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**Aug 06 2024**

**SC Court of Appeals**

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal from Greenville County

Honorable Perry H. Gravely, Circuit Court Judge

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THE STATE,

RESPONDENT,

V.

MAVRIC JORDAN SMITH,

APPELLANT.

APPELLATE CASE NO. 2023-000832

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RECORD ON APPEAL

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1    you do get their snot and their saliva and things like that  
2    on you, but just, you know, walking around typically, you  
3    know, you get DNA on your hands from touching other people,  
4    but you also catch it from them coughing and sneezing and  
5    talking and laughing. You know, COVID was transferred most  
6    of the time when people were catching it from our nose and  
7    our mouth and so that shows you how easily it can be  
8    transferred because every time it was transferred in that  
9    manner, it was transferred with DNA, so -- because DNA is  
10   in the same places where the COVID was. So you can see how  
11   easily it can be transferred to other people, to our hands  
12   to -- you know, and so we don't know where it came from.  
13   You can transfer DNA rather easily. You can transfer it by  
14   touch, but generally that's skin cells, but not always.

15       MR. YARBOROUGH: All right. Just a second, Your  
16   Honor.

17   BY MR. YARBOROUGH:

18   Q.    You're not -- you're not here to say Dr. Kandala is  
19   wrong, right?

20   A.    I'm not on anybody's side here. It's my job to be a  
21   science interpreter and that's all that I do. I try to  
22   read through the paperwork and I try to educate, you know,  
23   whether it's attorneys or juries or judges or, you know,  
24   even just regular people that ask me. I have people call  
25   me all the time asking me about paternity and other things

1 and so it's my job just to interpret the science to try to  
2 make sure that everybody understands it because they have  
3 tough decisions to make. I don't have a dog in the fight.  
4 It's my job just to, you know, make sure that everybody  
5 understands so, you know, they can make a good, valid,  
6 informed decision.

7 Q. And you've been paid for your services today, correct?

8 A. I've been paid about \$10,000 for this whole job.  
9 Looking through the paperwork, all the consultations that I  
10 did, flying out here, testifying, the whole thing was about  
11 \$10,000.

12 Q. Okay. And based on your expertise, you would not use  
13 the RSID report, correct? Or RSID saliva test if you were  
14 doing this research?

15 A. You know, I might use it under extremely limited  
16 conditions. I certainly would not have used it in this  
17 case.

18 MR. YARBOROUGH: Very good. Thank you.

19 THE COURT: Cross-examination?

20 MS. GASSER: Yes, Your Honor.

21 CROSS-EXAMINATION

22 BY MS. GASSER:

23 Q. Dr. Miller, you just told this jury -- well, first of  
24 all, welcome to South Carolina. You're from California,  
25 right?

- 1 A. Excuse me?
- 2 Q. You're from California, right?
- 3 A. I can't hear you.
- 4 Q. You're from California, right?
- 5 A. I am from California, yes.
- 6 Q. Okay. So I wanted to say welcome to South Carolina.
- 7 Have you ever been here before?
- 8 A. I don't know. I travel around quite a bit. I don't
- 9 -- I definitely have not been in this city before. It's a
- 10 beautiful city.
- 11 Q. Thank you. We're glad to have you here.
- 12 So you did say that you're only here to be a science
- 13 interpreter, right?
- 14 A. For the most part, yes.
- 15 Q. Okay. And that you don't have dog in the fight?
- 16 A. Correct.
- 17 Q. But you were paid \$10,000?
- 18 A. Correct.
- 19 Q. And that \$10,000 didn't come from me or the State of
- 20 South Carolina?
- 21 A. Correct.
- 22 Q. Or the County of Greenville?
- 23 A. Correct.
- 24 Q. So the dog that's fighting is the defendant?
- 25 A. Well, the defendant has a dog in the fight, but at the

1 end of the day whether or not he goes to jail doesn't land  
2 on my doorstep. You know, I walk in here. I would say in  
3 probably 80 to 90 percent of the cases the attorneys never  
4 call me back to tell me who won and who lost and at the  
5 end of the day that's not important to me. I got paid my  
6 money, I did my interpretation, I try to be honest and  
7 straightforward with everybody, and I walk away. That --  
8 that's my job.

9 Q. But you wouldn't be in that chair today if you weren't  
10 paid?

11 A. Of course not.

12 Q. Okay. Additionally, Dr. Miller, you talked a little  
13 bit about your experience and I just want to talk about  
14 that briefly. So this is your business, right? You have  
15 a consulting company?

16 A. Correct.

17 Q. For about fourteen years?

18 A. Since 2009. So, yeah.

19 Q. Check my math on that. I want to make sure. But your  
20 business doesn't actually contain a forensic laboratory?

21 A. I do not do any testing myself anymore.

22 Q. Okay. And you just read files, right?

23 A. I just -- for the most part, yes, I just read through  
24 paperwork and try to make sense out of it for people.

25 Q. And look at photos as part of your review?

1 A. Yes. Correct.

2 Q. Okay. Where I am getting stumped is that on your  
3 resume you said you had twenty-three years of lab  
4 experience?

5 A. Does it say lab experience on there?

6 Q. Yes, sir. It says over twenty-three years of  
7 specialized DNA laboratory experience.

8 A. I should probably take laboratory out of there.

9 Q. All right. So I just want to be clear that you're not  
10 physically in a lab the past fourteen years?

11 A. I have not been in a -- well, I've been in a lab, but  
12 I haven't done any work in a lab.

13 Q. And before that though you were three years at the  
14 Texas crime lab?

15 A. Correct.

16 Q. And one year at a private lab doing paternity testing?

17 A. (Nods head.)

18 Q. Okay. So that's four years in a laboratory, right?

19 A. Well, there was another six or seven years getting my  
20 Ph.D. where I worked with DNA, did cancer research, did  
21 some genetic engineering.

22 Q. Okay. But those weren't forensic laboratories, right?

23 A. Those were not, but they do a lot of the same kind of  
24 tests. You know, you have to take DNA, you have to purify  
25 it, you have to identify it, so a lot of the same things,

1 a lot of the same equipment. There certainly are some  
2 significant differences to a crime lab, but, yes. Yes, I  
3 had some experience there.

4 Q. All right. And you were in the courtroom for  
5 Dr. Kandala's testimony, right?

6 A. I was.

7 Q. And were you here when he said he had conducted over  
8 ten thousand DNA sample testing?

9 A. I don't remember the number, but that sounds correct.

10 Q. Okay. And I just want to then briefly touch on -- you  
11 talked about the RSID saliva test and you said that some  
12 labs -- or that this test is not used anymore, right?

13 A. Well, it's not used in many labs anymore.

14 Q. But you're not in labs. Isn't that what you just  
15 said?

16 A. I did say that.

17 Q. Yes. And so -- but you did also say that some labs  
18 use it in specific circumstances?

19 A. Correct.

20 Q. And you specifically used the example if a female said  
21 that she was licked on her breast, right?

22 A. Correct.

23 Q. Okay. And then you said at the end of your testimony  
24 that in this case you wouldn't have used the RSID saliva  
25 test?

1 A. Correct.

2 Q. And how is it if a female says that her vagina was  
3 licked, how is that any different from a female saying that  
4 her breast was licked?

5 A. Well, in this particular case if we look at the  
6 underwear, we can see what looks like, you know, feces on  
7 it and then if you take a cutting of that it's very likely  
8 to give you a positive result. The second thing is that  
9 you're looking at the potential of urine and blood and so,  
10 you know, she's possibly menstruating, you know, you could  
11 have a little urine there, and so several of the things  
12 that possibly have Alpha amylase in it are present there  
13 where on the breast you'd be mainly concerned with the  
14 saliva or possibly sweat. The concentration though of  
15 sweat would be much lower, but in the vagina -- on the  
16 inside of the vagina after twenty-four hours, it would be  
17 -- again, it would be low enough where it would be similar  
18 to the blood and the urine. On the breast, it would  
19 likely to stay there and be at the same high concentration  
20 where it was originally and you could probably tell the  
21 difference between the saliva and the sweat on the breast,  
22 whereas after twenty-four hours and a shower, you probably  
23 wouldn't be able to tell the difference between any of  
24 those -- any of those possibilities. The feces on the --  
25 on the pad would probably have the most amylase and would

1     probably be the one that you would be detecting.

2     Q.     All right. And you just said the feces on the pad.  
3     You said that you've only looked at photograph of that  
4     though, right?

5     A.     That's correct.

6     Q.     So you didn't see the pad in person?

7     A.     I did not.

8     Q.     And you said earlier that it could be feces or  
9     possibly blood?

10    A.     Correct.

11    Q.     And because you didn't see it in person, you cannot  
12    with any certainty say whether that is feces or blood?

13    A.     I can't with any certainty, but it does -- you know,  
14    a skid mark of poop on underwear typically looks different  
15    than blood that's been, you know, collected out of the  
16    vagina onto a pad. But I can't say with any certainty in  
17    this case, but it does look to be a skid mark, but I can't  
18    say that with certainty.

19    Q.     And you keep bringing up the 24-hour thing. You said  
20    you read the report in this case, right?

21    A.     Well, I -- yes, I did have the report.

22    Q.     And that after twenty-four hours it would be less  
23    likely to have the saliva in the vagina, right? The  
24    testing?

25    A.     Correct.

1 Q. Okay. So if you read this report, you'd know that it  
2 wasn't twenty-four hours later when she reported, it was  
3 roughly about sixteen, and that her SANE kit came back a  
4 couple of hours after that. That's when the swab was  
5 taken, right? You'd know that.

6 A. Okay. So according to the sexual assault nursing  
7 examination, which is a document that was done, you know,  
8 approximately twenty-four hours later, the document says  
9 when asked what the time and date of the assault was it was  
10 after 8:00 PM and the sexual assault nursing examination  
11 concluded about 8:00 the next day. The vaginal swabs and  
12 samples that they take are almost the last thing that  
13 they do generally. I didn't have an actual time when the  
14 incident occurred, I didn't have an actual time for when  
15 it ended, but according to the sexual assault nursing  
16 examination documentation the incident happened at  
17 approximately 8:00, discharge was approximately 8:00, so  
18 I'm putting it at approximately twenty-four hours, but it  
19 looks like it was just less than that.

20 Q. Okay. So, again, you weren't here for all the  
21 testimony of all the witnesses?

22 A. I was not.

23 Q. So you wouldn't know that the testimony had been --  
24 that it was in the afternoon that her sexual assault  
25 examination took place?

1 A. Well, now a sexual assault examination typically takes  
2 -- you know, it can take four to six hours. Usually it  
3 takes at least two to three hours and you wouldn't want to  
4 base the time on when the thing started because those  
5 samples that they take from the vaginal vault are typically  
6 the last samples that they take. It's the last thing on  
7 the thing. They go through it in order. It's one of the  
8 last things that they do, so typically -- and then a lot of  
9 sexual assault nursing examinations will put the times and  
10 dates when they actually do the collection so that you have  
11 a more accurate viewpoint. At this point I went from the  
12 discharge time.

13 Q. Okay. Now let's get it down to brass tacks though  
14 here. You agree that there is male DNA on both the panty  
15 liner cutting and the vaginal swab from the victim in this  
16 case?

17 A. There is.

18 Q. Okay. And that this is the defendant's paternal Y  
19 lineage, the DNA?

20 A. It might be.

21 Q. But it's his paternal Y lineage DNA?

22 A. It might be. I mean, one in every other -- two to  
23 three thousand families also match that. And, again, while  
24 that may seem like a high statistic, I see hundreds of  
25 cases, so I don't know for sure -- I can't identify that

1 as the family, but it does look to be likely.

2 Q. And so what your testimony has been through with the  
3 defense counsel is that it's either **M.S.**, the one-year-old,  
4 or the defendant?

5 A. That seems to be most likely.

6 Q. Okay. And so, again, you're saying you don't trust  
7 the RSID saliva test, right?

8 A. I would say that the forensic science community  
9 doesn't trust it.

10 Q. Even though Dr. Kandala, who's been in a forensic  
11 laboratory for twenty-five years and currently leads a  
12 forensic laboratory up to date on its certifications has  
13 said that multiple labs across the country utilize this  
14 test?

15 A. Well, there are multiple labs. There's no question.  
16 It's not just one, it's multiple, but I would say that it's  
17 getting smaller and smaller and smaller because of the --  
18 because we end up with these kinds of discussions in court  
19 where people think that -- or lawyers and attorneys think  
20 that saliva has been identified when -- when we don't know  
21 that.

22 Q. But you would agree with me that all of the places  
23 that the male DNA should not be is on the vaginal swab of  
24 a 12-year-old near her cervix?

25 A. I would agree that it's uncommon to find it there.

1 Q. And that it's not male blood?

2 A. It's not male blood.

3 Q. And that it's not male touch DNA up there?

4 A. Well, we don't know that.

5 Q. And that it's not semen?

6 A. We don't know that.

7 Q. Were you in here for Dr. Kandala's testimony that  
8 he --

9 A. Regardless of his testimony, we don't know where the  
10 DNA came from. So we don't -- we don't have any indication  
11 that it's semen, but we -- but we don't know where the DNA  
12 came from.

13 Q. So a test for semen that says there's no semen is  
14 still a question mark?

15 A. Well, you have to realize that the P30 test that was  
16 used is much like saliva. If there was semen there  
17 originally, in twenty-four hours that's likely to have  
18 been absorbed by the vagina, the same as the saliva. Sperm  
19 will last three days, even after five or six days at times,  
20 but virtually anything else that you would test for inside  
21 the vagina is gonna be gone -- is typically going to be  
22 negative in approximately twenty-four to thirty-six hours,  
23 so that P30 test, the same as the saliva test or any  
24 amylase test, is very likely to be negative twenty-four  
25 hours later.

1 Q. But in this case those tests were -- the semen test  
2 was negative, but the saliva test was positive?

3 A. Correct.

4 Q. Okay. And so, again, there was male DNA -- you'd  
5 agree with me there was male DNA on the vaginal swab in  
6 this case?

7 A. There was.

8 Q. And there was male DNA on the panty liner cutting in  
9 this case?

10 A. There was.

11 MS. GASSER: I have no further questions.

12 THE COURT: Redirect?

13 REDIRECT EXAMINATION

14 BY MR. YARBOROUGH:

15 Q. Why is it even called the saliva test?

16 A. Excuse me?

17 Q. Why's it even called the saliva test?

18 A. That's a good question. I mean, there are hundreds  
19 of different amylases and there are ways through immunology  
20 and other ways where you can identify the different -- the  
21 different amylases, but even that particular amylase that's  
22 found in saliva, the exact same one is found in sweat,  
23 so it's really -- under very, very specific controlled  
24 conditions it's not a bad test for saliva, but it has to  
25 be very narrow. It's not good -- it really is not a saliva

1 test, it's really an amylase test, but in order to sell it  
2 to the scientific community they like to call it a saliva  
3 test.

4 MR. YARBOROUGH: Okay. I don't have any further  
5 questions. Thank you, Dr. Miller.

6 THE COURT: All right. You may step down.

7 MR. YARBOROUGH: May he be released?

8 THE COURT: Yes. Fine. You may step down.

9 (Witness excused.)

10 THE COURT: Is a lunch break good?

11 MR. YARBOROUGH: That would be good.

12 THE COURT: All right. Ladies and gentlemen, we're  
13 gonna take a lunch break and we are -- we made a lot of  
14 progress today, so what I anticipate -- again, this could  
15 change, what I anticipate is that we'll have some more  
16 testimony this afternoon and then at the conclusion of  
17 all testimony there's a lot of stuff that we have to go  
18 over, so I anticipate that we will finish hopefully all  
19 the testimony today and then we'll come back in the  
20 morning for argument and charge. That's what it looks  
21 like the schedule is going forward, so.

22 All right. With that being said, if you could be  
23 back at ten minutes until two and don't discuss the case  
24 and don't do any type of research, don't pay any attention  
25 to any media coverage if there's any out there, and if

1 portion of the video that was not on the previous exhibit,  
2 so what we were doing is they had it burn another video  
3 and that's what is now gonna be put into evidence, an  
4 additional video, and that's why Ms. Evers is back, who  
5 you saw the other day, and that's what we were doing. I  
6 apologize, but sometimes that takes a little longer than  
7 we expect, so that's where we are.

8 At this point I will now turn it over to  
9 Mr. Yarborough.

10 MR. YARBOROUGH: I call Ms. Evers.

11 THE COURT: All right. And you were previously  
12 placed under oath, so.

13 SARA EVERS,

14 having been previously sworn, testified as follows:

15 DIRECT EXAMINATION

16 BY MR. YARBOROUGH:

17 Q. Thanks for coming back, Ms. Evers. We appreciate it.

18 A. Uh-huh.

19 Q. Are you -- you're familiar with Camera 14 that was  
20 previously discussed in this case?

21 A. The security footage?

22 Q. Yes.

23 A. Yes.

24 Q. Okay. And I have that marked as Exhibit 6 of  
25 Defendant's. Does this fairly and accurately represent

1     what came from Camera 14?

2     A.    I don't know what you have in your hand.  I can't see  
3     that.

4     Q.    Well, yeah.  Can you see me --

5           THE COURT:  I tell you what.  Go over to where he  
6     is.

7           MR. YARBOROUGH:  I'll go this way.

8           THE COURT:  Can you see it now?

9           THE WITNESS:  I see you have a disk in your hand,  
10    yes.

11   BY MR. YARBOROUGH:

12   Q.    Okay.  So to the best of your knowledge, does this  
13   disk fairly represent what you sent down here in discovery  
14   to Investigator Walter sometime ago?

15   A.    If that is the same disk, yes.

16           THE COURT:  I believe you-all stipulated.

17           MS. GASSER:  Yes, Your Honor.  We stipulated that  
18   it is the same.

19           MR. YARBOROUGH:  Yeah, they stipulate to it, so  
20   thank you.

21           THE COURT:  All right.  I think you had some  
22   questions.

23           MS. GASSER:  Yes, Your Honor.  Just briefly.

24           MR. YARBOROUGH:  I don't have any more questions.

25   I move it into evidence.

1 THE COURT: All right. Any objection?

2 MS. GASSER: No objection, Your Honor.

3 THE COURT: All right. It's in without objection.

4 (Defendant's Exhibit Number 6, a security footage  
5 CD, was admitted into evidence.)

6 CROSS-EXAMINATION

7 BY MS. GASSER:

8 Q. Ms. Evers, I just had a couple of questions. So the  
9 -- the Camera 14 surveillance footage from Cheeseman  
10 Transport did not have any timestamps on it, did it?

11 A. No, it did not.

12 Q. And so this was just the footage that was requested  
13 of you from law enforcement in this case?

14 A. Yes.

15 Q. And it was for a particular timeframe?

16 A. Yeah, that was the -- the timeframe was determined  
17 based on the particular driver's logs as -- and we looked  
18 at that yesterday as to a rough estimate of time when he  
19 arrived to our terminal.

20 Q. Okay. But there were no timestamps on the video?

21 A. No.

22 Q. And the surveillance cameras at that location in  
23 March of 2020 were motion-activated; is that correct?

24 A. Correct.

25 Q. And so you wouldn't know if the -- the defendant came

1 in at a certain time, would you, because of -- based on the  
2 video specifically?

3 A. Right. We have to rely on our IT staff to pull that.

4 Q. Okay.

5 MS. GASSER: I have no further questions. Thank you,  
6 Ms. Evers, again for coming.

7 THE COURT: Any redirect?

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

9 Thank you, Ms. Evers.

10 THE COURT: All right. Thank you.

11 All right. That concludes the video.

12 (Witness excused.)

13 THE COURT: Okay. Next witness.

14 MR. YARBOROUGH: I call Mavric Smith, Your Honor.

15 THE COURT: All right. Mr. Smith, if you'd come  
16 forward and be sworn.

17 THE CLERK: Please place your left hand on the Bible  
18 and raise your right hand.

19 (Whereupon, Mavric J. Smith was duly sworn by the  
20 Clerk of Court.)

21 THE CLERK: Please take a seat and state your name  
22 for the record.

23 THE WITNESS: My name is Mavric Smith.

24 MAVRIC J. SMITH,

25 having been duly sworn, testified as follows:

1 DIRECT EXAMINATION

2 BY MR. YARBOROUGH:

3 Q. Good afternoon, Mavric. How are you?

4 A. I'm trying.

5 Q. Can you tell this jury a little bit about yourself?

6 A. I'm currently working as a truck driver. Starting  
7 out, I worked mostly manufacturing and warehousing on my  
8 civilian side. I enlisted with the National Guard my  
9 junior year in high school, completed basic training,  
10 served in the National Guard for about twelve years, made  
11 one deployment overseas back in 2011. I've been activated  
12 for numerous natural disaster scenarios, hurricanes, ice  
13 storms, that we've had over the last twelve years. I  
14 left --

15 Q. How about this? Let's back up. Where were you born?

16 A. I was actually born in Canton, Maine. I was only  
17 there --

18 Q. And how far did you go in school?

19 A. I attempted to go to college and was unable to because  
20 of finances, but I graduated high school and went to the  
21 military through the National Guard.

22 Q. How old are you?

23 A. Thirty-three.

24 Q. Are you married presently?

25 A. No.

1 Q. Were you married?

2 A. Yes, I was.

3 Q. And who were you married to?

4 A. Samantha Miller.

5 Q. Samantha?

6 A. Miller --

7 Q. Who is --

8 A. -- is her current name.

9 Q. Her current name. The woman that testified in here?

10 A. Yes.

11 Q. Did you love her very much?

12 A. Yes.

13 Q. Now how long were you and Samantha married?

14 A. I'm really horrible at times and dates. I'd say about  
15 four years before the divorce went through.

16 Q. Did you-all date for a while before that?

17 A. We did. We dated before we officially moved in  
18 together and then we were together for about six years.

19 Q. So between marriage and living together you-all were  
20 together about six years?

21 A. Six to eight.

22 Q. Six to eight. A good while?

23 A. Yes, sir.

24 Q. Did you consider it a happy relationship?

25 A. I believed we had a happy relationship, yes.

1 Q. Okay. Did you -- did you-all always live in -- in  
2 Greenville, South Carolina?

3 A. No. We've actually never lived in Greenville. We --  
4 when we first got together, she was living in Spartanburg  
5 and I ended up moving in with her at one point and then we  
6 moved from Spartanburg back to Anderson and at another  
7 point we moved -- to be with her side of the family, we  
8 moved out to Nebraska and then stayed there for about nine  
9 months and then returned to South Carolina returning to  
10 Anderson and then we've moved to about two other home  
11 locations in Anderson.

12 Q. All right. So how long were you-all in Nebraska?

13 A. We were there for about nine months.

14 Q. All right. And then you-all were here the rest of the  
15 time. You knew her or were married to her; is that right?

16 A. Yes, sir.

17 Q. And I think you heard her testify you-all met on a  
18 dating site?

19 A. Yes, it was a texting communication app.

20 Q. Okay. And did -- how long after you-all met did  
21 you-all move in together?

22 A. I'm not a hundred percent sure. Probably about four  
23 to six months later.

24 Q. Okay. And did -- did she have children when you met  
25 her?

1 A. She did. She already had MINOR and M.R. .

2 Q. Okay. And so how old was MINOR -- or let's start  
3 with M.R. . How old was M.R. when you-all got  
4 married or about?

5 A. When we got married, I believe he was about six or  
6 seven.

7 Q. Okay. And how old was MINOR ?

8 A. I believe she would have been about nine or ten.

9 Q. Okay. And did you enjoy being their step dad?

10 A. I did. I tried to treat them as if they were my own.

11 Q. Did you try to provide for them financially?

12 A. I -- I still do.

13 Q. You still do?

14 A. (Nods head.)

15 Q. Did you -- when you-all were married, did you feel  
16 like you were a pretty good provider?

17 A. I always tried to provide more. When raising kids  
18 there's never enough.

19 Q. Yeah. Did there come a time that you-all had a child?

20 A. Yes. I -- again, I'm horrible with dates and times,  
21 but we had M.S. I believe around 2018 and then Sophie was  
22 born later in 2019 or -- no, I'm sorry. It was later than  
23 that. It was maybe 2021 maybe. I can't remember dates.

24 Q. Yeah. Did you try to -- when did you start driving a  
25 truck? And if you can't remember dates, you can just say

1 about when. It's fine.

2 A. I believe it was towards the end of 2018 is when I  
3 started driving. I left home and went to Gary, Indiana and  
4 trained under Roehl Transport to get my CDL.

5 Q. Okay. And you did that at the suggestion of a family  
6 member?

7 A. I did. My sister had suggested that I get into truck  
8 driving because the employment and income was supposed to  
9 be significantly better than the manufacturing work that I  
10 had previously had.

11 Q. Yeah. And was it?

12 A. It was.

13 Q. And between trucking and being in the Guard you were  
14 doing okay, right?

15 A. Financially it wasn't so bad. The being away from  
16 home made it more difficult.

17 Q. All right. How much would you be away from home?

18 A. It would -- to me it would seem like months on end  
19 because when I was home from trucking I was often gone for  
20 the National Guard, so I wasn't actually home.

21 Q. Yeah. Was that hard on your marriage?

22 A. It seemed to put a large strain on it.

23 Q. Yeah. Was that hard on you?

24 A. It is.

25 Q. And at some time you ended up getting out of the

1 Guard?

2 A. I enlisted with the Guard in 2008 and then I got out  
3 in -- January of 2020 was my end of service period.

4 Q. Did you enjoy being in the Guard?

5 A. I did.

6 Q. Yeah. And I think you said it, but you -- you served  
7 overseas and you also worked on storms? Is that what you  
8 said?

9 A. Yes. I had one deployment in 2011 to Iraq and when I  
10 came home through the remainder of my service time I was  
11 activated for the U.S. hurricanes and ice storms that we've  
12 had through the last twelve years.

13 Q. Okay. And so what would you do for those? You'd go  
14 to the --

15 A. My primary task with the National Guard was a  
16 generator mechanic, so I was on call for emergency shelter  
17 locations to make sure we had power sources; otherwise, I  
18 was with the maintenance department so we would have  
19 vehicles and stuff ready for emergency pickups in case of  
20 trapped civilians in homes or anything because of flooding  
21 or -- or to recover vehicles during ice storms.

22 Q. Okay. Did you -- the reason you got out of the Guard  
23 is because you wanted to spend more time with your family?

24 A. That was a large part of it. I was trying to -- I  
25 left the National Guard with an intention to possibly

1 return prior to a three-year span so I wouldn't have to  
2 redo introduction training. I left the Guard so I could  
3 focus on the employment because it was literally taking  
4 income away coming to do the National Guard versus just  
5 staying out on the road.

6 Q. Right. And how long would you be out on the road at  
7 the time?

8 A. My schedule was pretty much directly in between  
9 drills, so depending on when the drill would fall for the  
10 following month, it would be possibly three, four, maybe  
11 five weeks depending on when the drill timeframe fell.

12 Q. Okay. Did -- so that -- that left little time to be  
13 home with your family?

14 A. It did. I don't recall being home often when I was  
15 still with the Guard.

16 Q. Okay. Did you -- when you were home, did you take an  
17 active role in being a disciplinarian at the house?

18 A. My disciplinarian role pretty much ended -- I believe  
19 it was around 2016. We -- when we moved to Nebraska, her  
20 side of the family made strong opinions on not performing  
21 my type of disciplinary action, which would be entitled  
22 spankings for obvious disobedience and not -- doing things  
23 they knew they weren't supposed to be doing and they felt  
24 that that was too harsh or inappropriate, so I removed  
25 myself as the disciplinarian and allowed Samantha to

1 continue doing whatever it was that she preferred and I  
2 just supported her on it.

3 Q. Okay. And was that -- were you okay with that?

4 A. I didn't agree with it, but I wasn't gonna press into  
5 it and say that it was gonna be this way or not.

6 Q. Right. Did you -- you and Samantha just went on with  
7 your lives and let her -- let her be the disciplinarian,  
8 right?

9 A. That's more or less how it would end up working out.

10 Q. Right. And so after that you-all moved from Nebraska  
11 back to Anderson; is that right? Or did you-all move back  
12 to Spartanburg first?

13 A. No, when we left Nebraska my sister and brother-in-law  
14 housed us when we came back. They helped us move back.

15 Q. And you-all lived with them for a short time?

16 A. We did in Anderson.

17 Q. In Anderson. And your sister's a truck driver as  
18 well?

19 A. She was at the time.

20 Q. Okay. Is she the one that helped you get a job out at  
21 Cheeseman?

22 A. She was. She referred me to Star Trucking and I had  
23 to find a way to get my license, so I went through Roehl  
24 and then I worked for them for about six months and then  
25 transferred to Cheeseman and team drove with her for a

1 number of months before we split as individual drivers.

2 Q. Okay. Did -- you enjoyed that?

3 A. I enjoyed the driving. I like to travel and get  
4 around the country.

5 Q. Yeah. Did you feel like you've had a good role with  
6 your smaller -- a good relationship with your smaller  
7 children?

8 A. I tried to when I was home. When I was available, I'd  
9 interact with them. I'd watch their shows and play with  
10 them as much as I could.

11 Q. Yeah. And that was -- that included MINOR ?

12 A. Yes.

13 Q. Okay. Did you -- did you feel like you and MINOR  
14 had a good relationship?

15 A. I believed we did.

16 Q. Did you try your best to be a good father to her?

17 A. I believed I did. I tried to guide her in pursuit of  
18 her -- her interests.

19 Q. Okay. And she loved art, right?

20 A. She did. That was one of her biggest things that she  
21 liked to do, so I would -- which I ended up picking up art,  
22 so that was kind of a -- not a competition, but something  
23 we shared and I would get her her own supplies to give her  
24 something to focus on and a sense of responsibility for her  
25 own materials.

1 Q. Right. Was she a tough child at home?

2 A. Not really. I wouldn't say she was a tough child,  
3 but she kind of -- you could tell she had her own views  
4 and opinions on things.

5 Q. Okay. And did you agree with those opinions?

6 A. There -- at times there were issues between her and  
7 myself and her mother that she didn't -- she didn't like  
8 that we didn't agree with some of her lifestyle choices or  
9 ways of self-expression.

10 Q. Okay. But you supported her at school? She was a  
11 good student, right?

12 A. Right. I believe she was an A-B honor roll student.

13 Q. Okay. And you supported her art, right?

14 A. Yes.

15 Q. And did you try to -- did she have -- did she get to  
16 see her father very often?

17 A. Not -- not that I can recall. He was --

18 Q. Did you ever meet her father?

19 A. The only -- the only times I ever saw him were during  
20 specific events and he most of the time never showed for  
21 things like birthdays and possible holidays.

22 Q. Okay. And could you tell that she missed her father?

23 A. She -- we could tell. She would ask about him and  
24 want to the spend time with him.

25 Q. Okay. And was that hard for her to do?

1 A. It was because he was never available.

2 Q. Okay. And did you try to replace her father?

3 A. In a way between her relationship and my previous  
4 relationship with my daughter, I think I ended up kind of  
5 stepping in and treating her more of a daughter than I did  
6 my previous and made her feel like she -- that I was taking  
7 his place.

8 Q. Okay. Would you -- would you and Samantha discipline  
9 her by taking stuff away from her?

10 A. Samantha's tactic was the usual grounding, so she  
11 would be grounded from her phone or her tablet or  
12 electronics or things like that.

13 Q. Right. Did there come a time that you and Samantha  
14 learned that she was looking at pornography on her phone?

15 A. There was a few points she -- Samantha asked me to  
16 communicate with her and find out what -- what was going on  
17 because she had -- **MINOR** had more or less stonewalled her  
18 mother and wouldn't really talk to her, so I had talked to  
19 her and asked about where she had found out about it and a  
20 lot of it came from her friends at school.

21 Q. Okay. And did -- based on that, did you -- did you  
22 and Samantha at times take her phone away from her?

23 A. I believe her mother would, yes.

24 Q. Okay. Let's -- let's talk about the month or so  
25 leading up to March 1, 2020, okay? Where -- where had you

1    been throughout that period?

2    A.    I -- I can't recall the specifics.  I know I was out  
3    on the road because I travelled across states all the way  
4    down from Laredo, Texas up into California and back to  
5    usually Ohio.

6    Q.    Okay.

7    A.    So I can't recall specifically where I'd been.  I know  
8    I was travelling.

9    Q.    Yeah.  And had you been gone for some period of time?

10   A.    Yes.

11   Q.    Was that getting close to MINOR's birthday?

12   A.    My -- my return trip was.

13   Q.    And that was on March the 1st?

14   A.    March 1st was when I was able to return to the  
15   terminal.

16   Q.    Okay.  And did you make plans with -- with your wife  
17   to allow MINOR to ride in the truck?

18   A.    We did.  There was an open discussion about allowing  
19   her at some point to be able to go on a ride-along.

20   Q.    Okay.  And did she want to do that?

21   A.    MINOR?

22   Q.    Yeah.

23   A.    Yes.  She had voiced numerous times that she wanted a  
24   chance to go on a ride-along.

25   Q.    Okay.  And did your -- to your knowledge, did -- she

1 got that information from your sister's children? They got  
2 to go on ride-along's?

3 A. From what I understand, that's the -- where she kind  
4 of got the idea because she had seen my sister take her  
5 daughters and sons.

6 Q. Okay. Did you -- did you end up meeting her at the  
7 Exxon gas station that night?

8 A. I did.

9 Q. Okay. And how did she get there?

10 A. Her mother had gathered up all the kids and drove and  
11 met me out there at the gas station.

12 Q. Okay. Did -- were you glad to see your wife?

13 A. I was.

14 Q. Were you glad to see MINOR and the kids?

15 A. I was.

16 Q. Okay. And did MINOR get in the truck?

17 A. She did. She entered the passenger side.

18 Q. Okay. During that -- that ride from the Exxon station  
19 to Cheeseman, how far is that?

20 A. I'm not a hundred percent sure. I'd estimate probably  
21 about thirty miles.

22 Q. Okay. And did you-all ride that -- from the Exxon to  
23 Cheeseman together, you and MINOR?

24 A. We did.

25 Q. Okay. Did anything unusual happen along that ride?

1 A. No.

2 Q. Did you touch her inappropriately along that ride?

3 A. No, I did not.

4 Q. Did you get to Cheeseman's?

5 A. Yes, we eventually arrived at the Cheeseman lot.

6 Q. Okay. And have you watched the videos of going to

7 Cheeseman?

8 A. I have.

9 Q. Okay. Does it appear to fairly and accurately

10 represent what you remember that night?

11 A. It does.

12 Q. Okay. So let me -- let me make sure I'm with you.

13 Who follows you from the Exxon gas station to Cheeseman's?

14 A. Her mother Samantha does.

15 Q. And are there other kids in that car?

16 A. Yes, M.S. and M.R. .

17 Q. And M.S.'s the baby, right?

18 A. Yes. He was about one at the time.

19 Q. And M.R. is about how old at that time?

20 A. I believe he was about seven.

21 Q. Okay. Did you pull into Cheeseman, the parking lot?

22 A. I -- yeah. Yes, I did.

23 Q. Is that -- to your knowledge does that video fairly

24 and accurately represent you pulling into Cheeseman?

25 A. It does.

1 Q. Okay. And did you park the truck normally?

2 A. I went through the normal procedure -- procedures to  
3 drop a trailer and park my cab.

4 Q. Okay. Well, so the jury will understand it, we can --  
5 let me just see.

6 Excuse me, Your Honor.

7 Tell the jury how that works. Pull in the parking  
8 lot, take it all the way through. Explain to the jury how  
9 dropping that rig works.

10 A. So to drop the trailer, I had to find a location large  
11 enough to maneuver the trailer and to back the trailer into  
12 the parking space. To get the trailer detached from the  
13 truck, you have to get out of the truck and lower the  
14 landing gear, detach the air lines and pigtails and detach  
15 the kingpin. I believe I already mentioned lowering the  
16 landing gear.

17 Q. And did you do that that night?

18 A. I actually had to do that multiple times that night.

19 Q. You what?

20 A. Actually I had to do that multiple times that night.

21 Q. Okay. But while you were doing that was Samantha  
22 waiting on you in her car?

23 A. She was. She was parked off to the side.

24 Q. Okay. And where was MINOR ?

25 A. MINOR was in the bunk area of my truck.

1 Q. Okay. And why was she in the bunk area of your truck?

2 A. She was in the bunk area because I knew I had broken  
3 company policy allowing her ride with me that night because  
4 she was still at the time underage and I didn't go through  
5 proper channels to request a passenger to go with me that  
6 night.

7 Q. Okay. So when you pulled into Cheeseman, you left her  
8 in the back, right?

9 A. Yes.

10 Q. Okay. And were you talking to her the whole time?

11 A. Not while I was maneuvering and dropping the truck.

12 Q. Okay. What was she doing?

13 A. I can't say for sure what she was doing because I  
14 never saw her when she was in the back.

15 Q. When she was in the passenger side of the car, was she  
16 -- I mean, passenger side of the truck, did she have her  
17 cell phone with her?

18 A. I can't recall.

19 Q. Okay. Did -- have you reviewed the documents which  
20 came from Cheeseman about your driving that night?

21 A. I have.

22 Q. Do you believe they fairly and accurately represent  
23 what happened?

24 A. I believe so.

25 Q. Okay. Can you tell the jury so they'll understand

1 starting at about 7:49, the green down there, where are  
2 you?

3 A. If I recall correctly, at 7:49 it shows that I'm on a  
4 driving status still in the Pendleton area, so I would have  
5 been driving somewhere around my final stopping location  
6 for the delivery.

7 Q. Okay. So did you make that delivery?

8 A. I did.

9 Q. And what time does the records show that the delivery  
10 was made?

11 A. It doesn't specifically indicate when the delivery was  
12 made, but looking at the timeframes from the drive status  
13 at 7:58 in the same location to receiving the on-duty  
14 status at 8:48 in the Five Forks location, I would have  
15 completed my delivery at the Pendleton location around the  
16 7:58 time and continue to drive towards Cheeseman.

17 Q. Okay. Does it -- does it show when you're at the  
18 Exxon?

19 A. That most likely would be the 7:56 timeframe where I  
20 pull off to the side and put the truck in sleeper berth  
21 while **MINOR** was entering the cab.

22 Q. Okay. And so it looks like that was about a  
23 two-minute process. Would that be fair? Be normal?

24 A. That sounds accurate.

25 Q. Okay. And so the truck starts moving again at 7:58,

1 right?

2 A. Yes.

3 Q. Okay. And it shows -- how far did you go?

4 A. 7:58 PM shows a 32.2-mile distance.

5 Q. Okay. And then the -- then it says 8:48 on. Do you  
6 know what that means?

7 A. That's when I would have put the driving status to  
8 on-duty.

9 Q. Okay. And can you explain that, the difference in  
10 drive and on-duty?

11 A. So the -- any of the statuses can be put on manually  
12 by the driver or they're done automatically. I believe  
13 that some of the Cheeseman personnel explained that the  
14 drive status can be put on automatically while the truck  
15 is -- when the truck starts driving. The on-duty status  
16 many drivers will place when they're still on-duty with the  
17 job, they're not off, but they're not particularly working  
18 making a delivery or exiting a delivery site.

19 Q. Okay. So the 8:48 goes to the -- where it says  
20 shipment detach, what does that mean?

21 A. I believe for -- for their system that would indicate  
22 when I logged that I was detached from the trailer that I  
23 had picked up from the previous delivery site.

24 Q. Okay. And did you -- did you pull around after and  
25 detach that?

1 A. I did. The company policy was to detach the empty  
2 trailers and park the truck on the side lot.

3 Q. Okay. And how long does it take to detach the  
4 trailer?

5 A. Depending on conditions and equipment quality it takes  
6 an average of fifteen, twenty minutes.

7 Q. Okay. And have you watched the video of your truck  
8 and can you tell us what was going on that night?

9 A. I believe so.

10 Q. Okay. Can you tell me -- tell the jury what you  
11 remember.

12 A. So when I entered the Cheeseman property, I drove  
13 around. I entered through their gate, went to the end of  
14 the building, made a right and went around where the other  
15 trailers were already parked maneuvering around the back  
16 side because there were no readily available spots on the  
17 front side, so went around to the back to maneuver the  
18 trailer to park. I attempted to park in one location. I  
19 had to stop and get out of the truck numerous times to make  
20 sure my clearance was available. I have stigmatism and  
21 already poor eyesight, so nighttime is specifically more  
22 difficult, so I had to get out and make sure the trailers  
23 weren't contacting other trailers. So I'd have to get out  
24 and check clearance and make adjustments to the trailer and  
25 continue to try to back in. I don't recall specifically

1    how many times I had to get out during the first location  
2    and then I decided that the first location is too narrow or  
3    tight to try to drop the trailer, so I maneuver the trailer  
4    to another location and continue the same process. I have  
5    to get out numerous times to check the clearance. I back  
6    the trailer into the location and then I get out to start  
7    detaching the equipment from the trailer -- from the  
8    tractor. So I have to climb up on the catwalk, detach the  
9    air lines, climb back down, lower the landing gear and then  
10   pull the kingpin which connects the trailer to the tractor  
11   and then climb back in the cab. That night I had forgotten  
12   -- the company policy for dropping the trailer is to have  
13   the tandems, which is the rear axle of the trailer, all the  
14   way to the rear so the trailer is prepared for loading for  
15   the next shift or whoever's gonna use it, so I had to get  
16   back out, reattach the pigtail and the air lines up on the  
17   catwalk, come back down, raise the landing gear back up,  
18   walk the length of the trailer to unlock the trailer  
19   tandems and then walk back to the truck, climb back in and  
20   bump the truck back to lock the kingpin back in place and  
21   pull the truck forward locking the trailer brakes to allow  
22   the trailer tandems to slide to the rear and then release  
23   the trailer brakes and then push the truck back into place  
24   parking it along the other trailers and then I set my  
25   brakes and I have to get back out, climb up on the catwalk,

1 detach the air lines and pigtails again, climb back down,  
2 lower the landing gear and -- and pull the kingpin and then  
3 I climb back into my truck and detached the trailer from  
4 the cab and then pull away.

5 Q. Okay. And did you pull back around to the car where  
6 Samantha was?

7 A. I did once I emptied the trailer.

8 Q. And during that period was MINOR with you?

9 A. She was in the bunk area of the truck.

10 Q. Okay. And when you look at that video that you've  
11 seen in evidence here, do you believe you can see the car  
12 backing up -- you can see the lights backing up back there?

13 A. You can see the trailer markers and signal lights.

14 Q. Okay. And when you saw that video, was that  
15 consistent with how you remember it?

16 A. Yes.

17 Q. Okay. At any time -- at any time when you were back  
18 there, did you sexually assault MINOR?

19 A. I did not.

20 Q. Would you do that?

21 A. No.

22 Q. Did she -- at that point did she seem -- to you did  
23 she seem happy?

24 A. She seemed to be.

25 Q. Did she tell you thank you for giving her a ride?

1 A. I don't recall specifically. She gets out. Gets in  
2 the car with her mother.

3 Q. Okay. And did everything seem fine at that point?

4 A. It did.

5 Q. Okay. Do you believe that these logs from -- that I  
6 have up there, what's that -- that's marked as what?

7 A. It's marked as State evidence 39.

8 Q. Okay. Do you believe that those logs fairly and  
9 accurately represent what happened that night?

10 A. I believe so.

11 Q. Okay. When you looked at those logs, did you think  
12 that that was consistent with what happened?

13 A. Reviewing the log, it looks accurate.

14 Q. Okay. You're not questioning the logs in any way,  
15 shape or form. In fact, you agree with them, right?

16 A. Right.

17 Q. And they do that for a reason, right? To be able to  
18 figure out when the truck stops or --

19 A. It has to do with the traffic laws with the DOT  
20 because there's only so much -- so many driving hours  
21 available for transport.

22 Q. And that means -- for my edification, that means how  
23 many hours you can drive, right?

24 A. Correct.

25 Q. And had you about driven your entire amount at that

1 point?

2 A. I believe so. I was coming to the end of my shift  
3 for the week.

4 Q. Okay. Did -- you went and you pulled the truck around  
5 and I think you said you got in Samantha's car, right?

6 A. After detaching from the truck I parked my truck along  
7 the fence. I had to call Samantha and ask her to move her  
8 vehicle because it was parked beside the truck where I was  
9 planning on moving mine, so she had moved her vehicle and I  
10 parked my truck and she came along the passenger side of my  
11 truck.

12 Q. Okay. When you were out there, did you see any other  
13 cars and trucks out there that night?

14 A. I recall seeing other vehicles. I can't indicate  
15 whether it was a truck or -- like a semi or a personal  
16 vehicle, but I do remember other people's headlights and  
17 stuff moving around as I was working.

18 Q. Is that normal?

19 A. It is. The Cheeseman lot's an open lot and no driver  
20 knows when another's gonna be in or out of the location.

21 Q. Okay. So there's not a way to know who's gonna be  
22 there when; is that right?

23 A. That's right.

24 Q. Did you-all stop on the way home?

25 A. We did. We stopped at a QT gas station on the way

1 home. Me and MINOR went inside to pick up drinks and  
2 snacks for the -- well, it was late for them, it was normal  
3 for me, but snacks and drinks for that evening and the next  
4 day.

5 Q. Did you -- did you get out of the car at the QT?

6 A. I did. I had gotten out with MINOR and we had  
7 pumped gas and then went into the store.

8 Q. And did you-all buy some stuff in the store?

9 A. We did.

10 Q. And did you buy her any food?

11 A. I allowed her to pick out some kind of whatever snack  
12 she chose. It was some kind of candy bar. I'm not for  
13 sure.

14 Q. You can't remember. And where was M.S. throughout  
15 this period?

16 A. M.S. remained in the -- in the car in his car seat  
17 through the trip from Exxon to returning home.

18 Q. Okay. And was -- was Samantha in the back with M.S.  
19 or was she in the front with you? I'm sorry. Was MINOR  
20 in the back with M.S. or was she in the front and you were  
21 in the back?

22 A. When we were returning home, I was in the front seat,  
23 the passenger seat.

24 Q. Okay. And going over to the QT as well?

25 A. Yes.

1 Q. So when the family rides together, it's usually either  
2 you drive or Samantha drives and then the kids ride in the  
3 back, right?

4 A. Yes. MINOR would usually help with tending to M.S.  
5 while we were driving.

6 Q. Was MINOR good tending to M.S.?

7 A. She seemed to be. She seemed to enjoy tending to him.  
8 She would often change him and feed him and play with him.

9 Q. Did you-all used to tease her about her being the  
10 parent?

11 A. She would often like act like M.S. was her -- her own  
12 son versus her younger brother.

13 Q. Well, you probably never had a 12-year-old, but would  
14 you think that was pretty normal for a 12-year-old?

15 A. The idea of taking care of one is normal, another --  
16 a younger sibling would be normal, but her -- her verbiage  
17 of him specifically being her son seemed a little abnormal.

18 Q. Okay. Did you go to -- did you-all go to bed at the  
19 house that night?

20 A. We did.

21 Q. Did anything -- did the kids seem fine?

22 A. They -- with me not being home, I didn't know exactly  
23 what their routine was, but nothing seemed out of the  
24 ordinary. They had their individual locations that they  
25 were sleeping.

1 Q. Okay. And did everybody go to bed?

2 A. Yes.

3 Q. And did you go to bed with your wife?

4 A. I did.

5 Q. And at that point I believe your wife testified  
6 you-all had intercourse?

7 A. We did.

8 Q. Okay. And the next morning were you tired?

9 A. I was.

10 Q. And did you sleep in?

11 A. I -- I vaguely remember Samantha basically telling --  
12 I think she gave me a kiss and told me good-bye and that  
13 was pretty much it. I would have responded and rolled back  
14 over and went back to sleep.

15 Q. Yeah. Anything unusual that morning?

16 A. No.

17 Q. Did you-all only have one car at that time? Did you  
18 have a car at home?

19 A. I believe we still had the -- we had a second vehicle.  
20 She was driving the Accura at the time and we had her  
21 original car, which was a -- or she was driving the Acadia.  
22 We had the other car, which was an Accura.

23 Q. Okay. Did she use -- she took one car and so you had  
24 a car there at home when you woke up?

25 A. We tended to help out family members, so I can't

1 recall if we actually had that vehicle or a family member  
2 may have been borrowing it at the time.

3 Q. Okay. Did -- was she going to school? Is that what  
4 Samantha was doing?

5 A. Samantha was. She was attending Greenville Tech.

6 Q. And MINOR was going to school?

7 A. Yes. MINOR and M.R. were still in -- were both  
8 in general education and M.S. was at daycare.

9 Q. And MINOR had recently -- she had changed schools  
10 the year before or two years before or something like that?  
11 Is that about right?

12 A. I believe so. I think she was starting her -- she was  
13 either in eighth or ninth grade. I can't remember which  
14 grade level, but she had changed school locations.

15 Q. Okay. Did you have a normal day that day in the  
16 morning and early afternoon?

17 A. I don't recall the time. It was probably early  
18 afternoon that I had first received a call from MINOR's  
19 school.

20 Q. Okay. So you got a call from MINOR's school and  
21 they wanted to talk to Samantha?

22 A. Yes. They were -- well, they were asking for a parent  
23 and when I disclosed that I was her stepfather, they said  
24 well, we're looking for her mother and we made contact, so  
25 she'll be taking care of the -- whatever the issue was.

1 Q. Okay. Did you know anything that was going on at that  
2 point?

3 A. I did not.

4 Q. Did you -- at that point did you think that something  
5 had happened to MINOR ?

6 A. I didn't -- I got -- I got the -- well, I missed the  
7 call from the school, so I called back and they told me  
8 that they were contacting -- that they had contacted the  
9 mother and the only information that I received from the  
10 mother was that she had to get there immediately. So with  
11 knowing that she was told to be there immediately and the  
12 school contacting the parent, so I wasn't sure what may  
13 have happened; if she may have gotten hurt or something may  
14 have happened at school.

15 Q. Okay. Did you -- did you eventually find out that she  
16 had made some -- well, I guess at that point you're just  
17 told you have to leave the house; is that right? How did  
18 you learn that?

19 A. Until later in the -- late afternoon to early evening  
20 I had gotten a call from my mother that the only way that  
21 Samantha and the kids would be allowed to enter the home  
22 was if I wasn't there, so she suggested that I go to stay  
23 at my truck for the -- the evening.

24 Q. Okay. And did you think that was odd?

25 A. I thought it was odd that my family wasn't allowed to

1 be home while I was.

2 Q. All right. Did that freak you out?

3 A. It did.

4 Q. Okay. But did you try to cooperate with what your  
5 mother told you to do?

6 A. Yes.

7 Q. Okay. And did you go out to your truck?

8 A. I did. My -- I asked my brother-in-law to give me a  
9 ride out.

10 Q. All right. And when you got out to the truck, what  
11 did you learn?

12 A. I had discovered that there had already been some kind  
13 of investigation to do with my truck because there was  
14 crime scene -- crime scene tapes and my truck had been --  
15 well, it looked like ransacked because everything was  
16 tossed all over the place and my bedding was missing.

17 Q. Okay. Did you think that was weird?

18 A. I did.

19 Q. Okay. And so based on that, did you go -- did you  
20 leave?

21 A. Because every -- just about everything was taken from  
22 my truck that I would use to stay the night, I asked my  
23 brother-in-law if I could manage to stay at his place and  
24 I had to take up one of his kids' rooms.

25 Q. Okay. Did you live out of that truck?

1 A. I did. I was on the road for weeks and months at a  
2 time.

3 Q. So I guess after that were you contacted by  
4 Investigator Walter? Is that the next person that  
5 contacted you?

6 A. No, the next person that had contacted me was -- I'm  
7 not familiar with what his title was. It was a staff  
8 member with DSS. Tobias Moore had contacted me.

9 Q. Okay. And did you agree at that point not to go back  
10 to the house?

11 A. Yes, I had already -- I believe when I actually spoke  
12 with him, I was already at my sister's and he had met me  
13 there.

14 Q. Okay. Because you wanted your family to be able to go  
15 home, right?

16 A. Right.

17 Q. And did you agree to cooperate with DSS?

18 A. Yes, I did.

19 Q. Okay. And did you cooperate with them?

20 A. I have.

21 Q. Did -- at some point were you contacted by law  
22 enforcement?

23 A. I can't recall the specific day, but the law  
24 enforcement contact that I can recall would be Detective  
25 Walter asking for me to come in and give my side of the

1 story at the -- whatever the location -- that officer's  
2 location.

3 Q. And did you do that?

4 A. I did. I believe we scheduled an appointment for  
5 March 10th.

6 Q. Okay. And at that point did you tell Investigator  
7 Walter everything you knew about this?

8 A. I did.

9 Q. And did you feel like you cooperated with him?

10 A. I did.

11 Q. Did you answer all his questions?

12 A. To the best of my ability.

13 Q. Did he waive -- did he have you sign your waiver of  
14 rights?

15 A. Yes, he did.

16 Q. Okay. Did you -- were you worried about that?

17 A. Not at the time. I was just trying to do what I  
18 thought was right just to give my -- my information.

19 Q. Okay. And to the best of your recollection at that  
20 time, you told Investigator Walter the truth, right?

21 A. Yes.

22 Q. Okay. Did he ask you if you had sexually assaulted  
23 MINOR ?

24 A. He did.

25 Q. And what did you tell him?

1 A. That I did not.

2 Q. Okay. Did you offer to give him everything you had on  
3 you at that time?

4 A. I was willing to do whatever I -- was asked of me to  
5 comply and help with the case.

6 Q. Because you hadn't done anything wrong?

7 A. Right.

8 Q. Okay. Did you exercise the use of counsel, a lawyer?

9 A. At that time I did not. I didn't think I needed any.

10 Q. Okay. Did you have a chance to talk to your wife  
11 during this -- right during that period?

12 A. No, we were restricted from contact. I didn't get  
13 authorization to communicate other than by phone for  
14 financial purposes until a month -- I believe it was months  
15 later.

16 Q. Okay. And did you provide any financial help you  
17 could to your family?

18 A. Throughout the entire process the past three years  
19 I've been continuing to try to support them as best I can  
20 with whatever I have.

21 Q. Okay. You did it then and you do it now, right?

22 A. Yes.

23 Q. Did there come a time that you went back down and met  
24 with Investigator Walter?

25 A. I don't recall a second meeting with Investigator

1 Walter.

2 Q. Okay. So on that first meeting he showed you -- you  
3 gave a statement, right?

4 A. Yes.

5 Q. And at the end of that statement he showed you a  
6 warrant; is that right?

7 A. I believe there was a number of warrants, yes.

8 Q. Okay. And did you -- were you surprised?

9 A. I believe I was kind of still in a state of shock and  
10 confusion. I don't recall really understanding what was  
11 on the warrants. Just that they -- he explained what it  
12 was, but I didn't know if they were mine or just an  
13 explanation of this is what the process is.

14 Q. Right. And at all times during that period did you  
15 maintain your innocence?

16 A. I did.

17 Q. And do you continue to maintain your innocence today?

18 A. I do.

19 Q. Have you ever tried to influence MINOR in this case  
20 in any way, shape or form?

21 A. No.

22 Q. Were you told not to do that?

23 A. I don't believe so. I've never had any contact with  
24 MINOR or her mother.

25 Q. Well, you -- you only had contact with her mother for

1 financial --

2 A. For financial purposes.

3 Q. Did you tell Investigator Walter that you thought she  
4 might have said this about you because you didn't agree  
5 with her choices?

6 A. I can't recall specifically what I -- what I directly  
7 told Ms. -- Investigator Walter. I believe that there was  
8 something about she may have made the accusation because  
9 she was angry at me for not agreeing with her choices or  
10 taking her father's place or some kind of relationship  
11 issue.

12 Q. All right. Did you turn over anything he asked you  
13 to turn over?

14 A. I gave -- that day I gave everything I had in my  
15 pockets.

16 Q. Okay. Have you -- did he ever contact you again?

17 A. No, not that I can recall.

18 Q. Did you talk to your sister and your mother about this  
19 case after you got out?

20 A. We talked about the broad spectrum of the case, that  
21 I was -- the allegations and things like that, but that was  
22 pretty much it.

23 Q. Okay. Did you ever ask them to in any way, shape or  
24 form influence **MINOR** ?

25 A. No.

1 Q. Did you feel like that would have been unfair to her?

2 A. To MINOR ?

3 Q. Yeah.

4 A. Trying to influence her in any way would be unfair if  
5 it was her personal belief.

6 Q. Right. And you wouldn't try to influence a little  
7 girl, would you?

8 A. No.

9 Q. Did you feel like you were a good stepfather?

10 A. I believed I was.

11 Q. Did you feel like you were a good husband?

12 A. I tried to be.

13 Q. Okay.

14 MR. YARBOROUGH: Your Honor, I wanted to play some --  
15 the disk. Is this a good time for a break or do you want  
16 to keep going?

17 THE COURT: Do you have the disk ready to go?

18 MR. YARBOROUGH: I -- I beg the Court's indulgence.

19 Thank you, Your Honor.

20 BY MR. YARBOROUGH:

21 Q. I'm gonna show you what was previously admitted from  
22 Camera 14 that was admitted into evidence a little while  
23 ago. Were you here? Have you seen it before?

24 A. I have.

25 Q. Okay. We'd like to play that for the jury. And can

1     you look at it and tell me what you believe that to be if  
2     it plays.

3             (Defendant's Exhibit Number 6 was played.)

4     Q.     Okay. Do you recognize where that is?

5     A.     Yes, that's the Cheeseman lot.

6     Q.     Okay. And keep -- keep going.

7             (Video continues playing.)

8     Q.     Have you seen this before?

9     A.     I have.

10    Q.     Was that just a car leaving Cheeseman? Is that what  
11    you just saw?

12    A.     Yes, it was.

13             (Video continued playing.)

14    Q.     Is that another car coming in?

15    A.     Yeah.

16    Q.     Okay. You've been out to that lot a lot. Is that  
17    normal out there, cars in and out?

18    A.     It is. The Cheeseman lot like many other yards is  
19    just an open drop location for the drivers to be able to  
20    come out and swap equipment.

21    Q.     All right.

22             (Video continues playing.)

23    Q.     Now that's another -- what kind of rig's that?

24    A.     That's one of their day cab tractors with a flatbed  
25    trailer or a -- I believe they may classify that as a

1 lowboy for heavy equipment.

2 Q. Are those in and out of there? Are those tractor  
3 trailers in and out of there?

4 A. It is.

5 Q. And that thing is going around back. What's back  
6 there?

7 A. That's the rear of the -- the corner of the lot.  
8 That's just an open -- I believe there may be a few  
9 trailers along the far corner and it's mostly an open area  
10 to try to turn or maneuver to go around the back side of  
11 the parking lot for the trailers.

12 Q. And so that's where you park and stuff back there,  
13 right? Or that's where you drop your load?

14 A. Yes.

15 Q. Now I see this truck. Do you recognize this truck?

16 A. This would be my truck because Samantha just pulled  
17 in behind me.

18 Q. Okay. And she's pulling over to the side and you're  
19 going back around?

20 A. Yes, I'm maneuvering around the yard to find a  
21 location to drop the trailer.

22 Q. Right. And you don't know -- is there anybody back  
23 there when you're trying to drop the trailer or not? Do  
24 you recall?

25 A. I don't recall seeing like -- there wasn't like

1 another truck out there maneuvering with me, but I recall  
2 there being other lights and stuff in the -- in that area  
3 in the evening.

4 Q. All right. And it's pretty normal for 8:45 on a  
5 Sunday night at the Cheeseman plant?

6 A. They -- they have drivers coming in and out all hours  
7 every day regardless of the weekend or week.

8 Q. And do you see a truck moving around back there?

9 A. I believe that's me pulling up to a parking location.

10 Q. Okay. And let's watch that truck. Do you see it --  
11 those are your lights?

12 A. That would be the rear of the trailer.

13 Q. Okay. And -- and that's your wife right over there on  
14 the left, right?

15 A. Yes, she's at the end of the line of trailers there.

16 Q. Okay. And approximately how far is it from there to  
17 the trailer?

18 A. The trailer that I'm maneuvering?

19 Q. Yeah.

20 A. I'd estimate maybe thirty yards.

21 Q. And do you see your trailer back there blinking?

22 A. That appears to be the passenger rear light of the  
23 trailer.

24 Q. Okay. What is that? The passenger rear right of the  
25 trailer, that's the back part when you're backing in?

1 A. If you're looking at the rear of the trailer, that  
2 would be the -- as I'm backing in, that would be the back  
3 right side of the trailer.

4 Q. Okay. And is it -- are you still backing in? Can you  
5 tell? Can you tell what you're doing?

6 A. I'm still maneuvering the trailer. You can see the  
7 -- the four-ways and the marker tape moving through the --  
8 the imaging.

9 Q. Okay. And is -- when you say that, are you talking  
10 about those lights right up there that are blinking?

11 A. So the traffic lights and the four-ways would be the  
12 marker lights here. When I'm referring to the tape, it  
13 would be like this, but it's the reflective tape of my own  
14 trailer that you can kind of catch in the imaging.

15 Q. Okay. And -- and it looks like it kind of disappears  
16 a little bit there. Can you tell me what's happening or do  
17 you know?

18 A. I can't recall for sure because I can't see what the  
19 trailer's doing, but I'm still -- I believe I'm still  
20 maneuvering the -- I can see the light reflection blinking  
21 on the other trailer. I'm still somewhat maneuvering the  
22 truck.

23 Q. Okay. And you know that because you see those lights  
24 up there on the --

25 A. You can see them on the --

1 Q. -- over on the right side?

2 A. Yes.

3 Q. You're talking about these? This right here? Is that  
4 what you're talking about blinking?

5 A. Yes, sir. And now you can see it.

6 Q. Tell us a little bit about that. What's that mean?  
7 If it's blinking, does that mean the truck is doing  
8 something or what?

9 A. Well, the blinking is just me having the four-ways or  
10 the caution lights on on the trailer. Company policy is  
11 while on the property, which is why Samantha still has hers  
12 on, is to have your four-ways visible so other drivers and  
13 other people can see the vehicle in motion. So the policy  
14 is to leave the four-ways on.

15 Q. Okay. And I believe you heard testimony before, but  
16 it's -- if you're just moving around right there, would it  
17 show up on that sheet?

18 A. There was an issue with the testimony about the truck.  
19 I believe it was notated that when a truck was in the  
20 on-duty status they said that it could not be -- that it  
21 was when the truck was completely stationary and that if  
22 the truck was moved at all. I believe they said that when  
23 the wheels are in motion that it goes to drive duty, but if  
24 you look at the driver's log it was on on-duty throughout  
25 this duration because as long as the truck is under

1 five miles an hour it can remain in on-duty so I can  
2 continue to finish out my -- my work.

3 Q. And is that you doing that right there?

4 A. That I believe was -- would be where I maneuvered for  
5 my second position because you can see over here that I  
6 would be closer -- that looks like it's a few truck spaces  
7 over reflecting off of another truck. I believe that's my  
8 second parking location and I'm still maneuvering.

9 Q. And you're still maneuvering right through there?

10 A. It is. I believe you'll -- if I recall correctly,  
11 you should see the same reflection of the four-ways moving  
12 forwards and backwards and adjustments.

13 Q. Okay. And do you believe that's another truck over  
14 there in the back back there? Do you see the lights on the  
15 left?

16 A. It may have been another -- another vehicle because I  
17 recall seeing other headlights and lights as I was looking  
18 through my mirrors and getting in and out of the truck.

19 Q. All right. This was a -- this was a normal night for  
20 you?

21 A. It was. It was a normal shutdown.

22 Q. Right. And does it still look like you're still doing  
23 it?

24 A. I'm still maneuvering. I believe I -- I just moved  
25 the brakes.

1 Q. Do you believe that fairly and accurately represents  
2 what's happening?

3 A. I believe so.

4 Q. And you see the reflections. Is that Samantha's car  
5 reflecting off of here?

6 A. The -- I'll tell you you probably see it up to the  
7 seventh, maybe eighth trailer. The large light source at  
8 the end of the line and some of the ambient light kind of  
9 pulsing would be the reflection of her -- her four-ways.

10 Q. And, again, about how far are you from Samantha?

11 A. Maybe thirty yards.

12 Q. Okay. Anything unusual?

13 A. No.

14 Q. Okay. How good are you at getting in and out of that  
15 trailer?

16 A. To --

17 Q. In and out of that cab.

18 A. I mean, I can get in and out fairly -- well, that  
19 location for that yard is a very rugged terrain. It's an  
20 uneven dirt lot, so there's divots and holes so I have --  
21 I had to take my time like when I was climbing up and down  
22 off the catwalk to detach and reattach the air lines and  
23 the pigtails to avoid injury while stepping off of the  
24 catwalk or in and out of the cab.

25 Q. Had you fallen getting out of there before?

1 A. Not -- not this location. I've actually broken my  
2 ankle because of improper footing in a similar rugged  
3 location and broke my ankle.

4 Q. All right. Just while we're watching, can you explain  
5 to the jury the process of unhooking that thing? What's  
6 that mean? How do you unhook the back of the truck from  
7 the cab?

8 A. Like I said before, that's the process of detaching  
9 the trailer from the cab. You have to -- for this  
10 particular company because a lot of rigs and other  
11 companies depending on the make of the tractor may have  
12 easier access. For this particular company, you have to  
13 climb up on the catwalk because the air lines and pigtail  
14 connection is in the center of the trailer, so I have to  
15 climb up on the catwalk, remove the air lines and pigtails,  
16 step off the catwalk, walk down a bit of the trailer to get  
17 to the landing gear, crank the landing gear to lower it to  
18 support the trailer once I detach the truck. The average  
19 landing gear takes like thirty rotations and then having to  
20 already -- previous to this location I'd just done a swap  
21 at the other location and having to do it at least another  
22 four times here is an excess of rotations, so I'm -- I was  
23 already tired.

24 Q. Is there a camera running in your truck at this point?

25 A. There's a dash cam, I believe, that runs any time the

1 truck is running.

2 Q. All right. So is the truck on?

3 A. It is.

4 Q. And so the dash cam's running?

5 A. It is.

6 Q. Those lights are still blinking. Do you think you're  
7 still moving or do you think you've quit moving at this  
8 point?

9 A. You can tell by the imaging that I'm still maneuvering  
10 the trailer because it's changing. You can't see the same  
11 image from the four-ways.

12 Q. Would you point that out to us, please? Or to the  
13 jury.

14 A. So before you could see something similar to this.  
15 Now you're seeing more lights and you're seeing the  
16 reflection of the trailer pulling forward and backing up  
17 again.

18 Q. Okay. Is that -- that's hard to see on this tape,  
19 isn't it?

20 A. It is. And you're basing everything on the reflection  
21 of the lights.

22 Q. A similar -- similar night? Unusual night?

23 A. It was an average night for a usual shift.

24 Q. So the jury will understand, what's the difference  
25 between those trailers? Is it about this far?

1 A. It can -- it can -- depending on the drivers, it can  
2 literally be within inches. It depends on how tight the  
3 area is. Most trailers we try -- drivers try to give  
4 enough space for someone to be able to squeeze in between  
5 or to operate the landing gear, so it's on average probably  
6 about three to five feet apart from the trailers.

7 Q. Oh, so it's more like this. Is it hard to get in and  
8 out?

9 A. It can be. I don't specifically recall if it was too  
10 difficult to squeeze in between the trailers that night.

11 Q. Okay. Would you consider yourself good at it or not?

12 A. I'm manageable at it. I'm no way in shape like I used  
13 to be.

14 Q. Right. Some drivers are really good at it?

15 A. Well, again, I believe I mentioned it earlier. It  
16 sometimes depends on the quality of the equipment because  
17 sometimes the landing gear may be rusted or just not have  
18 -- it may be an older set or possible damage to the landing  
19 gear, so it may be more difficult to actually crank the --  
20 the gear.

21 Q. Okay. And throughout this process you're doing your  
22 job and are you getting ready to pull around?

23 A. I -- I believe at this point when you see -- I  
24 pulled forward and then started backing up again. I can't  
25 recall specifically from this footage, but at one point I

1 remembered that I needed to adjust the tandems, so I had  
2 to pull the tractor forward to slide the rear axles of the  
3 trailer and then back the trailer back into place and then  
4 get back out and then re-detach everything.

5 Q. Right. But there's internal video from this, right?

6 A. There is.

7 Q. Were you ready to get home?

8 A. I was, which is why I forgot originally to adjust the  
9 tandems when I first detached the trailer.

10 Q. Okay. Did you have to get in and out of the truck?

11 A. I did numerous times. I can't recall exactly how  
12 many.

13 Q. And all that time was MINOR in the truck?

14 A. She was.

15 Q. Was she -- at this point is she in the back or the  
16 front or do you remember?

17 A. She should have been in the back in the bunk area of  
18 the cab.

19 Q. Okay. Is that area very big?

20 A. Not particularly, no.

21 Q. Okay. Do you crawl back there and sleep?

22 A. Yes, that's the bedding and personal area for a  
23 driver.

24 Q. And so was your stuff all over that place?

25 A. My -- it was. I didn't have a whole lot to be really

1     thrown around. It was mostly bedding and clothing and  
2     then I had personal food and stuff like that for the  
3     over-the-road trips put up in the pantry and stuff.

4     Q. Did you keep your toiletries out there and stuff?

5     A. No, there -- I didn't really have many toiletries on  
6     the truck. I usually take the truck stops or rest areas.

7     Q. Okay. Did you -- did you get cut in there? Was your  
8     blood in there?

9     A. At one point I recall having like a friction boil or  
10    something on my thigh and I believe that's where the blood  
11    had come from on the mattress.

12    Q. Right. And did you tell them -- okay. Here you go.  
13    Do you see somebody pull in there? Who's that?

14    A. That's -- that would be me pulling up when I'm  
15    communicating with Samantha to maneuver her vehicle so I  
16    can park next to the other truck that's parked there.

17    Q. Were you-all in contact this whole time?

18    A. We were in contact shortly after leaving Exxon and  
19    were in contact at this point.

20    Q. Okay. She had picked you up out there a bunch of  
21    times before?

22    A. She had.

23    Q. The kids, too?

24    A. The kids had been out and seen the -- the work area.

25    Q. Yeah, but **MINOR** had never ridden out there, right?

1   What I mean is she had never ridden with you in the truck  
2   before, right?

3   A.    No.

4   Q.    And then that's you pulling in to park?

5   A.    It is.

6   Q.    Okay. And then do you recall what happens after that?

7   A.    Once I contacted Samantha and asked her to move, I  
8   pull into the parking location, set my brakes and Samantha  
9   pulls up beside me and I tell MINOR that she can go ahead  
10   and get out of the truck and I continue to end my shift.  
11   I log my detachment of the trailer and set my off-duty  
12   status and such to the truck and I continue to gather  
13   personal items like clothing and trash and stuff to clear  
14   out the truck to leave for the evening.

15   Q.    Okay. Did she seem okay when she got out?

16   A.    She did.

17   Q.    Are we gonna see her get out here?

18   A.    I can't recall if you can see it clearly on here.

19   Q.    Does your son get out at some point -- or your  
20   stepson?

21   A.    My stepson M.R. gets out and comes up to the  
22   truck. I recall handing him something small and he returns  
23   it to his mother and then comes back to the truck and I  
24   help him into the cab while I finish gathering things.

25   Q.    Okay. Have you gotten out of the cab yet?

1 A. I believe so.

2 Q. Wait. Let's see. It looks like somebody just ran  
3 around the side. Would that have been your son or would  
4 that have been you, MINOR? Did you see somebody going --

5 A. You see a figure right around the taillights of the  
6 vehicle that are in between the posts and it may have been  
7 MINOR getting out, but I'm not sure.

8 Q. Is that another car coming in?

9 A. It is. It's an open lot. It's either a family member  
10 or staff member coming in.

11 Q. All right. Are you-all gonna leave in a minute? I  
12 was waiting to see if your son got out, but I don't -- I  
13 don't see that. Do you recall?

14 A. I don't recall if you can see it because he's so  
15 small. I'm not sure.

16 Q. Wait a second. If you look up there, is that him  
17 crawling up on the truck there; do you think? Maybe. I  
18 don't know. You're pretty sure he got out. You've seen  
19 those pictures before?

20 A. I can recall him getting out and coming up to the  
21 truck.

22 Q. Right. You didn't -- did you tell MINOR anything  
23 about getting out? Did you just tell her to get out?

24 A. Once I parked and her mother pulled up beside me, I  
25 told her she can go ahead and get out.

1 Q. Okay. Did you tell her not to say anything?

2 A. I did not.

3 Q. At any point during this did you assault her?

4 A. No, I did not.

5 Q. Did you have any feeling at that point that she was  
6 upset about anything?

7 A. No.

8 Q. Did you see somebody get out? I can't tell. There  
9 you go. You-all leave. Is that you-all pulling out?

10 A. That I believe -- I believe she maneuvered the vehicle  
11 and then I get in the passenger side.

12 Q. Okay. Was MINOR alone in the car with her mother at  
13 that point when she's turning right there?

14 A. She would have been in the vehicle with M.S. and  
15 M.R. .

16 Q. And then you-all left and went to the --

17 A. The QT.

18 Q. -- Quick -- QT?

19 A. The QT.

20 Q. She's just sitting there waiting on you?

21 A. I believe so.

22 Q. Is that where you were gathering yourself stuff and  
23 getting your stuff out of there?

24 A. Yes, because I would have piled it up on the -- on the  
25 seat and climbed out and grabbed it from the seat.

1 Q. Yeah. Okay. That's it. You can turn it off.

2 (Defendant's Exhibit Number 6 concluded.)

3 Q. I wanted to show you what had been marked as Defense  
4 Exhibits 1 and 2. Do you recognize those?

5 A. That would be the mattress from the cab.

6 Q. Okay. And that's the mattress that had a little bit  
7 of blood on it?

8 A. Yes.

9 Q. And that was your blood, right?

10 A. It was.

11 Q. It didn't have anybody else's blood in it, right?

12 A. No.

13 Q. At some point did Investigator Walter tell you that he  
14 thought that was proof of some type of sexual act?

15 A. He did.

16 Q. Did you tell him that it wasn't?

17 A. I believe I told him that I couldn't recall where the  
18 blood would have come from.

19 Q. Where the blood had come from?

20 A. Yeah.

21 Q. Because at that point you didn't remember where the  
22 blood had come from?

23 A. Correct.

24 Q. Did you -- just one second, Your Honor.

25 Could I have these marked as the next Defense

1 exhibits?

2 (Defendant's Exhibit Numbers 7 and 8 were marked  
3 for identification.)

4 THE COURT: What numbers are these you're putting  
5 in?

6 MR. YARBOROUGH: These are 7 and 8.

7 Can I show you these pictures, which -- which I'm  
8 moving into evidence without objection I believe, Your  
9 Honor.

10 MS. GASSER: Your Honor, I would ask that he lay  
11 the foundation for the photos.

12 THE COURT: Do you have an objection?

13 MS. GASSER: After foundation I would like to  
14 reserve. Can he just lay the foundation and then we  
15 determine whether or not?

16 MR. YARBOROUGH: Sure.

17 BY MR. YARBOROUGH:

18 Q. Do you recognize these pictures?

19 A. They're pictures of the trailers at the Cheeseman  
20 location.

21 Q. Okay. Does that fairly and accurately represent the  
22 way those trailers look when you go out there?

23 A. It's an accurate representation of what it could look  
24 like, yes.

25 Q. Okay. Did you go out there the day those pictures

1     were taken?

2     A.     I believe so.

3     Q.     Okay.  And based on what you recall, is that -- is  
4     that the way trucks are when you're trying to park them --  
5     or the trailers are, I guess, when you're trying to park  
6     them?

7     A.     It is.  They can be extremely tight spaces to try to  
8     put another trailer in between.

9     Q.     Okay.

10           MR. YARBOROUGH:  And based on the fact that you  
11     were there when those pictures were taken and they look  
12     about fair and accurately, Your Honor, I'd ask that we  
13     move those pictures into evidence.

14           THE COURT:  Any objection?

15           MS. GASSER:  Your Honor, we just ask that the date  
16     the photos were taken be placed on the record.

17           MR. YARBOROUGH:  I'll come back around to that and  
18     we'll get you the date.  We'll do that in just a second  
19     and just wait to move them into evidence.

20     BY MR. YARBOROUGH:

21     Q.     A couple of weeks ago do you remember going out to  
22     Cheeseman with me and we met with the guy that testified in  
23     here earlier?  We walked around the place.  My paralegal  
24     took some pictures.  Do you remember that day?

25     A.     Yes.

1 Q. Was that date about three weeks ago? Do you recall  
2 that?

3 A. I do.

4 Q. At some point did you talk to -- at the very beginning  
5 did you talk to DSS about this case?

6 A. I'm sorry. Can you --

7 Q. Before you knew anything about it, did DSS con -- when  
8 they contacted you in the beginning about this case, that  
9 very first day, did you talk to them?

10 A. The -- if I can recall correctly, the only time the --  
11 when I first had word of the case was my first meeting with  
12 Tobias Moore because I believe he was also issuing the --  
13 or getting the court summons notice for an emergency safety  
14 plan or something in that regard.

15 Q. Did he ask you if MINOR was out at Cheeseman?

16 A. He did. He had asked me if she had rode with me that  
17 day.

18 Q. And what did you tell him?

19 A. Originally I told him that she was not in the truck.

20 Q. And the reason for you telling him that was what?

21 A. Because I didn't know what all was going on with the  
22 case and I was still trying to protect my job because I  
23 knew I was out of line allowing her to ride in the truck  
24 without following company policy.

25 Q. Okay. Did you sit down with Investigator Walter when

1     you met with him -- or before you met with Investigator  
2     Walter, did you write out a statement for him?

3     A.     I did not write out a specific statement for the  
4     investigator. I wrote the initial statement for Tobias  
5     Moore because I knew I was going to see him again in court  
6     within the next few days.

7     Q.     Okay. And did you tell everything in that statement  
8     that you knew about this case?

9     A.     I did.

10    Q.     Did that statement fairly and accurately represent  
11    your recollection?

12    A.     Yes.

13    Q.     And does it still represent your recollection?

14    A.     Yes.

15    Q.     On the evening of March 1st, did you -- let me go back  
16    here. If I remind you that these pictures were taken on  
17    May 9th at 11:50, would that refresh your recollection?

18    A.     Yes, it does.

19    Q.     That would be correct?

20    A.     It was recent.

21    Q.     So it was like ten days ago, right?

22    A.     Yes.

23    Q.     I'm sorry. I think I said two or three weeks.

24            Did that fairly and accurately represent the way those  
25    trucks looked on that day?

1 A. It does.

2 MR. YARBOROUGH: Okay. I'd move them into evidence  
3 at this time, Your Honor.

4 MS. GASSER: No objection, Your Honor.

5 THE COURT: All right. Without objection.

6 (Defendant's Exhibit Numbers 7 and 8, photographs,  
7 were admitted into evidence.)

8 BY MR. YARBOROUGH:

9 Q. Did you ever show MINOR porn on your phone?

10 A. I did not.

11 Q. Did you tell Investigator Walter that, that you did  
12 not show MINOR porn on your phone?

13 A. That's correct. I've never shown her any kind of  
14 inappropriate content.

15 Q. And at that time did you tell him the phone -- you had  
16 the phone with you?

17 A. Not her phone. I never had possession of her phone.

18 Q. No, I -- I asked did you -- I said did you tell him  
19 you had your phone with you?

20 A. I believe I had it, yes.

21 Q. Right. And would you -- did you give it to him?

22 A. I was never asked specifically for the phone.

23 Q. Okay. Would you have given it to him?

24 A. I would have.

25 Q. Okay. Did you ever touch MINOR's breast?

1 A. No, I did not.

2 Q. Okay. This -- you've heard some allegations either  
3 from her or from somebody else in this courtroom that you  
4 touched her breast while you were driving that truck,  
5 right?

6 A. Yes, I recall those allegations.

7 Q. How -- do you remember us measuring the distances  
8 between those two seats?

9 A. Yes.

10 Q. Is it in excess of thirty-two inches?

11 A. It is.

12 Q. Would you be able to reach your hand out while you're  
13 driving that truck and touch her breast?

14 A. No, I could not.

15 Q. Why? Because the seats are too far?

16 A. They are. They're too far apart and I don't have the  
17 arm span to reach whatever the distance is.

18 MR. YARBOROUGH: One second, Your Honor. I think  
19 I'm about through.

20 BY MR. YARBOROUGH:

21 Q. I've got a question for you. How old was M.S. during  
22 this period of time in your life?

23 A. I believe he was about one.

24 Q. Okay. Was he a normal baby?

25 A. He seemed to be.

1 Q. Slobbering?

2 A. Slobbering.

3 Q. Nose running?

4 A. Drooling, yes.

5 Q. His stuff getting all over you and all over everybody  
6 else?

7 A. Yes. You could say he was messy.

8 Q. All right. I'm gonna ask you for the last time. Did  
9 you -- did you do this?

10 A. No, I did not.

11 Q. And have you always told everybody you did not do it?

12 A. That's correct.

13 MR. YARBOROUGH: Thank you. I don't have any  
14 further questions. Answer anything the prosecution has  
15 for you.

16 THE COURT: Cross-examination?

17 MS. GASSER: Thank you, Your Honor.

18 THE COURT: Everybody good over here?

19 CROSS-EXAMINATION

20 BY MS. GASSER:

21 Q. All right, Mr. Smith. So you would agree with me that  
22 you were formerly married to Samantha Miller, right?

23 A. I was.

24 Q. And you have two biological children with here, M.S.  
25 and Sophie, correct?

1 A. Yes.

2 Q. And M.S. is now four years old?

3 A. I -- that sounds about right.

4 Q. And Sophie is two years old?

5 A. I believe so.

6 Q. Okay. And you actually meshed your families together  
7 when you-all started dating, right?

8 A. We did. We had my original biological daughter that  
9 would come over from time to time.

10 Q. And her name was Maddie, correct?

11 A. Yes.

12 Q. And she was from a previous marriage, right?

13 A. She was.

14 Q. Sam had a son M.R. or M.R.? Can we call him  
15 M.R.?

16 A. Yes.

17 Q. Okay. And she had MINOR as well, right?

18 A. She did.

19 Q. And both M.R. and MINOR were from her previous  
20 marriage?

21 A. Yes.

22 Q. And you-all had lived in Spartanburg before, right?

23 A. Yes.

24 Q. And then you-all moved to Anderson, South Carolina?

25 A. Yes.

1 Q. To be closer to your side of the family, correct?

2 A. That's one -- part of the reason.

3 Q. Was part of it?

4 A. Yes.

5 Q. Okay. And your dad is not around, correct?

6 A. My dad, no.

7 Q. And you have no brothers, right?

8 A. Not to my knowledge, no.

9 Q. And Sam's side of the family actually lives in  
10 Nebraska, right?

11 A. Yes.

12 Q. And you two had M.S. in Anderson, correct?

13 A. Yes.

14 Q. And then you-all had Sophie in Anderson as well,  
15 right?

16 A. Yes.

17 Q. Okay. And you had ended your service with the  
18 National Guard in January of 2020?

19 A. I believe that was my end of service date.

20 Q. So around January 2020 was your end of service date,  
21 right?

22 A. I believe so.

23 Q. And in 2020 you were working for Cheeseman Transport?

24 A. Yes.

25 Q. You were a trucker for them, right?

1 A. I was.

2 Q. Okay. Would the proper term be overnight trucker?

3 A. I believe the terminology they use is an OTR or  
4 over-the-road driver.

5 Q. Over-the-road. Okay. But you drove a sleeper cab,  
6 right?

7 A. Yes.

8 Q. Okay. Which means your trips would be over some  
9 distance and over some amount of time, right?

10 A. Yes.

11 Q. And you could be gone for longer periods of time,  
12 correct?

13 A. Yes.

14 Q. And that was causing a strain on your marriage.  
15 That's what you testified to earlier, right?

16 A. Yes, being gone all the time.

17 Q. Yeah. And when you would come back, you would come  
18 back to the Upstate of South Carolina, right?

19 A. Yes.

20 Q. And you lived in Anderson, but you parked your truck  
21 in Greer at Cheeseman Transport, correct?

22 A. Yes.

23 Q. And you lived at home with Sam, MINOR, M.R. and  
24 M.S., right?

25 A. Yes.

1 Q. And Sam was pregnant with Sophie in March of 2020,  
2 correct?

3 A. That's correct.

4 Q. And on March 1, 2020, you did speak with Sam who was  
5 your wife at the time, right?

6 A. Yes.

7 Q. And it was a Sunday, right?

8 A. Yes.

9 Q. And you had been gone on a trip for Cheeseman, right?

10 A. I was returning from my work week that Sunday evening,  
11 I believe, which was March 1st.

12 Q. But you were coming back through Anderson to deliver a  
13 load?

14 A. Yes, my final delivery was Anderson.

15 Q. And you were on the way to Greer where Cheeseman  
16 Transport is located, right?

17 A. Yes.

18 Q. Okay. And so you actually picked up MINOR at an  
19 Exxon gas station in Anderson, right?

20 A. Yes.

21 Q. You drove up I-85 and you took the exit to go to  
22 Cheeseman Transport, correct?

23 A. Yes.

24 Q. Okay. So we're all on board. And at this point you  
25 told MINOR to get back in the bunk area, right?

1 A. Yes, that was right.

2 Q. And -- so no one could see her, correct?

3 A. Right.

4 Q. Okay. And you said that MINOR was in the bunk area  
5 the whole time you parked, correct?

6 A. Yes.

7 Q. Okay. And no one could see her, right?

8 A. Not that I know of, no.

9 Q. And so you actually -- after you parked you got in  
10 your truck, right?

11 A. After I -- after I detached the trailer?

12 Q. Yeah, after you detached the trailer you got in your  
13 truck, right?

14 A. Yes.

15 Q. And after you parked you got in your trailer, right?

16 A. Okay. I'm kind of confused on which part of the  
17 parking you're referring to.

18 Q. So at some point you were outside of the trailer,  
19 right?

20 A. I was outside the trailer a number of times.

21 Q. And you're doing everything that you just testified to  
22 on direct examination, correct?

23 A. Yes.

24 Q. And at some point you get into that trailer, correct,  
25 and MINOR is still in the back?

1 A. Okay. I think that's where I'm confused. You keep  
2 saying trailer. You're referring to the truck?

3 Q. The truck, yes.

4 A. Yes, I was in and out of the truck.

5 Q. You were in and out. All right. So MINOR is back  
6 there?

7 A. Correct.

8 Q. And no one can see her because you're not supposed to  
9 have her in the truck, right?

10 A. Right.

11 Q. Okay. So is that when you got in the back and you  
12 pulled down her pants?

13 A. That did not happen.

14 Q. And you pushed up her shirt?

15 A. No.

16 Q. And you performed oral sex on her?

17 A. I did not.

18 Q. And you digitally penetrated her with your fingers?

19 A. No, I did not.

20 Q. And you attempted to place your penis inside of her  
21 vagina, correct?

22 A. No, I did not.

23 Q. But she's in that back area, right, where no one can  
24 see her?

25 A. Correct.

1 Q. And there's a curtain, correct?

2 A. There is.

3 Q. For privacy, right?

4 A. There is.

5 Q. Okay. And you talked today -- you testified today  
6 that there were other people at Cheeseman Transport, right?

7 A. That's right.

8 Q. But that's the first time you've ever said that; isn't  
9 that correct?

10 A. I can't recall specifics.

11 Q. Because in your interview with Investigator Walter  
12 back on March 10, 2020, you never told him that anyone else  
13 was at Cheeseman Transport.

14 A. I was giving specific instruction of what I was  
15 particularly doing, not the environment.

16 Q. But you didn't think it was important to say if there  
17 were other people around?

18 A. I was just answering the questions and giving my  
19 explanation of what I was doing at the time.

20 Q. But at the time you knew you were being accused of  
21 sexual assault on your stepdaughter and you didn't find  
22 this information pertinent?

23 A. I didn't.

24 Q. Okay. Let's talk about that parking of that trailer.  
25 You testified today that it takes up to twenty minutes to

1 park that trailer, right?

2 A. It can.

3 Q. You gave extensive testimony of all the different  
4 names of the truck and getting in and getting out and doing  
5 all these things, right?

6 A. Yes.

7 Q. All right. Then why on March 10, 2020, to  
8 Investigator Walter did you tell him that it only takes  
9 you to five to ten minutes to park that trailer?

10 A. I don't recall specifically what time I told him. It  
11 varies depending on the situation.

12 Q. Because March 10, 2020, you hadn't seen these videos  
13 from Cheeseman Transport yet, right?

14 A. No.

15 Q. So you didn't know the timeline at the time, correct?

16 A. I did not.

17 Q. So you were testifying like you told your defense  
18 attorney wholly, truthfully, you had waived your Miranda  
19 rights, right?

20 A. Yeah.

21 Q. And you gave your true version of the facts that day,  
22 March 10, 2020?

23 A. That's correct.

24 Q. And there's been no tainting of your testimony from  
25 other evidence, correct?

1 A. No.

2 Q. And you told him five to ten minutes to park that  
3 trailer?

4 A. Time is flexible. It always changes when you can do  
5 the same task a hundred times and it feels like it takes  
6 five minutes, you do the same task another day and it feels  
7 like it takes an hour. I never know exactly how -- I don't  
8 have a time watch or anything to indicate how long it  
9 actually takes to do something.

10 Q. But twenty minutes aligns your story with that video,  
11 doesn't it? Right?

12 A. I'm not sure. The video, I don't think it even takes  
13 twenty minutes.

14 Q. I want to talk to you also about why you went back to  
15 the truck because you did go back to the truck that night,  
16 correct?

17 A. I did.

18 Q. And you testified earlier it was because your mother  
19 told you to go back to the truck?

20 A. My mother suggested that the only way that Sam and the  
21 kids can go home was if I was not there and suggested that  
22 I go to my truck because it was the only place that I had  
23 to stay.

24 Q. Okay. But it's the only place you had to stay and  
25 your truck's in Greer, right?

1 A. Yes.

2 Q. And you lived in Anderson, right?

3 A. Yes.

4 Q. And your mom lives in Anderson, correct?

5 A. She does.

6 Q. And your sister lives in Anderson, right?

7 A. She does.

8 Q. But you had to go stay in a truck forty-five minutes  
9 away? That was the only place you could stay?

10 A. It was the only feasible place at the time. I didn't  
11 have the situation set up to stay at my mother's house and  
12 I preferred not to stay at my sister's, but I ended up  
13 having to stay there anyway.

14 Q. Yeah, so you still ended up staying with your sister  
15 though?

16 A. I had to take up one of their children's rooms in  
17 order to stay with them.

18 Q. All right. So I wanted to talk to you a little bit  
19 about this. The victim had seen pornography on your phone,  
20 correct?

21 A. No.

22 Q. Because you had shown her pornography?

23 A. I have not.

24 Q. And you had been fondling her chest, right?

25 A. I have not.

1 Q. Several times when you would come home from work  
2 trips, right?

3 A. I have not.

4 Q. And, again, this is the first time you are telling  
5 anyone that there were other people at the Cheeseman lot  
6 on the night of March 1, 2020, right?

7 A. It's the first time I've reported it, yes.

8 Q. Okay. Because it would be better for you if there  
9 were potential witnesses out there, correct? You'd agree  
10 with me it would be better if there were potential  
11 witnesses, right?

12 A. I believe so.

13 Q. Okay. But MINOR is the in the back of your truck,  
14 right, in the cab? She's in the back?

15 A. Yes.

16 Q. She can't be seen. So would you agree with me that  
17 even if there were other truckers around that she still  
18 wouldn't be seen?

19 A. That's accurate.

20 Q. And you were the one that told her to get in the back  
21 of that truck, right?

22 A. Yes, I asked her to get in the bunk area.

23 Q. All right.

24 MS. GASSER: I have no further questions, Your Honor.

25 THE COURT: Redirect?

1 MR. YARBOROUGH: Briefly.

2 REDIRECT EXAMINATION

3 BY MR. YARBOROUGH:

4 Q. Did Investigator Walter ever ask you if there were any  
5 other trucks around?

6 A. Not that I recall.

7 Q. Do you remember telling him that your wife was out  
8 there?

9 A. I believe I did.

10 Q. Do you keep detailed logs of every time you drop a  
11 load or do you just drop the load?

12 A. I don't keep a detailed log, no, but that's part of  
13 the company's system. I just follow my assignments and  
14 drop whatever they ask me to drop and pick up whatever's  
15 next.

16 Q. Are you used to living in your truck?

17 A. I have become accustomed to it.

18 Q. Okay. So it wouldn't have been unusual for you to go  
19 out there and stay, right?

20 A. No.

21 Q. Could you have stayed with your mom and your step dad?

22 A. They -- they didn't have any room or anything set up  
23 for an additional guest.

24 Q. All right. And your step dad's now deceased, right?

25 A. He is.

1 Q. Did you-all have an up and down relationship?

2 A. Between me and the stepfather?

3 Q. Yeah.

4 A. Yes. We didn't get along all that well.

5 Q. Okay. And you wrote all this stuff out and gave it  
6 to Investigator Walter or you gave it to Tobias Moore; is  
7 that right?

8 A. I did.

9 Q. Okay. And you told Investigator Walter everything  
10 that he asked you?

11 A. The statement that I had given Investigator Walter  
12 was a statement that I wrote just to rectify the lie that  
13 I had told him that **MINOR** was not in the truck and my  
14 recollection of -- basically like an abrupt version of what  
15 happened that night and I was writing it on the way to  
16 court to meet him.

17 Q. For DSS court?

18 A. Yes.

19 Q. Okay. And then later on you met with Investigator  
20 Walter and told him everything that you knew about it?

21 A. Yes.

22 Q. Okay.

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

25 THE COURT: All right. You may step down.

1 (Witness excused.)

2 MR. YARBOROUGH: I'm gonna call one short witness,  
3 Your Honor.

4 THE COURT: All right. Everybody good over here?

5 MR. YARBOROUGH: Let me grab him.

6 I call Mavric Smith's mother.

7 (Whereupon, Denise Smith was duly sworn by the  
8 Clerk of Court.)

9 THE CLERK: Please take a seat and state your name  
10 for the record.

11 THE WITNESS: My name is Denise Smith.

12 DENISE SMITH,

13 having been duly sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MR. YARBOROUGH:

16 Q. Are you Mavric's mother?

17 A. I am.

18 Q. Have you been sitting outside throughout this  
19 proceeding?

20 A. Yes, sir, I have.

21 Q. And do you recall the night that all this -- the night  
22 after all these alleged incidents took place?

23 A. Yes, sir.

24 Q. And did your son call you that night, the night after?  
25 March 2nd.

1 A. He didn't call me. Sam did.

2 Q. Okay. And at some point was Mavric looking for a  
3 place to stay?

4 A. Yes.

5 Q. And so did Sam ask you to help Mavric get a place to  
6 say or did Mavric ask you to get a place to stay?

7 A. Mavric told -- Sam told me when she called me that  
8 Mavric -- she couldn't -- she was looking for a place to  
9 stay. She said she had to -- would have to --

10 MS. SUSTAKOVITCH: Your Honor, objection. This is  
11 hearsay.

12 THE COURT: Hold on.

13 MR. YARBOROUGH: That's hearsay.

14 BY MR. YARBOROUGH:

15 Q. Based on -- what did you tell MINOR [REDACTED] where -- I mean,  
16 where did you tell Samantha --

17 A. I told Mavric --

18 Q. Okay. What did you tell -- where did you tell  
19 Samantha she could stay?

20 A. She was looking -- she was told she needed to find a  
21 place to stay. She said that she --

22 Q. You can't say what she said. Can you please just  
23 answer the -- answer the question? Where did you tell her  
24 she could stay?

25 A. I told her that she could go home because I was gonna

1 have Mavric stay in his truck.

2 Q. Okay. And did you tell Mavric to stay in his truck?

3 A. Yes, because he was used to sleeping in his truck.

4 That's where he lived most of the time.

5 Q. Okay. And that wasn't unusual?

6 A. No.

7 Q. Okay.

8 MR. YARBOROUGH: I don't have any further questions.

9 Thank you.

10 THE COURT: Cross-examination?

11 MS. SUSTAKOVITCH: Your Honor, I have nothing for  
12 this witness.

13 THE COURT: All right. Thank you. You may step  
14 down.

15 (Witness excused.)

16 MR. YARBOROUGH: If I could have a minute.

17 Tracie Aumann.

18 THE CLERK: Ma'am, if you'll place your left hand  
19 on the Bible and raise your right hand.

20 (Whereupon, Tracie Jeanette Aumann was duly sworn  
21 by the Clerk of Court.)

22 THE CLERK: Take a seat and state your name for  
23 the record.

24 THE WITNESS: My name is Tracie Jeanette Aumann.

25 TRACIE JEANETTE AUMANN,

1           having been duly sworn, testified as follows:

2                                 DIRECT EXAMINATION

3   BY MR. YARBOROUGH:

4   Q.   Ms. Aumann, are you Mavric's sister?

5   A.   Yes, sir.

6   Q.   And what's the differences in ages between you-all?

7   A.   We're eleven months apart.

8   Q.   And did -- you're his blood sister?

9   A.   Yes.

10   Q.   And did you help Mavric get a job?

11   A.   A job driving a truck?

12   Q.   Yeah, driving a truck.

13   A.   Yes.

14   Q.   Were you a truck driver?

15   A.   Yes, sir. I was a truck driver for three years prior.

16   Q.   And did you drive for Cheeseman's?

17   A.   I drove a total of three years for Cheeseman.

18   Q.   Okay. And did you at times park trucks out on that  
19   lot?

20   A.   Yes. I worked for them before they even opened that  
21   back lot up, so.

22   Q.   Okay. And did you park trucks on that back lot?

23   A.   Yes, sir. Several times.

24   Q.   Often?

25   A.   Several times. Very often.

1 Q. Okay. And can you recall about how long it would take  
2 you to back the truck in and park it and unhitch everything  
3 and pull around?

4 A. Well, with my experience of doing it, at a minimum it  
5 would take twenty-five minutes max -- or minimum. It could  
6 take -- depending on -- there's no one answer for that.  
7 There's daytime, nighttime, raining, not raining, but in  
8 general it doesn't -- it's no more -- it doesn't take any  
9 less than usually fifteen to twenty minutes and it could  
10 take up to an hour. It just really depends on the level of  
11 land and stuff because it was not even back there. It was  
12 very gravelly, uneven.

13 Q. Okay. And so would you have trouble parking back  
14 there sometimes?

15 A. Yes, sir.

16 Q. And were you a pretty experienced truck driver?

17 A. Yes, I've been -- I drove U.S. and Canada for  
18 five years total.

19 Q. Okay. So you were used to parking trucks, but would  
20 have trouble back there sometimes?

21 A. It was all gravel. It was not concrete. It's still  
22 gravel, so.

23 MR. YARBOROUGH: I don't have any further questions.

24 THE COURT: Cross-examination?

25 MS. SUSTAKOVITCH: Briefly, Your Honor.

## CROSS-EXAMINATION

BY MS. SUSTAKOVITCH:

Q. You love your brother, correct?

A. Yes, ma'am.

Q. And I apologize, is he your younger brother or older?

A. Older.

Q. When these allegations first came out, your family was upset with MINOR, correct?

A. No, ma'am. We were -- I mean, jaw dropped to the floor, kind of never expected it, kind of out of left field.

Q. So your testimony is when these allegations came out in March of 2020 your family was not upset with MINOR for saying that your brother had sexually assaulted her? Is that your testimony?

A. My testimony is that she's a child and there wouldn't -- I didn't know what to think at that particular moment.

Q. Okay. And you were around your mother a lot when the allegations came out?

A. Yes.

Q. Wouldn't it be true that your mother was particularly upset with MINOR about these allegations coming out; is that fair?

A. Upset, yes. Angry, no.

Q. Not angry?

1 A. No.

2 Q. Okay. And it's a fact that during that whole  
3 timeframe your family was not supportive of MINOR, they  
4 were angry at her for making these allegations against your  
5 brother, correct?

6 A. I wouldn't use the word "angry". Yeah, we would --  
7 we did not support what she was saying, but we never  
8 were angry with her. Even when I communicated with her  
9 afterwards, it was never out of anger. I never backed her  
10 into a -- I mean, it was not the greatest conversations,  
11 but I never made her feel unwelcome.

12 Q. And it's a fact when this was going on, MINOR and  
13 her brother, they didn't have anybody but your side of the  
14 family here, right?

15 A. Yes, ma'am.

16 Q. And back to trucking very briefly since you're a  
17 trucker as well. When you're behind that curtain, people  
18 can't see you, can they?

19 A. As long as the curtain's closed. If it's open, yes.

20 Q. And so the curtain is meant for privacy, correct?

21 A. When you're sleeping.

22 Q. And so if a child's behind a curtain, you won't see a  
23 child?

24 A. It depends on the situation. I can't say yes or no  
25 to that. You'll have to give me an exact situation.

1 Q. On March 1st, Sunday night, you were not at the  
2 Cheeseman lot when your brother was in the cab of his  
3 truck with MINOR behind that curtain, were you?

4 A. No, I wasn't.

5 MS. SUSTAKOVITCH: No further questions.

6 MR. YARBOROUGH: Nothing further.

7 THE COURT: All right. You may step down.

8 (Witness excused.)

9 MR. YARBOROUGH: Your Honor, at this point the  
10 defense would rest.

11 THE COURT: All right. Any reply testimony?

12 MS. GASSER: Nothing from the State, Your Honor.

13 THE COURT: All right. Ladies and gentlemen, that  
14 concludes all the evidence that you will have before  
15 you to consider. What we'll do is we will -- we're at  
16 the final stages of the trial now. We'll have closing  
17 arguments by the attorneys, we will have -- I will charge  
18 you on the law, and then at that point you will begin  
19 your deliberations.

20 Obviously we're not gonna start that at ten till  
21 five, so let's -- just because there's some things  
22 we'll have to go over in the morning, I'm gonna say to  
23 be in your jury room at 10:00 in the morning and we will  
24 arrange for lunch for you, so you will have lunch here.  
25 You should have it about the time you begin your

1 deliberations.

2       So if you would be in your jury room at 10:00 for  
3 us to finish the final stages and one last time you get  
4 to hear me say do not discuss the case among yourselves  
5 or anybody in your family or friends or anything like  
6 that. There are a lot of final episodes on TV tonight.  
7 Just talk about those. Do not pay any attention to media  
8 coverage, do not do any research, and I've got to stress  
9 that. Anything that you get, you should be getting in  
10 this courtroom as far as information. If anybody contacts  
11 you except someone from the clerk's office, then let the  
12 bailiffs know in the morning.

13       So I will see you-all at 10:00 in the morning, all  
14 right?

15       (Whereupon, the jury was excused for the day at  
16 4:52 PM.)

17       THE COURT: All right. Anything else from the State?

18       MS. SUSTAKOVITCH: I apologize, Your Honor. What?

19       MS. GASSER: Nothing from the State.

20       THE COURT: Anything else from the defense?

21       MR. YARBOROUGH: No, sir, Your Honor. Other than  
22 renew my motions.

23       THE COURT: Okay. And I'll renew my denials.

24       All right. For -- nobody's paying me any attention.

25       MR. YARBOROUGH: I am.

1           (Off the record discussion.)

2           THE COURT: All right. Let's talk about planning  
3 tomorrow.

4           Ms. Gasser?

5           MS. GASSER: Yes, Your Honor.

6           THE COURT: Do you-all want to meet about 9:00 in  
7 the morning and go over the charge?

8           MS. GASSER: Yes.

9           THE COURT: And there's nothing in the charge that  
10 will be a surprise. It's a pretty standard charge.  
11 We'll go over -- oh, I've not ruled on your incest.

12          MR. YARBOROUGH: Right.

13          THE COURT: I looked back through the -- let me pull  
14 that back up. I looked back and even looked up carnal  
15 intercourse. That's kind of an odd little phrase that  
16 they put in there and there's no -- I couldn't find  
17 anything in South Carolina on point as to actually  
18 defining that specific term. All the definitions say,  
19 you know, including the -- let me pull it up so I quote  
20 it correctly.

21          If you look in the definitions under -- and it's  
22 not specifically definitions under the criminal sexual  
23 conduct. It talks about sexual battery being sexual  
24 intercourse, anal intercourse, any intrusion however  
25 slight, and if you look up -- just like, I think,

1 on law.com it talks about carnal knowledge or carnal  
2 intercourse as being any intrusion no matter how slight.

3 So, therefore, I think based on the testimony it's  
4 gonna be -- it's a factual question for the jury to  
5 determine whether that definition has been met, if there  
6 was an intrusion, whether slight or not, so based on that  
7 I'm gonna find -- I'll deny your motion as to incest and  
8 let that be a jury question.

9 MS. SUSTAKOVITCH: Thank you, Your Honor.

10 THE COURT: So 9:00. Like I said, if you-all want  
11 to send any -- if you have any jury charges, e-mail them  
12 to me tonight. Like I said, I've looked through it and  
13 it's gonna be --

14 MR. YARBOROUGH: Standard.

15 THE COURT: -- the statutes really.

16 MS. SUSTAKOVITCH: Okay.

17 THE COURT: I'll go through it in the office, go  
18 through everything, and if you have any objections or  
19 issues, we'll put those on the record.

20 MR. YARBOROUGH: Can you give us a copy?

21 THE COURT: I can. Can I e-mail it to you?

22 MS. SUSTAKOVITCH: That would be awesome.

23 MR. YARBOROUGH: That would be great.

24 THE COURT: I'll e-mail either -- I'll probably  
25 make some changes, so write your e-mail address on that.

1 It will be sometime tonight.

2 All right. Anything else before we go?

3 And the State -- hey, just for argument purpose, I  
4 know because people still ask this, the State opens in  
5 full, then you close and then you-all will have rebuttal.

6 MS. SUSTAKOVITCH: Thank you.

7 (Whereupon, the proceedings were concluded for  
8 May 18, 2023, at 4:56 PM.)

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1 THE COURT: Okay. You can step down and we'll put  
2 you back up there at 9:00 in the morning, so. And like I say,  
3 we'll see how tomorrow goes, we may do some kind of abbreviated  
4 lunch or something if needed, if it looks like, you know, I  
5 mean, I know you've got some limitations there.

6 MR. YARBOROUGH: You just caused me another check.

7 THE COURT: Alright. Be in here a little bit early,  
8 if y'all need to go over anything, about 15 'til just to be  
9 safe.

10 (Whereupon the hearing ended at 4:38 pm.)

11 **DAY FIVE OF STATE V. MAVRIC - MAY 19, 2023**

12 THE COURT: We have in chambers discussed the jury  
13 charge. Any exceptions from the State?

14 MS. GASSER: No, Your Honor.

15 MR. YARBOROUGH: I would just, I'd like to renew my  
16 motions ---

17 THE COURT: Oh, okay.

18 MR. YARBOROUGH: --- at the close of the State's  
19 case. We don't believe that, after the State's case, after we  
20 put up our case, we do not think there is enough reasonable  
21 doubt to show his ability of criminal sexual conduct in the  
22 second degree, or kidnapping, or incest. And we would ask for  
23 a directed verdict.

24 THE COURT: Okay. And I think based on my  
25 discussions previously, I'm going to deny your motion and let

1 the jury decide this.

2 MR. YARBOROUGH: And we had that charge conference,  
3 and I believe I asked the Court to either charge ABHAN or  
4 criminal sexual conduct in the third degree. I think the  
5 evidence is reasonable that either one of those could be  
6 charged. I again, ask not to charge kidnapping, I don't think  
7 there's enough evidence before the Court for there to be  
8 kidnapping. And of course, I renew my objection to incest. I  
9 think it's confusing and it's in the, in the first charge,  
10 criminal sexual conduct in the second degree, I think that  
11 incest is kind of taken into that whole thing, I think it's a  
12 separate crime.

13 THE COURT: Alright. Ms. Gasser?

14 MS. GASSER: Yes, Your Honor. As to his directed  
15 verdict motion, or as to the charge first. The State renews  
16 its arguments in chambers that this is not a lesser included  
17 offense based on the elements of the crime. It would be error  
18 to charge CSC with a minor third degree as a lesser included  
19 CSC, second degree. Additionally, as to the arguments  
20 regarding his directed verdict on the charge of kidnapping,  
21 there was sufficient evidence based on the victim explaining  
22 that her legs were stuck, she couldn't leave, she wanted to  
23 leave, and he had her hands grasped with one of his hands and  
24 holding her down. Additionally, as to the charge of incest,  
25 Your Honor, I believe the sexual battery component has been met

1 based on the definition of, or the carnal intercourse on the  
2 definition of sexual battery, any entry however slight. She  
3 did describe that he was attempting to place it in, there was  
4 pressure, there was pain, and there was throbbing afterward. I  
5 believe it is sufficient to meet those elements as to incest as  
6 well.

7 THE COURT: Alright. And I think as to the lesser  
8 included, I mean, I agree with the State that if they find in  
9 this case in light of the way the testimony is, if they find  
10 that there was a battery in the locations they were, then it  
11 would be criminal sexual conduct, so therefore, it wouldn't be  
12 the lesser included. So I'm going to deny your, your request  
13 on that, but you're on the record for that, so.

14 MR. YARBOROUGH: Thank you.

15 THE COURT: And as to, I think I gave both, both  
16 sides should have a copy of the verdict form. Any objection to  
17 that from the State?

18 MS. GASSER: Not from the State, Your Honor.

19 THE COURT: From the Defense?

20 MR. YARBOROUGH: We need to step up ---

21 THE COURT: Just for the lesser included, so,  
22 alright. Other than that, you're good with it?

23 MR. YARBOROUGH: Yes, sir.

24 THE COURT: Alright. Any questions, anything before  
25 we bring the jury in?

1 MS. GASSER: Nothing from the State, Your Honor.

2 MR. YARBOROUGH: Your Honor, I think during my  
3 closing arguments, I'd like to put two chairs that are sitting  
4 right there out there, and I'd like to measure them 32 inches  
5 apart, I can do that now or after. I just want to show the  
6 lack of possibility of Mr. Smith being able to touch his  
7 daughter while he's driving down the road at 65 miles an hour.

8 THE COURT: Alright. Why don't ---

9 MR. YARBOROUGH: I was just going to do that during  
10 the demonstration.

11 THE COURT: Alright. Put the chairs, I'll tell you  
12 what, why don't you put them back here.

13 MR. YARBOROUGH: Okay.

14 THE COURT: And when you get ready to -- So we're  
15 good?

16 MR. YARBOROUGH: (Nonverbal response).

17 MS. GASSER: (Nonverbal response).

18 THE COURT: Alright. Bring the jury in.

19 (Jury entering Courtroom.)

20 THE COURT: Alright. Hold the jury for a second.  
21 Okay. Alright. Bring them in.

22 (Jury entering Courtroom.)

23 THE COURT: Alright. Ladies and gentlemen, as I told  
24 you yesterday, we're in the very final stages of the trial.  
25 We'll have closing arguments and under our rules, the State

1 gets to open in full and then the Defense counsel will present  
2 his argument and then the State has an opportunity for reply.  
3 Closing arguments is their summary and their argument about  
4 what the evidence shows, but this is not evidence. The  
5 evidence is what has been presented either by way of testimony  
6 or exhibits or stipulations. After the closing arguments, I  
7 will charge you on the law and then I'll send you back in your  
8 jury room for deliberations, so. So at this time, I'd ask that  
9 you give your full attention to the attorneys. Ms. Gasser?

10 MR. GASSER: May it please the Court. MINOR [REDACTED]  
11 [REDACTED] was a normal 12-year-old girl on March 1st, 2020. She  
12 was about to turn 13. She got up here and told y'all how she  
13 had friends, she was going to school, that she liked to read,  
14 write, draw. She's told y'all that she still likes to read and  
15 write, she still likes to go to the mall, she still likes to  
16 hang out with friends. She told y'all about her moving around  
17 from Spartanburg and Anderson and Nebraska. She told y'all  
18 about her living in Nebraska now, learning to drive, she even  
19 told y'all how she wants to work in counseling to help people  
20 because of her own experiences in this process. These types of  
21 crimes happen in secret, they happen behind closed doors. And  
22 MINOR [REDACTED] has shown us today this case is not just about  
23 the pain and fear that was inflicted upon her by a person she  
24 should have been able to trust, but it was also about her  
25 courage, her courage to stand her ground, her courage to sit in

1 that chair and tell complete strangers how she was sexually  
2 assaulted by her stepfather, this Defendant. Now, I told you  
3 in my opening statement to keep your eyes and ears open and to  
4 remember with common sense to look at this case. And I also  
5 told you how the Defense, they would try to send y'all through  
6 rabbit holes, right? To follow the rabbit, to not keep your  
7 eye on the ball because what's the ball, it's the victim's  
8 words that were supported by DNA evidence that shows that this  
9 Defendant's DNA was on a vaginal swab taken from up near her  
10 cervix. They don't want you to think about that, they don't  
11 want you to remember that. They want you to go down these  
12 rabbit holes to get distracted, to get confused because they  
13 can't escape that. His DNA is where a stepfather's DNA should  
14 never be. Did you catch all the times that they did that? The  
15 focus on the camera 14 surveillance footage, start there, and  
16 I'm not going to play these videos because they are long, y'all  
17 have seen them, and you're going to be able to take them back  
18 in that deliberation room and watch them, review them. So I'm  
19 just going to tell y'all what I took out of them, and I want to  
20 convey that to you. We entered a disc with the camera's 14  
21 surveillance footage. It was the portion where the Defendant  
22 arrived on scene. We weren't trying to hide anything from  
23 y'all, there were about four minutes before that, Sara Evers  
24 from Cheeseman Transport testified, oh, she testified up here,  
25 she was remote. She testified to y'all, and she told you,

1 they're not timestamped, they're motion activated, we have no  
2 idea from that specific video what time and where everyone was,  
3 so we tried to streamline it for you. We tried to take out  
4 confusion, but we're not trying to hide anything from you. So  
5 y'all also have the full video, the four minutes before, and  
6 that became a big thing, right? Y'all now have these two  
7 videos. We do not know if that other car and truck were there  
8 five minutes before the Defendant got on scene or an hour, we  
9 don't know. And until yesterday when that Defendant took the  
10 stand, no one was told that there were potentially other  
11 witnesses on scene because that's convenient, that's convenient  
12 that there could be other people. But his own theory works  
13 against him because he said over and over again that he told  
14 her to get in the back so no one could see, no one could see  
15 her. So even if there were these hypothetical witnesses on  
16 scene that we haven't heard about until yesterday, doesn't  
17 matter. His own theory works against him. Those curtains were  
18 drawn, that girl was in the back so no one would see her.  
19 Explanation of his parking procedure. It was long, it was an  
20 attempt to make you think that it was impossible for him to do  
21 this. But the Defendant told Investigator Walter back on March  
22 10th, 2020, that it took him five to 10 minutes to park, he  
23 admitted that, he acknowledged that. And back then on March  
24 10th, 2020, he had been told that he was being accused of  
25 sexually assaulting his stepdaughter, he was under Miranda, he

1 told y'all multiple times, he was cooperative, he was willing  
2 to help, he wanted to tell his full, true version of the facts,  
3 right? I believe him, I believe that that was the truth back  
4 on March 10th, 2020, that it took him five to 10 minutes to  
5 park that truck. So why, when that truck was sitting there for  
6 longer than that, what was he doing. He was sexually  
7 assaulting MINOR [REDACTED]. He also tried to say that he was  
8 not in the truck, right? It was very clear, that's why he's  
9 doing all these things, he's touching all these things, he's  
10 naming all these things, it took a very long time for him to  
11 describe that process. He was so clear about how MINOR [REDACTED] was  
12 in the back of that truck so no one could see her. Then why in  
13 the dashcam footage that you can take back and review, and that  
14 we showed up there in the reflection on the mirror, why is that  
15 flap constantly opening, and you can see movement, why, why?  
16 Because the Defendant was back there sexually assaulting  
17 MINOR [REDACTED]. Let's move on to another rabbit trail, the expert  
18 from California. First, he admitted that his resume was  
19 untruthful, he tried to claim that he had 23 years of forensic  
20 DNA laboratory experience. That's just not true. But he has  
21 to claim that on his resume because no one in their right mind  
22 would pay someone \$10,000.00 for four years of laboratory  
23 experience. He was right here to distract you with trying to  
24 undermine the saliva test, he talked about feces, again, he  
25 never touched any of this physical evidence, he hasn't even

1 been in a lab for 14 years. This is all a rabbit trail because  
2 if you boiled it down, and those were my last two questions to  
3 him, was it male DNA on her vaginal swab, yes, was it male DNA  
4 on the cutting from her underwear, yes. They can't escape  
5 that. And that male DNA matches the Y chromosome that you  
6 heard from our experts who have massive amount of experience,  
7 I'm not even going to list all of that for you because you've  
8 heard it. Dr. Kandala, 10,000 DNA samples, 25 years testing  
9 DNA, this guy had nothing on him. So what did they tell you,  
10 they told you and he agreed, male DNA, vaginal swab in the  
11 panties. So whose male DNA, whose male DNA? The Y chromosome  
12 of this Defendant's paternal lineage. So grandpa, nothing's  
13 been alleged about a grandpa. His father, not in the picture,  
14 everyone agrees on that, those facts, those testimonies. It's  
15 him, no brothers, or his son, M.S., a one-year-old, ridiculous.  
16 It is this Defendant's DNA on her vaginal swab and in her  
17 underwear and they want you to be distracted from that, that's  
18 all their expert was brought here to do. The mattress with the  
19 blood on it, there was another one. Alright. Forensics tech  
20 came in here, he told you, they saw the stain, they collected  
21 it, they tested it, our DNA expert said, yeah, it matched his.  
22 That makes sense, it's his cab, he lives there, he sleeps  
23 there, it's his mattress. It wasn't relative evidence, it's  
24 again, just something to distract you, something to take your  
25 eye off the ball about the relevant DNA evidence in this case.

1 The underwear in the truck. Alright. They kept trying to ask  
2 all these different witnesses about this underwear and  
3 underwear in the truck and then, it was very confusing the  
4 underwear, right? The victim on that stand was very clear, she  
5 did not leave her underwear in the truck. In fact, she was so  
6 clear, she described for you in detail how she was wearing big  
7 black combat boots, right, and she was wearing leggings and  
8 that he pulled down her pants and her underwear, but they  
9 couldn't go past her boots, and then she got, when it was over,  
10 she pulled her underwear up. She was very clear about that.  
11 So with all this, you know, hearsay and cops having,  
12 distraction, confusion. The victim told you very clearly that  
13 her underwear were not left in that truck. And M.S., M.S.'s  
14 one-years-old at the time. He is the only other paternal Y DNA  
15 lineage that's possible, but it's completely improbable in this  
16 case based on the facts. To blame a baby is their version of a  
17 Hail Mary pass. It is a last-ditch effort; it is not her baby  
18 brother's DNA up near her cervix. I am here to remind you to  
19 keep your eye on the ball, the ball being MINOR's words  
20 coupled with the corroborating evidence that shows what she's  
21 saying is what happened. Throughout this case, you were  
22 presented with evidence, all this evidence, evidence that's  
23 physical here, the discs, the videos, you're going to be able  
24 to take all that back with you to the room. But there's also  
25 evidence that came from that stand. All the words that came

1 from that stand is evidence, too. And you're going to get to  
2 review that, discuss that, deliberate that. And I want to just  
3 walk through just a little bit longer, and I want to thank you  
4 for your time and your patience. But I want to talk to you  
5 about the evidence that we showed you that proves beyond a  
6 reasonable doubt that the Defendant committed these crimes.  
7 And beyond a reasonable doubt, that's a big word, right?  
8 People think, you know, that's scary, that's a burden, that's  
9 our burden, it is our burden, but we embrace that burden. In  
10 courts across the United States every single day people are  
11 found guilty beyond a reasonable doubt. It's not an impossible  
12 verdict, it's not any farfetched aliens came down theory to  
13 create doubt. We have met beyond a reasonable doubt that  
14 leaves you firmly convinced, and we did that in this case. We  
15 proved beyond a reasonable doubt that the Defendant committed  
16 criminal sexual conduct with a minor, second degree,  
17 kidnapping, and incest. The Judge is going to instruct you on  
18 the law and what he says is the law. But I just want to walk  
19 through a couple of the elements, and if I get anything wrong,  
20 listen to him. But I want to walk through some of the elements  
21 and I want to tell you the specific evidence that shows that we  
22 met that element. So first, criminal sexual conduct with a  
23 minor, second degree, when a person engages in a sexual battery  
24 on a victim between the ages of 11 and 14-years-old. Numerous  
25 testimony came out about MINOR's birthday, her age, she was

1 actually 12 turning 13 in a couple of days, on March 1st, 2020.  
2 I believe both sides could agree that she was 12 on March 1st,  
3 2020, from their witnesses from our witnesses, you heard that  
4 multiple times, that's why birthdays are important, that's why  
5 it was asked a lot. So now sexual battery. Okay. Sexual  
6 battery can mean several things. Oral sex with a child.  
7 MINOR got up there and told y'all about how he licked her  
8 private part, how he put his tongue in her vagina, she's very  
9 clear, that's oral sex with a child. It can also be vaginal or  
10 anal intercourse with a child or penetration into the genitals  
11 of a child with a finger or object however slight. In this  
12 case, MINOR told y'all about how he penetrated her vagina  
13 with his fingers, and how he, she described it as he tried to  
14 put his penis in her vagina, and that's a real critical part,  
15 right? Because she describes, she couldn't describe it going  
16 all the way in, but she described the pain and pressure and  
17 throbbing. It's however slight, however slight. So in this  
18 case, we have oral sex, vaginal penetration with both his  
19 fingers and his penis. She also described to y'all, this is  
20 important for the DNA aspect, about how he used his spit on his  
21 fingers and on his penis. It's important, it's important to  
22 remember these details because all of this is corroboration  
23 from what the DNA evidence tells us. I know they want to  
24 really rip apart that saliva test, but doesn't it make sense?  
25 It makes sense that he's using spit to lubricate and put his

1 fingers in her vagina and then the next day we find saliva  
2 tested that's matching his DNA, it makes sense, it's  
3 corroboration, her details was science. Let's go on to  
4 kidnapping. It's whoever shall unlawfully seize, confine,  
5 inveigle, decoy, kidnap, abduct, or carry away any person by  
6 any means whatsoever without authority of law. And I think I  
7 mentioned this in my opening, but the common thought process of  
8 kidnapping is a sketchy van pulls up, grabs you, throws you in  
9 the back of a truck. Or if you're a kid, someone saying hey,  
10 you want some candy, or I lost my puppy will you help me find  
11 him and then they take you. That's what you think of because  
12 that's what's in the movies and that's what's on TV. But  
13 kidnapping is also the confinement aspect, and in this case,  
14 she was kept in the cab of that truck on that bed with force  
15 when he held her hands, she said he held both of her hands with  
16 one of his hands while he committed the assault, that her legs  
17 were stuck around his head and that the pants were keeping her  
18 legs so that she could not move. She wanted to leave, she told  
19 y'all that, she wanted to leave, and she couldn't. She was  
20 being confined by this Defendant; she was technically being  
21 kidnapped. And that's a very, I know that's not what you think  
22 of when you think of kidnapping but that is kidnapping, and  
23 this Defendant did that. And then incest. Any person who  
24 shall have carnal intercourse with each other within the  
25 following degrees of relationship to wit, and there's a big,

1 long list. One of those is his wife's daughter. Mom got up  
2 here, they got married, that was his stepdaughter. MINOR got  
3 up here, mom married him, I'm his stepdaughter. He got up  
4 here, we got married, that was my stepdaughter. Everyone  
5 agrees that is his wife's daughter, stepdaughter. So carnal  
6 intercourse. The Judge is going to instruct you on what that  
7 means. I just want y'all to again remember however, however  
8 slight, penetration, intrusion, however slight. And in this  
9 case, he put his penis inside her vagina however slight. She  
10 described it, he was trying, he was trying but he couldn't,  
11 pain, pressure, throbbing. He committed incest. So let's talk  
12 about a couple of issues before I sit down that I think that  
13 we're going to hear from the Defense counsel about. But I want  
14 to just talk to y'all real quick. The recantments, the  
15 recantments, and it's hard, it's hard to hear about a child  
16 taking something like this back, it's hard to read those  
17 letters and, you know, it's hard. Why would she do that, why  
18 would she say that, why would she write it down? Shauna  
19 Galloway-Williams, an expert in this told you, she never met  
20 MINOR, she knew nothing about MINOR, she knows nothing  
21 about this case, this all she, this is what she does for a  
22 living. And she told y'all why children recant. Fear, she  
23 said it was the same reason why they maybe don't disclose  
24 immediately, fear, worry about the effects on family, worry  
25 about their personal safety. Maybe they love the offender, and

1 they don't want to mess up the family, right? All of these  
2 factors are in play in this case. MINOR got up here and  
3 talked to you about why she recanted. She admitted it, she  
4 admitted writing those letters, she admitted recanting. Listen  
5 to why she did, because the Defendant's family hated her, that  
6 was her own words. She's 16 now, but 12-years-old, can you  
7 imagine thinking that the only grandma that lives within,  
8 within the state for you hates you, and thinks you're a liar.  
9 That's supposed to be your grandma, that's the person that's  
10 watching you while your mom's having a baby, but she thinks  
11 you're a liar and she hates you. She said she felt separated  
12 from her family, her stepsister, Mattie, she had a bed in her  
13 room she slept over so much. She was, she said we were  
14 basically twins. Can you imagine your twin leaving you. I  
15 mean, just, she described all this, she described all this and  
16 going forward, she's in Covid, she has no phone, she has no  
17 friends, she can't go to school, she can't go anywhere, it's  
18 Covid. So where is MINOR in all this. All this pressure,  
19 all this pressure on her from the Defendant's side of the  
20 family, no phone, no school, no friends, Mattie's gone, it's  
21 basically her twin sister. So where are we at with mom? Mom  
22 got up here and she testified. And Samantha Miller said I'm a  
23 good mom, she is a good mom, good moms can make mistakes. She  
24 was worried about finances, she said I know I was thinking  
25 that, but I don't remember saying that. She's pregnant with

1 his baby. Pressure that this child was under, that's why she  
2 recanted. But when she was told about the physical evidence,  
3 the DNA evidence, she has maintained this happened, that's what  
4 her mom said, she testified to it. Since they told me about  
5 the DNA, she hasn't changed her story, since we moved to  
6 Nebraska, she hasn't changed her story. Mom ended her  
7 testimony with saying that she wished she had been more  
8 understanding and supportive. Mom also said that she had not  
9 showered, and that was really important that she was wearing  
10 the same underwear. Mom also told you that she got M.S. ready.  
11 MINOR went to bed, MINOR told you how she had her phone,  
12 her soda, her candy bar in her hand, she's not messing with  
13 M.S.. And even if she did, she told you that every time that  
14 she gets any kind of, I think the Defense attorney used the  
15 word, snot or slobber from M.S. on her hands she washes her  
16 hands. It's not baby M.S.'s DNA that's near her cervix, it's  
17 this Defendant's. So again, I want to thank you for your  
18 service. This was not an easy case, this had uncomfortable,  
19 unpleasant words and things that you probably never wanted to  
20 think about. But thank you for your time and your patience and  
21 using your common sense, and your attention because your job is  
22 the most important, you are the fact finders. Nothing of what  
23 I say is evidence, nothing of what other counsel says is  
24 evidence, none of our questions are evidence, but the evidence  
25 in front of you, physical evidence, and then the evidence from

1 the persons that took that stand, take all that back with you  
2 and use your common sense. And I ask that you logically and  
3 thoughtfully consider it and come to the clear and correct  
4 result. This case was all about a 12-year-old traumatized.  
5 MINOR, she showed you it was also about her courage, she went  
6 through the intimate details about her life in front of a bunch  
7 of strangers. She recalled the scariest and most traumatic  
8 moment of her life. She underwent cross examination, which is  
9 not easy, it takes an unbelievable amount of courage to do what  
10 she's done, and I want you to just remember what she said, she  
11 said to you, and I ask that you find the Defendant guilty of  
12 all counts.

13 THE COURT: Mr. Yarborough?

14 MR. YARBOROUGH: Ladies and gentlemen of the jury,  
15 I'm not here keeping score, I'm not here to recreate what the  
16 evidence is that's before you. They keep going to DNA, there's  
17 another source of that DNA, okay? There was another source of  
18 that DNA. It could have been Milo's, it could have been  
19 Milo's, okay? Their expert said that, our expert said that,  
20 let's just get that over with and understand that so when  
21 you're applying things you will apply that as well as whatever  
22 the prosecution wants to say about my client. This is not a  
23 ball game, this isn't some baseball game where we're keeping  
24 score because if we were keeping score and it was tied, then  
25 every time the Defendant wins, that's the law, every time the

1 Defendant wins, that's the law. At this point they are just  
2 charges; these are just charges. It's for you to review the  
3 evidence, not for the prosecution to review the evidence, not  
4 for me to review the evidence, it's for you to review the  
5 evidence. It wasn't Mavric Smith's responsibility to walk into  
6 this Courtroom and give you any evidence, it's their  
7 responsibility to prove him guilty beyond a reasonable doubt.  
8 But what I told you when I got up here in my opening statement  
9 was I would be able to refute everything they said. And I'm  
10 getting ready to, but please listen to me and understand this,  
11 this is not comfortable, I'm not trying to beat on anybody, I'm  
12 not trying to set up anybody, I'm just trying to present the  
13 facts and that's my job. The system works on the system of  
14 advocacy; Ms. Gasser and Ms. Chrissy are both advocates, I'm an  
15 advocate. I'm an advocate today for Mavric Smith. You're just  
16 the judges of the evidence and to apply the law as Judge  
17 Gravely gives it to you. And I'll talk to you about that in a  
18 little bit. Please excuse me if I go slow. Let's talk about  
19 Mavric Smith a little bit. He was not required to testify, he  
20 came in here, he told you what happened. Ms. Gasser keeps  
21 going over and over again that there was all these other things  
22 that he said that weren't in his statement, none of that's in  
23 evidence, they never did, they didn't impeach him with  
24 anything. They never contradicted what he said. He got up  
25 there and testified and said this is what I told the

1 investigator and that's what happened. They said, did, did, I  
2 asked him did he waive his rights, did he waive his  
3 Constitutional Rights and they said yes. He waived, he walked  
4 in there, no lawyer, no nothing, he told y'all in this  
5 Courtroom what happened, and he told them what happened. It's  
6 all, you know, does Mavric not get the benefit of the doubt?  
7 This guy defended our country, he was in the guard, he went out  
8 of this country and other places to defend us. And when there  
9 were storms, when there were storms in this state and other  
10 places through working with the guard, he went down and tried  
11 to help, he tried to help. So don't, don't just stop because  
12 Ms. Gasser doesn't like him, sit there and say, wow, 14 years  
13 or so, that's pretty good, right? Then what does he tell you,  
14 I was on a dating app, I met a woman who I love very much, I  
15 loved her very much. I love my family; I love my family so  
16 much that I kept changing jobs so I could make more money to  
17 take care of them. I wanted to become a trucker, it was hard  
18 for me, I was gone a lot, I was on the road a lot, but I wanted  
19 them to have the things I didn't have. I wanted them to be  
20 able to live in a house, live in a place, to go to school. Did  
21 I care if it was my stepdaughter, no, I loved her, he's  
22 stepdad, he's stepdad. She's been gone for a while, she's been  
23 in Nebraska, she hasn't seen him, but she said I love him. She  
24 had problems, he said she had problems, he said I left the  
25 disciplinarian stuff pretty much up to her mom. But he also

1 said this, he said that she missed her dad, she missed her  
2 father, her father didn't have a lot to do with her, kept  
3 making promises to her, and you know, when you're 12-years-old,  
4 you think about that. I'm sure some of y'all are from divorced  
5 parents, I am, and it's hard when you're trying to reach out to  
6 build, you know, you don't know, you don't live in that unique  
7 family environment and sometimes you make mistakes. She made a  
8 mistake by telling a story. But then she said I want to recant  
9 that; I want to say that's not true. You know, a lot of times  
10 12-year-olds say things that aren't true, a lot of times 12-  
11 year-olds say they aren't true. I don't know if any of y'all  
12 are parents, but I assume you are, and I assume you have kids  
13 and you know sometimes they, they don't necessarily tell the  
14 truth. Let's talk about the video evidence in this case, okay.  
15 They keep wanting to say that they're not hiding the ball.  
16 Look at camera 14, I want you to look at camera 14. They can  
17 say what they want to about that, but that's not what's on the,  
18 the State's Exhibit that they put into evidence. I put camera  
19 14 into evidence, I put camera 14 into evidence because it told  
20 the complete story. It told exactly what happened, which was  
21 that this was so improbable, it was almost impossible because  
22 there were other people out there. Nobody does this, nobody  
23 goes in the back of a car, nobody goes in the back of a truck  
24 with cameras running and rapes a girl, that doesn't happen.  
25 With your wife 35 yards away, that's crazy, that is crazy,

1 that's what's crazy about this case, is that's what's crazy.  
2 You've got a video camera running in the truck with a  
3 reflection off of that screen, and go look at it, it's in  
4 evidence. You don't think that thing's moving around. I want  
5 you to look at the size of these cabs, I'm going to put them up  
6 on the picture in a minute and you tell me for one minute that  
7 could have happened. And I don't mean to get carried away, but  
8 this is my guy's day in Court. They keep saying the DNA's  
9 impossible, they keep saying the DNA's impossible, that's not  
10 the truth. M.S. is just as much a possibility as anybody else,  
11 M.S. is just as much of a possibility as anybody else except  
12 for this part right here which I put into evidence, that's  
13 Exhibit 1. That doctor got up there and started talking about  
14 this stuff and I said that is Mavric's DNA, it's not MINOR's  
15 DNA, that's Mavric's DNA, there's no question about that. They  
16 had the ability to compare those, that's Mavric's DNA, not  
17 Milo's DNA, that's Mavric's DNA and he told you how it got  
18 there. And if there would have been sexual activity to have  
19 gotten that there, MINOR's would have been on there, let's be  
20 honest about that. This isn't CSI, this is real life stuff.  
21 They want to go to you and start talking about the swab that  
22 was taken from MINOR, they keep on wanting to talk about that  
23 swab. That swab, it's in here, it's in this box. It was taken  
24 by Stacey Sullivan, nice lady, came in here and testified. She  
25 stuck the swab in, the swab touches the top part of the, the

1 cervix, it touches the top, that's how that works, okay. If  
2 the DNA was there, it just as easily could have been Milo's as  
3 could have been anybody else's because she had lived in a place  
4 where a slobbering baby was, she had been in a car with a  
5 slobbering baby, that's all irrefutable evidence, that's all  
6 there. Mavric wasn't in that house at that time, he had been  
7 gone. They keep wanting to talk about the panties, I want to  
8 talk about the panties. There is a lot of evidence in this  
9 case about there being another pair of panties. They went out  
10 to look for them, tore that truck apart, they never found any  
11 panties and the, how could there have been any, she was wearing  
12 boots, her pants never came off, that's what she testified to,  
13 she was wearing boots and her panties never came off. I want  
14 you to look at the size of that cab, let's do that now. I'm  
15 going to pop some stuff up, can you pop me up, Your Honor? I  
16 want you to look at Defendant's Exhibit 9. That's the back  
17 back there, okay? I want you to look at, I'm sorry, I said  
18 Defendant's Exhibit 9, I should have said State's Exhibit 19.  
19 This is State's Exhibit 20, I'd like to correct the record,  
20 Your Honor, I misstated, I just read it wrong. This again is  
21 the back of the, these are pictures of the back of the cab,  
22 these are the sheets that came out of the back of that truck.  
23 I want you to look at the size of this thing. I'm going to  
24 show you State's Exhibit 21. Again, I want you to look at the  
25 size of the back of that, that's in the back of a cab, right,

1 22, 24, 25, and finally 26, 26, that's the size of that bed,  
2 okay. We all can see that that's about the size of a single  
3 mattress, okay. And we know that this area right here is where  
4 that curtain is, right, we know that. If there was some type  
5 of attack back here, go look at the video tape that they put  
6 into evidence that shows the blinking and the flashing in the,  
7 in the mirror in the cab. And I'm telling you, you will know  
8 that that could not have possibly happened the way she said  
9 that, okay. That's why she recanted is because it was  
10 impossible, that's why she recanted. Her mother knew that it  
11 was impossible, that's why her mother didn't believe it. You  
12 can say everything you want to about how her mother didn't want  
13 to believe it for financial reasons, and all of that stuff, and  
14 you can put all these people on the stand and say that, but her  
15 mother who moved to Nebraska to take care of her daughter and  
16 did the right thing, told you the truth from this witness stand  
17 and said, I never told those people that, I didn't tell them  
18 that. I did not tell them that I was, didn't want to support  
19 my daughter or told my daughter that this was going to be a  
20 financial thing. She never said it because it didn't happen,  
21 that's the truth. Why would she come from Nebraska and  
22 testify, I didn't call her as a witness, I asked her the  
23 question. I'll tell you what's just as probable, I'll tell you  
24 what's just as probable is that there was a 12-year-old on the  
25 way, I mean, there was a 12-year-old girl who was missing her

1 father, who as they said, liked to take care of M.S., liked to  
2 be the man of the house, however that testimony came out. She  
3 found out there was a baby on the way, she was going to be  
4 replaced again, M.S. is there, she already lost her dad, thinks  
5 she's going to lose her mom. Then Mavric comes back, he's  
6 trying to be nice to her, he's trying to take her on a trip and  
7 let her ride in a car, let's think about that, let's really  
8 think about that. I spent a lot of time, I spent way too much  
9 time asking him those questions, I did, I probably bored the  
10 heck out of y'all, but I did it because I wanted you to see  
11 that what happened, what they said was happening just didn't  
12 make any sense. Because he said, I picked her up at that Exxon  
13 station, I drove 26 miles with her in the car, I told her to  
14 get in the back because it was against company policy. I knew  
15 the video cameras were running and everything, and I had to  
16 park the truck, right? They want to make a big deal about how  
17 long it took to park that truck and that for some reason, they  
18 don't want you to believe that the amount of time out there  
19 could have possibly, the amount of time out there, it has to be  
20 more, it has to be more because the truck was not engaged. See  
21 this, look up here, it says the truck, it's, they're trying to  
22 say that the truck wasn't engaged, we know that's not true, we  
23 know that's not true. How do we know that, because I showed  
24 you a video of the truck running around the side and we know  
25 that's not on there, that's not on there because they said the

1 truck doesn't go from one to five miles, from one to five miles  
2 an hour, it does not go that way, it does not come on, look at  
3 that, that is in evidence, that is a really important piece of  
4 evidence. There's no way Mavric Smith knew that that piece of  
5 evidence could be created. He also couldn't have known those  
6 videos were going to show that he was telling the truth. He  
7 also did not know those videos would be running, well, I'll  
8 tell you what, he knew that the camera was in his truck. Let's  
9 see, how do we know he knew that the camera was in his truck,  
10 you see the camera, the camera's right there, it's running, the  
11 camera's running, he knows the camera's there. You don't rape  
12 somebody with a camera running, come on guys. Attack my  
13 expert, attack all this stuff, but let's be practical, you  
14 don't have any, you don't owe anybody anything, let's just be  
15 practical, do your job, look at the evidence, look at that  
16 evidence, okay, the evidence is there. It's so improbable,  
17 it's impractical and the tie always goes to the Defendant.  
18 Let's talk about something else. I want to show you something.  
19 We asked, we asked them the distance between the two seats in  
20 the cab of the truck. You want to sit there? 33 inches, 32  
21 inches, we asked, right? This is the distance. You'll see the  
22 video of them driving down the road, this is Mavric driving  
23 down the road, okay. MINOR's story is that somehow or  
24 another he was reaching over there and touching her. I'm 6  
25 foot 4, you can see that, I have long arms. Stand up Mavric.

1 It's impossible. And you know what's great, is you can go back  
2 in the jury room, and you can look at the truck and you can  
3 look at it going down the road and you can look at those videos  
4 and you can look at that film. And if he was doing that, he  
5 would have been swerving all over the place, and so you know  
6 when the story starts out, when the little girl starts out  
7 saying that's what happened, you know it's not true. And once  
8 -- you can sit down. And once you start telling a story and  
9 you're 12-years-old, it never stops. If it's improbable like  
10 that, that's reasonable doubt, if it's improbable like that,  
11 that's reasonable doubt. Okay. They want to keep on talking  
12 about my expert and that he was just here to refute what the  
13 doctor over at the lab says. First of all, let's go this way.  
14 Mavric Smith waived any kind of right right there, they put  
15 that into evidence, Exhibit 30, they put that in as State's  
16 Exhibit 30, he waives his rights and gives them DNA samples,  
17 okay? They take that DNA, and he cooperates with them, he  
18 gives them a statement, he talks to them, and they go to  
19 MINOR months later and tells her that the saliva test came  
20 back positive. Then this investigator right here, this  
21 investigator, I did never hear he was a psychologist, she was  
22 just relieved. You know what, she was probably going, what the  
23 heck happened, how'd that happen. But she just stayed with it,  
24 she had recanted, there had been so many stories back and  
25 forth, and you know, they said that they don't want you to

1 listen to this, they don't want you to look at it, they don't  
2 want you to think about it, she writes a letter to him, right  
3 there. She writes a letter in her handwriting, nobody made her  
4 do that, I'm sorry for accusing you and starting this case, I  
5 hope you can come back soon so that we can celebrate my  
6 birthday. You can get your carrot cake, I can get my hair cut,  
7 I promise, I will never do anything like this again, I really  
8 want to do our Anime nights again and shopping sprees at the  
9 mall again. I really miss you and love you, please come home  
10 soon. That's in her handwriting. There's another one, I won't  
11 put it up there, there's another one, it's in evidence. If you  
12 want to see it, it's State's Exhibit 34. They want to talk  
13 about a presumptive test, okay, a presumptive test. They're  
14 talking about the test that the, the, and I can't pronounce his  
15 name, and there's no disrespect, I've known the man for years,  
16 he runs a presumptive test, it's presumed it's saliva, that's  
17 what it is, presumptive test. And you look at the pictures,  
18 okay, I'll find them in a minute, but y'all look at the --  
19 there we go. I want to show you Defendant's Exhibit 5, it's  
20 not their exhibit, that's my exhibit, Defendant's Exhibit 5.  
21 This is where he ran the test, okay? You look at this and  
22 decide what you want to say that is and they'll tell you,  
23 there's no question that both those guys said that, that fecal,  
24 that's poop, could cause a incorrect test, okay, fecal can  
25 cause an incorrect test, and that's what happened, okay, that's

1 there. I didn't make this stuff up, that's the science, that's  
2 the science. Amylase that's found in the body, they said that  
3 it makes sugar, you get false testing from blood. We could  
4 probably test some other stuff, we could have probably tested  
5 some other stuff. Where are her clothes, you know, you got  
6 some alleged rape case, wouldn't you think they'd bring the  
7 clothes in here. Remember I asked that Davis lady when she was  
8 on the stand, I said, didn't you collect these clothes, huh,  
9 what do you mean, isn't that your signature, she looked at me  
10 like I was nuts. She didn't collect the clothes, she said she  
11 didn't collect the clothes, but the thing said she did. Go  
12 back and look at those video tapes, please, please go back and  
13 look at those video tapes. We don't have CSI here, you don't  
14 have anything submitted to you, they keep, she keeps talking  
15 about a phone and stuff, you ain't got none of that here, you  
16 ain't got no laptop, you ain't got nothing on the internet, you  
17 don't have that stuff, the girl admits to looking at porn, you  
18 know, she's 12-years-old, good gosh, I mean, okay. But that,  
19 so how does she know about what they want to call carnal  
20 knowledge or whatever they call that stuff, how did she know  
21 about it is because she looked at it on the internet, I mean,  
22 that's just, I think, you know, I raised two girls, that's not  
23 unusual, right? She didn't deny it, her mother didn't say it,  
24 her mother said she was having trouble with her, okay. We've  
25 given you a lot of reasons why she was having trouble with her.

1 You know, I don't want to beat people up, I just want to give  
2 you what else could have happened. It's not my job to do this,  
3 right, that's not my job, my job is to, to, to defend my  
4 client, and, and, and the evidence is overwhelming that there's  
5 another possibility in this case, it's overwhelming. The tie  
6 always goes to the Defendant. You know, they got mad at my  
7 expert coming in here to testify, but Shauna Galloway walked up  
8 there, she testified, this is all she does, she gets paid to  
9 come in here and testify. She said that, that it's not unusual  
10 for kids to recant. You know what, I might give her the  
11 benefit of the doubt because she's, she does this stuff, she  
12 knows, but it's really unusual for a kid to recant in writing  
13 twice, and at least five other times to police officers, to  
14 prosecutors, all those were admitted, I can't count them all,  
15 but I'd say seven or eight, you can probably count more. Why  
16 didn't they bring you those films of her recanting in here.  
17 We've talked about that SANE kit. I do want to look at a  
18 couple things on there -- this always happens, I try to find  
19 something up there and maybe it'll be there in a minute --  
20 anyway, the SANE kit, go look at the SANE kit, okay? I want  
21 you to look at the SANE kit for a couple of reasons. I want  
22 you to look on there for a couple of things that I think will  
23 really help you explain the thing that you're going to go back  
24 there and go, okay, what's the problem in this case. The  
25 problem's going to be you're going to go back there and start

1 talking about DNA, okay, that's what you're going to do, you're  
2 going to go back there and start talking about DNA. You're  
3 going to, I think you're going to agree with me that this, all  
4 this other stuff is, well, how do we explain this, well, I know  
5 we've got a false positive, but I want you to look at the SANE  
6 exam, okay? I want you to look at that and I want you to think  
7 about the fact that we've got a question, underwear, here,  
8 we've got a question, maxi pads. And I then want you to look  
9 at that SANE kit and see that that girl said in that SANE kit  
10 that, or, when she was asked by the lady that did it, and I  
11 know her name, I think her last name's Sullivan, but if I'm  
12 wrong, just look at the evidence, it's in there, and look on  
13 that sheet and look at both of them, it says that MINOR  
14 shaves, and that she had bathed, so look at that. Then I want  
15 you to start thinking about M.S., I want you to think about her  
16 taking care of that child, that child slobbering, that child  
17 doing whatever and I want you to think about could she have  
18 touched herself however, I'm not going to get into it, but  
19 whatever, if she could have touched herself and put that there.  
20 And there is no doubt in what you've heard in this room that  
21 DNA can be transferred by touch DNA, by slobber, by all that  
22 stuff. They don't want you to believe in M.S., they don't even  
23 want to talk about M.S.. I'm not saying M.S., they tried to  
24 act like I was trying to say M.S., M.S. was the child that she  
25 was taking care of that was slobbering and spitting, that's

1 what babies do. And she was proud of the way she took care of  
2 it; she should be applauded for doing that. I'm going to  
3 finish in a minute, I promise. I want you to look at the  
4 search warrant, I want you to look at that search warrant. I  
5 want you to look at what they took out of that truck without  
6 him knowing they're out there, I want you to go look and see  
7 what they took out of that truck. And I looked at it last  
8 night and I'm going to look at it again, and I'm pretty sure  
9 that it says, yeah, there we go, I got my copy, photographs of  
10 the scene, you got those. His bed sheet, pillowcases, a  
11 blanket, piece of mattress, that's the piece of mattress cut  
12 out right there that has my client's DNA, that's, he lived back  
13 there, so he bled. And where is there anything from any of  
14 these mattresses, did they check them, did they look at them,  
15 did they do anything, wouldn't there be something on there?  
16 Okay. No sheets, no bed top, no clothes, no panties. Where  
17 are they, wouldn't that help y'all. As you look at these  
18 videos and say, hmm, really, look at that first video, you look  
19 at it and then look at the second video and just look at the  
20 difference. They're going to tell you there's something with  
21 time stamps, I want you to look at the bottom right hand  
22 corner, okay, I want you to look at that. As you look, you  
23 look at the bottom right hand corner, y'all are the judges of  
24 fact in this case, those things are in evidence, and I want you  
25 to look at them and I want you to think about whether or not

1 that's a correct scene of what's going on out there and if this  
2 was even possible to have happened at the time. Go back there  
3 and look at these indictments. These indictments, they're just  
4 charging documents, they don't mean anything else, he's charged  
5 with three counts, I don't see where you see kidnapping, I can  
6 see the other stuff, but really, I don't, I just, I don't,  
7 anyway, I think you'll have them back there, I think the Judge  
8 gives them to you?

9 THE COURT: No.

10 MR. YARBOROUGH: No? He won't give them to you. I  
11 want you to go back there and list all the times I put into  
12 evidence that she recanted between March the 3rd and September  
13 the 2nd, and then September the 24th she meets with the  
14 solicitor, and they tell them this stuff about this presumptive  
15 test and, you make your own decision. You look at it, you look  
16 at it. You know, it's interesting, they put that nurse on the  
17 stand, I don't remember whether they talked about it, about the  
18 hymen or not hymen, but y'all are the jury, y'all, you know  
19 what I'm saying. He looked at her, if she had been raped,  
20 wouldn't she been scratched, wouldn't there have been some kind  
21 of bruising, holding some girl up their arms, could you have  
22 even done that there, but if you could do it wouldn't she have  
23 been hurt. She was a troubled girl with daddy issues. The  
24 State wants to talk about me about red herrings, those are red  
25 herrings, don't chase their red herrings, look at the facts.

1 Look at the technology at Cheeseman, you've got technology in  
2 this case, you got some CSI in there, where's the other CSI?  
3 Look who had to put in the other CSI, look who put in that  
4 other tape. Look at what the prosecution wants you to believe  
5 about that swab going in the cervix and then think about what  
6 really happened. Just because the investigator says it's so,  
7 it ain't so, that's his job to investigate, he's got an  
8 opinion, you know, that's his job, doing his job, he's got an  
9 opinion. Was she on her period, was she not on her period,  
10 answer those questions. Battling experts, no battling experts,  
11 whatever you want to look at about that, that's a draw, science  
12 is a draw. Technology goes in Mavric's favor. Everybody  
13 agrees she was looking at porn. Can you tell if that's  
14 Mavric's DNA or Milo's. You know, both Mavric and his wife  
15 were worried about how she was doing, they all testified to  
16 that, you know, you can't make that up, you can't make that up.  
17 I'm glad she's doing well now, you know. You don't owe anybody  
18 any favors; you can't give anybody any favors. No matter how  
19 hard the State wants to put words into mom's mouth, no matter  
20 how hard, she wouldn't let them, she wouldn't let them, she  
21 never would say in this Courtroom, even though Ms. Gasser asked  
22 her over and over again and confronted her with statements she  
23 thought she had made. Samantha always said, Samantha, the  
24 mother, always said that, yeah, everybody worries about money,  
25 but this isn't why, I'm defending my daughter because that's my

1 daughter, nobody ever told my daughter to recant, nobody told  
2 my daughter to recant because of some financial needs, they  
3 want, that's just some cryptic stuff they made up after this,  
4 okay? It sounds good on paper, but in reality, is that what  
5 came from the witness stand, no. Once that swab from the  
6 investigator came, he quit, they didn't look at another doggone  
7 thing. When we, as people that have had children, I'm sure a  
8 lot of y'all that have kids know that babies slobber and snot,  
9 and that's another way DNA comes about. Both people testified.  
10 Don't like my expert, don't like him, he just told you what the  
11 facts are about the test, okay? You know, I don't have the  
12 ability to go over there and get them to run tests, I had to  
13 bring somebody here that ran tests, blame that on me, right,  
14 but listen to what the truth was. They don't use that test in  
15 70 to 80 percent of the places in this country, that's factual,  
16 that was not refuted. Nobody from the prosecution ever brought  
17 anything in here and said, that's not the case. And I tell you  
18 what, if that was the only thing we had, if that was the only  
19 thing we had, that's beyond a reasonable doubt. This isn't  
20 some CSI criminal case, this isn't like that, right, if it was,  
21 we might know more. I'm going to just talk about two things.  
22 It's their allegation, because this is the last time I can talk  
23 to you, okay? Judge Gravely is going to say they have to prove  
24 beyond a reasonable doubt that leaves you firmly convinced of  
25 the Defendant's guilt. There are very few things in this world

1 that we can absolutely be certain of and in criminal cases, the  
2 law does not require proof that overcomes every possible doubt,  
3 it's based on your consideration of the evidence. You are  
4 firmly convinced that the Defendant is guilty, firmly convinced  
5 that the Defendant is guilty. And I'm telling you most of this  
6 stuff they put out here, hogwash. But there again, my Exhibit  
7 7, my Exhibit 7 they don't want to talk about, they don't want  
8 to talk about parking that truck, they refused to communicate  
9 with you about parking this truck, and there's a reason for  
10 that, because it doesn't fit their timeline. Because we do  
11 have CSI moments, we do have that for you, where is it, it's  
12 that sheet with the breakdown of time where they don't want to  
13 say that the truck moved, but y'all all know the truck moved.  
14 And you heard the guy from Cheeseman say maybe one to five  
15 miles an hour it doesn't come on, put that in your timeline,  
16 put that in your timeline. The tie always goes to the runner,  
17 baseball games, this ain't a tie, we're way ahead. You know  
18 sometimes I get up and I get exaggerated and I misspeak a  
19 little bit, my paralegal over there points out something to me  
20 and she did make a point, I might have misspoken that the swab  
21 from the exam or maybe it's just because I'm not a woman, was  
22 it of the entire vagina? It wasn't necessarily just in the  
23 cervix, and that is very important. And sometimes I'm  
24 uncomfortable talking about that stuff, and so that is very  
25 important, and you women please share that with the jurors

1 about what, the other jurors, because y'all can use your  
2 practical experience, right, you can use your eyes, your  
3 practical experience, you don't throw your common knowledge at  
4 the door when you come in here. And finally, after all that  
5 you must give the Defendant the benefit of the doubt and find  
6 him not guilty in facts and circumstances that merely placed  
7 upon the Defendant a grave suspicion of the crime charged, or  
8 that merely raises a speculation or conjecture of the  
9 Defendant's guilt are not sufficient to authorize a conviction  
10 of the accused, that's words that Judge Gravely's going to tell  
11 you. And I'm telling you that you're going to have all this  
12 stuff, don't just listen to me, don't just listen to Ms.  
13 Gasser, you go back there, you listen to four days of testimony  
14 in this Courtroom, and I trust you, and I trust you to find  
15 Mavric Smith not guilty. Thank you.

16 THE COURT: Alright. Ms. Gasser?

17 MS. GASSER: May it please the Court, Your Honor.  
18 I'm going to keep this brief. First of all, it has nothing to  
19 do with liking someone. My job is to look at what the evidence  
20 tells us, and this case is all about what the hard evidence  
21 tells us. Further, it was told that I didn't have to impeach  
22 the Defendant on the stand, that's right because he  
23 acknowledged what he said, he admitted it that he said five to  
24 10 minutes back then. I didn't have to impeach him, he  
25 admitted it. Let's just walk through a couple of the things

1 y'all just heard about. Cameras, over and over and over again,  
2 there are no video cameras in that cab, there are no video  
3 cameras on that bed, there was a black curtain for privacy.  
4 Lots of testimony, you heard that from him, you heard it from  
5 her, you heard it from everybody. Further, the dash camera is  
6 facing the road. I'm not trying to argue that y'all are going  
7 to see any kind of sexual assault on there, you're not. What  
8 you're going to see is the bottoms of those flaps just moving  
9 in the reflection. You're not going to see feet, you're not  
10 going to see body parts, you're just going to see reflection of  
11 light which means the flaps are moving. There were no cameras  
12 in that cab. Further, he said that the Defendant didn't know  
13 about all these cameras so how could he be lying, how could  
14 they perfectly line up with his theory, the Defendant knew  
15 about this evidence. But why would he tell her to get in the  
16 back of the cab, because he knew there were cameras, and he  
17 didn't want anyone to see her in the cab, he said it was  
18 because he didn't want to lose his job. But these cameras,  
19 they're not time stamped, they're not motion activated, who's  
20 watching these cameras, they pull them when it's necessary,  
21 when they are told to pull them. So unless they're looking for  
22 something, they're not going to pull these and find out that he  
23 had a little girl in the cab. And how could they tell from the  
24 video that she's 12 and not 13. He told her to get in the back  
25 of that cab because he didn't want her caught on camera because

1 he had her alone and he had the opportunity. Talked about  
2 Defense Exhibit 7, I believe it was pictures of the back of the  
3 truck, right? Those were taken last week, they had to tell you  
4 that, tried to say three weeks, no, it was last week. I don't  
5 know if that's the same way that Cheeseman Transport parks  
6 those today. I don't know, it was last week, those were not  
7 taken on March 1st, 2020. The pictures from March 1st, 2020,  
8 are already in evidence, you can review them. He also talked  
9 about that we didn't want to talk about Exhibit 7 because it  
10 wouldn't fit our timeline. Again, not true, I don't want to  
11 talk about Exhibit 7 because why does it matter what Cheeseman  
12 Transport's trucks look like on May 8th, 2023 when we're  
13 talking about March 1st, 2023, I mean, 2020, excuse me.  
14 Timeline, fitting in their version, the Defendant himself makes  
15 our timeline work. He said five to 10 minutes on March 10th,  
16 2020, five to 10 minutes to park that truck. What are those  
17 remaining 10 minutes being used for, oh, that's when he's  
18 sexually assaulting his stepdaughter. The truck seat  
19 demonstration, okay, first of all, we're not in the cab of that  
20 truck, second of all, what are those chairs, are they the same  
21 dimensions, are they the same chairs that were used in the cab  
22 of the truck, no. Look at the cab of the truck, you have  
23 pictures of the cab of the truck, they're in here. Further,  
24 the Defense attorney used himself and his paralegal to identify  
25 as his client and a little girl. Again, that is not

1 representative of what happened on March 1st, 2020. Let's go  
2 back to the scientific cab bed. He said that, he was implying  
3 or saying that this was impossible, it's the size of a twin  
4 bed, right? Well, mom got up there and testified that she had  
5 sex in the back of that cab, and that's two adults, it's  
6 possible. He also said that I don't want y'all to look at the  
7 letters, I want y'all to look at the letters, I put them into  
8 evidence, look at them, please, read them, read what this  
9 little girl was undergoing in the summer of 2020, the pressure  
10 she was under. The mattress, it was brought up again. Take  
11 the photos, look at them, it's a blood spot on a mattress that  
12 he slept on. It's not relevant, it doesn't disprove that she  
13 wasn't sexually assaulted, it just proves that at one point in  
14 time he bled on his own mattress. And they want to say that  
15 none of her DNA was found on the mattress so therefore, he  
16 could not have sexually assaulted her. Okay, okay, okay. But  
17 why was his DNA found in her vagina. Let's talk about Shauna  
18 Galloway-Williams. First of all, she was directly asked if she  
19 was paid to be here, she is not. Her job is running the Julie  
20 Valentine Center, and I think she said she was an adjunct  
21 professor. She does not get paid to sit on that stand, she  
22 does not get paid to testify. She does this as she said, for  
23 free because of her expertise, so let's just get that clear.  
24 Second, they talked about the films. There are certain things  
25 that we as lawyers are held within the bounds of the rules of

1 evidence, so if there are mentions of things that are not in  
2 evidence, there may be a reason. And so I'd just like to point  
3 that out since it was brought up as if we're hiding something  
4 from you, we're not. Maybe I wanted to, maybe I didn't, the  
5 point is, since it's not in evidence, it's not to be  
6 considered. Shauna Galloway-Williams told you that this was a  
7 process, there's nothing standard. He kept trying to say, you  
8 know, is it weird that a 16-year-old couldn't say vagina, well,  
9 it depends on the kid, right? Just like the recantation  
10 depends on the kid, the reasons. She could only tell you what  
11 they're seeing in the research. He wants to say that it's  
12 completely abnormal that a kid would write two things, that  
13 that is what makes it different. It depends on the kid, it's a  
14 process. She's an expert, she told you that. He brought up  
15 her shaving and bathing, okay. This was during her SANE kit.  
16 This is why I asked everybody a lot of questions about who was  
17 in the room, how many questions did she ask, that's why because  
18 think about how many people she had had to tell her story to  
19 that day. March 2nd, 2020, she's worried that she's just lost  
20 her virginity, that's where she's at. It's, it's, she thinks  
21 that she's lost her virginity. She's crying, she's telling  
22 friends, then she has to tell the principal, the vice  
23 principal, the SRO, she has to tell deputies when they arrive  
24 on scene, she gets transported in a police car to a hospital  
25 where she's put up on a bed with stirrups and had a speculum

1 inserted into her vagina. And she's being asked questions  
2 again, and again, and again. Her mother said she did not  
3 shower that day; she did not change her underwear. And there's  
4 a lot of discussion about the underwear and that we've got to  
5 find the underwear because they were in the truck. No, that  
6 was hearsay, no one ever testified that they directly knew that  
7 her underwear was in the truck. Where are the underwear, the  
8 underwear are in that box, you want to look at them, please,  
9 look at them, they're in that box, they've been presented. You  
10 also have photographs of them, photos that we were going to  
11 enter, but they got entered by Defense counsel on an earlier  
12 witness, that's fine. We want you to look at them, please look  
13 at them because I don't want y'all to have to open this box of  
14 underwear, look at the photos. He also talked about the lack  
15 of physical evidence, and there is an implication that the  
16 women should think about and the, the -- okay. Kelli Clune got  
17 up there and told you that it's completely normal for a vagina  
18 to heal quickly, like the inside of your mouth, alright? No  
19 implication that there should have been this massive, you know,  
20 hemorrhage or scrape or bruise. She also told you about that  
21 study of the pregnant women, the forty something pregnant women  
22 and they could only tell that two of them had actually had sex.  
23 They're pregnant, they had sex and they could only tell on two  
24 from a vaginal exam. She told you the vagina heals quickly,  
25 it's completely normal to have a normal exam. Let's talk about

1 the DNA briefly, and then I'm going to sit down. They want to  
2 talk about that saliva test so bad because it distracts, it  
3 distracts, it distracts. But there was male DNA inside of her  
4 body and that male line matched the Defendant, right, so they  
5 have to attack the saliva. But their own theory counteracts  
6 their other theory. They say it wasn't saliva, the tests are  
7 bad. Well, then why are they arguing that it's Milo's saliva?  
8 It makes no sense because it's a confusion and a distraction  
9 tactic, that's where we're at. So if it's not saliva, okay,  
10 let's, you know, you want to take that test out of it, there's  
11 still male DNA in her vagina and in her panties. So then they  
12 want to attack the panties, right, so they've thrown out the  
13 saliva, under their theory, although I do assert that Dr.  
14 Kandala came in here and told y'all he runs an accredited lab  
15 that's up to date on all their tests and that labs across the  
16 country use that test. So my theory is the saliva test is  
17 good, it's a-okay and it is saliva. Their theory is is that  
18 the tests are bad by this man that worked four years in a lab  
19 14 years ago and he doesn't work in a lab currently, but they  
20 say that the saliva tests are bad, okay. Take, then they also  
21 say it's the baby's saliva, whatever. But if you can take away  
22 the saliva, right, they still can't escape the male DNA inside  
23 the vagina and panties. So then they attack the panties and  
24 they say, oh, that's feces, that's feces. Okay. They cannot  
25 refute, can't refute the vaginal swab, they can't do it. So

1 then they go back and they say, well, it is saliva, but it's  
2 Milo's saliva. It's confusing because it's impossible and it's  
3 improbable and it doesn't make sense. What makes sense is that  
4 the saliva tests are correct, that she had the Defendant's  
5 saliva in her underwear, and that she had the Defendant's  
6 saliva on her vaginal swab which was confirmed with the saliva  
7 presumptive test and then that's how they found out what type,  
8 what source of DNA. And then they had to find out whose it  
9 was. So Dr. Kandala conducted a Y-STR test. This Defendant's  
10 paternal male lineage, we've already gone through it, I think  
11 everybody's in agreement that it could only be him or M.S.  
12 Alright. So that's where we're at. The Hail Mary, the Hail  
13 Mary, what 12-year-old, or better yet, what person in general  
14 can ever reach their cervix. The implication was that she was  
15 touching herself, because when you want to touch yourself, you  
16 want to reach all the way up there and touch your cervix. It  
17 makes no sense to anybody that understands the female anatomy.  
18 Y'all have the picture, we don't need to put it on the big  
19 screen, look how far up that is. Makes no sense, no sense.  
20 But what does the evidence show. The evidence shows that he  
21 spit on his fingers, from what she said, used it as lubricant  
22 on his fingers and his penis, and he put his fingers inside of  
23 her and he tried to put his penis inside of her. And that  
24 would explain why his saliva that matches his Y chromosome is  
25 up on the walls of her vaginal canal and near her cervix. The

1 SANE nurse said, and they also said that it takes the whole  
2 vagina, okay? She said it was concentrated around the cervix  
3 and the walls of the vagina. They had to use a speculum, which  
4 if anybody knows what that is, it's the duckbill, it's entered  
5 and it opens you up and you take a swab in and around the  
6 cervix and the walls of the vagina right there, deepest part of  
7 the vagina. I'm sorry for having to say the word vagina so  
8 many times, I know it's, it's not a fun word to say, but it's  
9 important in this case because their theory is that this little  
10 girl touched herself with her baby brother's saliva on her  
11 hand. That is improbable, impractical, and does not match with  
12 the hard science evidence. This is like trying to tell you  
13 that the sky is green. It is ridiculous and a desperate  
14 attempt to take your eye off the ball. I want to, in my  
15 remarks, just reminding you, okay, for sexual battery, if you  
16 did, if you believe he did any of these things, any of them,  
17 any one of them then he is guilty of CSC with a minor, second  
18 degree. That is the oral sex where he licked her vagina, he  
19 put his tongue inside of her, or vaginal penetration however  
20 slight with his penis, or digital penetration. If you find any  
21 one of these, he is guilty of CSC with a minor, second. The  
22 Defense says, this doesn't happen, how could it happen. Okay.  
23 Y'all heard about grooming, Shauna described it to you. This  
24 was her stepdad, he wasn't around a lot when he was fondling  
25 her chest, that's what she told you. Think about this night,

1 he's about to go into a different job, he can't have her in the  
2 truck, he's got to move this chair, by the way those movable  
3 chairs, he put a refrigerator in there, that was his testimony,  
4 this is his last chance. He has her in the back of that truck,  
5 he doesn't want her captured on those cameras, he tells her to  
6 get in the back, the back so that no one can see her, no one  
7 can see her, no one can see her, over and over again he said  
8 it, so no one can see her. He parked that truck in the five to  
9 10 minutes he told Investigator Walter about, he climbed in the  
10 back of that truck, and MINOR told you what he did to her.  
11 He pulled down her pants, he pulled down her underwear, he  
12 pushed up her shirt, her pants and underwear were stuck around  
13 her ankles because of her combat boots. He knelt down, she  
14 described it very specifically, he was kneeling down, had  
15 hunched over, her legs were above his head, so she couldn't  
16 kick, she couldn't escape, she wanted to, she said, I wanted to  
17 leave. Her legs are stuck around his head, his hand is holding  
18 her hands together. She was stuck, she was kidnapped at that  
19 moment, and at that point in time, he committed oral sex on  
20 her, he then used spit to lubricate his hand and digitally  
21 penetrated her and then he attempted to put his penis inside of  
22 her causing pain, pressure, and throbbing. This absolutely  
23 happened, he had her alone without mom across a dark parking  
24 lot. They talk about the lights, it is dark, there is no one  
25 there behind a curtain so that no one can see her. This was

1 his moment. Find the Defendant guilty.

2 THE COURT: Alright. Ladies and gentlemen, before I  
3 give you my charge, does anybody need a break? It's going to  
4 be a little over 20 minutes or so.

5 JURY: (Nonverbal responses).

6 THE COURT: Alright. Let's take just a short break.  
7 I don't know if your lunch has been delivered, but don't be  
8 getting into your lunch yet, alright. That'll be when we get  
9 through. Go ahead, and do not discuss the case because you  
10 can't until I charge you on the law. So step back in your jury  
11 room and just let the bailiff know when y'all are ready to come  
12 back.

13 (Jury exiting Courtroom.)

14 THE COURT: Alright. We'll just hang loose for a  
15 minute.

16 (Off the record.)

17 THE COURT: Alright. Jury's ready.

18 (Jury entering Courtroom.)

19 THE COURT: Alright. Ladies and gentlemen, I will  
20 now instruct you on the law, I like to come down here. I  
21 always say if I'm up there, I feel like the Wizard of Oz. And  
22 what I'm going to do at this point is charge you on the law of  
23 the case. And you may have, prior to coming in here, you may  
24 have an idea of what you thought the law was, or you may have  
25 an opinion on what you think the law should be. But under the

1 oath that you have taken, you have pledged that you will accept  
2 the law that I give you. That's one of my duties and one of my  
3 jobs in this case is to determine what the law, the law that  
4 applies. As I also said, one of my jobs is to preside over the  
5 trial, it's also to rule on the evidence. In our Court, rules  
6 and our rules of evidence are very strict and that's why we  
7 have some, we had a lot of types of going back and forth. You  
8 may have heard objections and sometimes we had to take matters  
9 outside your presence and that's because we want the record  
10 clear, and we want to make sure that we have properly addressed  
11 all evidentiary issues. And there's whole classes on this at  
12 law school and it's not a very clearcut thing sometimes, and  
13 that's just kind of why that happens. And if you got  
14 frustrated with any breaks or delays, please hold those against  
15 me and not either party in this matter. Now, the, there are  
16 three indictments in this matter charging the Defendant with  
17 three separate crimes, alright, three separate charges,  
18 alright? And that is criminal sexual conduct with a minor,  
19 second degree, and I'm doing these in the order of the  
20 indictment numbers, there's no particular reason why they're in  
21 this order. Kidnapping and incest. And these are separate and  
22 distinct offenses that you are to consider separately. When I  
23 go through the verdict form, it will, it'll help you kind of  
24 give an outline of how to do that, and that is you're to  
25 consider each one separately. Your decision on one would not

1 necessarily have any impact on your decision on the other.  
2 It's totally up to you the way the evidence is determined. Is  
3 the Defendant guilty of one or all of them or none of them. It  
4 depends on how you interpret the evidence and the burden of  
5 proof, which I'll discuss with you in just a few minutes. And  
6 you'll be asked, when I go through the verdict form, you'll be  
7 asked to render a verdict on each separate charge. Now, also I  
8 told you in the beginning that the fact that somebody is  
9 charged, somebody's arrested, somebody's indictment, that's not  
10 evidence, and I know there's reference to the indictments  
11 sending back with you. Some Judges do send indictments back, I  
12 take the position that indictments are not evidence, the  
13 charges are not evidence, the arrest is not evidence. Those  
14 are merely the allegations that have been presented by the  
15 State which the Defendant has pled not guilty. So what that  
16 does is that puts the burden of proof on the State for each  
17 element. And I'll go through the elements in each of these  
18 charges. And like I said, they're not even going to be  
19 considered by you, you are to look at the evidence that's been  
20 presented. Now, as I said, the Defendant has pled not guilty,  
21 and one of the actual foundations of our criminal justice  
22 system is what we call the presumption of innocence. And  
23 that's just not some, you know, kind of idle theory or  
24 something like that, that's a very important part of our  
25 judicial system. And that's one of the things that makes us

1 distinct from a lot of other countries, a lot of other judicial  
2 systems. And what that means is that every Defendant, no  
3 matter what, what court they're in and charged with, we were  
4 talking about Magistrate's Court, City Court, or General  
5 Sessions Court which we're in today, is they have that  
6 presumption of innocence. And that innocence, and that  
7 presumption just means they have no burden whatsoever, they  
8 don't, a Defendant does not have to prove himself not guilty.  
9 They don't have to prove any elements or the lack of any  
10 elements, they have no burden, the State has the burden. And  
11 that presumption is with them from the time they're arrested,  
12 charged, the trial starts, and the trial ends. That  
13 presumption's with them until a jury finds them guilty based on  
14 the evidence of beyond a reasonable doubt. Otherwise, that  
15 presumption stays with him throughout. Now, what is reasonable  
16 doubt. And there's nothing in this world that we know with  
17 absolute certainty, and our law does not require that the State  
18 prove with actual certainty each of the elements, but they must  
19 prove that he's guilty beyond a reasonable doubt. I don't know  
20 if anybody in this jury has been involved as a juror in a civil  
21 matter or maybe you've been involved as a party in a civil  
22 matter or maybe you've seen something on TV. The reason I  
23 bring that up is that's a different standard of proof. That is  
24 by preponderance or more likely than not standard, that is not  
25 as high a standard as you have in Criminal Court. Beyond a

1 reasonable doubt is the standard that you must apply as to each  
2 element. Reasonable doubt is a kind of doubt that would make a  
3 reasonable person hesitate to act. Proof beyond a reasonable  
4 doubt is proof that leaves you firmly convinced of the  
5 Defendant's guilt. Now, if you, based on your consideration of  
6 the evidence, you're firmly convinced the Defendant is guilty,  
7 then you must find him guilty. On the other hand, if you find  
8 that there is a possibility that he's not guilty, or that  
9 there's merely a grave suspicion that he committed a crime or  
10 speculation or conjecture, then you're, that is not sufficient,  
11 and you must give the Defendant the benefit of the doubt and  
12 find him not guilty. There's two types of evidence that the  
13 State can rely on, it can be direct evidence and there can be  
14 circumstantial evidence. Direct evidence is when a witness or  
15 a piece of evidence directly proves that particular element.  
16 Circumstantial evidence is where you have to prove a series of  
17 facts and by inference show that particular element. And the  
18 State can rely on direct, they can rely on circumstantial, but  
19 still the burden is the same, it's still beyond a reasonable  
20 doubt where they rely on direct or circumstantial or a  
21 combination. In all evidence, kind of the main rule of thumb  
22 for you as a jury is you're to give it the weight and value  
23 which you feel is appropriate, okay? And I forgot to mention  
24 this at the beginning here when I told you my role as a Judge,  
25 your role as a jury is to determine what these facts are.

1 You're to give each piece of evidence the weight and value that  
2 you feel is appropriate. If there is anything that I have done  
3 or said that makes you think I have an opinion about the facts,  
4 you're to disregard that because that's not my role, my role is  
5 not to determine the facts. But let's get back, let me give  
6 you, talk about this direct and circumstantial evidence. As I  
7 said, the State can rely on both, however, to the extent that  
8 the State relies on circumstantial evidence, all of the  
9 circumstances must be consistent with each other and when taken  
10 together point conclusively to the guilt of the Defendant  
11 beyond a reasonable doubt. Again, if the circumstances merely  
12 portray the Defendant's behavior as suspicious, the proof has  
13 failed. I like to kind of give an illustration maybe a little  
14 bit about the difference in direct and circumstantial evidence.  
15 In direct evidence, a guy pulls up, up to the, his garage and  
16 just as he gets ready to get out of his car, it starts pouring  
17 down rain. Well, he's got direct evidence that it was raining.  
18 On the other hand, if he pulls up, he sees clouds overhead,  
19 it's dry, he goes into the house, he comes back out a few  
20 minutes later and there's water on the pavement, there's water  
21 on his car and he had heard some thunder, those are  
22 circumstantial, those are a series of facts that were needed to  
23 show that it rained, not direct, it's circumstantial. And  
24 again, the State can rely on both direct and circumstantial.  
25 What's another thing that you can consider is credibility of

1 witnesses, okay, and that just means believability of  
2 witnesses. Now, you may determine, you may consider how a  
3 particular witness acted on the stand, how they responded to  
4 questions. You may accept all of a person's testimony, or you  
5 may reject all of a person's testimony, you may decide it's  
6 appropriate to accept a portion of a witness's testimony and  
7 reject another portion. You may decide that it's more  
8 appropriate to accept one witness over several witnesses or  
9 several witnesses over one witness. Again, it's what you  
10 decide to give the weight and value that you feel is  
11 appropriate to each testimony and each piece of evidence. Now,  
12 I also told you that when somebody is considered an expert,  
13 they have a little more latitude in what they can testify  
14 about. As I told you when somebody was qualified as an expert,  
15 that normally a person can't testify about opinions or  
16 conclusions. A lay witness, and that's what we call a person  
17 who's not an expert, a lay witness, and that is they can only  
18 testify about what they saw, what they heard, what they felt.  
19 The difference is an expert can testify about conclusions,  
20 opinions in that expert's field, and, that's based on their  
21 training, their experience, their education. And you can give,  
22 again, the same rule though, you give it the weight and value  
23 which you feel is appropriate even if that particular testimony  
24 may not have been contradicted. It's still something that  
25 you're to decide whether that's something that helps the State

1 meet its burden of proof or not. Again, that's up to you to  
2 see how you should consider that testimony. Now, in order, one  
3 of the things the State must prove, again, beyond a reasonable  
4 doubt, is intent, criminal intent is required. For example,  
5 the mental state of a person can be proven by the State; the  
6 particular crime must be purpose, intent, knowledge,  
7 recklessness, or criminal negligence. Criminal intent must be  
8 proven beyond a reasonable doubt. Again, there's no scientific  
9 method or no brain scan that can determine what the intent of a  
10 person was. So you must use the circumstances surrounding the  
11 person at the time to determine what that intent was. And this  
12 is how you make that determination; you must look at all the  
13 circumstances. It's not necessary to establish intent of  
14 direct and positive evidence, intent can be established by  
15 inference in the same way you take into consideration the acts  
16 of the parties and all the facts and circumstances of the case.  
17 Criminal intent is a mental state, it's a conscious wrongdoing,  
18 and it's up to you to determine what the Defendant intended to  
19 do based on the circumstances at the time. Criminal intent can  
20 arise from actions or failure to act. It may arise from  
21 negligence, recklessness, or indifference to duty or to  
22 consequences that's considered by the law to be the equivalent  
23 of criminal intent. So those are your general rules, your kind  
24 of tools that you'll have in your deliberations. Now, I'm  
25 going to give you this, the actual elements of each of the

1 charges that you are to be considering. And the first one,  
2 again, I've done them just in the way of the indictment  
3 numbers, the first one is criminal sexual conduct with a minor,  
4 second degree. In this particular charge, and these are by  
5 State statutes, so therefore, the elements are laid out and  
6 that's what I'm going to be telling you. The State must prove  
7 beyond a reasonable doubt that the Defendant engaged in a  
8 sexual battery with a victim who's between the ages of 11 and  
9 14-years-old, that's very specific. That's sexual battery and  
10 the victim is between 11 and 14, those are your two elements on  
11 there. So let me define a little more on this what a sexual  
12 battery is. A sexual battery is sexual intercourse,  
13 cunnilingus, fellatio, anal intercourse, or any intrusion  
14 however slight of any part of a person's body or of any object  
15 into the genital or anal openings of another person's body  
16 except when the intrusion is accomplished for medically  
17 recognized treatment or diagnostic purpose. So that's what the  
18 sexual battery is, and again, the State must prove beyond a  
19 reasonable doubt that the victim was between the ages of 11-  
20 years-old, but not older than 14-years-old at the time of the  
21 alleged sexual battery. Consent, willingness, indifference, or  
22 ignorance on the part of the minor if any, as to while it's  
23 taking place does not in any way effect the charge of criminal  
24 sexual conduct with a minor because an unmarried woman under  
25 the age of 14 cannot legally consent to sexual intercourse.

1 Now, the next offense I'll discuss with you is kidnapping. And  
2 again, this is by statute and how it's set out in our state law  
3 and the State must prove beyond a reasonable doubt that the  
4 Defendant knowingly, and unlawfully, and there's several,  
5 there's a list of terms here, some of them are kind of on  
6 archaic side, but knowingly and unlawfully seize, confine,  
7 inveigle, decoy, kidnap, abducted or carried away another  
8 person without authority of law. Now, to kind of give you some  
9 definitions on this, to do anything unlawfully is to do it  
10 willfully against the law. Knowingly means with knowledge,  
11 consciously and not accidentally. Seize means to take hold of  
12 suddenly or forcibly. Confine means to limit, restrict, or  
13 enclose within bounds, imprison, or shut or keep in. Inveigle  
14 means to lure, entice, or lead astray by false representations,  
15 promises or other deceitful means. Decoy means to lure by or  
16 is by decoy, decoy is something to entice a person into a trap.  
17 Kidnap is to remove a person against his or her will by  
18 unlawful force or by fraud. Abduct means to carry off secretly  
19 or by force for an illegal purpose. Carry away means to  
20 remove. The State does not have to prove that the Defendant  
21 did all of these things, but it must prove that, that the  
22 Defendant did at least one of these facts to have, prove him  
23 guilty of kidnapping. Something done without authority of law  
24 is something which the law does not sanction, permit, allow,  
25 condone, or provide justification for. The kidnapping does not

1 have to be for any personal or monetary gain for illegal  
2 purpose but may be for any reason whatsoever. Incest, that's  
3 the next offense, and again, this is by statute and the actual  
4 terms are a little different, but it says the State must prove  
5 beyond a reasonable doubt that the Defendant had carnal  
6 intercourse with his wife's daughter. Carnal intercourse is a  
7 term used in the statute and defines carnal intercourse is the  
8 same as sexual intercourse no matter how slight the intrusion.  
9 Alright. So there's the elements of each of the three charges.  
10 Again, the Defendant, I mean the State must prove beyond a  
11 reasonable doubt each element of those charges I told you for  
12 you the jury to find the Defendant guilty of any of those.  
13 Now, at this point, I'm going to go through the verdict form  
14 with you. Alright. The top part of this is just the caption  
15 of the case, it has verdict form, indictment number, so the  
16 first, look at the first question here, you've got to answer  
17 the following questions. As to the charge of criminal sexual  
18 conduct with a minor, second degree, that's the indictment  
19 number, we the jury unanimously find the Defendant, Mavric  
20 Jordan Smith, and you're to check one. If you find the State  
21 has met its burden beyond a reasonable doubt on this charge,  
22 you would check guilty. If you find that the State has not met  
23 its burden, again, beyond a reasonable doubt, you would check  
24 not guilty. Once you've made a decision on that, then you  
25 would go to the second one. And your decision on the first one

1 does not necessarily relate to your decision on the second one,  
2 you should consider them separately. Then go to the second  
3 question, as to the charge of kidnapping, we the jury  
4 unanimously find, again, it's the same analysis, if you feel  
5 the State has met its burden beyond a reasonable doubt, then  
6 you check guilty. Also, if you find they have not, the State  
7 has not met its burden, then you would check not guilty. Then  
8 you may go to the third and final question and that is as to  
9 the charge of incest and that is again, the same analysis. If  
10 you find the State met its burden, you would check guilty, if  
11 you find the State has not met its burden, it's no guilty. Mr.  
12 Foreman, that's what your job is is you're the one filling out  
13 this form, okay? And you're also the one leading the  
14 discussions here. Once you have answered all three questions,  
15 then that is, you've reached your verdict and you would sign,  
16 you as the foreperson, you would sign, and date and you would  
17 let the bailiff know that you have reached a verdict. Now, for  
18 your decision on each question must be unanimous, that means  
19 all 12 of you must agree on the answer for each question, okay?  
20 You, and your verdict should be based on the evidence, okay,  
21 and nothing else. It shouldn't be based on any passion, any  
22 prejudice, any emotion, anything outside the record, only what  
23 has been introduced as evidence and the testimony that was  
24 presented here in Court. One thing that you will also have to  
25 do as the foreperson, if you have a question then you will

1 write that on a piece of paper, you will sign and date that,  
2 and you will give it to the bailiff. The bailiff will bring  
3 that question to me. I have two ways to respond to that,  
4 sometimes I can respond just on the same piece of paper, and  
5 sometimes it may require me to bring you back in so I can  
6 charge you on the law, maybe some additional part of it. I  
7 will tell you I can't answer any questions on facts, that's  
8 what you're to determine. A lot of times, for instance, in a  
9 car wreck case, let's use a car wreck case. A jury will say,  
10 well, there was a mention of an accident report, what did the  
11 accident report find. Well, that's not in evidence, so that's  
12 not something that we can present back, even if something may  
13 have been referenced throughout the trial, if it was not placed  
14 into evidence, it's not something for you to consider. There  
15 have been, you'll have several videos, we have a laptop that  
16 has been cleaned, so there's nothing else on it. So if y'all  
17 need to review any videos, then we can send that, the laptop  
18 back to you, just let the bailiffs know. And now I want to  
19 talk to my alternate. You're role in this case has been just  
20 as important as everyone else's and unfortunately you will not  
21 be able to deliberate with them, but that doesn't mean that  
22 your role hasn't been, like I said, very important to this case  
23 because if something for some reason one of the jurors had not  
24 been able to go forward, then we would have had to call a  
25 mistrial if we didn't have an alternate that could have been

1 placed into the pool. So I really appreciate your work here  
2 even though you feel like, oh, my gosh, I've gone the whole  
3 week and I can't even finish out. Alright. I think your lunch  
4 should be back, if it's not back there, it'll be back there  
5 shortly. Y'all can handle that however you want to. If you  
6 say, no, I want to eat my lunch and then we'll talk about it,  
7 that's fine, too. If you want to, you know, continue your  
8 deliberations while you're eating lunch, that's fine, there's  
9 no rule on that, y'all do what y'all need to do. So at this  
10 point, I'm going to send you back to your jury room, and I'm  
11 going to have to tell you one more time, you're not to discuss  
12 the case, and this is why, I've got to make sure that I haven't  
13 left something out or that I haven't misstated anything. If I  
14 need to bring you back to correct something, I will bring you  
15 back in here and tell you what it is, I won't go over the whole  
16 charge, and then I'll either correct whatever's been misstated  
17 or whatever I forgot. If, if it's ready, if there's not any  
18 additional information to give you then the bailiff will let  
19 you know, he'll bring the form, all the evidence in, he will  
20 give you the verdict form and he'll ask the alternate to step  
21 out, that'll be the signal at that point. You can go eat your  
22 lunch, you can be in your deliberations, however y'all decide  
23 on that. But at this time, go back, all of you including the  
24 alternate, go back into your room and wait and hear whether  
25 y'all can begin your deliberations or not.

1 (Jury exiting Courtroom.)

2 THE COURT: Alright. Any exceptions from the State?

3 MS. GASSER: Nothing from the State, Your Honor.

4 THE COURT: From the Defense?

5 MR. YARBOROUGH: No, sir.

6 THE COURT: Have y'all looked through the evidence,  
7 everything there? And regardless of the outcome, I want to  
8 commend both sides for a very well done and good job on the  
9 trial and now it's in the hands of the jury.

10 MR. YARBOROUGH: Thank you, Your Honor.

11 (Off the record.)

12 THE COURT: Alright. The jury had indicated through  
13 the bailiffs that they were not able to properly watch the  
14 video on the computer, that they wanted a TV. We checked,  
15 we're not able to provide them with a TV, so we will bring them  
16 in the Courtroom, set them up so they can see them on the video  
17 monitors here. My thought is to bring them in, at this point I  
18 would just ask that just the lawyers be in here, no spectators  
19 or parties including the Defendant, and especially in your  
20 case, we don't want to, them to see you go into the holding  
21 cell, that'll be prejudicial to you. And then what we will do  
22 is we'll tell them -- do we know which video they want to see?

23 BAILIFF: No, I don't. I told them to bring whatever  
24 disc they wanted to watch with them.

25 THE COURT: Okay. And we will, and once we get all

1 the, make sure all the video's set up, everybody will exit the  
2 Courtroom, I will have Ms. Caldwell stand here at the door and  
3 if they need anything, they can come out, or actually, that's  
4 the bailiff, we'll let the bailiff and if she needs to come in  
5 and set it up. But we'll, do we, no, we're going to use their,  
6 the computer that they have, and we can hook it up here.

7 Alright. Any exceptions with that from the State?

8 MS. GASSER: Nothing from the State, Your Honor.

9 THE COURT: From the Defense?

10 MR. YARBOROUGH: No, sir.

11 THE COURT: Alright. So at this time, like I said, I  
12 would just like just the attorneys in here and everybody else,  
13 except if you need any, you need any technological support? If  
14 we do we'll get one, you can go out and get one if you need  
15 one.

16 (Off the record.)

17 THE COURT: Alright. State ready for the jury?

18 MS. GASSER: Yes, Your Honor.

19 THE COURT: Defense ready for the jury?

20 MR. YARBOROUGH: Yes, sir.

21 THE COURT: And what I plan to do is give them a  
22 brief little summary. And let the record reflect too that we  
23 have removed any items, any papers relating to this case from  
24 the clerk's office and from up here on the bench, well, I think  
25 that'll be okay.

1           BAILIFF: We ready, Your Honor?

2           THE COURT: Yes.

3           (Jury entering Courtroom.)

4           THE COURT: Alright. Ladies and gentlemen, we're  
5 just here to, for me to give you instructions and then  
6 everybody's going to leave so y'all can look at the videos and  
7 discuss. It's my understanding that you wanted to look at the  
8 video on TV because the laptop just wasn't sufficient for what  
9 y'all needed. So therefore, that's why we've set everything up  
10 in here, and I just said, basically, the attorneys are here,  
11 anytime I talk with the jury we need it to be on the record and  
12 attorneys need to be here, but I told them to make sure that  
13 everybody else was not in here, alright. So what we're going  
14 to do now is, and it's my understanding the first video is this  
15 one, can y'all run the video, I mean, all the videos are right  
16 there that y'all had in your room with you.

17          (Nonverbal responses from Jury.)

18          THE COURT: Alright. So what we're going to do at  
19 this point, everybody including the clerk are going to leave  
20 the room so that y'all can look at the videos, y'all can  
21 discuss them, there's no recording, so everything y'all discuss  
22 is just the same as if you're in your jury room. And then if  
23 y'all need anything, there will be a bailiff stationed just  
24 outside this door for y'all if you need anything or have any  
25 questions or need any further assistance, alright? Is that

1    what you needed?

2               MR. FOREMAN:  Yes, sir.

3               THE COURT:  Alright.  At this point then if everyone  
4    would exit the Courtroom, and like I said, there will be a  
5    bailiff outside this door if you need him.

6               (Off the record.)

7               THE COURT:  Alright.  I just want to put all this on  
8    the record.  There was a request to the bailiff that they  
9    wanted to hear the Defendant's testimony, I believe the bailiff  
10   got the information telling them how much it will be, how long  
11   it would take and what the process would be.  And then I asked  
12   that he put it in writing what they wanted so I've got it  
13   marked as Court's Exhibit 5.

14              (Whereupon a note was submitted as Court's Exhibit Number  
15   5 for identification and entered into evidence.)

16              THE COURT:  And the note is a request for Mavric  
17   Smith's process of parking while at Cheeseman lot in Greer, and  
18   then initials from the foreperson.  Then in trying to get it  
19   together, exactly what they wanted, the bailiff was, they  
20   indicated they had another question, he went back in there and  
21   they said that, they advised him that they did not need to  
22   listen to any of the testimony at this time and they were going  
23   to continue their deliberations.  So everybody remain at ease  
24   until further notice.

25              (Off the record.)

1 THE COURT: Alright. Ladies and gentlemen, it's my  
2 understanding that the jury has reached a verdict, I don't know  
3 what it is. I would caution everybody in the gallery, I know  
4 this has been a long, very traumatic ordeal for both sides. If  
5 there are any outbursts or anything that I think needs to be  
6 taken care of, I will take you into custody. And I realize,  
7 you know, so I just would caution everybody to be on their best  
8 behavior at this point. Alright. Anything from the State  
9 before we bring the jury in?

10 MS. GASSER: Nothing from the State, Your Honor.

11 THE COURT: Anything from the Defense?

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

13 THE COURT: Alright. Bring the jury in.

14 (Jury entering Courtroom.)

15 THE COURT: Alright. Mr. Foreman, I understand  
16 you've reached a verdict?

17 MR. FOREMAN: Yes, sir.

18 THE COURT: Alright. If you could hand that to the  
19 bailiff, please. Alright. It looks like it's in proper form,  
20 so if you could publish the verdict.

21 CLERK: Your Honor, as to the charge of criminal  
22 sexual conduct with a minor, second degree, 2020-GS-23-4852, we  
23 the jury unanimously find the Defendant, Mavric Jordan Smith,  
24 guilty. As to the charge of kidnapping, 2020-GS-23-4853, we  
25 the jury unanimously find the Defendant, Mavric Jordan Smith,

1 guilty. As to the charge of incest, 2020-GS-23-4854, we the  
2 jury unanimously find the Defendant, Mavric Jordan Smith,  
3 guilty. Ladies and gentlemen, if this is the verdict that you  
4 reached in your deliberation room, please raise your right  
5 hand. Thank you.

6 THE COURT: Alright. Anything else from the jury  
7 from the State?

8 MS. GASSER: Nothing from the State, Your Honor.

9 THE COURT: Anything else from the jury from the  
10 Defendant?

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

12 THE COURT: Ladies and gentlemen, thank you for your  
13 service this week, I know it's been a long week, and the Court  
14 appreciates your service. At this time, you can step back in  
15 your jury room and I'll, you're free to go, but I'll step back  
16 there in just a minute if anybody has any questions or anything  
17 like that. So at this point you can step back to your jury  
18 room and if you'd like to wait around a few minutes I'd be glad  
19 to chat with you, otherwise, you're free to go.

20 (Jury exiting Courtroom.)

21 THE COURT: Alright. Anything from the Defendant as  
22 far as the verdict? We're not talking about sentencing here.

23 MR. YARBOROUGH: No, sir. And I just renew my motion  
24 from before.

25 THE COURT: Okay. And I think based on the fact that

1 they were, it was appropriate to submit those to the jury, I'll  
2 deny your motion. Alright. I'll let the solicitors, the State  
3 get their paperwork together and give y'all a few minutes to  
4 get your thoughts collected and I'll step back there in the  
5 jury room and then I'll come back in just a moment.

6 (Off the record.)

7 THE COURT: Alright. Y'all want to come, come up  
8 here. What I will do is, Mr. Yarborough, I'll give the State,  
9 let them tell me everything they want to tell me and hear from  
10 anybody then I'll be glad to hear from you and anybody you want  
11 me to hear from. Alright. Ms. Gasser?

12 MS. GASSER: May it please the Court, Your Honor. I  
13 won't go into any factual allegations as you have been present  
14 during the entirety of the testimony. Your Honor, I will lead  
15 with he has 866 home incarceration days and 22 jail days total.  
16 Your Honor, the victims have been asked if they would like to  
17 give an impact statement and they do not wish to at this time.  
18 Additionally, Your Honor, the State is asking that you find on  
19 the record that the kidnapping was sexual in nature in this  
20 case, that the sex offender registry be applied, and that you  
21 sign the permanent restraining order that has been handed up  
22 and is in front of you.

23 THE COURT: Well, doesn't he get the sexual registry  
24 for the other two anyway?

25 MS. GASSER: For the CSC, Your Honor?

1 MR. YARBOROUGH: It does.

2 THE COURT: Yes.

3 MS. GASSER: It's automatic.

4 THE COURT: Alright.

5 MS. GASSER: And oh, the incest is also automatic, I  
6 apologize, Your Honor. As to the State's position regarding  
7 sentencing, Your Honor, I am asking for the maximum sentence  
8 applicable. This was a case with DNA, this was a oral,  
9 vaginal, and digital penetration on a child. I believe that  
10 the opportunity to take responsibility and avoid the trauma of  
11 putting both families through this trial has passed, and that  
12 is why I'm asking based on the severity of these charges that  
13 you sentence him to the maximum amount of time possible.

14 THE COURT: Alright. First of all, Mr. Yarborough,  
15 let me just ask you, do you have any position on the permanent  
16 restraining order?

17 MR. YARBOROUGH: No, sir. I told him about it, we  
18 don't have a position.

19 THE COURT: Okay. I'll be glad to, anything you want  
20 to tell me, Mr. Yarborough?

21 MR. YARBOROUGH: Your Honor, I think you, you sat  
22 through it, you kind of know the facts, you've heard him  
23 testify, you kind of know a little bit about his background.  
24 He was in the guard, he worked hard, he even throughout this  
25 whole situation has tried to provide for his family. To me,

1 he'd always maintained his innocence, he had been very  
2 cooperative with law enforcement throughout the process. Your  
3 Honor, I just, in dealing with him, he's, he just has always  
4 seemed, seemed to be a good guy. And you know, I asked him  
5 what he liked to do, he said he liked to help people, that's  
6 why he's volunteered in a lot of different organizations and  
7 worked in the guard and tried to do stuff with Hurricane  
8 Katrina and several other big storms. He fought in Iraq, and I  
9 at different times spoke to a lot of people in the guard that  
10 really cared a lot about him, thought good things about him, I  
11 think he was a good employee when he was out a Cheeseman. He  
12 has always followed all the Court orders and never, there was  
13 never a violation over this whole process, and he's never had  
14 any dealings that I'm aware of with law enforcement and I'd  
15 urge the Court to be as lenient on him as possible. The  
16 family's in Nebraska, he's here.

17 THE COURT: Alright. Anything you want to tell me,  
18 Mr. Smith?

19 MR. SMITH: No, sir.

20 THE COURT: Nothing?

21 MR. SMITH: No, sir.

22 THE COURT: Anything else then, Mr. Yarborough?

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

24 THE COURT: Alright. On the criminal sexual conduct,  
25 second degree the sentence of the Court is 16 years in the

1 State Department of Corrections. On the kidnapping, that's 15  
2 years, these are all to run concurrent, credit for, I guess, I  
3 got 888 days for the ---

4 MS. GASSER: 866 days and 22 jail days, yes, Your  
5 Honor.

6 THE COURT: Alright. And then on the incest, that  
7 will be 16 years as well. So good luck to you.

8 (Whereupon the hearing ended at 4:11 pm.)

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WITNESSES

Gregory J Walter Jr



5/21

Greenville County Sheriffs Office

3/10/2020

DOCKET NO. 2020-GS-23-

AAK

The State of South Carolina

County of Greenville

004852

COURT OF GENERAL SESSIONS

January

TERM 2020-2021

THE STATE

VS.

MAVRIC JORDAN SMITH

ARREST WARRANT NUMBER

2020A2310100185

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury



VERDICT

0396

Indictment for

CRIMINAL SEXUAL CONDUCT WITH A MINOR  
2ND DEGREE (11-14)

VIOLATION § 16-03-0655(B)(1)

FILED

AUG 28 2020

Clerk of Court  
Greenville County

Foreperson of Petit Jury

Date:

ENTERED

AOCCT.



STATE OF SOUTH CAROLINA )  
COUNTY OF GREENVILLE )

INDICTMENT FOR  
CRIMINAL SEXUAL CONDUCT WITH A MINOR 2ND DEGREE  
(11-14)

At a Court of General Sessions, convened on

**JAN 18 2023**

the Grand Jurors of Greenville

County present upon their oath:

That MAVRIC JORDAN SMITH did in Greenville County, on or about the 1st day of March, 2020, commit a sexual battery on **MINOR** who was fourteen years of age or less but who was at least eleven years of age. This is in violation of § 16-3-655(B)(1) [formerly § 16-3-655(2)] 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.

SOLICITOR

BAR # 102755

673

WITNESSES

Gregory J Walter Jr



4)

Greenville County Sheriff's Office

3/10/2020

DOCKET NO. 2020-GS-23-

AAK

The State of South Carolina

County of Greenville

004853

COURT OF GENERAL SESSIONS

January TERM 2020-2021

THE STATE

VS.

MAVRIC JORDAN SMITH

ARREST WARRANT NUMBER

2020A2310100186

ACTION OF GRAND JURY

TRUE BILL



FOREPERSON OF GRAND JURY  
David C. Johnson

VERDICT

0095

Indictment for

KIDNAPPING

VIOLATION § 16-03-0910

FILED

AUG 28 2020

Clerk of Court  
Greenville County

Foreperson of Petit Jury

Date:

ENTERED  
ACCT.



STATE OF SOUTH CAROLINA    )  
                                          )  
COUNTY OF GREENVILLE    )

INDICTMENT FOR  
KIDNAPPING

At a Court of General Sessions, convened on **JAN 18 2023** the Grand Jurors of Greenville  
County present upon their oath:

That MAVRIC JORDAN SMITH did in Greenville County, on or about the 1st day of March, 2020, unlawfully  
seize, abduct, confine, inveigle, decoy, kidnap, abduct or carry away **MINOR**, without the  
authority of law. This is in violation of §16-3-910 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.

  
SOLICITOR

BAR # 102755

WITNESSES

Gregory J Waller Jr



41

Greenville County Sheriff's Office

3/10/2020

DOCKET NO. 2020-GS-23-

AAK

The State of South Carolina

County of Greenville

004854

COURT OF GENERAL SESSIONS

January TERM 2020/2021

THE STATE

VS.

MAVRIC JORDAN SMITH

ARREST WARRANT NUMBER

2020A2310100187

ACTION OF GRAND JURY

TRUE BILL



FOREMAN GRAND JURY  
Foreperson of Grand Jury

VERDICT

0090

Indictment for

INCEST

VIOLATION \$ 16-15-0020

FILED

AUG 28 2020

Clerk of Court  
Greenville County

Foreperson of Petit Jury

Date:

ENTERED

ACCT.

43

STATE OF SOUTH CAROLINA    )  
                                          )  
COUNTY OF GREENVILLE    )

INDICTMENT FOR  
INCEST

JAN 18 2023

At a Court of General Sessions, convened on

the Grand Jurors of Greenville

County present upon their oath:

That MAVRIC JORDAN SMITH did in Greenville County, on or about the 1st day of March, 2020, have carnal intercourse with MINOR [REDACTED] who is within the degree of relationship prohibited by §16-15-20 (1) or (2). This is in violation of §16-15-20 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.

  
SOLICITOR

BAR # 102755

6770-20  
year  
502

STATE OF SOUTH CAROLINA

COUNTY OF Greenville

STATE

VS.

Mavric Jordan Smith

AKA:

Race: WHITE Sex: M Age: 33

DOB: 03-02-1990 SS#: 6-90-1712

Address: 416 Azalea Drive

City, State, Zip: Anderson, SC 29625

DL#: 101335494 SID#: \_\_\_\_\_

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2020 - GS - 23 - 04852

A/W#: 2020A2310100185

Date of Offense: 3/1/2020

S.C. Code § 16-03-0655(B)

CDR Code #: 0396

SENTENCE SHEET

\*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was

☒ CONVICTED OF or ☐ PLEADS

TO: Sex / Crim Sex Cond, 2nd Degree W/Minor 1

In violation of § 16-03-0655(B) of the S.C. Code of Laws, bearing CDR Code # 0396

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45

(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

WITNESSETH:

Meghan Gasser 104134  
Gasser, Meghan SC Bar #

Defendant

YARBOROUGH III, WILLIAM G  
Attorney for Defendant

10271  
SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction, ☐ County Detention Center,

for a determinate term of 16 days/months/years/Time Served ☐ Youthful Offender Act not to exceed \_\_\_\_\_ years

and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years/Time Served and or payment

of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 5/19/23

☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOP. 888 days/months

☐ To include time spent on monitored house arrest prior to trial and sentencing.

☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS. Mavric Jordan Smith INDICTMENT/CASE# 2020 - GS - 23 - 04852

## SPECIAL CONDITIONS:

☐ PTUP after \_\_\_\_\_ months/years

## And Other Terms Listed Below:

☐ Substance Abuse Counseling☐ Completion of GED☐ Random Drug/Alcohol Testing☐ Attend Voc. Rehab. or Job Corp☐ No Contact with Victim☐ Domestic Violence Intervention Program☐ Mental Health Counseling☐ May serve W/E  
beginning: \_\_\_\_\_☒ Sex Offender Registry pursuant to S.C. Code § 23-3-430☐ Public Service Employment \_\_\_\_\_ days/hours☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.☒ Other: Permanent Restraining Order☐ RESTITUTION:☐ Deferred☐ Def. Waives Hearing☐ Ordered

Total: \$ \_\_\_\_\_ plus 20% fee: \_\_\_\_\_ \$ \_\_\_\_\_

Payment Terms: \_\_\_\_\_ ☐ Set by SCDPPPS

Recipient: \_\_\_\_\_

## \*Fine:

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ \_\_\_\_\_ Beginning \_\_\_\_\_

§14-1-206 (Assessments 107.5 %)

§14-1-211(A)(1) (Conv. Surcharge)

\$100

\$ 100.00

§14-1-211(A)(2) (DUI Surcharge)

\$100

\$

§56-5-2995 (DUI Assessment)

\$12

\$

§56-1-286 (DUI Breath Test)

\$25

\$

§14-1-212 (Law Enforce. Funding)

\$25

\$ 25.00

§14-1-213 (Drug Court Surcharge)

\$150

\$

§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)

\$41

\$

§50-21-114(BUI Breath Test Fee)

\$50

\$

§56-5-2942(J) (Vehicle Assessment)

\$40/ea

\$

3% to County (if paid in installments)

TBD

\$ 3.75

☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

\$500

\$

☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender. Fund

TBD

\$

TOTAL

\$ 128.75

Clerk of Court/ Deputy Clerk:  
Court Reporter:Paul Bulickson  
L. AmickPresiding Judge:  
Judge Code:  
Sentence Date:Mary H. Amick  
2255  
5-19-23

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Greenville

STATE

VS.

INDICTMENT/CASE#: 2020 - GS - 23 - 04853Mavric Jordan SmithA/M#: 2020A2310100186

AKA:

Date of Offense: 3/1/2020Race: WHITE Sex: M Age: 33S.C. Code § 16-03-0910DOB: 03-02-1990 SS#: 6-90-1712CDR Code #: 0095Address: 237 Bridgeview DriveCity, State, Zip: Anderson, SC 29625DL#: 101335494 SID#: \_\_\_\_\_

## SENTENCE SHEET

\*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was

☒ CONVICTED OF or ☐ PLEADSTO: Kidnaping (gs)in violation of § 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0095☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45  
(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Meghan Gasser 104134  
Gasser, Meghan SC Bar #

Defendant

YARBOROUGH III, WILLIAM G  
Attorney for Defendant

10271

SC Bar #

WHEREFORE, the Defendant is committed to the ☐ State Department of Correction, ☐ County Detention Center,for a determinate term of 15 days/months/years/Time Served ☐ Youthful Offender Act not to exceed \_\_\_\_\_ years  
and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years/Time Served and or payment  
of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 5/19/23☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by  
SCDOC. 565 days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.Pursuant to 18 U.S.C. § 922 and § 16-25-30 It is unlawful for a person convicted of a violation of § 16-25-20 or  
§ 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS. Mavric Jordan Smith INDICTMENT/CASE#: 2020 - GS - 23 - 04853

## SPECIAL CONDITIONS:

☐ PTUP after \_\_\_\_\_ months/years

## And Other Terms Listed Below:

☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing  
☐ Attend Voc. Rehab. or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program

☐ Mental Health Counseling ☐ May serve W/E beginning: \_\_\_\_\_

☒ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment \_\_\_\_\_ days/hours

*Sex Crime*

☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

☐ Other: \_\_\_\_\_

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_

Payment Terms: \_\_\_\_\_ ☐ Set by SCDPPPS

Recipient: \_\_\_\_\_

## \*Fine:

|                                                                                                                                                                          | \$      | Beginning | \$        |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|-----------|-----------|
| Fine may be pd. in equal, consecutive weekly/monthly pmts. of                                                                                                            | \$      |           |           |
| §14-1-206 (Assessments 107.5 %)                                                                                                                                          |         |           | \$        |
| §14-1-211(A)(1) (Conv. Surcharge)                                                                                                                                        | \$100   |           | \$ 100.00 |
| §14-1-211(A)(2) (DUI Surcharge)                                                                                                                                          | \$100   |           | \$        |
| §56-5-2995 (DUI Assessment)                                                                                                                                              | \$12    |           | \$        |
| §56-1-286 (DUI Breath Test)                                                                                                                                              | \$25    |           | \$        |
| §14-1-212 (Law Enforce. Funding)                                                                                                                                         | \$25    |           | \$ 25.00  |
| §14-1-213 (Drug Court Surcharge)                                                                                                                                         | \$150   |           | \$        |
| §34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)                                                                                                | \$41    |           | \$        |
| §50-21-114(BUI Breath Test Fee)                                                                                                                                          | \$50    |           | \$        |
| §56-5-2942(J) (Vehicle Assessment)                                                                                                                                       | \$40/ea |           | \$        |
| 3% to County (if paid in installments)                                                                                                                                   | TBD     |           | \$ 3.75   |
| <input type="checkbox"/> Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees. | \$500   |           | \$        |
| <input type="checkbox"/> § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund                                                                      | TBD     |           | \$        |

TOTAL

\$ 126.75

Clerk of Court/ Deputy Clerk:  
Court Reporter:

Pamela B. Wickham  
Amick

Presiding Judge:  
Judge Code:  
Sentence Date:

3755  
5-19-23

681  
1 year - 10 years  
and/or not less  
than \$500  
SOR

STATE OF SOUTH CAROLINA

COUNTY OF Greenville

STATE

VS.

Mavric Jordan Smith

AKA:

Race: WHITE Sex: M Age: 33

DOB: 03-02-1990 SS#: 6-90-1712

Address: 237 Bridgeview Drive

City, State, Zip: Anderson, SC 29625

DL#: 101335494 SID#: \_\_\_\_\_

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2020 - GS - 23 - 04854

A/W#: 2020A2310100187

Date of Offense: 3/1/2020

S.C. Code § 16-15-0020

CDR Code #: 0090

SENTENCE SHEET

\*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was

☒ CONVICTED OF or ☐ PLEADS

TO: Sex / Incest

in violation of § 16-15-0020 of the S.C. Code of Laws, bearing CDR Code # 0090

☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ \$17-25-45  
(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Meghan Gasser 104134  
Gasser, Meghan SC Bar #

Defendant

YARBOROUGH III, WILLIAM G  
Attorney for Defendant

10271  
SC Bar #

WHEREFORE, the Defendant is committed to the ☐ State Department of Correction, ☐ County Detention Center,

for a determinate term of 16 days/months/years/Time Served ☐ Youthful Offender Act not to exceed \_\_\_\_\_ years  
and/or to pay a fine of \$ \_\_\_\_\_: provided that upon the service of \_\_\_\_\_ days/months/years/Time Served and or payment  
of \$ \_\_\_\_\_: plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 5/19/23

☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by  
SCDOC. 888 days/months

☐ To include time spent on monitored house arrest prior to trial and sentencing.

☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or  
§ 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS. Mavric Jordan Smith INDICTMENT/CASE# 2020 - GS - 23 - 04854**SPECIAL CONDITIONS:**☐ **PTUP** after \_\_\_\_\_ months/years**And Other Terms Listed Below:**

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
- ☐ Attend Voc. Rehab. or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling ☐ May serve W/E beginning: \_\_\_\_\_
- ☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment \_\_\_\_\_ days/hours
- ☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- ☐ Other: \_\_\_\_\_

☐ **RESTITUTION:** ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_

Payment Terms: \_\_\_\_\_ ☐ Set by SCDPPPS

Recipient: \_\_\_\_\_

**\*Fine:**

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ \_\_\_\_\_ Beginning \_\_\_\_\_

|                                                                                                                                                                          |         |    |        |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|----|--------|
| \$14-1-206 (Assessments 107.5 %)                                                                                                                                         |         | \$ |        |
| \$14-1-211(A)(1) (Conv. Surcharge)                                                                                                                                       | \$100   | \$ | 100.00 |
| \$14-1-211(A)(2) (DUI Surcharge)                                                                                                                                         | \$100   | \$ |        |
| \$56-5-2995 (DUI Assessment)                                                                                                                                             | \$12    | \$ |        |
| \$56-1-286 (DUI Breath Test)                                                                                                                                             | \$25    | \$ |        |
| \$14-1-212 (Law Enforce. Funding)                                                                                                                                        | \$25    | \$ | 25.00  |
| \$14-1-213 (Drug Court Surcharge)                                                                                                                                        | \$150   | \$ |        |
| \$34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)                                                                                               | \$41    | \$ |        |
| \$50-21-114(BUI Breath Test Fee)                                                                                                                                         | \$50    | \$ |        |
| \$56-5-2942(J) (Vehicle Assessment)                                                                                                                                      | \$40/ea | \$ |        |
| 3% to County (if paid in installments)                                                                                                                                   | TBD     | \$ | 3.75   |
| <input type="checkbox"/> Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees. | \$500   | \$ |        |
| <input type="checkbox"/> § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund                                                                      | TBD     | \$ |        |

**TOTAL** \$ 128.75Clerk of Court/ Deputy Clerk:  
Court Reporter:Paul B. Wickham  
L. AmickPresiding Judge:  
Judge Code:  
Sentence Date:My Hing  
2755  
5-14-23

**CERTIFICATE OF COUNSEL FOR APPELLANT**

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

**RECEIVED**

**Aug 06 2024**

**SC Court of Appeals**

Respectfully Submitted,



Lara M. Caudy  
Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 6th day of August, 2024.

**RECEIVED**

**Aug 06 2024**

**SC Court of Appeals**

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

---

Appeal from Greenville County

Honorable Perry H. Gravely, Circuit Court Judge

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THE STATE,

RESPONDENT,

V.

MAVRIC JORDAN SMITH,

APPELLANT.

APPELLATE CASE NO. 2023-000832

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CERTIFICATE OF SERVICE

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Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Record on Appeal in the above-referenced case has been served upon Andrew D. Powell, Esquire, at his primary email address listed in the Attorney Information System (AIS), this 6th day of August, 2024.



Lara M. Caudy  
Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

**From:** [Mcinnis, Sara](#)  
**To:** [Andrew Powell](#)  
**Cc:** [Grace Sommer](#); [Caudy, Lara](#)  
**Subject:** 2023-000832 The State v. Mavric J. Smith Record on Appeal  
**Date:** Tuesday, August 6, 2024 2:46:00 PM  
**Attachments:** [2023-000832 The State v. Mavric Smith Record on Appeal Volume II.pdf](#)  
[2023-000832 The State v. Mavric Smith Record on Appeal Volume I.pdf](#)

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Good Afternoon Mr. Powell,

Please find attached for service in the above-referenced case the record on appeal, which will be filed with the Court of Appeals today, August 6, 2024, via email filing.

Thank you!

**Sara McInnis**

Administrative Assistant  
South Carolina Commission on Indigent Defense  
Appellate Division  
(803) 734-1330