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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from York County

Honorable William A. McKinnon, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MATTHEW JOSEPH HOGAN,

APPELLANT

APPELLATE CASE NO. 2023-000565

RECORD ON APPEAL

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

STATE OF SOUTH CAROLINA,)
)
vs.) Case No. 2020-GS-46-03819,
) et al
MATTHEW JOSEPH HOGAN,)
)
Defendant.)

March 27, 2023 to
March 31, 2023

JURY TRIAL

B E F O R E:

The Honorable William A. McKinnon, Presiding Judge; and a jury.

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Assistant Solicitors for the State

Melissa Inzerillo, Esq.
Attorney for the Defendant

Recorded by: DCRP/Ebony Love-Taylor

Transcribed by: Bobbi Fisher
SC Official Court Reporter III

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COURT REPORTER LEGEND

Dash (--)	Indicates an interruption in speech
Ellipses (...)	Indicates trailing off in speech
(ph)	Indicates phonetic word
[Verbatim]	Indicates the word is said as written
(Indiscernible)	[Transcription] Indicates word(s) is not known due to audio recording quality

MS. INZERILLO: No, Your Honor.

THE COURT: All right. Ms. Russo?

MS. RUSSO: May it please the Court, Your Honor?

THE COURT: Yes, ma'am.

OPENING STATEMENT ON BEHALF OF THE STATE

MS. RUSSO: Good morning. Here today or maybe tomorrow --

THE COURT: Ms. Russo, I hate -- because we're on the digital system, just make sure -- and this goes for all the counsel -- make sure you're speaking into a mic.

MS. RUSSO: Hopefully later today you will be hearing from Complainant. And Complainant is a young girl, 19 years old, who suffered from abuse from her father starting at about the age of 14 or 15 and going through after she turned 15.

Complainant lived in two different worlds. She had a public life, like all of us do. She went to school. She was in the Color Guard. She was in the yearbook. She took a thousand smiling selfies on her phone, like most teenagers do these days, with the best angles and the best light. And that was the part of her that the public could see, that she showed that she wanted people to know about her.

But then there were things that she didn't photograph, didn't document. She didn't want people to

know about what she had to go through. And she didn't want people to know about the suffering that she was experiencing while she was undergoing sexual abuse at the hands of her father.

And she had to grapple with those things by herself. She had to figure out how to deal with that complicated relationship and what to do when someone you love so much is the one who is hurting you, when someone is supposed to care about you is the one who is hurting you. And the person who is supposed to be protecting you is the one who is hurting you.

And you're going to hear about how, at some point, it became too much for her to bear. It became too much to not show that to the rest of the world (indiscernible). And that burden became too much for her to carry, and she had to set it down. And when that happened, her two worlds collided. They came together, things that everybody else knew about her and the things that were happening to her that she didn't want them to know.

And she's going to tell you about that day. She's going to tell you that, on May 29th of 2020, that she had to report what was happening to her, and she had to tell somebody else.

Now, in this case, you just heard all of the indictments. I think that can be confusing when there are

this many indictments, to hear the same words over and over again and wonder what's different about this one that wasn't (indiscernible). What's the difference? And you can't sit down and compare the two. The defendant in this case is facing these allegations of sexual abuse with his daughter. She's the victim on all of these indictments. He is charged with 12 counts of criminal sexual conduct with a minor in the second degree. That was most of the things you just heard.

And the difference is, in each of those indictments, are the dates. You're going to have some indictments that are a range. There is an abuse, an assault that occurred in that range that we may not be able to pinpoint when exactly. But I anticipate that the victim is going to be able to tell you later today, maybe tomorrow, specific dates as well. And so each of those indictments reflects a range but also a specific date that you will have to make a determination about; that I will have to prove to you beyond a reasonable doubt that a sexual battery occurred on the victim while she was between the ages of 14 and below 16, so 14 or 15. And the State must prove to you that, beyond a reasonable doubt, that battery occurred in the time frame of these days because that's the age she was, by the defendant, and that he was in a position of familial authority over her or that he was older than her.

And I anticipate that she will be able to identify those (indiscernible). Now, it's hard to remember all (indiscernible). I think (indiscernible) talk specifically about the case, specifically about the ranges and how all of the evidence we have (indiscernible). Now, there were three other charges beyond the criminal sexual conduct with a minor second degree. There are two charges of criminal sexual conduct in the third degree. For those charges, the State must also prove that the defendant committed a sexual battery on the victim, but there is no age range for that. For these charges, the victim was outside of the age range for criminal sexual conduct with a minor.

For a criminal sexual conduct in the third degree, we must prove to you beyond a reasonable doubt that battery occurred with an element of force or coercion from this pattern of abuse that caused the sexual battery.

The final charge is the charge of incest which (indiscernible) carnal knowledge of (indiscernible).

At the end of this case, I'll come back to you and we'll talk about (indiscernible), the different types of charges, what applies when, and how all that works together, and you'll have more instructions from the judge. He's the final authority on that information.

But I would ask you now to pay attention to the

evidence that comes before you, when you hear dates and when you hear times, and know that that will be relevant.

At the end of this case, we will prove to you beyond a reasonable doubt these charges, and we will ask you to render a verdict of guilty. Right now, I simply ask that you look at all the evidence and pay careful attention (indiscernible).

THE COURT: All right. Ms. Inzerillo?

MS. INZERILLO: May it please the Court, Your Honor?

OPENING STATEMENT ON BEHALF OF THE DEFENDANT

MS. INZERILLO: Matthew Hogan is charged with having sex with his daughter. I'm going to say that again: Matthew Hogan is charged with having sex with his daughter.

And as the judge indicated to you, those are just allegations at this point. But I put upfront in my opening statement because there will be a lot of discussion about that. The State, as she indicated, has the burden of proving Mr. Hogan guilty of each and every element and each and every indictment that the judge just read out to you. That means that they have to put up witnesses and testimony sufficient to convince you, beyond a reasonable doubt, that Matthew Hogan had sex with his daughter.

Throughout the course of this trial, I anticipate

you're going to hear three main points in the State's case. The first is going to be the many, many stories that Complainant gives about the abuse, allegedly, by Matthew Hogan, the many stories, and how those stories get bigger as time goes on.

The second thing that you're going to hear, I would imagine, is going to be what little investigation was done in this case to investigate the allegations that Complainant Complainant made against Matthew Hogan. You're going to hear the type of investigation and the tenor of the investigation; the fact that she directed most of the investigation. And what little forensic investigation will serve as the third prong of the State's case, any DNA found. The only DNA found in this case had to be tested twice. Of all the items taken into evidence, most were not tested. Some did not have his DNA on it.

I would imagine these are going to be the three main points of the State's case. I would ask, ladies and gentlemen, to listen to the evidence as it's presented.

As our esteemed clerk said, try this case truly, and find Mr. Hogan not guilty.

Thank you.

THE COURT: Ms. Inzerillo, can I see you and the State at the bench, please.

BENCH CONFERENCE

(A bench conference was held off the record and outside the hearing of the jury and others.)

THE COURT: Ladies and gentlemen, I know this is going to -- you're probably going to kill me, but I'm about to let you go and ask you to come back at 2:00. And the issue is, as you can imagine now, we have technology, we have videos and things, but we have to prepare the video and edit them for court and make sure everything works. And as wonderful as technology is, that takes some time. Okay? And so that's what the attorneys need some time to work on that. So as much as it is frustrating -- and I know it's frustrating for y'all and for all of us -- I'm going to ask you to come back at 2:00. You'll get an early break and have a really long lunch, if you want. But just come back at 2:00.

And remember what I have told you: Please don't discuss the case with anyone else. Don't do any outside research and don't read or watch any news reports.

Other than that, thank y'all for your patience in bearing with us this morning. We'll see you back at 2:00.

(The jury exited the courtroom at 11:16 a.m.)

THE COURT: All right. I just wanted to remind everyone in the courtroom, the sequestration order. So if you're in the courtroom, you can't be a witness. Does that make sense? The courtroom is open to the public.

Anybody who wants to be here can watch. But if you're going to be a witness in the case, you may not be in the courtroom now unless you are the victim or the State's case agent or the defense's investigator. All right?

All right. What can I do for y'all now, if anything?

MS. INZERILLO: No, Your Honor. I will go through, per the Court's order, and we'll work on those redactions.

THE COURT: Okay. Great.

So I'll just see everyone back at 2:00?

MS. INZERILLO: Yes, Your Honor.

(A recess was taken from 11:19 a.m. to 2:04 p.m.)

MOTIONS/MATTERS OF LAW

THE COURT: All right. Ms. Russo, Ms. Joyner, I believe y'all have some matters to put on the record.

MS. INZERILLO: Actually, Your Honor, we do.

THE COURT: Oh, okay. Ms. Inzerillo?

MS. INZERILLO: Your Honor, the first is addressing the ruling before lunch, precluding the defense from getting into the statement before the State elicits testimony regarding it. Your Honor, Detective Vaughn, due to his family circumstances, is scheduled to testify first. It's my understanding that the redacted statement is not ready and will not be entered through him. And I am totally fine with allowing them to call him first

because of his situation. I'm just asking for some leeway to be able to cross-examine him about the questioning in that the responses that Mr. Hogan gave in response to the type of questioning he did.

THE COURT: Ms. Joyner, that seems fair.

MS. JOYNER: Well, Your Honor, we don't actually intend to elicit any testimony through Detective Vaughn about any statements that were given. He does have to leave, but we do have other officers that were present at the time statements were made. And if we ultimately end up entering those statements, we have gotten the finding of the voluntariness. We will enter them through other officers.

THE COURT: Ms. Inzerillo, is there any prejudice to you about your cross-examination being of other officers, whichever officer the State is going to try to introduce the video through?

MS. INZERILLO: Your Honor, you would say there is. As you heard in pretrial, it was Detective Vaughn that did the majority of the questioning, and he used a particular technique that he could testify to.

And so I believe he would be the best witness to testify to that.

THE COURT: Okay. So I'm envisioning the questions I think you're going to ask about offering an out and

things like that. Do you need the actual defendant's statements to ask those questions?

MS. INZERILLO: Your Honor, I would go so far as to ask, the way he responded to those statements. So I wouldn't go into any particulars, per se, but just "you asked this question and then Mr. Hogan responded in this way."

THE COURT: I don't think I can force the State -- I mean, I understand there's a scheduling issue, but the State can introduce their evidence, and they're the masters of their case, and I don't think I can let you do that until the State offers -- because it is hearsay.

MS. INZERILLO: All right, Your Honor.

Your Honor, the second thing is I did wish to place on the record that we have had several discussions with Mr. Hogan this morning involving possible pleas and offers that he has been given. Your Honor, he was given initially the 17-year offer back on the table. He was -- I then discussed with the State a 10-to-20 range. And then I discussed a zero-to-20 range with Mr. Hogan. That was discussed with the State on two indictments, which would be incest and CSC second with a minor.

We have discussed that with him all morning up until immediately before he's come into court, and just wanted to place his rejection to those on the record and have the

Court inquire to Mr. Hogan as to whether it is still his intent to reject those offers.

THE COURT: And before I do that, Ms. Russo or Ms. Joyner, has the State put a deadline on those offers or are they open?

MS. JOYNER: They had a previous deadline, and if I recall correctly, we have actually put a rejection on the record previously. However, the State would extend an offer at this time if the defense was willing to accept it.

THE COURT: Okay. Ms. Inzerillo just mentioned three different options. Is the State okay with any of those three or what's the current offer?

MS. JOYNER: A negotiated 17 and a range of between 10 and 20. We'd also request a cap of 20. Any of those (indiscernible).

THE COURT: Any of those would be acceptable to the State. Okay.

Off the top of my head, I can't remember. What is the sentencing range for incest?

MS. JOYNER: Three to ten.

THE COURT: Three to ten. Okay. All right.

All right. Mr. Hogan, obviously, I'm not your lawyer. I can't tell you whether you should take these offers or whether you should reject them. You know, you

have a very, very good experienced criminal defense attorney who is representing you, but my job as the judge is to make sure you understand the offer that's presented to you and that you understand what you're facing. Okay?

The first thing is, do you understand that you're facing 12 counts of criminal sexual conduct in the second degree, each of which carries up to 20 years in prison? And if you were convicted on all those charges and I decided to run them consecutively, that would be up to 240 years in prison. Do you understand that?

THE DEFENDANT: Yes, sir.

THE COURT: Okay. And, in addition to that, you're facing two counts of criminal sexual conduct in the third degree and an additional incest charge, which would be even more time. Do you understand that?

THE DEFENDANT: Yes, sir.

THE COURT: Okay. Do you have any questions about those charges?

THE DEFENDANT: I don't think there's anything I hadn't already discussed with my lawyer about the charges.

THE COURT: All right. And then the State has said they're willing to accept any of three different plea offers that your attorney has proposed. The first one is a negotiated 17 years, meaning that you would get -- for sure get a 17-year sentence. Another is a 10-to-20 range,

meaning that you would get a maximum of 20 years, and your attorney could argue for as low as 10. And the third option is a zero-to-20 range where your sentence would be capped at 20 years, and your attorney could argue for as low as probation or a time-served sentence. Do you understand that all those three options are on the table?

THE DEFENDANT: Yes, sir.

THE COURT: Okay. And have you had time to discuss those with your lawyer?

THE DEFENDANT: For the most part. I mean, I have a few other questions, but I guess the -- I don't know if the solicitor wasn't interested in that idea (indiscernible) on that. I mean, I really don't --

THE COURT: Mr. Hogan, I'm sorry. I'm not really able to follow what you're saying. So are you saying --

THE DEFENDANT: I'm sorry. I didn't really want to take a deal, Your Honor, but I was considering just because of the -- when they added the new charges, you know, it made it a whole lot worse, but they didn't want to -- they don't seem to want to go down to nothing I would consider, so...

THE COURT: Okay. Well, I mean, do you want your attorney to make a counteroffer? Is that what you're saying?

THE DEFENDANT: I mean, I kind of talked about that,

but I guess they didn't want to go below -- you know, nothing below. They're trying to keep (indiscernible), is from what I understand.

THE COURT: Okay.

THE DEFENDANT: I'm not comfortable doing --

THE COURT: I mean, you know, neither your attorney or myself can make the State offer a lower plea bargain. So do you understand what's been offered though?

THE DEFENDANT: Yes, sir. Yes, sir, I do.

THE COURT: And you don't want to take any of those offers?

THE DEFENDANT: No thank you, Your Honor.

THE COURT: All right. Anything else?

MS. INZERILLO: No, Your Honor.

THE COURT: Okay. Let's bring them in.

Okay. And just one more time on the sequestration order. There seems to be a lot of folks in the courtroom. I just want to make sure no one who is present is going to be a witness in the case other than the alleged victim and the case agent.

Okay. Thank you, Counsel.

(The jury entered the courtroom at 2:25 p.m.)

THE COURT: All right. Ladies and gentlemen, welcome back. Were y'all able to follow the rules I have given you over the break? Thank you very much.

And I understand you have elected Juror 201, Ms. Parsons, as your foreperson.

Ma'am, will you raise your hand.

Thank you, ma'am.

All right. Ms. Russo, you may call your first witness. Ms. Joyner?

MS. JOYNER: Thank you, Your Honor. The State calls David Vaughn.

Would you please ask Detective Vaughn to come in?

THE CLERK: Please step forward and be sworn.

DETECTIVE DAVID VAUGHN,

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

DIRECT EXAMINATION

BY MS. JOYNER:

Q Good afternoon. Could you please tell the jury your name.

A David Vaughn.

Q What is your occupation?

A I'm a lieutenant in technical services at the York County Sheriff's Office.

Q And how long have you been with the York County Sheriff's Office?

A Seventeen years.

Q And prior to being at the sheriff's office, did you

have prior law enforcement experience?

A No.

Q And in your 17 years at the sheriff's office, please tell the jury a little bit about the different types of jobs that you have held.

A So I started my career at the York County Detention Center, basically day-to-day operations dealing with inmates. From there, I transferred to the uniformed patrol division. Uniformed patrol division is somebody who answers calls for service for calls, domestic calls. First responders for everything that we do at the York County Sheriff's Office.

From there, I transferred to the York County multi-jurisdictional drug enforcement unit, where I spent approximately five years in that unit. Investigated drug crimes. Drug investigations was about the only thing we did.

From there, I transferred to the Criminal Investigations Division, where I worked property crimes, sex crimes, violent crimes, a little bit of everything. I worked there for about six, seven years and transferred to the detective of Technical Services Division, where I manage the evidence room and work with ballistics now, so...

Q So the period when you were a detective, kind of

going back to May 29th of 2020, on that date, were you still a detective?

A Yes.

Q On that date, were you still a detective?

A Yes.

Q And, on that date, did you become involved in an investigation of Matthew Hogan?

A Yes.

Q Do you remember why you became involved in the investigation?

A Yes.

Q Okay. Tell the jury how you became involved.

A So, on this particular day, I was contacted by Detective Day. She advised me of a situation she was having. We was on call together. I went out and assisted her with this call for service basically.

Q So Detective Day, is that Detective Lanelle Day?

A Yes.

Q Did she become the lead detective on the investigation of Matthew Hogan?

A Yes.

Q And when a detective is on call, does that mean that you can -- any investigation that patrol calls you about, you would be required to go out and investigate?

A Yes.

Q And so when you spoke with Detective Day about the investigation into Matthew Hogan, without saying what anybody said, what was your understanding of the nature of that investigation?

A There was a criminal sexual contact investigation.

Q And did you know who the victim was -- the alleged victim was?

A At that time?

Q At that time.

A No.

Q Okay. So, at some point, did you meet up with Detective Day?

A Yes.

Q And what, if anything, did you both do when you met up? What was the first thing that you did as far as your investigation?

A We talked with the victim of the case.

Q Okay. Is that Complainant ?

A Yes.

Q And do you recall the location you were at when you met with Complainant ?

A Yes.

Q What was that location?

A Piedmont Medical Center.

Q And from your understanding, what was Complainant

doing at Piedmont Medical Center?

A Having an exam done.

Q Was that a sexual assault exam?

A Yes.

Q Is that a fairly standard thing to be done in a sexual assault case?

A Yes.

Q Is that specific to cases that are immediately reported?

A Yes.

Q Or reported close in time to the alleged incident?

A Yes.

Q Okay. And when you went to the hospital, were you able to speak with Complainant?

A Yes.

Q And based on everything you were able to discern at that point in the investigation, what was your understanding about where Complainant lived?

A Off Cureton Ferry Road.

Q Cureton Ferry Road.

And was she a teenager at this point?

A Yes.

Q Do you recall how old she was?

A Sixteen.

Q And from your -- what indication did you have about

who she lived with?

A After talking to her --

MS. INZERILLO: Your Honor, I would object. This is all based on hearsay.

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

You can answer.

MS. JOYNER: Thank you.

BY MS. JOYNER:

Q Please answer, Detective.

A So, after talking to her, she lived with her father, mother, and brother.

Q And, from your understanding, was her father -- is her father Matthew Hogan?

A Yes.

Q Okay. And was that address where she lived, is that [redacted] Cureton Ferry Road?

A Yes.

Q Is that an address within York County?

A Yes.

Q Now, at some point, did you leave the hospital with Detective Day?

A Yes.

Q And where did you go then?

A We went to [redacted] Cureton Ferry Road.

Q And what was the purpose of going to that address?

A To get some evidence that was left behind at the scene.

Q So -- and, at that stage of the investigation, had the York County Sheriff's Office received consent to search from Complainant's mom, who also lived in the residence of [redacted] Cureton Ferry Road?

A Yes.

Q Okay. And do you recall what time --

MS. INZERILLO: Your Honor, I would renew previous objections.

THE COURT: Hold on.

MS. INZERILLO: I'm sorry, Ms. Joyner.

THE COURT: Okay.

MS. INZERILLO: I would renew previous objections to the search.

THE COURT: The objection is overruled.

BY MS. JOYNER:

Q Do you recall what time it was that you went out to the residence?

A Not right offhand.

Q Okay. And we'll come back to that.

Did you and Detective Day go out to the residence together?

A Yes.

Q Were there other officers that also went out to the

residence?

A Yes.

Q Do you remember how many?

A I think three.

Q And those officers, were they patrol officers or were they other detectives?

A Well, three other officers eventually went out with us, then two more showed up.

Q Okay. So the two that showed up, were they also patrol officers?

A Those are the members of the Forensic Services Unit.

Q Okay. So let's start with the officers that you first arrived with. Was that Detective Day?

A Yes.

Q Were there other patrol officers as well?

A Yes.

Q And what was the purpose -- you said the purpose was going out to collect evidence?

A Yes.

Q At that point, did you know either way whether Matthew Hogan was home?

A I did not.

Q Okay. And when you arrived at the residence, did you -- was Matthew Hogan home?

A Yes.

Q And when you approached the residence, did you open the door?
A Yes.
Q Okay. And was he placed under arrest?
A He was, yes.
Q And was that by Deputy Suriano?
A Yes.
Q Okay. How was the defendant dressed when he was arrested?
A He didn't have a shirt on, and he had some blue and yellow shorts on.
Q What did you say about the shirt?
A He did not have a shirt on.
Q Okay. Did he request to go back into the house and be allowed to get a shirt?
A Yes.
Q And was that request granted?
A Yes.
Q Who went back into the house initially?
A I don't remember which deputy it was. It might have been Deputy Suriano.
Q Okay. So one of the patrol officers?
A Yes.
Q At some point, did you go into the residence to see -- to check the status of him getting his clothes?

A Yes.

Q And after he -- during that interaction of going back in to check, were you present when he was escorted back out of the house?

A Yes.

Q And did you and Detective Day help with the kind of things like turning off the oven?

A Yes.

Q Okay. And making sure that -- were there dogs in the house?

A There were dogs in the house. There was a dog gate.

Q Did you make sure the dog gate was up, pursuant to his request?

A One of us did. I don't remember if I did or she did.

Q And after she was taken from the residence, did all the officers leave the residence as well?

A Yes.

Q And you mentioned earlier that two other officers showed up. You said the Forensic Service Unit. Do you recall what time the Forensic Service Unit officers arrived?

A I do not.

Q Was it after he had already left -- the defendant had already been transported away from the scene?

A Yes.

Q Okay. From the time that the defendant left the scene until the Forensic Services officer arrived, was the residence secure?

A Yes.

Q And where were you while you waited for the Forensic Services to arrive?

A Outside the residence.

Q Outside? Were the other officers on the scene with you?

A Yes.

Q Do you recall just generally the -- a description of the house? Was this a large house or a small house?

A It was a -- seemed to be a small house.

Q And do you remember anything generally about some of the description of the inside of the residence?

A No.

Q Was it clean?

A There was stuff laying around everywhere. People lived there.

Q Okay. Now, you testified earlier that you were going -- the purpose of going to the house was for the collection of evidence.

A Yes.

Q Specifically -- did you have specific pieces of

potential evidence that you were going to collect?

A Yes.

Q And what were those items?

A There was a pad left in the trash can.

Q Did you know which room?

A Yes.

Q What room did you expect to find that evidence?

A In the bathroom.

Q Okay. Was there any other evidence that you intended to collect?

A A pair of shorts and a shirt.

Q And you said that when Forensic Services came to the scene, do you recall which Forensic Service Unit officers arrived?

A Yes.

Q And what were their names?

A Investigator Moore and Investigator Baxley.

Q And just tell the jury briefly, what does Forensic Service Unit do?

A So their primary job is coming in and process the scene, gather evidence, fingerprints or gather evidence for the Criminal Investigations Division. They're like the right hand to us.

Q And were you inside when the Forensic Service Unit searched, or did they go in and they do their searches

without you?
A They went inside and photographed first, and then I went in with them.
Q Okay. Now, from the time that -- from the time that you first arrived at the residence, when the defendant was arrested and you were inside initially, did you guys conduct any kind of search when you were inside initially or were you waiting for Forensic Services to arrive?
A We waited for Forensic Services to arrive.
Q Now, at some -- did you remain while Forensic Services completed their search?
A Yes.
Q And, at some point after that -- or do you know what time that was that they --
A I don't know the time.
Q Okay. And following the completion of the search for forensics -- by the Forensic Services Unit, did you go to the detention center and obtain from the defendant a buccal swab?
A Yes.
Q And tell the jury what a buccal swab -- some people call it a "buck-cal" swab; is that right?
A That's correct.
Q Do you know which pronunciation is; correct?
A "Buck-cal."

Q "Buck-cal"? Okay.

Tell the jury what a buccal swab is.

A So, basically, certain cases will ask for an example of the DNA from someone -- and it could be anybody -- to alleviate you from a crime or to see if -- so if you shared a residence with somebody, to make sure your DNA is -- your DNA would be in the residence or would be in the residence. But when we take evidence, the evidence will have some sort of DNA on it, and we take your sample and compare it to the evidence to compare the two to see if there's a commonality in the two.

Q Okay. So in order to get the buccal, does it look like a big Q-tip?

A It does.

Q And where is the person's DNA sample collected from?

A Inside the mouth.

Q Okay. Specifically with the defendant, when you got his DNA sample, did you swab his mouth or did you allow him to swab his mouth?

A I allowed him to swab his mouth.

(State's Exhibit No. 2, Buccal Swab, was marked for identification.)

BY MS. JOYNER:

Q And, Lieutenant Vaughn, I'm going to show you what's been marked as exhibit purposes of State's Exhibit 2. Do

you recognize State's Exhibit 2?

A Yes.

Q What do you recognize that as?

A The swab that I put in this package and sealed up.

Q Okay. Is that from Matthew Hogan?

A Yes.

Q Now, we have had some testimony that you witnessed seeing the arrest of Matthew Hogan and taking the sample, the buccal of Matthew Hogan. Does the person that you saw arrested, the person that you took the buccal swab from, present in the courtroom?

A Yes.

Q Can you point him out for me?

A He's there by Investigator Kiefer (ph).

MS. JOYNER: Your Honor, let the record reflect he's identified the defendant.

THE COURT: The record will so reflect.

BY MS. JOYNER:

Q And so when you took -- what was the location of the taking of the sample?

A We was at the York County Detention Center.

Q And you said that he had taken it and swabbed it himself?

A Yes.

Q Did he then (indiscernible) in the package -- in the

initial packaging --

A Yes.

Q -- the box inside there; right?

A Right. So the swabs come sealed in a package.

Q Mm-hmm.

A I handed him the swabs. He swabbed the inside of his mouth. I held the box. He put it in the box. He closed the box, and I packaged it in this to be tested.

Q Okay. And how soon after you received the sample from him did you put it into that envelope?

A Soon.

Q Immediately?

A Yes.

Q And is there wording on that that would let you know that that is the sample that you took from him?

A Yes.

Q And what does it indicate as the time that -- does it indicate the time of the taking of the sample?

A Yes.

Q Okay. What is that time?

A 10:44 p.m.

Q Is that on May 29th of 2020?

A May 29th, 2020, yes.

Q And when you received that sample and sealed it up, what did you do with it?

A I dropped it in the evidence drop.

Q Okay. What time did you drop it in the evidence drop?

A 11:15.

Q And how were you able to tell that?

A By my signature, date, and time. And it says, "MJC [verbatim] evidence" that I put on there.

Q Okay. From the time that you took the sample and sealed it up to the time you dropped it in evidence, was it in your continuous custody and control?

A Yes.

Q Detective Vaughn -- or Lieutenant Vaughn, were you present when -- or did you see the maxi pad that you -- when you were inside the residence, did you observe the maxi pad that would later be recovered?

A Yes.

(State's Exhibit No. 3-A, Photo of Feminine Pad, was marked for identification.)

(State's Exhibit No. 9-A through 9-E, Photographs of Bathroom, was marked for identification.)

BY MS. JOYNER:

Q I want to show you what's been marked for exhibit purposes as 3A, and also show you what's been marked for exhibit purposes as 9. They're photographs A through E. Ask you to take a look at those photographs and tell me if

you recognize them.

A Yes.

Q And are the photographs in 9A through E, are those photographs of the bathroom at [redacted] Cureton Ferry Road?

A Yes.

Q Okay. And what is in the picture?

A It's the pad and a tampon, the packaging.

Q Okay. And is that what you observed in the trash can at [redacted] Cureton Ferry Road?

A Yes.

Q Thank you very much, Lieutenant Vaughn. Please answer any questions the defense may have.

THE COURT: Ms. Inzerillo?

MS. INZERILLO: May it please the Court, Your Honor?

THE COURT: Yes, ma'am.

CROSS-EXAMINATION

BY MS. INZERILLO:

Q Good afternoon, Lieutenant Vaughn.

So, as you testified, you were one of the detectives that was assigned to this case?

A Right. I assisted Detective Day with the case.

Q Okay. And basically, as you have described, as part of your investigation in the case, you went to the hospital and spoke to the victim; is that correct?

A Yes.

Q Okay. You went to Cureton Ferry Road?
A Yes.
Q And you arrested Mr. Hogan?
A Yes.
Q Okay. And you interacted with him later that evening?
A Yes.
Q In the hospital, while you were interviewing Complainant, she was holding her cell phone; is that right?
A Yes.
Q Okay. And you didn't take her cell phone into evidence at that time?
A No.
Q You didn't check for any Find Your Friends app or anything like that on her phone?
A No.
Q When you got to Mr. Hogan's house, he was still wearing blue and yellow shorts; is that right?
A Yes.
Q Okay. And no shirt?
A No shirt.
Q And you indicated that, at some point while you were at Cureton Ferry Road, you went inside the house?
A Yes.
Q And while you were inside the house, you noticed,

"Money" -- the show, "Money Heist" was on the TV?

A I don't recall.

Q Don't recall that?

Would a picture jog your memory?

MS. JOYNER: Your Honor, can we approach?

THE COURT: You may.

BENCH CONFERENCE

(A bench conference was held off the record and outside the hearing of the jury and others.)

BY MS. INZERILLO:

Q Let me show you that picture. Does that refresh your recollection any?

A No. I don't remember this.

Q Okay. Do you recall, when you entered the house, seeing a beer bottle on the coffee table?

A I do not.

Q Okay. Would a picture refresh your recollection on that?

A I can look at your picture, yes.

Q Do you recall seeing a laptop on the couch?

A I remember a laptop.

Q Okay. And do you recall that a load of laundry was in the dryer?

A I don't remember that.

Q Okay. You indicated that you were there for -- with

Forensic Services officers; is that correct? And they were on the scene about two to three hours?

A I don't remember how long it was.

Q Okay. But you were there with them the whole time?

A Pretty much.

Q Okay.

A I believe so, yes.

Q And you observed their -- them take items from the house?

A I don't remember who took what, though.

Q Okay. But you do remember some items being taken from the house. Okay.

And do you recall a gray shirt being taken?

A Yes.

Q A black -- a pair of black shorts being taken?

A Yes.

Q You testified as to the feminine pad and the tampon that were found in the trash can.

A Yes.

Q And a tiger blanket taken from the house?

A Yes.

Q You have been a detective for a long time; is that correct?

A Yes, ma'am.

Q Interviewed lots of suspects?

A Yes, ma'am.

Q And there's a technique to that; is that fair?

MS. JOYNER: Your Honor, may we approach?

THE COURT: You may approach.

BENCH CONFERENCE

(A bench conference was held off the record and outside the hearing of the jury and others.)

THE COURT: Ladies and gentlemen, I need to briefly take up a matter with the attorneys. I'm going to ask you to step back to the jury room for just a couple of minutes.

(The jury exited the courtroom at 2:50 p.m.)

THE COURT: Yes, ma'am, Ms. Joyner.

MS. JOYNER: So the way that I understand the line of questioning, Ms. Inzerillo is getting ready to question the detective about the interview.

THE COURT: Right.

MS. JOYNER: And the Court's already ruled that the statements that the defendant gave are self-serving and they can only be admitted by the State.

THE COURT: All right.

MS. JOYNER: So Ms. Inzerillo begins asking about the interview. It's putting the interview into question, when only the State has the right to ask about the statement. And it's not -- it shouldn't be offered at

evidence what technique that he used to gain any statements. They're not relevant to this case.

THE COURT: I'm going to overrule the objection because this is -- this witness is leaving so he can't be recalled by the defense. So Ms. Inzerillo can't get who said what, but I'm going to allow her to ask questions about was there an interrogation and what techniques were used.

MS. JOYNER: But that puts the State in -- because you force the State to enter the statement at a later time.

THE COURT: How so?

MS. JOYNER: Because now the jury wants to know what he said, when it's State's option, under self-serving hearsay, to offer it or not offer it. He's been forced into a situation where, if we do not enter the statement, Ms. Inzerillo is going to leave that with the jury to wonder.

THE COURT: I think that's fair. I mean, putting the interrogation techniques aside, I mean, the defense is entitled to ask, "Did you interrogate the witness at the Moss Justice Center?" And regardless of whether the statement is in or not, that's -- I think she's entitled to ask that.

MS. JOYNER: But then it creates -- then it creates

the question for the jury of what was said.

THE COURT: It does. But I don't think that's the basis to exclude -- prevent Ms. Inzerillo from asking.

MS. JOYNER: I'm sorry?

THE COURT: I said I understand your point; I just don't think that's a basis to prevent the defense from asking those questions.

MS. JOYNER: But if a defense attorney is allowed to question the officer about the fact that he interviewed a client, even if it's self-serving hearsay, then the self-serving hearsay prohibition essentially serves no purpose because it would always force the State to present the defendant's self-serving hearsay.

I think I have a couple of cases that I could email --

THE COURT: Sure.

MS. JOYNER: -- to the Court and to Ms. Inzerillo.

THE COURT: Sure.

(Pause in the proceedings.)

MS. JOYNER: Your Honor, my email is not connecting but I have the case number.

THE COURT: Just give me that. I have got Westlaw up already. Just give me the cite.

MS. JOYNER: There are three cases.

THE COURT: What's the best one?

MS. JOYNER: Well, the best one to this specific situation -- I'd have to look, but the first I have is *State vs. Atchinson*.

THE COURT: Okay.

MS. JOYNER: 268 S.C. 588.

THE COURT: Okay.

MS. JOYNER: The second cite --

THE COURT: Hold on. So where am I looking in *Atchinson*?

MS. JOYNER: The nature of just by self-serving hearsay (indiscernible).

THE COURT: But, I mean, my -- you're asking me to preclude the defendant from even pointing out that an interview occurred.

MS. JOYNER: Yes.

THE COURT: I just don't think, I mean, that's correct. So this case says that that's the correct ruling?

MS. JOYNER: Well, I don't know that one case in particular -- I'm just trying to scan through -- directly addresses the issue. But I think that it creates this nonsensical place where we are -- you know, we're keeping something out that is self-serving without -- while giving the defense the ability to tantalize the jury with what is it that we're not telling them. And then it becomes a no

win for the State, and it's unfair to the State. It pushes us to put things in evidence that are not --

THE COURT: Well, the alternative is you're asking me to prevent -- to order the defense can't ask about the existence of an interview, which did occur. You can ask that question without eliciting any hearsay at all. I just don't see any basis to prevent that question from being asked.

MS. JOYNER: Really quickly, Your Honor --

THE COURT: But I'm happy to be proven wrong.

MS. JOYNER: Okay. *State v. Terry.*

THE COURT: Okay. Hold on a second. Okay.

MS. JOYNER: It's 399 --

THE COURT: Okay. One second. Okay. Hold on. 399? Okay.

MS. JOYNER: 339. I apologize.

THE COURT: 339 S.C. --

MS. JOYNER: 352.

THE COURT: Okay. All right.

MS. JOYNER: And I'm on -- okay. I'm on -- it's a slightly different issue, but I think it's analogous. Terry next asserts that even -- that if the trial court properly excluded his statements to police, he should have been permitted to elicit the fact that he had given his statement in order to demonstrate that he had cooperated

with police. He contends the jury was left with the erroneous impression he stood silent in the face of an allegation or accusation that he committed murder. We disagree.

Initially, defense counsel told the jury that Terry had given a confession or (indiscernible) erroneous impression he had not cooperated with the police is simply untenable.

THE COURT: Ms. Joyner, just give me one -- give me a second to read, if that's okay.

(Pause in the proceedings while the Court reviews documents.)

THE COURT: Ms. Joyner, I have read -- the difference here, I think, is, at this point, the State has rested its case and the Court has ruled the evidence is inadmissible. This is not the situation here. I mean, the evidence is admissible if offered by the State, and this witness is not going to be available after today. So I don't think you can -- I mean --

MS. JOYNER: But it's clear -- Your Honor has already said that you cannot -- that we cannot be forced to enter the statement through Detective Vaughn because there was another witness to the statement.

THE COURT: Correct.

MS. JOYNER: And so, if the statement comes in

later, those questions about (indiscernible) interrogation are not relevant at all at this stage without -- when the statement has not yet come in. But I think that the language in Terry that, in any event, the fact that Terry gave a statement was simply irrelevant to any issue at trial. Admission that Terry cooperated with the police without getting into the substance of the statement would (indiscernible) confusing and misleading to the jury. I think that is the reasoning -- although there's different postures, but it becomes very confusing.

To question Detective Vaughn and say, "You interviewed my client and you used all these tactics," but then not talk about what he said, because they're not allowed because it's self-serving hearsay, to talk about what he said. It's a statement by a party opponent.

THE COURT: But I mean, am I correct that the detective -- the lieutenant is not going to be available for the remainder of the week?

MS. JOYNER: He will not be available after, I think, lunchtime tomorrow.

THE COURT: Okay. Given that -- and that will still be in the State's case. I can't handcuff the defense in that way and tell them -- the lieutenant is the one who asked the majority of the questions in the interview. I'm going to overrule the objection, and I'm going to allow

the question.

MS. JOYNER: And the questioning would be that he questioned the defendant and what tactics he used?

THE COURT: That's correct.

MS. JOYNER: Can we have a moment, Your Honor?

THE COURT: Yes, ma'am.

MS. JOYNER: Can we get a proffer of the questions?

THE COURT: Sure. Okay.

Ms. Inzerillo?

MS. INZERILLO: May it please the Court, Your Honor?

THE COURT: Yes, ma'am.

PROFFERED CROSS-EXAMINATION

BY MS. INZERILLO:

Q Lieutenant Vaughn, you have been a detective for a very long time; is that correct?

A Yes.

Q And you have interviewed a lot of suspects?

A Yes.

Q And you have been trained on how to interview suspects; is that correct?

A Yes.

Q And there is a particular technique that you use when you interview suspects?

A Yes.

Q Okay. And part of that technique is to allow the

suspect to talk initially?

A Yes.

Q Okay. And then the next part of that could be to give the person an out, basically a reason that they could confess to something?

A Yes.

Q Okay. And you did that in this case?

A Yes.

Q Okay.

MS. INZERILLO: Your Honor, I'm going to ask this next question, but in your ruling, I would ask you if the rest of it is fine to parse out this particular question.

THE COURT: So far, you're fine.

MS. INZERILLO: Okay. I just want to be as honest with everyone as I can.

THE COURT: I understand. It's a proffer. You can ask it.

MS. INZERILLO: Okay.

BY MS. INZERILLO:

Q And, as you indicate, you did that here --

A Yes.

Q -- in this case. Okay.

And that took the form of mentioning sleep medication?

A Yes.

THE COURT: That, we can't ask.

MS. INZERILLO: Okay.

THE COURT: Okay.

MS. JOYNER: What was that question?

THE COURT: She said that technique took the form of asking about sleep medication.

MS. INZERILLO: Thank you, Your Honor.

THE COURT: Yes, ma'am.

BY MS. INZERILLO:

Q And another technique you could use would be to try to soften up the suspect; correct?

A Yes.

Q Appear to be helpful --

A Yes.

Q -- and nice?

A Yes.

Q Okay. And another possible technique is to confront a person directly with what a witness said?

A Yes.

Q Okay. And you did all of that in this case?

A Yes.

Q Okay.

MS. INZERILLO: That's all I would ask.

THE COURT: I'm going to allow those questions to be asked, except you can't ask the one about mentioning the

sleep medicine. And, again, the basis for my ruling is that, given this witness will not be available after tomorrow morning, I can't penalize the defense. He was the primary interrogator, and they have to have an opportunity to ask him questions about his technique, so I'm going to overrule the objection.

Had he been available for the whole trial, I would probably have ruled differently.

MS. JOYNER: May we have a moment?

THE COURT: Yes, ma'am.

(Pause in the proceedings.)

MS. JOYNER: I think we're ready, Your Honor.

THE COURT: All right.

MS. INZERILLO: Your Honor, may I ask one more question?

THE COURT: Yes, ma'am.

MS. INZERILLO: I would like to have Lieutenant Vaughn confirm that the buccal swab was given voluntarily, since the State did address that and enter the buccal swab. I just want to -- that was not exactly fleshed out by the State. She just had Lieutenant Vaughn ID the buccal swab that was given, but running afoul of the Court's ruling, I just want to ask if that was done voluntarily.

MS. JOYNER: That was a search issue, Your Honor,

which was --

THE COURT: It was a pretrial. So tell me what you want to ask, Ms. Inzerillo.

MS. INZERILLO: Just that Mr. Hogan voluntarily gave over the buccal swab that he testified to.

THE COURT: Ms. Joyner?

MS. JOYNER: I don't think it's necessary, Your Honor, for the admissibility of the swab because the Fourth Amendment issue has been decided before trial. I don't think it's a predicate to the admissibility. That would be my only comment.

THE COURT: I'm going to allow the question. It's cross-examination. I'll allow it.

MS. INZERILLO: Thank you, Your Honor.

THE COURT: Let's bring the jury back in.

(The jury entered the courtroom at 3:06 p.m.)

THE COURT: All right. Ms. Inzerillo, you may continue your cross.

MS. INZERILLO: Thank you, Your Honor. May it please the Court?

CONTINUING CROSS-EXAMINATION

BY MS. INZERILLO:

Q Lieutenant Vaughn, I had asked you about a beer bottle on the coffee table.

A Yes.

MS. INZERILLO: Your Honor, may I approach the witness?

THE COURT: You may.

BY MS. INZERILLO:

Q (Indiscernible) picture on my computer (indiscernible) refresh your recollection as to --

A I don't remember. I don't remember.

Q When you were in the house, do you recall noticing that there were no interior doors in the house?

A No.

Q Okay. Do you recall seeing a sheet over one of the bedrooms in the house that functioned as the door?

A No.

Q Lieutenant Vaughn, you have been a detective for a long time; is that correct?

A Yes.

Q Okay. And you have been trained to interview suspects?

A Yes.

Q And you have interviewed a lot of suspects?

A Yes.

Q And there's a particular technique to interviewing suspects; is that correct?

A Yes.

Q Okay. And part of that technique is to allow the

suspect just to talk?
A Yes.
Q Okay. Another part of that technique is to basically give the suspect an out or reason to confess?
A Yes.
Q Okay. And another part of that technique is also to soften up the suspect; correct?
A Yes.
Q Appear helpful; correct?
A Yes.
Q Kind of the "nice cop" routine?
A Yes.
Q Okay. Another technique is to confront the person directly with what a witness alleges; correct?
A Yes.
Q Okay. The buccal swab that you identified, Mr. Hogan voluntarily gave you that; is that correct?
A Yes.
Q Okay.

MS. INZERILLO: Your Honor, I have no further questions.

THE COURT: Any redirect?

MS. JOYNER: Yes, Your Honor.

THE COURT: Okay.

REDIRECT EXAMINATION

BY MS. JOYNER:

Q Just a couple of follow-up questions, Detective Vaughn. In entering a house, would it typically be an important thing for you to notice what TV show is on?

A No.

Q Okay. And when you were at the hospital with [redacted], Ms. Inzerillo asked you if she had her cell phone, and you assumed that she did?

A Yes.

Q And, at that point in time at which you were first at the hospital with Detective Day and [redacted], was her mother there yet?

A No.

Q Was there anything about her -- your initial interaction with [redacted] that led you to believe it was necessary to take her phone?

A No.

Q Going back to the house --

THE COURT: Ms. Joyner, just remember that everything is being recorded electronically. Make sure you're speaking into a mic.

BY MS. JOYNER:

Q Going back to the house, Ms. Inzerillo asked you about the presence of doors, sort of the general shape of

the house. Was the existence or nonexistence of doors important at that stage in your investigation?

A No.

Q Okay. And she asked you about a beer bottle. Did you say you remembered the beer bottle or didn't?

A I don't remember the beer bottle.

Q And you interacted with the defendant, though; correct?

A Yes.

Q And did you observe him to be under the influence of anything such to the extent that he didn't understand that you were a police officer?

A No.

Q And he could understand what was going on?

A Yes.

Q And so whether there was a beer bottle out inside the home, would that be significant in and of itself when you go into a residence?

A No.

Q Thank you very much.

THE COURT: Any recross?

MS. INZERILLO: Your Honor, may we approach?

THE COURT: You may.

BENCH CONFERENCE

(A bench conference was held off the record and

outside the hearing of the jury and others.)

MS. INZERILLO: Permission for recross, Your Honor?

THE COURT: Yes, ma'am. Go ahead.

RECROSS-EXAMINATION

BY MS. INZERILLO:

Q Detective Vaughn -- I mean, I'm sorry, Lieutenant Vaughn -- my apologies -- based on what you learned at the hospital, without saying what was said, the State believed that a sexual act had occurred that day at the home; correct?

A Yes.

Q Okay. And while you were at the home, you didn't check the status of interior doors?

A No.

Q And you did not take the phone that -- from the victim at the hospital?

A No.

Q Okay.

MS. INZERILLO: Thank you. I have no further questions.

THE COURT: Any redirect from the State?

MS. JOYNER: No redirect, Your Honor.

THE COURT: Okay. Thank you, Lieutenant. You can step down.

MS. JOYNER: We'd ask that he be -- Lieutenant

Vaughn be excused from his subpoena.

THE COURT: Any objection?

MS. INZERILLO: No.

THE COURT: Okay. You're excused. And you can just return that to the solicitor. Thank you, Detective. And you're excused from your subpoena.

The State can call your next witness.

MS. RUSSO: Thank you, Your Honor. The State calls Tanner Davis.

TANNER DAVIS,

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

DIRECT EXAMINATION

BY MS. RUSSO:

Q Can you please state your name for the record.

A Tanner Davis.

Q Is that your first name?

A No. My first name is Michael. Nobody knows me like that.

Q Where do you work?

A I work for the 16th Circuit Solicitor's Office as an investigator.

Q And have you worked in law enforcement before that?

A I did. I worked for -- well, from 2006 to 2017 at the Clover Police Department before I came here.

Q And do you have any experience in evidence processing?

A I do. I worked for the Forensic Service Unit for several years during that time.

Q What are some of your typical duties as an investigator?

A Oh, it can range from -- anything from listening to jail calls, sitting in on interviews, conducting interviews, collecting evidence if evidence is found at a later date or making sure it is collected by the correct agency in the correct way. It varies broadly.

Q And did you do any of those things in the case against Matthew Hogan?

A I did. I helped with some evidence.

Q Okay. Did you handle any evidence in that case?

A I did. I handled a cell phone.

Q Okay. Who did you retrieve the cell phone from?

A Complainant. Complainant.

Q And where did you take the cell phone?

A I took it to a digital forensic examiner that works for the York County Sheriff's Office and stood by with him while he extracted the data, and then I returned the phone to its owner.

Q Can you recall when that happened?

A April 29th, 2021.

Q Thank you. No further questions. Please answer anything the defense has.

THE COURT: Ms. Inzerillo?

MS. INZERILLO: Thank you, Your Honor. May it please the Court?

THE COURT: Yes, ma'am.

CROSS-EXAMINATION

BY MS. INZERILLO:

Q Just briefly. You indicated you got a cell phone from Complainant; is that correct?

A Yes.

Q And she had brought it to you that day?

A Correct.

Q You had not seen it prior to that day?

A Correct.

Q Okay. Did you keep it after that day?

A No, ma'am. We returned it.

Q To Complainant?

A Yes.

MS. INZERILLO: I have no further questions, Your Honor.

THE COURT: Any redirect, Ms. Russo?

MS. RUSSO: No, Your Honor.

THE COURT: Thank you, sir. You're excused. Is the witness under subpoena?

MS. RUSSO: Yes, Your Honor. We'd ask that he remain under subpoena in case he needs to be recalled.

THE COURT: All right. That will be fine.

State may call your next witness.

MS. RUSSO: We next want to call Detective Michael Robinson.

DETECTIVE MICHAEL ROBINSON,

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

DIRECT EXAMINATION

BY MS. RUSSO:

Q Can you please state your name for the record.

A Michael Robinson.

Q And can you tell us where you work now.

A I work for the York County Sheriff's Office.

Q And what is your rank or duty there?

A I'm a detective in the Digital Forensics/Cyber Crimes Unit.

Q Okay. How long have you been in law enforcement?

A Almost at ten years.

Q Okay. Where did you work prior to the sheriff's office?

A Prior to the sheriff's office, I was in college.

Q You said you worked in law enforcement for ten years?

A Yes, ma'am.

Q Prior to being at the sheriff's office, where else did you work in law enforcement?

A I started -- I started at the sheriff's office.

Q Okay. So you have been just been in the Forensic Unit for three years?

A Yes. I started out at the sheriff's office, and then, for about the last three years, I moved over to Investigations.

Q When you moved over to Investigations, did that require any specialized training?

A Yes. Specifically for what we do with digital forensics is -- went to -- I believe it was a week-long course. I got certified to be a Cellebrite operator, which is software we use to download phones, and also a certified Cellebrite physical analyst.

Q Okay. What are some of the typical duties required of you in the Forensics Unit?

A A big part of what we do is we deal with electronics -- computers, tablets, cell phones -- from various types of crimes. We download those, go through them, get them back to the investigator to go through, looking for evidence.

Q So do you always download and look through, or do you sometimes just --

A Not always. We're only a two-person unit, so we're pretty short-staffed. And we also -- we do Internet - Crimes Against Children. That's our main investigating. We investigate those cases ourselves. But a lot of times, with other cases, we'll just download the phone for the detective and get it back to them or to the solicitor's office investigators to go through.

Q How many phones would you estimate you have analyzed since you have been with the sheriff's office?

A I checked my log earlier this morning. I'm at, like, 544.

Q Okay.

MS. RUSSO: Your Honor, at this time, based on Detective Robinson's extensive training and experience in the field of digital forensics, I would seek to enter him as an expert in the field.

THE COURT: Any objection?

MS. INZERILLO: No, Your Honor.

THE COURT: All right, ladies and gentlemen. This witness is qualified as an expert witness in the field of digital forensics. What that means is regular witnesses in court are only allowed to say what they saw, what they heard, what they smelled. They're not allowed to give their opinions on things.

An expert witness is someone who has become an

expert by their training or experience or education is permitted to give their opinion and the basis for their opinion, but it doesn't mean you have to believe them. When an expert is testifying, you should evaluate their testimony just like any other witness, and you can decide as jurors whether to believe their testimony in part, in whole, or not at all.

MS. RUSSO: Thank you, Your Honor.

BY MS. RUSSO:

Q Detective Robinson, did you ever come into possession of the victim's phone in the case against Matthew Hogan?

A Yes, ma'am. I believe it was in April of '21, I believe, if I remember correctly.

Q How did you receive that evidence?

A Investigator Davis from the solicitor's office brought it to me and said it was -- he had consent from the victim to download the phone.

Q Did you end up running any tests or any downloads on that phone?

A Yes, ma'am. We did a logical extraction on the phone, which a logical extraction is basically just face value of the phone. If you look at your phone, you can see your text messages, your pictures. Nothing behind-the-scenes. Just face value. That's what we

downloaded.

Q Is that commonly used in digital forensics?

A Yes, ma'am. Usually every phone, that's the first extraction we start with.

Q Is that considered reliable?

A Yes, ma'am. We go back and -- say, we download the phone. We're going to verify, like, you know, we'll go back and make sure the pictures are matching up or text message matches, just to make sure there was no issues.

Q Do you do just a manual confirmation just to make sure that what you're seeing on the phone matches what you're getting in this data, in the report?

A Yes, ma'am.

Q Did you create any reports in this case? You did -- you have the data from the phone, and then do you create an initial report?

A Yes, ma'am. We create an initial report that I gave back to Investigator Davis at the solicitor's office. And then I also, a few weeks ago, I was requested to pull certain photos from certain dates just to -- because, obviously, with the phones, you're going to have a ton of data to go through. But they wanted specific pictures from specific dates, so I just pulled all the pictures from those dates into a separate report.

Q And that report reflected the data that you had

already pulled from the phone?

A Yes, ma'am. It was the same extraction. We pulled it off one of our external hard drives where we store them, and I pulled up the same extraction we already had and just pulled those specific dates that was requested.

MS. RUSSO: May I approach, Your Honor?

THE COURT: You may.

(State's Exhibit No. 7A, Cell Phone Report, was marked for identification.)

(State's Exhibit No. 7B, Cell Phone PowerPoint, was marked for identification.)

BY MS. RUSSO:

Q Let me hand you what's been marked as Exhibit 7A and 7B. Do you recognize those?

A Yes, ma'am. This is a PDF version of my report for the specific dates that I pulled with the pictures, and then this is the digital PowerPoint that we reviewed that's got the same pictures and timestamps. They're in digital format. The only difference would be the report -- the time zone is UTC, which is universal time, and then the time zone on the PowerPoint has been converted to Eastern Time, which is our local time zone here.

Q So does the printed report fairly and accurately represent the work that you already did on the phone?

A Yes, ma'am.

Q And then when you do a phone rip, you mention the UTC time. What is UTC time?

A That's the universal time. That's what all the time zones are based off of in the world. So, here, we're in the eastern time zone, so if we're in daylight savings time, we're at four hours behind UTC. And then if we're outside of daylight savings time, we're at five hours behind UTC.

Q Okay. And so then that disc there, did you initial that disc and review that disc?

A Yes, ma'am. I checked for my initials.

Q Okay. And the information in that PowerPoint on that disc fairly and accurately reflects the photos and data from this report with the exception of the time?

A Yes, ma'am. The times are just changed. I went back through, and I verified that the conversions were right.

Q Okay. So you manually adjusted that time to what we would understand?

A Yes, ma'am. It's a lot easier because you don't want -- I'm terrible with math, because even when I do the conversions, I'll pull up an app that has the conversion on the specific date because I don't want to mess up on that.

MS. RUSSO: Your Honor, at this time, the State would move to enter Exhibit 7A and 7B into evidence.

THE COURT: All right. Any objection?

MS. INZERILLO: Your Honor, I have no objection to the extraction report. I would just like to clarify whether the PowerPoint was put together by the witness or if there's another witness that put that together.

THE COURT: Ms. Russo, do you want to ask that question?

BY MS. RUSSO:

Q Who prepared the PowerPoint in the case?

A The PowerPoint is actually put together by Investigator Davis, and that's why I was just double-checking on the times on it because I didn't personally do it, so I wanted to make sure all the times are right.

Q You did personally confirm that each of those photos came from this report and the dates and times were accurately reflected in each of those PowerPoints for each photo?

A Yes, ma'am.

Q Thank you.

THE COURT: Any objection, Ms. Inzerillo?

MS. INZERILLO: I do to the PowerPoint. I forget which State's number that is, Your Honor. I do, since he

did not create that.

THE COURT: So an authentication objection?

MS. INZERILLO: Yes, Your Honor.

THE COURT: I'm going to overrule the objection. That objection is overruled.

MS. INZERILLO: Thank you, Your Honor.

MS. RUSSO: Thank you, Your Honor.

(State's Exhibit Nos. 7A and 7B were received into evidence.)

MS. RUSSO: So the exhibits are entered. We would ask for permission to publish the exhibits.

THE COURT: You may publish.

MS. JOYNER: Madam Clerk, are you able to duplicate our screens just for the judge and (indiscernible) first to make sure (indiscernible).

THE COURT: The preview mode, so the attorneys and I can see what's on it. Okay. I can see it now. Yeah, that's correct. Thank you.

MS. RUSSO: Madam Clerk, can you publish to the jury?

BY MS. RUSSO:

Q Detective Robinson, is this the report that you created?

A It looks like it. I can't see it on my screen here in front of me.

MS. RUSSO: Can we publish to the witness? Are we able to?

THE COURT: The power may be off on the monitor, Detective. Just maybe --

THE WITNESS: It had a light on, so I didn't...

THE COURT: Still nothing?

THE WITNESS: It's still just -- the light's on but there's nothing on the screen.

THE COURT: Members of the jury, can you see it on your screen? Is it showing it?

A I can see on the screen over here. It does appear to be, yes, ma'am.

BY MS. RUSSO:

Q Is it a copy of the report 7A that is in evidence?

A Yes, ma'am.

Q Let's just talk about File No. 1.

A Okay.

Q What can you tell me about the file information there? What does that indicate to you?

A So most -- I think all these are actually thumbnail photos, which thumbnails, there's a smaller representation of the larger file. And it could have pulled thumbnails for, you know, maybe the phone is used from a third-party app -- Snapchat -- or maybe it was a live photo that was taken because they show up at videos, but it might have

captured some thumbnails from that. It could have been a photo that was deleted. That's why there's just the thumbnails there.

And it has the created, modified, and accessed. And I believe, in all these photos, all that -- those times are the same, so that would show that, you know, it was taken. It hasn't been changed. Nobody went back in and edited it.

And then it also has the file path of where these thumbnail photos are stored, and that's over on the left side where it starts with Complainant s iPhone/mobile and so on. That just shows where the photos are stored on the phone.

Q Go back to the thumbnail. So most or all of these images are thumbnails; is that right?

A Yes, ma'am.

Q What types of actions on your phone could create a thumbnail?

A If you're taking a picture with, you know, let's say Snapchat, for example, it's a third-party app. It's not your actual camera on your phone. You can see filters on some of these photos, which, obviously would show it was from a third-party app like Snapchat. Or if it was, you know, taken and deleted, it could still have a thumbnail there, just in the cache data. Yeah.

Q So we wouldn't see the original file. We would only see the thumbnail if it were deleted?
A Yes.
Q Would you also get a thumbnail if you downloaded?
A Yeah, you could get thumbnails for, you know, if you download images or if you visit a website, it might capture a thumbnail. And that helps with the cache stuff as far as, like, web sites and stuff to -- you know, if you open an app, so it -- you know, if you notice the first time you open an app or a website, it might take longer to load. But the next time you go back to it, it's stored some of that in there, so it's a little but quicker to go back into it.
Q And is the thumbnail created -- say I took a picture with my phone on Snapchat, and would that thumbnail be created around the same time of the Snapchat or the third-party app that you're using?
A Yeah, it would capture around the same time, yes, ma'am.
Q And that's why all these created, modified, and accessed are all the same because nobody's going through and accessing thumbnails in their phone?
A Right.
MS. RUSSO: I have nothing further, Your Honor.
BY MS. RUSSO:

Q Please answer any questions that defense may have.

A Yes, ma'am.

THE COURT: Ms. Inzerillo?

MS. INZERILLO: May it please the Court, Your Honor?

THE COURT: Yes, ma'am.

CROSS-EXAMINATION

BY MS. INZERILLO:

Q Detective Robinson?

A Yes, ma'am.

Q All right. So I'm horrible at phones, so if I ask you dumb questions, I apologize to you in advance.

So my understanding is that you were given a phone by Mr. Davis to download?

A Yes, ma'am.

Q And then you took that phone and you did a massive download of it, downloaded the phone that you were given?

A Yes, ma'am. I did a logical extraction. Yes, ma'am.

Q Okay. And the logical extraction pulled pictures?

A Yes, ma'am.

Q Okay. Do you recall if you pulled messages?

A I believe it did pull messages, yes, ma'am.

Q Okay. What about calls?

A It should have, yes, ma'am.

Q Okay. What about -- all kinds of messages.

iMessage, text messages?

A I'd have to go back and look. Sometimes it does pull -- usually, iMessages it does pull, but, like, third-party applications, it might not; Facebook Messenger and other stuff like that.

Q Okay. And then -- and it was a massive download?

A Yes, ma'am.

Q There were thousands of pictures on this phone?

A Yes, ma'am.

Q Okay. And, I mean, thousands like maybe 10,000?

A I want to say it was in the hundreds of thousands.

Q Hundreds of thousands?

A I think so.

Q So it's a big dump; correct?

A Yes, ma'am. And that includes system images. I'm not saying there was a hundred thousand photos taken from the phone, but it could have been, you know, system images, other stuff like that.

Q Then you were asked to go back and generate the report that's being entered into evidence; is that correct?

A Yes, ma'am, with the filter dates.

Q And the filter dates, who gave you those dates?

A I believe I was copied in an email from Ms. Russo and Investigator Davis.

Q Okay. So you didn't come up with those dates?
A No, ma'am.
Q Okay. And then you took that direction and you downloaded the pictures from the dates you were given?
A They were already downloaded. I just filtered out the photos from those dates and just put them in separate reports so you'd have to go through every -- you know, hundreds of thousands of photos to find those dates.
Q Okay. But it was based on information they gave you?
A Yes, ma'am.
Q Okay. And then you took the larger versions of the thumbnails and you made them into the other piece of evidence that was entered through you, the PowerPoint? Did you do that?
A I didn't make the PowerPoint. That was Investigator Davis.
Q Okay.
A He used my report that I gave him with those filter dates, and he made the PowerPoint with the timestamps.
Q Okay. So you didn't bring with you the entire phone?
A No, ma'am.
Q Okay. I believe you explained this, but if you can explain it for me one more time. On your Cellebrite

extraction report, the times that are listed is that what we consider our time or is that the UTC time?

A So on the report I'm holding, that's UTC. If you look beside the time, it has parenthesis UTC plus zero.

Q Yes. So, for example, if it says 7:14, would I subtract four hours from that?

A So if this is in September -- let's see. That's March. So that would be -- we're in daylight savings, so that should be minus four.

Q Okay. I'm going to try to make this as simple as possible. I'm going to pull up a picture on my computer that's in your report. You can tell me if it's showing the correct time or not.

A Okay.

MS. INZERILLO: Madam Clerk? Can we preview first before we publish to the jury?

BY MS. INZERILLO:

Q All right. Detective Robinson -- can you see it now on your screen?

A No. My screen is still blank.

Q Still blank. Okay.

I'm going to show you a picture that is on page 13 --

THE COURT: Ms. Inzerillo, do you want it published to all the screens?

MS. INZERILLO: I want to get him oriented first, Your Honor, and then if I could.

A You said 13?

BY MS. INZERILLO:

Q Yes, sir. 13 on your report. And it's Entry No. 123.

So I'm going to ask the clerk to publish this photo with the file information on it. And do you see on the left where it says 4:07 p.m.?

A I can't see that far. I'm sorry.

MS. INZERILLO: Your Honor, may I approach with the --

THE COURT: You may.

MS. INZERILLO: May I approach the witness, Your Honor?

THE COURT: You may.

BY MS. INZERILLO:

Q I'm handing you my computer, which has a digital copy of Entry No. 123.

A 123?

Q On page 13.

A Yep, I got it.

Q And do you see on the -- on my computer, it says 4:07?

A Okay.

Q On your report, it says 9:07.
A Yes, ma'am.
Q Okay. So is this the correct time on my computer? Is this what we would consider our time or (indiscernible)?
A Yes, ma'am. On your computer, that's eastern time, which would be local to here.
Q Okay.
A Yes, ma'am.
Q Detective Robinson, I would like to show you a series of pictures and -- what would be the month of the year we would have to subtract five years?
A So that would be outside. That should be November to March.
Q To March? Okay.
And then the remaining months would be subtract four hours; correct?
A I believe that's right.
Q I'm going to show you some pictures that were taken from your report that you have entered into evidence and ask you to verify that each of the timestamps on the file information is correct. And I'm starting with the first one.
MS. INZERILLO: Your Honor, may the witness reposition himself to get closer to a screen?

THE COURT: He may as long as he's got a microphone to speak into.

THE WITNESS: I think I can -- I can't realize where the time was. I was looking in the bottom right for the time, like on a computer.

BY MS. INZERILLO:

Q Okay. And that one says 4:07 p.m.; correct?

A Yes, ma'am.

Q December 24th, 2018?

A This was still 123; right? The one we just looked at?

Q Yes.

A Yes, ma'am.

Q Okay. And now I am turning to -- it will be in the same area, page 13. I'm sorry. Page 14, at the top of the next page. I'm going to pull up the file information on my computer. And that picture was taken December 24th, 2018; correct?

I'm sorry; I'll give you the entry number. 129.

A 129?

Q Mm-hmm.

A Yeah, December 24th, 2018.

Q And the time on the file information here on the screen being published to the jury is 4:09 p.m.? Oh, I'm sorry. You can't see that. There. On the screen.

A Yes, ma'am.

Q The next picture will be from page 14, Entry No. 131.

A Yes, ma'am.

Q I'm now projecting that on the screen for publication to the jury. It is taken December 24th, 2018, at 7:05 p.m.; is that correct?

A Yes, ma'am.

Q Now, if we could fast-forward to page 28 of your report, Entry No. 274.

A You said 274?

Q Yes.

A Okay.

Q And I have got it up on the screen. File information is March 23rd, 2019, at 5:32 p.m.; is that correct?

A Yes, ma'am, because we're back into minus four on that one.

Q Okay. Fast forward to page 32, Entry No. 311.

A Okay.

Q File information indicates this was taken March 23rd, 2019, at 9:32 p.m.; is that correct?

A Yes, ma'am.

Q Okay. Next one will be page 32, Entry No. 312.

A Okay.

Q That was taken March 23rd, 2019, at 10:10 p.m.; correct?

A Yes, ma'am.

Q Okay. The next one will be File No. 313.

A Okay.

Q Or Entry No. 313. I apologize.

File information is March 23rd, 2019, at 10:13 p.m.

A Yes, ma'am.

MS. INZERILLO: I have no further questions, Your Honor.

THE COURT: All right. Any redirect from the State?

REDIRECT EXAMINATION

BY MS. RUSSO:

Q Each of those (indiscernible) had information that was properly converted?

A Yes, ma'am. I was doing them on the fly in my head right now, but yes, ma'am.

Q And that conversion is a subtraction of five hours. Is that in the summer or the winter?

A If we're in daylight savings time between the March and November, it's minus four. If it's outside of that, between November and March -- I think the dates differ every year because it's always on the weekend -- then that's minus five.

MS. RUSSO: Nothing further.

THE COURT: Any recross?

MS. INZERILLO: No, Your Honor.

THE COURT: All right. Thank you, sir, you can step down.

Does the State still intend to call the witnesses that we talked about?

MS. RUSSO: Yes, Your Honor.

THE COURT: Okay. Ladies and gentlemen, I'm going to give you a very short break now. The next witness is going to be the alleged victim in the case, and I would imagine her testimony is going to take us through to the end of the day today. We're going to take a real short break for everyone to use the restroom if they need to, and we'll try to be back in five minutes. Okay?

Court will be in recess for five minutes.

(A brief recess was taken from 3:50 p.m. to 4:02 p.m.)

MS. RUSSO: The State calls Complainant.

Complainant,

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

DIRECT EXAMINATION

BY MS. RUSSO

Q Can you state your name for the record for us, please.

A Complainant.
Q Where are you from?
A From originally Rock Hill, but I lived in Catawba most of my life, so we say Catawba.
Q Is that where you grew up?
A Yes.
Q How old are you?
A Nineteen.
Q What's your birthday?
A [redacted].
Q Where do you live now?
A In Rock Hill.
Q Are you going to school or are you working?
A Both, yes.
Q Where do you work?
A I just started working in home healthcare.
Q Are you in school too?
A Yes.
Q Where do you go to school?
A York Tech.
Q What are you studying?
A Criminal justice.
Q What year are you? Are you a freshman?
A Sophomore.
Q You have been in York Tech the entire time?

A No, ma'am. I just recently transferred there for my sophomore year.

Q Okay. Where did you transfer from?

A Coastal Carolina.

Q So you went away for a year and then came back?

A Yes, ma'am.

Q I want to talk to you about a time in your life when you were about 14 to 16 years old, when you were in high school. Which high school did you go to?

A Rock Hill High.

Q And, at that time, do you remember what address you lived at?

[Cough interruption.]

A Sorry; I couldn't...

Q Do you remember what address you lived at, at that time?

A [redacted] Cureton Ferry Road.

Q The whole time?

A Yes, ma'am.

Q Do you remember when you moved there and when you moved out?

A Of [redacted]? I don't remember when we moved in, but I do remember when we moved out.

Q Is that the house you grew up in?

A Yes, ma'am.

Q Back in the time period when you were 14, 16 years old, you were in high school, what are some of the things did you do for fun in high school?

A Well, I was in Color Guard so that took up most of my time. And then I also did Winter Guard, which is the winter season, so that took up that part of my time.

I did yearbook. I did athletic training. That was really it, I think.

Q Did you go on field trips?

A Yes.

Q Was that usually with one of your extracurriculars?

A Yes.

Q Which one?

A That would be with Color Guard and Winter Guard.

Q Is there usually, like, a competition?

A Yes, ma'am.

Q Every weekend or something?

A Yeah.

Q I want to go back a little bit further to growing up. So you grew up on Cureton Ferry Road at that address. Who lived in the house with you growing up?

A My dad, my mom, and my brother.

Q Is your dad in the courtroom today?

A Yes, ma'am.

Q Can you identify him for us?

A He's over there.

MS. RUSSO: Let the record reflect that the witness has pointed out the defendant.

THE COURT: The record will so reflect.

BY MS. RUSSO:

Q And you grew up with him?

A Yes, ma'am.

Q Was there ever a time in your life that he wasn't there?

A No, ma'am.

Q Who else grew up with you? Who else did you grow up with in the house?

A Like, my mom and my brother.

Q Your mom and your brother.

And did your mom always live with you?

A No, ma'am.

Q Tell me about that. Was she gone for any specific periods of time or there, or when was she there and when was she not?

A Yes, ma'am. I do recall a couple of times where she was either living with a friend or I think, at one point, she lived with her grandparents -- I mean, her parents, my grandparents.

Q There were times she wasn't living with you?

A Yes, ma'am.

Q About this time when you're 14 to 16, did she live with you then?

A Yes, ma'am.

Q And did your brother live with you?

A Yes, ma'am.

Q Was there ever a time that your brother didn't live with you?

A No, ma'am.

Q What is your brother's name?

A [redacted].

Q When you were young and your dad was around, your mom was sometimes and sometimes not, what kind of -- how would you describe growing up? If you had to pick a few words, how would you describe it?

A What do you mean? Like, adjectives, I guess? It was sometimes rocky, I guess you could say. Almost -- like there were good times but there were also very bad times. Sometimes it felt like I wasn't, I guess, comfortable in my own home, but there was also to the contrary where I felt like, you know, amazing and felt very comfortable in my home.

So it was very -- it was very wishy-washy. It almost like it depended on the day, I guess you could say.

Q Who, when you were young, would you say your caretaker was?

A My dad.

Q And was he in charge of discipline?

A Yes, ma'am.

Q Tell me about what typical discipline or punishment would look like when you were under -- middle school, elementary school.

A Like spankings mostly.

Q Okay. Did that ever take the form of using an object to hit you? Like a belt or a switch?

A Yes, ma'am. Like a belt, yes.

Q Was that common?

A Yes.

Q What types of things would you be punished for?

A Like, chores, I guess, if we had -- say we had the dog pens or the dogs, we -- if we didn't walk the dogs like we were supposed to, I guess, or if we didn't --

Q So daily things?

A Yeah, like daily routine things, I guess you could say.

Q Okay. Was there any other kind of touching or physical abuse that made you uncomfortable?

A Yes, ma'am.

Q Tell me about that.

A He would, like, pinch my boob. He would smack my butt, even in public, around anybody.

Q When did those things start?
A I can't -- I really can't pinpoint exactly when it started, but it's happened as long as I can remember.
Q Okay. And that made you feel uncomfortable?
A Very.
Q Did you ever tell him that?
A Yes.
Q What happened when you told him that?
A I think he just brushed it off. I don't remember exactly what he said, but he definitely just brushed it off.
Q Was there -- were you close with your dad?
A Yes, ma'am.
Q Was there ever a time that you felt like your relationship shifted or changed?
A Yes, ma'am.
Q And can you recall, like, specifically what day that was?
A No, not a specific date.
Q Can you tell me a range of time or about when you think that change in the relationship started?
A Probably when I was about 13 or 14.
Q Was there a specific incident that occurred to kind of make that change for you?
A Yes, ma'am.

Q I want to talk about what that was. Was there anything -- going to that day of that incident, was there anything going on at home that was different or out of the usual for you?

A I was sick. I believe, that day, we had school, so I'm pretty sure I stayed home from school that day.

Q Was anyone else in the house sick?

A In the house sick?

Q Anyone else who lived there with you, was anybody else sick?

A I think we had a feeling that my dad was, but we didn't know -- we only knew for sure that I had it, but I was very nauseous and throwing up.

Q So you were home, nauseous, throwing up?

A Yes, ma'am.

Q Where did you sleep that night?

A I slept in my parents' room that night.

Q Was that normal?

A No, ma'am.

Q Was it because you were sick?

A Yes, ma'am.

Q Who else slept in the room with you?

A My dad.

Q Where did he sleep?

A In his bed.

Q Where did you sleep?
A In the bed.
Q Were you under the covers or were you on top of the covers?
A I was on top of the covers.
Q Were you laying where a person normally would have been in the bed or were you somewhere else?
A I was -- I was laying horizontally at the foot of the bed.
Q And is that where you fell asleep that night?
A Yes, ma'am.
Q And is that where the defendant fell asleep that night?
A Yes, ma'am.
Q Did you wake up sometime that night?
A Yes, ma'am.
Q Tell me why you woke up.
A Well, it was -- it was really early morning. It wasn't really night anymore. So it was like 7 a.m. I guess my body -- I didn't really, like, wake up on purpose. I just woke up and I had the urgency to pee, just like most people do when they wake up.

So that was the reason. I just had to pee.

Q You woke up because you had to pee?
A Yeah.

Q Did you get up?

A Yes, ma'am.

Q Did you go pee?

A No.

Q Why not?

A Because, before I could get off the bed, he grabbed my arm.

Q And when you say "he," you mean your dad?

A Yes, ma'am.

Q He grabbed your arm. Did that keep you from leaving?

A Yes, ma'am.

Q Did he say anything to you?

A He didn't say anything to me. I think I asked him what he was doing, and he said, "Just relax. You'll like it."

Q Did he continue to grab your arm or touch you or move you in any way?

A Yes, ma'am.

Q What did he do?

A He grabbed my arm and, like, pulled me back, I guess you could say. Like, I was sitting up, and he grabbed my arm and, like -- I guess I -- like, I guess you could say I fell backwards into, like, a laying position as he was pulling my arm. It's kind of -- he was guiding me down

into a laying position.

Q Pulled you back into where you were laying on the bed?

A Yes, ma'am. Well, it's not where I was laying originally. It's where I had sat up. And it would have been -- he would have been pulling me to lay in line with him, I guess you could say.

Q So he brought you further up the bed in a vertical position instead of being horizontal?

A Yes, ma'am.

Q Okay. Was he under the covers or was he on top of the covers?

A He was under the covers.

Q What happened at that point?

A He started touching me, like, rubbing my body.

Q How did that make you feel?

A Very uncomfortable.

Q Did you understand what was happening?

A Kinda sorta, not really.

Q Did that continue?

A Yes, ma'am.

Q When he was touching you, is that over your clothing? Under your clothing?

A Like a little bit of both.

Q Can you tell me what body parts he was touching?

A Like, my thighs and my boobs, my stomach.
Q Did he say anything while he did that?
A I can't remember anything being said, no.
Q At some point, did he move from where he was laying in the bed?
A Yeah. He ended up getting on top of me.
Q How tall are you?
A I'm five-nine.
Q Do you remember how tall you were when you were 14?
A I would say I was either five-seven or five-eight. I wasn't -- I'm not much taller than I was then.
Q Okay. So substantially similar to what you look like now?
A Yes, ma'am.
Q No big weight changes?
A No.
Q Okay. How tall is your dad?
A He's six-foot-seven.
Q And when you were about 14 years old, how much did he weigh?
A I think he was 200, 250. He was a bigger dude, yeah.
Q And that was when this happened?
A Yes, ma'am.
Q And you said he got on top of you. Did he say

anything when he got on top of you?

A I don't remember.

Q Okay. What did he do next?

A He started removing my clothes.

Q All of your clothes?

A Yes, ma'am.

Q Did he remove any of his clothes?

A Yes, ma'am.

Q What had he worn to bed, if you can remember?

A I really -- I really don't remember. It could have been -- he usually sleeps in just shorts. And he very well could have been naked. He doesn't sleep with much on really ever.

Q So he either removed his clothing or was already naked?

A Yes, ma'am.

Q Okay. What did he do once all the clothing was removed?

A He put his penis inside of me.

Q When did that stop? When did this act end?

A When he finished.

Q Did he ejaculate?

A Yes, ma'am.

Q Did he do that inside of you?

A Yes, ma'am.

Q Once it was over, what happened?
A I believe I got up and he told me to basically run to the bathroom before it runs out.
Q And that was in reference to his semen?
A Yes, ma'am.
Q And you got up and went to the bathroom?
A Yes, ma'am.
Q Did you put your clothes back on?
A Yes, ma'am.
Q Where did you go once you were done in the bathroom?
A I believe I had went back to my room and got into my bed.
Q Did he go with you to the bathroom or did you go alone?
A I believe I went in there by myself initially, and then he came in after and then, like, cleaned himself off.
Q What did he clean himself off with?
A It was like a flushable wipe.
Q You returned to your bedroom, is that real far from your dad's bedroom?
A No. It's right -- right in, like, a diagonal from each other.
Q Can you see from one end to the other?
A Yes, ma'am.
Q Were there any doors in your house?

A No.

Q Were there any curtains or anything to close off the doorway?

A We had curtained for doors.

Q Was that something that was always the case?

A Yes.

Q When this happened to you the first time, do you remember who else was in the house?

A I really do not, no.

Q It's possible somebody was home?

A Yes, ma'am.

Q The first time this happened, can you give any idea of when that was? Even if you don't have a particular date, can you tell me what time of year or how old you were?

A I believe I had just started the school year at the time, and it would have been summer, maybe leading into fall.

Q Would that be -- 14 to 16. Would that be a sophomore year?

A Fourteen?

Q Fourteen.

A I think it would have been freshman. I think I was a freshman at 14, yeah.

Q You would have turned 15 in 2018; is that right?

That was the year you turned 15? I'm sorry; I'm asking you to do math in public.

A Okay. So -- wow.

Q You were born in 2003. 15 years later would be 2018.

A Oh, yeah.

Q Okay. And then you turned 15, August 20th of that year; is that right?

A Yeah.

Q Was that the last time this happened?

A No.

Q Can you tell me when it stopped? When was the last time?

A May 29th, 2020.

Q Okay. So between all summer of 2018 and 2020, it was happening?

A Yes.

Q Can you tell me how many times during that period your father sexually assaulted you? Do you have an estimate? Can you tell us how often it was happening during that time?

A Roughly anywhere from three to six times a week.

Q And there was never a time it stopped?

A No.

Q Not until May 29th, 2020?

A Yes, ma'am.

Q Can you remember every single date or time that this happened to you?

A No.

Q You can remember the first time?

A Yes, ma'am.

Q You can remember the last time?

A Yes, ma'am.

Q Was there ever anything that helped you determine dates that this happened? Was there anything you could look at that showed you when the sexual assaults occurred?

A Yes, ma'am.

Q Tell me about that.

A I looked at pictures from my phone. I'm a very visual learner, so when I would see pictures, I would see it and be like this happened and this happened and I can tell you about this day. And I saw the -- I saw pictures, and I was able to give accounts of what happened for that day and even events leading up to the actual incident.

Q And were you just scrolling through your phone that you could see those pictures?

A Yeah.

Q Okay.

MS. RUSSO: Your Honor, I would like to publish 7-B, which is the PowerPoint.

THE COURT: You may publish.

BY MS. RUSSO:

Q Did you (indiscernible)?

A I'm sorry?

Q Did you (indiscernible)?

A I don't think so.

THE COURT: There we go.

BY MS. RUSSO:

Q I apologize. Complainant, can you see the photos on the screen? Is that visible to you?

THE COURT: Complainant, the monitor in front of you is not working, so if you can see this one or any of the other ones around the room.

A I mean, yeah.

BY MS. RUSSO:

Q Yeah? Okay.

Can you tell what those dates are, from sitting up there?

A Yeah.

Q This feels like an eye test, doesn't it?

A Yeah.

THE COURT: Ms. Russo, the witness can leave the witness box if you just give her one of the microphones she can hold in her hand so the jury can hear her.

BY MS. RUSSO:

Q If you could read that one up in the top? Is that the September 1st --

A Yeah.

Q -- 2018?

A Yeah.

Q Okay. Is there a significance to that date?

A It's my dad's birthday.

Q Okay. And when you look at these photos, can you tell anything about what you did on his birthday that particular year?

A I'm sorry?

Q Do these photos remind you of what happened on his birthday?

A Oh, yeah.

Q Okay. What do they tell you about what you did that day?

A In the first one, it's a Victoria's Secret dressing room. So we went to the mall.

The second one, it's a shooting range. It's called The Shooting Man, I think, and it's at a shooting range in Newport.

The third one, it's in his -- or my dad's car. I believe that was after we had -- we had left the gun range.

And then, the fourth one, that's me and him, and we are at the Cheesecake Factory waiting to be sat.

And then the fifth one, being cheesecake -- our cheesecake.

Q You documented all the good parts of that day?

A Yeah.

Q All the big things?

A Yeah.

Q So those photos remind you -- does that give you enough information to remember what else happened that day?

A Yes, ma'am.

Q Okay. So you took pictures of the good parts. What parts did you leave out? What else happened that day?

A Before we left for the mall, we -- my dad has sex with me.

Q Do you remember details about that incident?

A Yes, ma'am.

Q Was it substantially different from the first time that it happened?

A No, ma'am.

Q When this happened -- you have indicated it happened a number of times over a long period. Was it often the same?

A Yes, ma'am.

Q Are all the times that we're going to talk about involve your dad having sex with you?

A Yes, ma'am.

Q Did other things occur outside of vaginal intercourse?

A Yes, ma'am.

Q But each of these times, vaginal intercourse happened?

A Yes, ma'am.

Q Let me pull up another day. And you can tell that the date and time is correct because that was your dad's birthday?

A Yes, ma'am.

Q I won't make you go through every photo and everything. What's the date on this? Did some --

Okay. What's the date on these?

A November 4th, 2018.

Q I apologize; we're having some technical difficulties.

Did the rest of those photos remind you of what happened that day?

A Yes, ma'am.

Q Do they tell you a story about where you were that day?

A Yes, ma'am.

Q Okay. If you could tell us a little bit about that and why that helps you remember. You don't have to go through every photo, but what does that remind you that you did that day?

A That I went -- that we had went to the mall.

Q Okay. Does it remind you of an incident that happened with your dad?

A Yes, ma'am.

Q Okay. That day, can you now remember looking at these photos that he sexually assaulted you that day?

A Yes, ma'am.

Q What is the date on this one?

A December 22nd, 2018.

Q And is that one and the same?

A Yes, ma'am.

Q Does that help you remember what you did that day?

A Yes, ma'am.

Q Can you run me through just the timeline of what these photos show you?

A I believe the first one was in the Walmart bathroom, because we had to go to Walmart. The second one was in the car after we had left there. The third one, we were at McDonald's. The fourth one, we were still at McDonald's. The fifth one, we were at the gas station.

Q Would it help you to see the photos again, the first

one?

A Sure.

Q Does it help you remember what you did that day?

A I don't really need the first three. It's really just --

Q (Indiscernible) photos on your phone to remind you and enough photos here to remind you of what happened?

A Yeah.

Q Okay. And so, again, you took pictures of all the good things that happened that day?

A Yes, ma'am.

Q What else happened that day? Did something happen with your dad that day?

A Yes, ma'am.

Q Did he sexually assault you that day?

A Yes, ma'am.

Q What is the date on this one?

A December 24th, 2018.

Q And can you tell that those photos are from that day?

A Yes, ma'am.

Q How do you know that?

A Well, the third one is a dead give-away because it says Christmas Eve, and it's a Snapchat filter. You can't really make a Snapchat filter.

Q Okay. So you would have only used that Snapchat filter --

A On Christmas Eve, yeah.

Q Okay. And so you can remember this particular Christmas Eve from looking at these photos?

A Yes, ma'am.

Q And this particular Christmas Eve, is that a date that you recall your father sexually assaulting you?

A Yes, ma'am.

Q Technology is not my strong suit.

What is the date on this one?

A January 13th, 2019.

Q Okay. And do these pictures help you remember what happened to that day?

A Yes, ma'am.

Q That day was a little over three years ago?

A Yes, ma'am.

Q Can you tell me what these photos represent -- what they're showing us?

A The first two are just my -- or my old dog, Petey. The third one, it's a picture of me. I was getting ready to go to the next picture, Subway. And then the fifth one, that was just later on that night after I had gotten out of the shower, I believe.

Q Do these photos help you remember something that

happened with your dad that day?

A Yes, ma'am.

Q Can you tell me what happened?

A He sexually assaulted me.

Q Can you read the date on these slides?

A January 18th, 2019.

Q And from these photos, can you remember roughly what happened that day?

A Yeah. The first couple or the first one, I believe, is at my house. The next two are in the car on the way to the next picture, O'Charley's, and that is the bathroom of the O'Charley's.

Q Okay. You can remember, from that, that you were at O'Charley's? Do you recognize the bathroom?

A Yeah.

Q And then what's the last photo?

A It's of his car outside of the restaurant.

Q Getting ready to leave?

A Yes, ma'am.

Q And do these pictures help you remember what else might have happened with your father that day?

A Yes, ma'am.

Q And did he also sexually assault you on this day?

A Yes, ma'am.

Q Can you tell me what the date is on this one?

A January 27th, 2019.

Q What do these pictures tell you about the day?

A The first one is, again, with my dog, Petey. I believe I was just in my bed, before I had even woken up, even left my room yet.

The second one being we were at Belk's, and this was in the South Park Mall, I believe it was.

And then the two after that -- these were taken on Dave Lyle at the red light. I believe we were about to go get gas from the Sam's Club gas station that's right there on that same road.

Q Do these pictures remind you of something else that happened that day?

A Yes, ma'am.

Q Did your father sexually assault you on this day as well?

A Yes, ma'am.

Q Can you tell me what that date is?

A March 22nd, 2019.

Q And do these photos help you remember what happened that day? There's two slides, I guess?

A Yes, ma'am.

Q Now, on these photos, there's not a picture of a sexual assault; right?

A No, ma'am.

Q There's nothing in them that tells us what your dad did to you; right?
A No, ma'am.
Q But it does tell you something about what happened that day?
A Yes, ma'am.
Q Did your father sexually assault you that day?
A Yes, ma'am.
Q Can you tell me the date on this slide?
A March 23rd, 2019.
Q And two slides. Tell me about what was happening for you that day. In these photos, what are we seeing?
A It was my Color Guard -- or Winter Guard championship. Sorry.
Q And does March 23rd, 2019, sound like that's the right date for when that occurred?
A Yes, ma'am.
Q Is that when that happened?
A Yes, ma'am.
Q Can you tell me --
A And it was also my mom's birthday. Sorry.
Q Is your mom in these pictures?
A Yes, ma'am.
Q Which one is she?
A The first one to the very far left.

Q So that would be 5:32 p.m.?
A Yes, ma'am.
Q You were at the Color Guard competition. Were you there all day?
A Not all -- I guess you could say pretty much all day.
Q Can you tell from these photos what time you were back home?
A Yeah. The one with my mom, it was probably right around 5:00 because that's usually what it looked like at my house at 5:00.
Q And then what was -- the two photos on the right side there, are you out of the house again?
A Yes, ma'am.
Q Where did you go that night?
A To Nakato's. It's a hibachi restaurant in Pineville.
Q Can you tell me what the middle photo is?
A I was taking my eyelash -- my fake eyelashes off after competition.
Q Is this another day when your father sexually assaulted you?
A Yes, ma'am.
Q Can you tell from these photos anything about what time that occurred that day?

A Yeah, it would have happened in between the picture of me and my mom and -- I'm sorry; the picture of me taking off my eyelashes and then the picture of me at the restaurant.

Q After you removed the eyelashes?

A Yes.

Q And before you went to the restaurant?

A Yes.

Q What's the date on this one?

A April 26, 2019.

Q Do these pictures help you remember what happened that day?

A Yeah.

Q On all these pictures, you look smiling and happy; right?

A Yes, ma'am.

Q Does that date and that time look right for these pictures?

A Yes, ma'am.

Q (Indiscernible) your ability to remember?

A Yes, ma'am.

Q On the last one, you told us you could even narrow down the time. Is that always the case? Are you able to look at these photos and narrow down the time at all?

A What do you mean?

Q Well, on the last one we talked about, you were able to look at one photo and say, "I know what happened after that photo and before that."

A Oh, yes, yes, yes.

Q Is that always the case? Are you able to do that?

A For this date, yes.

Q Okay. Can you tell me which photos those are?

A The -- it would have been the last -- the third one.

Q On the other page?

A This one, yeah.

Q Okay.

A Or -- is there two pictures combined?

Q There may be. Those two may have been taken --

A Those two that are, like, spliced together? Okay.

Q Is it possible that one of those photos (indiscernible)?

A Yeah, I'm pretty -- yeah, I think that -- I think that one goes on that one.

Q All right. So what are those photos telling you, that you remember happened after or before?

A It would have happened after the one in the middle, the third one.

Q (Indiscernible)?

A Yeah.

Q So sometime after that?

A Yes, ma'am.
Q And, on that day, do you recall the sexual assault?
A Yes, ma'am.
Q When we're talking about sexual assault, it can mean a lot of things, but we have already said that that meant you took these days, you had vaginal sex with him?
A Yes, ma'am.
Q How old were you in April of 2019?
A I would have been 15 or 16. I would have been 15.
Q So you turned 16 later that year?
A Yeah.
Q In August, you would have turned 16?
A Yes.
Q And, at this time, you had turned -- you would be 15?
A Yes.
Q Were there sexual assaults that occurred between this date and when you turned 16?
A Yes.
Q And the first date we looked at was your dad's birthday, September 1st, 2018. Was that the first time that this had happened? Was it that day?
A No.
Q Sometime before that --
A Yeah.

Q -- the first sexual assault occurred?
A Yes, ma'am.
Q You turned 16 in August of 2019. Were there assaults that occurred after that?
A Yes, ma'am.
Q And those assaults then occurred -- the last assault was January 9th of 2020, and there were assaults between that and when you had turned 16?
A Yes, ma'am.
Q We talked about the details and the nitty gritty. How did this make you feel that this was happening?
A I started feeling very depressed. It was -- just having very bad thoughts. I was very uncomfortable with myself almost.
Q Was that an immediate change for you?
A It wasn't immediate, no. It wasn't just like -- like a switch. It was -- I gradually started being, like, more uncomfortable with things and more uptight, I guess you could say, with certain things.
Q Would that be, like, with physical touch?
A Yes.
Q Did you ever talk to anybody about how you were feeling?
A Yes, ma'am. I went to a counselor. I went to my guidance counselor when I was in high school to tell her.

The original reason I went to her was about what was going on, and I, like -- I, like, changed my mind and told her it was just about me wanting to basically hurt myself, and I didn't want to be here anymore.

Q So that's what you reported to her, was those feelings?

A Yeah. Those depressed feelings, yeah.

Q What did she do as a result of finding that out? What -- did she call anybody or tell anybody or -- of her plan in action for you?

A She called my dad.

Q And what did he do as a result of finding that out?

A He took my car keys and handed them to my mom and told me that there were no more car privileges, and I had to ride with him home. And then, when I got home, he took my phone, my remote. Any source of enjoyment that I had was tooken away from me. And I didn't know -- I didn't know when I was going to go back. He didn't say. He literally just said, "Give me all these things."

Q So he was told you were having these feelings of depression and self-harm, and his immediate reaction to you was to take your phone and your keys?

A Yes.

Q Had you communicated anything to him on that phone or talked to him on the phone between the counselor and

when he took the phone?

A Yes.

Q What did that look like?

A What do you mean? Like when I was texting him while I was in the office?

Q Yes.

A So we were -- we were conversing or we were texting back and forth literally from before I even walked in to the guidance counselor's office to up until when he got there. He -- I told him the feelings. I told him I was going to a guidance counselor to tell her how I was feeling, and basically, I flat out said, I believe, in the text messages, that I did not want to be here anymore.

He told me that I was crazy. It was because of birth control because I -- he -- I just recently started taking birth control.

Q Okay. Let's pause. When did you start taking birth control?

A I don't remember the exact date that I started.

Q Was it after the sexual assault occurred?

A Yes, ma'am.

Q And how did that happen? How did you come to be on birth control?

A My dad basically made the appointment for me. Didn't ask me. Didn't even -- didn't even tell me that I

was going for the doctor or going for the birth control.

Q Was there a reason to go on birth control?

A No. I had -- I never said I wanted to be on birth control. I never -- I wasn't even involved with boys yet. My periods were regular, so there was no -- no need. And I didn't have any --

Q It was at the defendant's request --

A Yes, ma'am.

Q -- to go on birth control?

Did you take that birth control?

A I did sometimes. Like, if he was nearby or if he asked me if I took it, I would go in there and take it really quick, make him believe that I took it. But I never actually took it, like, consecutively.

Q Did you have any concerns, with the assaults going on, that you could get pregnant?

A No.

Q Okay. Tell me about why not.

A Literally only because he said that I wouldn't.

Q Did he tell you why he wouldn't?

A He said that it was because he had a vasectomy.

Q And during the sexual assaults, did he ever use a condom?

A No, ma'am.

Q All this, then, culminates in your telling a

counselor about your feelings to self-harm and when you came back to your father from the counselor's office?

A I'm sorry; repeat the question.

Q When you're talking to your dad and you're talking to the counselor, is that texting with your dad happening at the same time you're in the counselor's office?

A So not -- they had -- they asked me who I was there to see, and then they had me, like, in the waiting room, basically. And most of the texting was done in the waiting room, and then once I got in the office, I think I only sent probably a couple more texts.

Q So you're talking to him in the waiting room, and then you changed your mind about telling her when you got in the room about what was happening?

A Yes, ma'am.

Q And, instead, you just told her (indiscernible)?

A Yes, ma'am.

Q When the defendant took your cell phone as punishment for this, did he do anything to your cell phone?

A Yes. He -- so while we were texting, I told him that the reasoning behind me having these sad feelings and these feelings of not wanting to be here anymore, I made reference to what he was doing to me and the sexual abuse, and when he took my phone -- and when we got home and he

got my phone, he went on our messages and deleted the text where I said what I said about the incident and then his response to it.

Q Did he say anything to you in person about that (indiscernible)?

A He said that this doesn't need to be talked about on the phone.

Q Did he ever address the feelings of the mental health problems that you were having?

A No.

THE COURT: Counsel, can I see y'all at the bench for a moment, please.

BENCH CONFERENCE

(A bench conference was held off the record and outside of the hearing of the jury.)

THE COURT: Ladies and gentlemen, it's a couple of minutes to 5:00. I will do my best not to keep y'all late unless we need to, so I think we're going to take a break for today. So I'm going to be ask you to be back at 9:30 tomorrow morning. Remember what I have told you: Please don't discuss this case with anyone, including each other, don't read or watch any news reports, and don't do any outside research.

Other than that, I can tell y'all have been paying very close attention. I appreciate that. See you

tomorrow morning at 9:30.

(The jury exited the courtroom at 4:58 p.m.)

THE COURT: Complainant, you can step down.

MS. INZERILLO: Your Honor, will --

THE COURT: I will. I'll give her the --

MS. INZERILLO: I'd ask the Court to remind her she's still under oath.

THE COURT: I will.

Complainant, you're still under oath and you're still on the witness stand, so between now and tomorrow, you're not allowed to discuss your testimony. Okay?

So you can talk to anybody you want, but you can't discuss what you're testifying about in court. Does that make sense? Okay.

Anything else from the State before we break for today?

MS. RUSSO: Nothing, Your Honor.

THE COURT: From the -- Ms. Inzerillo, anything from the defense?

MS. INZERILLO: No, Your Honor, thank you.

THE COURT: Okay. And, again, that civil hearing tomorrow is cancelled, so we'll start back at 9:30 as usual.

Court will be in recess until tomorrow.

(At 5:00 p.m., the trial adjourned until Wednesday,

sorry.

And we'll pause Complainant 's testimony, and the State can call your next witness.

MS. JOYNER: Thank you, Your Honor. The State calls Justin Baxley. Justin Baxley, please.

JUSTIN BAXLEY,

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

DIRECT EXAMINATION

BY MS. JOYNER:

Q Good morning.

A Good morning.

Q Can you please state your full name for the record.

A Justin Baxley.

Q How are you employed, Mr. Baxley?

A I'm employed as a police officer with the Amarillo Police Department.

Q How long have you been with the Amarillo Police Department?

A Coming up on two years.

Q And prior to going to the Amarillo Police Department, were you employed with the York County Sheriff's Office?

A Yes, I was.

Q How long were you employed with them?

A Six years.
Q And what were your different -- did you have one job or different jobs while you were at the sheriff's office?
A Different jobs. Patrol and then Forensic Services.
Q How long were you on the Forensic Service Unit?
A Two years.
Q Tell the jury just briefly what the Forensic Service Unit is.
A Sure. Forensic Services Unit is an assist unit to the other units, so when they need assistance processing crime scenes, documenting crime scenes through photographs, collection of evidence, fingerprints, things of that nature, we provide those services for them.
Q In your time in the Forensic Service Unit, was that at the tail end of your time with the sheriff's office?
A Yes, it was.
Q And, I'm sorry, did you say how long you were on the unit?
A Two years.
Q Now, going back to May 29th of 2020, were you on the Forensic Service Unit at the York County Sheriff's Office at that time?
A Yes, I was.
Q How long had you been on the unit?
A Just a few months.

Q And on May 29th of 2020, were you working?
A Yes, I was.
Q Were you dispatched out to [redacted] Cureton Ferry Road?
A Yes, I was.
Q Is that location within York County, South Carolina?
A Yes, it is.
Q Is that a residence?
A Yes.
Q You said that you were fairly new at the time. Did you go to the scene by yourself?
A No, I did not.
Q Who went with you?
A Investigator Steven Moore.
Q Has he been on the Forensics Service Unit for longer?
A Yes.
Q And what was the purpose of the two of you being there?
A Me being fairly new, Investigator Moore was tasked with training me and making sure that I was doing the job properly and satisfactorily.
Q Now, part of the job at the Forensics Service Unit is -- is it to photograph the scene?
A Yes.
Q Okay. And did you photograph the house?

A Yes, I did.

Q And I'm not going to show you pictures of the entire house but I am going to take -- walk you through a couple of pictures. And just in general without, you know, kind of going into what people tell you, when you go out to a residence like you did at [redacted] Cureton Ferry, do you have a general idea of what you're supposed to be looking for, what type of investigation you're doing?

A Yes.

Q And, just generally, what was your understanding of the type of investigation that you were working on?

A It was my understanding that I was investigating a sexual assault.

Q And did you have -- in going out to that residence, did you have specific pieces of information that you were either looking to document or locate?

A Yes.

Q Okay. What were those pieces of evidence?

A I was told that there would be a blanket with a tiger on it, a feminine pad, and some clothing.

(State's Exhibit No. 8, Photograph, was marked for identification.)

BY MS. JOYNER:

Q I'm going to show you what's been marked for exhibit purposes as State's Exhibit 8. Do you recognize State's

Exhibit 8?

A Yes, I do.

Q And what do you recognize that as?

A This is the blanket with the tiger on it.

Q Is that your photograph?

A Yes, it is.

Q Does it truthfully and accurately reflect what you saw on May 29th of 2020 at Cureton Ferry Road?

A Yes, it does.

MS. JOYNER: Your Honor, we'd move State's Exhibit 8 into evidence.

THE COURT: Any objection?

MS. INZERILLO: No, Your Honor.

THE COURT: Into evidence without objection.

(State's Exhibit No. 8 was received into evidence.)

BY MS. JOYNER:

Q Now, was that State's Exhibit 8 located in the -- for lack of a better term, in, like, the master bedroom?

A That is correct.

Q Did you observe other bedrooms in the home?

A I did.

Q Okay. And photograph those as well?

A Yes.

Q Now, did you go into the bathroom at the home?

A Yes, I did.

Q And did you photograph the bathroom?
A I did.
Q Take a look at State's Exhibit 9 for me, and just let me know when (indiscernible).
A Okay.
Q Do you recognize those photographs?
A Yes, I do.

MS. JOYNER: Okay. And just for the record, these are 9-A, B, C, D, and E.

BY MS. JOYNER:

Q Are these photographs of the bathroom that you took on May 29th of 2020?
A Yes.

MS. JOYNER: Your Honor, we'd move State's 9A through E into evidence.

THE COURT: Any objection?

MS. INZERILLO: No.

THE COURT: Into evidence without objection.

(State's Exhibit Nos. 9-A through 9-E were received into evidence.)

BY MS. JOYNER:

Q And would you characterize it as a large bathroom? small bathroom?
A I would characterize it as a small bathroom.
Q And these items that are you documenting as being

inside the bathroom, does it appear that this is a bathroom for the whole household?

A It appears so.

Q Now, you mentioned earlier that you were looking for a feminine pad?

A Yes.

Q Do you recall if you had an indication of where you to locate that feminine pad?

A Yes.

Q And where would that be?

A In the trash can in the bathroom.

Q So I'm going to show you what's been marked as State's Exhibit 3-A. Do you recognize that photograph?

A Yes.

Q And what do you recognize that photograph as?

A This is the trash can with the feminine pad in it.

Q Is that the photograph that you took?

A Yes, it is.

MS. JOYNER: Your Honor, we'd move State's 3-A into evidence.

THE COURT: Any objection?

MS. INZERILLO: Your Honor, just renewing the previous objections to that.

THE COURT: Into evidence over objection.

(State's Exhibit No. 3-A, Photograph of Trash Can

received into evidence.)

BY MS. JOYNER:

Q Now, when you -- are you an officer? Is your title in Amarillo an officer?

A Yes.

Q Officer Baxley, when you were on the Forensic Service Unit and just when you were in any law enforcement, when you collect evidence, do you take steps to ensure the integrity of the evidence?

A Yes.

Q What kind of steps would you take to ensure the integrity of, say, possible DNA?

A I wear gloves during the collection of the evidence. I keep extra gloves in my pockets to change between items of evidence that I collect, and then the items are packaged in a brown paper bag and transported and then sealed. I touch them as minimal as possible.

Q And on May 29th of 2020, did you collect the item that is depicted in Photograph 3-A?

A Yes.

(State's Exhibit No. 3, Photograph of Feminine Pad, was marked for identification.)

BY MS. JOYNER:

Q Now, I'm going to show you what's been marked for exhibit purposes as State's Exhibit 3 and ask you to take

a look at that evidence and let me know when you're ready.

A Yes, ma'am.

Q Do you recognize State's Exhibit 3?

A Yes, I do.

Q And what do you recognize State's Exhibit 3 to be?

A This is the feminine pad that I collected from the trash can.

Q Is that the feminine pad that has been collected in Photograph 3-A?

A Yes.

Q Okay. And is there also an applicator -- tampon applicator as well?

A That -- I'm not sure if that's what that is.

Q Okay. But was everything in the trash can collected?

A I don't remember if everything was collected. I remember collecting the feminine pad. And that's what is marked on here is feminine pad.

Q Okay. So you said you were wearing gloves when you collected Item 3?

A Yes.

Q Okay. And talk to me, was Deputy Moore around when you collected the item?

A Yes, he was.

Q And once you collected the item, did you put it

directly into that bag?

A Yes, I did.

Q And from the time -- well, did you seal it on the scene?

A No, I did not.

Q Did you, at some point, seal it?

A Yes, I did.

Q And when did you seal it?

A When I brought it back to the forensic office, I sealed it in the office.

Q And from the time that you collected Item 3 and placed it in the bag until the time that you brought it back to the Forensic Service Unit and sealed it, was Item 3 in your continuous custody and control?

A Yes, it was.

Q Did anybody else have access to Item 3?

A No, they did not.

Q Now, do you recall what time you collected Item No. 3?

A I collected Item No. 3 at 8:05 p.m.

Q And are you able to determine that because you wrote that on the evidence envelope?

A Yes.

Q And what time was it again?

A 8:05 p.m.

Q So you collected it, you brought it back to Forensic Services and you sealed it. Once you sealed it, what did you do with it?

A Once I sealed it, I completed the evidence log here by signing it and dropping it into the evidence locker.

Q What time did you drop it into the evidence locker?

A At 9:10 p.m.

Q From the time that you were at the FSU office to the time that you took it to the evidence locker, was that item within your continuous custody?

A Yes, it was.

Q Now, may I show this for just a moment? Now, this has got a lot of stuff on this bag.

A Yes.

Q So when you initially dropped Item 3, did it look exactly like this?

A No, it did not.

Q Okay. So if you can just explain to me, other than this tag right here, the case exhibit tag, what is the same and was it different about the appearance of this?

A The same is this top seal, which still has my signature and date on it, and this evidence log, which has my signature on the top line, and the biohazard sticker.

Q And so those initials at the top, "from," those are your initials?

A Yes.

Q That is your signature?

A Correct.

Q And you have typed in the date and time that you dropped this?

A Correct.

Q Okay. So until preparation for trial up until the time that you drop it, had you seen this State exhibit again?

A No, I have not.

MS. JOYNER: Your Honor, at this time, we'd like to publish State's 8, 9, and 3-A to the jury.

THE COURT: You may publish.

MS. JOYNER: Madam Clerk --

BY MS. JOYNER:

Q All right. I'm going to begin with State's 8. And, Officer Baxley, is your screen working up there?

A I can see small icons of the photos.

MS. JOYNER: Okay. If you can publish it to the jury. I'm sorry.

THE COURT: It's published. It's just -- we're just seeing the thumbnails.

BY MS. JOYNER:

Q Is that a photograph -- that's the photograph of the blanket?

A Yes.

Q And did you collect that blanket as well?

A Yes.

Q Going through -- I'm clicking through pictures of the bathroom. I'm landing on 9-E. And is that wastebasket at the bottom of the picture, is that the wastebasket where you recovered State's 3?

A Yes.

Q Okay. And then, finally, this is State's 3-A. Is that the item that you collected?

A Yes, it is.

Q And did you look at any other, like, used feminine products in the house when you were (indiscernible) or is this the only one you located?

A This was the only one I located.

MS. JOYNER: Thank you, Madam Clerk. You can bring down the picture.

I beg the Court's indulgence.

BY MS. JOYNER:

Q And, Officer Baxley, just a couple more questions.

MS. JOYNER: Are there any -- Madam Clerk, do you have any gloves?

BY MS. JOYNER:

Q I might have asked you a moment ago whether you had also taken the tampon applicator. And I'm going to ask

you, do you have something which you could open the seal?

A I do not.

Q Well, okay. You don't have anything to open the seal. Let me try it this way. Would it refresh your recollection to look inside --

A Yes.

Q -- to look inside the kit or perhaps -- I'll hand you scissors. If you could go ahead and open Item 3. This way, we'll be able to (indiscernible).

MS. INZERILLO: Your Honor, may I approach so I can see?

THE COURT: You may approach, yeah.

BY MS. JOYNER:

Q Does that refresh your recollection as to what is (indiscernible) feminine pad as well as a tampon applicator from the trash can?

A Yes, ma'am.

Q Okay. And based upon your review of Item No. 3 -- I will take that back -- the photograph on Item 3-A, does it appear to be the contents (indiscernible) that wastebasket?

A Yes, ma'am.

Q And let me just ask you briefly: In making that cut in order to refresh your recollection, did you cut through your original -- your original seal?

A I did, yes, ma'am.

Q Okay. So prior to you making that cut, had you initialed on top of that evidence seal in order to -- for the next person to be able to see the evidence to see that it was sealed at the time when you collected it?

A Yes.

Q You had your little (indiscernible) than me (indiscernible). Thank you very much, Officer Baxley. Please answer any questions that Ms. Inzerillo has.

A Okay.

MS. INZERILLO: May it please the Court, Your Honor?

THE COURT: Yes, ma'am.

CROSS-EXAMINATION

BY MS. INZERILLO:

Q Hello, Officer Baxley.

A Hello.

Q All right. So you were called out in this case basically to search the house on Cureton Ferry Road; correct?

A Yes.

Q Okay. And you kind of explained this in direct, but your job is to find evidence that can be tested for things like fingerprints?

A Yes.

Q Yeah. DNA?

A I do not test for the DNA.
Q But you collect the evidence that can be ultimately tested for that?
A Yes.
Q That's what Forensic Services does; right?
A Yes.
Q Okay. And, in this case, you took several items into evidence; correct?
A Yes.
Q Okay. You took a tiger blanket into evidence?
A Yes.
Q Okay. You took the feminine pad that was discussed?
A Yes.
Q The tampon applicator that was discussed?
A Yes.
Q You took a pair of Nike shorts?
A Yes.
Q And you took a T-shirt?
A Yes.
Q Okay. And you took all these items because they could be tested for DNA?
A Yes.
Q Okay. Cureton Ferry Road is a very small house; do you recall?
A Yes.

Q Okay. Maybe around 850 square feet?
A I don't know.
Q Okay. But we can agree it's a very small house?
A Yes.
Q Okay. And when you had to go through the house to assess what items to take, you did walk through the house?
A Yes.
Q Okay. You noticed that there was no interior doors in the house; correct?
A Correct.
Q Okay. In fact, all the doors just basically had, like, bed sheets on it; do you recall that?
A (Indiscernible).
Q When you -- and as Ms. Joyner asked you, you took pictures of the whole house; right?
A Yes.
Q And when you walk out of the main bedroom where the tiger blanket was found, about a foot in front of you is the arm of the couch; correct?
A I don't remember.
Q Okay. If I were to show you one of your pictures, would that refresh your recollection?
A Yes.
Q Okay.
MS. INZERILLO: May I approach the witness, Your

Honor?

THE COURT: You may.

BY MS. INZERILLO:

Q All right. I'm showing you one of your pictures on my computer of the interior of the house. Do you recall taking that?

A Yes.

Q Okay. And does that refresh your recollection as to the proximity of the couch arm to the door?

A Yes.

Q And it's very close; right?

A It is very close.

Q Maybe about a foot or two?

A A couple feet, yes.

Q The way the house is shaped, when you step out of that room, you're immediately in the living room where -- the picture I just showed up, if you were to step out of that bedroom, you're immediately in the living room where the couch is?

A Living room or the hallway.

Q Okay. But you come immediately up to that couch?

A Right, yes.

Q And when you were there -- you're very perceptive and you noticed that the TV was on; do you recall that?

A I don't recall the TV.

Q Okay. Do you -- if I were to show you one of your pictures that you took of the TV, would that refresh your recollection?

A Yes.

MS. INZERILLO: May I approach the witness, Your Honor?

THE COURT: You may.

BY MS. INZERILLO:

Q I'm going to show you what's (indiscernible) of the TV. Do you recall that?

A Yes.

Q Okay. And the TV is on?

A Yes.

Q And it looks like the show "Money Heist" is on; is that correct?

A Yes.

Q Okay. The -- let's talk about the bathroom for a second. It's a small bathroom; right? And there's only one bathroom in the house. And it's basically a communal bathroom so everybody uses it?

A Yes.

Q And we saw a picture that the State put up of the trash can that was there?

A Yes.

Q Do you recall that? Okay.

And that's a plastic trash can?

A Yes.

Q Okay. It looks pretty old?

A Yes.

Q Okay. Kind of got some white stuff in it, maybe not scrubbed completely clean?

A Maybe.

Q Okay. And that's the place where you found the feminine pad; correct?

A Yes.

Q Okay. As well as the tampon applicator?

A Yes.

MS. INZERILLO: I have no further questions, Your Honor.

THE COURT: Any redirect?

MS. JOYNER: No redirect, Your Honor. We'd just ask that Officer Baxley be released from his subpoena so he can fly back to Amarillo.

THE COURT: Any objection, Ms. Inzerillo?

MS. INZERILLO: No, Your Honor.

THE COURT: Thank you, sir. You can step down and you're released from your subpoena.

The State can call your next witness.

MS. RUSSO: The State would call Dr. Richard Gunter.

THE CLERK: Please raise your right hand.

DR. RICHARD GUNTER

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

DIRECT EXAMINATION

BY MS. RUSSO:

Q Good morning or good afternoon, Mr. -- or Dr. Gunter. Can you please state your full name for the record.

A Richard Glen Gunter.

Q And where do you work now?

A With McLeod Health out of Florence.

Q Have you previously worked at a practice that's local to here?

A Yes. I worked with Rock Hill Family Medicine for about 23 years, ending in 2017.

Q So you stopped working there in 2017?

A That's right.

Q While you worked there, what was the general nature of your practice?

A Family medicine. Full service family medicine.

Q Did all sorts of things?

A That's right. We'd see patients in the office and in the hospital.

Q Was Matthew Hogan one of your patients?

A Yes, ma'am.

Q And do you remember him?
A Yes.
Q Do you see him in the courtroom here today?
A Yes, ma'am.
Q Can you point him out for us?
A (Witness complies.)

MS. RUSSO: Let the record reflect that the witness did point out the defendant.

THE COURT: The record will so reflect.

MS. RUSSO: Thank you.

BY MS. RUSSO:

Q Did you perform a vasectomy on Mr. Hogan?
A I did.
Q Do you recall roughly when that was?
A Per the records, it was in the 2004 time frame.
Q Okay.
A June time frame.
Q It would have been prior to 2017 for sure because that's when you left the practice?
A That's right.
Q So some time prior to that. And did you personally perform that procedure?
A I did.
Q Did you typically perform follow-up on that procedure to make sure it was perfected?

A We did. At that time, I think the guideline was two negative semen analysis, six weeks apart -- after about six weeks.

Q Do you have any specific recollection of doing that in this case?

A Yes.

Q Can you tell me what a vasectomy is?

A A vasectomy is a method of birth control that is considered a permanent birth control that basically surgically interrupts the flow of sperm from the testicle to the urethra.

Q Do people who have had vasectomies still have semen?

A They do. The sperm is the smallest amount of the semen or the seminal discharge. Other fluids make up the majority of it.

Q So a person with a vasectomy would still have semen and that semen would just lack what?

A Sperm.

Q The sperm?

A That's right.

Q And is that something you can see on, like, a microscope, on a slide?

A That's correct.

Q I have nothing further. Please answer any questions the defense may have.

THE COURT: Ms. Inzerillo?

MS. INZERILLO: Just briefly.

CROSS-EXAMINATION

BY MS. INZERILLO:

Q Dr. Gunter, I believe you said the vasectomy was around 2004, to your recollection?

A I think so. I would have to look at the records to be sure.

Q Okay. But somewhere around then?

A Yes, ma'am.

Q Okay.

MS. INZERILLO: Thank you. No further questions, Your Honor.

THE COURT: Any redirect?

MS. RUSSO: Nothing further. We would just ask that he be released from his subpoena.

THE COURT: Any objection?

MS. INZERILLO: No, Your Honor, subject to the discussions this morning.

THE COURT: All right. Thank you, Doctor. You can step down, and you're released from your subpoena.

THE WITNESS: Thank you.

THE COURT: Yes, sir.

All right. Ladies and gentlemen, as I said, we have had some difficult scheduling issues to deal with, so

there's one remaining witness for today, and that witness will not be here until 1:30. So we can't go ahead and do it now, so I'm going to give you a lunch break and ask you to be back at 2:00. There will be one remaining witness, and then we'll pick up tomorrow with Complainant 's testimony.

So remember what I have told you: Please don't discuss the case with anyone, including each other; don't read or watch news reports; and don't do any outside research. But, other than that, thank you for your patience. It's been a very unusual week, and y'all have been very, very patient, and I appreciate that. We'll see you back at 2:00 today for one witness, and y'all have a great lunch.

(The jury exited the courtroom at 12:18 p.m.)

THE COURT: All right. Court will be in recess until 2:00.

(A lunch recess was taken from 12:19 p.m. to 12:19 p.m.)

[The digital recording commenced as follows:]

MS. RUSSO: We turned them over appropriately. I think maybe Mr. Keifer and one of our paralegals could copy them together to sort through it.

They have taken 24 hours to review them --

THE COURT: I guess what I'm saying -- until tomorrow morning in, like, a day, yeah.

two notes. The first is from Juror 189. And Juror 189 states that she was at the doctor's practice where Dr. Gunter worked. I appreciate your honesty, bringing that to the Court's attention. That does not present any problem.

And the second note is that a juror has a scheduling conflict with a vacation on Friday. If that becomes an issue, that's the reason we have alternate jurors, among the other reasons, so we can take care of it that way. But thank for letting me know.

All right. The State can call your next witness.

MS. RUSSO: The State calls Dr. Sabo.

THE CLERK: Please raise your right hand.

DR. JENNIFER SABO

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

DIRECT EXAMINATION

BY MS. RUSSO:

Q Good afternoon. Could you please state your name for the record.

A Dr. Jennifer Sabo.

Q And, Dr. Sabo, where do you work?

A I work at Prisma Health Children's Hospital in Columbia, South Carolina.

Q And what do you do there?

A I'm a child abuse pediatrician.

Q What are some of the typical duties you have in that line of work?

A I see children --

THE COURT: Hold on, ma'am. Hold on one second.

Yes, sir?

(Pause in the proceedings for technical difficulties.)

THE COURT: Thank you.

A I see children and adolescents who were reported victims of either physical abuse, sexual abuse, or neglect.

BY MS. RUSSO:

Q Would you be able to estimate how many children you have examined over your career of doing that?

A Since the start of my fellowship, I have seen approximately 1300 children.

Q And would you be able to estimate how many of those would be examined specifically for sexual abuse?

A Approximately 40 percent.

Q Can you tell us a little bit about your educational background, where you studied and what you studied?

A Sure. So in 2010, I received my bachelor's of science degree at the Ohio State University. I completed a master's of medical science in 2012 at Drexel University

in Philadelphia, Pennsylvania.

In 2016, I completed my medical training at Drexel University College of Medicine. And in 2019, I completed my pediatric residency and became a board-certified pediatrician.

In 2022, I completed my child abuse fellowship training, and I'm currently a child abuse pediatrician at Prisma Health Children's Hospital in Columbia.

Q And how long have you been at that position?

A In my current position, I have been there since August of 2022.

Q As part of your job, did you have to get any certifications or licenses or things like that?

A So I have my -- I'm a board-certified pediatrician, and I am board eligible for my child abuse pediatrics boards.

Q And have you done any research in the area of child abuse?

A I have.

Q Can you tell us just a little bit about that?

A Sure. So I am currently investigating different modalities for imaging techniques, for physical abuse fractures. And I have also been involved in a case series looking at bruising, specifically in infants, on their hands and their palms.

Q Have you done any teaching?

A I have, yes.

Q Okay. Can you tell us a little bit about that?

A Sure. So, as part of my training, I teach residents, community members, the police, EMS, and teachers about different topics regarding child maltreatment. So I have given lectures to medical students, to residents in training, to community advocates, to teachers, and I have also given lectures at conferences whose members included other pediatricians, nurses, and such.

MS. RUSSO: Your Honor, at this time, based on Dr. Sabo's extensive training and experience, we would -- the State would seek to enter her as an expert in the field of pediatric medicine and child sexual assault examination.

THE COURT: Any objection from the defense?

MS. INZERILLO: Your Honor, may I ask her a few questions?

THE COURT: You may.

VOIR DIRE EXAMINATION

BY MS. INZERILLO:

Q Dr. Sabo, your prior research involved spinal cord injury, limb motor function, that kind of stuff; right?

A Mm-hmm.

Q Okay. And lesions on lower extremities; correct?
A That is correct. I completed that when I was doing my undergraduate training.
Q Okay. And that's -- of the research that you listed, that is predominantly your research, that and something on abdominal pain; correct?
A That was completed during my undergraduate research. In my fellowship, I'm completing research on skeletal surveys and fractures pertaining to physical abuse.
Q Okay. But nothing regarding sexual abuse?
A That's correct.
Q And the -- it would be the same with your scholarly activities, that it's mainly physical abuse of children and adults; correct?
A My scholarly activities? I'm not exactly sure what you mean by that.
Q I'm looking at your resume.
A Yes, ma'am.
Q And I can approach if you would like, but you list things like spinal cord injury, that you did a presentation on abdominal pain, healthcare reform to seniors, that kind of thing. Does that sound accurate?
A Yes. That is what I completed in my undergraduate and during my master's.
Q Okay. And you also list, in regards to children,

physical abuse; correct?

A Specifically my research has been in physical abuse, yes.

Q Okay. And you have never been certified as an expert in South Carolina; correct?

A That is correct. I just moved here from San Antonio less than one year ago.

Q Okay. And you have been certified four times prior?

A Yes, that's correct.

Q In physical abuse?

A Yes.

MS. INZERILLO: Your Honor, I would object to her being an expert in sexual abuse. There's nothing in her C.V., her research, her experience as she has testified to that would yield itself to a sexual abuse. I have no doubt she's an expert in physical abuse but not in sexual abuse, Your Honor.

THE COURT: Ladies and gentlemen, I need to discuss this with the lawyers for a couple of minutes. I'm going to ask you to step back to the jury room just for a couple of seconds.

(The jury exited the courtroom at 2:12 p.m.)

THE COURT: Ms. Inzerillo, I mean, I don't -- is it your objection to me calling her a child abuse expert?

MS. INZERILLO: Your Honor --

THE COURT: I think any pediatrician, honestly, I think is qualified by their board certification to testify on these topics.

MS. INZERILLO: Your Honor, I think that the State specifically wants her to talk about child sexual abuse, and so I don't think this is a general abuse situation. It's not interacting with children. It is specifically about sexual abuse, and Dr. Sabo's C.V. and experience doesn't seem to support that particular specific arena.

THE COURT: My understanding is the testimony the State intends to elicit is that it is not unusual for a child to have intercourse and not have injuries; is that correct?

MS. RUSSO: Yes, Your Honor.

THE COURT: Ms. Inzerillo, I don't even think she needs -- I mean, I think any pediatrician would be qualified to give that opinion. I mean, a pediatrician is a board-certified physician who specializes in children and injuries to children. So I -- I don't --

Let me make sure the record is clear. So you are objecting to me qualifying her as a child sexual abuse expert?

MS. INZERILLO: Yes, Your Honor. I mean, I understand she's got training in pediatrics, but, as she's explained her question -- her history of that is physical

pain, spinal cord injury, and injury to seniors, physical injuries to children, and then I think pediatric dentistry. She can confirm that but that was also on her -- also on her C.V. as well as the only time she's been admitted as an expert has been in physical abuse. It's not sexual.

THE COURT: Let me ask some questions.

VOIR DIRE EXAMINATION

BY THE COURT:

Q Doctor, can you talk about -- you said you completed a fellowship. Can you talk about what the fellowship entailed?

A So I completed a fellowship specifically in child abuse pediatrics, which is a three-year fellowship evaluating children who are reported victims of physical abuse, sexual abuse, and neglect.

Q And if my memory is correct, you said about 40 percent of your patients were sexual abuse victims, which would mean more than 500, if my math is right?

A Yes, sir.

Q Okay. And you are not board certified but you are board eligible in the subspecialty of child abuse pediatrics?

A Yes.

Q Okay.

THE COURT: Ms. Inzerillo, I don't think research is necessary, is it, for something like this?

MS. INZERILLO: Your Honor, I think it's a consideration.

THE COURT: Okay. I'm going to qualify the witness as an expert.

MS. INZERILLO: Thank you, Your Honor.

THE COURT: Thank you, ma'am.

All right. We can bring the jury back in.

(The jury entered the courtroom at 2:15 p.m.)

THE COURT: All right. Ladies and gentlemen, this witness has been qualified as an expert in the fields of pediatrics in child sexual abuse. And as I mentioned to you previously with the other expert, that doesn't mean you have to believe everything the witness says. You should evaluate her testimony like that of any other witness. But it does mean she's allowed to give her opinion, which is something that non-expert witnesses are not permitted to do.

Yes, ma'am.

MS. RUSSO: Thank you, Your Honor.

CONTINUING DIRECT EXAMINATION

BY MS. RUSSO:

Q Dr. Sabo, so part of your work is to examine children who have made allegations of child abuse?

A Yes.
Q And that includes sexual abuse?
A Yes.
Q And in this particular case, have you been provided with a case file to review?
A Yes.
Q And that case file involves Ms. Complainant ; correct?
A Yes.
Q Can you tell us what was in that case file, what was provided to you?
A Yes. The medical records of when she presented to the emergency department, along with the SANE exam.
Q Were those from the same day?
A Yes.
Q Do you recall what day that was?
A May -- I can't remember the certain date of 2020.
Q So May of 2020?
A Yes.
Q Okay. Have you ever met with or examined Complainant [redacted]?
A I have not.
Q And do you know anything about this case outside of the records that you were provided?
A No.

Q In your expert opinion and based on the information in the file, in a case like this, would you expect to find any indication of physical injury?

A In the majority of cases after sexual assault, it is normal or expected to have a normal exam.

Q Okay. Can you explain why that would be the case?

A Sure. So just based off of clinical experience, about 95 percent of clinician's exams and my exams are normal regardless of any type of disclosure that the child has provided in cases of sexual abuse, and there's a few reasons why.

And so the tissues in the genital area, one, are elastic, so they're stretchy. So I always like to give an example specifically when I talk about the hymen. So the hymen is a rim of connective tissue that overlies the vaginal opening. And so that connective tissue looks very much like a scrunchie, so that hair tie that ties up women's hair. And so that scrunchie or the hymen is round in shape, has an opening, and has different folds of tissue.

And so that hymen can stretch and accommodate. So if a penetration does occur, that tissue -- specifically in post-puberty females -- can stretch. And so in -- in females who have gone through puberty or who have already had their periods, the estrogen hormone affects that

tissue and causes changes. And so those changes include increased lubrication in the genital area and also includes increased elasticity.

And so females who have gone through puberty are exposed to that increased estrogen or hormone effects. And so the literature has backed this up. And so the first big paper that was published was by Dr. Adams, et al. And when I say, "et al.," that means there's other authors. And that was in 1994 in the "Journal of Pediatrics."

So Dr. Adams examined over 200 -- about 240 medical charts of children and adolescents who have disclosed sexual abuse. Only 20 of those 240 children -- so 9 percent -- had definitive evidence of penetration. And so when I say, "definitive evidence," that means that hymen, that rim of connective tissue -- so that scrunchie -- had a transection or a tear or absence of tissue in the posterior area. So those are definitive evidence.

Q So are you saying that, normally, because that part of the body is so stretchy and it does accommodate, you would not expect to see tearing and things like that even in a case of forcible or coerced intercourse?

A That is correct.

Q Would you expect to see scratches or bruising or something like that just based on the fact of penetration

occurring?

A Not necessarily, no.

Q And that would be normal for you to see in an examine following a sexual assault?

A That is correct.

Q And that would not change that the sexual assault had -- would that change if the sexual assault had recently occurred?

A No.

Q And would your opinion change if that sexual assault had been repeated, where there had been a number of sexual assaults?

A No.

Q I think I have nothing further. Please answer anything the defense may have.

THE COURT: Ms. Inzerillo?

MS. INZERILLO: May it please the Court, Your Honor?

THE COURT: Yes, ma'am.

CROSS-EXAMINATION

BY MS. INZERILLO:

Q So, Dr. Sabo, your testimony is that there are -- even if a female has had sex, you may not see proof of that sex injury regarding that sex; is that correct?

A Correct.

Q It's also true that you may not see injury if the

person did not have sex; correct?

A That is correct.

Q Okay. And there are some percentage of cases where there would be injury and you would see injury?

A Yes.

Q Okay. And you had described the Dr. Adams paper, I think. Okay. And research like that in your field is based primarily on someone reporting sexual abuse and then physical exams being done based on that report; correct?

A Yes.

Q Okay. Generally accepted in the scientific field, we don't -- we don't test on humans. So your field is a field where the person has to report something and then the physical exam is done; correct?

A Mm-hmm.

Q Okay. You indicated that you reviewed the SANE report and the hospital emergency department records; correct?

A Correct.

Q And you weren't provided any prior gynecological exams?

A Correct.

Q And you weren't -- well...

You are being paid to be here; is that correct?

A No. My institution is reimbursed for my time away

from clinic.

Q Okay. So, basically, the State is paying Prisma Health to let you come here?

A That is correct.

Q Is that fair? Okay.

And the charge for that is -- to prepare for your testimony, you get paid $175 an hour -- or Prisma does; correct?

A That is based off of the fee schedule provided by Prisma Health.

Q Okay. And how many hours did you take to prepare for your testimony?

A I reviewed the case material for approximately two hours.

Q Two hours. Okay.

You're also being paid $300 an hour to testify?

A That is correct.

Q Okay. Does that include -- outside of the mileage, does that include the time it takes for you to drive up here and back to Columbia?

A No.

Q Okay. And so you'll get paid $300 for being here to testify?

A The institution will be paid.

Q And then you get paid mileage on top of that; is

that correct?

A The institution gets --

Q The institution will. Okay.

A Yes, ma'am.

Q In reviewing your C.V., it would appear that you testified in court four times before?

A Yes.

Q Okay. And were all of those on behalf of the child?

A Yes.

MS. INZERILLO: Your Honor, I have no further questions.

THE COURT: Any redirect, Ms. Russo?

MS. RUSSO: Briefly, Your Honor.

REDIRECT EXAMINATION

BY MS. RUSSO:

Q Dr. Sabo, does a lack of physical injury necessarily indicate that sexual abuse did not occur?

A No.

Q Does it indicate that sexual abuse did occur?

A No.

Q So, ultimately, that exam just could be consistent with sexual abuse and also could be consistent with no sexual abuse?

A That is correct.

Q Nothing further.

THE COURT: Any recross?

MS. INZERILLO: No, Your Honor.

THE COURT: Any objection to excusing this witness from her subpoena?

MS. RUSSO: No, sir.

THE COURT: From the defense?

MS. INZERILLO: Your Honor, I would object, considering the timing of the witness. We have not heard from the two witnesses on which she relied on their -- or the victim hasn't testified and the SANE nurse hasn't testified. So I would object to her being released.

THE COURT: All right. I won't release her, but if you intend to recall her, we need to give the Court notice.

MS. INZERILLO: Yes, Your Honor.

THE COURT: Thank you, ma'am. You can step down.

All right, ladies and gentlemen. I know you're wondering if we ever work here. I promise you, we have been working hard on this case but because of the witness scheduling issues, that's all we have for today. We will pick back up tomorrow morning at 9:30 with Complainant 's testimony continued from yesterday evening. Okay?

So, remember: Don't discuss the case with anyone, don't do any research, and don't read or watch news reports. But other than that, ladies and gentlemen, thank

y'all for your patience and your attention, and we'll see you back tomorrow morning at 9:30.

(The jury exited the courtroom at 2:27 p.m.)

THE COURT: All right. Anything from the State before we break for the day?

MS. RUSSO: Just had a brief conversation that Ms. Inzerillo and I had before the testimony is that she and another employee -- or attorney at the public defender's office were discussing the case on the first floor in their office when one of the State's witnesses, a chain witness, inadvertently came into the office. They didn't realize who he was, but once they did, they seized the conversation.

So in light of the sequestration order, we wanted to let the Court know.

THE COURT: Which witness was it?

MS. RUSSO: Officer Merck.

THE COURT: Okay. Ms. Inzerillo, any -- is there any motion or anything?

MS. INZERILLO: No, Your Honor. I just made the State aware of it. I hate for people to hear about things thirdhand. Sometimes in this building, officers will buzz into our office and it was an accident, I think, on Mr. Merck's part. But because we were mid-conversation, I wanted to make sure they were aware of it.

THE COURT: I appreciate you bringing it to the Court's attention, but I don't think we need to do anything.

MS. INZERILLO: Thank you, Your Honor.

THE COURT: All right. So, again, we'll take a break now. It's 2:30. We'll break for the day to give the defense time to review the letters.

Have y'all had the chance to make the copy?

MS. RUSSO: We -- we scanned them, and then we're in the process of trying to get them to the public defender's office. Initially, they said they were trying to email each individually so that's not working.

Do you guys have a flash drive?

MS. INZERILLO: He -- Mr. Keifer has arranged for a DropBox link.

MS. RUSSO: Okay.

MS. INZERILLO: And so we are trying to get it that way.

MS. RUSSO: In DropBox.

MR. KEIFER: It's a U-file (ph).

MS. INZERILLO: Whatever the government one is.

MS. RUSSO: There's a government one?

MR. KEIFER: Yeah. There's a government one that York County uses called U-file. She 's got it. I'm just waiting on the response.

MS. INZERILLO: Yes, Your Honor.

THE COURT: All right. So that will give the -- you know, until 9:30 tomorrow for the defense to take a look at the email -- to look at the letters.

And then, so far, the Court's ruling is I'm going to exclude them from being offered into evidence by the State, and if the defense finds anything basically in those letters that they believe warrants a mistrial, I'll hear from the defense tomorrow morning.

MS. INZERILLO: Thank you, Your Honor.

THE COURT: Okay. Counsel, if you want to give it until 9:45 tomorrow, I have a civil settlement hearing I have to do at 9:30. We'll start at 9:45.

MS. INZERILLO: Thank you, Your Honor.

MS. RUSSO: Your Honor, if I could just clarify. I think the defense has mentioned excluding us from using the letters at, like, any information found within the letters, and I just want to make sure that is not the ruling at this time. I think that information -- I mean, at this point, it would be hard for me to say whether there's information in the letters that they -- that they don't already know. I don't know what that would even include. I think the facts of the letters is not -- is not being able to use it as an impeachment or something like that. But certainly, I think any information

contained within those letters is something that the witnesses could have told us at some point.

THE COURT: I don't know how I would enforce an order saying that the State can't use -- if it comes up, Ms. Inzerillo, you may make a motion, but I just -- I don't see how I can issue an order saying you can't use documents you have already read -- I mean, that you can't use the knowledge that -- Ms. Inzerillo, if you think that's an issue, make a motion, and we'll give you time to argue it, and I'll rule on it.

MS. INZERILLO: Thank you, Your Honor.

THE COURT: Okay. Thank you, Counsel. We'll see y'all at 9:45 tomorrow.

(The trial adjourned until Thursday, March 30, 2023, at 2:31 p.m.)

* * * *

Thursday, March 30, 2023

(The trial resumes at 9:41 a.m.)

THE COURT: So we're back on the record. Let's get Mr. Hogan out.

(Pause in the proceedings.)

MOTIONS/MATTERS OF LAW

THE COURT: All right. So we took a break early afternoon yesterday to give the defense time to review all of the letters that the mother produced to the State

yesterday, and I excluded the letters from being offered by the State but Ms. Inzerillo wanted time to review the content of the letters.

So, Ms. Inzerillo, having reviewed -- have you had time to review those letters?

MS. INZERILLO: Yes, Your Honor.

THE COURT: Do you have any motions based on the content of those letters?

MS. INZERILLO: No, Your Honor, not at this time.

THE COURT: Okay. All right.

MS. RUSSO: Thank you, Your Honor.

THE COURT: Yes, ma'am. All right.

MS. RUSSO: Your Honor, I know Ms. Joyner is a little concerned; she just wants to make sure we don't run afoul of any court order regarding the letters in asking about them. The fact of the letters -- like, the fact that they were communicated was known. We do have one letter we intend to offer into evidence. I believe it references other letters, so, obviously, the witnesses are going to have knowledge of the information in the letters, so it is just that they cannot be admitted through these witnesses or is it that we might be able to read them for a different purpose (indiscernible) knowledge about what he's saying to them.

Additionally, I did have some -- I think that this

would still be relevant potentially (indiscernible) because he does still have the ability to factor it into whether or not he wants to take the stand.

THE COURT: Wasn't that one of the other issues addressed by the *Lawton*? I thought the *Lawton* court said --

MS. RUSSO: *Lawton* addressed that it was sprung on them during the cross-examination of the defendant, and the concern was that it impacted his ability to determine whether or not he should testify if that was his fundamental right.

This has been turned over well in advance of that. This case is also different from *Lawton* in that those statements specifically were already impeachment material because he talked about lying, my story is full of holes, and that sort of thing. These statements are not inherently impeachment because we don't know that he's going to testify inconsistent with that. I can assume he probably would, but I don't know that.

We also have just received it. It is not the case that the State waited until cross --

THE COURT: No, I understand. You're not --

MS. RUSSO: And, in candor to the Court, I have not looked at many of the other letters. They are all filled with the same stuff about (indiscernible). It is really

the one letter that we are looking at that we think would be usable, at the very least for impeachment, Your Honor.

THE COURT: Okay. So the one letter the State intends to use, my understanding is, the letter that was, in fact, produced some time ago?

MS. RUSSO: That's one additional letter. It would be that 10-page letter that the victim's mother identified as thinking it was important.

THE COURT: And that was the one that was produced to the defense some time ago?

MS. RUSSO: No. That letter was produced yesterday. We do have a prior letter that we had turned over, which I think is relevant, but it is very vague.

THE COURT: Okay. Now --

MS. RUSSO: (Indiscernible) what these letters are (indiscernible).

THE COURT: I'm sorry; what did you mean when you said there was a letter that you still intended to use?

MS. RUSSO: We had the letter that was turned over in August, and then the letter we handed you yesterday a copy of.

THE COURT: Right.

MS. RUSSO: That letter was one the victim had brought in, and she had told us last week that she thought she had a letter that she wanted us to look at, did not

describe it, and then told us she was unable to locate it.

When she came in yesterday, she had all the letters and then said, "This one is the one that I have told you I was looking for." That is the letter that I think the State should be able to use in impeachment.

THE COURT: Okay. Now, I --

MS. RUSSO: (Indiscernible) looked at. I would not even -- I looked at a few of them. They don't say anything that I didn't either already know or be able to (indiscernible).

THE COURT: Okay. So my ruling is that the State cannot -- that the State cannot use any of the letters for any purpose, and the State's witnesses cannot refer to the content of the letters. Okay?

So if they -- for some reason, if they say -- if they say in passing, "I got a letter from him" or whatever, I'm not going to jump on them for that, but they cannot refer to the content of the letters.

MS. RUSSO: So as to the witnesses...

THE COURT: The witnesses cannot refer to the content of the letters.

MS. RUSSO: We will still be able to refer to the content of that particular letter?

THE COURT: Of this one?

MS. RUSSO: I'm sorry. The one that we had turned

over previously.

THE COURT: Yes, the one that you turned over previously, you can -- the witnesses can discuss it, and the State can offer it into evidence.

And I will -- I'm saying right now the State can't use the letters for any purpose. If, in fact, the defendant does take the stand, I will revisit that ruling as far as possible impeachment. But until that point, no use at all.

MS. RUSSO: Our witnesses are under sequester, so we are unable to kind of give them that guideline.

THE COURT: Mm-hmm.

MS. RUSSO: And it's impossible for us to tell them what information they may have gleaned from different letters or different sources. So would Your Honor feel more comfortable giving them in caution in the courtroom? Or how would you like us to address that so that we don't run afoul of the rule?

THE COURT: Are any of the relevant witnesses, are they out there?

MS. RUSSO: I'm not sure they are here yet, Your Honor.

THE COURT: Okay. Well, you're an officer of the court. I trust you to communicate to them that they are not permitted to refer to the content of any letters that

the defendant sent from the jail, other than the one that was produced, you know...

MS. RUSSO: Thank you, Your Honor.

MS. INZERILLO: And, Your Honor, may I just clarify? I'm unsure what testimony would be elicited from these witnesses, but my concern would be that they may not reference the content of the letters but they may testify to things they would have only known by reading the letters. And so I would ask --

THE COURT: If you think that's happening, you need to make an objection. I mean, the intent of -- I mean, the -- yeah, so the witnesses can't testify to things they learned from the letters or that they -- or as to the content of the letters themselves. And I understand that's going to be hard to police, but Ms. Inzerillo, if you think -- if you think that's an issue, you make an objection, and I'll do the best I can.

MS. INZERILLO: Thank you, Your Honor.

THE COURT: Anything else?

MS. RUSSO: Your Honor, before Ms. Ledford testifies, I might circle back to the Court for some clarification.

THE COURT: Okay.

MS. RUSSO: Specifically how we will reference the letter that is being entered and kind of navigate the

communications which had occurred but the contents are not admissible. I just wanted to make sure that we don't run afoul of the Court's ruling.

THE COURT: I mean, I would prefer there be no questions at all about other letters. If the witness accidentally talk -- mentions the fact she received other letters, then, I mean, we'll deal with that. But, I mean, definitely no mention of the content of the other letters.

MS. RUSSO: That would be our preference in presenting it, but we would anticipate there's potential of cross-examination from the defense about her continuing to communicate with him. And, in that event, we sort of get into this weird place where there are phone calls that the State did not turn over that are not going to come in, the contents are not going to come in, and letters that, of course, the contents won't come in.

And so we just want to make sure that, before she testifies -- our intention is just to ask her, "Did you receive this letter close to the beginning of the case and provide a hand copy of this letter to the Court?" and based on authentication of her handwriting and enter that letter, you know, however, you know, we -- I would anticipate Ms. Inzerillo would cross her (indiscernible) letter and then that will...

THE COURT: I think that would be a very dangerous

route for cross-examination as far as opening the door to use of some -- I mean, that...

MS. RUSSO: Thank you, Your Honor.

MS. INZERILLO: Your Honor, I'm -- okay. Thank you, Your Honor.

THE COURT: All right. Anything else from the State?

MS. RUSSO: No. I need to check, Your Honor, to make sure Complainant is here.

THE COURT: All right.

(Pause in the proceedings.)

MS. RUSSO: She's on the way up the stairs. They were running a little late this morning.

THE COURT: Okay.

MS. RUSSO: (Indiscernible).

THE COURT: All right.

(Pause in the proceedings.)

MS. INZERILLO: Your Honor, if I may...

THE COURT: Yes, ma'am.

MS. INZERILLO: I had a discussion with the State yesterday regarding Mr. Hogan's statement, and it occurred to me --

THE COURT: The interrogations? The recorded --

MS. INZERILLO: Yes.

And it occurred to me I failed to make a particular

objection at that time, and I just wanted to go ahead and make that objection to some of the statements contained from Detective Vaughn and Detective Day too.

THE COURT: All right.

MS. INZERILLO: Your Honor, for any statement in which they are reciting what [redacted] told them or said, I would make a time and place exception under the hearsay rule. I would cite to the Court, Your Honor, *State v. Thompson* -- or, I'm sorry, *Thompson v. State*. In particular, it's a PCR case, Your Honor, but it -- it explains that any testimony by officers or those witnesses like that would still fall under the time and place exception under the hearsay rule, Rule 801.

THE COURT: You can give me that.

MS. INZERILLO: Yes, sir.

THE COURT: I mean, Ms. Inzerillo, I'm just skeptical. I mean, you're basically saying that asking -- I mean, they have to describe the crime that they're asking him about, and you're saying they can't do, the jury can't -- I mean, that -- I'm very skeptical but let me -- okay. Let me pull up Westlaw and you give me the cite, please, of the case.

All right. I'm ready for the cite.

MS. INZERILLO: 423 S.C. 235.

THE COURT: *Thompson v. State* from 2018?

MS. INZERILLO: Yes, Your Honor.

THE COURT: Okay. Let's see.

(Pause in the proceedings while the Court reviews documents.)

THE COURT: Well, I will say it seems to say that. Ms. Russo and Ms. Joyner, it seems to say that anything beyond time and place, including the identity of the perpetrator, is hearsay. And under the case law about interrogations, the hearsay's got to be excluded.

MS. RUSSO: Beg the Court's indulgence for one moment.

(Pause in the proceedings.)

THE COURT: I mean, Ms. Inzerillo, are you objecting to Detective Vaughn identifying the defendant as the alleged perpetrator?

MS. INZERILLO: As part of it, Your Honor, I do believe that is also excluded under that exception.

THE COURT: I think we have to exclude questions that quote the alleged victim. I think the officer can certainly say, "Did you have sex with your daughter?", questions like that. But the questions that include, "Your daughter said blank," I think that has to be redacted.

MS. RUSSO: Your Honor, there are several instances on the video where he says, "What did my daughter say?"

THE COURT: Mm-hmm.

MS. RUSSO: He elicits the information from the officers. And it will say -- and I'm -- I can't quote verbatim, but, you know, "My daughter said I did that?"

I mean, those are -- he's asking the officers what the daughter said. And then things like, "She told her mom I did that?" And the officer is merely responding.

And I think that if you -- Your Honor's initial ruling that it's necessary for the defendant to understand what he's being accused of in order to answer the question about whether he did it. It becomes a situation where it may be inartful phrasing, but the jury knows he's been accused of doing this. The daughter is going to testify at this point that he did it or that she's the one that accused him.

And so, you know, at some point, the officer would have to be able to get some answers -- some context for the questions, and I think, you know, it's time and place in the rule that there most certainly --

THE COURT: Right.

MS. RUSSO: -- (indiscernible) Your Honor (indiscernible) ruling was that the statement of the officer is part of the broader question about whether he committed the crime.

THE COURT: I mean, as much as I don't like this

ruling, I think I'm constrained by the case law to say if the officer is quoting the alleged victim, I have to -- I have to redact it.

MS. RUSSO: (Indiscernible) Ms. Inzerillo can provide those particular citations, because we have been back and forth with so many citations that we're sort of at a loss at this point. And we are going to be the one that has to redact this video.

THE COURT: I understand.

MS. RUSSO: And we only want to redact it one time. So if Ms. Inzerillo could provide those citations so that, if we can agree, we can bring that to the Court's attention before, you know, it gets too much further into the case.

THE COURT: Ms. Inzerillo, if you could just give them -- give them the cites that you're concerned about.

MS. INZERILLO: Yes, Your Honor.

THE COURT: All right. State ready to proceed?

MS. RUSSO: We are. We're trying to figure out when we can expect the citations, because we want to be able to present something that we can work on during the lunch hour.

MS. INZERILLO: I will get it to them as soon as possible. I just want to make sure I don't miss any, so I'm trying to review my notes.

THE COURT: All right. Defense ready to proceed?

MS. INZERILLO: Yes, Your Honor.

THE COURT: All right. Let's bring them in.

Ms. Hogan, you can go ahead and resume the place on the witness stand there.

MS. RUSSO: I'm sorry, Your Honor, before the jury comes in, would you let her know about the letters, specifically about the (indiscernible). In candor, I have not spoken to her about not talking about the, like, (indiscernible) contents --

THE COURT: Hold the jury for a second. Okay. All right.

Sorry. [redacted], don't give any testimony about the letters that you may have received from your dad while he was in the jail. Okay? And don't discuss anything that may have contained in any letters that you got. Okay?

And then, Ms. Russo, what was the second thing you wanted me to caution her about?

MS. RUSSO: That she shouldn't talk about any potential consequences of prison time.

THE COURT: Okay. And so, [redacted], in our system, the punishment is up to the judge. So don't give -- don't talk -- you may have had discussions with the prosecutors about what possible sentences are and things like that.

Don't talk about any of that. Okay? All right. Thank you.

Bring them in.

(The jury entered the courtroom at 10:21 a.m.)

THE COURT: All right. Good morning, ladies and gentlemen. Welcome back. Were y'all able to follow the instructions I gave you overnight?

All right. Well, I appreciate that. And, Complainant, as we discussed, is back on the stand.

Complainant, you're still under oath.

And, Ms. Russo, you may continue with your examination.

MS. RUSSO: Thank you, Your Honor.

Complainant,

after having been previously duly sworn, was further examined and testified to as follows:

CONTINUING DIRECT EXAMINATION

BY MS. RUSSO:

Q When we left on Tuesday, we were talking about when you spoke with your counselor. Do you remember that?

A Yeah.

Q Do you remember when it was that you took -- talked to your counselor? About when?

A Mm...

Q Could you recall how long before you disclosed

(indiscernible)? Was it a short period of time?

A Yeah, it was maybe like a couple of months. It wasn't -- it wasn't very far from each other.

Q And as a result of speaking with your counselor, you were punished. What did that punishment look like?

A So I had a car at the time. It was, like, my car. So I drove that to school. So he came in his car with -- or their car with my mom and then took my keys, and I had to ride home with him. And he took my -- my mom drove my car home.

And then my phone, he took it when I got home. Basically, he was, like, no privileges. So that meant, like, no TV, like, no going anywhere. So, like, I was in Color Guard so that meant -- he said no Color Guard.

And I don't remember if I had a job or not, but usually that was within the punishment was, "You're not going to work either."

Q And when you say "he," you mean Matthew Hogan?

A Yes.

Q And was he the one who decided what that punishment would be?

A Yeah.

Q Was that typically the case?

A Yeah.

Q How involved did your mom get in punishment

(indiscernible)?

A Not at all.

Q Do you recall if you told your mother what that punishment was for and explained to her why you were being punished?

A I'm pretty sure he just brushed it off and was like, "She's crazy. It's because of the birth control." I think that's what he might have told her it was. Because, obviously, he had made me go on the birth control and then -- I believe that's what he said it was, was because of the birth control and, like, my hormones were all over the place and I was just making it up, I guess.

Q So he just explained it away as just kind of being crazy because of the birth control?

A Yeah.

Q Did your mom ever inquire or want to know more about what these punishments were or what was going on?

A Not really. Me and her weren't close either, so she just kind of, like, stayed out of it. Most of the time, she wasn't really there to kind of see really any of it happen. She would just kind of get what he told her.

Q Tell me a little bit about that. Why do you think you weren't very close with your mother? Why do you think that happened?

A Well, I mean, when we were little, she just wasn't

there a lot. I guess there was times where she wasn't living in the house, so, like, she stayed with my grandparents at one point. She stayed with -- I don't know -- I don't know if it was one of her friends. It might have been one of her friends, but it was in, like, Lancaster or something, so she was, like, cities away for, like, periods of time.

Q So there was just time where she wasn't in your life?

A Yeah.

Q That she was absent?

A Yes.

Q And during those times, she left with you with your dad?

A Yes.

Q Did she always have a relationship with your dad or were there times that they were separated?

A They were -- they were separated a lot. Like, I don't really know, like, the full details of everything, but, like, what I do remember, there were times where she was out of the house for, like, extended periods of time.

Q And when they were separated, did that affect your ability to have a relationship with her and be in contact with her?

A Yeah, definitely, because, I mean, we were young.

We didn't really have any way to contact her. The only way would be with, like, through our dad, I guess.

Q So there definitely would have been periods of time where you just weren't in touch with her at all?

A Yeah.

Q When she did come back into your life, how was your relationship with her? What was it like?

A Like non-existent.

Q Why -- did you want it to be that way?

A No.

Q What did you want it to be like?

A Sorry. Um....

MS. RUSSO: May I approach, Your Honor?

THE COURT: You may.

A Sorry. I definitely wanted a relationship. It just never really happened, I guess.

BY MS. RUSSO:

Q Do you have any idea why that is?

A Not really, no.

Q Did you ever talk to your dad about that?

A Kind of sort of. It was -- it was kind of like he told us things. It wasn't really like we asked about it. It was like we got told about situations from him. And then, like, after, he would always talk to me about, like, problems that they were having or, like, situations that

arised between them.

Q Without going into details, he would talk to you about the relationship he had with your mother?

A Yeah, all the time.

Q When did that start?

A Probably when I was in, like, seventh or eighth grade.

Q Was your mom with you at that time or was she away?

A She was there, but she worked, like, 24/7, so he was, like -- she was there but she wasn't really there.

Q And that was seventh or eighth grade?

A Yeah.

Q Had she -- was she with you continuously from that point to the time the assault started, or was there other periods of time when she was gone?

A I think, in that period of time, she was there for the whole time.

Q So, in that period of time, she was working?

A Yeah.

Q Did that continue?

A Yeah.

Q Did that continue until the assault?

A Yes.

Q At the time the assaults began when you were 14 or 15, where was your mother working; do you recall?

A She's had quite a few jobs.
Q Do you remember what kind of hours she was working?
A She would -- she would be gone at, like, 5 a.m., and we wouldn't see her again until, like, 9:00 sometimes, 10:00.
Q Wasn't home when you got home from school?
A No.
Q Did you confide in her about the abuse?
A No.
Q Did she ask you about it?
A No.
Q When this started, did you feel that you could tell her what was happening?
A No.
Q Why not?
A We didn't really talk much other than, like, basic, like, conversation really. We didn't really talk about anything that went on in my life or nothing like that. So it really wasn't like a connection there.
Q So she wasn't a trusted adult in your life?
A Not really, no.
Q Did you have any trusted adults in your life?
A No.
Q Did you see a doctor during this time? At any point during these assaults, did you ever go to see a doctor?

A Like a doctor's appointment?
Q Yeah, like a doctor's appointment.
A I think -- yeah, I think I had a few, yeah.
Q And who took you to the doctor's appointments?
A He did.
Q And was he in the room or did he drop you off and (indiscernible)?
A He would go in with me.
Q And you talked specifically about the appointment with the birth control. When you went to see that doctor, did you ask for the birth control?
A No.
Q How did that come into play?
A He did all the talking. So really him telling her that I wanted to -- I don't even know what he said. It was a bunch of random stuff and it was like nothing -- nothing that I said. I never said anything about birth control or birth control, sorry. But it was -- it was never an idea that I gave him. It was never an idea that I gave anyone that I wanted to go on it.
Q Did the doctor ask you if you wanted to go on it?
A Not really because I don't even think he left the room for that appointment at all. I'm pretty sure he was in there for the whole time.
Q Did Mom ever take you to doctor's appointments?

A No.
Q Your brother, how old is he?
A He's 20 now.
Q So does that make him two years older than you?
A We're 18 months apart.
Q Okay. So when this started and you were about 14 or 15, do you recall what was going on in his life at that time?
A He did welding or -- I don't know if it was welding. He worked for a company called CDI, and he worked from, like, 5 a.m. to 5 p.m. And so he was gone for, like, the whole entire day. And then that was really it. That's all he did is he went to work.
Q Did you have much of a relationship with him?
A No, not really.
Q Does he still work a lot?
A Yeah. Yeah.
Q And all during the time of the assaults, did he work long hours then?
A Yes.
Q Was it always the same hours or did he switch to a different shift at some point?
A He might have but from what I remember, it was pretty much 5 a.m. to 5 p.m., like, all the time.
Q And that was similar to your mom?

A Yeah.

Q When the sexual assault occurred, did they happen -- what time of day would you say they (indiscernible)? Or was it all different times?

A Yeah, it was all times of day. It would -- it never, like, stayed the same.

Q Was it ever predictable to you when it would happen?

A Not really, no.

Q Was it always when your mom and brother were out of the house?

A No.

Q Can you recall any specific times when they were in the house and the sexual assault occurred?

A No, not specifically.

Q Was it common for your dad to wait until they were gone, or did it not matter at all?

A Sometimes, he'd -- I don't even think it mattered, because -- I mean, there's been a couple of times, like, I can remember, but it's not specific -- I can't tell you, like, a specific date or anything.

Q I don't need a specific date. Do you recall a time when you were assaulted and either your mother or brother was in the house?

A Yeah, actually.

Q Did you call out to them?

A No.
Q You didn't yell for them?
A No.
Q And this is a very small house; right?
A Yes.
Q Did you feel that you could call out to them?
A Not really.
Q Can you tell us a little bit about why you didn't feel that you could call out to them?
A I mean, because mainly, like, my relationship was with my dad. So it was, like, if I lost him, it was, like, I didn't know what was happening and change is very scary. So I think that was, like, always looming over me. He always took care of me but now, like, he's hurting me, so...
Q So you were afraid of the consequences for your dad?
A Yeah.
Q And because of that, you didn't feel like there was anyone you could tell?
A Mm-hmm.
Q Did you ever try to make it stop on your own?
A I mean, yeah.
Q Did you ever -- was that verbal? Did you ask him to stop?
A I mean, yeah.

Q Did that start at the beginning?
A Yeah.
Q And we already talked about the first time the assault happened. I want you to think back to that. Was there anything that you did or you said to tell him that you didn't want to do this?
A I mean, literally, like, everything I could have said. Like, "Stop." Like, "No." Like I didn't -- the initial time, I asked him, like, "What are you doing?" There was very many "no"s and very many "stop"s.
Q Did you do anything physically to (indiscernible)?
A I mean, there wasn't really much to do. He was very big and I was still pretty small.
Q So, physically, what was your reaction to him climbing on top of you? What did you view as happening?
A I basically just like went numb. It was like -- it was like I was stuck. It was like my mind was thinking but like I couldn't...
Q And, in that moment, do you remember what your mind was thinking about? Were you thinking about what was happening to your body or were you trying to think about something else?
A I mean, I was just -- it was like what was happening and really that was it. It was what was happening to me.
Q Did you feel anything?

A I mean, it hurt.

Q I mean, emotionally, did you feel anything?

A I mean, no. It just -- it literally is like I went numb. Like, I was just like a still body just like laying there.

Q Were you deadweight?

A Basically.

Q As these assaults progressed and continued, was that your response to them?

A Yes.

Q Did you ever cry?

A All the time.

Q Did he say anything when you were crying?

A He'd be like, "Why are you crying?"

Q Did he tell you to stop?

A Yeah.

Q Did he ever say other things to you while it was happening?

A Mm-hmm.

Q Did he call you names?

A No.

Q Did he tell you what would happen to you if you (indiscernible), if you refused him or tried to get him to stop?

A Same thing with the -- when I went to the therapist,

like, couldn't go to Color Guard, no work, no yearbook, no bike training, no car, no fun, no outside activities, no friends.

Q So he would take away everything else that was going on in your life?

A Yeah.

Q And did he have the power to do that?

A Yeah.

Q And did those punishments keep you away from other people (indiscernible)?

A Yeah.

Q Tell me about work. When did you start working?

A It was -- I believe that was right when, like, COVID was happening. I believe it was in March. So two months before, I just started working there.

Q Where did you work?

A The Shrimp Boat on Cherry Road.

Q And did you work with somebody you knew?

A Yeah. I worked with my mom.

Q Did she work there before you?

A Yeah.

Q Why did you first start working? Was it your idea or was it somebody else's?

A It was actually my idea. I asked my mom for the job. I don't remember why I told her, but it was to give

me another reason to get out of the house.

Q And you have already talked about Color Guard and yearbook. Were there any other things that you did to try to stay out of the house?

A No, that was really it.

Q Were there any other things you did yourself to try to make it stop or to try to make it so he wouldn't want to (indiscernible)?

A I mean, no. I just tried to stay out of the house all the time.

Q Did that work, staying out of the house?

A No.

Q Did it become less frequent when you started going (indiscernible)?

A No.

Q Did you get closer to your mom (indiscernible)?

A Kind of sort of.

Q Did she work in a similar schedule to you?

A No. She would go in -- she would go in, in the morning. And then she would work until about 6:00 or 7:00, I think it was. But sometimes, she would just stay until when I got off.

Q Okay.

A Because I worked later on in the day.

Q Would you go there straight from school or did you

come home?

A I would go home from school and then get changed and get ready and then go to work.

Q Were there times you were assaulted before you went to work?

A Yes.

Q And, at that period of time, was there normally anybody home at that time frame, in that early afternoon?

A No.

Q Just your dad?

A Yeah.

Q Would he take you to work?

A No. I took myself.

Q Okay. So when you started working, you already had a license?

A Yeah, I already had my car.

Q Okay. All these things we have talked about, the specific dates that we have talked about, all of those, you said, involved vaginal intercourse with a condom -- or without a condom; is that correct?

A Mm-hmm. Yes.

Q Did they sometimes involve other acts as well?

A Yes.

Q Can you tell me about a time you remember -- and it doesn't have to be a specific date. Do you recall any

time where he did another type of act on you?

A Yes.

Q Can you tell me a little bit about that happening or what that would be like or what happened?

A Or, like, what act it was?

Q Yes.

A So, like, oral sex. Both him doing it to me and him making me do it to him. That was -- those are the only ones that I can remember.

Q And did you react to that in the same way you did to vaginal intercourse?

A Yes.

Q Went numb?

A Yes.

Q When you went places, was it typically your dad who took you?

A Yes.

Q And you saw a lot of photos of different days, and your ability to remember those was a lot about where you had gone that day?

A Yes.

Q And a lot of places you went were stores, Victoria's Secret where you got (indiscernible), restaurants. Were those all places your dad took you?

A Yes.

Q So during those photos, those days, he took you to buy clothes and you took you to restaurants?

MS. INZERILLO: Your Honor, I'd ask that counsel not lead the witness.

THE COURT: Objection sustained. Rephrase the question, please.

MS. INZERILLO: Your Honor, I move to strike that question as well.

THE COURT: Motion granted.

Ladies and gentlemen, I'm going to strike that last question. It's leading so just disregard that question, please.

BY MS. RUSSO:

Q Where did you go on the days that we showed you (indiscernible)?

A Like all the different places we went? We went to stores, we went to restaurants, we went to malls.

Q And did he spend money in those places?

A Yes.

Q Was that (indiscernible) for you?

A Yes.

Q Did your mother and brother join you on those occasions?

A No.

Q Did they go shopping and to restaurants

(indiscernible)?

A No.

Q When he took you to do those things, did you think or know that a sexual assault would be coming?

A No. Usually those occasions happened after the sexual assault had occurred.

Q So the sexual assault would occur and then he would take you places?

A Yeah. It almost would be like a -- at the time, it definitely felt like a shut-me-up almost, for lack of a better term. It was like, "Oh, like, I'm doing this for her. Like, she won't, like, say anything." And it was, like, in my -- like, in my eyes, at the time, I was like -- I mean, I was a 15-year-old girl. Like I loved going shopping. That was an easy, like, bribe almost, I guess you could say. It wasn't, like, flat out said, like, "Oh, don't say anything because I'm taking you here." But that's what it felt like.

Q And these were things -- the shopping and the restaurants -- that weren't necessarily (indiscernible)?

A No, that wasn't -- it wasn't like normal stuff. Like, he would always be like, "Do you have, like, this type of money," like if I asked for something. Like, it wasn't like -- we never did that.

Q So when you wanted money for something or wanted to

purchase something, there would be questions about --

A Yes.

Q -- the money --

A Yes.

Q -- and the cost.

A Yes.

Q Were there questions (indiscernible)?

A No.

Q How did it make you feel to go out and do something like this with your dad on those occasions?

A I mean, like, it was -- it was nice. I mean, because we did have a relationship before that. Like, it was me and him. Like, anyone will say, like, you know, we had that bond. It was -- and then, like, me and my dad and then, like, my mom and my brother were close.

Q Did it make you feel (indiscernible)?

A Yeah. Yeah.

Q Did your mom ever take you to restaurants or shopping?

A No.

Q Or take you to the doctor's?

A No.

Q (Indiscernible) field trips?

A No.

Q Pick you up from school?

A Not really, no.

Q So if you told, you were afraid of losing a person who (indiscernible)?

A Yeah.

Q Was there anyone in your life that you thought would have taken you to the doctor or to school or on field trips outside of your dad?

A No.

MS. RUSSO: May I approach, Your Honor?

THE COURT: Yes, ma'am.

BY MS. RUSSO:

Q Showing you State's Exhibit 9. This is a packet of photographs. (Indiscernible).

Can you look through those for me? Do you recognize those photos?

A Yeah.

Q Is that what your bathroom in your house looked like when you were growing up?

A Yes.

Q Is that the trash can in the bathroom?

A Yes.

Q And is that where you would normally be using the restroom (indiscernible)?

A Yes.

Q Are there any other bathrooms in the house?

A No.

Q When you talked to the counselor in February of 2020, did the assaults stop after that?

A No.

Q The counselor -- when you spoke to the counselor --

A The guidance counselor. No.

Q Did they continue?

A Yes.

Q Do you recall the day that they stopped?

A May 29th, 2020.

Q What was that morning like?

A So me and my mom had actually went to -- or just gotten back from a trip. We went to see -- or we went to stay with one of her, like, long-time friends and, like, their family. We had just gotten back, like, the day before, I think it was.

So I woke up --

Q Let me break there for a second. Why did you go on that trip with your mom?

A Um...

Q Up until this point, you said you didn't have a close relationship with her.

A I really -- I really don't remember why it was. It was, like, very random.

Q Okay. So you went on the trip with your mom.

A Yeah.

Q And when did you return?

A May 28th. I really don't know what the exact --

Q The night or the morning?

A It was literally, like, right before. I don't remember what day they were on. But it was, like, that weekend.

Q Okay.

A But I woke up. It was already pretty late. I had a bunk bed so it was, like, bunk bed then computer desk underneath.

So I got out of bed, climbed down. I sat in the floor, like, underneath the bunk bed. I do that. I'd like sit in front of the mirror. And I would just like -- I was just like, playing with my phone. That was a normal thing for me to do. And --

Q What time did you wake up? Do you remember?

A 12:00ish maybe.

Q Little late riser?

A Yeah.

Q So you have a lofted bunk bed --

A Yeah.

Q -- and then, like, (indiscernible) underneath or something underneath?

A Yeah.

Q And you were hanging out in your own room?
A Yes.
Q And when did you encounter the defendant for the first time that day?
A I walked out of my room to get something to eat.
Q Did you go to the kitchen?
A Yes.
Q Where was he when you went to the kitchen?
A In the living room.
Q Are those pretty close together?
A Very close.
Q Small house?
A Very small house.
Q And we discussed, there aren't any doors in the house.
A No doors.
Q Did you usually hear people walking around and things like that?
A Yeah, very clearly.
Q So you go to the kitchen. Do you have any interaction with him?
A I think he says, like, "Hey" or something. It's not anything -- I don't say anything to him.
Q Did you eat in the kitchen or did you go back to your room?

A I took it back to my room.

Q Okay. After you go back to your room, do you have any more interaction with him?

A When he -- yeah. So this is right before I'm getting ready for work. So as I sit in my room, playing with my phone, I think it's, like, 2:00 or so by the time I get something to eat. So I go and get that. I don't know if you want to know this, but it was a barbecue pork sandwich.

Q Whatever detail you can give us.

A So I microwaved that. Brought that back to my room. Ate that. Sat there for a little while longer, playing with my phone, watching videos. I think it was music -- or Musical.ly or TikTok at the time. I don't remember what it was. But watching one of those.

And then he -- as I'm getting ready for work -- by the time I'm done eating, stay on my phone for a little bit, by that time, it's, like, 3:00, 3:30, about time for me to start getting ready for work because I believe, that day, I had to be there at 4:00 or 4:30. Most of the time, I had to be there at 4:00 or 4:30.

He walked -- I don't know if he was going to the bathroom or he literally just walked up to my door. But he'll come to my door most of the time. He'll just be like -- I can't do the whistle thing that he does, but it

will be like [whistling] and tell me to "come here".

At this point, I was -- like, I had my shirt on. I had no pants on. So he just walked right in the door and he was like [whistle] and telling me to "come here." And, I mean...

Q So you were in the middle of changing?

A I was in the middle of changing.

Q You have a curtain or something in the doorway?

A Yeah.

Q Was that closed?

A Yes.

Q Did he open it while you were changing?

A Yes.

Q And then he indicated to you that he wanted you to go with him?

A Yes.

Q Did you know what was going to happen?

A Yes.

Q How did you know?

A That was the same thing that he did every single time.

Q And this time when it happened, what was your response?

A I'm pretty sure that time I actually told him, I was like, "No, like, I'm about to go to work."

Q Did that stop the interaction?

A No.

Q What happened when you told him no?

A I'm pretty sure he either said, "I don't care" or he either says, like, "Let's go again." Like "I don't care" basically. And...

Q What did you think would happen if you didn't go with him?

A Probably wouldn't go to work that day. Car would be gone again. I'd be sitting there looking at the wall again.

Q Had that happened before?

A All the time.

Q And you were scheduled to go to work? Like you had a shift?

A Yes.

Q And was your mom at work that day?

A Yes. She was already there.

Q So what did you do when he (indiscernible)?

A I mean, I said, "No," obviously. And he said, "I don't care. Let's go." And then --

Q Did you go?

A Yeah.

Q Where did the two of you go?

A Into his bedroom.

Q Where in the bedroom?

A On his bed.

Q What did he do? What was the first thing that he did?

A Took my shirt off and then my underwear and then vaginal intercourse occurred.

Q Did you try to (indiscernible)?

A No. I pretty much just went numb that time. And, that time, I was on my period.

Q Did you try to tell him that?

A Yeah. Yeah, I did multiple times.

Q Did that get him to stop?

A No.

Q So I'm going to get very personal. When he took your underwear off, were you wearing any feminine products that day?

A Yeah. I had a feminine pad on.

Q Were you wearing a tampon?

A No.

Q How long did you (indiscernible)? Was it very long? Short? I don't need a specific time. Did you have any estimate of how long that was?

A Not really. Maybe like five, ten minutes. It wasn't very long.

Q And this is something that happened to you in the

last year and a half to two years?

A Yeah.

Q When it was over, (indiscernible)? Did you stay on the bed? Did you get up?

A I got up and I had put the pad back on because he said, "Put that back on so it doesn't run out."

And I, like, basically ran to the bathroom after I put them back on. And then...

Q (Indiscernible) bathroom?

A Yeah, I went to the bathroom and then took the pad off, put the pad in the trash can, and then I put a tampon in.

Q When you put the pad in the trash can, did you wrap it up?

A Like I -- I don't, like, wrap it in anything, but like, I folded it up.

Q You folded it --

A Like it --

Q -- into (indiscernible) the wrapper?

A Not in the wrapper.

Q Okay. You just folded it up?

A I just folded it, like, yeah. Like into threes.

Q Do you remember (indiscernible)?

A I don't remember, no.

MS. RUSSO: May I approach, Your Honor?

THE COURT: You may approach.

BY MS. RUSSO:

Q (Indiscernible). This is (indiscernible) can you remember? Is that what it looked like when you put your menstrual pad into the trash can?

A I mean, yeah.

Q And then you said you put in a tampon at that point. Did you do that immediately after you went to the bathroom?

A Yes.

Q Like at the same time you were still in the bathroom?

A Like took the pad off and then put the tampon in.

Q Were you still -- did you leave for work immediately?

A Yeah.

Q How long would you say (indiscernible) sexual assault and you (indiscernible)?

A Like not even 15, 10 minutes. Like it was -- I, like, went out of the bathroom, put my clothes on, and left.

Q Did you go back into the bathroom after you put your clothes on?

A I mean, no, I don't remember.

Q Okay. Those kind of (indiscernible)?

A I mean, I went -- I just went to the bathroom, put the tampon in, and then went and put my clothes on.

Q Okay. You went to work at that point?

A Yes.

Q Did you go straight to work?

A I mean, no. I got to the bridge that's like (indiscernible) 21. It takes you to Dave Lyle. It's, like, right by our house or maybe, like, five, ten minutes away from our house. I got there, realized I forgot my phone, used the bridge to turn around, and then went back and got my phone.

Q Once you got your phone and were headed to work, what was that drive like? What did you feel?

A I pretty much just cried the whole way there. I was, like, I want to kill someone, basically. I was, like, very fed up. I guess I said to myself -- I literally was like, "I don't want to do this anymore."

I mean, yeah.

Q What did you think would make the assaults stop? Did you think there was anything you could do to make it stop?

A I mean, yeah. I went and told my mom that day.

Q So you're upset in the car and you get to work. Do you go inside the building?

A No. I'm -- I'm, like, at the back end of the

building, and there's, like, a back door. There's, like, some stairs that, like, lead down to the parking lot from the back door. And my mom, she smokes. So she was back there. I didn't know she was back there at the time, but I called her. Or no, there was someone -- there was people standing up there. And I had got out of my car, and I was like, "Can you tell my mom to come here?" And they told her to "come here," and she came running down the stairs.

Q And when she did -- what did you look like? Did you look like you were calm and happy?

A No. I was, like, a nervous wreck basically. But I wasn't nervous. I was just, like, a basketcase, basically.

Q Had you been crying?

A Yeah.

Q And, at that point, you had to tell someone?

A Yeah.

Q And you do?

A Yeah.

Q As a result of that, where did you end up going?

A After The Shrimp Boat?

Q Yes.

A The ambulance came and picked me up, and we left and went to the hospital.

Q When you went to the hospital, did you see a doctor or a nurse at the hospital?

A I saw a lot of people when I got to the hospital.

Q Did you have a physical exam?

A Yes.

Q Do you recall them talking to you about that or anybody talking to you about that?

A Yeah.

Q And when they did that exam, do you remember them taking any samples or swabbing your cheek or anything like that?

A They did, like, the exam.

Q They did the SANE exam?

A Yeah.

Q Was that a comfortable exam?

A No.

Q Were you -- how did you feel in the hospital?

A It was just very uncomfortable.

Q Was your mom there with you?

A No. She wasn't there yet.

Q How long did it take her to get to the hospital?

A I don't really remember how long it was.

Q It was a period of time. She wasn't able to follow immediately?

A Yeah.

Q When you, then, talked about what happened, were you able to recall every detail of everything that had ever happened to you?

A On, like, May 29th?

Q Yes.

A Was I able to tell them everything that happened that day?

Q No. On May 29th, were you able to tell them everything that had happened over the last --

A Oh, no. No.

Q And was there ever something that helped you remember a little better, jogged your memory as to specific events?

A Yeah.

Q And was that the photos that you have?

A Yeah.

Q And did you voluntarily give your phone --

A Yes.

Q -- (indiscernible) to the (indiscernible)?

A Yes.

Q After May 29th, 2020, were you ever sexually assaulted by your father again?

A No.

Q And was that because of something you did or is that because he voluntarily stopped?

A Because of something that I did.

Q I have nothing further. Please answer any questions Ms. Inzerillo may have.

THE COURT: Ms. Inzerillo, cross-examination?

MS. INZERILLO: Your Honor, may we take a short break before cross?

THE COURT: We can.

We'll take a 10-minute recess. All right? Ladies and gentlemen, you can head back to the jury room.

(The jury exited the courtroom at 11:09 a.m.)

(A recess was taken from 11:10 a.m. to 11:22 a.m.)

(The jury entered the courtroom at 11:22 a.m.)

THE COURT: All right. Ms. Inzerillo, cross-examination?

MS. INZERILLO: May it please the Court, Your Honor?

THE COURT: Yes, ma'am.

CROSS-EXAMINATION

BY MS. INZERILLO:

Q Good morning, Complainant.

A Good morning.

Q On the morning of May -- that morning in May, you indicated you got out of bed; correct?

A Yes.

Q Okay. Because you were getting ready for work?

A Yes.

Q You ate something for lunch?
A Yes.
Q And at that point is when you indicated that Matthew forced you to have sex?
A Yes.
Q Okay. Immediately after that, you went to the bathroom?
A Yes.
Q And you threw a feminine pad in the trash can?
A Yes.
Q Okay. And immediately inserted a tampon; correct?
A Yes.
Q And then, at that point, you left for work?
A Yes.
Q Before you left for work, did you say, "Bye, I love you" to your dad?
A Yes.
Q Okay. And when you came back to the house to get your phone, did you say, "Bye, I love you," to your dad again?
A Mmm...
Q If you don't recall, that's okay. You can tell me.
A Yeah, I don't remember if I did that time or not.
Q Okay.
A I might have did the first time. I don't remember

if I did the second time.

Q Okay. Do you recall whether you really didn't want to go to work that day and your dad forced you to go to work?

A He didn't force me to go to work. I -- I wanted to go to work.

Q Okay. And so you left for work again with your phone now; right?

A Yes.

Q Okay. And when you got to work, you talked to your mom?

A Yes.

Q Okay. And then your mom called for an ambulance; right?

A Yes.

Q And then you were taken by ambulance to Piedmont?

A Yes.

Q All right. I know you indicated you talked to a lot of people at the hospital. I would imagine you did.

A Yeah.

Q Two of those people were detectives; right?

A Yes.

Q Okay. And one of them was the gray-haired guy that testified the other day; right?

A (Indiscernible).

Q And then the second detective is the lady sitting over there, Detective Day?
A Yes.
Q Okay. And when you talked to them, you indicated that your brother was there during the sexual assault; correct?
A Was there that time?
Q Mm-hmm.
A I don't remember if I did or not.
Q Okay. All right. Would it -- you don't recall if you told them or you don't recall if he was there?
A I don't recall if he was there.
Q Okay. But you did tell them that he was there? That he was at work at the time you were talking to the detective but you did tell them he was there that morning before you left for work?
A Yeah.
Q Okay. And while you were speaking to Detective Vaughn and Detective Day, you had your phone with you; right?
A Yes.
Q In fact, you were talking to your mom, texting with your mom?
A Yeah.
Q Okay. And you had mentioned to the detectives that

there was, like, a Find Your Friend app or something like that on your phone?

A Yes.

Q You probably heard me tell the phone guy I don't know much about phones, so correct me if I say something wrong. Okay?

And, at that point, they didn't take your phone; correct?

A No.

Q Okay. They didn't have you show them any pings or alerts or anything on that Find Your Friend app?

A No.

Q Okay. And they didn't have you show any GPS locations off your phone?

A No.

Q Okay. After you talked to the detectives, you talked to the SANE nurse; correct?

A Yes.

Q Okay. And that's the sexual assault nurse; right?

A Yeah.

Q Okay. And at the time that she talked to you, you were about five-eight? Does that sound about right?

A Yeah.

Q And I don't mean to embarrass you with your weight but it's 145 pounds; is that correct?

A Yeah.
Q Okay. Do you recall telling her that any ejaculation had occurred on the clothes that you were wearing?
A I'm sorry? If she asked me?
Q Yeah. Well, that you told her that.
A You're asking me if I remember telling her that?
Q Yeah.
A That there was or there wasn't?
Q That there was.
A Ejaculation on the clothes?
Q On the clothes, right.
A I don't remember what I had said about that, no.
Q Okay. But you did indicate to the detectives that they could find a T-shirt and shorts at the house; right?
A Tennessee T-shirt, Nike shorts, yeah.
Q Okay. And that this alleged assault had happened on a tiger blanket on the bed; correct?
A Yes.
Q And you recall telling them there's ejaculation on the bedding or on the tiger blanket?
A I don't remember.
Q Okay. At that time when you talked to the nurse, you indicated to her that any sexual assaults were going on for about a year. Do you recall that?

A For more than a year.
Q But, at that point, you said "about a year"; correct?
A I don't remember saying that to her, no.
Q Okay. And it was during her evaluation of you that the tampon was taken out?
A Yes.
Q Okay. And it was the same tampon that you had inserted at your house?
A Yeah.
Q Correct? Okay.
And you didn't shower from the time of the sex to --
A No.
Q Okay. And you still had the same panties on?
A I think they were the same panties, yeah.
Q Okay. The next day, you went back to talk to Detective Day; is that correct?
A Yes.
Q Okay. And that's the lady sitting over there?
A Yeah.
Q Okay. And you met with her for a really long time; correct?
A A couple of hours, I think it was, yeah.
Q And you were allowed to give -- write out a statement; correct?

A Yes.
Q And you were allowed to sit in a room by yourself to write that statement?
A Yeah.
Q Okay. And that statement ended up being about 12 pages long; is that correct?
A Yes, that was pretty long.
Q And she let you go into the room by yourself; right?
A Yeah.
Q For as long as you needed?
A Yeah.
Q She didn't bug you to go faster or anything like that?
A No.
Q Okay. And she told you to put everything you thought was important in that statement?
A Yeah.
Q Okay. And, on that day, you had you phone with you as well?
A Yeah.
Q Okay. And, on that day, Detective Day did not take your phone to download it; correct?
A No.
Q Okay. Nowhere in that statement do you reference any of the days that you went through with Ms. Russo;

correct?

A Correct.

Q Okay. And nowhere in that statement do you reference having your memory jogged by any photographs of any particular day?

A No.

Q Correct?

You also indicate in that that any sexual acts would happen with your mom in the house; correct?

A I said they would?

Q Mm-hmm.

A Yes.

Q Okay. And that your brother was also there; correct?

A In some instances, yes.

Q Okay. And I know we have established this but it's a small house?

A Very small.

Q No doors on the inside?

A At all.

Q Just sheets; right?

A Yeah.

Q Okay. And that includes the door to Matthew's room; correct?

A Correct.

Q All right. After you give that written statement, you meet with the prosecutor's office; is that right?

A Yeah.

Q Okay. Did you meet with the lady right there that asked you questions, Ms. Russo?

A (No audible response.)

Q Okay. And you talked to them again about what happened in this case; correct?

A Yeah.

Q All right. And this was approximately April of 2021? Does that sound about right?

A Sure. It's been a while.

Q Okay. It was a minute, though, between the time you talked to Detective Day and the time you talked to Ms. Russo?

A Yes.

Q Okay. And, at this time, you say it's now been going on for two years; correct?

A Correct.

Q Okay. And you tell them it happened two to three times a week; correct?

A Yes.

Q All right. And that, when you're talking to them, you explain that you changed -- you had actually changed for work; correct?

A Yeah.

Q Okay. And then you had changed out of your shirt when your -- when Matthew forced you to have sex?

A Yes.

Q Is that what you told them? Okay.

And then you put your work shirt on?

A Yes.

Q Okay. So -- and I want to be clear. In the initial interviews that you told the police, you indicated that you were wearing black Nike shorts, correct, and a University of Tennessee Volunteers shirt, and you specifically pointed those out to the detective so they could go to your house and get it; right?

A (Indiscernible).

Q And they were -- you told them where in the house it would be located; correct?

A Yes.

Q Which was basically on the floor in your room?

A Yes.

Q Okay. You have met with the prosecutors maybe, what, two or three times during this case?

A Met with them?

Q Mm-hmm.

A During all this?

Q Yeah. Between the time you met with Detective Day

and before the trial started, you met with the prosecutors about two to three times?

A Probably so.

Q Okay. More than that?

A Like I said, it's been a while. I don't remember -- I don't remember every time.

Q That's okay. But two to three is a safe number?

A Yeah, that's probably right.

Q All right. When you met with them in April 2021, you told them that you described Matthew's semen coming out of you and getting on your shorts; correct?

A I don't remember referencing the shorts, no.

Q Okay.

A That's the reason that the pad was there.

Q Okay. But you told them you thought maybe some had gotten on the shorts?

A There could have been a possibility. I don't think I told them that there was anything on there for sure.

Q Okay. And this time, you indicated that your mom was there. Do you recall telling them that?

A The 29th?

Q You know what? Let me clarify. I'm confusing you.

The first time --

A The very first time --

Q The very first time that you allegedly had sex with

Matthew.

A Okay. What -- sorry. You're talking about the (indiscernible) and the shorts --

Q Yes. My apologies. I want to clarify it. I don't want to confuse you. Okay?

All right. So let's circle back to you're talking with the prosecutors about the very first time --

A Okay.

Q -- that this -- that you say this happened.

A Yes.

Q Okay. And you indicated to them that your mom was in the house.

A Yeah.

Q Because you were sick.

A Yeah.

Q And she was sleeping on the couch.

A Yep.

Q And, basically, she had you sleep in your dad's room because she didn't want whatever y'all got.

A Yeah.

Q Okay. And when that happened on that particular day, you didn't walk right out of Matthew's room and say this is what happened?

A No.

Q Okay. She didn't ask you if anything was wrong?

A No.
Q That was the meeting with the prosecutors that it first came you remembering specific dates and times, correct, with the pictures and the phone?
A Um...
Q Let me clarify. The meeting with the prosecutors in April of 2021....
A Okay.
Q Okay. So when you're meeting with them about everything you want to tell them about this case --
A Uh-huh.
Q -- you talk about the first time; correct? And in that conversation, you tell them, "Oh, by the way, if you look at these pictures on my phone, I remember particular dates."
A I don't know if -- I don't remember which time it was. It was one of those first initial meetings, though. I don't know if it was April or...
Q Or another meeting with them?
A Yeah. It was one of the initial ones though.
Q But this was maybe a year or so after you went to the police?
A Yes.
Q And you provided them with ten specific dates; correct?

A Yeah.

Q Okay. And, as you have indicated, it was based on what you saw on your phone; correct?

A Correct.

Q All right. And for one of these meetings with the prosecutors, one of the early ones, you bring your phone in for them to look at; correct?

A Mm-hmm.

Q And you have had your phone the whole time; right?

A Yeah.

Q And after this meeting, you took your phone back home with you?

A Correct.

Q Correct. And while you -- when you brought it to them, someone took your phone and downloaded it?

A Correct.

Q Okay. To your knowledge, they didn't download any text messages? Do you know?

A No. They just told me it was for the photos.

Q Okay. For the photos.

A Yeah.

Q No GPS markings or anything like that?

A I don't think so, no.

Q Okay. And, again, they didn't have you help them go through your Find Your Friend app or anything like that?

A Uh-uh.

Q Okay. And so you brought your phone that day specifically to tell them -- show them the photos and talk to them about the dates; correct?

A Yes.

Q Okay. You didn't bring your phone and provide them with any data showing that you were home during the days or the times that you allege Matthew and you had sex; correct?

A Didn't bring them any...

Q So you didn't bring your phone?

A I didn't get them any GPS data?

Q That's correct.

A So when they did the data, they didn't take any GPS? Is that what you're asking me?

Q If you're aware of whether they did. So what I'm asking you --

A Well, I don't know what all they took. I -- I mean, they said they were doing a data rip. I mean...

Q Right.

A I mean, I gave them permission --

Q Sure.

A -- to anything they needed.

Q So --

A I just -- I don't know what all it included, no.

Q Okay. But when you bring your phone, you say, "I have got this phone. I want to show you these pictures from these dates I remember"; correct? The pictures.

A Yeah.

Q You don't take your phone and say, "Let me show you where my GPS was to prove I was home at the time"?

THE COURT: Okay. Hold on.

MS. RUSSO: I don't know that this (indiscernible) victim's phone (indiscernible).

THE COURT: It's cross-examination. To the extent she knows, she can answer.

BY MS. INZERILLO:

Q Okay. So I want to be clear. When you bring your phone, you don't open your phone and say, "You see right here, I was home during the times that I'm telling you Matthew did this"?

A No, my phone didn't have any of that backtracking availability.

Q Okay.

A Or I couldn't see it.

Q Okay. And prior to that, you didn't show it to either one of the detectives; correct?

A No.

Q Okay. All right. So let's talk about just a few of those dates. Okay?

A Okay.

Q Let's talk about March 23rd. I don't have the pictures up, but that would be the day that y'all went to Nakato's (ph)?

A The championship, yeah.

Q Okay. And when you spoke to the solicitors, you indicated that the time frame would have been somewhere between 6:00 and 8:00 in the evening. Do you recall that?

A Yeah.

Q Okay. And there's a Snapchat photo of you and your mom?

A Yes.

Q That was some of the pictures that we saw; right?

A Yes.

Q And that was about 5:32; correct?

A Yes.

Q And you indicated that day was your mom's birthday?

A Yes.

Q And you were taking off your fake eyelashes?

A The very last picture (indiscernible) Nakato's.

Q And you didn't -- at Nakato's. Okay.

And y'all generally went to Nakato's and --

A No.

Q Well --

A That wasn't general, no. It was very out of the

blue. Very weird.

Q When you went to Nakato's, did you generally go there and sit around for a little bit? Have a beer -- or your dad -- Matthew have a beer?

A I mean, if there's a wait, he would -- I'm sure he'd get one.

Q Okay. So the pictures that we have that we saw of y'all at Nakato's, you're unsure what time you got there?

A Yeah, I don't remember what exact time we got there, no.

Q Okay. And Nakato's was for your mom's birthday?

A No. She didn't even -- she wasn't there.

Q Okay. On the January 18th, 2019, date -- that would be the O'Charley's day....

A Okay.

Q Okay? Did your dad pay for that dinner?

A Yes.

Q Okay. On the Nakato's day, did your dad pay for that dinner?

A Yes.

Q Okay. On the days that you described going to the mall and going shopping, your dad would have paid for that; right?

A Yes.

Q All right. And any of the restaurants that you

described --

A Yes.

Q -- your dad would have paid for that; right?

A Yeah.

Q On the September 1st date, which would be the day of the gun range --

A Yeah.

Q -- do you recall that?

Y'all went to the gun range for Matthew's birthday?

A Correct.

Q You would have packed the ammo -- it takes a while to pack the ammo that y'all took?

A He repacks them so probably he could have just up and went.

Q Okay. But you're unaware of how long it took to pack that ammo?

A I mean, no. He has cases and cases of ammo. So I would go in there and even help him sometimes. I think, that time, I actually did help him. It would have been the night before.

Q Okay.

A There wasn't any ammo packing on that day.

Q Okay. So some of the pictures that we saw were you eating at McDonald's, for example.

A Yes.

Q That was not an unusual activity?
A No.
Q And, at one point, I think you indicated to the solicitors that it wasn't really the food, it was the shirt you were wearing that jogged your memory, the Thrasher shirt. Do you recall that?
A The Thrasher shirt is actually on a different day. The day with the McDonald's, I was wearing a Nike T-shirt.
Q Okay. And though there's another day with the Thrasher shirt?
A Thrasher is the O'Charley's day.
Q Okay. Would you guesstimate there's about 100,000 pictures on your phone?
A Definitely not. I have -- I just looked the other day. I only have, like, 25,000.
Q Okay.
A 100,000 is very crazy.
Q But 25,000?
A I mean -- and it goes all the way back to 2017. Like, I have got pictures from my old phone. It's not just, like -- it's from a very long amount of time.
Q Exactly. Okay.
Let's talk about the day with the guidance counselor. Okay?
A Okay.

Q On that day, you testified a couple of days ago that you were sitting in the office, texting your dad; correct?
A Correct.
Q So you had gone to the guidance counselor's office with the intent of disclosing any sexual abuse between you and Matthew; correct?
A Yes.
Q Okay. And you're texting with Matthew while you're sitting in the office; right?
A Yes.
Q And then you only change your mind when you walk into the guidance counselor's office?
A When I'm sitting in the lobby.
Q Okay. And, at that point, you only told the guidance counselor that you were depressed?
A Depressed and that I didn't want to be here anymore.
Q Okay. So you disclosed suicidal feelings.
A Yes.
Q Okay. But you did not disclose any sexual abuse.
A No.
Q And you were aware, had you disclosed that, they would have to call the police?
A Yeah.
Q Okay. And the abuse would have stopped at that point?

A Yeah.

Q Okay. But you elected not to do that?

A Yes.

Q Okay. And Matthew and your mom came to the school because the guidance counselor called them; right?

A Yeah. I believe she called my dad.

Q And then he brought your mom with him?

A (Indiscernible).

Q Okay. And you didn't pull your mom aside that day and say this is what's going on?

A No.

Q Okay. So let's talk a little bit about the birth control appointment. Okay? You indicated today there were big parts of your life where your mom wasn't there; right?

A Yes.

Q And in these more recent years when she was there, you weren't really close to her.

A Correct.

Q Right. That your dad really sort of did everything about the house; right?

A Correct.

Q And that included taking to you to doctor's appointments?

A Correct.

Q Other doctor's appointments than on this day with the birth control?

A Like he took me to a bunch of other ones?

Q Right, yeah.

A Correct.

Q Okay. And so when -- and you had indicated that you knew Matthew had had a vasectomy; correct?

A Correct.

Q Okay. When you went to the doctor, she did a gynecological exam?

A When?

Q When you went to the doctor about the birth control.

A Oh, yeah, she did do an exam that day.

Q She did do an exam that day?

A Yeah.

Q Okay. And the doctor prescribed the pills; correct?

A (No audible response.)

Q Okay. And at this point, you wouldn't have expected your mom to take you to the doctor.

A No.

Q No. You would have expected your dad to do it; right? Because that's what he did, he took you to doctor's appointments; right?

A Yes.

Q Okay. Two days before you reported to the police,

you went out of town with your mom; right?

A Correct.

Q And your dad didn't go?

A Correct.

Q Y'all went to the beach or something?

A Mm-hmm.

Q Okay. So far away from here?

A Yeah.

Q Right? You didn't tell your mom then?

A No.

Q You didn't tell your mom after the first incident?

A No.

Q Okay. You didn't tell your mom any time that she was at the house when any of the alleged sexual acts happened?

A No.

Q Okay. And you indicated initially it was two to three times, but then, in testimony -- and I think in later statements indicated it was maybe three to six times a week; right?

A Yeah.

Q Okay. And you didn't tell your brother either?

A No.

Q Okay. And you indicated that they worked a lot; right?

A Correct.
Q They had cell phones; right?
A Correct.
Q You had cell phones?
A Correct.
Q You knew where they worked?
A Correct.
Q Okay. And you didn't tell them?
A No.
Q Okay.

MS. INZERILLO: Your Honor, I have no further questions.

THE COURT: All right. Any redirect, Ms. Russo?

MS. RUSSO: Beg the Court's indulgence.

THE COURT: Yes, ma'am.

REDIRECT EXAMINATION

BY MS. RUSSO:

Q Complainant, how long did you say that the abuse went on?
A Like over -- probably like two years and at least a couple of months to be exact.
Q And do you recall when you made your statement to Detective Day and what you told them?
A I mean, no. It was a long time ago.
Q Okay. Would looking at your statement refresh your

recollection as to what you wrote and told the detective?

A Sure.

MS. RUSSO: May I approach, Your Honor?

THE COURT: You may.

BY MS. RUSSO:

Q Can you tell me what the date on that statement is?

A June 1st of 2020.

Q That was a couple of days after (indiscernible)?

A Like two days after.

Q And at the top of the first couple of lines, when do you say that it started?

A Beginning of my sophomore year.

Q And that would have been around the fall of 2018?

A Sure. I don't know what year it was.

Q Is that what we did the math on earlier?

A Yeah. I graduated 2020. Sorry; I can't do quick math.

Q Are you a sophomore now?

A In college, yeah.

Q Okay. So four years ago, you would have been a sophomore in high school?

A Yeah.

Q You had the Find My Friends app on your phone; is that right?

A Yeah.

Q Who else in your family had the Find My Friends app on their phone?

A Everyone. Mom, Dad, and brother.

Q And how was that used in your family? Was that always looked at? Was it ignored?

A Always looked at.

Q By who?

A Him.

Q Did you always look at it?

A Yeah, sometimes.

Q Okay. So you were always kind of checking in where everybody else was?

A Sometimes. It was for him. It was not for us.

Q Okay. And he was the one who put it on your phone?

A Yeah.

Q And the day that you disclosed, were you aware that the Find My Friends app was on your phone?

A Yeah.

Q And could he track you on that day?

A Yes.

Q And did he know where you were going when you left the house?

A When I left to go to work, yeah. He knows I was going to work.

Q Going to work. Okay.

Did he know that you were going to the hospital?

A Well, he texted me. I think he asked me what I was doing. And I texted him back, and I told him that someone had cut their finger, and we were taking them to the hospital.

Q So -- and that wasn't true, was it?

A No.

Q So you were explaining your presence at the hospital.

A Yes.

Q And you were aware that -- did that text message indicate to you that he --

A That he looked at my location, yeah, because it was out of blue.

Q What would happen if you didn't respond to the text message asking where you were?

A He would run my phone up.

Q When you talked to officers at the hospital, did they ask you what clothes you were wearing?

A What clothes I was wearing before? Yeah.

Q And did they ask you where they were located in the house?

A Yeah.

Q And you told them where that was?

A Yeah.

Q Do you recall whether you told them that would be anything important on the clothes?

A Not -- from what I remember, I thought that they had just asked me where the clothes were. I really do not remember them asking me if there was anything on them. They just asked me what clothes I had on, and I told them the clothes I had on.

Q So that was just a question they asked you?

A Yeah.

Q (Indiscernible)?

A Yeah.

Q Complainant, you're not a lawyer, are you?

A No.

Q And you're not an investigator?

A No.

Q Did it ever occur to you that you needed collect any evidence in this case?

A No.

Q Were you ever trying to collect evidence in this case?

A No.

Q Your phone, did you think there was any evidence on your phone of assault when you reported (indiscernible)?

A No.

Q Do you have any education in how GPS data works?

A No.

Q Are you a visual person?

A Yes.

Q And when you were asked questions, did you use your pictures to help find the answers?

A Yes.

Q Are there guns in your house?

A Yes.

Q Do you know how many?

MS. INZERILLO: Your Honor, I'd object to this. It's outside the scope of cross-examination.

THE COURT: Restate the question one more time.

MS. RUSSO: I asked how many guns were in the house.

MS. INZERILLO: And if there were guns in the home.

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

MS. INZERILLO: I'd move to strike, Your Honor.

MS. RUSSO: Your Honor, may we approach?

THE COURT: You may.

BENCH CONFERENCE

(A bench conference was held off the record and outside of the hearing of the jury.)

THE COURT: Ladies and gentlemen, I'm going to ask you to disregard that question.

BY MS. RUSSO:

Q Complainant, you stated earlier that you were on birth control.

A Correct.

Q And your mother knew that you were on birth control?

A Yeah, I think she did.

Q Okay. And did that affect you in any way?

A I mean, no, at least I don't think it did.

Q You wouldn't say it affected your behavior, your demeanor, and your emotions (indiscernible)?

A No.

Q Did your dad explain to your mom why you were on birth control?

A If he did, I wasn't there for that conversation.

Q You were aware of what would happen if you told somebody?

A Yeah.

Q And you were aware that (indiscernible)?

A Yeah.

Q Why didn't you (indiscernible)?

A I didn't want to lose my dad.

Q Did you care about him?

A Yeah, a lot. I mean, that was my best friend. That was the one -- like he said, I did tell him everything. I confided in him a lot. That was my best friend. Literally with anything. So it was like, if I lost that

person, I didn't really know what was going to happen to me. And, again, change is very scary, especially to me.

So I think it was just the nervousness of losing a person that was supposed to be there for me my whole life but failed to protect me in the most important way.

Q Did you still feel that way about the possibility of losing your dad when you went to the hospital that day?

A Yeah, kinda sorta, but it was definitely -- there was so many emotions running through my head. It was -- it was like I was on hyperdrive and it was, like, 20 different questions at once in my head basically.

Q And the sexual abuse, it went on for about a year and a half, two years? Since the beginning of your sophomore year?

A Yeah.

Q Is it possible, in an hour or two hours, to explain every detail that you remember?

A No.

Q Is it possible to ever tell anyone everything about your experience?

A No.

Q Do I know everything about your experience? Have you told me everything about your experience?

A No.

Q Do you think you could reflect every detail of what

happened to you and every date in 12 to 15 pages?

A No.

MS. RUSSO: Nothing further.

THE COURT: Any recross?

MS. INZERILLO: Yes, Your Honor, just briefly.

RECROSS-EXAMINATION

BY MS. INZERILLO:

Q Complainant, you're not an attorney; right?

A No.

Q You're not an investigator. But during the course of this, you talked to attorneys; right?

A Right.

Q And you talked to investigators?

A Correct.

Q And none of them -- well, the investigators didn't initially download your phone; correct?

A No.

Q Okay. No one, to your knowledge, pulled any GPS information about your whereabouts?

A To my knowledge, no.

Q You did, however, how the presence of mind to bring your phone to a meeting with the attorneys, with the prosecutors; correct?

A Did I have the what? I'm sorry?

Q Did you have the presence of mind to bring your

phone and say these are the dates I can remember because of the pictures?

A What do you mean by "presence of mind"?

Q You wanted to do that. You knew that would be a good thing, to bring it to them to show why you're isolating these dates?

A Oh, yeah.

Q Okay. All right. But you didn't show them anything else on your phone like GPS; correct?

A No.

Q Okay. You indicated your mother knew you were on birth control; correct?

A Yeah, I'm pretty sure she knew.

Q She never asked you about it?

A No.

Q You never told her, "I don't want to really do this"?

A No.

Q "I don't want to be on birth control"?

A No.

MS. INZERILLO: I have no further questions.

THE COURT: Any redirect?

MS. RUSSO: No.

THE COURT: Okay. Thank you, ma'am. You can step down.

Counsel, can I see y'all briefly at the bench.

BENCH CONFERENCE

(A bench conference was held off the record and outside of the hearing of the jury.)

THE COURT: Ladies and gentlemen, we're talking about whether to take a lunch break now. My understanding is the next witness is relatively short, and I'd like to go ahead and get one more witness done.

Raise your hand if you're really, really hungry and you can't wait for one more witness.

Okay. Call the next witness.

MS. RUSSO: The State calls Audrey Cox.

AUDREY COX,

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

DIRECT EXAMINATION

BY MS. RUSSO:

Q Could you state your name for the record, please.

A Audrey Cox.

Q And where do you work?

A At Piedmont Medical Center.

Q What do you do there?

A I'm a registered nurse in the emergency department.

Q How long have you been a registered nurse at Piedmont?

A For seven years.
Q And as part of your duties, do you do SANE exams?
A I do.
Q How long have you been doing SANE exams?
A I was there for a year before I did my first. So for six years.
Q Can you explain what the purpose of the SANE exam is?
A For evidence collection and to get a statement from the victim.
Q And I want to talk simply about the collection of the evidence.
A Okay.
Q Do you have a standard kit or bags? Or what are you using to collect the evidence?
A There is a standard kit that we use.
Q What's contained in that kit?
A There are swabs, there are bags for the victim's clothing. That's pretty much it.
Q And are each of the swabs for a different thing?
A Yes, ma'am.
Q And are they in bags? Are they in something already?
A Well, they're sterile, to begin with, and you take them out, and then it's a wet-to-dry swab. So we dry it

and then put it in an envelope and seal it.

Q So you would remove the swabs, use the swab.

A Mm-hmm.

Q How do you dry it?

A There's a dry -- there's a specific room we use in the emergency department that has a dryer in it that we put it in there while we obtain the rest of the evidence, for it to dry.

Q And then you put the evidence into a bag or are there bags included?

A There are bags and envelopes colluded -- included in the kit, yes.

Q Once you have them, all the swabs and things in bags, do you seal it or do anything like that?

A Yes. I have to seal it and then initial it. And then I keep it with me until I hand it off to the correct person.

Q And who would the correct person be?

A Well, it was a York County sheriff officer.

Q (Indiscernible)?

A Depending on where the incident happened, yes, it could be a police officer or sheriff.

Q But, ultimately, you're collecting evidence and then handing it off?

A Correct. There's a chain of command, yes.

Q Have you met Complainant, the victim in this case?
A Yes.
Q And did you perform a SANE exam on her?
A I did.
Q Do you remember when that was?
A I have done so many. Maybe 2018. I don't know exactly.
Q Would it refresh your recollection to look at your report?
A Yes, please.
Okay. I'm sorry. I was wrong. 5/29/2020.
Q And so that was the day that you performed a SANE exam on Complainant?
A That's right.
(State's Exhibit No. 1, SANE Kit, was marked for identification.)
BY MS. RUSSO:
Q I'm going to hand you what's been marked as State's Exhibit 1. Do you recognize this?
A I do, yes.
Q And do you see your signature on there somewhere?
A On the back, yes.
Q Okay. And can you tell me what that is?
A So this is where I signed it off to, I guess, the sheriff that picked it up from Piedmont Medical Center.

Q And what is contained within that box?
A So we have the swabs that were collected. Actually, I have a list. So according to the documentation, it should be her underwear, a used tampon, and the swabs that were collected for evidence.
Q Does it detail what types of swabs were collected?
A So the DNA evidence collected were fingernail scrapings, oral swab or smear, vaginal swab, rectal swab, buccal swab, and then the tampon.
Q Tell me about the buccal swab.
A The buccal swab is used to collect evidence of the -- from the victim. So her own DNA.
Q Is that a standard DNA?
A Yes.
Q And you took the buccal in this case from the victim?
A Yes.
Q How do you take that buccal?
A So you take the Q-tip and then just swab each side of the mouth and then put it in the dryer and let it dry before you put it in the envelope to seal it.
Q Is there anything in the dry room that's going to contaminate these samples while they're in there drying?
A No.
Q Okay. And then, take that sample and, like you

described earlier, you put it inside and seal it?

A Correct.

Q Did you handle all of these samples in the same way that you normally would, as you described earlier?

A I did.

Q As part of this exam, did you look for or document any injury?

A So that is part of the exam. We do a head-to-toe assessment, and if there are any bite marks, bruises, any kind of abrasions, then we would take pictures.

Q And did you document or take photos of any physical injuries to [redacted]?

A Not that I can recall.

Q Do you recall what her demeanor was like when she was in the room with you?

A Yeah, very sad. Crying.

MS. RUSSO: Do you have scissors?

THE COURT: We did yesterday. Let's see.

BY MS. RUSSO:

Q All right. I'm going to hand you an exhibit (indiscernible).

A Okay.

Q If you could open that up for me. Can you pull out the items that are in there?

A Okay. Do you just want me to open all of the

envelopes?

Q All right. (Indiscernible) see what each of these items are.

A Okay. So this is the tampon here.

Q Okay.

A This is her underwear.

Q Okay. So we have got the tampon and the underwear. And is this bag sealed?

MS. INZERILLO: Your Honor, may I approach?

THE COURT: You may approach.

BY MS. RUSSO:

Q So this is the bag with the tampon.

A Correct.

Q And is it labeled an item number there, the green tag?

A It says one three seven.

Q One seven [verbatim]?

A Yes.

Q Okay. And is this bag -- is this the bag that you put it in?

A So, yes. This would actually be -- because we don't have a -- like, specific bag or container that we would use for something like that. That was just extra that was brought in by the victim. So this would actually be a specimen container for urine that we would usually use.

Q (Indiscernible) item from the hospital.
A Exactly.
Q Okay. Are those usually sterile?
A They're clean. I wouldn't say sterile, but yes.
Q Okay. They would not be something contaminated.
A Correct.
Q Okay. And so you sealed it in there. Did you pull open the top of the bag as well?
A I did put it in the plastic bag, yes.
Q Okay. And was this the same (indiscernible)?
A No, that would be the same tape. That's what's provided in the kit.
Q All right. And then this item, is this the envelope that you put those in?
A That is not the envelope I put that in. I put my swabs -- they would all be in here.
Q Okay. All of your swabs are in there?
A Yes. I'm not sure what that is, honestly.
Q This item, is this an item that you put in the bag?
A Yes.
Q And what's the item number for the --
A One five.
Q And that green sticker, that's not yours; right?
A Mm-mmm.
Q Is this -- other than that green sticker, what else

was different about this packet (indiscernible)?

A So I would normally just put this first sticker underneath the top labeling. The top labeling up at the top, I didn't -- I wouldn't put that.

Q This (indiscernible)?

A Correct.

Q And so this sticker that you labeled --

A Underneath, yes.

Q -- does that have your initials on it?

A It does.

Q And what was this item?

A It would say on the -- should say on the back. Yeah, underwear.

Q Okay. So that's the bag provided to them where you put the underwear in the bag?

A Correct.

Q What are the next --

A These are the swabs.

Q Okay. And does this have item numbers on it?

A Yes, 1112, 13, 14, and 16.

Q Okay. And those, again, are not (indiscernible)?

A Mm-mmm.

Q How is this different from when you seal it?

A The same. The sticker -- the red sticker that's sealing the envelope is what I would put on there. I

didn't put the red on it -- upper --
Q (Indiscernible)?
A Yeah.
Q And this clear that you sealed it with, those were your initials --
A Correct.
Q -- and you signed it?
A Yes.
Q And this item, those were all of the swabs?
A Correct.
Q How are they inside of the packet?
A There's another smaller -- it's a little bit bigger than this -- white envelope that you put the swabs in and then seal those individually as well.
Q (Indiscernible) you put the swab in, you sealed it, and you (indiscernible). Would it also have a sticker like this that you --
A With an initial, yep.
Q -- initial?
And can you tell me again which -- the five items listed here --
A Correct.
Q -- do you recall what five items you collected to place into the bag?
A Sorry; I have to look back.

They're the fingernail scrapings, oral swab, vaginal swab, rectal swab, buccal swab.

Q And those are all standard things you do during a SANE exam?

A Correct.

Q And this box, you -- did you seal this with evidence tape?

A So it -- no.

Q Somebody else did?

A Yes.

Q Okay. And the green sticker also does not belong to you?

A Correct.

Q Okay. Other than that, is the box in substantially the same condition as when you used that box?

A Yes.

Q And your signature is on it?

A Yes.

Q Is there a (indiscernible) signature?

A It's in the back. There should be a date. On the very back. Yep.

Q Okay. What is the date on this?

A 5/29/2020.

Q Are you able to tell us when you began the exam -- the SANE exam? What time?

A Honestly, the time would probably be in her chart because I don't have a time on here.

Q Okay. So you wouldn't know when it started or ended that day. Just that it occurred that day.

A Yes.

Q That box, you did not seal it with that red tape but did you seal it?

A The box? Yeah, there should have been, like, a sticker, the same that's used on the envelopes would have been placed on --

Q That sticker would be on this box?

A Yes.

Q And you would initial it?

A Correct, yes.

Q And you testified that you handed this off to someone, usually a police officer?

A Correct.

Q What would you do with that box until somebody arrived to take it from you?

A Carried it in a bookbag and literally keep the bookbag on my person the entire --

Q You carried (indiscernible)?

A Yes. I'm not allowed to set it down.

Q Are you ever set it down or done something different with any of them?

A No.

Q Okay. And, in this case, you did personally hand it off?

A Correct.

Q No further questions. Please answer any from the defense.

THE COURT: All right. Ms. Inzerillo?

MS. INZERILLO: May it please the Court, Your Honor?

THE COURT: Yes, ma'am.

CROSS-EXAMINATION

BY MS. INZERILLO:

Q Good afternoon, Ms. Cox. So as a SANE nurse, you indicated your job is evidence collection --

A Correct.

Q -- primarily; correct? Right?

So, from your perspective, it's very important to collect all the information that you need accurately; correct?

A Yes.

Q To collect items, like you just went through with Ms. Russo; correct?

A Yes.

Q And to ensure that they're not contaminated.

A Right.

Q So you work very hard to make sure they're not

contaminated.

And you write a report, because you want to make sure everything's documented. And that's pretty standard; correct?

A (Indiscernible).

Q And you did all of those things in this case?

A Correct.

Q And you take items that you feel would be -- have evidentiary value?

A Correct.

Q Okay. An example of that would be the tampon, which didn't sound to me like was a normal thing.

A Not typically.

Q Okay. But you felt like that was important enough to take into evidence?

A Correct.

Q Okay. And then the swabs are taken into evidence as pretty much standard procedure?

A Yes.

Q And that's so they can be tested later?

A Correct.

Q Correct?

And you noted, like, fingernail scrapings; right?

A Correct.

Q So some evidence, you may take in just in case.

A Exactly.

Q Okay. And you have been doing this for six years?

A Yes.

Q So you're pretty experienced in what you do, and you have a good eye to look for what you think would be important?

A Yes.

Q Okay. And you did that in this case? You took all the items in that you thought would be important?

A Right.

Q Okay. When you're examinated -- examined Complainant, you noted that she had no physical injuries; correct?

A (Indiscernible).

Q And you noticed that -- you didn't see any injuries to her genital area?

A Correct.

Q Correct? And these -- again, to be clear, this is the standard protocol that you do.

A Yes.

Q You check for -- you check the person for injuries; correct? So that can be like bruisings --

A Correct.

Q -- cuts --

A Yes.

Q -- you know, black eyes, anything like that.

But you also check specifically the genital area.
A Correct.
Q Correct? And you did that again in this case?
A Yes.
Q And when you checked the genital area, you found no injury to her vagina; correct?
A Correct.
Q In fact, I think you noted that it was -- appeared to be normal.
A Correct.
Q Okay. And no lacerations; correct?
A Correct.
Q No abrasions?
A Correct.
Q Or skin tears; correct?
A (Indiscernible).
Q And it looks like you noted no tenderness as well?
A (Indiscernible).
Q Okay.

MS. INZERILLO: Your Honor, you have no further questions.

THE COURT: Any redirect, Ms. Russo?

MS. RUSSO: Nothing, Your Honor.

THE COURT: All right. Thank you, ma'am, you can step down.

witness.

MS. RUSSO: Thank you.

Can you please ask Barbie Traylor to come inside.

MS. INZERILLO: Your Honor, may I ask the clerk a question?

THE COURT: Yes, ma'am.

THE CLERK: Please raise your right hand.

BARBARA TRAYLOR,

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

DIRECT EXAMINATION

BY MS. RUSSO:

Q Good afternoon, Ms. Traylor.

A Good afternoon.

Q Can you please state your full name for the record.

A It's Barbara Traylor.

Q Where are you employed?

A York County Sheriff's Office in the Evidence Department.

Q How long have you been with the Evidence Department?

A I have been with the sheriff's office about 20 years. Probably at least 15 of those have been in Evidence.

Q And what is your job title and description in the Evidence Department?

A I'm an evidence technician, so I bring evidence into the evidence room and then store it until it's ready to go to a lab or come to court or be disposed of.

Q Now, is the evidence room something that is accessible to other members of the sheriff's office?

A No.

Q Who is allowed in the evidence area?

A The evidence technicians and the supervisors.

Q As part of the procedures and policies of the sheriff's office, do you maintain documentation about where -- when evidence is received?

A Yes.

Q And when it is (indiscernible)?

A Yes.

Q And as part of that record-keeping, do you maintain on the face of it the items found?

A Yes.

Q Okay. (Indiscernible)?

A Yes.

Q Okay. When evidence is received, evidence (indiscernible). Are police officers still able to drop potential evidence at your department?

A Yes. We have drops in lockers.

Q Drops in lockers.

So when something goes into a locker, how is it

maintained as a secured item until (indiscernible)?

A Our drops have padlocks that only we have the keys to. And we come in, in the mornings -- we normally get evidence five days a week out of those drops.

Q So Monday through Friday, you come in, in the morning, and you'll retrieve the evidence that's been dropped the night before or that weekend?

A That's correct.

Q When evidence is received, particularly evidence that's (indiscernible) potential DNA evidence, does the Evidence Department have a policy about (indiscernible) that the evidence is sealed?

A Yes.

Q So how would you, in general, if the Evidence Department expect to find the condition of your evidence when you retrieve it from the evidence locker or (indiscernible) at all? What should it look like?

A There's evidence tape on the seals, and those seals are initialled and dated by the person that seals it. And if it's not sealed like that, then we don't take it.

Q All right. And the purpose of not only the tape but the initials, is that because anybody could tape something up, but the initials will let you know --

A Correct, yes. Who sealed it, yes.

Q We have a couple of pieces of evidence -- potential

evidence that we want to talk to you about, and I'm going to start with what has been marked as State's Exhibit 1.

A Okay.

Q I'm going to ask you to take a look at this box. It's been opened in the courtroom.

A Okay.

Q So you don't have to open it back up. And take a look at it. And let me know when you're ready for questions.

A Okay.

Q Now, do you recognize State's Exhibit 1? Are you able to tell us if you have ever seen this before?

A I have.

Q And how are you able to tell whether you have seen this before?

A My signature is on it.

Q And as part of work with the Evidence Department, are you able to recognize other individual's signatures, (indiscernible) and dealt with evidence (indiscernible)?

A Yes. I'm not an expert, but, yes, from my work, I could -- I could recognize signatures.

Q Can you tell the jury what time -- what date and time do you mostly have contact with (indiscernible)?

A That would be June 1st of 2020 at 15:30.

Q And where did you -- would have (indiscernible) that

item from?

A This would have been from one of our evidence lockers.

Q And the time that you (indiscernible) that package, did it look that way?

A Well, it wasn't open, obviously. It looks like it's had different tape put on it based on being opened.

Q Okay. And when you retrieved that item, so it was sealed?

A Yes, mm-hmm.

Q If it had not been sealed, would you have accepted it?

A No.

Q What did you do with that item when you received it?

A This went into our evidence room, and it was put into our evidence refrigerator.

Q And did it remain there for a period of time?

A Yes, mm-hmm.

Q At some point, that evidence (indiscernible)?

A Yes.

Q And where -- are you able to tell us the chain of custody, where it was moved to?

A Yes.

Q Okay. And what does the chain of custody tell you about where it went next?

A It went from me to one of the personnel in the DNA lab.

Q Is that Bryn Jones?

A Yes.

Q Okay. And did you personally place that into her hands?

A Mm-hmm.

Q In the time that you have passed that off to DNA, was it sealed?

A Yes.

Q Okay. Had it appeared to have been unsealed or tampered with in any way?

A No.

Q If it had, would you have -- would it have been -- would you have any (indiscernible)? Would it have (indiscernible)?

A If -- we would not have accepted if it had not been sealed, and then DNA would not have accepted it from me if there was any type of break to the seal or anything.

Q Now, at some point, did you receive back from the DNA lab State's Exhibit 1?

A Yes, mm-hmm.

Q And what dates did you -- did you personally receive that back?

A Yes.

Q Okay. Is that your signature on that showing you when you received it?

A Yes.

Q And at the time that you received it back, was it sealed?

A Yes.

Q Okay. What date and time did you receive it?

A I received it on January the 27th of 2021 at 15:05.

Q Does State's Exhibit 1 leave the Evidence Department again prior to coming to court?

A Yes, mm-hmm.

Q And when did it leave Evidence again?

A That was on September the 1st of 2021.

Q Did you handle that evidence on that day?

A I did.

Q (Indiscernible) or appeared to have been tampered with?

A Correct.

Q And where did it go from there?

A It went from me to -- back to the DNA lab.

Q And at some point, did you receive it again back from the DNA lab?

A I did.

Q And what date was that?

A The date I received it back was September the 15th,

'21.

Q And, from that point forward, did it leave y'all's possession before the trial?

A It did go back out to the DNA lab again.

Q And what date was that?

A That was October the 5th of 2022.

Q And when did you -- and (indiscernible) the DNA lab?

A I did.

Q And did it come back from the DNA lab?

A It did.

Q And what date?

A It came back November the 16th, 2022.

Q And was that the last time it left your possession until trial?

A Until trial, yes, mm-hmm.

Q And each time that it came back (indiscernible) -- each time that it went to DNA, was it sealed?

A Yes.

Q Each time that it came back from DNA was it sealed?

A Yes.

Q I'm going to show you what has been marked as State's Exhibit 2 and ask you if you recognize that.

A I do.

Q And what -- how are you able to able to recognize that exhibit?

A It has my signature on it.

Q And is that anything that you had received back (indiscernible)?

A Yes.

Q Okay. What date and time did you receive that exhibit?

A This particular item was June 1st of 2020 at 15:30.

Q And where did you receive it from?

A From our evidence drop.

Q And does the chain of custody indicate who put it in the evidence drop?

A That was David Vaughn.

Q Did that item, State's Exhibit 2, remain in evidence?

A It did until it went out to the DNA lab.

Q And when did it go out to the DNA lab?

A On 6/25 of '20.

Q And, at some point, did you personally give it over to the DNA lab?

A I did.

Q Okay. And, at some point, did it come back from the DNA lab?

A Yes.

Q When was -- did you receive it back from the DNA lab?

A I did.
Q And what was the date and time of that?
A January 27th of 2021.
Q Is that the last time that State's Exhibit 2 left the custody of the Evidence Department prior to trial?
A Correct.
Q And I'm not sure if I asked this. At the time that you received this package initially from the evidence locker, was it sealed?
A Yes.
Q Okay. Did it appear to have been tampered with in any way?
A No.
Q And when you received it back from the DNA lab, had it always come back to you sealed?
A Yes.
Q Okay. I'm going to show you what's been marked as State's Exhibit 3. And this has been opened in the courtroom.
A Okay.
Q But if you take a look at State's Exhibit 3, tell me if you recognize that exhibit.
A I do.
Q And how are you able to recognize that exhibit?
A It has my signature on it.

Q And does that indicate that you had received that into evidence?

A Yes.

Q And what date and time did you receive it?

A This was received on June 1st of 2020 at 15:30.

Q So you're receiving all of these, it sounds like, close in time to each other?

A It appears, yes.

Q Okay. And where did you receive it from?

A This was from the evidence locker as well.

Q Okay. And who does it indicate made the drop of that evidence?

A This particular item, it looks like Baxley is the one that dropped it.

Q When you received that in the evidence locker, was it sealed?

A Yes.

Q And did it appear in any way to have been tampered with?

A No.

Q Once you received it, what did you do with it?

A I took it into our evidence room and stored it with the other items.

Q All right. And, at some point, did it leave the evidence room to go for testing?

A It did.

Q And did you personally transfer it to the DNA lab?

A I did.

Q What date and time?

A 6/25 of 2020 at 8:40 in the morning.

Q And at the time that you (indiscernible), was it still sealed?

A Yes.

Q Did, at some point, you receive that Item 3 back?

A I did.

Q And did you (indiscernible)?

A I did.

Q And what was the date and time that you received it back?

A This would have been January the 27th of 2021.

Q And, obviously, when something goes to the lab, they will open it. So it wasn't sealed (indiscernible)?

A Yes, yes.

Q And other than the cuts in the openings at DNA lab had done and then resealed, did it look any different than how you were receiving it?

A No.

Q Did that item leave this evidence room again prior to trial?

A It did not.

Q Thank you very much. Please answer any questions that Ms. Inzerillo has.

THE COURT: Ms. Inzerillo, cross-examination?

MS. INZERILLO: Yes, Your Honor. May it please the Court?

THE COURT: Yes, ma'am.

CROSS-EXAMINATION

BY MS. INZERILLO:

Q Good afternoon, Ms. Traylor.

A Good afternoon.

Q You work here in the sheriff's office in our Evidence Department; correct?

A Right, right.

Q Which means that any evidence, for the most part, taken in by sheriff's deputies, y'all would keep?

A That's correct, yes.

Q Okay. And in this particular case, you guys were given more evidence other than State's 1, 2, or 3 to hold?

A That's correct.

Q Okay. That evidence included Mr. Hogan's phone?

A I don't have a list, but...

Q All right. I'm going to ask you about several pieces of evidence. Would reviewing an inventory sheet refresh your recollection?

A Yes, if it's -- yes.

MS. INZERILLO: May I approach the witness, Your Honor?

THE COURT: You may approach.

BY MS. INZERILLO:

Q I'm going to go ahead and give you (indiscernible) that I have.

A Okay.

Q And I'm going to review (indiscernible). And just so we're all on the same page, they all have the same case number; correct?

A Yes, they do.

Q Does that case number end in two (indiscernible) two?

A It does.

Q Okay. And that's the same case number on State's 1 through 10; correct?

A Yes, mm-hmm.

Q All right. So when you -- normally, as evidence techs, when you get evidence, everybody locks it; right?

A Correct, mm-hmm.

Q All right. So the forms that you're looking at, one of them shows that Mr. Hogan's phone was turned into evidence; correct?

A Yes.

Q Okay. One shows that a pair of blue and yellow

shorts were taken into evidence?

A That's correct.

Q One shows that -- let me (indiscernible). And one shows that black Nike shorts were taken into evidence?

A Yes.

Q Correct?

A Mm-hmm.

Q A gray shirt was taken into evidence?

A Yes.

Q And something listed as a blanket was taken into evidence; correct?

A Yes.

Q All by Officer Baxley?

A Yes.

Q Okay. And you did not transfer any of those items with you today?

A No.

Q No. Okay.

MS. INZERILLO: Your Honor, I have no further questions.

THE COURT: Any redirect?

MS. RUSSO: No, Your Honor.

THE COURT: Okay. Any objection to excusing this witness from her subpoena?

MS. RUSSO: No, Your Honor.

MS. INZERILLO: No, Your Honor.

THE COURT: Thank you, ma'am. You can step down, and you're excused.

The State can call your next witness.

MS. RUSSO: Thank you, Your Honor. We'd call Debra Ledford Blevins.

Can you please ask Ms. Blevins to come into the courtroom.

Ms. Ledford, please step forward to be sworn.

DEBRA (LEDFORD) BLEVINS,

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

DIRECT EXAMINATION

BY MS. RUSSO:

Q Good afternoon.

A Good afternoon.

Q Can you please state your full name for the record.

A Debra Nicole Blevins.

Q And prior -- were you recently remarried or married?

A Yes.

Q Prior to that, was your name Debra Ledford?

A Yes, ma'am.

Q Ms. Ledford, how old are you? I'm sorry. Ms. Blevins, how old are you?

A I'm 40. I just turned 40 this month.

Q And are you [redacted]'s mother?
A I am.
Q And is the defendant, Matthew Hogan, [redacted]'s father?
A Yes.
Q Do you live here in the York County -- in York County?
A Yes, ma'am.
Q Do you live in the Rock Hill area?
A Yes, ma'am.
Q Are you originally from York County?
A Yes, ma'am.
Q And -- so you have lived your whole life in York County?
A Yes, ma'am.
Q And have you ever lived in the Rock Hill area of York County?
A Yes.
Q I'm sorry? What was the answer?
A Yes, ma'am.
Q Okay. And, now, you have [redacted] as your daughter. Do you also have a son?
A I do.
Q And what is his name?
A [redacted].

Q Can you give me Complainant's date of birth?

A Complainant is [redacted].

Q What is [redacted]'s date of birth?

A [redacted].

Q So they are how far apart?

A 14 months.

Q 14 months.

Now, is [redacted]'s father also the defendant?

A Yes, ma'am.

Q How old were you when you first met the defendant, Matthew Hogan?

A I was 18.

Q And about how old was he?

A About 23. 22, 23.

Q And (indiscernible) to go through all the details of everything, but just a little bit of background, how did you first meet him?

A We met through a mutual friend.

Q And did you begin dating or begin a relationship after meeting?

A We did.

Q And you had -- then you had [redacted] and then Complainant; is that right?

A I did.

Q Now, without getting into all the details, was your

earlier relationship with Mr. Hogan an on-again/off-again relationship?

A It was, yes.

Q And did you break up for a significant period of time?

A We did.

Q And was that after Complainant was born?

A Yes, ma'am.

Q Do you remember how long after it was that Complainant was born that you broke up?

A I don't recall. She -- she was quite young, yeah.

Q At the time that you had that break-up -- before that break-up, were you-all living together as a family?

A Yes.

Q And do you remember where you were living at that time?

A We were living in the Leslie area.

Q And when you broke up, did you leave or did he leave?

A I left.

Q And where did the kids go when you left?

A They stayed with him.

Q Now, were you and Mr. Hogan split up for a long period of time?

A In the beginning, no. It was so many times, but

there was one time that we were broken up for a significant amount of time, yes.

Q When you would be apart, would that mean that you were not living with him?

A Yes.

Q Would that mean that you were not living with the kids?

A Correct.

Q Now, at some point, did you guys kind of come back together and remain together?

A We did.

Q And do you remember when that was?

A Around 2011, I believe.

Q And, at that point, did you-all move back in together as a family?

A I did -- we did, yes.

Q And where were you living?

A In Catawba.

Q Do you remember the address of that house?

A Yes. It's [redacted] Cureton Ferry Road in Catawba.

Q And would you call that a big house or a small house?

A It was a smaller house.

Q And -- so back then or back in 2011 when you came back together, were you working?

A Yes, I was.
Q What were you doing for a job back then?
A I was a server. A waitress.
Q A server?
A Yes, ma'am.
Q And have you remained employed in the food and beverage industry since that time?
A Yes, ma'am.
Q And during the -- for 2011 and going onward, were you the main provider for your family?
A I was, yes.
Q Did Mr. Hogan maintain employment?
A No.
Q So starting (indiscernible) you're a server and -- just in general, I know hours can vary, but have you consistently worked full time or you were then, full time hours?
A Yes, ma'am.
Q Okay. Is serving, is it difficult work? Like physically difficult?
A It can be, yes.
Q When you would come home at the end of the day or end of the night or end of the shift, were you tired?
A Very.
Q Now, you said back in 2011, you're all back together

and you are working and serving. How old would that have made Complainant at that period of time?

A Around nine or ten, I believe.

Q And I want to fast-forward to when she was around 14. Okay? You know, beginning of high school, maybe end of freshman year, beginning of sophomore year. What kind of work were you doing -- you were still in the food and beverage; correct?

A Yes, ma'am.

Q Where were you working at that time?

A Around 14, I was at -- I was actually getting ready to go into management at Golden Corral.

Q And when you went into management, was that less hours, less hard work or more hours and more hard work?

A More of both.

Q And did that keep you away from home?

A It did.

Q What kind of hours were you working at that time?

A It varied. Usually, it was a ten-hour day, whether it was 9:00 in the morning till 6:00 or 7:00 in the evening, or 1:00 or 2:00 in the afternoon till 11:00 or 12:00 at night.

Q And was that like a five-day-a-week job or was that more than five days a week?

A It was five days.

Q So Complainant is around 14 (indiscernible) Complainant. At some point, did he start working?

A He did, yes.

Q Do you remember when it was that he started working?

A I don't recall exactly, no.

Q And when he did start working, where was he working?

A I believe his first -- I want to say it was at Texas Roadhouse, I believe.

Q Was what?

A Texas Roadhouse.

Q Okay. So he was doing food and beverage as well?

A He was.

Q After school?

A He was.

Q (Indiscernible)?

A Yes, ma'am.

Q Now, going back to that (indiscernible) or throughout -- throughout Complainant's life, when you have been around here and had opportunity to (indiscernible), would you have considered her to have been close to her dad?

A Very close.

Q Was she closer to her dad than she was to you?

A Yes, I believe so.

Q Did you ever feel like maybe, part of the time that

you were gone, it interfered with your ability to kind of grow that relationship with Complainant?

A Absolutely.

Q I'm sorry to ask you that. We're just trying to get the full picture.

A I understand.

Q So when Complainant is in her early high school years, is that her dad -- the relationship with her dad still close?

A Yes.

Q And, again, how many hours are you working?

A Oh, easily 65, 70 hours a week.

Q Do you recall, back in those early high school days, what kind of activities that Complainant was involved in, in school?

A Yeah, she did a numerous amount of activities. Color Guard was a big thing for her. She done some stuff with the yearbook. She liked photography and things of that nature.

Q She liked to take pictures?

A Yes.

Q Was that a hobby that you personally observed her to do?

A Yes.

Q Based on your work schedule, were you able to be

active in going and watching her do some of those activities that she was doing in school?

A Not as much, no.

Q Who was the person that would go to those activities?

A That would be her father.

Q When Complainant needed to go to the doctor, who would take Complainant to the doctor?

A Her father.

Q Now, moving forward from the beginning of her sophomore year, which I think is 2018 -- does that sound correct?

A Yes.

Q Let me just make sure, when did Complainant graduate from high school?

A She graduated in '21.

Q Now, moving forward, did you remain in management at the Golden Corral or did you change into a different job?

A I was briefly at Golden Corral and I switched to another job, yes.

Q And what was the other job you switched to?

A I switched to Waffle House.

Q And what were you doing for Waffle House?

A I was a manager there -- a unit manager and then on to district manager.

Q And being a manager at Waffle House, is it similar hours than you experienced in management at Golden Corral? Was it more? Was it less?
A It was more.
Q Were you working five days a week or something more than that?
A It -- we were working six -- six on and two off, so a little bit different, yeah.
Q When you were working, how many hours a day were you working?
A It could -- easily an eight-hour average a day, and then sometimes, if I would get stuck there for no employees, it would easily become a 14-, 15-hour day.
Q Even as a manager, did you sometimes have to do, like, cooking and serving?
A Yes.
Q Was that tiring work?
A Absolutely.
Q So as you're away working, who was the disciplinarian at your home?
A Their father.
Q Is that the defendant, Mr. Hogan?
A Yes, ma'am.
Q And would you -- what types of discipline -- did you observe him (indiscernible) discipline or discipline him

taking away, say, a cell phone?

A Yes.

Q Did he place [redacted] on restriction or tell her couldn't go places?

A Yes.

Q When discipline was administered, were you in a position to have seen what [redacted] was being disciplined for, or would you just come in on the back end to hear of the discipline?

A It was pretty -- usually the back end.

Q I want to talk to you a little bit about the Find My Friend app. Is that what it's called? Did you have a Find My Friend app on your phone?

A I do, yes.

Q And, to your knowledge, did every member of your household have a Find My Friend app?

A Yes.

Q Do you remember whose idea it was to have the Find My Friends app?

A It was Mr. Hogan.

Q And, so, through this Find My Friend app, were you able to see where everybody was?

A Yes.

Q Was everybody else able to see where everybody was?

A Yes.

Q And was that something that you checked often?
A For the kids, yes.
Q To your knowledge, was it something that Mr. Hogan checked often?
A Yes.
Q And how do you know that he checked it often?
A There would be times where I might be at work and then I would let -- I would leave and I would get a phone call, and it would be -- the kids, you know, same way. So it was always, like, "I meant to tell you I was doing that," so there's no other way that you would know that I was here or there or the third other than that app.
Q Does the Find My Friends app send you alerts or do you have to go into the app, as far as you know?
A You have to physically make it alert you.
Q I asked you earlier about doctors and who would take Complainant to the doctor.
A Mm-hmm.
Q At some point, while she was in high school, did you become aware that she had been put on birth control?
A I did, yes.
Q And were you present at any doctor's appointment where she prescribed birth control pills?
A I was not.
Q And who was -- who took her to the doctor to have

her prescribed birth control pills?

A Her father.

Q And did you know beforehand that that was going to happen?

A I did not.

Q When you found out about the birth control pills, did you talk with Mr. Hogan about it?

A Very briefly.

Q And did he provide you an explanation for why [redacted] was on birth control?

A Not particularly, no.

Q Did he indicate to you that it was to level her out?

A That and a couple other issues that were going on at the time that he thought it might be contributing to her behavior.

Q Now, I know that you had to work a lot, but did you -- when you received the explanation that it was going to help her level out, did that make sense to you?

A Not to me, no.

Q [redacted], you testified, was involved in school activities. Did she do well in school?

A She did. As far as, like, academically?

Q Yeah, like academically.

A Yes.

Q Now, ultimately, at some point, did you become aware

that Complainant had gone to a guidance counselor and expressed thoughts of harm -- self-harm?

A I was -- I was made aware of that after the fact, yes.

Q Okay. Did you go to the school, to your recollection, with Mr. Hogan when that incident occurred?

A I did. Well, not with him to talk to the counselor, no.

Q Did you go up to the school at some point during that day?

A I did, yes.

Q You did. Tell me -- what was the point of you going up to the school?

A I was coming to the school to pick up her vehicle so that she did not ride home by herself.

Q How did Complainant get home that day?

A With her father.

Q And whose idea was it for her to ride home with her father?

A I believe that was Mr. Hogan's idea.

MS. INZERILLO: Objection to the -- if she doesn't have personal knowledge, then it would be hearsay.

MS. RUSSO: Your Honor, I think that she was there when the statement was made.

MS. INZERILLO: I'm sorry, I thought --

THE COURT: If the witness has personal knowledge, she can answer.

BY MS. RUSSO:

Q Ms. Blevins, do you have personal knowledge of whose idea it was for Complainant to ride home with her father?

A Yes. It was Mr. Hogan's.

Q It was Mr. Hogan's. Okay.

When you got to the school about this situation, what was Complainant's demeanor?

A Just very quiet and kind of reserved a little bit.

Q Is Complainant generally quiet and reserved?

A No.

Q When -- did you, in fact, drive her car home?

A I did.

Q Did you arrive home at the same time as Complainant and her father or at a different time?

A A different time.

Q Were they already home when you got there?

A They were.

Q How long after -- how long after you left the school did you arrive home?

A I want to say maybe about 15, 20 minutes.

Q So they had just kind of beat you home?

A Correct.

Q And what was the mood in the household like when you

walked in?

A It was very tense and very -- I don't know if you understand the word "hollow," but just kind of empty. It was tense and empty.

Q So, at some point, you know, we have talked about [redacted] did Color Guard and yearbook was another activity when she was in school. At some point, did [redacted] come to you about working?

A She did.

Q She wanted to get a job?

A Yes.

Q Okay. And did she -- was it your understanding she wanted to come work with you?

A Yes.

Q Where were you working at that time?

A At the time that she started working with me?

Q Yes.

A I was at Denny's.

Q Okay.

A The first time that she worked with me.

Q And how long did she work with you?

A A couple of months, I believe.

Q Now, did she continuously work with you up until May 29th of 2020?

A She did, yes.

Q Was that always at Denny's?
A It was not.
Q So when did it switch and where did it switch to?
A It switched when I -- she had left before me at Denny's, and then I left from Denny's and went to the Shrimp Boat and started management there as well. And then right after was when she came with me.
Q Okay. When you were with Denny's, you say you were in management?
A Yes.
Q Are you, at Denny's, having a similar workload in management that you had at these other restaurants?
A Absolutely.
Q What was your schedule like at Denny's? If you can remember.
A Yeah, well, my normal -- the schedule-schedule is usually around 6:30 in the morning until 4:00 in the afternoon. That rarely happened.
Q What do you mean, rarely happened?
A It was rare that I got off at 4:00 during the day.
Q How late would you normally end up having to stay?
A On average, probably 5:30, 6:00. And then of course if I had to -- if I got a phone call, they were third shift as well. If I got a phone call, somebody didn't show up, things happened, I had to go back.

Q Was that continuing to be as tiring as your other management jobs had been?
A Yes.
Q When you left Denny's and went over to Shrimp Boat, do you remember when you started at the Shrimp Boat?
A I started in March. I'm not sure of the year.
Q Okay. So we're going to be talking in a little bit about May of 2020. Does that help you at all figure out the year?
A Yes.
Q Okay.
A Actually, I believe it was March of 2020.
Q Okay.
A I'm sorry.
Q When did Complainant come on to (indiscernible) Shrimp Boat?
A I would say probably within the same month. March.
Q Were you a manager at the Shrimp Boat as well?
A Yes.
Q Were they similar hours -- similar amount of hours that you were working?
A They were actually very different. If I would go in at -- if I worked that day, it would be from 10:00 in the morning until 11:00 that night. There was no switching, daytime shift, nighttime shift. It was all day.

Q Were there ever days that you had a shortened day?
A There was one day. Every week, I would have one day where I would work either 9:00 -- 10:00 to 4:00 or 4:00 to 11:00.
Q When Complainant came on to work with you there, was she working part time or full time?
A She was working pretty much full time.
Q Okay. Was she doing that alongside of school?
A She was.
Q Was she officially full time or was that just -- she just ended up getting a lot of hours?
A She just ended up getting a lot of hours.
Q And I know that you had testified earlier that you were never as close with Complainant. Did working together help at all to kind of bring you guys closer to together?
A I think it did, yes.
Q Did you enjoy working with Complainant?
A I did.
Q Now, going back to May of 2020 and just prior to May 29th of 2020, did you take a trip with Complainant?
A I did.
Q Where did you guys go?
A We went to the beach.
Q How did that trip come about?
A It was actually a good friend of mine, her family

takes a vacation every year, and they rent just a big ol', you know, condo house, and she invited me to come for on my days off that week and stay with them. And that's pretty much how it happened.

Q Free place to stay at the beach.

A Yeah.

Q And did you decide to invite Complainant or did you friend invite Complainant to come?

A She invited both of us. And I wasn't exactly sure if she was going to come, to be honest, at first, but she did decide to come.

Q Was that a short get-away?

A It was.

Q Did you have to get back for work?

A I did.

Q Were you scheduled to work on May 29th of 2020?

A I was, yes.

Q Did you guys -- when did you guys get back relative to May 29th of 2020?

A The night before.

Q Were you at Myrtle Beach?

A Yes.

Q Four hours away?

A About, yes.

Q And do you remember what time of night you got in?

A It was late. It was, I would say probably after 9:00. Sometime after 9:00 that night.

Q Had it been a good trip?

A It had been.

Q Had you done a lot of fun stuff?

A We did, yes.

Q What time did you have to get up for work that morning?

A I got up probably my normal time, around 9:00.

Q And was -- do you remember who all was there when you were getting up and going to work?

A I believe everyone was there at that time.

Q Were they sleeping or were they awake?

A They were -- they were sleeping at the time I got up.

Q And what time did you leave to go in to work?

A I would say around 9:30.

Q So do you remember, was Complainant supposed to work that day?

A She was.

Q Overall, did Complainant seem to -- from your view and what you had seen, did she overall seem to enjoy working at the Shrimp Boat?

A She seemed to, yes.

Q And on May 29th of 2020, what time was she supposed

to be at work?

A Her shift started at 4:00 that day.

Q Were you still at the Shrimp Boat -- did Complainant come to the Shrimp Boat that day?

A She did.

Q Were you still there when she got there?

A I was.

Q Where were you standing -- where were you located when you first became aware, on May 29th of 2020, that Complainant had arrived at the Shrimp Boat?

A I was actually standing on the back loading dock outside the building.

Q Were you back there smoking?

A I was.

Q Okay. And when did you see Complainant? Or just kind of tell us what happened when you saw her.

A Well, I seen her pull up and, at the time, I wasn't thinking anything. And when I looked up at her, she was motioning for me to come to her.

Q And did that seem unusual, her motioning for you to come to her?

A Not at first, no.

Q Okay. Did you walk over to the car?

A I did.

Q Okay. Now, when you got to the car, did you make

any observation about her demeanor?

A Oh, yes.

Q What did you notice about her demeanor?

A Just -- just visible -- just visibly shaking, crying. She couldn't even start to talk to me because of the way that she was crying and just really shaken up.

Q Had you ever seen her like that before?

A Not to that extent, no.

Q Now, without getting into the specifics of what she said, did she indicate to you that she had been sexually assaulted?

MS. INZERILLO: Objection, Your Honor.

MS. RUSSO: I have to ask a time and place question that I'm allowed to ask under Rule 801.

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

You can ask.

MS. RUSSO: Thank you, Your Honor.

BY MS. RUSSO:

Q Did she indicate to you that she had been sexually assaulted?

A She did.

Q Without giving any specific details, did she indicate to you the time and place of the assault?

A She did.

Q Okay. And what was that?

A Right before she left to come to work that day.
Q And what was the location?
A Our home. [redacted] Cureton Ferry Road.
Q Okay. When you heard that information, did you contact the police or law enforcement?
A I did, yes.
Q I'm going to stop for just a minute and I want to ask you: What was it like for you to hear that information that your daughter had been sexually assaulted?
A I really can't even put a feeling word on it. It was just -- I was -- I was numb. I was in shock. I didn't know which way to turn.
Q And after you called for help, did an EMS call or come (indiscernible)?
A They did, yes.
Q And did you have to stay behind at the Shrimp Boat and wait for the police?
A I did.
Q Now, as [redacted] Complainant is preparing to leave, do you have any concern about the Find My Phone app on her phone?
A We did, yes.
Q And based upon your concern about the Find My Phone app, what did you do? Did you come up with an idea of how to handle the fact that her phone would show her phone is

at the hospital?

A We did, yes.

Q Okay. And what was that plan?

A That, if she was questioned about her whereabouts, that I had an employee that cut his finger and needed to be transported to the hospital.

Q And that was --

A And I asked her to take him.

Q But that wasn't true.

A No.

Q When the police officers arrived or law enforcement arrived, did you give consent for them to search your home?

A I did, yes.

MS. INZERILLO: Your Honor, I would renew previous objections.

THE COURT: I'm going overrule the objection.

MS. RUSSO: Thank you, Your Honor.

BY MS. RUSSO:

Q And after you stayed and talked to officers and provided the consent, did you go to the hospital to be with Complainant?

A I did, yes.

MS. RUSSO: Court's indulgence.

THE COURT: Yes, ma'am.

(State's Exhibit No. 10, Letter, was marked for identification.)

BY MS. RUSSO:

Q Ms. Blevins, I'm going to show you what has been marked as State's 10. And I know that's a little bit long, but I want you to take your time and look at that. And look up when you're ready for me to ask you some questions. Okay?

A (Reviewing document.)

Q Ms. Blevins, do you recognize State's Exhibit 10?

A I do, yes.

Q Ms. Blevins, is State's Exhibit 10 a copy of a scanned letter that you sent to the solicitor's office?

A It is, yes.

Q And is that a copy of the letter that you intercepted shortly after the defendant's arrest?

A Yes.

Q And how long have you known the defendant?

A Since 2001.

Q And during that period of time, did you become familiar with his handwriting?

A Yes.

Q You know his handwriting?

A Yes.

Q And looking at State's Exhibit 10, is that a

truthful and accurate copy of the scanned letter that you sent to the solicitor's office?

A It is. It is, yes.

Q Okay. And do you have an opinion about who that is the defendant (indiscernible)?

A I do, yes.

Q Who would that be?

A It is his.

MS. RUSSO: Your Honor, we'd move State's Exhibit 10 into evidence.

THE COURT: Any objection?

MS. INZERILLO: Yes, Your Honor. I don't see the relevance of this piece of evidence.

THE COURT: Counsel, can y'all approach.

BENCH CONFERENCE

(A bench conference was held off the record and outside of the hearing of the jury.)

THE COURT: Objection's overruled. It's admitted into evidence over objection.

(State's Exhibit No. 10 was received into evidence.)

BY MS. RUSSO:

Q (Indiscernible). Who is (indiscernible)?

A That would be my daughter, Complainant.

Q And you said you intercepted this letter?

A I did, yes.

Q And please tell the jury, how long is that letter?
A It's four pages. Two front and back.
Q I'm going to ask you to start with this first paragraph. Okay? And I may tell you to stop and ask you some questions. Okay?
A It says, "Ladybug, I miss you. I really miss my daughter so much. You are more important to me than you will ever know. You have been my world ever since you were born. Everything that I have done since that day has been to try my best to provide the best life that I could for you. I have always tried to make you feel loved and special because you are and always will be. You and I have always been so close. That has always meant a lot to me. The relationship that we have is very special to me, and I wouldn't trade it for the world. You are my only daughter and nothing can ever change that.

"I will never forget the day that you were born. It was a day that I will never forget. We were worried about you because you were too big to come out, and I was worried about you the whole time, and it was very scary. I was there the whole time and it was a very memorable experience when they cut you out of your mother.

"You are my second kid but you are tied for first in my heart. I remember being so worried about you and hoping that everything was okay with you. I spent a lot

of time worrying about you over the years. You and your brother were always my little buddies, and we did everything together.

"I was very rarely away from y'all, and my whole life revolved around you two. I really do love y'all, and I wouldn't change anything that we did as a family all of those years. We used to have so much fun and spend so much time together that most people would be tired of each other. Not us, though. We never got tired of each other. We spent all day and night together every day, and we loved it.

"You two love me so much, and y'all really made me feel so special. I miss those little ones. I know that your mother and I didn't always get along, and we had a lot of problems, and I don't regret it because I would not have had you or your brother without her. I have had a very rough life, and I was always on my own until I had you two. Y'all changed my entire world and really gave me a new outlook on life.

"Y'all gave me a reason to want more and want to do better. I'm sorry for anything that I ever said or did to you to hurt you in any way. I never meant to hurt you in any way or make you feel bad. I know that I said a lot of stuff that might have hurt you but that was never my intent. I didn't have the best childhood, and I never

knew how to be a parent. I just tried to do the best that I could and tried to give y'all the best life that I could. We might not have had the best house, the best vehicle, or the best stuff, but we had a good life and we had each other.

"I hope that y'all are happy and that y'all think that y'all had a good life. I hope that I never made you feel unloved or unwanted in any way. You and I were always so much alike and we had so much in common that we had a different kind of relationship than the rest of the family. I think that your mother and brother had always had some jealousy about our closeness and the bond that we have always had. We have always talked about everything, and you told me so much that I never wanted to know, but I always listened and talked to you about whatever you wanted. I have always been there for you no matter what you said or did. We have talked about so much time that made me uncomfortable and made me feel weird, but I was always there for you for everything.

"I have had your back your entire life, and I always will no matter what you say or do. I have shown that time and time -- time after time when I stuck up for you over the years. I really need your help more now than ever. I know that you think that I'm mean and I make you do stuff, but I never meant to hurt you. I just wanted you to do

what I asked or told you to do. You always made it so difficult and you refused to do anything that we asked or told you to do. Everything was always a negotiation with you, and you wanted everything your way, but that is not how life works. I let you do pretty much everything that you wanted to do. I took you everywhere, picked you up, brought you food, came to your stuff, sit there for hours and hours waiting for you, drove to your away stuff, and made sure that you had everything that you needed and wanted and then some. You are a very needy person and you're very demanding after you expect -- and you expect a lot from me.

"I never really had a problem doing most of the stuff for you because I loved you and I wanted to help you or do it to be nice or because you needed it. I have spoiled you your whole life and done more for you than most parents would even think about doing for their kids. I never asked for much from you, but you still refused to do pretty much everything that I asked or told you.

"I was mostly a pushover about most of it, but I did fight you a lot and that always led to a fight about crazy stuff.

"I'm really hurt that I'm in jail because of what you said. I never could imagine that you would say that and I forced you to do those things, especially what they

are saying you said I forced you to do. We both know that I never forced or coerced you to do anything. And I definitely never forced you to do the things for your phone or to go to your friend's house. If that was really true, why did you still lose your phone or why did you still not get to go to your friend's house? We both know what the truth is, and we both know what's really going on, and what you're saying is not right. I really don't want to have to tell them what was going on, but I will. I have no choice if you don't tell the truth. I don't think that you will get in any trouble if you recant your story. You know as well as I do this is not the right thing to do. I am hurt but I am not mad at you. I still love and care about you and I always will. You and your mother can go fill out a paper to be able to talk to me so that we can't get in trouble. I really need to get out of here and get home so I can help y'all. I worry about y'all every day, and I'm really scared that I'm losing y'all and that y'all are going to start having major problems."

Q I'm going to go ahead and stop you there. Does the letter continue on?

A It does.

Q The jury will have it, and so I'm not going to ask you to read anymore. They'll have the opportunity to

review that.

Ms. Blevins, the person that you have identified as Complainant 's father, the person that you -- whose handwriting you recognize as having written State's Exhibit 10, do you see that person in the courtroom today?

A Yes.

Q Can you point him out for me?

A Over here in the corner.

MS. RUSSO: Your Honor, let the record reflect she's identified the defendant.

THE COURT: The record will so reflect.

BY MS. RUSSO:

Q Thank you very much, Ms. Blevins. Please answer any questions that Ms. Inzerillo has.

THE COURT: Ms. Inzerillo?

MS. INZERILLO: May it please the Court, Your Honor?

THE COURT: Yes, ma'am.

CROSS-EXAMINATION

BY MS. INZERILLO:

Q Good afternoon, Ms. Blevins.

A Good afternoon.

Q The letter that you just read from that's State's Exhibit 10, Complainant never saw that letter; is that correct?

A Correct.

Q Okay. You indicated that you had to work a lot due to the nature of your jobs; right?

A Correct.

Q But you were home some; right?

A Mm-hmm.

Q Okay. You would have days off a week; right?

A Yes.

Q And you would be home before a shift started or after a shift ended?

A Yes.

Q Okay. When -- you had mentioned that you have an older son, older than Complainant ?

A Mm-hmm.

Q And he worked a lot as well?

A He did.

Q Okay. But he finished high school; right?

A Yes.

Q Okay. So he would go to school and then go to work?

A Yes.

Q So there would be times that he was home as well?

A Yes.

Q Okay. On the -- let's talk about the guidance counselor situation.

A Mm-hmm.

Q You went out to pick up the car; is that correct?

A Yes.
Q Okay. And you noticed it was tense when you got back to the house.
A I'm sorry? Say that again.
Q I said, you noticed it was tense when you got back to the house?
A Yes, ma'am.
Q Okay. But nothing compelled you to call the police or anything like that on that day?
A No.
Q Okay. As to the birth control situation, I think we have established Matthew was the one who generally took her to the doctor?
A Correct.
Q Okay. And she had mentioned to you that she was on birth control?
A I'm sorry? Do what now?
Q Did Complainant mention to you she was on birth control?
A She did not.
Q Okay. But somehow you found out she was on birth control?
A Correct.
Q Okay. But Complainant never told you she didn't want to be on birth control?
A Not that I recall, no.

Q Okay. And I think you indicated you didn't get that much of an answer out of Matthew about it.
A Mm-hmm.
Q That he basically told you it was a hormonal imbalance; correct?
A Mm-hmm.
Q I think you got kind of cut off but you said because of some behavorial stuff; right?
A (Indiscernible).
Q Okay. So, at the time, that didn't strike you as odd?
A No.
Q He's telling you hormonal imbalance, you're --
A At that time, no, ma'am.
Q Right. She's a teenager; right? Around the age that a regular teenager might start birth control?
A Correct.
Q Okay. So nothing about that compelled you to call the police.
A Correct.
Q Okay. When you were describing the financial state of the house and you described that you worked a lot; is that correct?
A Correct.
Q Okay. So you were the primary breadwinner of the

house; is that fair?

A Correct.

Q Okay. Matthew did contribute some. He bred puppies; right?

A Yes.

Q Okay. And some of those puppies could sell for maybe $1200 a piece?

A Correct.

Q Okay. And y'all were able to take vacations; correct?

A Yes.

Q Like cruises and stuff like that?

A (Indiscernible).

Q Okay.

MS. INZERILLO: Your Honor, I have no further questions.

THE COURT: Any redirect?

MS. RUSSO: Beg the Court's indulgence.

No, no further questions, Your Honor. We'd ask that Ms. Blevins be excused from her subpoena so she can remain in the courtroom.

THE COURT: Any objection, Ms. Inzerillo?

MS. INZERILLO: No, Your Honor.

THE COURT: Okay. Thank you, ma'am. You're excused from your subpoena and you can remain in the courtroom for

the remainder of the proceedings.

Ladies and gentlemen, raise your hand if you need a restroom break.

All right. The State can call your next witness. I'm sorry, was -- all right. We'll take a break until 4:00.

Ladies and gentlemen, step back to the jury room.

(The jury exited the courtroom at 3:50 p.m.)

(A recess was taken from 3:50 p.m. to 4:03 p.m.)

[The digital recording commenced as follows:]

MS. INZERILLO: -- argument.

THE COURT: Yes, ma'am.

MS. INZERILLO: Your Honor, I had objected to relevance as to State's No. 10, which is the "Dear Ladybug" letter. My objection was it didn't have any relevance, that the witness had intercepted it, the victim had never seen it, and, therefore, it didn't have any relevance. So I just wanted to place that on the record.

THE COURT: The basis for my ruling is the Court found it inculpatory. There's one -- a couple of sentences in particular where it's about "I didn't coerce you to do anything," so the Court found it was material and relevant.

Counsel, I understand Mr. Hughes has sent draft jury charges. I trust his judgment so much now, I haven't even

looked at the draft. He does a great job with those. But when you get a chance, look at them. And also a draft verdict form.

MS. RUSSO: I looked at them briefly, Your Honor. I don't (indiscernible).

THE COURT: Okay.

MS. RUSSO: We might have a couple of little things to add in.

THE COURT: Okay.

MS. RUSSO: (Indiscernible), Your Honor.

THE COURT: All right. Ms. Inzerillo, if you had a chance to look at them?

MS. INZERILLO: No, Your Honor, I'm sorry.

THE COURT: Okay. That's fine.

Counsel, Mr. Hughes reminds we, one thing I hadn't thought about is, I'm inclined for the definition of CSC to make out the part about mental deficiency and things like that because I don't think that has any relevance to this case.

Ms. Inzerillo, do you have any objection to that?

MS. INZERILLO: I do not, Your Honor.

THE COURT: The State?

MS. RUSSO: No (indiscernible).

THE COURT: All right. We'll do that.

Is the State ready to proceed?

MS. RUSSO: Yes.

THE COURT: Okay. Defense?

MS. INZERILLO: Yes, Your Honor.

THE COURT: And then one more witness for today; is that correct?

MS. RUSSO: Yes, Your Honor. (Indiscernible).

THE COURT: Okay. Is the jury back from their smoke break?

THE BAILIFF: No, Your Honor.

THE COURT: The jury is not back from their smoke break. Okay.

(Pause in the proceedings.)

THE COURT: The State can call your next witness.

MS. RUSSO: Thank you, Your Honor. The State would call Samantha Piper.

SAMANTHA PIPER,

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

DIRECT EXAMINATION

BY MS. RUSSO:

Q Good afternoon, Ms. Piper.

A Good afternoon.

Q Can you please introduce yourself to the Court.

A My name is Samantha Piper.

Q And what's your occupation?

A I'm a forensic scientist with the York County Sheriff's Office in the Forensic Biology Lab.

Q And how long have you been with York County?

A Since April of 2020.

Q Prior to that, did you work in another forensic lab somewhere else?

A Yes. I worked with the North Carolina State Crime Lab.

Q Before you became a forensic scientist, did you have any other laboratory experience?

A Yes. I worked in the pharmaceutical lab.

Q And what sort of education did you have to receive in order to become a forensic examiner and microbiologist?

A I have a bachelor's of science in biology from NC State University with minors in genetics and criminology.

Q And have you received any additional specialized training in the field of forensic DNA analysis?

A Yes. I have undergone in-house training programs for both the North Carolina lab and for the York County lab.

Q What kind of things did that include?

A It included lectures, quizzes, tests. I had to test hundreds of samples for different body fluids and perform DNA analysis on them. I did competency tests and I did mock case work, which is just case work that's simulated

to be like real case work. And then I did mock courts.

Q Have you -- or are you a member of any professional organizations or groups?

A Yes. I'm a member of the Southern Association of Forensic Scientists, and I'm also certified in molecular biology through the American Board Of Criminalistics.

Q And have you ever testified previously as an expert witness in forensic biology cases?

A Yes.

Q How many times?

A Approximately nine times.

MS. RUSSO: Your Honor, based on this witness's training and experience, we would move to recognize Ms. Piper as an expert in the field of forensic biology.

THE COURT: Any objection?

MS. INZERILLO: No, Your Honor.

THE COURT: This witness is qualified as an expert in forensic biology.

Now, ladies and gentlemen, as I have said with the other experts, it does not mean you have to believe her testimony. You need to evaluate her testimony the same way you do any other witness, but it does mean she's allowed to give her opinion, which regular witnesses are not allowed to do.

BY MS. RUSSO:

Q As a forensic examiner with the York County Sheriff's Office, can you just tell us briefly what you do?

A I test evidence items in criminal cases for the presence of body fluids and DNA analysis.

Q Can you tell me what DNA is, in a nutshell for those of us non-science people?

A Yes. So DNA is just the basic genetic blueprints of our bodies. It gives our -- it tells our bodies how to function and it gives us our unique characteristics. It's the same throughout our lifetime and throughout our bodies. We get half from our mom, and we get half from our dad.

As humans, we share approximately 99 percent of our DNA, and there's about 1 percent that makes us unique, and I test areas within that 1 percent.

Q And so when you're testing, what does that process consist of?

A It's a multi-step process. So the first step is to extract the DNA. So I want to get the DNA by itself and off the sample that it's on.

In cases of sexual assaults, the goal is to then take your sample and if semen is present or suspected to be present, then I do an extra step of the extraction process where I want to try to separate all the sperm

cells from all the other non-sperm cells. So it splits that sample into two.

And then, after I have extracted the DNA, I want to know approximately how much DNA I have. So I just quantify that. Once I know that, then I can amplify the DNA, which simply just means I'm making millions of copies of the different areas of DNA that I'm testing. And once those copies have been made, my sample goes on an instrument which will then separate the different areas of DNA that I'm testing, and it provides me with data, and I analyze that data.

Q Is there a peer-reviewed process involved in that?

A There is. After I write a report based on my results and conclusions, my report goes through a review process.

Q And you talked just a minute ago about making copies of the DNA. Does that change it in any way?

A It does not.

Q And is that process that you just described, is that typical of other DNA labs throughout the country?

A Yes.

Q And is there any ongoing education or training or experience that you have to do to remain certified and proficient at your job?

A Yes. I perform proficiency testing twice a year,

and I'm also required to have a minimum of eight hours of training every year but most of the time, I get more than that.

Q How often do you have to do that? I'm sorry, you might have said.

A It's eight hours a week that's required, yes.

Q You talked about the different types of DNA you get from the half from one parent and half from the other. Can you tell us a little bit about how that relates to your chromosomes and what that has to do with DNA, the difference between the X chromosome and the Y chromosome?

A So females have an XX and males have an XY. So the female can either give you either one of the Xs that they have, if you're a female, and then your dad would give you the other X to make you an XX as a female. Or if you're a male, you'll get one of the Xs from the mom, and then you'll get the Y from the dad.

Q So the only people with Y chromosome DNA would be men?

A Yes.

Q And can you test for just the Y chromosome?

A Yes, we do -- I can do Y-STR testing, which is the same process except it's testing areas of the Y chromosome only.

Q Do you typically test first for the Y chromosome or

would you start with the whole DNA and then would there be a reason to test just for the Y?

A I start with the whole DNA first. Typically, the only reasons for Y-STR testing is mostly in cases of sexual assault, if it's a mixed sample between a male and a female. Sometimes the female DNA can mask the male DNA. So in order to kind of separate out that male, then I'll perform Y-STR analysis on that.

Q So if it's indicated after that first process of the whole DNA, then, if it's indicated, you might move on to the testing for just the Y chromosome?

A Correct.

Q And you call that Y-STR testing?

A Yes.

Q And when you do the Y-STR testing, does that require you to get a new sample of the DNA or what do you end up testing?

A Typically, if there's any extract left from the initial testing, which there -- 99 percent of the time there is, then I can just use that extract and amplify it with the Y-STR kit.

Q You talked about testing for bodily fluids, and specifically for semen. What do those tests -- are there different types of tests? Is there one test for semen? What do those tests look like?

A So there's different tests. There's presumptive tests and then there's confirmatory tests. So, typically, for presumptive tests, we start with a color test. And we take a portion of the sample that we're testing and then we'll add a chemical to it, and if it has a color change, then that could potentially indicate that semen is present.

A confirmatory test for semen is also looking for sperm. So I'll make a slide from my sample, and then I'll look through a microscope to see if I see any sperm or not.

Q Is it possible to have seminal fluid without sperm?

A Yes.

Q In that case, is it still possible to confirm that you are looking at seminal fluid?

A Yes. I can do an additional test to the -- the color change test that I just spoke about that could confirm semen.

Q Shifting gears a little bit, do you know if any items were submitted for DNA analysis in the case against Matthew Joseph Hogan?

A Yes.

Q And did you personally test any of those items?

A I did.

Q Let me hand you what's been marked as State's

Exhibit 1. Do you recognize that item?
A State's Exhibit 1 is Lab Item 1.
Q Okay. And what is that item?
A It is a sexual assault kit.
Q Okay. And I know that kit is already opened, but is your signature on that kit?
A It is.
Q And when you receive that box, did it have all that red tape on it?
A It had some red tape, and then I put my own tape when I was finished.
Q So you resealed that box?
A Yes.
Q And other than being open, is it in substantially the same condition as when you received it?
A Minus the tearing a little bit, but yes.
Q Can you tell me -- there's a chain log on there. Are you able to see all those names?
A Yes.
Q Do you recognize them?
A Yes. Well, how far back are we...
Q The ones around your name -- do you recognize the ones around your name?
A Yes.
Q And when did you check this -- or when did you sign

it into the lab?

A When did I take it into the lab or...

Q Well, let me go back. So how does evidence get to you?

A So evidence comes in our lab by the evidence technicians, and whoever is available at the time to do the transfer will take in that from the evidence technician. And then we put it into our own vault that we have in our lab.

Q So can you see when the first time was that it was transferred into the lab?

A Yes.

Q And can you tell us what date that is?

A It was June 25th, 2020.

Q And who signed it into the lab for you that day?

A It looks like Bryn.

Q And you recognize her signature?

A Yes.

Q When you received it, was it still sealed or were any signs that it had been open before it got to you?

A I received it sealed.

Q Okay. All right. Can you open the box and identify -- does that contain some of the items that you tested in this case?

A Yes.

Q Can you tell us what those items that you tested are?

A Yes. So I tested Lab Item 1-1, which was the known DNA standard from Complainant; Item 1-2, the vaginal swabs; Item 1-3, the rectal swabs; Item 1-4, the oral swabs; Item 1-5, the underwear; Item 1-7, the tampon.

Q Is there anything else in that box that you put in the box? Is there anything that the DNA lab put inside the box?

A Yes. I placed my DNA extracts in the box as well as the slide that I made.

Q So those would not have been in the box when it came to you, but you would have put them into the box.

A Correct.

Q And once you did that and you transferred it back to Evidence, would you have sealed the box?

A Yes.

Q How many times was it -- it was taken to your lab more than once; is that right?

A Yes.

Q And was it opened each one of those times?

A I'm sorry? Can you repeat that?

Q Do you know if it was opened each one of those times that it was (indiscernible) to the lab?

A Let me go back. Yes, it was.

Q Okay. And were you the one who opened it when it came to the lab?

A The last -- yes. All three times.

Q In that box, you mentioned items -- several swabs, a DNA -- I'm sorry, a buccal swab, a mouth swab, and several other items. Can you tell me which of those items you ended up testing?

A So Lab Item 1-1 was the known standard. I tested that. Item 1-2, the vaginal swabs. 1-3, the rectal swabs. 1-4, the oral swabs. 1-5, the underwear. And then 1-7, the tampon.

Q Okay. And did you perform DNA analysis on all of those items?

A I did not.

Q Okay. You did perform some kind of analysis on each one of those?

A The ones I listed, correct, yes.

Q And when you did any testing, whether it was DNA or something else, did you use the same testing procedures that you mentioned earlier in testing those items?

A I did.

Q And particularly about the buccal swab, can you describe to the jury what a buccal swab is?

A It's just a swab taken from the inside of your mouth to collect the cheek cells, and it's used as a reference

so we know who it comes from.

Q So you tested that one pursuant to those testing procedures you talked about?

A Yes.

Q And what were the results of your analysis in that?

A I obtained a full DNA profile.

MS. RUSSO: Your Honor, at this time, the State would move to enter State's 1 into evidence.

THE COURT: Any objection?

MS. INZERILLO: No, Your Honor.

THE COURT: Into evidence without objection.

(State's Exhibit No. 1 was received into evidence.)

BY MS. RUSSO:

Q I'm now going to hand you State's Exhibit 2. Do you recognize that item?

A Yes.

Q What is it?

A State's Exhibit 2 is Lab Item 7, which is the mouth swab from Matthew Hogan.

Q And is this one of the items that you performed a DNA analysis on in this case?

A Yes.

Q Can you tell us how this item got to the DNA lab?

A It came the same way as the kit that I just previously described.

Q And when you received it, was it still sealed?
A Yes.
Q Do you recognize the names on the chain of custody log?
A Yes.
Q Do you recognize the name of the person who checked it in or got it into your lab?
A Yes, I do.
Q And who is that?
A That is Bryn.
Q And is this item in substantially the same condition as when you received it for testing?
A Yes.

MS. RUSSO: Your Honor, at this time, we would move to admit Item 7 -- or, I'm sorry -- Item 2, the buccal swab, into evidence.

THE COURT: Any objection?

MS. INZERILLO: No, Your Honor.

THE COURT: Into evidence without objection.

(State's Exhibit No. 2 was received in evidence.)

BY MS. RUSSO:

Q Did you perform any DNA analysis on this swab?
A Yes.
Q And what -- was it the same testing procedures you have already talked about?

A Yes.

Q And what, if anything, were the results of that analysis?

A I obtained a full DNA profile.

Q And who was that profile for?

A Matthew Hogan.

Q I'm going to hand you what's been marked as State's Exhibit 3. Do you recognize that item?

A I do.

Q Can you tell me what it is?

A State's Exhibit 3 is Lab Item 3, which is the feminine pad and the tampon applicator.

Q Is this one of the items that you tested in this case?

A Yes.

Q How did this get to the DNA lab?

A The same way the previous two items.

Q And you recognize the signatures on there?

A I do.

Q And is it the same signature and same person who checked it into the lab the last time?

A Yes.

Q When you received this, did it have that red evidence tape on it?

A It did.

Q And when you received it, was it still sealed or were there any evidence -- or any signs of tampering or opening?

A It was sealed.

Q Okay. Is this in substantially the same condition as it was when you received it for testing?

A Yes.

Q Other than being open?

A Yes.

Q And did you perform DNA analysis on this item?

A I did.

Q And you used the same testing procedures that we already discussed?

A Yes.

MS. RUSSO: Your Honor, we would move to admit State's Exhibit 3 into evidence.

THE COURT: Any objection?

MS. INZERILLO: Subject to previous objection in the motions, Your Honor.

THE COURT: Into evidence over the previous objection.

(State's Exhibit No. 3 was received into evidence.)

BY MS. RUSSO:

Q I'm going to show you what's marked as State's Exhibit 3-B. Do you recognize that?

A I do.

Q Can you tell me what that is?

A State's Exhibit 3-B appears to be a copy of the picture that I have for Lab Item 3.

Q Okay. And is that a picture that you put together, you have drawn on, or done something with?

A I did (indiscernible) this picture (indiscernible).

Q Okay. And --

MS. RUSSO: Your Honor, the State would move to admit Exhibit 3-B.

THE COURT: Any objection?

MS. INZERILLO: Subject to previous objections about this particular piece of evidence.

THE COURT: Into evidence over the prior objection.

(State's Exhibit No. 3-B, Photo of Lab Item 3, was marked for identification and received into evidence.)

BY MS. RUSSO:

Q On all of these items, you used the same testing procedures we already talked about?

A Yes.

Q And as a result of testing these items, did you create any reports?

A I did.

(State's Exhibit No. 4, DNA Report, was marked for identification.)

BY MS. RUSSO:

Q I wanted to hand you what's been marked as State's Exhibit 4. Do you recognize that?

A I do.

Q And can you tell us what it is?

A State's Exhibit 4 appears to be a copy of my first laboratory report for this case.

Q And what's the date on that report?

A The date of the report is January 20th, 2021.

Q Okay. And Item 1 in that report, is that the SANE kit we discussed earlier?

A It is the sexual assault kit, yes.

Q And that kit is divided into the seven items that you listed previously; correct?

A Yes.

Q With this report, can you tell us which items were examined?

A Yes. So Item 1-1, which is the known DNA standard of [redacted]; Item 1-2, the vaginal swabs; Item 1-3, the rectal swabs; Item 1-4, the oral swabs; Item 1-5, the underwear; and Item 1-7, the tampon; Item 3, the feminine pad and the tampon applicator; and Item 7, the mouth swab from Matthew Hogan.

Q And for this report, were those items -- outside of the buccal swab -- were those tested for the presence of

semen?

A Items 1-2, 1-3, 1-4, and 1-5 and Lab Item 3 were tested.

Q Okay. Starting with Item 1-5, that's the underwear; correct?

A Yes.

Q What was the result of your examination for that report on the underwear?

A No stains characteristic of semen were observed.

Q Does that mean a visual examination?

A I used an alternate light source to help me look for any stains that were consistent with possible semen.

Q And the result of that was that you were unable to see any stains that would indicate semen?

A Correct.

Q And then you also examined Item 1-4. That was the oral swabs. Can you tell us what test you did on that item?

A I did the acid phosphatase test, which is the color-change test that I was describing earlier.

Q And what does that look like when you do that test?

A So the chemical itself is clear, and when you add it to a sample that is positive for possible semen, it turns like a deep purple color.

Q And what was that result of that test for the oral

swabs?

A There is -- semen was detected.

Q Okay. And you examined Item 1-3, the rectal swabs. What test did you use to examine that item?

A I also used the same color-change test, and I also performed -- I also looked for sperm on that sample.

Q And what were the results of those tests?

A For Item 1-3, chemical test for seminal fluid were inconclusive, no spermatozoa were identified, and no further analysis was performed on that item.

Q Okay. So there was nothing left to test there.

A Correct.

Q When you're testing for semen and then there's no spermatozoa identified, is semen and spermatozoa, are those two different things?

A Sperm is in semen.

Q Okay. And you can see seminal fluid with no spermatozoa in it?

A I can test for it. I can't see it.

Q That could be the result of your examination, is you could find seminal fluid?

A Yes.

Q Not seeing the spermatozoa?

A Correct.

Q Does the seminal fluid still contain DNA?

A Yes.

Q I want to move on to Item 1-2. What test did you do on this item, the vaginal swabs?

A So I did the color-change test. I also looked for sperm and then I also did an additional test for semen.

Q And what was the result of those tests?

A Chemical tests for seminal fluid were inconclusive. Immunological testing indicated the possible presence of seminal fluid; however, no spermatozoa were identified.

Q So was that relatively inconclusive then?

A In what regards?

Q Would you be able to say that there was seminal fluid on those spots?

A It indicated possible semen, but I can't confirm that.

Q Item 3, the feminine pad and tampon applicator, how do you test that? Do you test just part of the item?

A I just take a sample from it once I indicate that -- wherever the semen could possibly be. I just take a little -- a small portion of that and test it.

MS. INZERILLO: Your Honor, I'm sorry to interrupt Ms. Russo, but I would object at this time with the -- renewing previous objections with this testimony regarding the feminine pad.

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

MS. RUSSO: Thank you, Your Honor.

BY MS. RUSSO:

Q And the photo that I showed you earlier, did that indicate -- your drawing on there, did that indicate where you tested on the menstrual pad?

A It did.

Q And do you recall why you picked those spots or what you would look for in choosing a spot to test?

A Those -- the spot that I tested indicate -- with the color-change test indicated that semen was possibly present.

Q Okay. What -- after the color-change test, what was the next test to do on that item?

A I would have -- I did look for sperm.

Q Is that in the slide where you visually looked?

A Yes.

Q And were you able to find that?

A My initial slide was questionable material, so I performed an additional semen test.

Q And what was that able to tell you?

A It was positive. So coupled with the color-change test, it indicated that semen was present.

Q So on all the other items, we could never quite say semen was present and there was no additional testing then done. On this item, were you able to then do additional

testing after looking for the semen?

A Yes.

Q What testing did you do following that?

A I did the P-30 test.

Q Once you did the P-30 and you confirmed semen, did you do a DNA analysis of the item?

A I did perform DNA on this item, yes.

Q What conclusions were you able to draw from that DNA analysis?

A The DNA profile obtained from the non-sperm fraction of the cutting from the pad is consistent with a mixture of at least two individuals. The major DNA profile is consistent with the DNA profile obtained from Complainant [redacted], Item 1-1. No conclusions can be offered regarding the minor DNA profile.

Q So you were able to identify that Complainant was a contributor to the DNA. And were you able to identify another source of DNA that you just could not make any conclusions about?

A Correct. The minor portion, I could not make any conclusions about it.

Q The Y chromosome testing we talked about before, the Y-STR, has the York County lab always had the ability to test for that?

A No. That actually was fairly new.

Q Okay. So in January of 2021 when this report was written, did the York County lab have Y-STR testing?

A No.

Q So, at that point, was there any further testing that you could do on that DNA sample?

A No.

Q Item 1-7 on that report was not examined in January of 2021; correct?

A That's correct.

Q Did you later do DNA analysis on that item?

A I did.

Q And as a result of that, did you generate a report?

A I did.

(State's Exhibit No. 6, DNA Report, was marked for identification.)

BY MS. RUSSO:

Q I'm going to hand you what's been marked as State's Exhibit 6. Can you tell me if you recognize that?

A State's Exhibit 6 appears to be a copy of my third laboratory report for this case.

Q And what's the date on that report?

A November 14th, 2022.

Q Okay. And is that a true and accurate copy of that report that you generated?

A This appears to be, yes.

Q In this report -- I'm sorry.

MS. RUSSO: Your Honor, we move to enter State's 6 into evidence.

THE COURT: Any objection?

MS. INZERILLO: No, Your Honor.

THE COURT: Into evidence without objection.

MS. RUSSO: Thank you, Your Honor.

(State's Exhibit No. 6 was received into evidence.)

BY MS. RUSSO:

Q In the report, you examined only Item 1-7. Is that the tampon from the SANE kit?

A Correct.

Q And what testing were you able to do on that item?

A I performed DNA analysis on this item.

Q And were you able to draw any conclusion from that item?

A Yes.

Q What conclusions were you able to draw?

A The DNA profile obtained from fraction 1 of the swabbing from the tampon, Item 1-7, matches the DNA profile obtained from [redacted]. Matthew Hogan, Item 7, is excluded as a potential contributor to the DNA profile. No DNA profile was obtained from fraction 2 of the swabbing from the tampon.

Q Can you tell us why there's two fractions of it?

What does that mean in your report?

A Yes. So the lab changed the policy on how we test kits. Instead of doing initially the presumptive testing for the possible body fluid, we go straight to DNA analysis. And the F-1 or Fraction 1 and Fraction 2 correspond to the non-sperm fraction and the sperm fraction.

Q So, in this case, there was not any sperm fractions?

A No profile was developed for the sperm fraction, correct.

Q Did you perform any additional analysis on Item 3?

A Yes.

MS. INZERILLO: Your Honor, again, I would renew previous objections.

THE COURT: Objection's overruled.

(State's Exhibit No. 5, Second DNA Report, was marked for identification.)

BY MS. RUSSO:

Q Let me hand you what's been marked as State's Exhibit 5. Can you tell me what that is?

A State's Exhibit 5 appears to be a copy of the second laboratory report for this case.

Q And is that a true and accurate copy of the report that you generated after performing DNA analysis on Item 3?

A It appears to be, yes.
Q In this report --
MS. RUSSO: I'm sorry, Your Honor. The State would move Exhibit 5 into evidence.
MS. INZERILLO: Renewing previous objections.
THE COURT: The objection's overruled. The exhibit's into evidence over objection.
(State's Exhibit No. 5 was received into evidence.)
MS. RUSSO: Thank you, Your Honor. I believe the State also failed to move Exhibit 4 into evidence, which we would do at this time. It's the previous report.
THE COURT: Exhibit 4?
MS. INZERILLO: Same objection, Your Honor.
THE COURT: Okay. It's into evidence over objection.
MS. INZERILLO: Thank you, Your Honor.
(State's Exhibit No. 4 was received into evidence.)
BY MS. RUSSO:
Q In this report, you examined only Item 3; is that correct?
A The non-sperm fraction of Item 3, yes.
Q Okay. So you already had a non-sperm fraction from the previous testing?
A Correct.
Q That item was the only item that was tested?

A Oh, sorry, and Item 7.
Q The extra Item 7?
A Yes.
Q Okay. Item 3, that's the feminine pad that you had already performed testing on?
A Correct.
Q And that's the standard that we saw in the box? You put that in the box?
A Talking about the extracts?
Q Yes. I'm sorry. So the first time you did testing, you did an extract. And did that remain in the box?
A Yes. So the extracts that I generated for my initial DNA testing, I did place in the box.
Q And then so when you went back to do retesting on this item, you didn't have to look at the item again. You could look at that extract that you had already created?
A Yes. I just used the extract that I created initially.
Q Does that -- does that extract change or degrade over time?
A No.
Q And does that additional testing change or affect the DNA?
A It does not.
Q What tests this time around were you able to perform

on the feminine pad?

A I performed the Y-STR testing on the non-sperm fraction of the pad as well as Y-STR testing on the buccal swab from Matthew Hogan.

Q Okay. And this testing -- what is the date on that report?

A The date is September 2nd, 2021.

Q And so, at that point in time, the DNA lab at York County had gotten this ability to test the Y-STR testing for the Y chromosome?

A Yes.

Q When you examined this item with that different type of testing, were you able to draw any conclusions?

A Yes.

Q What conclusions were you able to draw?

A The Y-STR profile obtained from the non-sperm fraction of the cutting from the pad matches the Y-STR profile obtained from Matthew Hogan, Item 7.

Q And so the second time around when you were testing, you were able to identify the defendant as a contributor to the DNA on the pad?

A Yes.

Q Could you specifically say that it was to the DNA from the seminal fluid on the pad?

A No.

Q Okay. When you're testing the Y chromosome -- I'm going to get a little science-y here, for a person who doesn't know much science -- but you test for alleles; is that right?

A Alleles is just the peaks, the data.

Q Okay.

A The DNA (indiscernible).

Q And there are a number of points or peaks that you can look at?

A Yes. Whatever is developed is what I analyze.

Q And so how many alleles or points were you able to test in this case?

A So the Y-STR kit tests for 25 areas of the DNA on the Y chromosome. Because Ys are coming straight from the male and you get half from your mom and half from your dad, I would only expect one peak at each location where I'm testing, except for the couple of areas where they have two -- two separate peaks that would show.

Q And so are there a certain number of those that you test?

A As far as the areas of DNA?

Q Are there a certain number of areas that you look at?

A 24.

Q And how many of those match --

A Or 25. I'm sorry.

Q How many of those matched in this case?

A All of the areas matched.

Q Were you able to calculate a statistic or a probability using Y-STR testing that that sample matched the defendant?

A I did calculate a statistic, yes.

Q Can you tell us what that statistic is?

A The Y-STR profile obtained from the non-sperm fraction of the cutting from the pad was observed zero times in 29,000 individuals. Applying a 95 percent upper cognitives (ph) interval results in a profile probability of approximately 1 in 9700 individuals.

Q That sounds a little different from the normal DNA statistics I hear. Can you explain, like, how that statistic is calculated or how that works?

A With Y-STRs, you have to do a different type of calculation because it's -- it's passed on -- like, it's linked to individuals. So you can't do multiplication, essentially. You have to count. It's the counting method. So it's how many times you see that within the population that you're testing.

Q Okay. When you do Y-STR testing and you're only matching that male piece, it matched to the defendant; right?

A It matched his Y-STR profile, yes.
Q Would his Y-STR profile be present in other people?
A Yes. Because males only have one Y to pass down, every male in that family, apart from any new patients, would have the same Y-STR profile.
Q In this case, you were able to see seminal fluid but no spermatozoa; is that correct?
A On this particular item?
Q On this particular item.
A Yes. Semen, and I cannot confirm sperm.
Q And on no item were you able to see sperm?
A Correct.

MS. RUSSO: Beg the Court's indulgence.

BY MS. RUSSO:

Q Nothing further. Please answer any questions of defense.

THE COURT: Ms. Inzerillo?

MS. INZERILLO: May it please the Court, Your Honor?

THE COURT: Yes, ma'am.

CROSS-EXAMINATION

BY MS. INZERILLO:

Q Ms. Piper, do you need a break?
A Oh, I'm fine. Thank you.
Q Okay. So, as we have established, your job is to test for DNA items that you are provided; correct?

A Yes.
Q And you do that for the sheriff's office?
A Yes.
Q And in this case, there were several items taken into evidence that you could test; correct?
A There were additional items in this case, yes.
Q Okay. And we have talked about the sexual assault kit and the items contained in all that; correct?
A Yes.
Q That included the swabs from Complainant s mouth; correct?
A Yes.
Q From her rectum?
A Yes.
Q From her vagina?
A Yes.
Q From her underwear?
A Yes.
Q Fingernail scrapings were provided?
A Yes.
Q And a tampon.
A Yes. And the oral swabs.
Q Okay. And you also received the tampon applicator as well?
A Yes.

Q Okay. And the feminine pad.
A Yes.
Q You also had available to you a tiger blanket?
A I don't know about the tiger part but a blanket, yes.
Q A blanket. Okay.
As well as a gray shirt?
A Yes.
Q And black Nike shorts?
A Yes.
Q Okay.
A And also blue and yellow shorts.
Q And blue and yellow shorts. Okay.
So I kind of want to walk through the three tests that you did again. Okay? The first one was done September of 2020; is that correct?
A Yes.
Q Okay. And, at that time, you tested the vaginal and rectal swabs of Complainant?
A Yes.
Q The oral swabs; correct?
A Yes.
Q And her underwear?
A Yes.
Q And of those tests, semen was not detected from the

oral swab?
A Correct.
Q Not detected from her underwear?
A Correct.
Q And the vaginal swab was inconclusive for semen?
A Just the one test was inconclusive. The other one just indicates possible semen.
Q Okay. But it's just possible. We don't know for sure.
A Correct.
Q Okay. Same thing for the rectal swab?
A I -- the color-change test was inconclusive, but I did not identify sperm.
Q Okay. The color test was inconclusive for semen?
A It was inconclusive for the possibility of semen.
Q Okay. So you don't know.
A No.
Q So inconclusive means we can't say with any certainty whether semen or sperm were on either of those items?
A Well, I looked for sperm but I did not observe.
Q Did not observe. Okay.
On this particular day, you did not test the tampon; correct?
A (Indiscernible).

Q Okay. You didn't test the blanket?
A Correct.
Q You didn't test the applicator to the tampon?
A That's correct.
Q And not to be too graphic but when a tampon is inserted, the applicator does interact with the vagina of the woman; correct?
A Yes.
Q Okay. And you did not test the T-shirt or the Nike shorts; correct?
A Correct.
Q Okay. Then you indicated you went back and tested some items again. That was the second test that you did.
A I didn't test the actual item again, just the extract.
Q Okay. And that was about a year later, in September of 2021?
A Yes, September, yeah.
Q Okay. And the --
A Almost a year.
Q Almost a year.

All right. And, at this time, you indicated the lab got new testing that they could do.

A We were able to validate the Y-STR testing, yes.
Q Okay. And so you went back and tested the extracts

that you had taken?

A Yes, from Item 3 and Item 7.

Q Okay. And Item 3 specifically was the pad?

A Yes.

Q And did that include the tampon or just the pad?

A Just the pad. The cutting from the pad that I initially extracted.

Q Okay. So no Y-STR testing was done on the tampon.

A Correct.

Q Or the applicator.

A Correct.

Q Okay. And as you indicated, when you make extractions, you basically make copies of the DNA; correct?

A That's one step of the process, correct.

Q Right. And then when you go back and test, you test those copies; correct?

A Can you clarify what you mean by that?

Q Sure. So you have the original sample DNA, and you indicated one of the steps that you use is you make copies of that DNA --

A Yes.

Q -- of that sample.

And then, when you go back to test for things like the Y-STR, you test a copy?

A I test the extract.
Q Which is the copy; right? Not the original.
A It's the extract. So a copy is just a copy of the extract of the DNA that you have generated. It's just a step in the process that makes those copies of DNA.
Q Right. So you're testing the copy.
A The actual extract. I'm making copies of the extract. So for Y-STR testing, it's different copies because it's specific to the Y chromosome. So I'm actually making copies of the extract --
Q Okay.
A -- of the DNA itself.
Q Okay. I believe I heard you say on direct that you can't say that Mr. Hogan was a contributor to the semen; is that correct?
A I can't specifically say that it was the semen by his DNA it came from.
Q Okay. You just know there was some Y-STR on the cutting from the pad that you took.
A That there was a Y-STR profile, correct.
Q Okay. And you -- as we have seen in State's 3-B, which was the picture that you took, you took one cutting -- I mean, you took, yeah, one cutting from that pad.
A Correct.

Q Okay. All right. Then, subsequent to that, almost a year later, in September of 2022, you were requested to test the tampon; correct?

A That is correct.

Q Okay.

A And that was in -- well, my report was November.

Q But the test was in September. Okay.

And that was the first time you had tested the tampon itself?

A That's correct.

Q Okay. And as you indicated, when you tested that tampon, Matthew Hogan was excluded as a contributor?

A For the Fraction 1 of the swabbing that I took.

Q Okay.

MS. INZERILLO: Your Honor, I have no further questions.

THE COURT: All right. Any redirect?

MS. RUSSO: Just briefly, Your Honor.

REDIRECT EXAMINATION

BY MS. RUSSO:

Q Do you test every item that comes into the lab?

A I do not.

Q And do you sometimes have to make decisions about which items to test?

A Yes.

Q The extract versus the copies versus what you're testing, what do you -- when you get the DNA initially, do you create one extract?

A Yes, for each item.

Q For each item.

And then, when you test, you're pulling from that extract -- you're testing from that extract?

A I'm testing the actual extract, yes.

Q A piece of it? Or the whole thing?

A Yeah.

Q A piece of it?

A Well, each step requires a certain amount of that extract, and it's very minuscule amounts. Like around 2 microliters up to 15 microliters. So it's a very small -- small amount.

Q So then, if additional testing is required, you would go back to that same extract?

A Yes. If it still is there, then, yes. If there was still some left.

MS. RUSSO: Nothing further.

THE COURT: Any recross, Ms. Inzerillo?

MS. INZERILLO: No, Your Honor.

THE COURT: Any objection to excusing this witness?

MS. RUSSO: No, Your Honor.

THE COURT: From the defense?

MS. INZERILLO: No.

THE COURT: All right. Thank you, ma'am. You can step down, and you are excused.

Counsel, I believe that's everything for today?

MS. RUSSO: (Indiscernible).

THE COURT: Okay. All right, ladies and gentlemen. That brings us to the end of today's testimony. As I have told you many times previously, please don't discuss the case with anyone else, including each other. Please don't read or watch any news reports, and please don't do any research. Other than that, y'all have a great evening.

I know you have been paying very close attention, and I appreciate that. We'll see you back at 9:30 tomorrow, and I would tell your family that tomorrow may be kind of a long day.

The County will pick up pizza for lunch, and if dinner is necessary, the County will get that as well.

All right. See y'all tomorrow at 9:30.

(The jury exited the courtroom at 4:58 p.m.)

THE COURT: All right. Anything we need to take up before we recess? From the State?

MS. RUSSO: Nothing, Your Honor.

THE COURT: From the defense?

MS. INZERILLO: No, Your Honor.

THE COURT: Thank you, Counsel. We'll see everyone

at 9:30 tomorrow. Court will be in recess.

(At 5:00 p.m., The trial adjourned until Friday, March 31, 2023.)

* * * *

Friday, March 31, 2023

(The trial resumes at 9:35 a.m.)

[The digital recording commenced as follows:]

JUROR ISSUE

THE COURT: -- no point in making him sit around for two hours until lunch time when we know we're going to have to replace him anyway.

Any objection from the State?

MS. RUSSO: No.

THE COURT: From the defense?

MS. INZERILLO: No, Your Honor.

THE COURT: Okay. All right.

Madam Clerk, if you can get two little slips of paper -- where is my juror list -- and put them in a coffee cup or something and randomly select one of our alternates to replace Juror 96. You can use Post-it notes or whatever you want. I think our alternates are Juror 189 and 158.

Let's go ahead and bring him out.

UNIDENTIFIED SPEAKER: Oh, just that one juror. I'm sorry.

THE COURT: No, the defendant is who we're talking about, yeah. Let's go ahead and bring him out.

Let's see, do y'all have like a coffee -- yeah, one of the water cups. Yeah. Y'all can do it. Just pick one randomly and tell me who our new juror is.

All right. The clerk's office has randomly drawn Juror 158's number. So Juror 158 is no longer an alternate. He is an actual juror. And we're going to excuse Juror 96.

Let's bring in Juror 96, please.

MS. INZERILLO: Your Honor, hold on --

THE COURT: Just No. 96.

MS. INZERILLO: Can we get him out?

THE DEPUTY: Still waiting on him.

THE COURT: Oh, okay. Yeah.

Hold on just one second, sir.

All right. Mr. Feiner, you're Juror No. 96; correct? And I understand you have a trip for spring break, and you have to leave today at lunchtime?

JUROR NO. 96: (Indiscernible).

THE COURT: Okay. Well, I'm not going to make you stay until then. I appreciate you being here this week, and your jury service is complete. On behalf of the State of South Carolina and York County, thank you very much. You're excused.

MS. INZERILLO: Your Honor, just very briefly, could we caution this juror not to mention anything about the comings and goings of the defendant?

THE COURT: Right. In fact, do you have any belongings in the jury room?

JUROR NO. 96: (Indiscernible).

THE COURT: Okay. So if you'd just head out this way, the bailiff will escort you out, and you don't have any conversations with any of the members of the jury. Okay? All right. Thank you, sir.

Anything from the State before we continue?

MS. RUSSO: Our next witness is going to be Dr. Lynn McMillian, and we're offering her as an expert. I didn't know if Ms. Inzerillo wanted to (indiscernible) pretrial (indiscernible) the testimony before we brought the jury in.

MS. INZERILLO: No, Your Honor, not at this time.

THE COURT: Okay. Anything from the defense before we bring them in?

MS. INZERILLO: Your Honor, does the Court wish to address the jury charges and the verdict form at this point?

THE COURT: I'd rather -- if it's okay, let's get the witnesses done and have a discussion with your client about whether he wants to testify. And then once we know

where we are, that may bring us around lunchtime, and we can cut -- you know, the jury can be eating their pizza while we talk about that stuff.

MS. RUSSO: Ms. Inzerillo and I (indiscernible) verdict form, and she has a few objections and (indiscernible).

THE COURT: Perfect. All right.

All right. Let's bring them in.

(The jury entered the courtroom at 9:40 a.m.)

JUROR ISSUE

THE COURT: All right. Welcome back, ladies and gentlemen. Were you-all able to follow the instructions I gave you overnight?

JURORS: (Indiscernible).

THE COURT: Okay. Well, I appreciate that, and I appreciate y'all being so prompt today.

Mr. Lockman, Juror No. 158, can you raise your hand, sir? Okay. Mr. Lockman, as you probably realize and y'all sent me a note this morning, Juror No. 96, Mr. Feiner, he had a trip to leave for, so I have excused him, and the clerk has randomly selected between the two alternates. So, Mr. Lockman, you are no longer an alternate. You're on the principal jury.

All right. The State can call your next witness.

MS. JOYNER: Thank you, Your Honor. The State calls

Dr. Lynn McMillian.

Would you ask Dr. McMillian to come in?

LYNN McMILLIAN,

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

DIRECT EXAMINATION

BY MS. JOYNER:

Q Good morning, Dr. McMillian.

A Good morning.

Q Can you please state your full name for the record.

A Lynn McMillian.

Q And, Dr. McMillian, what is your current occupation?

A I'm a social worker. And I have been a social worker for over 42 years. I retired last year from the University of South Carolina Upstate as a director for the Center of Child Advocacy Studies. I currently work part time at the Children's Advocacy Center in Spartanburg, and I also work for USC College of Social Work in the field education office, and I do some licensure (indiscernible).

Q Could you please tell the jury a little bit about your educational background?

A Again, I'm a social worker. I hold three academic degrees. My doctorate is in social work from the University of South Carolina. Also my master's degree in social work from the University of South Carolina. And I

hold a bachelor's degree in social work from East Carolina University in Greenville, North Carolina.

THE WITNESS: May I get some water?

MS. JOYNER: Oh, yes, ma'am.

THE COURT: There should be a pitcher there, Doctor.

BY MS. JOYNER:

Q You had some oral surgery yesterday?

A I did.

Q Doing okay today?

A I feel great. Thank you.

Q Now, you mentioned social work. And people might have a particular idea of what social work is. In general, your job experience in social work, you have mentioned a number of places that you've worked. Can you explain to the jury about what those particular jobs entailed?

A Yes. As a social worker, I have worked a lot of years with adults. Normally, the vulnerable populations is who social workers work with. And to be called a social worker in South Carolina, under the Social Work Practice Act, you must hold degrees in social work and be appropriately licensed by the State to practice.

So I have worked with adults in the medical field. I have worked with adults in the psychiatric arena, inpatient psychiatric care, and community mental health.

And off and on for the past 20 years, I have worked with children and their parents through the Children's Advocacy Center, and these are children who have had histories of trauma.

Q All right. I'm going to circle back to some of that experience, but you hit on licensing. And please tell the jury about any particular professional licenses you hold and certifications.

A Certainly. I'm a licensed independent social worker for clinical practice for the State of South Carolina. I'm inactive with my license in North Carolina as a licensed clinical social worker. And to be eligible for that, you have to have, again, an advanced degree in social work, have the general licensure, which is the one you get upon graduation or -- but you have to take an exam. And for the license independent, you have to have two years of clinical supervision by an approved supervisor, and then take another exam, and then you can practice.

And so I also now supervise social workers getting that advanced practice, and that's another level of certification.

Q And you had mentioned work at the Child Advocacy Center. Are you still part time at the Child Advocacy Center?

A I am still part time there, yes.

Q And as part of your current job, do you work as a multidisciplinary team coordinator?

A Correct. I facilitate our weekly staffings that we have around our particular cases, and that involves community partners, somebody else who is involved with a particular case, the folks from the advocacy center -- it may be a therapist, it may be a forensic interviewer -- and staff those cases. And I lead that.

Q And that staffing would revolve around cases that are allegations of sexual abuse (indiscernible)?

A Allegations of sexual abuse, allegations of physical abuse, allegations of sex trafficking.

Q And you had mentioned that you had retired from the University of South Carolina. What were you doing at the University of South Carolina?

A I was -- initially was hired as an adjunct and then I was faculty member, and then I was the director for the center for child advocacy studies. USC Upstate has a minor in what's called child advocacy studies, and it pairs with other degrees like psychology, criminal justice, education, and it's additional coursework people to get -- take to get a minor. And I taught in that and hired the faculty and supervised that program.

Q And in teaching those persons, would you -- as part

of your course teaching, did you teach about sort of dynamic (indiscernible)?

A Yes. Yes.

Q And would those include things such as delayed reporting and grooming?

A Yes, it would.

Q And would it also include teaching about the risk factors of child sexual abuse?

A Yes, it would.

Q And how long have you been a social worker?

A Over 42 years.

Q And how long has your work involved working with children?

A Off and on, over the last 20-some.

Q And how long has your career involved teaching about -- in the child advocacy arena about topics we just discussed?

A I was at USC Upstate in that program for ten years, and -- then I have taught in the social work program at USC for a few years before that.

Q In addition to teaching students at the University of South Carolina, have you ever presented on the topics of delayed reporting, grooming, or the risk factors of sexual abuse?

A Yes. I was a trainer for our Child Protection

Training Center at USC Upstate, and I routinely trained on that to all various professionals and the public. I also was a trainer for Darkness to Light stewards of children and mandated reporting. And I was the interim director for the Child Protection Training Center for a period of time in between directors.

MS. JOYNER: Your Honor, at this time, we would often Dr. McMillian as an expert in child sexual abuse, to include delayed reporting, grooming, and the risk factors of child sexual -- child sexual abuse dynamics.

THE COURT: Any objection, Ms. Inzerillo?

MS. INZERILLO: Your Honor, may I just ask the doctor a few questions?

THE COURT: You may.

MS. INZERILLO: And may I ask the solicitor to repeat the specific areas?

MS. JOYNER: Delayed reporting.

MS. INZERILLO: Okay.

MS. JOYNER: Grooming and risk factors of child sexual abuse.

VOIR DIRE EXAMINATION

BY MS. INZERILLO:

Q Dr. McMillian, you had indicated that you worked with adults and children. Does that include teenagers as well?

A Oh, yes.

Q Okay. And have you done any research in this particular area or is it basically the experience that you have described?

A I have done research. I have done my own research, and I participated in some other studies as well.

MS. INZERILLO: Your Honor, I have no objections to her qualifications.

THE COURT: All right. Ladies and gentlemen, I'm going to ask y'all to retire to the jury room for a brief moment while I talk to the lawyers for a second.

(The jury exited the courtroom at 9:50 a.m.)

MOTIONS/MATTERS OF LAW

THE COURT: I just wanted to ask about the third area. Obviously, she's going to be qualified as an expert in child sexual abuse dynamics and grooming and delayed reporting, but the risk factors, that concerns me. What exactly is the testimony going to be about risk factors?

MS. JOYNER: I think -- and I can actually proffer the testimony, if that's okay.

THE COURT: Sure.

MS. JOYNER: In general, it would be things like poverty, single-parent households, parents being gone, working a lot, stuff like that.

THE COURT: I'm not inclined to allow that because

it just -- I mean, that to me is saying that this particular victim is more likely to be the victim of sexual abuse if these things -- I mean, that makes me really uncomfortable. Is there case law saying that's permissible?

MS. JOYNER: There has been (indiscernible) --

THE COURT: I mean, I know there's recent cases about the grooming and about delayed reporting, and I'm 100 percent okay with that. But that -- the risk factor is new to me.

MS. JOYNER: There is a case. I have it -- I'm sorry; I'm just not sure which --

THE COURT: Okay.

MS. JOYNER: So *State vs. Aker* (ph) --

THE COURT: Hold on one second. Let me pull that up.

MS. JOYNER: That is 435 S.C. --

THE COURT: Just one second; my internet is being a little slow.

MS. JOYNER: And I can just hand this up --

THE COURT: Oh, you have if a copy. That would be great. Thank you. Appreciate that, Ms. Joyner. Thank you.

MS. JOYNER: And I'll tell the Court that that's a Court of Appeals opinion. The (indiscernible) was -- has

been granted. And I have -- but I don't think that prohibits me from citing to it, but I did (indiscernible) the Court --

THE COURT: Well, I appreciate that.

MS. JOYNER: And it's just mentioned as an area that she offered testimony to.

THE COURT: What's the relevance of the risk factor testimony?

MS. JOYNER: I believe the relevance is just going to be that -- the certain factors that I was zeroing in on, first, (indiscernible) factors that would be offered, not specific to our case. But -- and I don't know. We would be looking at the kind of idea of isolation, that she was sort of -- her mother was gone and working a lot, the sort of things that would make her vulnerable.

THE COURT: No, I guess I mean in more general terms. What is the relevance of the -- you know, relevance is -- makes a material fact more or less likely. What's the relevance of any risk factor in determining whether or not this defendant did these things with this victim?

MS. JOYNER: I think it goes more to explaining in the general context. I mean, the way the child sexual abuse happened is so and generally counterintuitive, that you (indiscernible) and I think understanding why -- what

things make children vulnerable to the abuse -- what can make them vulnerable to the abuse, puts this abuse in a greater context. But they're already going to hear about this idea that the child has delayed reporting and all the different factors that might contribute to that delay in reporting.

THE COURT: Right.

MS. JOYNER: And I think that those risk factors of child sexual abuse sort of go hand in hand with that idea of grooming.

So, to me, it's a full picture that [redacted] is behaving in a way that is counterintuitive or in that a victim may behave in a way that is counterintuitive, and there are these things that may make them more vulnerable. We would be offering the testimony in a general way that that's what we believe we have to do, that does not point specifically to our victim or her circumstance but the consideration for the jury as a whole.

MS. RUSSO: Your Honor, I think, though, that if the Court is uncomfortable -- and I know that -- I think that I can bring out most of that testimony through a discussion of grooming and perhaps just calling it something different may put the Court's -- put the Court at ease.

THE COURT: What concerns me is hypothetical

testimony saying children that fit into these categories are more likely to be abused or more vulnerable to being abused, like poverty or whatever the other factor -- I mean, I don't know what the factors would be, but that kind of testimony seems to me to be saying to the jury, if these boxes are checked, you should believe the victim or it's more likely the victim is telling the truth. And that, to me, is tough. That's...

MS. JOYNER: I'll tell the Court, (indiscernible) relevant, but...

(Indiscernible) the Court -- the trial Court and the Court of Appeals did agree that all of the subject matter of Shawna Galloway's testimony was relevant to sort of lay the general framework of sexual abuse. But if the Court wishes for me just to discuss it within the context --

THE COURT: Let's limit the testimony to, you know, why delayed disclosure happens. And the grooming behavior, I think that's fairly standard testimony. But especially given that certs been granted on Akerman, let's not get into factors that make victims more liable or vulnerable to abuse.

MS. JOYNER: Okay.

THE COURT: All right. Ms. Joyner, I appreciate you providing Akerman. Do you need it?

MS. JOYNER: Well, I'll take it back if you don't

need it.

THE COURT: No. Thank you, ma'am.

MS. JOYNER: I'm not sure if I put the cite on the record.

Court Reporter, did I put the cite on the record?

COURT MONITOR: No.

MS. JOYNER: It was 4 (indiscernible).

THE COURT: All right. Let's bring them back in.

Just for the record, the field of expertise is child sexual abuse dynamics; is that correct?

MS. RUSSO: (Indiscernible) delayed reporting and grooming.

THE COURT: Okay.

(The jury entered the courtroom at 9:59 a.m.)

THE COURT: All right, ladies and gentlemen. This witness has been qualified as an expert in child sexual abuse dynamics, which includes grooming behavior and delayed reporting. And as I have said to you with other expert witnesses, it doesn't mean you have to believe the expert. You should evaluate her testimony in the same way you evaluate other witness's testimony, but it does mean she's allowed to give her own opinion, which other witnesses are not allowed to give.

CONTINUED DIRECT EXAMINATION

BY MS. JOYNER:

Q And, Dr. McMillian, when you go about studying child sexual abuse and the dynamics of child sexual abuse, is that type of area different than, say, medical science where you can actually test out -- like, conduct tests to determine the answer?

A They do maybe surveys. I wouldn't call that testing in the same kind of way as medical testing.

Q You can't abuse a child or test (indiscernible)?

A That is correct.

Q And in your field, are studies done -- like retrospective studies done to look at these sort of dynamics and behaviors of child sexual abuse victims?

A Both the retrospective and current. So a particular clinic, a mental health clinic, a substance abuse clinic, a child advocacy study, child advocacy center, they conduct their own surveys and the use that as data, but also, a lot of the information comes from adults retrospectively about their childhood experiences, and that may come from the general public, that may come from clinics, hospitals, a variety of settings.

Q And (indiscernible) people within the field who deal the child sexual abuse, would that be considered a multidisciplinary field?

A It is a multidisciplinary field, that is correct.

Q Counselor and social workers and --

A Medical professionals.

Q And within the field -- this multidisciplinary field of people who deal with child abuse and specifically sexual abuse, is there a topic or a concept called delayed reporting --

A Yep.

Q -- that is --

Has that concept been accepted and peer-reviewed as a behavior that you will see sometimes in child sexual abuse victims?

A Yes, and you'll see in the literature as well, delayed reporting or delayed disclosure.

Q Can you tell the jury what is meant when we use the term "delayed reporting"?

A Well, delayed reporting -- reporting sounds like a word that you would report to an authority figure, whereas delayed disclosure -- disclosure just means telling. So a child may -- or an adult may tell somebody they know. It may not necessarily be somebody in authority.

Delayed just means that they didn't tell it right away about what happened to them, what their experience was. And what we know is that most children never tell as children. Some people never tell at all. So, again, that's why a lot of our data comes from adults who are looking back over their childhoods and providing

information. But most children never tell as children.

Q Now, within the field, are there certain factors that are considered to contribute to the delaying of disclosure?

A Yes, there is.

Q Can you please tell the jury what some of those factors are?

A Well, again, we know that most children know their offender in some manner. It may not be a family member. It may be a family member. It may be somebody in the community. But it's somebody that they know and usually somebody that they trust.

So when there's a decision to be made about telling about something that may be happening to them, they may feel like they do not want to interfere with any relationship, somebody else in their family may have, or they may not want to interfere with their relationship, and they're willing to tolerate the abuse over possibly getting somebody in trouble or fracturing relationships in the family or in the community, so they may not tell.

Q Is that true of -- and we're using the word "child," but a child of all ages? I mean --

A I consider children anywhere up to age 18. And it still may apply to adults, but it's really been -- the word has really been used for children.

Q So with that idea that a child victim may know their abuser, is it uncommon to see a child actually still love and care for their abuser?

A Absolutely, yes.

Q And why is that?

A Well, again, they usually know their abuser, and it's something they usually have had a trusting relationship with at some point. So they may not like what's happening to them, but they still may have feelings for that person. And I say feelings means they may just care about them as a person or care about them as somebody who they know their family or be somebody in the community, and that may be maybe from our younger children.

When you get to teenage children, it could be that the feelings that they have for them may be more of a romantic love or a romantic kind of feeling and feel like they're in an intimate relationship with that person versus an authority figure who might be abusing them.

Q And where that person is a family member, is it uncommon to continue to see a child love their family member?

A Yes. I mean, that's common, yes.

Q And I forgot to ask earlier, Dr. McMillian, other than knowing that this case involves a teenager, do you

know anything else about the facts of this case?

A I know nothing about the case.

Q And you don't know anything about who the alleged perpetrator is to the victim?

A I do not, no.

Q Now, going in -- I want to talk to you about grooming. Grooming is a term that people might have heard but they may not have exactly the right idea of what that is. Within your field, what does the term "grooming" mean?

A Grooming basically means preparing a child to be abused. And I think the term "grooming," we usually see it or have more or seen it, like, around online predators who may be trying to connect with kids online, in that grooming kind of behavior.

We see it much more, though, in the actual face-to-face world as well. And grooming means preparing a child to be abused. Usually an offender has targeted a child initially. And then they have to have access to that child. So grooming applies not just to grooming the child to be a part of the sexual activity but also to groom whoever they need to groom to get access to that child.

And if they know the family or they're a friend of the family or somebody in the community who may have

access to the family, they get access to the family to get access to the child. So they may start the grooming behaviors by befriending the family, befriending them, being there when they need them, filling gaps in the family's life. Sometimes that's financial, sometimes that's just being present, being the fun person to be around. And the grooming behaviors may be a little bit different if it's a child versus -- I mean, a younger child versus a teenager.

With young children, it may be more a playful kind of thing to get the child used to them being around and getting used to maybe touching, non-sexual kind of touching to get the child used to them being close to them. And for a teenager, it may be that they're drawing them out more to be, you know, "Nobody really understands you. You need somebody to talk with. You need a friend." And they may be able to draw that teenager out, trying to pull them toward a more mature level to make them feel like they're the person that really understands them.

So, again, it's very strategic, and it's really about manipulation.

Q So would grooming look different in each individual case based upon the age of the victim and the circumstances of the offender?

A Yes. I think there would be similarities, but I

think it would be very specific and targeted for that particular child.

Q So in addition to building a relationship between the offender and the child, is there any component of grooming that has sort of a rewards and punishment type of factor?

A Well, it could be rewards. It could be rewards in special treats or, you know, or it could be financial or special outings, something like that. Again, they're specific to the child. And I think that's usually where offenders are going to start, rather than threats. And so they'll start to draw them in with -- but, again, it's knowing that child and manipulating that child in getting them what it is they think would be something that child would like to have.

Where some of the threats may come in is if they -- the whole point of grooming is to not get caught. The whole point of grooming is to -- for the child never to disclose. Or if the child does disclose, they're not believed.

And so part of that developmental relationship with them, that can turn if they think the child is going to disclose or might disclose. Again, it might (indiscernible) but it might be, "You know I'm the one closest to you. Nobody is going to believe you. They're

going to believe me," especially if they have built up a strong relationship with the family, again, through however they know the family or in the community. And they are going to rely on that child keeping quiet. So they want to avoid the child disclosing and they want to avoid getting caught. And if they do get caught, they want it to be that they're believed and not the child.

Q So then does grooming continue even after the sexual abuse has begun?

A Oh, it continues ongoing because I think they have to keep the child compliant.

Q Thank you very much, Dr. McMillian. Please answer any questions that Ms. Inzerillo has.

THE COURT: Ms. Inzerillo?

MS. INZERILLO: May it please the Court, Your Honor?

THE COURT: Yes, ma'am.

CROSS-EXAMINATION

BY MS. INZERILLO:

Q Good morning, Dr. McMillian.

A Good morning.

Q Okay. So you have not talked to anybody in this case; correct?

A Correct.

Q Okay. You have not interviewed the alleged perpetrator?

A I have not.
Q The alleged accuser?
A I have not.
Q Okay. Or any other witness in this case?
A Correct.
Q Right. Okay.
The only person you have talked to is someone from the solicitor's office?
A Correct.
Q Okay. And they asked you to come here today to testify about child abuse -- sexual abuse dynamics?
A Correct.
Q Okay. And in order to -- in exchange for that, you get paid by them to do that?
A Correct.
Q And you charge $100 an hour?
A I do charge $100 an hour.
Q Okay. And how many hours have you put into this case?
A Whatever time I got here.
Q Whatever time you got here?
A I charge for when my door -- when my feet hit the door. That's how I charge.
Q Okay.
A $100 an hour. It's a two-hour minimum plus mileage.

Q Okay. So we're about more than $200 at this point?
A It should be $200 plus mileage.
Q Plus mileage. Okay.
A Unless I'm going to be here a very long time.
Q Okay.
A I'm not charging for my prep time.
Q Okay. And historically, you testified more for the State than for anyone else; would that be a fair statement?
A I have always testified for the State although I have been subpoenaed by the defense. They just never put me on the stand.
Q Okay. On the -- I want to start with the -- to kind of suss out the nature of the research in your field. And Ms. Joyner sort of touched on that, but your field is a bit different because you can't do the normal scientific research that we're all taught in school; correct? You can't take -- you can't abuse children to see how they'll react; right?
A Correct.
Q Okay. And so the majority of the research in your field is based on whatever a child discloses happened to them?
A Well, it's more than that.
Q Okay. But that's a lot of it. That's where you

start?

A You start with -- well, we start whatever you start, depending on what the research is about. It may be that the research is on the far end of -- if you're familiar with Adverse Childhood Experiences, the ACEs, it is about categories of negative experience that children have in childhood that have long-term later negative health and mental health issues. That is very scientific from the medical field --

Q Sure.

A -- on those. And so that then becomes more retrospective, but there's a lot of science behind that study. With that said, no, we don't abuse children to measure anything afterwards.

Q Because I think you mentioned earlier there's a lot of surveys?

A They may be surveys around mental health issues and some of that may go back into any childhood experiences the child has had. There's a lot of connections with that.

The ACEs that came out in the late '90s was out of Kaiser Permanente health in California, and that has been ground-breaking research with a very scientific base because they have followed people from childhood, adulthood when they -- well, actually from adulthood into

old age and death, and there's been a lot of science behind that from the medical community and the psychiatric community.

Q And I believe you mentioned that really no two cases are the same.

A Similar.

Q Similar.

A But we always have to respect that everybody --

Q Absolutely.

A There are nuances to every person.

Q Absolutely.

So, for example, some of this could depend on a family dynamic or a community dynamic?

A It could.

Q And within that family or community dynamic, if there were punishments given, then that would -- how punishments are given and whether they're given could depend on a family dynamic or a community dynamic?

A I'm not sure what you mean by punishments.

Q Well, you had mentioned that sometimes the -- grooming can come in the form of punishments.

A I don't think I used that word.

Q Okay.

A So I'm not sure...

Q Okay. I think Ms. Joyner has used that word, so I

misstate what you say, I don't mean to do that. Okay?

So you wouldn't see that it way?

A I'm not using the word "punishments." I don't use that, and that's not in the literature.

Q Okay. All right. And the financial incentives would be the same?

A Could be.

Q Okay. In terms of delayed disclosure, in general, a person can delay a disclosure through the factors that you described; correct? Or they could disclose late because they're lying?

A I -- it could be.

Q It could be.

And the --

A I will add that what we know about lying is generally that kids lie. We know that. Okay? False allegations are extremely low. Maliciously false allegations are extremely low. Most children we know that lie about sexual abuse lie in the form of withholding the information and not disclosing.

Q Okay. But there is that -- at least that possibility there?

A Small possibility, correct. And that research has held out for many years.

Q Okay.

MS. INZERILLO: Your Honor, I have no further questions.

THE COURT: Any redirect from the State?

MS. RUSSO: Just briefly.

REDIRECT EXAMINATION

BY MS. JOYNER:

Q Dr. McMillian, I think I used the word "punishment." Would you be more comfortable to say grooming can involve negative consequences for the victim?

A I'm sorry, I did not hear the word "punishment" at all.

Q Oh, I (indiscernible).

A It could be negative consequences. It could actually be threats.

Q Thank you.

MS. JOYNER: Nothing further, Your Honor.

THE COURT: Any recross?

MS. INZERILLO: No, Your Honor.

THE COURT: Any objection to excusing this witness from her subpoena?

MS. JOYNER: Not from the State, Your Honor.

MS. INZERILLO: No, Your Honor.

THE COURT: Thank you, ma'am. You can step down, and you're excused.

You may call your next witness.

MS. RUSSO: At this time, the State rests, Your Honor.

THE COURT: All right. Ladies and gentlemen, the State has rested their case, which means I have a few legal matters to talk about with the lawyers. So if you head back to the jury room, we'll call you back as quickly as we can.

(The jury exited the courtroom at 10:17 a.m.)

MOTIONS/MATTERS OF LAW

THE COURT: All right. Ms. Inzerillo, are you going to have any witnesses other than possibly your client?

MS. INZERILLO: No, Your Honor. No.

THE COURT: And have you had enough time to discuss with your client whether he wants to testify or not?

MS. INZERILLO: Your Honor, Mr. Hogan has just requested to speak with me briefly before he makes that decision.

THE COURT: Okay. Are you asking to speak privately in the holding cell?

MS. INZERILLO: Yes, Your Honor.

THE COURT: That would be fine.

MS. INZERILLO: And, Your Honor, at this time, just for efficiency's sake, I would go ahead and make -- move for a directed verdict and also renew all previous motions and objections.

THE COURT: Would you like argument on any of those issues?

MS. INZERILLO: No, Your Honor.

THE COURT: Okay. Motions are denied. Thank you.

MS. INZERILLO: Thank you, Your Honor.

MS. RUSSO: Just briefly, before their conversation, would you be willing to rule on what would come in for the purposes of impeachment? We talked about a case earlier. I don't have it with me; I apologize. But the *Lawton* case and (indiscernible) prior to the defendant testifying, that he would be able to take that into consideration in determining whether to exercise his fundamental right to remain silent.

And so I know you wanted to reserve the right to rule on whether that was (indiscernible) impeachment, and you may wish to do that before he (indiscernible) to exercise that right.

We have the letter that did not come in. There are some jail calls we turned over, in fact, but there were eight that we had identified specifically as being relevant and the defendant making statements. And there's additionally the video that we have not entered, but we do believe that would come in (indiscernible) impeachment.

MS. INZERILLO: Your Honor, may I respond briefly?

THE COURT: Yes, ma'am.

MS. INZERILLO: First, as to the jail phone calls, my understanding was the State would be precluded from using that due to the late discovery violation. So I would ask, even for impeachment, that he -- that they not be allowed to use that, even within impeachment.

Your Honor, regarding the letter that has not been put into evidence yet, it is our concern that we have not -- that the entire letter was not turned over to the State.

THE COURT: You mean there's parts of the letter that are missing from what the State has?

MS. INZERILLO: There are approximately two pages front to back that may be missing from this letter. And because Ms. Blevins did not -- while she was on the stand -- authenticate any letters or verify that -- and I'm not saying it's anything the State did. I have checked with Ms. Russo; she has the same letter that she turned over to us. But with concerns that this is an incomplete letter, I would ask that it not be used to question Mr. Hogan.

He has reviewed the letter, but he doesn't have an independent recollection of what is missing to be able to know if that would assist him in his testimony.

THE COURT: So his position is he knows two pages are missing but he can't tell what's on it, what they said

or what --

MS. INZERILLO: That's correct. He -- he has explained to me this morning that he feels the back two pages are missing. One of the reasons is because he always signs his letters.

THE COURT: That one is signed "Dad"; isn't it?

MS. INZERILLO: I don't think this one --

THE COURT: Or is that the other one from yesterday? Okay. Okay. All right.

MS. INZERILLO: So that would be my concern with this particular piece of evidence.

THE COURT: I'm going to let the State use the letter for impeachment purposes. I mean, I understand the defendant's position that it's a partial letter, but, I mean, the fact it's a partial letter doesn't mean it can't be used. I mean, if the State is withholding two pages, obviously, you can't do that, but, I mean, the State turned over what they have, so even if that's 8 of 10 pages or whatever, they can use what they have for impeachment.

MS. RUSSO: Your Honor, I mean, there was just the bag of (indiscernible). It's possible that there could be pages attached to it (indiscernible) but we're not aware of that.

THE COURT: Yes, ma'am. And you have turned over

everything; correct?

MS. RUSSO: We have turned over everything.

THE COURT: At this point, yeah.

MS. INZERILLO: And, Your Honor, again, I'm not saying that they have done anything intentional.

THE COURT: No, I understand.

MS. INZERILLO: It may have been --

THE COURT: And I think the same thing with the jail phone calls. I mean, the State's not offering it as evidence. They have rested. But, I mean, the defense is aware of them. If the defendant gets on the stand and testifies in a way that's inconsistent with things he said in the jail phone calls, I'm going to allow them to use for impeachment.

MS. INZERILLO: Okay. Just the eight that they isolated?

THE COURT: That's correct, yeah.

MS. INZERILLO: And was there a third thing, Ms. Russo?

MS. RUSSO: I did mention the video that we have not -- the interrogation video. There has been continuing issues with redactions. In the interest of time and justice, I think we will proceed without it. However, I do think it was (indiscernible).

MS. INZERILLO: May I ask Ms. Russo a question?

THE COURT: Yes, ma'am.

(Counsel confer off the record.)

MS. INZERILLO: Okay. That answered me.

Your Honor, may I have a few minutes to speak --

THE COURT: Yes, ma'am, you sure can.

MS. INZERILLO: Thank you, Your Honor.

THE COURT: Actually, let me do the colloquy with him, and then he can ask you questions about not only what he already has -- he can hear what I say --

MS. INZERILLO: Sure.

THE COURT: -- and then ask you questions about it. Okay?

DEFENDANT'S RIGHTS

THE COURT: All right. Mr. Hogan, I'm going to ask that you stand and be sworn by the clerk.

THE CLERK: Please raise your right hand.

MATTHEW HOGAN,

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

THE COURT: All right. Make sure we're on the record. All right. Mr. Hogan, at this time, I'm going to explain some of your rights to you. If you don't understand anything I say, please let me know. If you want me to explain anything in more detail, please let me know. Do you understand?

THE DEFENDANT: Yes, sir.

THE COURT: Okay. We have now reached the stage of the trial where you may present your defense. You have the right to claim the protection given to you by the Fifth Amendment to the Constitution of our country. That amendment says in part, "No person shall be compelled in any criminal case to be a witness against himself." This means you cannot be required to testify in this case. You have the right to testify on your own behalf. However, nobody can make you testify. This is a personal right, and no one can waive or give up this right except for you.

If you decide to testify, you'll be subject to the same rules that govern other witnesses, and you may be examined and cross-examined on any relevant issue in this case.

In addition, if you have any criminal convictions involving dishonesty or false statements or for crimes punishable by more than one year of imprisonment and I determine the probative value of admitting the evidence outweighs any possible prejudice to you, the solicitor will be able to introduce your record to attack your credibility.

If you decide to testify, this decision on your part must be freely, voluntary, and intelligently made with knowledge of the protections given to you by the

Constitution and the consequences of your decision to testify.

If you decide not to testify, I will instruct the jurors they cannot give the fact you did not testify any consideration whatsoever and that there is to be absolutely no prejudice to you because you didn't testify. In fact, I will instruct them that they may not even discuss in the jury room the fact that you did not testify.

It is left entirely up to you whether or not you testify. You may talk with your lawyer, family, or friends or anyone else, but the final decision is entirely up to you.

Do you understand what I have just explained to you?

THE DEFENDANT: Yes, sir.

THE COURT: Do you have any questions about what I have just explained?

THE DEFENDANT: No, sir.

THE COURT: Okay. Well, I'm going to let you go back and speak to your attorney, and then you can tell me your decision. Okay?

MS. INZERILLO: Thank you. And, Your Honor, just to clarify, just to remind Mr. Hogan, there is no prior record that can be used against him.

THE COURT: Thank you.

MS. INZERILLO: Thank you, Your Honor.

THE COURT: All right.

(A recess was taken from 10:25 a.m. to 10:52 a.m.)

THE COURT: Mr. Hogan, I know you have been talking with your attorney back there in the holding cells. Do you need any more time to talk to her?

THE DEFENDANT: I believe I'm fine, sir.

THE COURT: So have you made a decision about whether you're going to testify or not?

THE DEFENDANT: I believe, based off the discussions we had, it's best just to leave it as is and not testify.

THE COURT: Okay. Just so the record is very clear, so your decision is you want to use your Fifth Amendment right and not testify; is that correct?

THE DEFENDANT: Based off of the discussions we have had, I believe that's the best decision.

THE COURT: All right. Thank you, sir.

And just to clarify again, Ms. Inzerillo, the defense has no further evidence?

MS. INZERILLO: No further evidence, Your Honor.

THE COURT: Okay.

MS. INZERILLO: And I would -- I will rest on the record, Your Honor, but at this point, while the jury is out, I would again renew previous motions and renew directed verdict motion as well.

THE COURT: Directed verdict motion is denied, and I'm not going to change my prior rulings, but you're protected for the record.

So, Counsel, what I'm going to do is just -- I'm going to bring the jury in. I'm going to give Ms. Inzerillo a chance to call. She will rest. And then I'm going to send them back out. That way, they'll just know what's going on. And then we'll have our charge conference.

All right. Let's bring them in.

(The jury entered the courtroom at 10:54 a.m.)

THE COURT: All right, ladies and gentlemen. Thank you for your patience. As you know, the State has rested, so it's now the defense's turn.

So, Ms. Inzerillo, you may call your next witness -- first witness.

MS. INZERILLO: Your Honor, the defense rests.

THE COURT: Okay. Thank you, ma'am.

So, ladies and gentlemen, what that means is that you have heard all the evidence in this case. I know you're wondering what in the world is going on. I'm going to send you back to the jury room. This morning has actually gone a little bit faster and I anticipated. So what remains is my charge to you, which is my explanation of the law, and then the closing arguments of the

attorneys. And I need a few minutes to go over my explanation of the law and make sure I'm not making any mistakes. I have got to talk about that with the lawyers.

With that, I'm going to send you back to the jury room, but I wanted y'all to know what's going on. So you have heard all the evidence at this point. All that's left is my explanation of the law and then the closing arguments of the attorneys, and then it will be time to deliberate.

And I know, now that you have heard all the evidence, the temptation is going to be very great to go back there and start talking about the case. Please don't do that. Once you have heard the closing arguments and everything, that will be your time to deliberate.

At this point, you know, you're welcome to take a smoke break or go back there and you can talk about anything you want except the case. Okay?

Thank you, ladies and gentlemen. I'll see you back in a few minutes.

(The jury exited the courtroom at 10:56 a.m.)

CHARGE CONFERENCE

THE COURT: All right. So I know, Ms. Joyner, you said you had some changes to the proposed verdict form. What about --

MS. JOYNER: I emailed it to the clerk. We just --

Ms. Inzerillo and I, we got together. We noticed that the CSC third did not have the indictment numbers --

THE COURT: Okay.

MS. JOYNER: -- or the time periods listed. And Ms. Inzerillo did note there was somewhere -- there was, like, maybe just a cut and paste there that had an extra word.

THE COURT: Okay.

MS. INZERILLO: And I can clarify that, Your Honor. On the part of the Court's verdict form --

THE COURT: Slow down. So have y'all together come up with what you think an appropriate verdict form?

MS. JOYNER: While we were talking, I typed up some revisions, and I emailed them to your law clerk.

Did they come in?

LAW CLERK: Yes. And I just forwarded it.

THE COURT: Okay. So give me just a second.

MS. INZERILLO: Put in all the changes? Okay.

MS. JOYNER: Ms. Inzerillo hasn't had a chance to look at it because we just did it this morning. I sent it to your email.

And Ms. Inzerillo (indiscernible) it cross-references CSC with a second minor indictments to the time period, and I didn't --

THE COURT: Okay.

MS. JOYNER: -- (indiscernible) that.

THE COURT: So I'm now looking at the verdict form that we received from Ms. Joyner. Give me one second.

All right. Ms. Inzerillo, well, let me first ask Ms. Joyner -- actually, your co-counsel, is she --

MS. JOYNER: I told her that I would (indiscernible) forward but that she might have to step outside.

THE COURT: Okay. Any other suggestions or motions regarding the verdict form based on what you have sent to me, Ms. Joyner?

MS. JOYNER: No, sir.

THE COURT: Ms. Inzerillo?

MS. INZERILLO: Your Honor, if I could have just one moment to make sure...

THE COURT: Yes, ma'am.

MS. JOYNER: And that I did not make any additional typographical errors.

THE COURT: Okay. And my law clerk, who is an eagle eye, just caught -- there's one minor typo on paragraph 15. It says, "Criminal sexual conduct in the third." The word "degree" is missing. So we'll add that in.

But other than that, Ms. Inzerillo, just take a look and tell me if you have any...

MS. INZERILLO: Yes, Your Honor. I believe Ms. Joyner took out the changes I had.

THE COURT: So what we'll do, then, is we'll add "degree" in on paragraph 15. And Mr. Hughes will go ahead and make four copies of that. Okay?

And then -- okay. So now, looking at the jury instructions -- okay. As far as the State's concerned, is what you emailed me what the State would like to use?

MS. JOYNER: I only emailed the -- did I email --

LAW CLERK: I just emailed to you what I emailed them except the (indiscernible).

THE COURT: Right. Okay. So --

MS. JOYNER: I did have an additional request to charge I provided to Ms. Inzerillo.

THE COURT: Okay.

MS. INZERILLO: Your Honor, and I have two as well I have provided to Ms. Joyner.

THE COURT: Okay. So let's talk. Okay. So the first thing, currently -- okay, so we have got the defendant not testifying. That does stay in.

LAW CLERK: (Indiscernible).

THE COURT: Right. And I think we're going to remove the *Jackson v. Denno* charge because the statement was not used. So, yeah, statement of Defendant comes out.

Let's see. All right.

So let me just -- what y'all -- any objections to what the Court currently has from the State? I understand

you want additional charges, but as far as any problems with what the State currently has? Well, any problems with what the Court currently has from the State?

MS. JOYNER: I did wonder about the additional bad acts charge. I don't know that the evidence is (indiscernible). We might potentially bring that into play, but I don't think ultimately any of the testimony in this case --

THE COURT: My thinking there, though, is there was testimony about allegations of oral sex, which I don't think charged conduct.

MS. JOYNER: Well, the indictments say sexual battery.

THE COURT: Okay.

MS. JOYNER: And it does come under the definition.

THE COURT: Okay. So you're talking about the CSC third?

MS. JOYNER: Above incest, the additional bad acts language. But --

THE COURT: I think a lot of the indictments, aren't they specific to vaginal intercourse? I'm pretty sure they specify vaginal intercourse in the indictments.

MS. JOYNER: (Indiscernible).

THE COURT: Okay. Do you have the -- Madam Clerk --

MS. JOYNER: The indictment engaging in sexual

battery with a minor.

THE COURT: Okay. Let me see. You're exactly right.

Ms. Inzerillo, do you want the additional bad acts charge?

MS. INZERILLO: I don't, Your Honor. I think it's going to make the jury wonder if there was something else.

THE COURT: Gotcha. Okay. So take out additional bad acts. Take out the *Jackson v. Denno* charge.

Other than that, anything else the State would like removed or altered? And I understand you have additions, but outside the additions?

MS. JOYNER: We do have -- Ms. Inzerillo and I were discussing, with the language of incest --

THE COURT: Okay.

MS. JOYNER: Well, you know, actually, Your Honor -- I'm sorry -- your instruction is fine. We had (indiscernible).

THE COURT: Okay.

MS. JOYNER: So nothing (indiscernible).

THE COURT: Okay. And then same thing, Ms. Inzerillo; I understand you have some additions you would like. Outside of any objections with what the Court currently has?

MS. INZERILLO: Your Honor, I would object to the

Court's standard charge under the credibility of the witnesses.

THE COURT: Okay.

MS. INZERILLO: The section --

THE COURT: Hold on one second. Okay. I'm there. The one that says credibility and believability of witnesses?

MS. INZERILLO: Yes, Your Honor.

THE COURT: Okay.

MS. INZERILLO: The section -- the paragraph -- the last paragraph on page 6 going into page 7 --

THE COURT: Okay.

MS. INZERILLO: -- about a witness making a simple mistake doesn't mean that they're not telling the truth. So I would object to that paragraph.

THE COURT: That's standard charge language. I mean, is that -- I mean, you're basically telling the jury that if the witnesses made a statement that's contradicted by other evidence, doesn't necessarily mean they're intentionally intending to deceive the Court. I think that is correct; isn't it?

MS. INZERILLO: Well, Your Honor, my -- I don't see that in any other charges that I have reviewed, but I -- my concern is it might be misconstrued as a comment on, "Does the judge think the person is really lying or does

the judge think that maybe they just made a mistake?" And I don't think it advances or is necessary, I guess.

THE COURT: I'm going to overrule that objection. I'm going to keep it as is.

Anything else?

MS. INZERILLO: No, Your Honor.

THE COURT: Okay. So the State has an addition. The State would like me to also charge, under South Carolina Code 16-3-654, the words "force" and "coercion" have basically the same meaning. They mean to take a person follow a prescribed and dictated course or to inflict or impose or force one's will on someone.

And I appreciate you passing up the case as well.

I'm not sure that helps. It's a correct statement of the law. If the State wants to talk about this into closing, they're welcome to do that, but I think it adds -- it makes it wordier and I don't think -- I mean, you know, force and coercion is kind of overpowering someone's will without the use of force, I think. I think I'm going to keep it as-is, but, again, the State is welcome to argue this in closing if they think it clarifies the language, but it is a correct statement of the law.

Okay. So turning to the defense. The defense would like me to charge, "I further charge you that a defendant

is entitled to every reasonable doubt that may arise in the case. What that means is simply this: If you have a doubt about anything during the trial, you will be required to resolve that doubt in favor of the defendant. The very fact, however, that the jury engages in full and free discussion of guilt or not guilt does not automatically mean that reasonable doubt exists. You, the jury, must make the determination of whether or not reasonable doubt exists as to the guilt of the defendant. If you find the State has met..."

I think -- don't I already say if any element of it is not proven by -- beyond a reasonable doubt, you must acquit?

MS. INZERILLO: Yes, Your Honor, but I think this explains that if there is a -- any doubt that has to be resolved in favor of the defendant, it just clarifies that point.

THE COURT: I am not going to charge that language.

Okay. So the second request is, "The law makes no distinction between the weight or value to be given to direct or circumstantial. However, to the extent the State relies on circumstantial evidence, all the circumstances have to be consistent with each other and, when taken together, point conclusively" --

MS. INZERILLO: It should be, "Defendant's guilt,"

Your Honor.

MS. JOYNER: We would -- the State would suggest that a longer -- I think that she can (indiscernible) charge, but I think that is a little too short and it's a little confusing. If I can email the Court --

THE COURT: Well, I have already got -- and normally have a direct -- is it not -- I'm looking -- yeah, I already have a much longer direct versus circumstantial evidence charge.

MS. INZERILLO: And, Your Honor, my request would be that that -- trying to get to the page -- be added to that section.

THE COURT: Right. So, basically, the first phrase I already have, but the -- starting with, "However" until the end of the charge, that would be new language. I'm not opposed to -- so what additional language would the State like?

MS. JOYNER: Just a little bit longer and I can email it --

THE COURT: Sure. That's okay. Let me just -- I'll just pull it up in Westlaw. Give me a second.

Okay. So...

MS. JOYNER: I think that we'd like a longer -- "There are two types of evidence. There's direct and circumstantial. Direct" -- the definition of direct

evidence. The law makes no distinction.

THE COURT: And that's all already in my charge, though, isn't it?

MS. JOYNER: So, in looking, I think the Court has, "The law makes no distinction between the weight or value to be given to either direct or circumstantial evidence; however, to the extent that it relies on circumstantial evidence, the circumstances must be (indiscernible). (Indiscernible) guilty beyond a reasonable doubt. If these circumstances merely portray the defendant's behavior as suspicious, (indiscernible). The State has the burden of proving the defendant guilty beyond a reasonable doubt."

I don't think it's -- I think it's a little bit more. Can I email this to the Court?

THE COURT: Sure. I mean, I think almost all of that is already in my charge, though.

MS. JOYNER: (Indiscernible) a little bit about -- like, a little bit of a further explanation.

THE COURT: Sure.

MS. JOYNER: (Indiscernible) Ms. Inzerillo's quote in --

MS. INZERILLO: I don't have a problem with what you want to add.

THE COURT: Okay.

MS. INZERILLO: If it's merely suspicious, then it --

MS. JOYNER: Yes.

MS. INZERILLO: -- fails. And then stop there. I don't have a problem with that, Your Honor.

THE COURT: Okay. So let me -- I'm looking at the case now.

Okay. So tell me -- go ahead, Ms. Joyner.

MS. JOYNER: "To the extent that it relies on circumstantial evidence, the circumstances must be consistent with each other, and when taken together, (indiscernible) beyond a reasonable doubt. (Indiscernible) merely portray the defendant's behavior as suspicious, the proof has failed. The State has the burden of proving the defendant guilty beyond a reasonable doubt, and this burden rests with the State (indiscernible) the State relies on direct and circumstantial -- direct evidence and circumstantial evidence or a combination of the two."

THE COURT: Okay.

MS. JOYNER: And I'd just make it clear to the jury that the Logan charge, like, that part of it is applicable to the extent that the State relies on circumstantial evidence. That is --

THE COURT: Okay. I actually like that language.

I'll start using that in the future. We'll add all that in.

I will say, in this case, I'm not even sure if circumstantial evidence charge is warranted. I mean, both sides seem to want it, so I'll do it, but I mean, this is a very direct evidence -- I mean...

MS. JOYNER: I mean, we do have some circumstantial evidence but it's mostly corroborative, but we want to give the benefit of the doubt.

THE COURT: Okay.

MS. INZERILLO: Your Honor, if I just may have one moment just to isolate the language.

(Pause in the proceedings.)

MS. JOYNER: Your Honor, the language that I use -- I apologize -- it is from (indiscernible) which cites -- which explains *Logan*. I apologize.

THE COURT: Let me do this. Let me read what I have now for the whole circumstantial evidence charge.

The charge now reads, "There are two types of evidence which are generally presented during a trial: direct evidence and circumstantial evidence. Direct evidence is the testimony of a person who claims to have actual knowledge of a fact, such as an eyewitness, and it's evidence which immediately establishes the main fact to be proved. Circumstantial evidence is proof of a chain

of facts and circumstances indicating the existence of" -- I'm going to say "another." I'm going to add "another fact."

"It is evidence which immediately establishes collateral facts from which the main fact may be inferred. It is based on inference and not on personal knowledge or observation. The law makes absolutely no distinction between the weight or value to be given to either circumstantial or direct evidence, nor is a greater degree of certainty required of circumstantial evidence than of direct evidence. However, to the extent the State relies on circumstantial evidence, all of the circumstances must be consistent with each other and, when taken together, point conclusively to the guilt of the accused beyond a reasonable doubt. If the circumstances merely portray the defendant's behavior as suspicious, the proof has failed."

MS. JOYNER: I like the language.

THE COURT: Okay. And I have got one more little paragraph here. "The State has the burden of proving the defendant's guilt beyond a reasonable doubt. This burden rests with the State regardless of whether the State relies on direct evidence, circumstantial evidence, or some combination of the two. You should weigh all the evidence in the case. After weighing the evidence, if you are not convinced of the guilt of the defendant beyond a

reasonable doubt, you must find the defendant not guilty." And that's the whole circumstantial evidence charge.

Was there anything -- additional language the State would like added to that?

MS. JOYNER: No, Your Honor.

THE COURT: Okay. Any other charge request from the defense?

MS. INZERILLO: No, Your Honor.

THE COURT: Okay. Well, that will be the charge then.

Okay.

MS. JOYNER: We may (indiscernible) remaining witnesses?

THE COURT: You may release any remaining witnesses. Both sides have rested, so you may release everybody. All witnesses are released, and no one is sequestered.

MS. JOYNER: (Indiscernible)?

THE COURT: Certainly not. We're going to have print out copies.

JURY QUESTION

THE COURT: We have a note? Is it asking when the pizzas are going to be here? Let's see. The jury wants a smoke break. Okay. They just got back from a smoke break?

THE BAILIFF: Yes, a few minutes ago.

UNIDENTIFIED SPEAKER: Judge, I would say -- I don't want an angry jury.

THE COURT: Okay. So why don't we tell the jurors we'll come back with my charge and closing argument at 11:30, that we be ready to go by 11:30. But, yes, they can take a smoke break.

So do they mean they want another one?

THE BAILIFF: What they do was they run and smoke and then (indiscernible) lengthy discussion (indiscernible).

THE COURT: Okay. So they have already had the smoke break. Okay. So then we're good.

MS. JOYNER: (Indiscernible).

THE COURT: No, we're going to -- as soon as Matthew can print these things out, four copies of each, we'll get rolling.

MS. JOYNER: Your Honor, we talked about telling them if they wanted (indiscernible).

THE COURT: Right. I'll tell them that, yeah. Thank you.

(A recess was taken from 11:17 a.m. to 11:22 a.m.)

THE COURT: All right. State ready for charge?

MS. RUSSO: Yes, Your Honor.

THE COURT: Defense ready?

MS. INZERILLO: Yes, if Mr. Keifer will be allowed

to enter.

THE COURT: Oh, sure. I'll wait. Yeah, I don't want to...

And then, just so we're all on the same page, my understanding, this is the old rule, since the defense did not put on any evidence, that it would be the State would close in full, followed by defense close in full with their reply. Is that everyone's understanding?

Okay. All right.

Let's bring them in.

Counsel, do y'all have copies of the verdict form and the charge?

MS. RUSSO: Yes, Your Honor.

THE COURT: Okay. Thank you.

MS. INZERILLO: Your Honor, to answer your question: I did not. Did you resend it?

THE COURT: No, the paper copy. You should have a paper copy.

MS. INZERILLO: Oh, the paper. Okay. I see it right here. Okay. Thank you, Your Honor.

(The jury entered the courtroom at 11:23 a.m.)

THE COURT: All right, ladies and gentlemen. Again, thank you for your patience. What's going to happen now is I am going to give you my charge, which is my explanation of the law, and then you will hear the closing

arguments of the attorneys.

So, ladies and gentlemen, I do apologize in advance. If you have ever taken a public speaking class, I'm sure your teacher told you, when you're speaking to a group, don't read from your remarks, try to make eye contact. I have to break that rule today. It is important that I give you these jury instructions correctly and not make mistakes in them, so I will be reading a lot from this, and I apologize for that in advance.

But with that said...

JURY CHARGE

THE COURT: Madam Foreperson and members of the jury, you have now heard all the evidence in this case, and you will soon hear the closing arguments of the parties. Right now, I'm going to explain to you the rules of law that you must follow and apply in deciding this case. When I have finished, you will hear the arguments and then go to the jury room and begin your deliberation.

I am going to give you a written copy of these instructions. During your deliberations, you may refer to them to guide your decision-making, but you must consider all of these instructions as a whole and not follow some and ignore others.

Your decision must be based only on the evidence presented. You must not be influenced in any way by

either sympathy for or prejudice against anybody.

The indictments in this case charge the defendant, Matthew Joseph Hogan, with the following crimes: One count of incest, 12 counts of criminal sexual conduct with a minor in the second degree, and two counts of criminal sexual conduct with a minor in the -- I'm sorry, two counts of criminal sexual conduct in the third degree, not with a minor.

As I told you at the beginning of the case, these indictments are simply the formal written instruments which contain the charges against the defendant. They are accusations only, and the fact the defendant was arrested, charged, and indicted is not evidence and cannot be considered by you as evidence of guilt nor does it create any presumption or inference of guilt.

Multiple charges. Ladies and gentlemen, the indictments in this case allege more than one offense against the defendant. Each indictment charges a separate and distinction offense. You must decide each indictment separately on the evidence and the law applicable to that charge, uninfluenced by your decision as to any other indictment. The defendant may be convicted or acquitted on any or all of the offenses charges -- charged. You will be asked to write a separate verdict of guilty or not guilty for each indictment.

Presumption of innocence. The defendant has pled not guilty, and that plea puts the burden on the State to prove him guilty beyond a reasonable doubt. A person charged with committing a criminal offense in South Carolina is never required to prove himself innocent. I charge you that it is an important rule of law that the defendant in a criminal trial, no matter how serious the charge, is always presumed to be innocent of the crime for which the indictment was issued unless the defendant's guilt has been proven by evidence satisfying you, the jury, of that guilt beyond a reasonable doubt. Presumption of innocence does not end when you begin your deliberations but follows the defendant throughout the trial until you reach a verdict.

This presumption of innocence is not a mere legal theory or legal catch phrase. It is a substantial right to which every defendant is entitled unless you, the jury, are satisfied from the evidence of their guilt beyond a reasonable doubt.

So what is reasonable doubt? Some of you may have served on juries in civil cases where somebody was suing someone for money damages, and you would have been told it's only necessary to prove a fact that's more likely true than not true, such as by the greater weight of the evidence. In a criminal case like this one, the State's

proof must be more powerful than that. It must be proof beyond a reasonable doubt.

Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant's guilt. Now, there are very few things in this world that we can know with absolute certainty, and in criminal cases, the law does not require proof that overcomes every possible doubt. If, based on your consideration of the evidence, you are firmly convinced the defendant is guilty of the crimes charged, you must find the defendant guilty. If, on the other hand, you think there's a real possibility the defendant is not guilty, you must give the defendant the benefit of the doubt and find him not guilty. Put another way, a reasonable doubt is the kind of doubt that would cause a reasonable person to hesitate to act.

Duties of the judge and the jury. I remind you that, during this trial, you and I had certain duties to perform. As the trial judge, it is my responsibility to preside over the trial of the case and to rule on the admissibility of evidence. You are to consider only the evidence before you. If there was any testimony that was ordered stricken from the record, you must disregard that testimony.

You are to consider only the testimony which has been presented from the witness stand, any exhibits which

are part of the record, and any agreements or stipulations of the attorneys. I have the additional duty to charge you on the law applicable to this case, which I am doing now. As the presiding judge, I am the sole judge of the law in this case, and it is your duty as jurors to accept and apply the law as I now state it to you. If you already have any idea as to what the law is or what you think it ought to be and that does not agree what I'm now telling you, you must abandon your idea because you are sworn to accept the law and apply it exactly as I explain it to you.

In every case in this court tried before a jury, you, the jury, are the sole and exclusive judge of the facts. As the trial judge, I cannot intimate or comment on or state or make any comment regarding the facts to a trial jury. Since you are the sole judge of the facts, please do not infer from anything I have said during the trial in ruling on evidence or anything else or anything I'm now saying that you have an opinion about the facts in this case. The law does not permit me to have any opinion about the facts. That is a matter solely for you, the jury, to determine. As jurors, it is your duty to determine the effect, the value, the weight, and the truth of the evidence that you heard.

Objections by attorneys. From time to time, you

heard the attorneys make objections. In reaching your verdict, you should not consider the objections or my rulings on them. You should not hold any objections made against either party.

Evidence. As I said before, you must consider only the evidence that I have admitted in this case. Evidence includes witness testimony and exhibits. Again, please do not assume from anything that I have said that I have any opinion about the facts. In fact, except for my instructions I'm giving you right now, you should disregard anything I have said during the trial in arriving at your own decision about the facts. Your own recollection and interpretation of the evidence is what matters. In considering the evidence, you should use your reason and common sense to make deductions and reach conclusions.

Direct and circumstantial evidence. There are two types of evidence which are generally presented during a trial: direct evidence and circumstantial evidence. Direct evidence is the testimony of a person who claims to have actual knowledge of a fact, like an eyewitness. It is evidence which immediately establishes the main fact that's trying to be proved.

Circumstantial evidence is proof of a chain of facts and circumstances indicating the existence of some other

fact. It is evidence which immediately establishes collateral facts from which the main fact may be inferred. Circumstantial evidence is based on inference and not on personal knowledge or observation. The law makes absolutely no distinction between the weight or value to be given to either direct or circumstantial evidence nor is a greater degree of certainty required of circumstantial evidence than direct evidence.

However, to the extent the State relies on circumstantial evidence, all of the circumstances must be consistent with each other and, when taken together, point conclusively to the guilt of the accused beyond a reasonable doubt. If the circumstances merely portray the defendant's behavior as suspicious, the proof has failed.

The State has the burden of proving the defendant's guilt beyond a reasonable doubt. This burden rests with the State regardless of whether the State relies on direct evidence, circumstantial evidence, or some combination of the two. You should weigh all the evidence in the case, and after you weigh the evidence, if you are not convinced of the guilty of the defendant beyond a reasonable doubt, you must find him not guilty.

Arguments of attorneys. While the arguments of attorneys are very beneficial, you should remember that the arguments by the attorneys are not themselves

evidence. In presenting their arguments, the attorneys often refer to the evidence; however, you should base your verdict on the evidence as you remember it. If there is any conflicts between the recollections of the attorneys about the evidence and your own recollection, you should rely on your own understanding.

Believability of witnesses. When I say you must consider all the evidence, I do not mean you must accept all the evidence as true or accurate. You should decide whether you believe what each witness had to say and how important their testimony was. In making those decisions, you may believe or disbelieve any witness in whole or in part. The number of witnesses testifying concerning a particular point does not necessarily matter.

To decide whether you believe a witness, I suggest you ask yourself a few questions. Did the witness impress you as someone telling the truth? Did they have any particular reason to not tell the truth? Do they have a personal interest in the outcome? Do they seem to have a good memory? Did they have the opportunity and ability to accurately observe the things they testified about? Did the witness appear to understand the questions clearly and to answer them directly? Did the witness's testimony differ from other testimony or evidence?

However, please keep in mind that a simple mistake

does not mean a witness was not telling the truth as he or she remembers it. People naturally tend to forget some things or remember them inaccurately. So if a witness misstated something, you must decide whether it was because of an innocent lapse in memory or an intentional deception. The significance of your decision may depend on whether the misstatement is about an important fact or unimportant detail.

Expert witnesses. The Rules of Evidence ordinarily do not allow witnesses to testify about their opinions or their conclusions. Normally, a witness can only testify about what he or she saw or heard. An exception to this rule exists for expert witnesses, a witness who, by their education or experience or training, has become an expert in an art or science or profession or calling, is allowed to give their opinion on relevant and material matters in which they're an expert and may also give the reasons for their opinion.

You should consider any expert opinion received in evidence in this case, and like any other evidence, give it the weight you think it deserves. If you decide an expert's opinion is not based on enough education and experience or if you conclude the reasons given by the expert are not sound or that their opinion is outweighed by other evidence, you may disregard their opinion

entirely.

An expert witness's testimony should not be given greater weight than other witnesses simply because the witness is an expert. Further, you are not required to accept an expert's opinion even if it is not contradicted.

Defendant's decision not to testify. I instruct you and I emphasize that the fact the defendant in this case did not testify is not a fact to be considered by you in any way in your juror deliberations and in your consideration on the question of the guilt or innocence of the defendant. It must not be considered by you in any manner whatsoever.

A defendant in our country has the constitutional right to remain silent and the use of this right in court must not be considered by you in deliberations.

I repeat: Under your oath as jurors, you are to draw no conclusion whatsoever from the fact the defendant did not testify, and the fact the defendant did not testify should not even be discussed or mentioned in the jury room.

The first offense the defendant is charged with is one count of incest. On the verdict form, it is identified by the number 2020-GS-46-3820 in parenthesis. For this count, the prosecution must prove beyond a reasonable doubt the defendant purposely had carnal or

sexual intercourse -- carnal, meaning sexual intercourse -- with his daughter, [redacted], on or about or in between May the 1st of 2018 and May the 30th of 2020.

The defendant is also charged with 12 counts of criminal sexual conduct with a minor in the second degree. For each of these counts, the prosecution must prove beyond a reasonable doubt that: One, the defendant committed a sexual battery on [redacted] while she was older than 14 but younger than 16 years of age; and, two, at the time of the sexual battery, the defendant was either older than [redacted] or in a position of familial custody or official authority to coerce [redacted].

Sexual battery includes sexual intercourse, cunnilingus, fellatio, anal intercourse, or any intrusion, however slight, of any part of a person's body into the -- of any object into the genital or anal openings of another person's body except when it is accomplished for medically recognized treatment or diagnostic purposes.

The defendant is charged with 12 counts of this offense of criminal sexual conduct with a minor in the second degree. On the verdict form, they're identified by the numbers in the parentheses below.

April 27th, 2019, to August 19th, 2019, Indictment

2020-GS-46-3818:

on or about November the 4th of 2018, Indictment 1209;

on or about September 1st of 2018, Indictment 1211;

on or about December 22nd, 2018, Indictment 1212;

on or about December 24th, 2018, Indictment 1213;

on or about January the 13th of 2019, Indictment 1214;

on or about January the 18th of 2019, 1215;

on or about January the 27th of 2019, 1216;

on or about March the 22nd of 2019, 1217;

on or about March the 23rd, 2019, 1218;

and on or about April 26, 2019; 1219.

And then on or about or between May the 1st of 2018 and August 31st of 2018, 2023-GS-46-1471.

The defendant is also charged with two counts of criminal sexual conduct in the third degree. For each count, the prosecution must prove the defendant committed a sexual battery against [redacted] and used force or coercion to accomplish the battery.

Again, sexual battery means intercourse, sexual intercourse, cunnilingus, fellatio, anal intercourse, or any intrusion however slight of any part of a person's body or any object into the genital or anal openings of other person's body except when the intrusion is

accomplished for medically recognized treatment or diagnostic purposes.

The defendant is charged with two counts of this offense. They are identified with the numbers in parentheses below:

On or about May the 29th of 2020, Indictment 2020-GS-46-3819, and on or about or in between May the 1st of 2018 to May the 28th of 2020, Indictment 2023-GS-46-1469.

Fair and impartial trial. Madam foreperson and ladies and gentlemen of the jury, as you retire to begin your deliberations, I wish you accept the hope that each of you will be mindful of the importance of your responsibility. You are not called to serve as jurors very often, and the proper performance of your duty requires each of you to reach the height of freeing your mind of all improper influences.

As the presiding judge of this court, I am very concerned that whatever verdict you find will be the result of your going into that jury room and confining your consideration to the evidence and the law that you have heard in the courtroom, weighing it fairly and impartially, as I have every confidence that you will do.

Your verdict in this case cannot be based on sympathy or compassion or prejudice or emotion or any

consideration not found in the evidence. Remember, your verdict must be unanimous, meaning all 12 of you must agree as to the verdict on each count.

I will now explain the verdict form and possible verdicts. Ladies and gentlemen, this is the verdict form. There is a listing for each count charged, and for each one, there are two possible verdicts: guilty and not guilty. There is no significance whatsoever in the order in which I listed those two possible verdicts; it is simply one has to be listed first.

Ladies and gentlemen, again, your verdict must be unanimous. When the jury reaches a verdict, check the box for guilty or not guilty for each one. At the end -- and then the foreperson will sign at the bottom and date it, and then knock on the jury room door and let the bailiff know you have reached a verdict, and then we'll take you back into the courtroom. All right?

Ladies and gentlemen, a couple last bits of instructions before you hear from the attorneys. When you head back in the jury room, don't start deliberating just yet. Your signal to begin deliberation will be the evidence out here that you see, the pieces of paper that have be admitted into evidence. When the bailiff brings those back to you -- and he'll also bring back to you the verdict form and my instructions -- that is your signal

it's time to begin deliberations. Okay?

When you're deliberating, you can only deliberate when all 12 of you are in the room. So if someone has to use the restroom or someone wants to smoke a cigarette, that's totally okay, but you have to stop talking about the case when any one of you is missing. All 12 of you have to be present. All right?

And then, ladies and gentlemen, the very last thing I want to tell you, there are a few pieces of physical evidence in this case that involve bodily fluids and things like that. Okay? That's -- you know, the evidence we're talking about. I'm going to keep that evidence in the courtroom. You, as jurors, are entitled to examine the evidence if you want to. Obviously, you have to put gloves on, but if you feel like you want to examine the physical evidence, you can do that. But if you tell the bailiff you want to do it, we'll bring you back into the jury room, and you can handle the boxes and open them and the envelopes and handle the evidence. Okay?

With that said, ladies and gentlemen, I'm now going to turn the case over to these attorneys. The State has the burden of proof in this case, so they go first, followed by the defense.

Ms. Russo? Ms. Joyner?

Oh, hold on.

UNIDENTIFIED SPEAKER: (Indiscernible).

THE COURT: Okay. That will be fine. Yep.

While they're doing that -- I forgot to ask: Any objections to my charge from the State?

MS. RUSSO: I believe that the instruction for criminal sexual conduct in the third degree (indiscernible).

(Counsel confer off the record.)

THE COURT: Okay. All right. Okay.

Ladies and gentlemen, the attorneys did point out I misread something. When I was explaining to you the definition of criminal sexual conduct in the second degree, I said the victim has to be older than 14. What I should have said is they have to be at least 14. In other words, they don't have to be older than 14. If they're 14 years old, that counts. Does that make sense?

So that was my mistake. I apologize. Thank you to the State for correcting that.

Any objections from the defense?

MS. INZERILLO: Your Honor, just renewing prior objections and requests.

THE COURT: Thank you, ma'am.

All right. Ms. Russo?

MS. RUSSO: Thank you, Your Honor. May it please the Court?

CLOSING ARGUMENT ON BEHALF OF THE STATE

MS. RUSSO: Good afternoon. Almost good afternoon. Thank you for bearing with us during all this time. We appreciate you being here.

[redacted] is not a victim. She might be in the legal sense but as you remember the statute, the victim (indiscernible). But she's not just a victim. She's a survivor. And she's a survivor of sexual assault perpetrating upon her by her father over the course of 18 months to two years.

And I know those words seem nitpicking that the victim was a survivor of sexual assault on her versus she had sex with her dad.

I think I'm getting the hand gesture that says I'm too soft-spoken again. I apologize.

Versus she had sex with her dad. I think that implies something to most people. If I have sex with somebody, I make a choice, a decision, I give consent. It's a thing that I take part in. If somebody sexually assaults me, that's not something I took part in. That's not an intimate thing that I wanted, and it's not a choice that I made. And that is what criminal sexual assault -- or, sorry, criminal sexual conduct with a minor in the second degree in South Carolina is. It is a sexual battery upon the victim, not the victim having sex

(indiscernible).

In this case, [redacted] spoke to you directly. You heard from her that, on May 29th of 2020, she disclosed a long period of sexual abuse at the hands of her father. And when she did that, she disclosed it had been a long period of time and she also disclosed that it happened that day, immediately. Hours before the report. And because of that, we were able to gather direct evidence of what happened to her on (indiscernible).

They were able to collect DNA evidence from a menstrual pad the victim (indiscernible). That evidence is this because when the defendant was done sexual assaulting [redacted], he asked her to put her underwear back on so she wouldn't drip on the way to the bathroom. And that resulted in the collection of his semen, his semen that does not contain any spermatozoa, which we have heard from multiple witnesses about the defendant's vasectomy, what that would mean, that he would have semen and no sperm, and the fact that that menstrual pad has semen and no sperm, which is all consistent and corroborative evidence -- direct evidence of what [redacted] [redacted] told you happened on May 29th.

[redacted] is not a detective. She's not a lawyer. Not yet. Maybe she will be one day. But on May 29th of 2020, she was a 16-year-old girl who was reporting

the most horrible thing that happened to her for a very long period of time. And on June 1st of 2020, when she made a lengthy written statement, she wrote that it had started at the beginning of her sophomore year. That would be fall/late summer of 2018.

She reported that immediately. There was no delay and reported that length of the abuse. When she sat down to write that statement, she was asked to write down anything that was important, what do you think we need to know. She's not a detective. She doesn't know what the evidence is going to be, what we could find, what we could look for. She doesn't know what we might be able to use to corroborate her direct statements and evidence of what happened and the collection of DNA that we already know what happened. She doesn't know that. She doesn't know the importance of dates and times and the elements of the times the way the attorneys do.

And so that period of abuse that she reported, that two years and two month period, she was ultimately able to identify specifically specific times, and she was able to tell you in this courtroom why she remembered those dates and those times.

And in the jury room, you will have a copy of a report pulled specifically (indiscernible), and if you look through, you'll see September 1st, 2018. And these

are all photos from that day. You'll see December 22nd and the numerous photos she took that day. As a teenage girl, she took lots of photos. As a photographer on the yearbook staff, you're going to see dozens of smiling selfies, all the (indiscernible). But all of those selfies, all of those pictures of her were of a diary she didn't even really know she had. But she was able to look at them and see what she documented about what was good that day, what she was smiling -- whether they were celebrating a birthday or going to a cool competition.

Look at those days and remember that, between these photos, between what she wanted to present to herself and to the outside world, what else happened. And she testified to you that on each one of these days, she was sexually assaulted by her father in the form of vaginal intercourse, which is a sexual battery under the law.

Of the dates and times (indiscernible), the first date that Complainant was able to identify for us was September 1st, 2018, which is her father's birthday. She was also able to say that that wasn't the first time. We know from that testimony that a sexual battery occurred on Complainant at some point prior to September 1st. So there is a range of time to encompass the period of time of when it may have begun up until that first date that we know.

And during that time, Complainant was in between 14

and 15. Her birthday, August 20th, 2003. In 2018, she would have turned 15 on August 20th. The assaults began prior to that when she was 14. We have covered that under the law. They began after that but before September 1st, she was 15. Still covered by criminal sexual conduct with a minor in the second degree.

There are nine dates that come after that, after September 1st but before the victim turned 16. November 4th, 2018; December 22nd, 2018; December 24th, Christmas Eve, remember the selfie, a Snapchat filter from December 24th of 2018; January 13th, 2019; January 18th, 2019; January 27th, 2019; March 22nd and March 23rd of 2019; and April 26th of 2019.

After April 26th, the victim told you that the assaults continued, and there were more assaults before she turned 16. So there's a range of time for you to consider for criminal sexual conduct with a minor in the second degree between the final assault that she can identify and when she turned 16.

Once she turned 16, it falls under a different statute. No longer has the protection of "with a minor under the age of 16." Then the defendant is charged with criminal sexual conduct in the third degree. It requires an element of force or coercion.

And the victim testified to that. [redacted] got

up here and testified to you about what she knew would happen if she didn't comply, about how her father would take away from her freedom, her father would remove her from work where she worked with her mother, her father would take her car keys. He would take her ability to leave and would take her freedom if she didn't do what he wanted.

She told you about that coercion, about that pattern of behavior that began when she was 14 or 15 and continued after she was (indiscernible). That force or coercion.

Finally, there's (indiscernible) where an incident occurred, a sexual assault occurred. Sexual battery of vaginal intercourse occurred on May 29th of 202[redacted], and there is a charge for that date, a lower charge of incest, which simply requires carnal sexual knowledge of the defendant's daughter.

I want you to consider very carefully everything that you have heard from all the witnesses, not just [redacted] but all the witnesses. You heard from the vasectomist who performed the vasectomy on the defendant. And at the time, that may have not seemed relevant or important, but the DNA analyst tells us that it is, tells us that that confirms -- that DNA that we have confirms what [redacted] told you happened.

You heard from a medical doctor who stood up there

and talked to you about how it is normal to be normal. It is normal to have a normal gynecological SANE exam following this type of coerced, repeated sexual assault. We wouldn't expect to have (indiscernible). We wouldn't expect to see any physical lasting marks with these type of allegations.

You heard this morning from another expert who told you about grooming, about manipulation, about how offenders manipulate the people they victimize and what they do to accomplish that. And I want you to think back about how that applies to what the witnesses in this case told you.

[redacted] told us about a time that she tried to tell, that she wanted to tell someone, and she told her father, "I need to tell someone. I need to tell my counselor what's happening. I'm upset. I'm suicidal. I'm thinking about killing myself." And in the waiting room of that meeting with her counselor, she texted the defendant, and the defendant asked her (indiscernible), talking to her.

After that, the victim was convinced not to tell. Instead, the victim told the counselor that she was suicidal, that she was thinking about harming herself, that she was depressed. And in response, she told you exactly who they called: Her dad. That's who was called

to pick her up. Her mother drove her car home, and then she was alone again with her abuser, who used his power and authority as a parent to take advantage of her and to delete messages from her phone that indicated what he had done. That's grooming. That's manipulation.

And, after that, the victim talked about working with her mom. She had a rough relationship with her mom. Her mother was in and out of her children's lives during their early years, during some of their later years. Ms. Blevins got up here and admitted to that, took responsibility for that. "I wasn't there. I wish I had been."

And what I thought was interesting in her testimony was that, when she talked about her relationship with her daughter, she broke down. It wasn't back to the assaults themselves, finding out about it. It was the regret of that relationship with her daughter. And I remember Complainant, when she testified, same exact (indiscernible). She sat here and she looked at me, and I asked her about her relationship with her mother, what was that like. And there were seconds, minutes where she couldn't speak, where she turned away because she didn't want anyone to see how she felt about that and the emotion that she had about that. Both of them felt that way.

But that lack of relationship was a regret. That

lack of relationship was something that the defendant was able to thwart. [redacted] didn't have any other present adults in her life. She told you that. She didn't have anyone else to go to. She didn't have anyone to tell safely. And for her, in the beginning, safely meant knowing that there would be someone left after the defendant had to leave her life. It wasn't that she didn't think they would call the police. She knew.-- she said she knew. "Once I told, I knew they would call the police." But the fear was, "What will I be left with?"

Her mother worked 10-, 12-hour days to provide for the family. Her brother, at a fairly young age, also was working -- was outside the house working just hours. The defendant did not work a 9-to-5 job. He was home when she got home from school. He was home with her at all sorts of hours. And he took advantage of the access that that gave him to her, and he took advantage of the isolation from her mother.

[redacted] lived, as we talked in the beginning -- she lived in two worlds. She lived in this world where she put her best foot forward and she presented everything that she wanted it to be and everything she wanted people to see about her, but she also lived in a very small house. She lived in a house that was (indiscernible). Didn't have a lot of people

around. Her house and ultimately her family was the defendant. It made it very difficult for her to get out of that house. And as she came closer to reporting, as she came closer to telling the guidance counselor, closer to her mother when she started working with her mom and building a relationship with her mom, as she came closer to that, those roles in that small house (indiscernible). And even when there were people in that house, she was alone (indiscernible).

There came a time when she had to open that door. She had to tell somebody what happened to her. Because if she didn't, it was never going to stop. This didn't stop because the defendant decided to. This wasn't going to be the last time. The victim told you -- Complainant told you why it stopped. It stopped because she had the power to do something, and she finally had the power to say, "If he's gone, I'll be okay. My needs will be met with my mother, who I'm building a relationship with. I will be okay if I have to leave him."

When you go back into the jury room, you're going to have all these documents to look at, and there's (indiscernible). You're going to have the forensic lab report, and you'll be able to see the evidence that was initially tested. They were not able to (indiscernible). But even if that first testing they were able to say --

indicated the presence of seminal fluid; however, no spermatozoa were identified. Even that initial testing is consistent with what we know (indiscernible). They continued testing. They continued looking. They looked in all the reasonable spots. They got fingernail scrapings on hand. That's standard to take in the SANE kit.

She didn't report any allegations -- we didn't hear anything from her where fingernail scrapings was relevant. Instead, there's finally a test of DNA where the York County lab gets what we call Y-STR testing and they test just the Y chromosome. They're able to amplify -- extract -- test the extract for the Y chromosome, and that Y chromosome profile matches the defendant, the one the witness has identified as her abuser, the one that Complainant says did it.

This is not like a cold case where we don't know the identity of the person. We do. And this test confirms that. It's confirmatory of what Complainant sat here and told you happened to her.

Complainant gave very shocking detail on the two incidents (indiscernible), and she told you, in the middle between those two, there were sexual assaults, it was continuing. It happened three, four, five times a week. It never stopped. It was always vaginal intercourse. He

never used a condom.

She told you about different sexual acts that he also had her perform -- oral sex. Oral sex on her. These are also covered in the definition of sexual battery. I don't think we need more detail for those offenses. She gave so much detail for the first time this happened and the last time this happened because those are the ones that stick in her mind. Those are the ones that she thinks are important that she is telling people about; that she was sick, she was vulnerable, she slept in her father's room where she thought she would be comfortable, well cared for as a child. That's what you want when you're sick. You want your parent and your caregiver.

She goes in his bed to sleep that night as a 14- or 15-year-old girl, and when she wakes up in the middle of the night, he grabs her and pulls her back on the bed and tells her to relax. He tells her that she'll like it. And then he removes her clothing. He removes his clothing. And then he proceeded to put his penis in her vagina and to sexually assault her until he ejaculated inside of her without a condom on.

At that point, the victim, Complainant, did go to the bathroom. She went to the restroom. And he followed her in there. He followed her in there to wipe himself off (indiscernible). I found that to be a very specific

detail. And when you're in the jury room, you'll have all of our exhibits, and you'll be able to look at all the photos of (indiscernible), from May 29th or somewhere around that time. You believe it was May 29th of 2020, the exact same day that she reported. You'll be able to see they go from side to side and already (indiscernible) and you can take a look at the (indiscernible).

Now, that's not the smoking gun. It's not something that, absent any other evidence, would prove the case. But it is the level of detail of Complainant 's memory, that she can tell you that, and when she can tell you that, you can find something (indiscernible).

You'll be judging the credibility of all the witnesses in this case. And I think that's something you hand to all of us, we all do it. We can listen to an expert and we can wonder why are they here, what interest do they have?

And you heard from Lynn McMillian this morning who said she might get paid $200 for this case. She doesn't charge for the prep time, background information that she needs to research to know all that's covered. She gets paid a minimum two hours, $200 for (indiscernible). Does that witness have an interest in lying to you or is she here because she knows information that (indiscernible) important to use? Does she have knowledge about what

she's speaking about? Does she tell you what her qualifications were?

And the way the same goes for Complainant. Does she have knowledge of what she's telling you about? And when you examine what she says, the details she gave, did those sound accurately like it would reflect a person who is remembering assaults from three to five years ago?

You also will receive PowerPoints that we have of each of the days that pulled out just some of the photos. And I recall when Complainant was on the stand the defense questioned her about (indiscernible) and I think just rather innocently mixed up which day the shirts that occasion, and Complainant was able to say, "No, I think I wore that shirt the other time." She might not be able to tell you the exact date, but she could tell you which occasions went with which outfits; that those lights in the parking lot looked like this, that this picture is from there, and she could tell you even, without looking at them, that, "No, that one doesn't belong on that day. That was a different time."

And you might remember when I got (indiscernible) talking to Complainant, and we talked about her menstrual pad in the trash can. And I asked a couple of times, "Was it wrapped in anything? Did you wrap it up?" And even though I asked more than once, "You're sure you didn't

wrap that in anything?" She insisted, "No, I did not." And you'll be able to see this, when you look back, that it's not. It's folded. It might be on top of a wrapper; I'll leave for you to decide. But it's not wrapped up. It's wrapped around itself.

And even if kind of a challenge to her memory, she was certain enough that she was able to give you the correct (indiscernible). There might be things over the last three to five years that she has forgotten, but the things that she remembers are true and real, and she has no reason to come in here and tell you about them (indiscernible).

Complainant was also able to tell you about the last time her father sexual assaulted her. She was able to tell you that she was getting ready for work, that she had changed, that he came in and this was so common, he was able to just say -- whistle or nod or whatever, and she knew what it meant, and she knew what would happen if she didn't go. She knew what the result would be if she didn't comply with it. And so she did go. And then the defendant sexually battered her again, vaginal intercourse. And she got herself together, and she changed into her work clothes. She drove to work, upset. And when she got there, she asked for her mother.

She was finally able to ask for her mother. And

when she did that, she was able to tell somebody what happened to her, and she was the only person who was able to make it stop.

I would ask you to listen to what she said. Direct evidence of every single charge. I'd ask you to deliberate and, carefully, I would ask you to return a verdict of guilty for this defendant as to all charges. Thank you.

THE COURT: Ms. Inzerillo?

MS. INZERILLO: May it please the Court, Your Honor?

CLOSING ARGUMENT ON BEHALF OF THE DEFENDANT

MS. INZERILLO: At the beginning of this case, I asked you to focus on three things. The first was the multiple stories that Complainant would give, the second was the investigation done in the case, and the third was the DNA.

And we are now at the point in this case where we're down to the proof, because in this courtroom, ladies and gentlemen, what is important is the proof.

So what have we heard here this week? We heard a young woman come in and make an accusation, make an allegation against Matthew Hogan. We heard her come in and say that, "In May 2020, my dad forced me to have vaginal sex with him. We had sex. He ejaculated. Told me to immediately get up and go to the bathroom so,"

quote, "'nothing would drip out'." And she did.

She had the same panties on, she threw a feminine pad away, and she immediately inserted a tampon. She leaves. She ends up immediately at a hospital. She's not showered, she's not changed her underwear, and she has not taken out that tampon.

When that call was made to EMS and to the Sheriff's Office, that's when the investigation started. You heard the SANE nurse say, "My job is to collect evidence, and that's what I did." So she collected everything in the house -- I mean, I'm sorry, everything from [redacted] that she thought would be important: Fingernail scrapings; the tampon, even though that's not a usual thing to do; swabs of her vagina, of her rectum, of her mouth; and basically DNA standard to compare it against.

At the time the SANE nurse is doing that, one detective indicated, "We're at the house." You heard Forensics come in and say, "We went to the house. We surveyed the house. We took pictures. We took into evidence a feminine pad and a tampon applicator out of a trash can."

So, ladies and gentlemen, the investigation has started.

You heard me ask a lot of questions about, "Did anyone take your phone?" [redacted] is in the

hospital. She's got her phone. We all know how phones work. Phones track everything these days. If my heart rate goes up too high, it tracks it. If I get more than 10,000 steps, it tracks it. GPS tracks everywhere we go.

So this person goes to a hospital, reports a sexual assault that just happened, and not one person tries to verify what she's saying. Not one. Not one person took the phone and said, "Let me just see if you were home this day." "Oh, all your family has a Find Your Friend app? Well, let's see if your dad was there. Let's see if we can look into this story at all." No one does.

The next day, she comes back. She gives a second statement. And Detective Day appeared to be very generous with her. Go into a room. You can do it by yourself. You take as long as you need. You write any details that's important. 12 pages. 12 pages she wrote.

She had her phone with her the whole time. Data that would still be on the phone from the day or two before. Again, not taken into evidence.

She gives a 12-page statement that I would imagine had investigative value to Detective Day. No investigation was done. None. No one pulled that statement and said, "Well, let me look into this. Let me see what she's saying. Let me see if I can figure out what happened on these days."

Then what happens? Nothing. Nothing happens.

DNA is tested. A whole bunch of items submitted to DNA, most of which they didn't bring you because, why? Why? We're not going to focus on the things we didn't do.

They test some items in the DNA kit. And you know what? Can't conclusively point to Mr. Hogan. The things they have at that point can't conclusively point to him.

They test the pad. They find her DNA on it, but they don't know about the minor profile.

Almost eight months to a year later, Complainant goes to the prosecutor's office with that phone. And, all of a sudden, on this phone, she can identify at least ten specific dates that sexual assaults allegedly happened. And you heard from a couple of the witnesses, they took her phone, they dumped it, they gave it back to her. They discussed with her the ten specific days. And we saw the nice PowerPoint -- it was well done -- and it was pictures of throughout the day. But you know what it didn't have? It didn't have any proof that she was at home during any times that she says any sexual assaults happened or any places that she may have said. There's no proof Mr. Hogan was even around her during that time.

Now, we have proof that's pretty specific. Now we have, at a date in September, "I went shopping. My dad bought me clothes." On another day, "I went to a

restaurant. My dad paid for it." No one at this point verifies what she's saying. No one pulls his credit card numbers to see did he pay. No one's even pulled his phone.

Now, we know they took his phone into evidence. No one is looking into this. She just comes up and says, "This is what I want you to know." You didn't hear any employee take that stand and say, "Yeah, I went through her phone and I looked to see, you know, where she was on those days. I did my own independent check," because no one did. She is very specific about what she says. She gives a timeline of the day that could have very easily been investigated, and no one did it.

As she continues to meet, sometimes details change. And a lot of times, those details can be very important. And I'm going to point out just one. When she took the stand this week, she said, for the May 2020 assault, "I had a shirt on and no shorts. And he made me go into the room and made me have sex with him." Well, we know that, on the day she reports it, they go to the Cureton Ferry house and they take a T-shirt and black Nike shorts as evidence in the case. They know that. They have it to test. They don't test it. But they know that. Why? Because it's important evidence. Details do matter.

What have you heard in this case? Complainant comes

forward and says, "My dad forced me to have sex today, vaginal sex, and I inserted a tampon." And you heard the DNA expert explain no DNA from Mr. Hogan is found on or in [redacted] Complainant.

In a tight set of events where a sexual assault allegedly happened -- she doesn't shower, she doesn't change, she inserts a tampon, and she goes straight to the hospital. None.

Other things that could have shown whether there was DNA present -- not tested -- the tiger blanket, for example, that's on the bed; the tampon applicator, for example, that's in the trash can, as well as the feminine pad. Nothing.

But where is the scant amount of DNA that they find? Where is that found? It's found on the one item in a communal trash can in a small house. And you can see the picture of that trash can. It is an old, plastic trash can that doesn't look like it's been really cleaned for a long time.

And you heard Sam Piper say yesterday, "Yeah, we found some semen, but we found Y chromosome on a different part of it. I can't connect the two." That was the testimony. That's where they find the DNA.

MS. RUSSO: Objection, Your Honor. Approach?

THE COURT: All right.

BENCH CONFERENCE

(A bench conference was held off the record and outside of the hearing of the jury.)

MS. INZERILLO: So we have this pad in this trash can, and Sam Piper tests it. There's one cutting from it. And she cannot connect the Y chromosome to the semen that's found on the pad. And, again, the judge has already told you in his charges; if I misstate something, rely on your recollection.

But that's what's found. That's the only strand of DNA. It's not even a full DNA. It is a Y chromosome of DNA. That's it. That is what the State is alleging confirms Complainant's story.

The tampon applicator in the trash can, never tested. Wouldn't it be helpful to know if that also maybe had some Y chromosome DNA so we could narrow down whether it's the trash can versus something else? It was never tested. It wasn't even brought into court and presented as evidence.

So Complainant goes to the hospital. Ultimately, we find out there's no DNA in her. That's a problem. We find out that there's no injuries to either. Also a problem because, no injuries, hard to peg sexual assault.

So what does the State do? They pay someone to come in and explain away that fact. They pay someone to come

in and say, "That's okay. We don't normally see that. Even though we have a special nurse and a special kit and a special test to look for all that, we really don't expect to find it." Because it's not there. That's how they're explaining that away. Because it's not there.

You also heard Complainant testify over years and years of abuse. I'm going to say months and months of abuse; I don't want to overstate. Months and months of abuse. Let's talk about that for a second.

She described 18 months to two years of abuse in a teeny tiny house, where even she says you can hear everything everyone does. And I know you probably got tired of hearing every witness this was a teeny tiny house, but, ladies and gentlemen, it's a tiny house. There are no interior doors. Sheets hang where doors are. You step outside a bedroom, and you're immediately at the arm of a couch. It is a tiny house.

And Complainant's version is that -- at least initially, it was two to three times a week and maybe by the time she got up here, it was maybe six times a week -- that her father sexually molested her six times a week in a house where no one saw anything. No one heard anything. No one got suspicious enough to even ask any questions.

And, again, they're trying to explain that away. I have no doubt Ms. Blevins works a lot. I have no doubt

her brother is trying to go to school and work. I have no doubt about that. But you heard both Complainant and Ms. Blevins say they were home at times. They were home when this happened. Such prolific sexual abuse in such a small house with no doors, where you can hear everything, and no one said anything -- suspected anything.

The State looks to hang their hat on the one time Complainant went to a guidance counselor. So what did she testify? "I went to the guidance counselor because I needed to report this." At this point, she's, what, 15 or 16? She's not a small child. She appeared to be extremely articulate on the stand. Very well poised.

So her intention on this day is to go to a trusted adult. She knows the guidance counselor at school will help me. At least that's her story. And she goes there -- she doesn't walk right in and say, "Look, my dad manipulates me. I'm really tired. You know, I'm tired of this. Please -- please help me." No. She texts her dad, her abuser, her prolific abuser from the lobby and tells him what she's doing.

I don't know what was in those texts. We don't have those texts for whatever reason. No one looked for those texts. No testimony came out that they looked for those texts. We don't know what was said in those texts. What we do know is that Mr. Hogan and Ms. Blevins didn't come

to the school until they were called by the guidance counselor. The guidance counselor called and said, "Look, your daughter is reporting that she's depressed." He goes. He goes.

I could probably stand up here for much longer and go through every detail in this case, but, ladies and gentlemen, at this point, the proof is in the pudding. At this point in this courtroom, it's the proof that matters. Not one witness took the stand and said they investigated her story. Not one.

DNA was done. Experts were brought in to explain problems in the case but not one person came in and said, "I checked this out."

Ladies and gentlemen, there's no proof. It's a mere allegation. The State has not met its burden, and I ask that you find Mr. Hogan not guilty. Thank you.

THE COURT: All right. Ladies and gentlemen, that brings us to the end of the arguments, so, in just a second, I'm going to ask you to step back to the jury room. And just remember, don't start deliberating until the bailiff brings you the verdict form, the indictments, my charge, and the evidence for you to look at. Okay?

Once that happens, that's your signal to begin deliberations.

I think your pizza is running a little bit late, but

it should be here any time now. Oh, I'm told it is here. So the pizza, if it's not in the jury room, will be in there very shortly. There's no rule that you cannot eat pizza and deliberate at the same time so long as all 12 of you are in the room at the same time. Okay? If anyone has to step out, you need to pause your deliberations.

With that said, ladies and gentlemen, retire back to the jury room and the bailiff will be with you shortly.

I do need to ask our one remaining alternate, Ms. Murphy, to stay, though. Yes, ma'am, to stay, yep.

(The jury exited the courtroom at 12:35 p.m.)

THE COURT: All right. Any objections from the State to my releasing the alternate?

MS. RUSSO: (Indiscernible).

THE COURT: From the defense?

MS. INZERILLO: No, Your Honor.

THE COURT: Okay. Ms. Murphy, I want to thank you very much for your jury service. I know this is kind of a frustrating job. You paid attention for a whole week of trial. It's been very demanding on your time, and then you don't get to vote. So I'm sorry, but we are very grateful. If some other juror had gotten sick or there had been some other emergency, you could have stepped in and prevented us from having to do the case all over again.

So on behalf of the State of South Carolina and York County, thank you very much for your service. Your jury service is complete. You can hand your juror badge to the bailiff there. And if you would like to stay, you can. You're welcome to get pizza. You cannot be with the other jurors. But if you would like pizza, the bailiffs can bring you some pizza to eat. And if you want to stay and wait for the verdict, you're welcome to do that. Okay?

You'd like to stay? Ma'am, you can just have a seat out here. And if you'd like pizza, the bailiffs will tell you where they'll bring you the pizza. Okay?

Is that a note?

"Can we have a smoke break?"

[Laughter].

THE COURT: You can tell the jurors they can, at this point, have as many smoke breaks as they want. They don't have to ask me, but the same rule: If anyone is out on a smoke break, they have to pause the deliberations.

(Pause in the proceedings.)

THE COURT: We'll stay on the record, yep.

MS. JOYNER: State's 1 (indiscernible) --

THE COURT: Verdict form, jury instructions, indictments.

MS. JOYNER: (Indiscernible).

THE COURT: That would be fine. You're talking

about the written report that was in the SANE kit?

MS. JOYNER: Yes.

THE COURT: That would be fine.

Let's not seal everything up until we get a verdict. Okay?

If you want to add to the Court's exhibits, these are the proposed charges that I did not charge.

MS. JOYNER: (Indiscernible).

THE COURT: Ms. Joyner, if you add these to that pile. That's the verdict form, the jury instructions, and the indictments.

MS. JOYNER: Okay. This is (indiscernible)?

THE COURT: Yes, ma'am. Mm-hmm.

MS. JOYNER: That stuff stays though.

THE COURT: But if the jury wants to see it, we can bring them in and look at it, yeah.

All right. Order in the court for a second. All right. The jury is beginning deliberation at 12:40. We'll be at ease until we get a verdict.

(A recess was taken from 12:39 p.m. to 2:15 p.m.)

(The jury entered the courtroom at 2:15 p.m.)

JUROR QUESTIONS

THE COURT: All right, ladies and gentlemen. I have received a note from the foreperson, which has three questions.

The first question: Was sperm found on the tampon?

The second question was: What of the tampon was tested?

And the third question: Can we see her written statement?

As to the first two questions, ladies and gentlemen, I'm not permitted to answer factual questions like that. Even if I knew the answer or thought I knew the answer to those kind of questions, my view of the facts doesn't matter. You know, I'm not allowed to have any view of those kind of factual issues; only you, as jurors are. So I can't answer those kind of questions.

The third question, "Can we see her written statement?" All I can tell you is all the available evidence, you have it already in the jury room.

Thank you, ladies and gentlemen.

(The jury exited the courtroom at 2:17 p.m.)

THE COURT: All right. We're at ease.

MS. INZERILLO: Thank you, Your Honor.

(A recess was taken from 2:17 p.m. to 2:51 p.m.)

(The jury entered the courtroom at 2:51 p.m.)

VERDICT

THE COURT: I understand we have a verdict.

Madam Foreperson, if you could hand it to the bailiff, please.

All right. Defendant, please rise.

Madam Clerk, publish the verdict, please.

THE CLERK: State of South Carolina versus Matthew Joseph Hogan, Indictment No. 2020-GS-46-3820, we, the jury, by unanimous consent, find the defendant, Matthew Joseph Hogan, as to the charge of incest on or about May 1st, 2018, to May 30th of 2020, guilty.

We, the jury, find -- oh, Indictment No. GS-46-3818 [verbatim], we, the jury, by unanimous consent, find the defendant, Matthew Joseph Hogan, as to the charge of criminal sexual conduct with a minor in the second degree on or about or between August -- April 27th, 2019, to August 19th, 2019, guilty.

Indictment No. 2023-GS-46-1209, we, the jury, by unanimous consent, find the defendant, Matthew Joseph Hogan, as to the charge of criminal sexual conduct with a minor in the second degree, on or about November 4th, 2018, guilty.

Indictment No. 2023-GS-46-1211, we, the jury, by unanimous consent, find the defendant, Matthew Joseph Hogan, as to the charge of criminal sexual conduct with a minor in the second degree, on or about September 1st, 2018, guilty.

Indictment 2023-GS-46-1212, we, the jury, by unanimous consent, find the defendant, Matthew Joseph

Hogan, as to the charge of criminal sexual conduct with a minor in the second degree, on or about December 22nd, 2018, guilty.

Indictment 2023-GS-46-1213, we, the jury, by unanimous consent, find the defendant, Matthew Joseph Hogan, as to the charge of criminal sexual conduct with a minor in the second degree, on or about December 24th, 2018, guilty.

2023-GS-46-1214, we, the jury, by unanimous consent, find the defendant, Matthew Joseph Hogan, as to the charge of criminal sexual conduct with a minor in the second degree, on or about January 13th, 2019, guilty.

We, the jury -- sorry, 2023-GS-46-1215, we, the jury, by unanimous consent, find the defendant, Matthew Joseph Hogan, as to the charge of criminal sexual conduct with a minor in the second degree, on or about January 18th, 2019, guilty.

2023-1216, we, the jury, by unanimous consent, find the defendant, Matthew Joseph Hogan, as to the charge of criminal sexual conduct with a minor in the second degree, on or about January 27th, 2019, guilty.

Indictment 2023-GS-46-1217, we, the jury, by unanimous consent, find the defendant, Matthew Joseph Hogan, as to the charge of criminal sexual conduct with a minor in the second degree, on or about March 22nd, 2019,

guilty.

Indictment 2023-GS-46-1218, we, the jury, by unanimous consent, find the defendant, Matthew Joseph Hogan, as to the charge of criminal sexual conduct with a minor in the second degree, on or about March 23rd, 2019, guilty.

2023-GS-46-1219, we, the jury, by unanimous consent, find the defendant, Matthew Joseph Hogan, as to the charge of criminal sexual conduct with a minor in the second degree, on or about April 26, 2019, guilty.

2023-GS-46-1471, we, the jury, by unanimous consent, find the defendant, Matthew Joseph Hogan, as to the charge of criminal sexual conduct with a minor in the second degree, on or about or between May 1st, 2018, to August 31st, 2018, guilty.

We, the jury, by unanimous consent -- or 2023-GS-46-3819, we, the jury, by unanimous consent, find the defendant, Matthew Joseph Hogan, as to the charge of criminal sexual conduct in the third degree, on May 29th, 2020, guilty.

2023-GS-46-1471, we, the jury, by unanimous consent, find the defendant, Matthew Joseph Hogan, as to the charge of criminal sexual conduct in the third degree, on May 1st, 2018, through May 28th, 2020, guilty.

And they are signed and dated by the foreperson.

THE COURT: All right. Would the State like the jury individually polled?

MS. RUSSO: No, Your Honor.

THE COURT: The defense?

MS. INZERILLO: No, Your Honor.

THE COURT: All right. Any objection from the State from releasing the panel?

MS. RUSSO: No, Your Honor.

THE COURT: From the defense?

MS. INZERILLO: No, Your Honor.

THE COURT: All right. Ladies and gentlemen, I know this has been a long week for all of you. I can tell that you worked really hard and you paid very close attention. So on behalf of the State of South Carolina and York County, thank you very much for your service. Your jury service is complete. You are now released from all the restrictions I talked to you about.

Should you choose to talk to anyone -- friends, family -- about your experience, you're welcome to do that. It is possible the lawyers may contact you. Lawyers want to get better at their job like everyone else does. So it is possible that one of the lawyers may contact you and ask for you to give them a critique. You are under no obligation to speak to them. You don't have to if you don't want to, but if you choose to do that, you

can. Like I said, you can talk to anybody you want at this point. You're free from all the restrictions.

Do any of y'all have any questions?

(No response.)

THE COURT: Okay. Thank you very much.

Madam Foreperson, I do need you to sign the indictments. So if you don't mind stepping up to the bench. But for everyone else, thank you very much for your service. Your service is complete.

Ebony, are the indictments in the stack there? Do you have the...

Does the State have the sentencing sheet prepared?

MS. JOYNER: (Indiscernible) the convicted and the violent and the most serious.

MOTIONS/MATTERS OF LAW

MS. INZERILLO: Your Honor, while Ms. Joyner is doing that, at this time, I would move for a new trial based on prior objections and motions.

THE COURT: Motion's overruled.

MS. INZERILLO: Thank you, Your Honor.

THE COURT: Denied, I should say, but yeah.

MS. JOYNER: Your Honor, may we have a few minutes just to finish this and to talk with the victims about their victim impact statements?

THE COURT: Yes, ma'am, you may, yep.

(A recess was taken from 2:59 p.m. to 3:18 p.m.)

MS. INZERILLO: Your Honor, I just have a quick administrative thing to put on the record.

THE COURT: Okay. Go ahead, Ms. Inzerillo. Oh, wait, yeah, we have to wait.

MS. INZERILLO: Your Honor, if I may?

THE COURT: Yes, ma'am.

MS. INZERILLO: Just administratively, it would appear that the foreperson signed all available indictments that were given to the clerk, and I just wanted to be clear on the record, some they signed were older versions of the indictments that had been sent with the clerk. And so just for record-keeping purposes, she signed all the appropriate indictments, it appears, but there are extra signatures on some of the other older indictments.

THE COURT: Okay. And these are the ones that are stapled together?

MS. INZERILLO: Yes, Your Honor.

THE COURT: Okay. So let me make sure.

I see there's three -- three eight one eight indictments.

MS. JOYNER: Yes, Your Honor.

THE COURT: And the correct one is the true billed March 9th, 2023?

MS. INZERILLO: Yes, Your Honor.

THE COURT: Okay. Is there any objection to me crossing out the other two and writing "signed in error"?

MS. JOYNER: No objection.

MS. INZERILLO: We would not have an objection.

THE COURT: Okay. That's what I'll do then.

MS. INZERILLO: In addition, Your Honor, I did mark out Mr. Hogan's name. That was my doing since I believe that would manifest in his adoption of the signature, and I didn't have a chance to go over those papers with him, so I have marked that out.

THE COURT: Okay. I don't think there's any statute or rule that requires a signature, so that's fine. Okay.

All right. Is the State ready to proceed?

MS. RUSSO: Yes, sir.

THE COURT: Defense?

MS. INZERILLO: Yes, Your Honor.

THE COURT: Ms. Russo?

MS. RUSSO: Thank you, Your Honor. As to sentencing in this case, by my calculation, Mr. Hogan faces 270 years. I have never felt so much like a defendant deserved every unit of the max sentence he could receive consecutively. And I know that's impractical when it comes to 270 years. But if he were given a year for every time she estimated it happened, he would still be looking

at 200 years.

This defendant victimized the person that he loved most in the world, and if he will do that to her, he will do it to anyone. And he raised her and groomed her into a person that he could victimize and could take advantage of, and that is one of the worst things that could happen in our society, one of the worst crimes that exists.

I would ask you not to allow his manipulation of his victim in this case, to allow him to have full accountability for the things that he has done that are so wrong in our society.

I'm asking you to consider as much consecutive time as you think reasonable. The State would throw out somewhere between (indiscernible) 60 years, Your Honor, but I think that, in a crime of this magnitude, that consecutive time is appropriate, and the State is making that request.

You did see everything in this case. You saw his statements. You saw his language in his letter where he was manipulative, where he said that he loved her. And if he's willing to do it to her, he's willing to do it again.

And I would ask you to consider the full presentation of all the evidence that you have seen, Your Honor.

THE COURT: All right. Does the State -- does the

victim wish to speak or any members of her family?

MS. JOYNER: I will double-check but as of the break, the victim did not wish to speak.

She does not wish to speak, Your Honor.

THE COURT: Okay. Any members of her family would like to speak?

MS. JOYNER: No, Your Honor.

THE COURT: Anything else from the State?

MS. JOYNER: (Indiscernible).

THE COURT: Okay. Ms. Inzerillo?

MS. INZERILLO: May it please the Court, Your Honor?

Your Honor, I would just point out a few things about Mr. Hogan. He is now 44 years old. He's been incarcerated on these charges since the date of arrest, late May of 2020, so almost three full years on these charges.

Your Honor, he has no record, nothing to indicate that he would be a danger to anyone else in society.

Your Honor, I am asking the Court to consider (indiscernible) time in this case, giving him credit for all the time he has served.

THE COURT: What's the time served credit as of today?

MS. INZERILLO: Your Honor, I'll have to calculate that.

THE COURT: Okay.

MS. INZERILLO: And, Your Honor, I would also point out that several of the charges are 85 percent charges, so with him being 44, even a sentence under concurrent time would be a significant sentence, almost -- for most of the rest of his life. I'd ask the Court to take that into consideration as well.

THE COURT: All right. Mr. Hogan, is there anything you'd like to say, sir?

THE DEFENDANT: I'm not sure what to say, Your Honor. (Indiscernible) tried to be cooperative and do everything they asked me to do and (indiscernible). The investigators didn't even try to corroborate anything that I said with (indiscernible) tried to help me in any way. They told me (indiscernible). And that's the last time I talked to either one of them. I tried to do everything they asked me to do. When I asked them in the interview (indiscernible) investigate it (indiscernible) said they would and they never did. They never investigated anything. They never tried to verify anything I tried to tell them.

I mean, I'm not a flight or danger to anybody. I definitely never raised my daughter to do these things to (indiscernible), Your Honor. That was never my intent on -- think about it for a long time. I struggled and did

the best I could every day trying to fight for her.

THE COURT: Well, what do you mean you just -- one of the things you just told me was you didn't raise your daughter to do these things. What do you mean by that?

THE DEFENDANT: Saying I groomed her from a young age to do things to her. I never did that (indiscernible). I spoiled both of my kids equally. (Indiscernible) I did for one, I did for the other. Me and my daughter might have did a few more things together but it wasn't nothing crazy. There was no rewards or grooming her or doing any (indiscernible). I mean, you can ask my son. He will tell you I did -- I was (indiscernible). I never tried to reward her for doing things to her. I never treated her like that, Your Honor. Maybe I didn't explain myself clearly, but I tried to explain (indiscernible) did a lot (indiscernible) sleeping pills and then, you know, I have heard crazy stories and (indiscernible) I didn't really know.

I don't really know what to say, Your Honor. I was really hoping they would investigate this and figure out what happened and realize I told the truth. I mean, I tried to explain everything, and nobody tried to verify anything I said. I mean, I don't understand how the DNA says it doesn't match and then they come out (indiscernible) DNA. I mean, the DNA don't match, how

exactly (indiscernible)? (Indiscernible) good matching.

I mean, does the DNA prove how exactly (indiscernible). I don't understand that. I really didn't see this coming. You know? I could go on and on but I'm probably rambling. I just -- I really don't know. When they said the DNA doesn't match, when they told me I had warrants and then they come back and try to say that something matches and then they come back and say, "No, this didn't match." If all the DNA doesn't match -- and like I said, it was the (indiscernible) garbage can. It could have possibly got some traces from the trash can. It was so little, they could barely even test it. And then when they do test it, they said it doesn't even match to you. I don't understand how I ended up with a guilty verdict when they clearly said it didn't match.

I really don't -- I don't know what else to say, Your Honor. I just -- I mean, I started (indiscernible) been fighting three years to get in here. (Indiscernible) trial and (indiscernible) kept postponing and postponing and postponing and postponing. And every time (indiscernible) -- they send it to DNA three different times.

But I mean, (indiscernible) the victims right after (indiscernible) a lot of the confusion. It was after it was zero DNA on it. It does not match and I'm excluded.

Not even at all. I don't understand how (indiscernible) the DNA is, Your Honor. If they didn't (indiscernible), I don't understand how the rest of it adds up (indiscernible). But you know how this works. If you do something immediately and then (indiscernible) whole time and then they test that item and there's no trace at all and I'm excluded -- not potential, not maybe, not nothing. How does that add up that I have been doing this for years?

And the time (indiscernible) kept changing, a number of times changed. I had no way to defend myself really other than what I could tell my lawyer. I was in here. I had no access to anything. I couldn't verify any dates of where I was. They give me dates and times. How do I prove where I was when I'm in jail? I mean, could you prove where you were three years ago if you were in jail and no access to any of your records? I had a very limited defense. (Indiscernible).

If I gave you a list of 12 random dates from three years ago, could you tell me where you were right off the top of your head right now? I mean...

I tried to be the best dad I could be. I tried to be the best boyfriend/fiance I could be, and me and my baby mama just didn't never work very well. I always had the kids. They were always with me. And I didn't abuse

my children, sir. I really didn't.

I mean, I were really hoping they would prove (indiscernible). They didn't give me a chance -- fighting chance and then come back to the DNA didn't match, I was like, okay, I should be good then (indiscernible).

And like she said, nobody is trying to investigate my case, Your Honor. And now they're trying to send me to prison with charges like I got. I mean, I'm not trying to be rude but, you know how it is. It's not going to be good for me in prison with that many charges. (Indiscernible) especially when you didn't do it. I mean...

I mean, I have had a rough time in jail. I don't even want to know what's going to happen in prison, Your Honor. I really (indiscernible) failed. They didn't even try to (indiscernible). I gave just a few statements the day they arrested me. They never tried to investigate anything after it.

I could go on and on, but I think I'm just rambling at this point, Your Honor. I really did try. You can ask my girl. She'll tell you I worried to death about trying to get stuff and prove stuff to show where I was, but I can't even hardly make a phone call in jail. I mean, how do I get access to anything that I had that will say here I was at this date and this time? If I wasn't there, I

was here. I had no access to that. How do I (indiscernible) when I can't access stuff I need (indiscernible)?

If I was on the street, I could access everything: Credit card records. But I've tried emails, Facebook, anything. I buy, sell, and trade stuff, sir, so I might not have even been at the house that day, like (indiscernible) say. I could have been somewhere else.

I mean, I was always coming and going, running and doing things, fixing things. I stayed running. And my daughter stayed running. My son -- we all stayed gone. We were very rarely anywhere. We were at home long enough to do -- and like I say, my house is very small. How am I doing these things with two people in the house and nobody hears it?

And the story changes (indiscernible), the time changed, the date changed, the event happened changed. It's just on and on. It kept changing and changing and changing. You can (indiscernible). All I can do is say I didn't do it. That did not happen. I don't know how to prove it, Your Honor. I really don't.

THE COURT: Does the defense have any other witnesses they'd like to call?

MS. INZERILLO: No, Your Honor. And the credit for time served will be 1,037 days.

THE COURT: One zero 37 days?

MS. INZERILLO: Yes.

THE COURT: Any objection from the State?

MS. RUSSO: No objection, Your Honor.

THE COURT: Okay. Counsel, it's going to take me a little bit to fill out the sentencing sheets, and I prefer -- let me do that, and then I'll announce the sentence.

That's one zero three seven, Ms. Inzerillo?

MS. INZERILLO: Yes, Your Honor.

THE COURT: Okay.

(Pause in the proceedings.)

THE COURT: Okay. It looks like there was a second indictment that was erroneous he signed twice. That's the 3819 2020 indictment that's been -- so the more recent one is correct?

MS. RUSSO: Yes, Your Honor.

THE COURT: Okay. Any objection to me crossing that out and writing "signed erroneously" on the older one?

MS. INZERILLO: No, Your Honor.

THE COURT: Okay.

(Pause in the proceedings.)

THE COURT: All right. I have completed filling out the sentencing sheets. I have given this matter considerable thought. You know, I have listened to all

the testimony and I have heard from the State and the defense as well as the defendant today.

Given the relationship between the defendant and the victim and the very large number of incidents in these cases, the sentence is going to be 35 years' sentence. So that's going to be 20 years on all counts of the CSC to run concurrently with an additional consecutive 10 years on the incest charge and an additional consecutive five years on one of the CSC third charges.

So I'll do the formal sentencing now.

SENTENCING

THE COURT: The State of South Carolina versus Matthew Joseph Hogan, Indictments 2023-GS-46-1471, 1219, 1218, 1217, 1216, 1215, 1214, 1213, 1212, 1211, 1209, and then 2020-GS-46-03818; 2023-GS-46-1469, 2020-GS-46-3189, and 2020-GS-46-3820, the charges are 12 counts of criminal sexual conduct with a minor in the second degree, two counts of criminal sexual conduct in the third degree, and one count of incest.

On the criminal sexual conduct with a minor, all 12 counts, the sentence of the Court is the same. Mr. Hogan is committed to the custody of the Department of Corrections for a period of 20 years. He has 1,037 days' credit on each of these charges. And these are concurrent sentences.

On the 1469, criminal sexual conduct third, that sentence is five years in the Department of Corrections. That is a consecutive sentence to all the other sentences in the case.

And then on the 3819, the other criminal sexual conduct third, that is also a five-year sentence in the Department of Corrections. That one is concurrent to the other sentences.

And then, finally, the 3820, incest charge, sentence of the Court is Mr. Hogan is committed to the custody of the Department of Corrections for a period of ten years, and this is consecutive to all other sentences today.

So, again, the total sentence is 35 years with one count -- with the incest count and one count of the criminal sexual conduct third for five years running consecutive to all the other sentences.

For the record, the criminal sexual conduct with a minor charge is a violent and most serious, and Mr. Hogan will be put on the sex offender registry.

MS. INZERILLO: And, Your Honor, will he get credit for the 1,037 (indiscernible)?

THE COURT: Yes. 1,037 days credit on all 15 charges.

Anything I left out from the State?

MS. RUSSO: Nothing, Your Honor.

THE COURT: From the defense?

MS. INZERILLO: No, Your Honor.

THE COURT: All right. That will be the sentence. Thank you, Counsel.

MS. JOYNER: Thank you, Your Honor.

THE COURT: Thank you.

(The above matter concluded at 3:41 p.m.)

WITNESSES

YCSO

Witnessing Officer: Hagen

ARREST WARRANT NUMBER

2020A4610200974

ACTION OF GRAND JURY

TRUE BILL

Courtney J Bowler

Foreperson of Grand Jury
Date: 4/15/2021

VERDICT

Guilty

Signed in error

3/31/23

Foreperson of Petit Jury
Date:

DOCKET NO. 2020-GS-46-03818

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

APRIL 15, TERM 2021

THE STATE

VS.

MATTHEW JOSEPH HOGAN

INDICTMENT FOR

CRIMINAL SEXUAL CONDUCT WITH A MINOR, SECOND DEGREE

SC Code: § 16-03-0655(B)(2)
CDR Code: 0397

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I _____ hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

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STATE OF SOUTH CAROLINA

COUNTY OF YORK

INDICTMENT

At a Court of General Sessions, convened on April 15, 2021, the Grand Jurors of York County present upon their oath:

CRIMINAL SEXUAL CONDUCT WITH A MINOR, SECOND DEGREE

The defendant, Matthew Joseph Hogan, did on or about May 1, 2018 - May 30 2020, in York County, South Carolina, commit the crime of Criminal Sexual Conduct with a Minor in the Second Degree by engaging in a sexual battery with a minor, [redacted] Complainant who was at least fourteen (14) years of age but less than sixteen (16) years of age and the Defendant was in a position of familial, custodial, or official authority to coerce the victim to submit or is older than the victim. All in violation of 16-03-0655(B)(2), *South Carolina Code of Laws* (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Jessica M Russo

JESSICA M RUSSO
ASSISTANT SOLICITOR

WITNESSES

YCSO

Witnessing Officer: Hagen

ARREST WARRANT NUMBER

2020A4610200975

ACTION OF GRAND JURY

TRUE BILL

Christopher F Bowler

Foreperson of Grand Jury

Date: 4/15/2021

VERDICT

Guilty

As Charged

3/31/23 signed in error

Foreperson of Petit Jury

Date: WAM

DOCKET NO. 2020-GS-46-03819

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

APRIL 15, TERM 2021

THE STATE

VS.

MATTHEW JOSEPH HOGAN

INDICTMENT FOR

CRIMINAL SEXUAL CONDUCT, THIRD DEGREE

SC Code: § 16-03-0654
CDR Code: 0162

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I _____ hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

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STATE OF SOUTH CAROLINA

COUNTY OF YORK

INDICTMENT

At a Court of General Sessions, convened on April 15, 2021, the Grand Jurors of York County present upon their oath:

CRIMINAL SEXUAL CONDUCT, THIRD DEGREE

That Matthew Joseph Hogan did in York, South Carolina, on or about on or about May 1, 2018 - May 30 2020, engage in sexual battery, to wit: vaginal sexual intercourse with the victim, [redacted], and used force or coercion to accomplish the sexual battery in the absence of aggravating circumstances OR had reason to know that the victim was mentally defective, mentally incapacitated, or physically helpless and aggravated force or aggravated coercion was not used to accomplish sexual battery. This is in violation of 16-3-654 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

JESSICA M RUSSO
ASSISTANT SOLICITOR

WITNESSES

YCSO

Witnessing Officer: Hager

ARREST WARRANT NUMBER

2020A4610200976

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: 4/15/2021

VERDICT

Guilty.
Foreperson
3/31/23

Foreperson of Petit Jury
Date:

DOCKET NO. 2020-GS-46-03820

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

APRIL 15, TERM 2021

THE STATE

VS.

MATTHEW JOSEPH HOGAN

INDICTMENT FOR

INCEST

SC Code: § 16-15-0020
CDR Code: 0090

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I _____ hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

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STATE OF SOUTH CAROLINA

COUNTY OF YORK

INDICTMENT

At a Court of General Sessions, convened on April 15, 2021, the Grand Jurors of York County present upon their oath:

INCEST

The defendant, Matthew Joseph Hogan, did on or about May 1, 2018 - May 30 2020, in York County, South Carolina, have carnal intercourse with his daughter.. All in violation of 16-15-0020, *South Carolina Code of Laws* (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Jessica M Russo

JESSICA M RUSSO
ASSISTANT SOLICITOR

WITNESSES

YCSO

Witnessing Officer: Yates

ARREST WARRANT NUMBER
DIRECT INDICTMENT

ACTION OF GRAND JURY

TRUE BILL

Dana Simmons
Foreperson of Grand Jury
Date: 3/9/23

VERDICT

Guilty

Dana Simmons

3/31/23

Foreperson of Petit Jury
Date:

DOCKET NO. 2023-GS-46-01209
DIRECT INDICTMENT

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

MARCH 9, TERM 2023

THE STATE

VS.

MATTHEW JOSEPH HOGAN

INDICTMENT FOR

CRIMINAL SEXUAL CONDUCT WITH A MINOR, SECOND DEGREE

SC Code: § 16-03-0655(B)(2)
CDR Code: 0397

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I _____
hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

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STATE OF SOUTH CAROLINA

COUNTY OF YORK

INDICTMENT

At a Court of General Sessions, convened on March 9, 2023, the Grand Jurors of York County present upon their oath:

CRIMINAL SEXUAL CONDUCT WITH A MINOR, SECOND DEGREE

The defendant, Matthew Joseph Hogan, did on or about November 4, 2018, in York County, South Carolina, commit the crime of criminal sexual conduct with a minor in the second degree by engaging in a sexual battery with a minor, [redacted] Complainant [redacted] who was at least fourteen years of age but less than sixteen years of age, and the defendant was either in a position of familial, custodial, or official authority to coerce the victim to submit or is older than the victim, all in violation of 16-03-0655(B)(2), *Code of Laws of South Carolina* (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Jessica M Russo

JESSICA M RUSSO
ASSISTANT SOLICITOR

JMR

WITNESSES

YCSO

Witnessing Officer: Yates

ARREST WARRANT NUMBER

DIRECT INDICTMENT

ACTION OF GRAND JURY

TRUE BILL

Dana Simmons

Foreperson of Grand Jury

Date: 3/9/23

VERDICT

Guilty

Dana Simmons

3/31/23

Foreperson of Petit Jury

Date:

DOCKET NO. 2023-GS-46-01211
DIRECT INDICTMENT

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

MARCH 9, TERM 2023

THE STATE

VS.

MATTHEW JOSEPH HOGAN

INDICTMENT FOR

CRIMINAL SEXUAL CONDUCT WITH A MINOR, SECOND DEGREE

SC Code: § 16-03-0655(B)(2)
CDR Code: 0397

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I _____
hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

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STATE OF SOUTH CAROLINA

COUNTY OF YORK

INDICTMENT

At a Court of General Sessions, convened on March 9, 2023, the Grand Jurors of York County present upon their oath:

CRIMINAL SEXUAL CONDUCT WITH A MINOR, SECOND DEGREE

The defendant, Matthew Joseph Hogan, did on or about September 1, 2018, in York County, South Carolina, commit the crime of criminal sexual conduct with a minor in the second degree by engaging in a sexual battery with a minor, [redacted] Complainant [redacted] who was at least fourteen years of age but less than sixteen years of age, and the defendant was either in a position of familial, custodial, or official authority to coerce the victim to submit or is older than the victim, all in violation of 16-03-0655(B)(2), *Code of Laws of South Carolina* (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Jessica M Russo

JESSICA M RUSSO
ASSISTANT SOLICITOR

JMR

WITNESSES

YCSO

Witnessing Officer: Yates

ARREST WARRANT NUMBER
DIRECT INDICTMENT

ACTION OF GRAND JURY

TRUE BILL

Dana Simmons
Foreperson of Grand Jury
Date: 3/9/23

VERDICT

Guilty
Dana Simmons
3/31/23

Foreperson of Petit Jury
Date:

DOCKET NO. 2023-GS-46-01212
DIRECT INDICTMENT

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

MARCH 9, TERM 2023

THE STATE

VS.

MATTHEW JOSEPH HOGAN

INDICTMENT FOR

CRIMINAL SEXUAL CONDUCT WITH A MINOR, SECOND DEGREE

SC Code: § 16-03-0655(B)(2)
CDR Code: 0397

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I _____
hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

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STATE OF SOUTH CAROLINA

COUNTY OF YORK

INDICTMENT

At a Court of General Sessions, convened on March 9, 2023, the Grand Jurors of York County present upon their oath:

CRIMINAL SEXUAL CONDUCT WITH A MINOR, SECOND DEGREE

The defendant, Matthew Joseph Hogan, did on or about December 22, 2018, in York County, South Carolina, commit the crime of criminal sexual conduct with a minor in the second degree by engaging in a sexual battery with a minor, B[redacted] Complainant who was at least fourteen years of age but less than sixteen years of age, and the defendant was either in a position of familial, custodial, or official authority to coerce the victim to submit or is older than the victim, all in violation of 16-03-0655(B)(2), *Code of Laws of South Carolina* (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

JESSICA M RUSSO
ASSISTANT SOLICITOR

JMR

WITNESSES

YCSO

Witnessing Officer: Yates

ARREST WARRANT NUMBER
DIRECT INDICTMENT

ACTION OF GRAND JURY

TRUE BILL

Dana Drennan
Foreperson of Grand Jury
Date: 3/9/23

VERDICT

GUILTY
Dana Drennan
3/31/23

Foreperson of Petit Jury
Date:

DOCKET NO. 2023-GS-46-01213
DIRECT INDICTMENT

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

MARCH 9, TERM 2023

THE STATE

VS.

MATTHEW JOSEPH HOGAN

INDICTMENT FOR

CRIMINAL SEXUAL CONDUCT WITH A MINOR, SECOND DEGREE

SC Code: § 16-03-0655(B)(2)
CDR Code: 0397

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I _____
hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

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STATE OF SOUTH CAROLINA

COUNTY OF YORK

INDICTMENT

At a Court of General Sessions, convened on March 9, 2023, the Grand Jurors of York County present upon their oath:

CRIMINAL SEXUAL CONDUCT WITH A MINOR, SECOND DEGREE

The defendant, Matthew Joseph Hogan, did on or about December 24, 2018, in York County, South Carolina, commit the crime of criminal sexual conduct with a minor in the second degree by engaging in a sexual battery with a minor, [redacted] Complainant [redacted] who was at least fourteen years of age but less than sixteen years of age, and the defendant was either in a position of familial, custodial, or official authority to coerce the victim to submit or is older than the victim, all in violation of 16-03-0655(B)(2), *Code of Laws of South Carolina* (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Jessica M Russo

JESSICA M RUSSO
ASSISTANT SOLICITOR

JMR

WITNESSES

YCSO

Witnessing Officer: Yates

ARREST WARRANT NUMBER
DIRECT INDICTMENT

ACTION OF GRAND JURY

TRUE BILL

Dana Simmons
Foreperson of Grand Jury
Date: 3/9/23

VERDICT

Guilty
Dana Simmons
3/31/23

Foreperson of Petit Jury
Date:

DOCKET NO. 2023-GS-46-01214
DIRECT INDICTMENT

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

MARCH 9, TERM 2023

THE STATE

VS.

MATTHEW JOSEPH HOGAN

INDICTMENT FOR

CRIMINAL SEXUAL CONDUCT WITH A MINOR, SECOND DEGREE

SC Code: § 16-03-0655(B)(2)
CDR Code: 0397

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I _____
hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

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STATE OF SOUTH CAROLINA

COUNTY OF YORK

INDICTMENT

At a Court of General Sessions, convened on March 9, 2023, the Grand Jurors of York County present upon their oath:

CRIMINAL SEXUAL CONDUCT WITH A MINOR, SECOND DEGREE

The defendant, Matthew Joseph Hogan, did on or about January 13, 2019, in York County, South Carolina, commit the crime of criminal sexual conduct with a minor in the second degree by engaging in a sexual battery with a minor, [redacted] Complainant [redacted] who was at least fourteen years of age but less than sixteen years of age, and the defendant was either in a position of familial, custodial, or official authority to coerce the victim to submit or is older than the victim, all in violation of 16-03-0655(B)(2), *Code of Laws of South Carolina* (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

JESSICA M RUSSO
ASSISTANT SOLICITOR

JMR

WITNESSES

YCSO

Witnessing Officer: Yates

ARREST WARRANT NUMBER
DIRECT INDICTMENT

ACTION OF GRAND JURY

TRUE BILL

Dana Simmons
Foreperson of Grand Jury
Date: 3/9/23

VERDICT

Guilty
Dana Simmons
3/31/23

Foreperson of Petit Jury
Date:

DOCKET NO. 2023-GS-46-01215
DIRECT INDICTMENT

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

MARCH 9, TERM 2023

THE STATE

VS.

MATTHEW JOSEPH HOGAN

INDICTMENT FOR

CRIMINAL SEXUAL CONDUCT WITH A MINOR, SECOND DEGREE

SC Code: § 16-03-0655(B)(2)
CDR Code: 0397

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I _____ hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

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STATE OF SOUTH CAROLINA

COUNTY OF YORK

INDICTMENT

At a Court of General Sessions, convened on March 9, 2023, the Grand Jurors of York County present upon their oath:

CRIMINAL SEXUAL CONDUCT WITH A MINOR, SECOND DEGREE

The defendant, Matthew Joseph Hogan, did on or about January 18, 2019, in York County, South Carolina, commit the crime of criminal sexual conduct with a minor in the second degree by engaging in a sexual battery with a minor, [redacted] Complainant [redacted] who was at least fourteen years of age but less than sixteen years of age, and the defendant was either in a position of familial, custodial, or official authority to coerce the victim to submit or is older than the victim, all in violation of 16-03-0655(B)(2), *Code of Laws of South Carolina* (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

JESSICA M RUSSO
ASSISTANT SOLICITOR

JMR