'm
17 going to allow it to go back the way it has already
18 been presented. So motion denied.

19 Also, both State and Defense have got a copy of
20 the verdict form.

21 Any objection from The State?

22 MRS. SUSTAKOVITCH: No objections.

23 THE COURT: Anything from The Defense?

24 MR. YARBOROUGH: Nothing but what I just said.

25 THE COURT: Yeah, subject to that objection.

1 And The State will open in full, The Defense and then
2 rebuttable by The State. So let's see what the jury
3 has to say.

4 MRS. SUSTAKOVITCH: Your Honor, I'm going to run
5 to the restroom real quick, if that's okay?

6 THE COURT: Okay.

7 (WHEREUPON, a short break was taken.)

8 THE COURT: All right, as reported the words to
9 The Bailiff was, They did not want to feel rushed.
10 And would like to come back in the morning.

11 So that's fine. So I'm going to bring them out
12 and just give them the final instructions then.

13 Anything else from The State before I bring them
14 back out?

15 MRS. SUSTAKOVITCH: No, sir.

16 THE COURT: Anything form The Defense?

17 MR. YARBOROUGH: No, sir.

18 THE COURT: All right.

19 (WHEREUPON, the jury came into open court at
20 approximately 3:21 p.m..)

21 THE COURT: All right, The Bailiff indicated
22 that y'all wish to come back in the morning so you
23 wouldn't feel rushed.

24 Is that correct, Mr. Foreman?

25 THE FOREMAN: Yes, sir.

1 THE COURT: All right. And I appreciate your --
2 that's fine, we'll be glad to do that. And I
3 appreciate your consideration of that. So, as I
4 said, we're at the final stage, just have closing
5 arguments and the charge on the law. So I'll
6 discuss -- we may make, see how it goes, but we'll
7 see if we need to make arrangements for lunch, I'll
8 figure out that in the morning. So once you start
9 deliberating, we will not release y'all to go to
10 lunch. And if we need to get lunch, we'll have it
11 brought in. So we're not going to starve you out or
12 anything like that, we don't turn the heat up or, you
13 know, stuff like that.

14 So, all right, here's my four rules as you go
15 home from the evening. Don't discuss the case and I
16 know that's difficult when you get home to not
17 discuss that. But once this is over you're free to
18 discuss it. Do not do any type of research, do not
19 pay any attention or look at any type of media
20 coverage, including social media. And again, I'm not
21 aware of any. And if somebody should contact you
22 other than the clerk's office, then let The Bailiff
23 know. Otherwise, y'all have a good evening. Just be
24 in the jury room ready to go at 9:30. All right.
25 Have a good evening.

1 (WHEREUPON, the jury left open court and was
2 excused for the day at approximately 3:23 p.m.)

3 THE COURT: All right, anything from The State
4 before we break?

5 MRS. SUSTAKOVITCH: No, sir.

6 THE COURT: Anything else from The Defense?

7 MR. YARBOROUGH: No, sir. Thank you, Your
8 Honor.

9 THE COURT: All right, see y'all in the morning.

10 (WHEREUPON, the proceedings were concluded for
11 the day to be reconvened on June 8, 2023.)
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1 June 8, 2023

2 THE COURT: Anything before I bring the jury in?

3 All right, y'all ready?

4 MR. YARBOROUGH: Yes, sir.

5 THE COURT: Bring them.

6 (WHEREUPON, the jury entered open court at
7 approximately 9:41 a.m.)

8 THE COURT: All right, good morning, ladies and
9 gentlemen, as you will recall, we're at the final
10 stages of the case; which are closing arguments, then
11 I'll charge you on the law. And the closing
12 arguments not evidence, this is their argument or
13 their summary about the case. So, at this time, I
14 would ask that you give your full attention to the
15 attorneys.

16 CLOSING STATEMENT

17 MRS. SUSTAKOVITCH: Thank you, Your Honor. May
18 it please the Court.

19 Good morning. I want to save my daddy, though.
20 Do you remember those words? Do you remember the
21 little girl that spoke them? Who is this case about?
22 This case is about a young girl who was sexually
23 abused and violated in the worst way by the one man
24 on this earth that she trusted to protect her, to
25 care for her, to save her. What is this case about?

1 It's about a search for the truth. And letting a
2 child know that she was right to tell.

3 This is a court of justice. What we do in this
4 room is so very important. Many of you have probably
5 never been on a jury. You've seen TV, you've seen
6 how it works there. But it's a lot different in real
7 life. And the walls of this courtroom are so
8 important. It's what separates from chaos. It's
9 what represents the rule of law. It's what settles
10 disputes between people and society. When crimes are
11 committed and The State meets its burden and a
12 verdict is rendered.

13 This is important to The State, to The Victim,
14 to this Defendant, to Judge Gravely, to all of us.
15 But I would say, as you enter into this, I would ask
16 you to use a clear heart and a clear mind. You can't
17 help but hear the facts of this case and something
18 stirs in you. Well, I'm asking you to check your
19 emotions and look at the evidence. And you will find
20 that The State has met its burden in this case. The
21 State has the burden of proof. It's proof beyond a
22 reasonable doubt. Now, what does that mean?
23 People -- I know Mr. Miller talked about it in
24 opening, so did Defense Counsel. Judge Gravely is
25 going to instruct you on it but proof beyond a

1 reasonable doubt is not proof beyond any and all
2 doubt. It's not a doubt that you can come up with,
3 it's reasonable doubt. It's when you have been given
4 evidence that leaves you firmly convinced of
5 someone's guilt. That's when The State has met its
6 burden. When you look at the evidence and you are
7 firmly convinced that **Child** was sexually
8 assaulted by her own father.

9 We have the burden and we welcome it. But at
10 the end of the day, The State deserves justice. The
11 elements of CSC with a minor first, Judge Gravely's
12 going to talk about that but also I wanted to just
13 briefly mention it. It's when you commit a sexual
14 battery on a child under the age of 11 in Greenville
15 County. Sounds pretty simple. What is a sexual
16 battery? A sexual battery is anal sex, oral sex,
17 vaginal, digital, any of those are sexual batteries.
18 And each time you commit one on a child, that's a
19 different offense.

20 So, in this case, The Defendant is charged with
21 the five counts of criminal sexual conduct with a
22 minor. **Child** was between six and eight years old
23 when she was sexually assaulted. The evidence, in
24 this case, that's been presented is that this
25 Defendant anally violated her and penetrated her.

1 Put his fingers in her vagina. That he put his penis
2 in her. That he asked her to have her to perform
3 oral sex on him and she had to perform it back on
4 him. So you have five counts of CSC with a minor.
5 And if you believe the evidence in this case, this
6 Defendant is guilty of all five.

7 Very briefly about criminal intent. What is
8 criminal intent? It's a state of conscious
9 wrongdoing. It means if you believe that this
10 Defendant did these things, intent is proven. We
11 can't crawl in and dissect somebody's brain and
12 download their little thoughts, but anybody that
13 would sexually assault a child like this, has a
14 conscious wrongdoing and intent is proven. So
15 briefly, I wanted to mention the dates in this case.
16 The State does not have to prove the exact time that
17 this abuse took place, so we will not be doing that.

18 So we get back to the essential question which
19 is, did this Defendant sexually assault his daughter?
20 And I would just start here as we go back through the
21 evidence in these cases. These cases are different.
22 There's not a murder, there's not attempted murders,
23 there's not armed robberies. These are crimes that
24 happen in secret. They happen behind closed doors.
25 They happen -- it's a power situation where the

1 perpetrator is counting on the fact that the child
2 won't tell or the child won't be believed. Because
3 there's no eye witness in there. There's nobody
4 leaving all kinds of evidence. A lot of times in
5 these cases you won't have it because you heard the
6 expert testimony, children delay reporting.

7 In this case, I'll just say, there's not going
8 to be any DNA, we didn't have any to bring to you.
9 Based on the facts of this case, **Child** said it
10 happened in the Man Cave and in her parents bedroom.
11 The Man Cave was destroyed. And any DNA in her
12 parents bedroom would mean nothing. Nothing because
13 it's a common house where they both lived. I
14 guarantee there was just no opportunity for that in
15 this case. But it doesn't mean that you can't prove
16 the case just the same. Most cases have zero DNA.
17 And I will say I think this, I wish children that
18 were sexually abused -- I always imagine this little
19 SWAT team that flies in and they drop down and right
20 when the kid's sexually abused, they get busy and
21 they go to work. They take the child, they run them
22 to hospital and all this stuff starts happening.
23 Well, wouldn't that be amazing?

24 But you the heard that expert testimony, that is
25 not what happens. So we don't just give up on all

1 those children. We present brick-by-brick, proving
2 the elements of the case and create for you a
3 tapestry of everything that happened. To give you
4 the evidence you need to convict. This case comes
5 down to credibility. What in the world could **Child**
6 **████** be getting out of this? Think about it. What
7 in the world, four years ago when she told her
8 brother, **ZJ**, that she was being abused by her
9 father, you think she ever thought in her wildest
10 dreams we would be here? No. Because I can tell you
11 the worst place on the planet is to be the victim of
12 child sexual assault and go through this. Go through
13 all the visits with the doctors, DSS and the
14 interviews and having your pelvic exam, as we heard
15 Dr.~Croswell talked about, when you're eight years
16 old. Eight. That's not okay.

17 Speaking of credibility, let's talk about this
18 Defendant's credibility. I want to be very, very
19 clear on this point. A central tenant, perhaps the
20 most central tenant of criminal law is this, The
21 Defense never has to prove anything. Nothing. Ever,
22 ever, ever. And that never changes. But you know
23 one thing that changes when this Defendant decided to
24 testify? You get to access his credibility just like
25 everybody else. What is his motive to lie? What is

1 his motive to be honest and truthful with you?

2 Between **Child** walking in here and having to face all
3 14 of you and disclose some of the most horrible
4 moments of her life. You get to judge this Defendant
5 like anybody else.

6 Ladies and gentlemen, this case to me is about
7 those words, I want to save my daddy. I don't know
8 which exhibit it is but you're going to have it back
9 there. But you're going to see from the very
10 beginning of this case, she's told **ZJ**. Now, **ZJ**'s
11 reported to her mom. Oh God, now Marita, Marita goes
12 crying over to the doctors office; right? That seems
13 like a set up. No. It seems like a mom who is
14 worried about her child, who brings her to the doctor
15 and is thinking, you know what, this doctor is going
16 to be able, I guess it's like checking oil or
17 something in a car, she's going to be able to tell me
18 thumbs up, thumbs down that this happened or not.
19 And that's when Marita finds out, that's not how this
20 works.

21 Then you have people getting on the scene and
22 from the very beginning, **Child** does not want to say
23 the identity of who's hurting her. I honest to
24 goodness do not know what the theory is from The
25 Defense at this point. I tried to figure it out

1 yesterday. And, you know, there's a Ferris wheel of
2 defenses that goes in these cases. Sometimes it's a
3 custody dispute, sometimes it's going to be about
4 money or this or that. Sometimes it's the mean mom,
5 made the child conclude, make it all up. So I'm not
6 sure based on what we heard yesterday, what we're
7 supposed to think. All I heard was that there was a
8 infidelity in 2016 that Defense brought up, that The
9 State was not even going to talk about. But that
10 somehow is supposed to lead us to **Child** disclosing
11 what you saw on this video? No. I couldn't link it
12 up so maybe we'll hear more in a little bit.

13 But this case is about her trying to save her
14 daddy. On the scene you hear it in her voice, she's
15 crying. Those are not the words of somebody who's
16 trying to lie on their dad. Those are the words of
17 somebody trying to protect their dad. She doesn't
18 want him to go to jail. She doesn't want him to get
19 in trouble. And what is he doing? He's trying to
20 protect himself. **Child** protecting dad, this
21 Defendant protecting himself. It starts there on the
22 scene. We hear about 14 minutes where Marita is over
23 here talking to Shannon McHale and Dyneshia Kilgore.
24 And this Defendant tells her to come over and say
25 it's a boy on the bus. Y'all can listen to that.

1 It's clear there's no boy on the bus. No purple bus.
2 The officer knows it's not true. And in that 14
3 minutes, he's trying to save himself. He's trying to
4 mess it up. So nobody would believe the child.

5 Then we go to Easter Sunday. I was surprised
6 that he admitted to the Easter egg situation. I
7 thought -- but he did, okay. But what's happening,
8 this gets disclosed on April 15th, which is a Monday.
9 We go through that whole week and Easter is the next
10 Sunday. This Defendant is not supposed to have any
11 contact with the children. But you know what he's
12 doing? He's violating the treatment plan. He's
13 writing notes, secret notes, to [ZJ] to try to get to
14 [ZJ] to tell [ZJ] to check his little school email,
15 so he can get to [Child] the eight year old, and say
16 [Child] just say it was a dream. It was a dream. I
17 can make it all go away. But Marita intercepted the
18 Easter egg and [ZJ] never saw that message.

19 And then we get to him trying to protect himself
20 again. This investigation's going on. There have
21 been horrible allegations made against him. He comes
22 in and you guys saw a long interview with
23 Investigator McHale. You are the finders of fact.
24 You will determine how you think that way. It
25 appeared to me that Investigator McHale was opened.

1 She was listening. She was letting him talk. She
2 was asking him for all the scenarios. Who could have
3 done this? Where do you think she could have learned
4 this? Who else could it be? Is there anything she
5 might have seen? And he's over here saying, no,
6 she's kind of like, on a scale of 1 to 10, her
7 knowledge of sex is like a four. She just likes
8 Hello Kitty and Sprinkles. Right. So he has that
9 whole interview with Investigator McHale.

10 Now, if you think -- and I hate to use these
11 words but we have to. This blow job situation
12 happened. Why in the world would you not tell McHale
13 right then? Come on. He waits. Because it's not
14 true. And the investigation's going on. And then he
15 meets with Laura Jones. And he's thinking, oh my
16 God, I got to save myself, here's **Child** want to
17 save my daddy. And he's like, you know what, he
18 thinks it's a good idea to admit, you heard it.
19 Marita said that they were at Barnes & Noble's and he
20 was sitting on the bench and he said, you know, how
21 we sleep naked?

22 And she's like, We don't sleep naked.

23 Yeah, yeah, you know, we sleep naked. Well, you
24 know, I woke up one day and **Child** just got her
25 mouth on my penis. So I peed in her mouth. And she

1 told me that she loved me or wanted me to feel good
2 or something.

3 Y'all, if you took statics in school or in
4 college, think about that statics on a man being
5 charged or allegations being made that are, in this
6 case, so awful anal, oral, digital, vaginal, all of
7 this. And then the same man just happens to have his
8 daughter wake him up with a blow job? I'm going to
9 be conservative and say the chances of those two
10 things happening is zero. Because it didn't happen.
11 But he thinks that we're dumb enough to believe that
12 that's something that really happened. It's a rabbit
13 trail.

14 And when I come back to, what is the theory? I
15 don't know. Because you have to say, what you
16 witnessed the last three days, it all comes back to,
17 now a 12 year old girl, that had the courage after
18 four years, to walk right in this courtroom, sit
19 here, look at each one of you or maybe she didn't
20 look at you. But she testified in front of him. And
21 she told her truth. I want to go back to --

22 Beg the Court's indulgence.

23 I go back to this forensic interview that you're
24 going to have it in the jury room. And you guys can
25 play this as many times as you want. You can sit

1 back there and play it to infinity. But this is the
2 graphic accounting of child sexual abuse. The
3 sensory details flow like a river. Things that no
4 eight year old can possibly know unless she
5 experienced them. This is not a game. It's not a
6 play. You saw her, in real life, in this interview.
7 I have to say in looking at it, the only ray of
8 sunshine in the whole interview, is when the
9 interviewer walked out and you saw little **Child** act
10 like an eight year old for 2.2 seconds or how many
11 seconds that was and she's dancing around. And I
12 thought to myself, thank God for one second she
13 didn't realize how bad this was. Well, she does now.
14 She will be 13 years old soon. And she testified to
15 you while she didn't know what the white stuff was,
16 she thought it was like pee, she knows it's come in
17 her words now.

18 This Defendant's own testimony corroborates the
19 victim in this case. He talks about -- and I'm going
20 to go back to some of his testimony. The kids play
21 video games in the Man Cave. He was the only adult
22 home many times. He told McHale that he and Marita
23 were fine. And you saw that with Assistant Solicitor
24 Miller, when he got him to admit -- I think The
25 Defendant was trying to say well, we were having bad

1 times. There was this thing back in 2016 from
2 Skateland or whatever that was about. And we were in
3 bad times. And Assistant Solicitor Miller said, now
4 wait, didn't you tell Investigator McHale that y'all
5 were doing well?

6 He goes, oh, yeah, yeah, yeah. Yeah.

7 And then you got to hear a few jail calls from
8 right when The Defendant was arrested. And why did
9 that matter? Because so often in these cases, the
10 mean mom defense pops up, it always comes up. So
11 it's very relevant and probative to let you know
12 what's going on in her mind. I'm not judging. She
13 was trying to save her family, she loved her husband.
14 She -- you can tell from those calls -- those are the
15 calls of somebody who is conflicted. Not somebody
16 who is setting their husband up, if that's their
17 theory.

18 Then we go back to his testimony about Laura
19 Jones. And that's a doozy. It's where Laura Jones
20 and she apologized for using the word but he said
21 that **Child** had seen a comic book where somebody was
22 being eat out. His words. And he did admit on the
23 stand that she didn't learn what vaginal intercourse
24 felt like and that it hurt from that comic book. He
25 agreed that she didn't learn from that comic book

1 what a penis in her butt felt like. He agreed that
2 she didn't learn from that comic book what fingers in
3 her vagina felt like. That comic book did not teach
4 her at the age of eight what a penis in her mouth for
5 a long time felt like. About to get droopy when it
6 went on and on.

7 He talked about how nobody really was around
8 **Child** she was being homeschooled. And Marita's dad
9 had one leg, I believe one leg, he was in a
10 wheelchair. Nobody else could have done this. He
11 agreed to that. He agreed that **Child** you know,
12 doesn't really lie. Just little stuff to keep
13 herself out of trouble. We go back to McHale, that
14 first interview, where he says her sexual knowledge
15 is Hello Kitty and Sprinkles. But **Child** knew
16 things, sensory things, that she should never had
17 known. She should never have been able to explain
18 like that. She should never been able to act them
19 out. Moving her body, her head. That's real stuff.
20 That is evidence.

21 We go back through some of the witnesses that
22 testified. Dan Acord, he talks about responding to a
23 fire. And you saw the pictures of the Man Cave, not
24 going to put them back up, but the room is pretty
25 much destroyed. There's nothing in there. And these

1 are pictures of the Man Cave. You saw the video of
2 the Man Cave. Looked like it was a fun room. The
3 room that kids would really, really like. He talked
4 about how nothing could be saved in that Man Cave and
5 that the computers were destroyed.

6 Dr. Bhatia testified. She said that on
7 April 15th, Marita gets there and the words were, She
8 was upset, tearful, face crumbling, she's crying.
9 That's corroborating evidence. Spontaneous evidence
10 of the mom's reaction to finding out just Saturday
11 that her daughter had been abused. Does anybody
12 think that -- again, I'm not sure what the theory is
13 but if this is something where it's going to be that
14 Marita have **Child** say whatever, that dog doesn't
15 hunt. Does anybody think Maria prepped herself and
16 said, okay, you know what I'm going to do, I'm going
17 to go into that doctor's office and I'm going to cry.
18 And I'm going to be upset. You heard Dr. Bhatia
19 testify. She's just trying to figure out, can
20 somebody, some professional, some doctor who knows
21 stuff, a lot of stuff, tell me? She finds out that's
22 not how it works.

23 We go to Dyneshia Kilgore. First -- excuse me,
24 Investigator McHale. Again, **Child** is trying to save
25 her daddy. She doesn't want to say who it is. She's

1 on scene and she doesn't want to say. She talks to
2 Kilgore and she does end up saying who it is. And
3 that's when McHale comes over and she gives details
4 of the abuse. Very graphic, specific. You heard
5 **Child** testify. Details that it was her father and
6 what he had done to her. You heard from **ZJ**. **ZJ**
7 testified that he would see the door shut. His
8 sister would be in the Man Cave. He would hear
9 noises from the Man Cave. He talked about how he was
10 shocked at the disclosure. And then he talked about
11 being at Publix, after **Child** told him.

12 Now, why did **Child** tell him? When she
13 testified she trusted him. That's her brother.
14 She's eight and he's 11. It's a lot easier to go
15 tell, you know, your brother than go to her mom.
16 Because your mom is going to get mad and freak out.
17 That's what eight year olds are thinking. But **ZJ**
18 talks about how he found out. He told her to tell
19 Marita. Then in that Publix parking lot, she does.
20 And he was shocked. Shocked. He talked about the
21 egg incident. Where this Defendant was trying to get
22 a note to him. Which the Defendant testified he was
23 trying to tell **Child** to not lie. No. He was trying
24 to get a note to **ZJ** to have her say it was a dream.
25 Because he's trying to save himself.

1 **Child** you saw her testify. And you saw her
2 walk in here after four years and tell you the most
3 horrible things that have ever happened to her. She
4 told you that she loved her dad. She loved him. She
5 told you how this whole process has led her to
6 self-harm. Cutting. Suicide attempts. Which are
7 corroborated by her own mother. You heard expert
8 testimony that oftentimes children do self-harm. And
9 she testified and it was sad. She said -- I asked
10 why she was cutting? And she said she thought she
11 did something wrong for telling. She was trying to
12 punish herself. So she couldn't save daddy. And now
13 this whole thing started, this whole thing's going,
14 she's trying to punish herself.

15 You heard from Dr. Croswell. Dr.~Croswell
16 talked to you about how she examined **Child** How in
17 oral sex, you're not going to have findings. That's
18 common sense. Licking the child's vagina is not
19 going to leave marks or anything. And her having to
20 suck his penis, there's going to be no findings. She
21 testified about the anus and how that organ works.
22 It's a muscle, there's not going to be findings
23 there. She talked about how a normal exam, a vaginal
24 exam, can be consistent with a history of abuse. She
25 told you why. She's a doctor who's trained in this,

1 specific to children and child sexual abuse for
2 years. She told you about a study of teenagers,
3 where there is clearly a history of penial
4 penetration, because they're pregnant. And their
5 exams come back normal. So a normal exam in no way
6 indicates that this child was not abused.

7 You heard from Shauna Galloway-Williams. And
8 she talked about the disclosure process. She talked
9 about how children can recant and what can make them
10 recant. She talked about delayed disclosure. She
11 talked about a lot of things. And it was just to
12 help you understand the topic. So we go back to
13 Investigator McHale. She told you about the 14
14 minutes that she was over here talking to Marita and
15 Dyneshia, when The States evidence would say, based
16 on what **Child** said in her forensic interview when
17 asked, Did anyone tell you not to say something?
18 Well, my dad said to say it was a boy on the bus.
19 Yeah, that's when he was getting that done.

20 Your Honor.

21 The evidence shows he was still trying to
22 protect himself.

23 (WHEREUPON, a video was published.)

24 MRS. SUSTAKOVITCH: The evidence shows that that
25 was not a fun room for **Child** That was a room set

1 up by this Defendant. And it was a room of horrors
2 for **Child** She loved video games. She loved
3 playing them. But she had to do it well to get to
4 play them. What eight year old doesn't want to do
5 that? You want to get on Roblox. If you're not
6 familiar, it's a video game that a lot of kids like
7 to play. That room, the evidence shows, was horrible
8 for **Child**

9 And I just say this, I know the facts are hard
10 to hear, but if **Child** had to live it, we can
11 certainly listen to it. We're now talking about the
12 forensic interview. And that's going to be in the
13 room with you. And if they're any portions of it
14 that you want to play, you can certainly do that.
15 And what I'm going to do just, briefly, is take you
16 through a few parts. I can tell you all paid very
17 close attention. But this interview has so many
18 places where sensory details are in here. Little, I
19 call them nuggets. Pieces of evidence. Pieces of
20 that brick wall that's being built. No child should
21 know this stuff and yet he does. You see, at one
22 point, Melissa Collins saying, Your daddy doesn't
23 live with you?

24 And she says, No, he doesn't.

25 And then she asks, What's his name?

1 And then **Child** her voice drops. And she said,
2 It's David.

3 It's hard for her to get that out. There's one
4 point where she's talking about the different forms
5 of abuse that happened to her. And in life, all of
6 of us have had things that make us have visceral
7 reactions. It's something personal in your life
8 that's happened, it can be traumatic. It can be the
9 loss of a loved one, a parent dying. You know,
10 whatever it is. But that event brings up in you a
11 visceral reaction. You can't fake it. You can't
12 fake it. Say it's your dad dying. You walk in the
13 hospital and you hear the beeps and it sets off this
14 thing inside your core. It's a visceral reaction.

15 And she had that reaction when she was talking
16 to Melissa Collins, when she was saying he put his
17 penis in my mouth, in my pee-pee, in my butt, in my
18 face and then she gags. And that's why I asked
19 Melissa about it. Because they were right beside
20 each other. And it's harder to see it.

21 Then Melissa goes, Are you okay?

22 And she says, Yeah, I'm okay.

23 That's a visceral reaction to recalling a very
24 traumatic event. She talks about his penis. And
25 she's being asked, Did he ever put anything around

1 it? And this child -- children will give you the
2 most concrete, simple answers.

3 And she goes, Like my mouth?

4 Then we get to the point about he put pee, he
5 peed on my back. And then her voice drops down, gets
6 quieter and she said, It was white. It was
7 disgusting.

8 It was not pee. She was trying to explain how
9 it felt when he would perform oral sex on her
10 cauliflower. She said it felt warm. All sensory
11 details. All evidence in this case. And it adds up
12 to the fact that this happened to [REDACTED] Child It
13 happened to [REDACTED] Child

14 Ladies and gentlemen, The State has no interest
15 in convicting innocent people. What we're doing here
16 is so vitally important. But when you have the
17 evidence that is in this case, which is overwhelming,
18 on the issue of guilt. At that the end of the day, a
19 victim deserves justice. I always say to juries,
20 keep your eye on the ball. Don't go off on the
21 rabbit trail or the shinny object. And what I would
22 say to you on this is, don't forget the child who was
23 trying to save her daddy.

24 At the end of the day, when you render a verdict
25 that, I believe, the evidence supports a guilty

1 verdict, there is no happy day here. There's no high
2 fives. Nobody -- this is terrible. You still have a
3 daughter, a biological daughter, who will always know
4 that her own father violated her in the worst way
5 possible. You will still have a 16 year-old boy, who
6 turned 16 today. Knowing that he had to get on that
7 stand and testify to the events surrounding his
8 sister's abuse. And what I come to know at this
9 point, there are no winners. Sometimes there's just
10 justice. Thank you.

11 MR. YARBOROUGH: May it please the Court, Your
12 Honor?

13 THE COURT: Mr. Yarborough.

14 CLOSING STATEMENT

15 MR. YARBOROUGH: I spent last night trying to
16 formulate a summation and after I heard her closing
17 arguments, I just wanted to start out by saying one
18 thing. David Jones didn't walk into this courtroom
19 having to prove anything. Sounds to me like The
20 solicitor's argument is all about what David Jones
21 didn't do or how he didn't. Well, how is a person
22 supposed to act? How is a person supposed to act
23 when they're on the side of the road, in front of the
24 house that's been burned down, that's been charged
25 four days after that. And he hears his daughter, who

1 is 10 years old, who he loves, make an accusation
2 that something happened. Or she was eight years old
3 at the time, I guess.

4 How is he supposed to act? How does a person
5 act? The State wants you to believe they're supposed
6 to act a certain way. I don't know where this thing
7 on the bus came from. There wasn't a bus, they were
8 homeschooled. I mean, come on. Everybody knows that
9 whatever was said there, that made no sense, that was
10 nothing. And go back and listen to that tape. Go
11 back and listen to that tape. That's not what's on
12 that tape.

13 You know, it's just as consistent that this
14 little girl was upset. She learned information from
15 the internet that she shouldn't have known. And she,
16 for whatever, because her mother was upset about
17 stuff that had happened, her family was upset because
18 they had been disenfranchised because of a fire that
19 nobody had anything to do with. And they're upset so
20 a child says something. A child says something that,
21 you know, as an adult says, okay, we've got to check
22 this out. We got to figure this out. And when we do
23 that, we take that person to a doctor; right? We
24 take that person to a doctor because we don't know.
25 I mean, I'm sure some of y'all are parents, I'm a

1 parent, I don't know what happens when something like
2 that happens. You go to a doctor because you trust
3 the doctor.

4 So you go to one doctor and that doctor doesn't
5 find anything. That doctor finds nothing. Okay. So
6 that doctor says, well, I don't know. I don't know
7 that there's anything here but let me send you over
8 to this doctor. So they send you over to this other
9 doctor, who testified. And she testified she did an
10 exam of this little girl and there was absolutely no
11 physical evidence. None. Zero. None. I'll get
12 into that in a little while but there was no
13 evidence. And so you send them over to a center
14 that's in the business of making money dealing with
15 child sexual abuse, child advocacy. That's their
16 business; right? Big problem in, bigger problem out.
17 Big Problem in, bigger problem out.

18 You heard the owner of the center, the CEO, the
19 big boss come in here and talk her knowledge, her
20 knowledge of child sexual abuse. She doesn't know
21 anything about this case, she just knows what she
22 thinks child sexual abuse should be. She don't want
23 to talk about how much money she makes. She didn't
24 want to say. She just wanted to say I'm the CEO, I'm
25 the boss and this how it's done now.

1 I want you to go back and look at the tapes.
2 Okay, the tape that The State keeps on wanting you to
3 rely on. And that tape is -- a little girl should
4 not say those kinds of things, okay. But let's say
5 this, I want you to listen to that tape because that
6 tape is very important. That girl talks about things
7 that are beyond the knowledge of a child. Okay. I'm
8 talking about the words that are used are beyond the
9 knowledge of a child. She said stuff like child
10 sexual abuse. She -- just go listen to it, it --
11 it's graphic but I submit to you that it's so
12 important it shows what a child would not know. So
13 someone's putting something in that girl's ear.

14 Now, The State wants you to say -- and look, I
15 was very careful with her, I was very careful with
16 that little girl. I feel sorry for that little girl.
17 That little girl, obviously, has some problems. But
18 I want to tell you this, The State wants to blame
19 David for the suicide attempts, the cutting,
20 whatever. It's just as easily -- it's just as easily
21 to think that that little girl is upset because of
22 what she did to her father which wasn't true. Okay.
23 It wasn't true, okay. She tried to take it back at
24 that moment. But that police officer over there said
25 to her, Don't you want to be -- listen to the tape.

1 Don't you want to be a superhero? Don't you want to
2 be a superhero?

3 And to be a superhero you got to report. And
4 then you report, you go to a doctor and then you, all
5 of a sudden, everybody's got their hands around you
6 and you're taken to a place that it's to help
7 children. It is to help children. It's not to come
8 into court and use for testimony. All right. It's a
9 advocacy center. I mean, you hope that children get
10 help. That doesn't help that child.

11 Well, let me say this, David didn't have
12 anything to prove and let's start right here.

13 David, stand up.

14 That's him. I want to submit to you --

15 You can sit down.

16 I want to submit to you -- we'll start over and
17 I'll go back to my notes from last night. You walked
18 in here and I appreciate that. You took an oath,
19 that oath is to be fair and impartial. Didn't bring
20 any friends into this courtroom, don't have any
21 enemies. You make the system work. And I appreciate
22 that. I work in this system and I embrace it and I
23 embrace y'all. I embrace you for taking your time
24 off of work. I embrace you for coming in here. I've
25 watched you listen of fulfilling your duty. And

1 thank you. Not thank you for being jurors but thank
2 for this country for keeping this country safe. You
3 make this system work.

4 But this system is based on beyond a reasonable
5 doubt. Beyond a reasonable doubt. I tried to define
6 that a little bit in my opening statement. Judge
7 Gravely is going to do a wonderful job of giving you
8 what the law is on that but it still gets kind of
9 confusing. But I'll tell you this but I think y'all
10 can figure it out. And what is beyond a reasonable
11 doubt is this, you've got a man who loves his
12 daughter, that was, obviously, true. He testified in
13 front of this courtroom that he was a security
14 officer, that he loved his wife. He was trying to do
15 good by the family. He made a mistake, he had an
16 affair. And after that, his marriage was in kind of
17 bad shape, they were working on it, they were going
18 back and forth, there had been some arguments in the
19 household. And then there was a fire and the fire
20 burned the house down.

21 You also know because of that fire, that this
22 little girl's mother got the money from the fire.
23 She said that I got it because it was my house.
24 Well, they were, obviously, married because they had
25 to get a divorce. We know that she should have been

1 paying part of that to David but that doesn't matter.
2 But that does give you a reason to think about it.
3 Follow the money.

4 Now, then let's follow what happens out there
5 that day. David has heard his daughter make this
6 report. And he's not dumb, he not stupid. He's been
7 a law enforcement agent, he worked in Richland
8 County. He knows he doesn't have to go down there
9 and talk to the police but what does he do? He shows
10 up and he gives a full interview. You heard that
11 interview from the stand. You heard it played. He
12 answered all their questions. He said he didn't do
13 anything wrong. He agrees to come back a couple of
14 days later to tell them, no, look maybe this has
15 something to do with it.

16 Now, I'll tell you what, there is two different
17 stories about what that interview was about. And The
18 State could walk in here with a video, audio, just
19 like they did the first time he came in and play for
20 you what he said. But it didn't work. Didn't work.
21 That David's fault? No. So I think that you can
22 assume that what David said is true. I'll ask you
23 another question. Where are the notes from that
24 police officer when she came in that day? They don't
25 exist. That makes no sense. That makes no sense.

1 Give that to David. Give that piece of work to
2 David.

3 We know the children can be impressionable.
4 That's not a fault for children. That is not a
5 fault. Adults can impress children. The State wants
6 me to now come up with some defense and tell you
7 something. Well, let me tell you something, I came
8 up with a defense. I told you what the defense was
9 when we started, it is he's not guilty. He didn't do
10 this. There were two sides to this story and they're
11 even. And if they're even, that balance means that
12 the justice is like this. That means you can't find
13 him guilty. He didn't have to come in here and say
14 anything. He didn't have to come in here and
15 testify. He didn't have to sit down and talk to the
16 police officers. He didn't have to do a darn thing.
17 The State wants you to rely again and again on a CEO
18 who makes money having a child advocacy center, who
19 produces a tape that shows up in this courtroom.

20 Let's talk about videos. Let's talk about
21 what's on these videos. I would like for you to go
22 back and listen to the jail call and see what that
23 sounds like. I agree with you, listen to it. I
24 would like for you to go back and listen to what
25 David Jones tells the police officer. They want you

1 to go back and listen to the interview. I agree with
2 you, go back and listen to the interview. And listen
3 to it and how it has adult conversation on it. It's
4 not the words of a child. It's not there. An adult
5 sits down and talks to a police officer. How do you
6 call that? That's even. Even tie always goes to The
7 Defendant. Even tie always goes to The Defendant.

8 I want you to go look at the video from the Man
9 Cave. Okay. I'm not exactly sure where that video
10 comes from. But it's, obvious, that it was a video
11 that was prepared by a father who was proud of what
12 he had made for his children to be able to study.
13 And somehow or another The State wants you to think
14 that's a terrible thing. I think that's a pretty
15 good thing. I think that's pretty cool that he sat
16 up that room like that so he can help teach his kids.
17 I think it's pretty cool that he was that involved in
18 their life. I think it's pretty cool that he was a
19 good dad. I think it was pretty cool. But they want
20 to make -- because he called it a Man Cave.

21 How many -- how many people do you know that --
22 friends that have garages and stuff that are called
23 man caves. That they play pool out there, they go
24 out there and drink beer and watch football games on
25 Saturday afternoon, they call them man caves.

1 David's man cave had computers in it. It also had
2 places where he worked. It was his stuff for his
3 security business. I don't think anybody disagrees
4 with that. That's what happened. It was destroyed.
5 His equipment was destroyed.

6 David's taking this case head on. He's
7 cooperated in every way, shape and form. And somehow
8 or another The State wants to say that's a bad thing.
9 Can The State point to one thing, one, one thing,
10 that's not even? Besides the story of a little girl
11 who definitely, definitely, has some problems. I'm
12 not a psychiatrist, I don't know what causes that. I
13 don't how that happens. I don't know. The State
14 wants to tell you it happened because of something
15 that the dad did, we don't know that. We have no
16 idea. We know she had clean medical exams.

17 The State wants you to believe -- The State
18 wants you to believe that that man right there
19 sexually abused that girl 20 plus times, as was said
20 on the tape, in the vagina and in the anus and there
21 would be absolutely no sign of tearing or anything?
22 Come on. Come on. I wasn't born yesterday. I tried
23 to ask some questions about, you know, what you think
24 if you were in high school -- I don't know, I grew up
25 in high school, you know, I don't know how to say

1 this delicately but, you know, sex causes hymen to
2 tear. I don't know how else to say it. The hymen's
3 in tact.

4 Look at the evidence from the doctor report, I
5 don't know if it's in evidence but she clearly
6 testified -- I think it is in evidence somewhere.
7 She clearly testified that the hymen was perfectly in
8 shape. It wasn't that she testified that -- she said
9 it was round and perfect, I think were the words. I
10 got it in here somewhere and I'm going to find it
11 because I think it's important. Smoothly shaped,
12 that's the word she used. Smoothly shaped. It
13 wasn't torn. Anus was not impacted -- these are not
14 words I like to talk about, okay. I'm sorry, I can't
15 get the stuff out. I hope you hear me that there
16 would be something. The State wants you to say there
17 wouldn't be anything, there would be something.
18 Okay.

19 You are the judges, you take the facts, all
20 right. You're here to look at the facts. They want
21 you to believe the hypothesis that I think is totally
22 unreasonable. And The State keeps on going, what is
23 my theory? My theory is it didn't happen. My theory
24 is it didn't happen. That David Jones is innocent.
25 It's their burden. She comes up here and says she

1 wants that burden. Well, give it to me. She says,
2 well, there can't be any DNA because there wasn't --
3 the house has been burned up. Well, I tell you what,
4 they sure as heck found that camera from the -- or
5 that video from the Man Cave.

6 I want you to go look at that video when you go
7 back, okay. I want you go look at that video. And I
8 want you to listen to David's statement when he's
9 talking to the police officer, the one they taped so
10 you could hear, and I want you to look at one
11 thing -- two things, okay. I want you to listen to
12 his statement on the tape. And it says, Go look at
13 the videos of my house. My house had security
14 cameras in it. Go listen to that tape. David told
15 them that the day he was arrested. Or the day he was
16 sitting there talking to them. They were asking
17 questions. He waived his Constitutional right. No
18 lawyer present. He walked in there and he told them
19 what he knew because he knew he was innocent. He
20 knew he was walking into something that he was going
21 to be able to tell them the truth. And he said, Go
22 look, go look. They got -- they got the video from
23 the Man Cave and the video of the Man Cave, look up
24 there. There's a video camera. There's security
25 cameras, he told them that. He told them that.

1 They want to talk to you about these drawings.
2 But cauliflower, okay. That's the word I was looking
3 for a little while ago, cauliflower. Okay. She uses
4 in that forensic interview, she talks about
5 cauliflower. Then she uses words like child sexual
6 abuse. I mean, those are words that -- child sexual
7 abuse are words of adults. Cauliflower is a word of
8 a little girl. David didn't come in here and bash
9 anybody on the stand. He said he still loved his
10 wife and he still loved his daughter, said he still
11 loved his son.

12 I don't know where -- The State keeps on going
13 back talking over and over again about what his son
14 said, I don't think his son said anything. I think
15 his son said he was there when she said it. The mom
16 was there when she said it. And based on that, the
17 mom did what she probably thought was right, at the
18 time; which was go to the doctors, okay. She
19 thought, okay, somebody's going to tell me what
20 happened. Somebody's going to be the draw, right?
21 Somebody is going be the draw. I need to know what
22 happened to my little girl. I tell you this, I think
23 the mother did the right thing. Okay. I think the
24 mom did the right thing. You know -- and as soon as
25 she, her mother, as soon as you start having people

1 tell you something happened, not that you know it,
2 not that you know it, okay, you've got to move on.
3 You got to do what you got to do.

4 She talked to him on the phone, you heard it.
5 She moved on with her life. And all that's left of
6 whatever happened -- this whole case really boils
7 down to what happened at the Julie Valentine Center.
8 That's really the only evidence in here. If that is
9 evidence. People that make money doing this. Right?
10 I'm not saying it's a bad place. I'm not saying it's
11 a bad place. I'm saying it's not a good place for a
12 courtroom. That's what I'm saying, it's not a good
13 place for a courtroom. They're not -- they're not
14 lawyers. They're not law enforcement. They don't
15 pretend to be law enforcement. Police officers
16 aren't there doing this.

17 Greenville County's job was to investigate this.
18 What does Greenville County bring you? I love
19 Greenville County law enforcement but I would have
20 expected more in this case. I would have expected,
21 at least, some notes from the interview with David.
22 If they want to say he said something like that. I
23 would expect for the cameras to work. I would expect
24 that you require The State to meet their burden when
25 you come into this courtroom. That's what I would

1 expect. And I know Judge Gravely is going to tell
2 you that's his expectation too. It's your job. Tell
3 you always, tie goes to the winner. Not playing
4 baseball, we're talking about a man's life. We're
5 not talking about wanting to make a child a
6 superhero. God, those words burn me up.

7 We embrace the evidence in this case. David
8 Jones embraces the evidence in this case. Look at
9 the medical evidence. Look at the medical evidence.
10 And ask yourself when you're back there, is there
11 anything more? You're not here to make decisions
12 based on emotion. The State wants you to make a
13 decision based on emotion. They want you, because
14 you're emotionally are involved in this little girl,
15 I'm emotionally involved in this little girl, too.
16 Sometimes you got to bring this to a close. They
17 moved on. Not David's burden. It's not David's
18 burden.

19 But he took the stand. He didn't have to. Told
20 you he was a security officer. Told you he'd been a
21 police officer. Told you he wanted to move out of
22 being a police officer into doing security work and
23 he was doing that. The evidence is there, that's
24 what he was doing. That he was working the
25 neighborhood. Yeah, he told you he had an affair.

1 We don't know what affairs do to marriages. I think
2 all marriages end up differently when something like
3 that happens. We're all human beings. We're all
4 human beings.

5 We're all here working the system, this system
6 that I love. This system requires more evidence than
7 what's before this court. The system requires that
8 David Jones have his fair day in court. And that
9 it's not a tie. And that just because you have
10 somebody ask somebody on a tape certain question,
11 doesn't make it to so. You know, The State wants you
12 to say I'm going to get up here and say, where's the
13 DNA? I'll ask, where's the DNA? It was destroyed in
14 the fire. I'll answer the question, she said I was
15 going to ask it. It was destroyed in the fire.
16 She's right, there's not any DNA, okay. Not any
17 proof in that Man Cave. They could have gotten some
18 but there's not.

19 What else did she tell you I was going to -- I
20 was going to take you down another rabbit hole. I'm
21 not trying to take you down a rabbit hole, I'm trying
22 to throw it at you right straight in the face. Tie
23 goes to the winner. Not pleasant, not what you
24 wanted to do. Probably isn't what you signed up for
25 on Monday when you had to show up here. No fun. I

1 tell you what, it's no fun for me. But that's not
2 what we're about. We're not here about fun.

3 We're here about this system. This system is
4 built on integrity, truth. And the criminal justice
5 is built on something called reasonable doubt. It's
6 also built on the fact that it's The State's burden
7 to prove somebody guilty beyond a reasonable doubt.
8 And I submit to you there has to be more. Because if
9 you found him guilty, you would have to look at the
10 medical evidence, directly in the eye. I'm not
11 talking about what the owner of the Julie Valentine
12 Center said when she came in here and testified as a
13 blind expert, I'm not talking about that. Y'all know
14 that. I'm talking about the two doctors that saw
15 this little girl. You got to look at that evidence
16 directly in the eye.

17 And the only reason, the only reason in those
18 cases do they pass that along to another stage of
19 this investigation is because the mother told them,
20 the mother told them that the little girl had
21 reported abuse. So everybody will know, everybody
22 knows, just like that first doctor said, she was
23 under an obligation to report it, okay. That's a
24 good thing. We're glad about that. We're all glad
25 about that. When somebody hear's that, they should

1 report it. And then they should go investigate it;
2 right? They should go investigate it.

3 And what's an investigation? That means that a
4 police officer goes and gathers information. That
5 doesn't mean that police officer just sends them over
6 to a center and let's them make a tape and have them
7 bring that tape into this courtroom and that
8 places -- here they testify that this is -- this is
9 evidence. That's not evidence. The fact that
10 somebody comes in here and testifies that we believe
11 this could be child sexual abuse. Well listen, I got
12 two girls. I got two girls. And, you know, being
13 parents can be hard. But you love them. You want
14 what's best for them. And I can't believe how hard
15 it must be for a mother having to struggle with a
16 girl like that that's having trouble. That's got to
17 be hard. And the mother did the best she possibly
18 could.

19 And then The State wants you to walk in here and
20 think that David's supposed to do this, David's
21 supposed to do that and David's supposed to do this.
22 It's not his burden. It's not his obligation. But I
23 think y'all know what your obligation is. And I
24 think, from listening to this, I think -- you
25 certainly know how I feel about it, right? But how I

1 feel about it and how Christy feels about it, doesn't
2 matter. How we feel about it, it doesn't matter.
3 That's just what we say. She's very good at what she
4 does. I like her. She does a good job. But she's
5 just presenting what the Julie Valentine Center gave
6 her. Rest of it is all gobbledegook.

7 The rest of it all goes to David. Everything
8 outside of the Julie Valentine Center goes to that
9 man right there, right? And that means you only got
10 one choice. They can say they're five counts, I
11 don't care if they say there's ten counts. It
12 doesn't matter. There's no evidence to support any
13 of that. They can say, well, you can't have evidence
14 of somebody having oral sex. I don't even want to
15 get into that, y'all are grown adults, you know what
16 I'm talking about. Look at the medical evidence.
17 Look at the lack of other stuff that the police could
18 have given you. Look at what the police lost. You
19 can look at that. That would be fun to know.

20 I can't leave here without saying be a
21 superhero. I can't leave here without saying what is
22 the doctors finding? I can't leave here without
23 saying the hymen was smooth. You know how I feel
24 about the Julie Valentine Center. I think it's a
25 wonderful place but it's a terrible place for a

1 courtroom. You know how I feel about the Man Cave.
2 I ask you to look at the cameras. I ask you to look
3 at the interviews. I ask you to look and see if you
4 think that the actions of David, after this stuff
5 came up, sounded anything like a guilty man. Or was
6 that a man trying to figure out what the heck
7 happened?

8 You know, he said some stupid stuff, maybe.
9 Don't judge him on that. That's not -- that's not
10 what you're here for. You're here to judge on the
11 facts and the evidence. And I submit to you when you
12 look at the facts and you look at the evidence, the
13 tie always goes to The Defendant. And you must find
14 him not guilty. Thank you.

15 THE COURT: Reply?

16 CLOSING STATEMENT

17 MRS. SUSTAKOVITCH: Yes, Your Honor, very
18 briefly.

19 Ladies and gentlemen, the Julie Valentine Center
20 provides a lot of services. Shauna Galloway-Williams
21 is the head of it. And she testified she's getting
22 paid no money to come here to talk to you. She
23 just -- as she testified, has 25 years experience in
24 the area of child sexual assault and that's why she
25 was brought. And when it comes down to forensic

1 interviews, children, as Mr. Yarborough knows, under
2 the age of 12, that's part of the investigation. He
3 wants an investigation. That's what we do. That's
4 what law enforcement does. You send them, as you
5 heard testimony, to have that interview done. If
6 that wasn't done, there would be a problem.

7 As to Laura Jones and the audio, you heard her
8 testimony, she had her report. I submit it's better
9 than notes any day. But if you don't believe her,
10 which I submit you should, but if you don't, it's a
11 good thing Marita told us the same thing. He talked
12 about vaginal penetration with Dr. Henderson.
13 Dr. Henderson was just letting you know that
14 sometimes children, she talked about the anatomy and
15 it was kind of personal, sometimes, children they
16 can't explain it as we, as grownups, talk about
17 penetration. It's the penis going into the labia
18 fold. And it's penetration however slight. So eight
19 year old **Child** what she thinks of and what she's
20 explaining, that penetration however slight, is still
21 penetration. It's not going to be what all us
22 grownups think of. And she tried to explain that to
23 you.

24 Direct evidence, right here, this is evidence.
25 And The Judge is going to instruct you on that. And

1 the law gives no better greater weight to direct or
2 circumstantial. It is just as powerful and it
3 matters just as much. And I appreciate the kind
4 comments from Mr. Yarborough but it has nothing to do
5 with liking anybody. It has to do with hard
6 evidence. And if just one of you has any hesitation
7 at this point, look no further than this snippet.

8 Your Honor.

9 (WHEREUPON, a video was published.)

10 I submit to you, ladies and gentlemen, you can
11 play that to the end of time. And what you're
12 hearing is a graphic disclosure of child sexual
13 abuse.

14 Thank you, your Honor.

15 THE COURT: All right, ladies and gentlemen, I
16 think before, since we've been going about an hour
17 and a half, I think before I give you my charge,
18 going to take a short break, then bring you back out.
19 Also, at this time, we'll make arrangements for you
20 to go ahead and order your lunch. I think there's
21 some choices that you need to make back there. So,
22 at this point, go back in your jury room but do not
23 discuss the case. And then I'm going to bring you
24 out and do the charge so.

25 (WHEREUPON, the jury left open court at

1 approximately 10:52 a.m.)

2 THE COURT: All right, let's take a short break.
3 Sorry, I didn't catch the first time, I was adding
4 something to the charge. All right, short break and
5 then we'll give them the charge.

6 (WHEREUPON, a short break was taken.)

7 THE COURT: Christy, I will need the elbow
8 thing.

9 MRS. SUSTAKOVITCH: So I turn it on? Yes, there
10 you go.

11 THE COURT: You don't need to turn it on yet.

12 MRS. SUSTAKOVITCH: Yes, sir.

13 (WHEREUPON, the jury entered open court at
14 approximately 11:07 a.m.)

15 JURY CHARGE

16 THE COURT: All right, ladies and gentlemen, I
17 am now going to come down here and give you what we
18 call the charge. All right. As I started off
19 Monday, I told you that you and I had two different
20 duties. Your duty is to determine what the facts of
21 the case are. And you're to determine that by the
22 evidence that was presented and apply the law which I
23 will give you right now. When I say determine the
24 facts, what you're going to be doing, and I'll go
25 through this in just a minute, you'll have a verdict

1 form with you back in your jury room. And on that
2 verdict form they have five questions. And the
3 questions are as to each charge, is The Defendant
4 guilty or is The Defendant not guilty? And that is
5 how you'll make your decision, that's how you'll make
6 your determination of the facts. And I will give you
7 more information and kind of more rules to go by.

8 Now, in this regard, as I said, my job is to
9 determine what the law is that applies to the case.
10 Now, if you thought maybe you had an idea of what you
11 thought the law was or you had an idea of what the
12 law should be, if it contradicts what I'm telling
13 you, then you're to disregard that because you've
14 taken an oath that says I will apply the law The
15 Judge gives me. It's also my job to preside over the
16 trial and part of that is to rule on objections. As
17 I told you in the beginning, our court rules and our
18 rules of evidence are very specific. Very intricate.
19 And that's usually what the objections relate to.
20 And that's my job is to rule on those objections. If
21 there's anything that I requested be stricken from
22 the record, then you're not to consider that. That's
23 not evidence that is to be considered by you.

24 Now, your job, again, is to determine what the
25 facts are. If I did anything, if I said anything

1 that makes you think that I have an opinion of the
2 facts, then you're to disregard that. Because that's
3 me stepping into that jury box and that's not my job
4 and that's not my role.

5 Now, we have five different charges here. There
6 all the same charge in respect, it's all criminal
7 sexual conduct with a minor in the first degree,
8 okay. And I'll give you the elements of that in just
9 a minute. But there's five, kind of, subcategories
10 of that. It's all in one charge under our statute
11 but it's five separate charges under that. And
12 that's digital penetration, vaginal intercourse, anal
13 penetration, fellatio and cunnilingus. All right.
14 Now, when you're going through your verdict form you
15 will consider each of those separately, all five of
16 them separately. And you're to look at the evidence
17 and give it the weight and value you feel appropriate
18 as to each charge. You're going to consider each
19 charge separately and take the evidence that was
20 provided and make your decision on that specific
21 charge independently.

22 So you may make a decision on the first one and
23 then you get to the second charge. And whether you
24 find The Defendant guilty or not guilty or find that
25 The State met its burden on the first one, that does

1 not mean that automatically applies to the second
2 one. You're to consider it separately. And look at
3 the evidence, look at the burden that The State has.
4 And then you go to the third one. And like I said,
5 each one of them, once you make a decision on one,
6 does not mean that's the same decision you make on
7 the next one. Here's to look, again, at the evidence
8 and answer each question independently.

9 I also told you at the very beginning the fact
10 that somebody was charged, somebody was arrested and
11 somebody was indicted, is not evidence. That's
12 merely the formal paper that brings a charge to court
13 or case to court. That's the allegations that The
14 State has made against The Defendant. But that
15 really just sets -- that's really -- these are the
16 allegations. This is what our burden of proof is is
17 what The State is saying. And that's not evidence.
18 The evidence is what is presented in this courtroom.
19 By way of testimony, any stipulations that may have
20 been presented and documents and videos.

21 Now -- and what I was saying is that the burden
22 of proof is clearly on The Sate in every case. In
23 every case whether you're talking about magistrate's
24 court or circuit court, no matter how serious the
25 case. The Defendant has the presumption of

1 innocence. And that's kind of one the major building
2 blocks of our criminal system is that presumption of
3 innocence. What that says is The Defendant comes in
4 the courtroom innocent. The State has a burden to
5 prove that he is not innocent, that he is guilty.
6 And that burden is beyond a reasonable doubt. The
7 Defendant has no burden whatsoever in any case.

8 The presumption of innocence applies to a
9 defendant at the time he's arrested, the time he is
10 indicted, the time that he comes into this courtroom,
11 at the time of opening statements, at the time of
12 closing statements. That burden [verbatim] is still
13 on The Defendant. And it is only removed when you,
14 the jury, have found that The State has met its
15 burden beyond a reasonable doubt that he's guilty.
16 If you find that The Defendant -- I mean, that The
17 State has not met that burden, then that presumption
18 of innocence is never removed.

19 Now, we've been talking about reasonable doubt.
20 What is reasonable doubt? That's the standard.
21 That's the burden of proof that The State has. And I
22 always like to make sure that you realize there's a
23 difference in this kind of burden than in a civil
24 matter. Because, I don't know, sometimes people have
25 been involved in a civil matter, may have seen a

1 civil matter on TV and civil matter's a lawsuit
2 between two people or companies. It's a lawsuit.
3 Maybe you sat on a jury in a civil matter. That is a
4 standard by preponderance of the evidence. Greater
5 weight of the evidence. That is a much lesser
6 standard than what we're dealing with here. In a
7 criminal case it's beyond a reasonable doubt.

8 Reasonable doubt -- and The State has the burden
9 of proving beyond a reasonable doubt as to each
10 element of each charge. Reasonable doubt is the kind
11 of doubt that would make a reasonable person to
12 hesitate to act. Proof beyond a reasonable doubt is
13 proof that leaves you firmly convinced of The
14 Defendant's guilt. Now, there's very few things that
15 we know with absolute certainty in this world. And
16 our law does not require The State to prove that
17 overcomes every possible doubt. If you're firmly
18 convinced that The Defendant is guilty of the crimes
19 charged, then you're to find him guilty of those
20 charges. But on the other hand, if there is a -- if
21 you think there's a possibility that he's not guilty
22 or that there's a mere speculation or suspicion that
23 he's guilty of the charges -- of the crimes which he
24 is charged with, then that's not sufficient and you
25 should find The Defendant not guilty.

1 Now, there's two types of evidence that The
2 State can rely on. There's direct evidence and
3 there's circumstantial evidence. And regardless of
4 which one they rely on or a combination, the burden
5 is still the same. And it's also you're to give it
6 the weight and value which you feel is appropriate.
7 Now, let me talk about these two types of -- you have
8 direct evidence. Direct evidence is where a piece of
9 evidence, either testimony or a document, proves a
10 specific point. You don't have to infer anything,
11 there's no series of the fact that you have to put
12 together to prove this fact. Circumstantial evidence
13 on other hand, may take several different pieces.
14 Maybe a inference to prove that particular point.

15 And it doesn't matter whether The State relies
16 on direct or circumstantial or a combination. But in
17 the event that The State relies on circumstantial
18 evidence, each of the circumstances must be
19 consistent with each other and when taken together
20 point conclusively to the guilt of The Defendant
21 beyond a reasonable doubt. If these circumstances
22 merely portray The Defendant's behavior suspicious,
23 then that's not sufficient. I always like to give an
24 example of how you can make a different --
25 distinguish between direct and circumstantial

1 evidence.

2 I always -- when you go home, pull in your
3 driveway and it starts pouring down rain, that's
4 direct evidence that it's raining, okay. But
5 circumstantial evidence, say you go home, the
6 pavement's dry, your car is dry, you go in the house
7 and you hear some thunder. The clouds are dark. You
8 go back out in 10 minutes and it's not raining but
9 the pavement's wet, the car's wet, then that's
10 circumstantial evidence that it rained. Because you
11 had to piece together a couple little facts to show
12 that it was raining. And that's kind of a simple
13 kind of explanation, the difference. But again, you
14 have direct and you have circumstantial evidence and
15 The State can rely on both of those.

16 Now, what are the tools that you have in making
17 your decision is you must determine the credibility
18 of witnesses. Credibility merely means
19 believability. You may consider how a particular
20 witness acted on the stand. What their demeanor was.
21 Did they have any particular bias or any outcome.
22 Those are things that you can consider using your
23 common sense. You may be able to accept all of a
24 person's testimony or you may reject all of a
25 person's testimony. You may accept maybe a portion

1 of a person's testimony and reject the remaining
2 portion. You may say, well, I accept several
3 witnesses over one witness. Or you may accept one
4 witness over several witnesses. It really depends on
5 what you feel is important in determining the
6 credibility or believability of those witnesses. And
7 like everything, and I know I keep repeating this,
8 like everything, you're to give it, every piece of
9 evidence, the weight and value which you feel is
10 appropriate.

11 Also, when we're talking about witnesses, I
12 mentioned expert witnesses. Now, normally a person
13 cannot testify about any opinions or any conclusions
14 which they may have. They can only -- a person can
15 only testify about things that they directly
16 observed, heard or felt. An exception to that is a
17 expert witness. An expert witness can testify about
18 particular expertise or their opinions or conclusions
19 based on their education, their experience, their
20 training. And then they can give you that opinion or
21 conclusion. But like everything else, you can give
22 it the weight and value which you feel is
23 appropriate. You can accept that expert's testimony
24 and you can also disregard it if you feel like it's
25 not appropriate. Even though it may not have any

1 evidence to the contrary. But once again, you give
2 it the weight and the value which you feel is
3 appropriate.

4 Now, another thing I want to discuss with you is
5 any statements made by The Defendant. There are
6 certain statements that have been made by The
7 Defendant that has been admitted into evidence. The
8 Court has made a ruling that these statements are
9 admissible. It's now up to you to determine whether
10 the statements were made and whether they were
11 voluntary. And you must make this based on the
12 circumstances at the time and based on the evidence
13 presented. This means that whether The State -- you
14 must determine whether the statements were caused by
15 pressure, force, fear, threats, coercion,
16 intimidation or promise of leniency.

17 In determining whether statements were
18 voluntary, you could consider the characteristics of
19 The Defendant in the questioning. And here are some
20 factors that you can consider when you're considering
21 that statement. The age of The Defendant, The
22 Defendant's education, The Defendant's mental ability
23 and capacity, his IQ or intelligence, his background
24 and environment. The place and length of detention
25 when the statements were being made, the nature of

1 the questioning and the advice thereof or lack
2 thereof that he was advised of his rights, including
3 the right to have an attorney, that statements could
4 be used against him in a court of law, the right to
5 have a lawyer present if he could not afford one and
6 that a lawyer would be appointed to represent him.
7 And that he could stop at any time.

8 You must carefully consider all the surrounding
9 circumstances before you give weight to these alleged
10 statements. Like everything else, The State has the
11 burden to prove beyond a reasonable doubt that these
12 statements were voluntary. If you determine that
13 they were voluntary, then you give it the weight and
14 value that you feel is appropriate. If you find the
15 statements were not voluntary or not made by The
16 Defendant, then you're to disregard them.

17 Now, in every -- let me know talk about intent.
18 In every -- or in most crimes and in this particular
19 one, The State has to establish criminal intent.
20 Criminal intent is the mental state required to be
21 proven at the time by The State for a particular
22 crime. It may be purpose, intent, knowledge,
23 recklessness or criminal negligence. Criminal intent
24 must be proven like everything beyond a reasonable
25 doubt. Now, there's no way that the -- there's no

1 scientific method which can be provided to show what
2 the intent of a person was. So therefore, you must
3 look at all of the circumstances surrounding the
4 matter to determine what that intent was.

5 Criminal intent is a mental state of conscious
6 wrongdoing. And it is up to you to determine what
7 The Defendant intended to do based on the
8 circumstances which have shown to have existed.
9 Criminal intent can arise from actions or failure to
10 act. It may arise from negligence, reckless or an
11 indifference to duty or to consequences that is
12 considered by the law to be equivalent of criminal
13 intent. Now, all of those are general rules which
14 you can use in making your decision.

15 Now, I will go over with you the specific
16 elements of the charge. And I'll also give you some
17 definitions. And it's, actually, the charge -- the
18 actual elements are fairly simple. The Defendant is
19 charged with first degree criminal sexual conduct
20 with a minor. Sometimes these are referred to kind
21 of reversed, criminal sexual conduct with a minor
22 first degree. So we talked about first degree. And
23 what are the elements of this charge? The State must
24 prove beyond a reasonable doubt that The Defendant
25 committed a sexual battery against the victim. And

1 the victim was less than 11 years old. All right.
2 So, basically, it's two elements. Sexual battery and
3 that the victim was under the age of 11.

4 Now, let me define sexual battery. A sexual
5 battery is sexual intercourse, cunnilingus, fellatio,
6 anal intercourse or any intrusion, however slight, of
7 any part of a person's body or of any object into the
8 general or anal opening of another person's body.
9 Except when the intrusion is accomplished for
10 medically recognized treatment for diagnostic
11 purpose. Now, under these charges, I think two of
12 them I didn't feel like needed definitions but three
13 of them I felt like did. And that is cunnilingus is
14 defined as sexual stimulation by licking or kissing
15 the vulva or clitoris. Fellatio is defined as oral
16 stimulation of the penis. And digital penetration is
17 sexual stimulation of a person with a person's
18 fingers. Consent, willingness, indifference or
19 ignorance on the part of the minor, if any, as to
20 what was taking place does not in any way effect the
21 charge of criminal -- the charge of criminal sexual
22 conduct with a minor. Because such a woman at that
23 age cannot legally consent to the sexual intercourse
24 or any sexual act. So that's the elements right
25 there.

1 At this point, I'm going to go over the verdict
2 form with you. This is the verdict form which you
3 will have. Okay. All right, the top part of that is
4 merely the caption of the case, indictment number.
5 And the first question will be, As to the charge of
6 criminal sexual conduct with a minor -- and I put in
7 parenthesis digital penetration, that's the one that
8 relates to that particular charge. We, the jury,
9 unanimously find for The Defendant, David Quintan
10 Jones, and you're to check one. These are unanimous
11 decisions. If all 12 of you agree that The State has
12 met its burden beyond a reasonable doubt, you would
13 check guilty. If you find that The State did not
14 meet its burden, then you would check not guilty.

15 Then you would go to the second charge and
16 that's the same analysis. And that is criminal
17 sexual conduct with vaginal intercourse. Again, if
18 you find The State has met its burden, you would
19 check guilty. If you find they did not meet their
20 burden, you would check not guilty. Then we go to
21 the third charge, this is the one as to anal
22 penetration, you would do the same thing. Make the
23 same discussion and analysis. Then you would go to
24 the fourth and it's the one regarding fellatio. And
25 again, you make the same analysis there and you make

1 the same decision. If you find The State has met its
2 burden, you would check guilty. If you find The
3 State has not met its burden, you'd find not guilty.
4 And then on the second page is the fifth and final
5 charge. And that's the one with cunnilingus and the
6 same analysis. Once you have reached a verdict to
7 all five questions, that's where you, as the
8 foreperson, would sign in the place there and you
9 would date it and let the bailiff know.

10 Now -- and this is what you'll have in your jury
11 room with you, along with the evidence. Now, your
12 verdict must be unanimous. That means all 12 of you
13 must agree on each of the questions. Your decision
14 should be made to be based on the evidence and only
15 evidence. It should not be based on any passion, any
16 bias, any prejudice, any emotion. It should be
17 applying the law that I've given you to what you have
18 determine the facts are.

19 Now, if you need to review any videos, then you
20 will have a laptop back there to review. And
21 sometimes I know in the past, sometimes the video
22 doesn't -- you're not able to hear, not able to quite
23 see what we would like to see in this video. If
24 that's the case, you just need to let me know and we
25 can make other arrangements. But if you have any

1 questions that -- anybody has any questions, that's
2 where the foreman's involved. That's one of his
3 duties and your job is to write down any questions,
4 sign and date those, present it to the bailiff. The
5 bailiff will present it to me and I'll have two
6 options. Sometimes I can write a response on the
7 form. On the same piece of paper and send it back to
8 you. Sometimes it will require me to come back in
9 here and give you some additional charge.

10 Now, I will tell you that I can't answer any
11 factual questions. I can't answer any questions
12 about things that were not put into the record.
13 That's up you to determine what the facts are. If
14 there was a reference to some report or some witness,
15 you know, sometimes juries send back and say, hey,
16 there was a reference to this medical report or this
17 accident report, can we see that? If it's not in
18 evidence then it's not anything that you can
19 consider.

20 So, now let me talk to my alternates. Y'all are
21 not allowed to participate in the actual
22 deliberations. But your job here has been just as
23 important as these other 12. Because if something --
24 for some reason one of these jurors could not go to
25 conclusion and we didn't have a alternate we would

1 have to declare a mistrial. I always say that an
2 alternate is kind of like the backup quarterback in
3 the super bowl. As long as the starting quarterback
4 is in the line up and still playing, nobody knows who
5 that backup quarterback even is. But the moment --
6 the moment the starting quarterback goes down, then
7 that backup quarterback, that alternate on the jury,
8 becomes the most important person. And I just
9 want -- you worked just as hard but you're not able
10 to proceed with the deliberations.

11 Now, I know that y'all placed your lunch order
12 just a few minutes ago. And it should be here
13 shortly. And that's something y'all can decide what
14 y'all want do with it when the lunch gets here. If
15 you want to stop and just eat lunch or if you want to
16 each lunch and continue deliberations, that is
17 totally up to y'all. So I think that's all the
18 things I need tell you at this point. But I'm going
19 to send you back to your jury room but don't discuss
20 the case yet. And the reason is I need to make sure
21 that I've not left anything out or maybe I've
22 misstated something. If that's the case, I'll bring
23 you back in and correct anything I need to.
24 Otherwise, you wait for the signal from the bailiff
25 and we'll bring in the verdict form with all of the

1 evidence. The alternates will step out, at that
2 point, and you can begin finally discussing the case.
3 So, at this point, if you would retire to your jury
4 room.

5 (WHEREUPON, the jury left open court at
6 approximately 11:31 a.m.)

7 All right, any exception or objection from The
8 State?

9 MRS. SUSTAKOVITCH: No, sir.

10 THE COURT: From the Defense?

11 MR. YARBOROUGH: No, sir.

12 THE COURT: And I believe y'all already checked
13 the exhibits and you're fine with that?

14 MR. YARBOROUGH: We are.

15 THE COURT: All right, if you will take the
16 exhibits, the verdict forms on top. Bring the
17 alternates out and tell them that they can begin
18 their deliberations.

19 If anybody should step away, please make sure
20 Dona has your cell phone.

21 THE BAILIFF: We can release the alternates?

22 THE COURT: Yes, I'll come back there and talk
23 to them.

24 (WHEREUPON, deliberations began at a 11:34 a.m.)

25 (WHEREUPON, court was in recess awaiting a

1 verdict.)

2 THE COURT: I understand we have a verdict.
3 Anything else before we bring the jury back out? I
4 did want to mark Court's Exhibit 3, a question came
5 back, Can we get a copy of **Child** testimony in
6 court? I called -- had a conference call with both
7 attorneys. My response was, We do not have a printed
8 transcript, we can provide a recording of her
9 testimony but you would have to listen to in the
10 courtroom and is a little over 45 minutes long.
11 There was no objection from The State?

12 MRS. SUSTAKOVITCH: Correct.

13 THE COURT: And none from The Defense?

14 MR. YARBOROUGH: No.

15 (WHEREUPON, Court's Exhibit No. 3 was marked for
16 identification only.)

17 THE COURT: All right.

18 Anything else from The State before we bring the
19 jury in? Anything else from The Defense?

20 MR. YARBOROUGH: No, sir.

21 THE COURT: And I would caution everyone, I
22 realize this has been a very traumatic matter for
23 everybody and I would request and require that
24 everybody keep their composure. Otherwise, we'll
25 have officers that can take you out otherwise, take

1 you into custody.

2 So, all right, if the jury is ready, bring them
3 in.

4 (WHEREUPON, the jury entered open court at
5 approximately 12:48 p.m.)

6 VERDICT

7 THE COURT: All right, Mr. Foreman, I understand
8 you've reached a verdict?

9 THE FOREMAN: Yes, Your Honor.

10 THE COURT: If you could hand that to the
11 bailiff, please.

12 All right, it's in proper form.

13 I would ask that you publish the verdicts,
14 please.

15 THE CLERK: Your Honor, this is case number
16 2020-GS-23-2981; 2021-GS-23-1820, 1821, 1822 and
17 1823, The State of South Carolina vs. David Quintan
18 Jones, as to the charge of criminal sexual conduct
19 with a minor first degree, case 2020-GS-23-2981,
20 digital penetration, we, the jury, unanimously find
21 The Defendant, David Quintan Jones, guilty. As the
22 charge of criminal sexual conduct with a minor first
23 degree, 2021-GS-23-1820, vaginal intercourse, we, the
24 jury, unanimously find The Defendant, David Quintan
25 Jones, guilty. As to the charge of criminal sexual

1 conduct with a minor first degree, 2021-GS-23-1821,
2 anal penetration, we, the jury, unanimously find The
3 Defendant, David Quintan Jones, guilty. As to the
4 charge of criminal sexual conduct with a minor first
5 degree, case 2021-GS-1822, fellatio, we, the jury,
6 unanimously find The Defendant, David Quintan Jones,
7 guilty. As to charge of criminal sexual conduct with
8 a minor first degree, case 2021-GS-1823, cunnilingus,
9 we, the jury, unanimously find The Defendant, David
10 Quintan Jones, guilty. Signed by our foreperson.

11 Ladies and gentlemen, if this is the verdict you
12 reached in your deliberations room and still your
13 verdict now, please raise your right hand.

14 (WHEREUPON, all members of the jury raised their
15 right hand.)

16 THE CLERK: Thank you.

17 THE COURT: All right, anything else from the
18 jury from The State?

19 MRS. SUSTAKOVITCH: Nothing from The State.

20 THE COURT: Anything from The Defense?

21 MR. YARBOROUGH: No, sir, Your Honor.

22 THE COURT: All right, ladies and gentlemen,
23 thank you for your service. I know it's been a long
24 week, a very difficult case, I appreciate your
25 service. At this time, you fulfilled your duty as

1 jurors for the week and for the next there years. At
2 this time, if you would step back in your jury room,
3 I'll step back there in a minute and be glad to talk
4 with you, you don't have to hang around but be just a
5 few minutes and I can step back there and talk with
6 you. So thank you.

7 (WHEREUPON, the jury left open court and was
8 excused at approximately 12:52 p.m.)

9 THE COURT: All right, as to the verdict,
10 Anything from The State?

11 MRS. SUSTAKOVITCH: No, sir.

12 THE COURT: Anything from The Defense?

13 MR. YARBOROUGH: No, sir, Your Honor.

14 THE COURT: All right, I'll give you a few
15 minutes to gather your thoughts, get the paperwork
16 together. I'll hear anything The State wants to tell
17 me and then I'll hear anything The Defense wants to
18 tell me for sentencing.

19 MR. YARBOROUGH: For sentencing, before that,
20 Your Honor, I just I renew--

21 THE COURT: Okay, that's what I meant.

22 MR. YARBOROUGH: Just renew all my previously
23 stated motions.

24 THE COURT: All right.

25 MR. YARBOROUGH: Not withstanding the verdict

1 I'd ask for--

2 THE COURT: Right. I think that based on the
3 evidence presented it was an appropriate matter for
4 the jury to hear and make a decision so I will deny
5 your motions, so.

6 All right, we'll be at ease for just a few
7 minutes.

8 (WHEREUPON, a short break was taken.)

9 SENTENCING

10 THE COURT: All right, be glad to hear from you.
11 Anything from The State?

12 MRS. SUSTAKOVITCH: Thank you, Your Honor, may
13 it please The Court. The victim's mom, Marita, does
14 not wish to speak. She wants to leave the sentencing
15 in Your Honor's discretion. I did want to just note,
16 I have never seen a case with every form of sexual
17 battery on a child that young by her biological
18 father. And The State would just ask for a sentence
19 that reflects the heinous depraved facts of this case
20 with significant time.

21 THE COURT: All right.

22 Mr. Yarborough, anything? If y'all could come
23 up here. I'll be glad to hear from you, your client,
24 anybody that you want me to hear from.

25 MR. YARBOROUGH: Your Honor, if The Court

1 please, I think the jury spoke and I'm not going to
2 sit here and argue the facts again. I'll just tell
3 you this about David, he loved his family very much,
4 he always has said that. He's always been extremely,
5 extremely respectful to me. He's always been -- he's
6 been in jail for almost four years now. I've seen
7 him 100 times, I'm guessing, maybe. We've had good
8 talks. He just never -- he just never wanted to
9 enter a guilty plea. He said -- he always told me he
10 already lost everything. And he said that he really
11 didn't want his parents to speak but I don't know,
12 his father --

13 MR. DUNNING: I would like to speak.

14 THE COURT: All right, first of all, before we
15 get to that, do you know how many days he has credit
16 for?

17 MRS. SUSTAKOVITCH: We are confirming that, Your
18 Honor.

19 THE COURT: Okay.

20 Yeah, grab that chair right there. Move that
21 chair over so he can. . .

22 All right, state your name for the record.

23 MR. DUNNING: My name is William Dunning, I'm
24 David's father. Not stepfather, I'm his father.

25 THE COURT: Yes, sir.

1 MR. DUNNING: Like he explained earlier during
2 this court right here, me and his mother, Emma
3 Dunning, we raised our children. He knows that --
4 put it this way, I am a law abide -- I use to be in
5 enforcement myself. Now, I am a veteran. But one
6 thing to understand when he was growing up, he only
7 followed the same example. He did the same thing.
8 He went -- he followed in law enforcement, not only
9 that, he did military, too. But one thing that we
10 have taught him that justice is not -- if you get
11 yourself in trouble, he knows that he got to pay for
12 it.

13 David is a good man. I'm telling you. Not just
14 because he's my son but he is a good man. He have a
15 love of people. That's why he do some of the things,
16 he helped in the community. It's not balanced. It's
17 not balanced. People say one side of this but it's
18 not balanced at all. He -- you know, I was going to
19 say this right here, we had talks and stuff. And he
20 said all he wanted to do in this situation is just to
21 move on. He said his life is ruined. He said, he
22 know my condition, his mother condition and
23 everything is getting -- I'm getting worst. And he
24 said all he wanted to do is come back home and take
25 care of us. He know his life is over. He already

1 know how the verdict going to come out. But we have
2 a child, my two grandchild, we have not seen my
3 grandchild since first birthday. Y'all talk about
4 judgment, I'm talking about -- about -- I hate -- I'm
5 just -- I'm just.

6 THE COURT: Calm down. Calm down.

7 MR. DUNNING: I'm sorry, forgive me, forgive me
8 on that. I take that back, I take back, I take that
9 back.

10 THE COURT: I know this is difficult.

11 MR. DUNNING: It is. You know what? It's sad.

12 THE COURT: Yeah, it is.

13 MR. DUNNING: It hurts on both parties and I'm
14 looking at that too. I know a lot of situation -- of
15 the situation, I do know the whole situation. And
16 I'm not here to want the bash out nobody. But one
17 thing I do know, I was very supportive with his
18 marriage and everything. Like he was saying earlier,
19 there was a lot -- the whole thing was not coming
20 out. And some of the things coming and not still
21 coming out. And the things that show at the end that
22 was not presented. And I can't understand. If you
23 got one side, you look at that, why you not look at
24 the other side?

25 I'm telling you, he sacrificed -- let me put it

1 this way. My son ain't no [indiscernible] because he
2 love his family. He did. We have not even seen
3 them. We didn't even know it. We have seen them
4 when they came -- they came to -- when my father had
5 passed away in 2017, the kids were loving,
6 everything. They were doing fine. Didn't see no
7 signs and everything. Right now, my grandchildren
8 right here, come up right now and listen they don't
9 mind seeing their mom -- their grandma and Papa. We
10 was there for them. But it was not -- it was totally
11 different.

12 THE COURT: Yeah.

13 MR. DUNNING: But what I'm saying like this,
14 Your Honors, you too solicitor, I'm saying that too
15 out of respect, you know, every day not was presented
16 the way it seems to be. And I'm just saying that.
17 But I put it like this, I do have -- what we
18 taught -- I say my children, I would say everybody
19 not even perfect. [indiscernible] are not perfect.
20 Your Honor, you know you got live skeletons in your
21 life but maybe that you look through [indiscernible]
22 make it right with the military. He know about all
23 that stuff. He know he talk about it. He know that
24 he did something like that, he got to make it right.
25 That's anybody. Same thing with my ex

1 daughter-in-law, the same thing. The same thing.

2 We told them numerous times, they kept moving.
3 Moving like no stability. No stability. I see
4 things but you know what, we did it because of our
5 love for our son. I said you know what son, you know
6 what, I said that's the reason why when they got
7 married, my wife, she went there, we got pictures,
8 they got pictures and stuff. She decorate,
9 everything. We're getting along. You got to
10 consider like this. He is -- I mean, he did well at
11 school, he did everything. But I'm just saying --
12 and this is my opinion, this is my opinion. It's not
13 balanced at all. You got to see what's in there.
14 One thing I do learn in life that you talk about
15 judge and judging, you got to look within ourself.
16 Are we doing the right thing for our children today?
17 That's the key, I'm looking at that.

18 THE COURT: Yeah.

19 MR. DUNNING: Because the children will be
20 effected by his father going to jail. He is effected
21 because we ain't seen our grandchildren -- or the
22 Bible -- you know, what the Bible -- we saw **Child**
23 she was 11 months old until 2017 it had revisit back
24 again. But because we didn't want -- you know what?
25 We never tried to overstep his boundary. That's one

1 thing I respect. And I told him, I said son -- I
2 even told his ex wife, I said, if my son get out of
3 line, let me know. And I'm saying that from my
4 heart.

5 THE COURT: Right.

6 MR. DUNNING: But I'm just saying that this,
7 what I'm looking at right now, I know it's a process
8 you have to do.

9 THE COURT: And I'm going to hear from him in
10 just a minute, too.

11 MR. DUNNING: You know--

12 MR. YARBOROUGH: Thank you, Mr. Dunning.

13 MR. DUNNING: I'm just saying, thank you for
14 allowing me to speak out. But I'm not hurt because
15 my son's here, I'm hurting because of the whole
16 outcome of the whole picture.

17 THE COURT: Yeah.

18 MR. DUNNING: That's why I'm more like. So I'm
19 just say God Bless you. You know within yourself.
20 You got, you know, this is person's life here. This
21 is a person's life. And also my grandchild's life.
22 Has it been rehabilitated? I put it like this, she
23 will be fine. She will be fine. She will be fine.
24 We got very smart, intelligent grandchildren. Very,
25 very. And they teach them well. Both parents done,

1 both, I say both. Because they are loving. But in
2 the circumstances, it's unfortunate right now. So I
3 just saying in this right here, Your Honor, and
4 everybody in here, you know, I apologize. I
5 apologize for the whole situation. Because you know
6 why? Because it's sad.

7 THE COURT: Yeah, it is.

8 MR. DUNNING: There's no [indiscernible] or
9 nothing. There's no laughing matter, it's no
10 laughing matter. And you got to understand it's no
11 laughing matter about this situation. And I'm
12 telling you, I'm telling you, you know, I'm just
13 being -- point out [indiscernible] it's no sad -- no
14 example for the children today. And you know how
15 [indiscernible] is all twisted and messed up.
16 Because you know why?

17 MR. YARBOROUGH: Thank you --

18 MR. DUNNING: This whole picture. We need to
19 get back to the foundation and get back to what's
20 right.

21 THE COURT: All right.

22 MR. DUNNING: Thank you for allowing me to
23 speak.

24 MR. YARBOROUGH: Thank you.

25 MR. DUNNING: And, Your Honor, y'all did a good

1 job.

2 Solicitor, you did a good job too. You did your
3 work and everything.

4 Bill, you did a excellent job and everything
5 else.

6 But you know what, I'm just saying, look within
7 yourself, that's all I'm saying. Thank y'all, God
8 bless y'all.

9 THE COURT: Thank you very much.

10 All right, two things before I hear from him.

11 Did y'all confirm the dates?

12 MRS. SUSTAKOVITCH: Yes, sir, it's 1496.

13 THE COURT: Fourteen hundred ninety-six?

14 MRS. SUSTAKOVITCH: Yes, sir.

15 THE COURT: All right, this is a --

16 MRS. SUSTAKOVITCH: Violent most serious.

17 THE COURT: -- minimum 25?

18 MRS. SUSTAKOVITCH: Yes, 25 to life, Your Honor.

19 THE COURT: All right.

20 Mr. Yarborough and Mr. Jones.

21 MR. YARBOROUGH: Your Honor, as said before, I
22 don't -- I don't -- again, to go back and try to
23 revisit the case. I'm just telling you that David
24 has always been extremely nice to me and very
25 cooperative. He's had a very good career before now.

1 And he had some law enforcement, did some
2 investigative work, did some military work. He
3 accepts the jury's verdict. He told me that out
4 there a minute ago. I'd ask for you to not throw
5 away his whole life and give him the minimum
6 sentence. And I urge The Court for as much leniency
7 as possible in a case like this.

8 THE COURT: All right, Mr. Jones, anything you
9 want to tell me?

10 MR. JONES: I just ask that you give me the
11 minimum sentence as possible, Your Honor.

12 THE COURT: Well, usually you're looking at
13 minimum sentences for kind of the least egregious
14 cases and this is definitely not that. I mean, this
15 is as, I guess, violent, abusive case that I've seen.
16 I mean, that's what I'm looking at here. Anything
17 else you want to tell me?

18 MR. JONES: That's all, Your Honor.

19 THE COURT: All right, all of these are to run
20 concurrent and credit for 1496 days. I hereby
21 sentence you to The State Department of Corrections
22 for a period of 45 years. Mr. Jones, good luck to
23 you.

24 MR. YARBOROUGH: Thank you, Your Honor.

25 MR. JONES: Thank you, Your Honor.

1 MRS. SUSTAKOVITCH: Thank you, Your Honor.
2 THE COURT: All right, court's adjourned.
3 (WHEREUPON, the proceedings were concluded.)
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CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

I, APRIL P. HERRON, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Greenville County, South Carolina, on the 5-8 day of June, 2023.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

December 8, 2023

April P. Herron_____

APRIL P. HERRON, Court Reporter

Greenville County Sheriff's Office 19-064778

David Quintan Jones

01/19/1982

Thursday, May 02, 2019

AFFIDAVIT

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

TO WHOM IT MAY CONCERN:

This is to acknowledge or say:

THAT I HAVE BEEN ADVISED:

121 ⇒ That I have the right to remain silent.

121 ⇒ That anything I say may be used in court against me.

121 ⇒ That I am entitled to talk to a lawyer now and have him present now or at anytime during questioning.

121 ⇒ That if I cannot afford a lawyer, one will be appointed for me without cost.

121 ⇒ That if I decide to answer questions now, that I may stop the questioning at any time I so choose.

121 ⇒ That I understand each of the rights and I wish to waive them.

Laura Jones

David Quintan Jones

121 ⇒ I certify that I can read and write: 121 Initials

STATE'S
EXHIBIT

3 6/15/23

STATE'S
EXHIBIT

5

6/15/88





STATE'S
EXHIBIT

7

6/5/28

