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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Richland County

Honorable Walton J. McLeod, IV, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

CLAYTON THOMAS JONES,

APPELLANT

APPELLATE CASE NO. 2022-001775

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**[THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
STATE’S EXHIBIT NO. 25 (DVD OF REDACTED INTERVIEW)]**

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF RICHLAND) COURT OF GENERAL SESSIONS

3
4 STATE OF SOUTH CAROLINA,) TRANSCRIPT
5 PLAINTIFF,) OF
6 VS.) RECORD
7 CLAYTON THOMAS JONES,) 2020-GS-40-393
8 DEFENDANT.)

9
10 July 11th - 14th, 2022
11

12 B E F O R E:

13 THE HONORABLE WALTON J. MCLEOD, IV, Judge; and a jury.
14

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

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17 ASSISTANT SOLICITORS
Attorneys for the State

18 CLAYTON THOMAS JONES
19 Pro Se

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21 ESQ.
22 Standby Counsel for the Defendant

23 Transcribed by Pamela E. Green
24
25

1 SOLICITOR CHAFFIN: It wasn't about -- the
2 identification was not done for a suspect of a crime. It
3 was do you recognize the man in this photo and they all
4 chose Number 4, which was the defendant, Clayton Jones.

5 THE COURT: Because we do have the video of the actual
6 process, I, I think it's appropriate to wait until the
7 forensic portion is done to make a final ruling on Biggers.

8 SOLICITOR CHAFFIN: Yes, Your Honor.

9 THE COURT: Because if --.

10 SOLICITOR CHAFFIN: Okay.

11 THE COURT: I'm not saying that will happen, but, in
12 theory, I could grant -- I could say it's appropriate now
13 and then see something in the video that leads me to feel
14 otherwise. So, I'll, I'll withhold final ruling until
15 we've -- until I've seen that video.

16 SOLICITOR CHAFFIN: Thank you, Your Honor.

17 THE COURT: All right. With that said, are we ready to
18 proceed with the forensic portion?

19 SOLICITOR JOHNS: Yes, Your Honor.

20 THE COURT: Okay.

21 SOLICITOR JOHNS: Your Honor, at this time we call
22 Doctor Alicia Benedetto.

23 ALICIA BENEDETTO, being first
24 duly sworn, testified as follows:

25 THE CLERK: Thank you. Please have a seat in the

1 witness stand and state your full name for the record.

2 THE BAILIFF: If you'd speak loudly into the
3 microphone.

4 THE WITNESS: Thank you.

5 DIRECT EXAMINATION

6 BY SOLICITOR JOHNS:

7 Q. Good morning.

8 A. Good morning.

9 Q. Please state your name for the record and spell your
10 last name.

11 A. Alicia Benedetto. B-E-N-E-D-E-T-T-O.

12 Q. Can you please tell the Court what your occupation
13 currently is?

14 A. I'm a licensed clinical psychologist and the director
15 at Metropolitan Children's Advocacy Center here in Richland
16 County.

17 Q. What does the Metropolitan Children's Advocacy,
18 Advocacy Center do?

19 A. We're an accredited CAC, so acronym, and we provide
20 forensic interviews and medical exams and other services
21 when there are concerns of maltreatment and children are
22 referred by either law enforcement or child protective
23 services or both.

24 Q. Okay. And the CAC acronym stands for Child Advocacy
25 Center?

4

Alicia Benedetto - Direct examination
By Solicitor Johns

1 A. Children's Advocacy Center, yes.

2 Q. Okay. How long have you been director?

3 A. Director since 2012 but with the program since about
4 2000.

5 Q. How many are on your staff?

6 A. Currently -- let's see. We're a team of about nine as
7 far as the interview and administrative staff and then we
8 partner with a medical team from Prisma as well.

9 Q. Can you describe for the Court a little bit about your
10 facility?

11 Can you just give a physical description?

12 A. Sure. We're on the third floor of kind of an office
13 building. We have a fairly large suite. There's a wing
14 that is administrative offices, staff offices, and there's a
15 wing that is for forensic interviews and medical exams
16 that's separate.

17 Q. How would you or one of your staff members be alerted
18 to a child in need of your services?

19 A. Through a referral from either law enforcement or child
20 protective services generally.

21 Q. And once you were alerted as to that need, is it then
22 the duty of somebody in your office to contact the alleged
23 victims in the case?

24 A. We have an intake coordinator who would then coordinate
25 that process of scheduling the child and anyone else who

1 needs to be present for that interview.

2 Q. Can you give the Court the necessary qualifications to
3 be a forensic interviewer?

4 A. So we're a program of the South Carolina Department of
5 Mental Health and all of our interviewers are at least
6 master's level with, with some with a PhD level in, in
7 various disciplines, social work, licensed professional
8 counselor, licensed clinical psychologist. But in addition
9 to that extensive training, all interviewers have to go
10 through a week long training specifically in forensic
11 interviewing and then a supervisory period where their
12 interviews are supervised by someone who is experienced.

13 Q. And that would be sort of like an internship, sort of
14 a, a --?

15 A. Do you mean once they're -- they've been trained and
16 hired?

17 (WHEREUPON, there was no audible response.)

18 A. So they would be a, a, at that point, a full-time staff
19 person. But their interviews would be supervised by someone
20 observing and helping if there are questions as well as
21 observing interviews afterwards to provide feedback.

22 Q. What is a forensic interviewer trained to do with a
23 child?

24 A. To assess that child developmentally and then conduct
25 an investigative interview to gather information in a manner

6

Alicia Benedetto - Direct examination
By Solicitor Johns

1 that is responsive developmentally to that child and
2 responsive also to the concerns at hand in a non-leading,
3 non-suggestive manner.

4 Q. Non-leading, non-suggestive manner you said?

5 A. Correct.

6 Q. Now, is there a particular interview room within your
7 office space or your facility that's especially designed for
8 children?

9 A. Yes, we have three rooms, child friendly, but not
10 distracting is the way that I describe them. They're not
11 playrooms. They don't have toys and things in them to
12 distract a child. But they are set up with comfortable
13 furniture and in a friendly manner so that children can be
14 put at ease and be comfortable while they're talking in the
15 room.

16 Q. Could you set up the stage for the Court with regard to
17 seating and other instruments that you may or may not use
18 within this room?

19 A. Sure. So it's a fairly small room. There are two
20 comfortable, soft chairs in the room. The child sits in
21 one, the interviewer in the other. On the ceiling there is
22 a microphone and on the wall there's a camera. The child is
23 oriented to those things at the beginning of that interview
24 to let them know that that interview's being recorded.

25 There are some interview tools in the room that are in

1 either a notebook or a, a chest that, should the interviewer
2 decide to utilize those, they're available but they're not
3 out in the open.

4 Q. All right. Are you familiar with -- are you familiar
5 with Allison Foster?

6 A. Yes.

7 Q. How far -- how do you know her?

8 A. Doctor Foster has been with the program since before I
9 was. She actually hired me since -- let's see. It will be
10 28 years with the Department of Mental Health in September
11 and 27 years specifically with the Metropolitan CAC in
12 September. She is currently a forensic interviewer there.
13 She also previously served as the director before she went
14 to a part-time position and I became the director.

15 Q. Does she meet the qualifications of a forensic
16 interviewer?

17 A. Very much so.

18 Q. Okay. And those qualifications are within state
19 standards?

20 A. Those are set by the National Children's Alliance which
21 is the accrediting body for CACs and, yes, we are accredited
22 and all of our interviewers meet those standards.

23 Q. Okay. You work with her with a, a lot of cases?

24 A. Oh, yes.

25 Q. All right.

8

Alicia Benedetto - Direct examination
By Solicitor Johns

1 A. Yes.

2 Q. Now, can you describe the observation room and the
3 purpose of this room?

4 A. Sure. The observation room is right across the hall
5 and it's a very small hall from the interview room, and in
6 that room there's a -- like a closed circuit setup where an
7 observer can watch the interview while it's happening and
8 hear the interview while it's happening and, by observer, I
9 mean somebody from law enforcement or from child protective
10 services.

11 Q. So the observer would be typically law enforcement or
12 child protective services?

13 A. That's correct.

14 Q. Is there any occasion where a party, a parent, or
15 anything would -- like that would be in an observation room?

16 A. No. Absolutely not.

17 Q. Okay. What also occurs in the observation room with
18 regard to recording the interview?

19 A. So while that interview's being conducted, it is being
20 recorded onto a hard drive. And following the interview's
21 completion, it is burned down to a DVD disk and we keep
22 those -- our -- at the MET CAC.

23 Q. And do those become part of your business record in
24 your files?

25 A. Yes.

1 Q. Okay. Would that have happened in this case, State
2 versus Clayton Jones?

3 A. Yes.

4 Q. Okay. With regards to the recording on the hard drive,
5 is that an automatic recording done?

6 A. I, I -- it's automatic procedure but it doesn't happen
7 automatically. We have to make that recording.

8 Q. Okay. The hard drive recording's then transferred to a
9 DVD?

10 A. That's right.

11 Q. Is there a copy of the DVD provided to law enforcement?

12 A. Upon request there is a copy provided, yes.

13 Q. Okay. Do you know if there was a recording made in
14 this case regarding a minor child by the name of MINOR [REDACTED]?

15 A. Yes.

16 Q. Okay. And do you know if that recording was provided
17 to law enforcement?

18 A. Yes, it was.

19 Q. Okay. Is this an example of what the room looks like?

20 A. Yes, that's one of our interview rooms.

21 Q. Okay. Would you be able to identify Allison Foster if
22 she was to show up on this video?

23 A. Certainly.

24 SOLICITOR JOHNS: All right. Your Honor, at this time
25 we would ask, for purposes of identification, that Exhibit

10 Alicia Benedetto - Direct examination
By Solicitor Johns

1 No. 18 be entered for the purposes of this hearing only so
2 that we can show it to the Court the video recording that
3 was made on that date.

4 MR. JONES: No objection from the defense.

5 THE COURT: Very well. So admitted into this hearing.

6 (WHEREUPON, State's Exhibit No. 18 was received into
7 evidence for purposes of this hearing only at this time.)

8 (WHEREUPON, a portion of State's Exhibit No. 18 was
9 played for the Court at this time.)

10 SOLICITOR JOHNS: Your Honor, do you have an objection
11 if we speed this up past the bathroom break?

12 THE COURT: Sure. I don't know how long the break is.

13 But, Mr. Jones, you okay if we just skip through this
14 portion?

15 MR. JONES: No objection.

16 THE COURT: All right.

17 (WHEREUPON, the remaining portion of the video was
18 played at this time.)

19 Q. Ms. Benedetto, does that video reflect the common
20 practice at the Columbia Metropolitan Child Advocacy Center?

21 A. Yes, it does.

22 Q. Okay. And in that video, is that Doctor Foster?

23 A. Yes, it is.

24 Q. And did Doctor Foster follow protocol?

25 A. Yes.

1 Q. I don't have anything further -- any questions.

2 THE COURT: Mr. Jones, any questions for this witness?

3 MR. JONES: Yes, Your Honor.

4 THE COURT: Okay.

5 CROSS-EXAMINATION

6 BY MR. JONES:

7 Q. I only have one quick question for you today.

8 A. Sure.

9 Q. Despite training to avoid it, do interviewers still
10 sometimes use suggestive or leading words, tones, or
11 gestures even if only by accident?

12 A. Certainly. That's possible.

13 Q. Thank you.

14 THE COURT: All right.

15 MR. JONES: No further questions.

16 THE COURT: Redirect?

17 SOLICITOR JOHNS: No, Your Honor.

18 THE COURT: All right. The witness may step down.

19 well, actually, before you do, at some point we're
20 gonna take a break here before Ms. -- well, actually you can
21 step down. I'll speak with you from out there.

22 Okay. In light of addressing Biggers, in, in light of
23 seeing the, the video of the identification, I don't see
24 anything in that video that is overly -- unnecessarily
25 suggestive to give rise to a substantial likelihood of

1 misidentification. Nothing to trigger any due process
2 concerns. I didn't hear anything that crossed the line from
3 a Neal v. Biggers standpoint. So that identification I find
4 is admissible.

5 Oh, yeah. The -- as far as the, the forensic
6 interview, pursuant to 17-23-175, anything -- any re --
7 anything from the State other than you---

8 SOLICITOR JOHNS: No Your Honor.

9 THE COURT: ---think it's admissible?

10 SOLICITOR JOHNS: No, Your Honor. We would just ask
11 that the Court follow the statute regarding that and I
12 believe that the controlling authority on that, Your Honor,
13 would be Russell.

14 THE COURT: Russell?

15 SOLICITOR JOHNS: Russell, yes, Your Honor. State v.
16 Russell.

17 THE COURT: Yeah.

18 SOLICITOR JOHNS: 679 S.E.2d---

19 THE COURT: What year is that one cause---

20 SOLICITOR JOHNS: 2009.

21 THE COURT: Oh, okay. Well, I -- I'm also---

22 SOLICITOR JOHNS: And that the State -- we further
23 submit for the record, Your Honor, that the statement was
24 given in response to questioning that was conducted during
25 an investigation or investigative interview with the child

1 pursuant to the statute. The audio/video recording was
2 preserved by electronic means pursuant to the statute.

3 It was done on a hard drive. Copy was made, made as a
4 business record, presented to the investigator in this case
5 in pursuit of her investigation. The child is also expected
6 to testify at trial. They're no leading questions that the
7 doctor, in this particular forensic interviewer, was
8 qualified and trained according to national standards. The
9 statement did contain details. It was also apparent and we
10 would submit that it does fall clearly within the lines of
11 the statute and admissible.

12 THE COURT: Okay. Mr. Jones.

13 MR. JONES: Yes, Your Honor.

14 THE COURT: With the exception of your
15 cross-examination point, any other, any other input?

16 MR. JONES: I'm sorry. Repeat that.

17 THE COURT: Any other input from you outside what you
18 asked on cross-examination?

19 MR. JONES: For the admissibility of the --?

20 THE COURT: Sure.

21 MR. JONES: Not to this particular identification.

22 THE COURT: Well, I'm, I'm talking also about the
23 forensic interview itself.

24 MR. JONES: Okay. Yes, as the statement and to the
25 competency of the accuser making it, the defense contends

1 that the required particularized guarantees of
2 trustworthiness are not present. And so we ask the Court to
3 include, in its assessment, certain considerations as set
4 forth by the Supreme Courts.

5 For this purpose the defense has prepared a list of
6 these considerations along with relevant documents which the
7 prosecution has provided and the, the citation -- the
8 authority cited is, is more recent and contrary to the
9 prosecution's Russell case. I have these here for you and
10 for the prosecution as well.

11 THE COURT: Okay. You can come on up or hand that to
12 the clerk of court.

13 MR. JONES: And also, Your Honor?

14 THE COURT: Just, just a moment.

15 MR. JONES: Okay.

16 (Pause.)

17 THE COURT: Did you, did you mean to give me these
18 handwritten notes?

19 MR. JONES: Yes.

20 THE COURT: Okay. All right.

21 MR. JONES: And they have a copy.

22 THE COURT: Okay.

23 MR. JONES: And the interviewer's handwritten notes.

24 (Pause.)

25 THE COURT: All right. Well, I, I, I see the material

1 you provided me. I think some of this you maybe can --.

2 MR. JONES: Your Honor, I do also have questions for
3 the prior witness on the matter of admissibility of the
4 statement in trial. I was under the impression that we were
5 only discussing admissibility of the identification at this
6 time.

7 THE COURT: Well, I -- well, no, no. What I said was I
8 was withholding a ruling on identification in light of the
9 fact that the identification is contained in the forensic
10 interview portion. So, what I did was I withheld holding
11 identification but we went ahead and proceeded with the
12 forensic interview in camera hearing.

13 MR. JONES: Oh.

14 THE COURT: So, we did that and I ruled on the
15 identification and we're arguing the forensic hearing
16 portion now.

17 MR. JONES: Okay. So --.

18 THE COURT: So you had questions?

19 MR. JONES: I -- yes, Your Honor. Sorry.

20 THE COURT: Well -- okay. And you did ask a question.

21 MR. JONES: Right.

22 THE COURT: You asked about -- and---

23 MR. JONES: I did ask one question.

24 THE COURT: About -- so.

25 MR. JONES: I have more I was hoping to ask. I, I was

1 mistaken on which hearing we were currently in. I apologize
2 and I beg the Court's indulgence.

3 THE COURT: All right. Under the circumstance, we can
4 allow you to ask those questions.

5 MR. JONES: Thank you, Your Honor.

6 THE COURT: Ma'am, would you, would you mind just
7 coming back to the witness stand?

8 (WHEREUPON, the witness returns to the stand.)

9 THE COURT: Okay. Appreciate your patience. I just
10 want to make sure you got a chance to ask the questions.

11 MR. JONES: Thank you, Your Honor.

12 THE COURT: You may proceed and you -- and obviously
13 you're still under oath.

14 THE WITNESS: Okay.

15 CONTINUED CROSS-EXAMINATION

16 BY MR. JONES:

17 Q. Thank you as well.

18 A. Certainly.

19 Q. How long after the alleged incident was this interview
20 conducted?

21 A. I would need to reference the report for that. So I
22 did not conduct the interview and I would need to the --
23 look at the chart for that. I can do that---

24 Q. All right.

25 A. ---if that would be helpful.

1 Q. I can bring, I can bring -- oh, we have it here. Thank
2 you. I'd like to, for the purpose of this hearing,
3 introduce---

4 THE COURT: Well, just show it to her. She needs to
5 see it. Just hand it to her.

6 A. So that is a copy of the summary report. Let's see.
7 Oh, yes.

8 Okay. There's some other.

9 Q. Okay.

10 A. It appears that it was referred to us on -- is it
11 June 25th and the interview was on July 30th.

12 Q. And during that time that -- were you able to
13 absolutely control outside influences say for family or
14 anyone else regarding the information in the interview?

15 A. So, again, I didn't conduct the interview. But, no, I
16 would have no way of controlling those nor would anyone else
17 at the MET CAC.

18 Q. Right, right.

19 Okay. Did you notice any contradictions within the
20 interview?

21 A. Again, that wouldn't be a question that I can answer.
22 I didn't conduct the interview.

23 Is there a---

24 Q. I see.

25 A. Is there a particular item that you're asking about?

1 Q. So, yes, actually. You, you did review --?

2 A. Nope.

3 Q. You did not review---

4 A. No, this is the first time I've seen it. I, I was not
5 here for that purpose.

6 Q. Interesting. Interesting.

7 Okay. Well, since you did, since you did not review
8 and, and we don't have Allison Foster here today, no further
9 questions, Your Honor.

10 THE COURT: All right. And, obviously, when you're
11 called at trial, you know, we've done the in camera hearing
12 where you've gathered a, a lot of information about the
13 process. Your, your testimony at trial will obviously --
14 I'm sure you will probably talk about this with the State
15 but it will be very short introduction, you know, and I'm
16 looking at State v. Anderson. The purpose of the jury
17 testimony is to lay the foundation for the introduction of
18 the videotape and the questioning must be limited to that
19 subject.

20 So, obviously, be mindful of any testimony that could
21 address the witness testimony and any, any improper
22 bolstering and that sort of thing. I'll just ask the State
23 remember that in their foundational questions.

24 All right. Now the witness is free to step down.

25 THE COURT: Okay. Mr. Jones, anything else?

1 up and that -- have not done any sort of independent
2 research prior to hearing any of the evidence.

3 So -- and don't discuss the case with one another and
4 we'll see you back here in about two hours.

5 Okay.

6 (WHEREUPON, the following takes place outside the
7 presence of the jury.)

8 THE COURT: Let's a -- all right. I need to speak with
9 y'all and you. But, otherwise, hopefully we'll take a break
10 here shortly. I'll come -- I'll meet y'all over there.

11 (WHEREUPON, a bench conference was held at this time.)

12 THE COURT: All right. Folks, we're gonna take an hour
13 recess. I want him to be able to -- him to -- looking at
14 the videos and he can meet with his standby counsel for any
15 administrative questions. I can use the hour in general,
16 you know, broadly. But I know we're gonna need a break.
17 So, instead of taking a short break, let's just take an hour
18 now.

19 Okay. Thank you.

20 (WHEREUPON, Court was in recess for the lunch break.)

21 THE COURT: Okay. We took a break. Prior to breaking
22 for lunch, about an hour ago, I spoke with the -- Mr. Jones,
23 the State's attorneys, and had his standby counsel to
24 discuss potential issue where the, the forensic interview
25 and there's nothing wrong with the substance of the video

1 per se. But my concern was whether or not the interviewer
2 who conducted the interview was required to be here.

3 Sometimes, and with, you know, business records, for
4 example, we have situations where someone who's just
5 qualified to talk about what the record is or the records
6 custodian can basically talk about what these records are
7 and that they can come in. I, I -- and basically what I
8 indicated to the, the lawyers was I'm not sure if that's one
9 of these situations.

10 Ms. -- Solicitor John (sic) informed me that the, the
11 witness, and you correct me if I'm wrong, that the witness,
12 the interviewer in this case, is out of town under subpoena
13 for a -- I think we -- you told me court marshal, we'll just
14 call it another case, a subpoena that was issued prior to
15 this trial -- this case being put on the trial roster here
16 in Richland County.

17 Is that accurate?

18 SOLICITOR JOHNS: Yes, Your Honor.

19 THE COURT: And she is still there performing those
20 duties and it's my understanding the State has left a
21 message for her to inquire about how long she's gonna be in
22 D.C.

23 Is that right?

24 SOLICITOR JOHNS: Yes, that's correct.

25 THE COURT: But -- so, I -- I'm in a situation where,

1 you know, how do we, how do we move forward without the
2 interviewer.

3 Mr. Jones, did you have a chance to do anything during
4 the break?

5 Did you look at any more videos or --?

6 MR. JONES: Yes, Your Honor, and I've had a moment to
7 review State versus Anderson here as well.

8 It -- if I may --

9 THE COURT: Sure.

10 MR. JONES: -- make a proposition to the Court --

11 THE COURT: Go ahead.

12 MR. JONES: -- regarding this?

13 This statute requires the testimony of the interviewer,
14 not the supervisor, the interviewer. And so I -- it's
15 pretty clear.

16 I would, therefore, ask to exclude the video from
17 evidence so that we may continue this trial because,
18 frankly, Your Honor, I've been in jail for three years and
19 it's my time for trial and I mean I know---

20 SOLICITOR JOHNS: Well, the---

21 MR. JONES: I know the prosecution mentioned
22 continuance and -- if that's allowed, and I'm not consenting
23 to that, I would have to ask for a, a PR bond as required by
24 Section -- South Carolina Code Section 17-23-90 also
25 confirmed by State versus Hunsberger and State versus

1 Campbell.

2 That is all, Your Honor.

3 THE COURT: Well, I think, in every, every case, it
4 depends on the circumstances, Mr. Jones.

5 Now, what, what I'm informed is that we've got a -- the
6 interviewer is under subpoena in another court. So, that's
7 not a situation where the State -- the, the witness is not,
8 to my, my understanding, the witness is not, you know, out
9 on the lake today. It's not a -- it's not simply an
10 elective absence. It's something compelled by another
11 Court, which we deal with routinely, particularly an
12 out-of-state Court I'm told. I haven't personally seen the
13 documents but that's what's being a -- provided to me.

14 I don't want to worry about the bond issue. I don't
15 want to worry -- I want to focus on just this issue.

16 Ms. Johns.

17 SOLICITOR JOHNS: Yes, Your Honor.

18 I, I have read Anderson along with other cases and I
19 wanted to point out to the Court two things.

20 One is, is that Anderson was dealing with a forensic
21 interviewer that was also called as an expert and, in that
22 particular case, if the expert is testifying as to a delayed
23 disclosure, then the opinion of that expert could come in as
24 to the (indiscernible) of the child, circumstances
25 surrounding the interview, and things of that nature.

1 In this case, we do not have a delayed disclosure. In
2 this case what we have is we have a forensic interview --
3 interviewer that only interviewed the child for the
4 investigative purposes of providing that interview to law
5 enforcement.

6 Since it is our belief that this -- in this case, in
7 our case, the forensic interviewer only serves as an
8 administrative purpose for assisting law enforcement in
9 providing a statement that is unsuggestible, that is proven
10 to reliable -- be reliable, that is not rehearsed or coached
11 or anything of that nature, under 17-23-175 that the
12 interview itself will not allow the State or defense to ask
13 the forensic interviewer any opinion testimony in the first
14 place because, in this case, Rule 17-23-175 governs the
15 purpose of this particular witness.

16 So, it's our position, Your Honor, that Alicia
17 Benedetto that came in as the director of MET CAC came in
18 place of Doctor Foster and could not answer any questions on
19 cross-examination regarding opinion anyway nor could Doctor
20 Foster. So, cross-examination of a forensic interviewer is
21 clearly limited to time and place.

22 THE COURT: Well, to -- for the extent for testimony in
23 front of the jury it is very limited. I agree. The only
24 thing, and I quote from State v. Anderson, is -- so this is
25 a Supreme Court, 2015.

1 First the statute requires that the interviewer be
2 called to testify in camera. Cite to 17-23-275.

3 And, you know, Mr. Jones, when he did attempt to
4 cross-examine it -- examine the witness who was proffered on
5 behalf of the video, there are at least factors that he
6 could talk about as far as the methods that were used or not
7 used just for the purpose of his arguments on the, the
8 trustworthiness issue. It doesn't mean the video wouldn't
9 come in. But it does mean he wasn't able to ask the
10 questions, and by, by entering the video, I, I think it -- I
11 think doing that would, would certainly run contrary to the
12 clear language of State v. Anderson.

13 But I also think it's -- it is nonetheless important
14 that this is not something that was -- it's not something
15 that the State missed. The State's trying to make it --
16 it's not an inappropriate argument at all. But you are
17 without a witness required under the statute under Anderson
18 in order to even do the in camera hearing. And, again, it's
19 not that the State hasn't -- has failed to produce them.
20 It's just the witness is compelled to appear in another
21 Court in another spot right now in, in the District of
22 Columbia I'm told.

23 So that's -- we're -- we have this predicament that's
24 really not the fault of anyone. It's just it is what it is.

25 So but to be clear, I don't, I don't think it's

1 appropriate to allow somebody -- I don't think it's
2 appropriate to allow the non-interviewing person to do the
3 in camera hearing for the forensic interview. And if
4 somebody finds language to the contrary, I'll review it.
5 But just from what I have seen and what I've used in
6 previous cases, that's just the way it's -- I've seen it
7 done and it's in compliance with the case law that I'm aware
8 of.

9 I realize -- I think a case came out in the last two
10 weeks. I don't know if it's on point with this. But I
11 realize cases come out from time to time.

12 Are you -- anything else for the moment?

13 SOLICITOR JOHNS: Well, Your Honor, what I'm trying to
14 do is I'm trying to see if Ms. Chaffin can at least text
15 this witness to see --

16 THE COURT: Yeah.

17 SOLICITOR JOHNS: -- if---

18 THE COURT: No, I appreciate you doing that. I think,
19 I think we should -- the goal should be to endeavor to find
20 out when this interviewer can appear.

21 SOLICITOR JOHNS: Yes.

22 THE COURT: And if it could be tomorrow, then I think
23 we got to -- we can push forward.

24 SOLICITOR JOHNS: Right.

25 THE COURT: I mean --.

1 SOLICITOR JOHNS: The second issue with Ms. Chaffin,
2 and who's going to go check, is she's checking right now on
3 the Clerk of Court's trial docket to see when this case can
4 be reasonably tried. We would hope within the next 30 days
5 cause we would be moving for a continuance if --

6 THE COURT: Yeah.

7 SOLICITOR JOHNS: -- if we're not allowed to use this
8 witness.

9 THE COURT: Well, under the circumstances, I don't
10 think it's an improper motion because you -- you're denied
11 your witness not as a result of your lack of due diligence.
12 I mean if the witness is under subpoena to another case in
13 another state --

14 SOLICITOR JOHNS: Yes.

15 THE COURT: -- that witness -- that subpoenaed's before
16 the notice of this trial---

17 SOLICITOR JOHNS: Yes.

18 THE COURT: ---I believe that's just -- that's just
19 the, the life of a trial lawyer.

20 SOLICITOR JOHNS: Yes. Understood, Your Honor.

21 May I have one moment?

22 THE COURT: Sure. Take your -- I mean --.

23 (Pause.)

24 THE COURT: Yes, ma'am.

25 SOLICITOR JOHNS: Thank you, Your Honor.

1 We don't have anything further on, on the issue of the
2 forensic interviewer being present to testify to the
3 elements under 17-23-175. So, if the Court is ready to rule
4 on that, then we will make our motion at the appropriate
5 time.

6 THE COURT: Okay. What -- and just to be clear, you
7 became aware of this -- you became aware of the subpoena for
8 this witness after this was put on the trial docket?

9 SOLICITOR JOHNS: Yes, Your Honor.

10 THE COURT: In other words---

11 SOLICITOR JOHNS: Let me check with my investigator
12 real quick to make sure---

13 THE COURT: Okay.

14 SOLICITOR JOHNS: ---that that's correct.

15 (Pause.)

16 SOLICITOR JOHNS: Your Honor, with regard to Doctor
17 Foster being aware of this case, she was out on vacation.
18 The trial was ordered to be tried this week. We had, of
19 course, 10 days notice to subpoena our witnesses for this
20 case.

21 Our investigator, William Wesley, provided those
22 subpoenas and, at that time, within the 10 days, Doctor
23 Foster had explained to us that she had already been
24 subpoenaed to be in Washington, D.C. this week. And during
25 that time, we then discussed it administratively with our

1 office and we, we were under the impression that we may be
2 able to go forward with Alicia Benedetto as, as her director
3 and that's the reason why we moved forward.

4 So it was within 10 days. We just found out within 10
5 days.

6 THE COURT: When was this trial noticed?

7 SOLICITOR JOHNS: I'm sorry?

8 THE COURT: When was the trial noticed?

9 SOLICITOR JOHNS: When was this---

10 THE COURT: When did y'all find out y'all are -- this
11 case was going to trial?

12 SOLICITOR JOHNS: Oh, when was this trial scheduled?

13 THE COURT: Yeah, like---

14 SOLICITOR JOHNS: It was scheduled on---

15 THE COURT: It's my understanding -- well, I'll let you
16 speak to --.

17 SOLICITOR JOHNS: It was a Thursday. It was the
18 23rd of June. June 23rd it was scheduled at a hearing
19 that Mr. Jones had filed where he wanted to come in and ask
20 for a speedy trial and, at that hearing, Your Honor, I had
21 mentioned to Judge Newman that Mr. Jones had counsel in the
22 beginning. In 2019 he had three defense attorneys represent
23 him, and, for whatever reasons, those attorneys were
24 relieved and recently ordered by Judge Newman that he was
25 allowed to represent himself. I believe that was in

1 December of 2021.

2 So, the speedy trial motion, Your Honor, was heard but
3 not ruled upon. We -- the judge asked if we could try this
4 case. I said the case has been indicted. We were ready to
5 go. We wanted to try it last week. I told him that we had
6 a 10 day issue with subpoenas. So he ordered it tried this
7 week.

8 THE COURT: And that's -- and then after the subpoenas
9 were sent, y'all found the witness was somewhere else?

10 SOLICITOR JOHNS: Yes.

11 THE COURT: In a court?

12 SOLICITOR JOHNS: In court, yes.

13 THE COURT: That you, you were led to believe -- the --
14 that y'all could -- that the director could testify---

15 SOLICITOR JOHNS: Right. Right.

16 THE COURT: ---to admit---

17 SOLICITOR JOHNS: Because it, it is an administrative
18 purpose of, of getting this investigation, the child being
19 interviewed by a forensic interviewer, based on I believe
20 it's first steps for the national standard for interviewing
21 children to make sure that the interview was not suggestive
22 in any way. And, and so that's what Ms. Chaffin and I was
23 relying upon at that time.

24 (Pause.)

25 THE COURT: Yes, ma'am.

1 SOLICITOR JOHNS: Your Honor, my paralegal has Doctor
2 Foster on the phone right now.

3 THE COURT: Well---

4 SOLICITOR JOHNS: If I could just step out---

5 THE COURT: Yeah.

6 SOLICITOR JOHNS: ---into the hall so I can---

7 THE COURT: That will be fine.

8 Okay. Yeah.

9 (WHEREUPON, a short recess was taken at this time.)

10 THE COURT: What did we hear from the witness?

11 SOLICITOR JOHNS: Yes, Your Honor.

12 She did call in and she -- the trial up there is
13 getting ready to start. She will have a midafternoon break,
14 Your Honor, and she suggested that, that we inform the Court
15 that she would be available through Zoom and she could
16 testify through Zoom. We have the technology to do it
17 through the Smart Board.

18 THE COURT: Uh-huh.

19 SOLICITOR JOHNS: And she'll just have to inform the
20 Court of when that will be scheduled. And she said all she
21 could be ready as early as this afternoon around 3:00 or
22 3:30.

23 THE COURT: Okay. And if she were to do that through
24 Zoom, she'd have to do the jury portion through Zoom too
25 obviously.

1 SOLICITOR JOHNS: Yes.

2 THE COURT: Okay. Mr. Jones.

3 MR. JONES: This makes the defense quite uncomfortable.
4 I'm not entirely sure how the jury would respond to being
5 presented a witness through Zoom and frankly I'm not sure
6 how the interviewer herself would respond to questions here
7 today through Zoom as opposed to in a more formal setting
8 here with the authority of the Court and yourself. That's
9 all from the defense.

10 THE COURT: Okay. Do you have a recent -- there's been
11 a case that's dealt with I think Skype testimony in the not
12 so distant future. I'm trying to look that up.

13 (Pause.)

14 THE COURT: Y'all have your, your computer with you?
15 I want you to look at a State v. Johnson, 422 S.C. 439.

16 SOLICITOR JOHNS: Yes, Your Honor. We have it pulled
17 up also. I think it says it's up to the sound discretion of
18 the Court.

19 THE COURT: Well, I, I haven't it printed out. We've
20 looked it over but it makes reference to exceptional
21 circumstances for video testimony. Not -- only thing --
22 it'd one thing if it were the I'm -- in general terms, an
23 accuser or, or, you know, an eye witness to an event. This,
24 this does sort of fall in line and it's an administrative
25 witness who's not here due to involvement in another court.

1 Sp maybe, maybe that's appropriate but I, I need to
2 look over this case a little bit and y'all may want to do
3 the same.

4 Let's step back there. Appreciate your patience.

5 SOLICITOR JOHNS: Yes, Your Honor. Thank you.

6 (WHEREUPON, a short recess was taken at this time.)

7 THE COURT: Just keep your seats.

8 All right. Let me ask you a question.

9 (WHEREUPON, a bench conference was held at this time.)

10 THE COURT: Be right back.

11 (WHEREUPON, a short recess was taken at this time.)

12 THE COURT: All right. Please be seated. Thank you.

13 All right. Throughout the lunch break, we've, we've
14 been trying to deal with an issue here about not having a, a
15 witness. The State's witness, who's not available here
16 today because of -- that witness was subpoenaed in another
17 case out-of-state and is performing that function today and
18 tomorrow out-of-state. However, this witness is essentially
19 required, under case law and statutory law, as far as the
20 pretrial review of the forensic statement that was provided
21 in this case.

22 So, in the break we, we made record about what are
23 options were but we -- I'd certainly ruled that we, we
24 couldn't allow the video with, with the current witness.
25 We -- the State has made contact with the out-of-state

1 witness.

2 what is her last name?

3 SOLICITOR JOHNS: Doctor Allison Foster.

4 THE COURT: Okay. Foster. F-O-S-T-E-R?

5 SOLICITOR JOHNS: Yes, sir.

6 THE COURT: Okay. who's suppose to be available today
7 via Zoom between 2:30 and 3:00PM.

8 SOLICITOR JOHNS: Yes, between 2:30 and 3:00.

9 THE COURT: Okay.

10 SOLICITOR JOHNS: She's -- I mean she's trying to --
11 she's trying to juggle both hearings. So 2:30 to 3:00.

12 THE COURT: We'll do as well as we can obviously.

13 SOLICITOR JOHNS: Yes.

14 THE COURT: But we -- we are, to be clear, we're, we're
15 trying to stay inside the confines of the Supreme Court case
16 of State v. Anderson, which requires the interviewer to be
17 called to testify in camera to lay that foundation for the
18 forensic interview outside the presence of the jury.

19 we don't know the witness' schedule for tomorrow.
20 Assuming they -- that she is still in D.C. or wherever she
21 is out-of-state, we, we could use her for Zoom again. The
22 amount of testimony that is used by a witness in a trial
23 setting in front of a jury is very limited and the, you
24 know, the witness' opinions are not presented to the jury.
25 Only the, the method and the, the, the -- basically just

1 authenticating the video.

2 This was the interview that was conducted by me on this
3 date and here it is.

4 Is that your understanding, Madam Solicitor?

5 SOLICITOR JOHNS: Yes, it is, Your Honor.

6 THE COURT: Okay. Is that your understanding as well,
7 Mr. Jones?

8 MR. JONES: Yes, Your Honor.

9 THE COURT: Okay. So we're gonna get through this
10 pretrial today one way or another. We've been obviously
11 delayed but no one can control when they're dueling
12 subpoenas out there to be some place. So, that's just where
13 we are. Please make whatever preparations need to be done.

14 Now, just to be clear, Mr. Jones, if you'd like to
15 lodge an objection to using Zoom, now will be the time to do
16 it.

17 MR. JONES: Yes, Your Honor.

18 Defense states that, with regard to Jones or I'm sorry.
19 Sorry. State versus Johnson, the use of Zoom is -- it was
20 determined that it was error to permit the State to present
21 testimony via Skype, which is a relative technology to
22 Zoom -- and it -- it states that in Maryland versus Craig,
23 it plainly requires the public interest more substantial
24 that convicting someone of a criminal offense such as
25 national security or assassination attempts.

1 It also indicated that a generalized conviction of
2 criminal offenses is not sufficient to dispense with the
3 defendant's right to in court confrontation. There are
4 exceptions for exceptional circumstances. But exceptional
5 circumstances are not present here in the defendant -- in
6 the defense's view because due diligence would of allowed
7 the prosecution to know that the statute requires the
8 interviewer and that they were aware of the interviewer's
9 indisposition prior to the docketing of the case.

10 THE COURT: Okay. Any response from the State?

11 SOLICITOR JOHNS: Your Honor, I just wanted to redirect
12 just a few facts. One, Doctor Allison Foster was under
13 federal subpoena. She's unavailable. She's an unavailable
14 witness according to the South Carolina Rules of Evidence
15 804. She meets that statute. I think it's 805 -- I'm
16 sorry. 804 Subsection A and Subsection 5. She was in
17 contact with our office and notified us immediately of the
18 federal subpoena. She is available through Zoom.

19 In light of the Johnson case at 432 S.C. 439, the right
20 to the defendant's confrontation of Doctor Foster is limited
21 in scope because Doctor Foster is not a factual witness in
22 regards to a confession or a factual witness in regards to
23 fact. She is an administrative witness that is used by law
24 enforcement as a tool to ensure that the interview of a
25 child sexual assault victim is done properly and is done so

1 that the Court can determine the reliability of that
2 statement.

3 For those reasons, Your Honor, I would ask that the
4 Court allow the Zoom to weigh testimony of Doctor Foster be
5 allowed---

6 THE COURT: Okay.

7 SOLICITOR JOHNS: ---this afternoon.

8 THE COURT: All right. I, I think, in light of the
9 circumstances, that it's appropriate to move forward.

10 In addition to the witness not being available as a
11 result of being compelled to appear in another court, I
12 think the prior proceedings in this case, particularly the
13 motion on the speedy trial, is of great importance here to,
14 to, in this instance with this witness who I, in my opinion,
15 doesn't address the merits of the case as much as just the
16 administrative process of how this interview was conducted.
17 I think it's appropriate to use Zoom and that's what we will
18 attempt to do here in the, in the very near future.

19 So, that's my ruling. Let's get the TV ready as best
20 we can.

21 SOLICITOR JOHNS: Yes, Your Honor.

22 THE COURT: Thank you.

23 SOLICITOR JOHNS: Thank you, Your Honor.

24 THE COURT: I need to let the jury know what's going on
25 too.

1 SOLICITOR JOHNS: Yes, Your Honor.

2 MR. JONES: So --.

3 SOLICITOR JOHNS: Thank you, Your Honor.

4 THE COURT: If, if we can just bring them back in here.
5 I'm gonna just -- we have a technology issue and I'm, I'm
6 dealing with having to get witnesses in different places and
7 different states. So, I'll just remind them that we are
8 working hard and this is -- we're doing the best we can.

9 Let's bring the jury in real quick. I, I do think I'm
10 just gonna keep them in the room.

11 Can they stretch their legs?

12 They've been in there for an hour.

13 I'll give them 30 minutes to just walk out, stretch
14 their legs, have a cigarette if they're so inclined I guess.

15 MR. SUTHERLAND: Good idea.

16 THE COURT: So I'm sure---

17 MR. SUTHERLAND: That's fine.

18 THE COURT: You can bring them in. Thanks.

19 (WHEREUPON, the following takes place within the
20 presence of the jury.)

21 THE BAILIFF: The jury has been seated, Your Honor.

22 THE COURT: Thank you. Thank you.

23 All right. Ladies and gentlemen, we are still working
24 hard in here. I've got some -- I still have some other
25 matters I've got to do in this case. They involve some

1 technology and technology, from time to time, doesn't
2 necessarily go according to plan. I want you to know that
3 this delay is -- we're just working hard to get this case --
4 a few more things done.

5 I know you've been back there for an hour. So, I want
6 to let you just -- you can go outside the building for 30
7 minutes. Just come back to your jury room at three o'clock
8 if you need to just stretch your legs, get some fresh air.

9 If you talk with anyone, please don't discuss the case.
10 Again, please don't do independent, independent research
11 about this case and we will -- I'll update you again once
12 you're back in your jury room.

13 So I appreciate your patience and please don't discuss
14 the case.

15 Thank you.

16 (WHEREUPON, the following takes place outside the
17 presence of the jury.)

18 THE COURT: Turn it---

19 SOLICITOR JOHNS: We're turning it towards the court
20 reporter.

21 THE COURT: Okay. And maybe, maybe you can just put it
22 there and we'll sit -- if you want to use the podium to ask
23 questions, just put it out in front of maybe the clerk's
24 table. Have it face that way so she can see and hear.

25 SOLICITOR JOHNS: Okay.

1 THE COURT: All right. Thank y'all.

2 SOLICITOR JOHNS: Thank you.

3 THE COURT: I, I think we'll need to push it a little
4 bit further away. That way we can have space for counsel to
5 speak.

6 (Pause.)

7 THE COURT: Perfect.

8 MR. JONES: Your Honor?

9 THE COURT: Yeah.

10 MR. JONES: Is there---

11 THE COURT: I'm thinking -- I know what you're -- hold
12 on. I'm trying to think how he can see the screen and still
13 --.

14 MR. JONES: Not just that but is it two way?

15 THE COURT: You'll, you'll -- if you stand in front of
16 the TV, it will be like you're---

17 MR. JONES: They can see us?

18 THE COURT: Yeah.

19 MR. JONES: Okay. I just didn't know about that --

20 THE COURT: No one told you.

21 MR. JONES: -- that particular --

22 SOLICITOR JOHNS: See, we can move the TV around.

23 MR. JONES: -- device.

24 THE COURT: You can just roll that podium right here
25 and he can just ask questions and you can ask questions.

1 MR. JONES: All right.

2 THE COURT: Makes sense?

3 MR. JONES: Yeah.

4 THE COURT: All right.

5 (Pause.)

6 SOLICITOR JOHNS: Your Honor, my paralegal, Amanda
7 Bolts-Wilcox, has informed me that her communication with
8 Doctor Foster reveals that they are not quite in recess yet.
9 Also want to make a correction on the record. It's
10 Washington State. Not Washington D.C.

11 THE COURT: She's across the country.

12 SOLICITOR JOHNS: So, yes. So they are---

13 THE COURT: We got a timezone problem too.

14 SOLICITOR JOHNS: Timezone, yes. So, she does expect
15 the Court to break at noon. We provided her with the
16 contact information or the password and the link to the
17 Zoom. So, she said that -- the last text message that
18 Mrs. Bolts-Wilcox sent Doctor Foster had asked her if she
19 had her file with her, which would probably, probably be an
20 electronic file at least with regard to the report that she
21 made and she has not answered yet.

22 So, it feels like, to me, she might be in the court.

23 And so, as soon as we get a response---

24 THE COURT: Yeah.

25 SOLICITOR JOHNS: ---from her we will let the Court

1 know.

2 THE COURT: Okay. Well, we'll just stay at ease.

3 SOLICITOR JOHNS: Yes, Your Honor. Thank you.

4 THE COURT: I'll step out. But as soon as y'all know
5 something, please come find me.

6 SOLICITOR JOHNS: Yes, Your Honor. We will. Thank
7 you.

8 (WHEREUPON, a short recess was taken at this time.)

9 THE COURT: All right. Please be seated. Thank you.

10 All right. Just an update here is, is -- this, this,
11 this interviewing witness, we, we had a conference call with
12 the lawyers, the defendant, myself and this, this witness is
13 available for the Zoom. But because the witness is in a
14 three hour different timezone, we elected that the, the best
15 thing would be just to do this first thing in the morning
16 when they're not themselves in the middle of another trial.

17 So, the witness informed both me, the State, and the
18 defendant that she would be available for the in camera
19 hearing at 9:00am Eastern time, 6:00AM Pacific Coast time,
20 and we -- we'll have an, an adequate window to do the in
21 camera hearing as well as if, if, if the decision's made to
22 admit it, any, any follow -- any followup on hearing after
23 that.

24 Does that kind of accurately incapsulate the discussion
25 we had back there, Madam Solicitor?

1 SOLICITOR JOHNS: Yes, Your Honor.

2 THE COURT: Mr. Jones?

3 MR. JONES: Yes, Your Honor.

4 THE COURT: And you had a, a, a motion in limine you
5 wanted to make?

6 MR. JONES: Yes, Your Honor.

7 Your Honor, the defense moves in limine by asking this
8 Court to suppress information which would prejudice and
9 discredit the defendant in the eyes of the jury irrespective
10 of the merits of the case at bar. Specifically, any
11 reference to the accuser as a victim because this
12 prejudicially implies that a crime has been proven when it
13 has not. And the defense proposes that she should be
14 identified at all times during the trial as the accuser or
15 whatever you feel is appropriate instead.

16 THE COURT: Any response from the State?

17 SOLICITOR JOHNS: Your Honor, whether or not Mr. Jones
18 is found to be guilty of this charge or not, she's still a
19 victim according to the investigation and we would ask the
20 Court allow us to refer to her as a victim. Now, whether or
21 not they find Mr. Jones guilty of her being a victim is
22 really not any fault of her own and she is a victim.

23 THE COURT: I don't think it's proper to outright
24 exclude it. However, I mean there shouldn't be any use of
25 any testimony or language that is overly used to incite

1 or -- the jury. So, I, I think it's appropriate for the
2 State to -- there, there are -- they have alleged certain
3 things and they can allege who they believe the victim to be
4 and the testimony may or may not meet that threshold for the
5 jury.

6 Now, I don't think we'll have this situation, but if it
7 were just a repetitive use of the word victim in a way that
8 were to, to affect the jury, I, I don't foresee that
9 happening, if it does, we'll, we'll take it up then. But
10 the motion to just deny the use of the word victim is
11 denied.

12 Okay. So, so, as I -- as I've discussed, what we --
13 what I've discussed with the attorneys is we're just gonna
14 go ahead and get started at this point. If, for some
15 reason, the witness is not available tomorrow or whatever,
16 we will just have to go forward. But, you know, nobody
17 wants this trial continued.

18 It's, it's time for it to go and we've done everything
19 we can, procedurally, to make sure it's done properly.
20 That's why we're still here waiting to charge the jury at --
21 the introduction charge at 3:30 on a Tuesday.

22 So, at this time we'll -- my intent is to bring in the
23 jury, give them an opening charge, have the -- actually
24 before I do that, have the Clerk of Court swear them in.
25 And once I finish my opening charge, I'll turn it over to

1 the attorneys for their opening statements.

2 As a reminder, opening statements are -- there's no
3 evidence that's been put in in this case and I think you've
4 had the opportunity to talk with your standby counsel,
5 Mr. Jones --

6 MR. JONES: Yes, Your Honor.

7 THE COURT: -- as far as how you'll -- may do your
8 opening. The State mentioned perhaps trying to get a
9 witness done, one of the officers.

10 Is that correct?

11 SOLICITOR JOHNS: Yes, Your Honor, and she's here. So
12 she's ready.

13 THE COURT: Okay. And, and -- so, Mr. Jones, it sounds
14 to me we'll get through one witness today and probably be at
15 a breaking point in light of everything else we've
16 discussed.

17 So, any other questions before I bring in the jury?

18 MR. JONES: None from the defense, Your Honor.

19 SOLICITOR JOHNS: None, Your Honor.

20 THE COURT: All right. Let's get them in please.

21 THE BAILIFF: Yes, Your Honor.

22 (WHEREUPON, the following takes place within the
23 presence of the jury.)

24 THE BAILIFF: The jury has been seated, Your Honor.

25 THE COURT: Thank you.

1 possible.

2 Anything -- let's see. I think that's it for now.

3 At this time, please give your complete and undivided
4 attention to the parties as they make opening statements to
5 you.

6 Okay. Madam Solicitor.

7 SOLICITOR CHAFFIN: May it please the Court?

8 THE COURT: Yes, ma'am.

9 SOLICITOR CHAFFIN: Ladies and gentlemen of the jury,
10 you heard at the call of the case that this is a case about
11 criminal sexual conduct in the third degree with a minor.

12 Now, if you don't know anything else about this case,
13 which you shouldn't, you know that there's a child victim.
14 The statute says that the minor is under the age of 16 years
15 of age. In our case, our victim is seven years old.

16 Now, movies and television shows dramatize that sexual
17 assaults of children happen in the dark, in the nighttime,
18 in a basement somewhere, not to be seen by the world, and
19 that they're the only two people there, the adult and child.

20 But we also know what can be true is that it happens in
21 the daytime. It happens in the broad daylight. It happens
22 in public places that are open to -- for the community and
23 that's what happened in this case. What was suppose to be a
24 fun, family day out turned into a parent's worst nightmare.

25 On June the 23rd, 2019, Erin Rish took her two young

1 daughters down to Riverfront Park and this is off of Gist
2 Street near the EdVenture and State Museum complex and
3 there's a beach down there and a parking area.

4 So they take their inner tubes. They take their
5 bathing suits. They go down. The girls get in the water.
6 Erin finds a spot, has her chair, trying to relax and have
7 some fun.

8 She notices that there's two adult men to her right and
9 they're in the water fully clothed closer to the Gervais
10 Street bridge. Just makes a note of it. They're there for
11 a little bit and she notices, at some point, those two men
12 have come a little closer, that, at some point also, her
13 youngest daughter, MINOR, loses her inner tube. It gets
14 away from her and the current starts taking it down to the
15 Blossom Street bridge.

16 It's fine. Don't cry. It -- they're not expensive.
17 Don't worry about it. We can still have fun.

18 One of the adult men that she noticed earlier swims out
19 to go get it. He swims out, chases it down, brings it back
20 to shore. He introduces himself as Clay and starts up a
21 conversation. He tells them that he's a tutor for
22 technology or IT and that he mostly tutors adults and then
23 maybe some like older kids, teenagers. He also tells them
24 that he has a birthday coming up and that ends up being
25 July 17th. He tells her that. So, he just kind of talks

1 for a little bit.

2 Now, at this point the girls aren't swimming anymore.
3 They've come to the shore and the beach and they're playing
4 a game. And for those of you of a particular age, the name
5 Goosebumps might sound familiar. It was a book series by
6 R.L. Stine that kind of came out in the '90s and they had
7 scary stories in it. Some included monsters and such.

8 A couple of years ago Netflix came out with a
9 television series that kind of drew from some of those
10 stories from Goosebumps. So the -- for a new generation.
11 So these girls had seen that.

12 So they're playing a game called Mud Monster, and for
13 those familiar with the Goosebumps series, that may make --
14 sound familiar too. So they're taking the mud and they're
15 putting it on their body. The Mud Monster was covered in
16 mud. He came out of a swamp to scare kids. So they're
17 playing.

18 Clay sits down and he starts playing Mud Monster and
19 he's putting mud on their arms and their legs. Still
20 talking to them. Still talking to the mom. And they played
21 for a little while. He has a, a friend that's there with
22 him. That was the other man she noticed and he comes over.
23 He sits for a little while. Then he stands, talks to the
24 mom. He's kind of back and forth.

25 They'll put the mud on them, both of the girls, get in

1 the water, wash it off, come back in, put the mud on them,
2 get back in the water. So this goes on for a while.

3 Clay is also getting into the water with these girls as
4 they're washing the mud off. They've been there for a
5 while. Erin feels a little uncomfortable. It's time to go.
6 Her oldest is at home.

7 So, they pack up their things and they're heading out.
8 The two men follow them and Clay reminds her that he's a
9 tutor and he said let me get you a business card. He hands
10 her a business card for his tutoring business and it says
11 Clay Jones. She takes that. They leave. Drive away.

12 Now, usually the girls will change out of the wet
13 bathing suit and not drive back the 30 minutes to their
14 home. So, they would just change really quick into some dry
15 clothes.

16 She asked her youngest daughter, MINOR, do you want to
17 change out of your clothes and she says no, I don't want to
18 take my bathing suit off. She asked her why and she
19 discloses then. Share -- her crotch has been touched by the
20 man. Not to alarm her, she kind of asked some questions to
21 not scare her but she's got to figure out what to do.

22 So, you'll hear from Erin, the mom, and she'll kind of
23 walk you through what she had to do to kind of make it
24 right, the unthinkable. You'll hear from MINOR herself
25 where she actually discloses to a forensic interviewer that

1 he touched her crotch not only on top of her bathing suit
2 but inside of the bathing suit and he also whispered in her
3 ear do you like that. At some point also that day when
4 they're in the water, he told her if you come back next
5 Sunday I'll give you more.

6 You'll hear from the investigator assigned to the case,
7 Investigator Odom. She's with the special victims unit of
8 Columbia Police Department and kind of her protocol of what
9 happens when a child reports a sexual assault has occurred.

10 Now, when you are sitting in the jury box, we know that
11 you're not looking at the law. It's not familiar. You're
12 hearing the facts. But we also know that you don't check
13 your common sense at the door when you come in.

14 So, here's a couple things that I want you to listen
15 out for as you're hearing some of the testimony. What we
16 know is, when an adult wants to have access to a child that
17 they don't know and is strange to them, there's a couple
18 steps that they'll go through to kind of get done what they
19 want to have happen. They will gain access to a child such
20 as come down the beach a little bit, get a little closer.
21 They'll also want to build trust with that child maybe by
22 grabbing an inner tube that got away from that kid. They
23 also will want to show that child some special attention.

24 Could it be playing some Mud Monster in the mud on the
25 beach?

1 They also need to gain access to the child through the
2 parent and this can be done through rapport, telling them
3 their name, telling them about themselves, gaining some
4 trust with the parent.

5 We also know that an innocent touch, maybe just
6 touching a leg, touching an arm, can lead to more. It can
7 start that way but then something else could happen.

8 Could it be putting mud on their body?

9 And then also we know that they will typically tell the
10 child something that no one else would hear.

11 So, could it be do you like that or if you come next
12 Sunday I'll give you more?

13 So, you know, we would submit to you just take, take a
14 listen to kind of the testimony of who you'll see this week
15 and, you know, think for yourselves. This child might of
16 gone into the water, into the sunshine, to go have fun but
17 the monster was already in the water waiting for her.

18 Thank you.

19 THE COURT: Mr. Jones.

20 MR. JONES: May it please the Court?

21 THE COURT: Yes, sir.

22 MR. JONES: All right. I'm going to keep it short and
23 simple here. My name's Clayton Jones. I'm here to defend
24 myself against this claim.

25 The State has presented their theory. That's all it

1 is, a theory. That is why you have heard many would ofs and
2 could ofs and might haves. They were not there. The
3 accusation certainly doesn't make sense.

4 I'm not sure why such an accusation would, would be
5 made but I am sure that what was claimed did not happen.

6 There were five people in the immediate area, family
7 members included, with others nearby and passing through.
8 It, it just doesn't make sense to me. There was no hint
9 from anyone at the time that such a thing could of happened,
10 and with the fact that I gave them my business card before
11 they left, the claim certainly doesn't make sense.

12 So, it is necessary for us to analyze facts and
13 possibilities to truly determine if there's another
14 reasonable explanation and that is why we are here.

15 That is all.

16 THE COURT: All right. Thank you.

17 The State's ready to call your first witness.

18 SOLICITOR CHAFFIN: The State calls Officer Amber
19 Hynes.

20 THE BAILIFF: Left-hand on the Bible. Raise your
21 right-hand.

22 AMBER HYNES, being first duly sworn,
23 testified as follows:

24 THE CLERK: Thank you. Please have a seat in the
25 witness stand and state your full name for the record.

1 THE WITNESS: Do -- can I bring my incident report with
2 me?

3 THE COURT: Sure.

4 DIRECT EXAMINATION

5 BY SOLICITOR CHAFFIN:

6 Q. State your full name.

7 A. My name is Amber Hynes.

8 Q. Okay. Can you spell your name for the Court?

9 A. Yes. Amber, A-M-B-E-R. Hynes, H-Y-N-E-S.

10 Q. And where are you currently employed?

11 A. Currently I'm employed at the City of Columbia,
12 Columbia Police Department, in crime scene.

13 Q. And how long have you been employed by the Columbia
14 Police Department?

15 A. I was employed in 2017 to 2019. I left briefly, came
16 back last year, 2021, and I'm still here.

17 Q. And where did you attend the academy?

18 A. At South Carolina Criminal Justice Academy.

19 Q. And what are your duties as an officer?

20 A. Currently I'm in crime scene. So currently I have to
21 respond to calls for service and process the scenes. So I
22 pick up evidence, take pictures. I'll do fingerprints and
23 sometimes DNA swabs on things. So, I process a scene.

24 Q. And what were your duties in June of 2019?

25 A. In June of 2019 I was on patrol in metro region. So,

1 it's downtown and part of Two Notch and I would have to
2 patrol different businesses, check Finley Park, do traffic
3 stops. Just get out with people and talk with people and
4 respond to any kind of calls for service.

5 Q. And how did you become involved with this case?

6 A. I became involved with this case when I was called to
7 headquarters for a report to meet. At 1025 is a report to
8 meet in reference to a complainant wanting to speak to an
9 officer about an incident.

10 Q. And what was the incident?

11 A. The---

12 MR. JONES: Objection. Hearsay.

13 THE COURT: What was the incident?

14 MR. JONES: Yes.

15 THE COURT: Overruled.

16 A. The incident was it was a mother at headquarters
17 stating that -- it was a mother at headquarters whose
18 daughter had been assaulted by a male at---

19 MR. JONES: Objection, Your Honor.

20 A. ---Riverfront.

21 THE COURT: Yes, sir.

22 MR. JONES: Stating the -- what another person said.

23 She---

24 SOLICITOR CHAFFIN: She's not saying what she said.

25 She's saying what the incident was.

1 THE COURT: There was a report made?

2 SOLICITOR CHAFFIN: A report, yes.

3 THE COURT: Okay. Overruled.

4 Q. And so when you arrived at headquarters, who did you
5 speak with?

6 A. I spoke with -- originally I spoke to our TRU, which is
7 the telephone response unit, which they're officers in the
8 fish bowl at our headquarters. I spoke with them and they
9 pointed me to Ms. Erin.

10 Q. And when you referred to Erin, do you remember her last
11 name?

12 A. Rish.

13 Q. What was the date of this incident?

14 A. I was dispatched the day after the incident. So, the
15 incident was actually June 23rd and I was dispatched on
16 June 24th in the evening.

17 Q. During your investigation after talking to her, where
18 did the incident happen?

19 A. The incident took place at Riverfront Park on the city
20 side. It's 1115 Gist -- it's either Gist or Gist Street.

21 Q. Again, what -- and where's that by?

22 A. That is by the Congaree River.

23 Q. And is that in the City of Columbia?

24 A. Yes, it is in the city -- it is in Richland County,
25 city limits of Columbia, which is my jurisdiction.

1 Q. And is that Richland County?

2 A. Yes.

3 Q. Did Erin tell you the suspect's name?

4 A. The suspect's name was on a card, which was Clayton
5 Jones. Well, the card said Clay Jones.

6 Q. Did you see this card?

7 A. Yes.

8 Q. And is that what the card said?

9 A. Yes.

10 Q. Was he an adult?

11 A. Yes.

12 Q. Did she know him?

13 A. No.

14 Q. How did she know his name?

15 A. She knew his name from the business card given to her.

16 Q. Did she say how old her daughter was?

17 A. Her daughter was seven at the time of the incident.

18 Q. And how did you determine that the incident had taken
19 place?

20 A. I determined an incident had taken place. Based off
21 the information given to me, an incident had occurred and it
22 was a sexual assault against a child.

23 Q. And what did you do then?

24 A. After getting all the information of what happened, I
25 called my supervisor because, if a child is involved in a

1 sexual crime, I was not sure how to proceed with that. So I
2 needed to call my supervisor and ask.

3 Q. why do y'all refer out child sex crimes?

4 A. Because we are trained on a street level as patrol
5 officers. We don't do investigative stuff. So, we are not
6 trained to deal with any kind of children involved in
7 situations like this.

8 Q. Was that the end of your involvement with this case?

9 A. Yes.

10 Q. Thank you. No more questions.

11 THE COURT: Mr. Jones, any cross-examination?

12 MR. JONES: Yes.

13 CROSS-EXAMINATION

14 BY MR. JONES:

15 Q. So, did you personally witness any act alleged by the
16 accuser?

17 A. No.

18 Q. All right. And so does that mean that the -- you --
19 the only information you received was what you heard the
20 mother say about what she heard the accuser say?

21 A. Correct.

22 Q. Okay. Okay. And on what day did you hear this?

23 A. I heard this on June 24th which was the day after the
24 incident occurred.

25 Q. Okay. So, what you heard about the mother say about

1 what the accuser said was only after an entire day of
2 undisclosed conversations between the accuser and the
3 mother.

4 Is that right?

5 A. Approximately.

6 MR. JONES: Okay. No further questions.

7 THE COURT: Redirect?

8 SOLICITOR CHAFFIN: No redirect, Your Honor.

9 THE COURT: All right. The witness is excused.

10 THE WITNESS: Thank you.

11 THE BAILIFF: Watch your step as you go down.

12 THE COURT: Counsel, can we talk scheduling here for a
13 second?

14 (WHEREUPON, a bench conference was held out of the
15 hearing of the jury at this time.)

16 THE COURT: Ladies and gentlemen of the jury, we're
17 just trying to locate our next witness. Instead of just
18 having you wait here, just go to your jury room. Please
19 don't discuss the case. I'll get you back out here as soon
20 as he's located. Please don't discuss the case.

21 Thank you.

22 (WHEREUPON, the following takes place outside the
23 presence of the jury.)

24 THE COURT: All right. Why don't you go check there,
25 Mr. Sutherland.

1 (WHEREUPON, a short recess was taken at this time.)

2 THE COURT: All right. Please be seated. Thank you.

3 Is the other witness---

4 SOLICITOR JOHNS: Mr. Geddings.

5 Your Honor, the next witness is in the courtroom, Your
6 Honor.

7 THE COURT: Okay. Well then we can proceed.

8 Let's bring them in please.

9 THE BAILIFF: Yes, Your Honor.

10 THE COURT: Oh, yeah, tell him to hold off. We're
11 waiting on this -- waiting on Mr. Sutherland.

12 (Pause.)

13 THE COURT: All right. We ready?

14 MR. SUTHERLAND: Yes, Your Honor.

15 THE COURT: At the -- whenever they're ready.

16 (WHEREUPON, the following takes place within the
17 presence of the jury.)

18 THE BAILIFF: The jury has been seated, Your Honor.

19 THE COURT: All right. Thank you.

20 Ladies and gentlemen, we'll pick up with our next
21 witness.

22 SOLICITOR JOHNS: The State calls David Andrew Geddings
23 to the stand.

24 THE BAILIFF: Place your left-hand on the Bible. Raise
25 your right-hand. Left-hand on the Bible. Raise your

1 right-hand.

2 DAVID GEDDINGS, being first duly
3 sworn, testified as follows:

4 THE CLERK: Thank you. Please have a seat in the
5 witness stand and state your full name for the record.

6 THE BAILIFF: Please speak loudly into the microphone.

7 THE CLERK: State your full name.

8 THE WITNESS: David Andrew Geddings.

9 DIRECT EXAMINATION

10 BY SOLICITOR JOHNS:

11 Q. And can you spell your last name for the court please?

12 A. My last name, G-E-D-D-I-N-G-S.

13 Q. Okay. Mr. Geddings, good afternoon.

14 Mr. Geddings, where do you live?

15 A. I live -- I live on, on -- on Gaston on -- the address
16 [REDACTED].

17 Q. So you live in Gaston?

18 (WHEREUPON, there was no audible response.)

19 Q. Mr. Geddings, where do you work?

20 A. I work, I work at Amazon, at Amazon at CAE1.

21 Q. How long have you worked at Amazon?

22 A. I worked there on -- over six years now.

23 Q. Okay. Do you work anywhere else?

24 A. Yes.

25 Q. where do you work?

1 A. I work at, at Palmetto Framing & Supplies on --.

2 Q. And how long have you worked at Palmetto Framing &
3 Supplies?

4 A. For going on over nine, nine years.

5 Q. Now, Mr. Geddings, do you know the defendant in this
6 case, Clayton Jones?

7 A. Yes.

8 Q. How do you know Mr. Jones?

9 A. I met, I met him on -- over on the household out on
10 Millwood at the---

11 Q. Now, do you see Mr. Jones in the courtroom today?

12 A. Yes.

13 Q. And can you point him out to the jury and tell the jury
14 what he's wearing?

15 Point at him to the jury.

16 A. (WHEREUPON, the witness complies.)

17 Q. And what is Mr. Jones wearing today?

18 A. A, a white shirt, shirt and black, and black suit,
19 suit.

20 SOLICITOR JOHNS: Okay. Let the record reflect that
21 Mr. Geddings has pointed to the defendant, Clayton Jones,
22 wearing a white shirts.

23 Mr. Geddings, how long had you known Mr. Jones?

24 A. For about, for about over -- not over five -- not,
25 not -- five to six years, years now.

1 Q. Did you say five years?

2 A. Yes.

3 Q. Now, Mr. Geddings, I'm gonna bring you all the way back
4 to 2019, the Summer of 2019.

5 Are you with me?

6 (WHEREUPON, there was no audible response.)

7 Q. Okay. So, in the Summer of 2019, were you friends with
8 Mr. Jones?

9 A. Yes.

10 Q. And particularly was a Sunday down by the river, do you
11 recall that day?

12 A. Yes.

13 Q. Okay. Do you know how you got to the river that day
14 with Mr. Jones?

15 A. I was driving -- driving over there.

16 Q. How did you find Mr. Jones that morning or that day?

17 A. He was riding -- he was coming with my -- riding,
18 riding with me to --.

19 Q. He was riding with you?

20 A. Right.

21 Q. Did you pick him up?

22 A. He spend -- spent a night over at my house.

23 Q. Okay. So, he spent the night with you that night in
24 that --?

25 A. Yeah.

1 Q. Do you know -- remember what time y'all left that day?

2 A. Um.

3 Q. And you don't have to remember. I'm just asking you if
4 you do.

5 A. I, I don't remember exactly what time.

6 Q. Do you remember going down to the river?

7 A. Yes.

8 Q. Okay. And can you describe to the jury where it was on
9 the river that you took Mr. Jones?

10 A. It was right -- our, our -- right down the riverbank
11 along the -- along right by the water, by the water.

12 Q. Okay. And can you give me a landmark or something that
13 was near where you were that you can tell us where it is on
14 the river you were?

15 was there a bridge around?

16 A. Yes.

17 Q. Okay. Do you know the name of that bridge?

18 A. Not, not the exact, the exact name of it.

19 Q. Okay. All right. That's fine.

20 when you got to the river, did -- where did you park?

21 A. In the park -- in the parking lot, square parking lot
22 area right where people park to go to the -- along, along
23 the trail.

24 Q. Okay. So it's a parking lot?

25 A. Yeah.

1 Q. Okay. When you parked in the parking lot, how did
2 y'all get to the water?

3 A. After I was parked, we went -- well, we both walked
4 together to the -- down to the---

5 Q. So you walked---

6 A. ---to the river.

7 Q. ---to the river, to the water?

8 (WHEREUPON, there was no audible response.)

9 Q. And was there a path or a boat ramp or anything like
10 that?

11 A. A pathway, yeah. Yeah.

12 Q. Now, when you got down to the river, Mr. Jones, did you
13 guys get in the water?

14 A. Yes.

15 Q. Okay. And when you got in the water, was there anybody
16 else around you at that time?

17 A. Yes. But not, but not right around, no. But not too
18 close around us --

19 Q. Okay.

20 A. -- I should say.

21 Q. Did you know these people?

22 A. No.

23 Q. Okay. At some point on that Sunday afternoon did you
24 meet a mother with two little girls?

25 A. Yes.

1 Q. Okay. And do you remember her name?

2 A. The, the mother's name?

3 Q. Yes.

4 (WHEREUPON, there was no audible response.)

5 Q. No?

6 Do you remember---

7 THE COURT: Now, Madam Solicitor, just -- for the
8 witness, please ensure that, when he's nodding his head
9 or -- we're getting verbal, verbal responses for, for the
10 record for the court reporter please.

11 SOLICITOR JOHNS: Okay. Thank you, Your Honor.

12 Do you -- did you know the mother?

13 A. No.

14 Q. Did she have two young daughters with her?

15 A. Yes.

16 Q. And how old were these two young girls?

17 A. I didn't, I didn't know at first, at first, at first.
18 Only---

19 MR. JONES: Objection. Calls for speculation.

20 THE COURT: He -- he's answered I think the question.
21 We'll see if there's another question to follow. Overruled
22 for now.

23 Q. Can you estimate how old these young children were?

24 A. One of them was seven years old -- nine years old.

25 Q. Okay.

1 A. But, but the other one I don't, I, I don't remember.

2 Q. Was the other one older or younger than seven -- the
3 seven year old?

4 A. I, I don't --

5 Q. Was she---

6 A. -- remember.

7 Q. -- taller or shorter than the seven year old?

8 A. Taller.

9 Q. Okay. And do you remember the two girls having some
10 floats?

11 A. Yes.

12 Q. Okay. And were they floats like these, about this
13 size?

14 A. Yes.

15 Q. Okay. And do you recall what happened to one of the
16 floats?

17 A. One of the floats was getting washed, washed out and
18 drifting off in the river.

19 Q. Okay. And what did you see next?

20 A. Clay was, was swimming out there to get, to get one of
21 the floats.

22 Q. Okay. Let me see if I heard you correct.

23 Clay and you swam out there to get one of the floats?

24 A. To bring -- to, to get back -- to get, to get it back,
25 back---

1 Q. To get---

2 A. ---for the little---

3 Q. ---the float back?

4 A. Yes.

5 Q. Okay. And did she get the float or did Clay get the
6 float?

7 A. Clay.

8 Q. All right. And what did Clay do with the float after
9 he got it?

10 A. He handed it back, back to the girl.

11 Q. Back to the girl.

12 And is that girl the seven year old you're talking
13 about?

14 A. Yes.

15 Q. Okay. And was the seven year old all the way out in
16 the water or was she on the beach?

17 A. Just on the beach.

18 Q. Okay. Or the riverbank?

19 (WHEREUPON, there was no audible response.)

20 Q. Okay. And when you -- when he handed her the float,
21 who else was there?

22 A. Just me and Clay, and Clay, the two girls, and, and,
23 and accompanied with her mother.

24 Q. Okay. Did you have a chance to talk with her mother?

25 A. Yes.

1 Q. Okay. Did you see Clay talking to the mother as well?

2 A. Yes.

3 Q. Okay. Do you know what Clay does for a living?

4 A. Tech tut -- tech tutor.

5 Q. Tech tutor?

6 (WHEREUPON, there was no audible response.)

7 Q. Okay. How do you know this?

8 A. From the business card.

9 Q. Okay. So you saw a business card?

10 A. Yes.

11 SOLICITOR JOHNS: Okay. Your Honor, let the record
12 reflect that I've shown opposing party State's Exhibit No. 8
13 for ID purposes.

14 THE COURT: Very well.

15 SOLICITOR JOHNS: May I approach the witness?

16 THE COURT: Yes.

17 Q. Mr. Geddings, I've put State's Exhibit No. 8 in front
18 of you.

19 Can you recognize that?

20 A. Yes.

21 Q. What is it?

22 A. A business, a business card for --

23 Q. Okay.

24 A. -- Clay.

25 Q. Does that look like the business card you've seen?

1 A. Yes.

2 Q. And who did that business card belong to originally?

3 A. I, I don't remember. Don't remember.

4 Q. You don't remember?

5 Is that your answer?

6 (WHEREUPON, there was no audible response.)

7 Q. Okay. You don't remember?

8 A. Yeah.

9 SOLICITOR JOHNS: Okay. Let the record reflect the
10 State has shown Exhibit No. 5 to opposing party.

11 May I approach the witness?

12 THE COURT: Very well.

13 Q. Mr. Geddings, I show you State's Exhibit No. 5.

14 A. Yes.

15 Q. Does that picture accurately reflect that Sunday
16 afternoon you had with Mr. Jones?

17 A. Yes.

18 Q. And are you in that picture?

19 A. Yes.

20 Q. Who else is in that picture, Mr. Geddings?

21 A. Clay, Clay Jones and the two girls.

22 Q. Okay. And is the seven year old you mentioned in that
23 photograph?

24 A. Yes.

25 Q. Okay. And what are y'all doing?

1 A. I'm -- I was just, just sitting and, and staring at --
2 staring out in the river.

3 Q. Okay. And what is Mr. Jones doing?

4 A. And, and Clayton was, was playing around with the seven
5 year -- nine year old girl in front of the pi -- bank.

6 Q. And when you say playing around -- I'm sorry. I didn't
7 mean to interrupt you.

8 what?

9 A. Nah, just, just playing around with the girl making
10 the -- playing a mud pit, mud pit where he had mud, mud and
11 dirt and was rubbing it on her.

12 Q. And repeat that last part.

13 A. And was rubbing it, rubbing---

14 Q. Rubbing what?

15 A. The, the wet mud and, and dirt on her.

16 Q. Okay. So, he's rubbing wet mud and dirt on her?

17 A. Yes.

18 Q. Okay. And her is the seven year old?

19 A. Yes.

20 Q. Okay. Did you rub mud or wet dirt on the seven year
21 old?

22 A. No.

23 Q. Did you rub mud, wet mud or dirt on her sister?

24 A. No.

25 Q. Did you rub anything on Mr. Jones?

1 A. No.

2 Q. And how about yourself?

3 A. Yes.

4 Q. Okay. And after you put mud, mud on yourself, how did
5 you wash it off?

6 A. I walked down -- I walked down back into the, into the
7 river.

8 Q. Okay. And did you see Mr. Jones have mud on him?

9 A. I, I don't re -- remember.

10 Q. Okay. You want to look at that picture to refresh your
11 memory?

12 A. Yes.

13 Q. And do you see mud on Mr. Jones, your friend?

14 A. Yes.

15 Q. Okay. And now I'm gonna ask you this question.

16 Did you see Mr. Jones sexually assault the seven year
17 old?

18 A. No.

19 Q. Okay. Did you see Mr. Jones in the water?

20 A. Yes.

21 Q. Did you see the seven year old in the water?

22 A. Yes.

23 Q. Did you see them in the water together?

24 A. Yes.

25 Q. Okay. Now, Mr. Jones is, is a friend of yours, right?

1 A. Yes.

2 Q. Okay. Has Mr. Jones asked you about your testimony
3 today?

4 A. No.

5 Q. Have you talked to him on the telephone?

6 A. Yes.

7 Q. And has he talked to you about his case at all?

8 A. Not, not, not, not today. But, but a fast tear -- the
9 other day when I went to go visit with, with him.

10 Q. Okay. So you went to go visit him the other day?

11 A. Yes, at, at Alvin S. Glenn.

12 Q. All right. You don't need to say where.

13 A. All right.

14 Q. So, when you went to visit with him, did he talk about
15 his case?

16 A. Yes.

17 Q. Okay. Now, Mr. Geddings, thank you very much. I don't
18 have any further questions for you.

19 THE COURT: Okay. Mr. Jones. Just let the solicitor
20 clear out.

21 Okay. Mr. Jones, cross-examination.

22 MR. JONES: Yes.

23 CROSS-EXAMINATION

24 BY MR. JONES:

25 Q. Mr. Geddings, you mentioned that you spoke with the

1 defendant recently about this case.

2 Is that true?

3 A. Yes.

4 Q. And did the defendant tell you what you should or
5 shouldn't say?

6 A. Yes.

7 Q. Okay. Okay. And did, did he ask you specifically
8 anything about the seven year old, old and what you saw?

9 A. I, I -- repeat that, that part.

10 Q. I'll, I'll withdraw the question. Let's just get to
11 the meat of it.

12 Okay. On that day in question, while the defendant and
13 the accuser were both in the water, were you there within
14 sight the entire time?

15 A. Yes.

16 Q. Okay. And did the defendant tell you that you should
17 say that?

18 A. Yes.

19 Q. He did?

20 A. Or her.

21 Q. Interesting. Interesting.

22 were other people, including the accuser's mother and
23 taller sister, also there within sight the entire time?

24 A. No.

25 Q. No.

1 A. Or say that again.

2 Q. Okay. Were other people including the accuser's mother
3 and taller sister also there within sight the entire time?

4 A. Yes.

5 Q. Okay. So, you're sure about that cause you seem to
6 have some issues recollecting?

7 SOLICITOR JOHNS: Your Honor, I object.

8 THE COURT: If you need to rephrase the question, Mr.
9 Jones, you may try to do that.

10 MR. JONES: Certainly. Certainly, sir.

11 while the defendant and the accuser were both in the
12 water, did the accuser's mother, the accuser's taller
13 sister, or even the accuser herself express any distress or
14 concern?

15 A. No.

16 Q. Okay. Okay. And while the defendant and the accuser
17 were both in the water, did the defendant keep distance from
18 her?

19 A. Yes.

20 Q. Okay. Okay. So, from your position at that time, if
21 there was any inappropriate touching that happened in the
22 water, would you have seen it?

23 A. Yes.

24 Q. Okay. And did you see any in -- inappropriate touching
25 happen in the water?

David Geddings - Cross-examination
By Mr. Jones

1 A. No.

2 Q. Okay. Okay. That's pretty clear. Thank you.

3 No further questions.

4 THE COURT: All right. Redirect.

5 REDIRECT EXAMINATION

6 BY SOLICITOR JOHNS:

7 Q. Mr. Geddings, let's be clear about this.

8 When Mr. Jones says the defendant and the accuser, he's
9 talking about himself?

10 Is he talking about himself being in the water?

11 A. Yes.

12 Q. Okay. And was the water crystal clear?

13 A. No.

14 Q. All right. What color is the water in the river?

15 A. Like, like a brown like.

16 Q. So you can not see through the water?

17 A. No.

18 Q. Is that right?

19 A. Correct.

20 Q. All right. How close was your friend, Clay, to the
21 children when they were on the riverbank?

22 A. Right up right in front of him when in, in the picture.

23 Q. Did you see Mr. Jones touch her, the seven year old?

24 A. Yes.

25 Q. And you did see the both of them in the water?

1 A. Yes.

2 Q. How close was he to the seven year old in the water?

3 A. It was about a few, a few, a few feet, feet from them.

4 Q. A few feet.

5 A. Uh-huh.

6 Q. And did you see the seven year old in her float with

7 Mr. Jones?

8 A. Yes.

9 Q. Thank you, Mr. Geddings.

10 THE COURT: Any recross?

11 MR. JONES: Yes, Your Honor.

12 RE CROSS EXAMINATION

13 BY MR. JONES:

14 Q. All right. Mr., Mr. Geddings, you saw the defendant
15 standing up in the water, correct?

16 A. Yes.

17 Q. All right. And did you see the accuser also standing
18 up in the water?

19 A. I don't, I don't remember. Not that I, I remember.

20 Q. That's okay. That's okay.

21 while you saw the defendant standing up in the water,
22 how much of his body was covered by the water?

23 SOLICITOR JOHNS: Your Honor, I object. This is
24 outside the scope of redirect.

25 THE COURT: I'll allow the question. The question was

1 how much -- how deep the water was?

2 MR. JONES: Yes.

3 THE COURT: All right. You can ask the question.

4 MR. JONES: So, I'll ask the question again.

5 How deep was the water to the defendant?

6 A. About, about at chest level.

7 Q. Chest level.

8 Okay. So -- and the accuser was much shorter than the
9 defendant, correct?

10 A. Yes.

11 Q. Okay. Okay. Was the accuser's height below the chest
12 level of the defendant?

13 A. Yes.

14 Q. Okay. So, in that case, based on your observations,
15 the accuser could not have been standing beside the
16 defendant in the water because her head would be under
17 water.

18 Is that correct?

19 SOLICITOR JOHNS: Your Honor, I object. It calls for
20 speculation.

21 THE COURT: You're gonna have to rephrase your
22 question. I'll allow you to rephrase your question. You
23 were calling for some sort of conclusion -- try, try asking
24 the question again, Mr. Jones.

25 MR. JONES: Okay. Okay.

1 Mr. Geddings, if -- oh, no. If -- we've established
2 that you said that the accuser was much shorter, below chest
3 level, and the water on the defendant was above chest level.

4 Is that correct?

5 A. Below chest or, or, or what --.

6 Q. What -- I'll ask again.

7 Was the water of the defendant above chest level?

8 A. Yes.

9 Q. Okay. And the defendant was short -- I mean the
10 accuser was shorter than the defendant's chest.

11 Is that correct?

12 A. Yes. Yes.

13 MR. JONES: All right. No further questions.

14 THE COURT: All right. The witness is excused.

15 All right.

16 THE BAILIFF: You can step down. Watch your step.

17 THE COURT: All right.

18 (WHEREUPON, a bench conference was held out of the
19 hearing of the jury at this time.)

20 THE COURT: All right. Ladies and gentlemen, we'll go
21 ahead and break at this point for the day. I would like to
22 start tomorrow at 9:30. I would like you to be in your jury
23 room just before 9:30 and I know y'all spent a lot of time
24 waiting today. I think you'll spend a lot more time there
25 tomorrow.

1 So, just prepare yourselves. Get some rest tonight.
2 You know, we'll take breaks throughout the day. But we may
3 work, put you on notice, we may work, you know, a little
4 past 5:00 tomorrow just because of where the witnesses are.
5 We just want to try to push forward for the full day
6 tomorrow, Wednesday.

7 Okay. When you, when you leave, please don't discuss
8 the case. Please don't discuss the case with your family
9 members. Please don't do any independent research on the
10 case. But I'd like you in your jury room all present at
11 9:30 tomorrow morning so we can start shortly thereafter.

12 All right. Have a nice evening.

13 (WHEREUPON, the following takes place outside the
14 presence of the jury.)

15 THE COURT: All right. We will reconvene tomorrow in
16 here. Hopefully -- I mean please have the technology set up
17 before 9:00AM.

18 All right. I'll be here early.

19 SOLICITOR JOHNS: Yes, sir.

20 THE COURT: So just let's make sure that we're -- give
21 the doctor a head's up. We're gonna establish
22 communications with her before the start time and make sure
23 we're all set, ensure that she's -- you've sent her that
24 video. That way we don't have to play it twice tomorrow.

25 As soon -- if it -- you know, assuming it meets the

1 requirements, but, if it doesn't, then we won't have to
2 worry about it. But if it does, then we don't want to play
3 it twice if we can help it and, in theory, won't -- that,
4 that controls the trial. But I suggest that be our first
5 witness just in light of her other trial commitments out
6 there. So --.

7 SOLICITOR JOHNS: Yes, Your Honor. Just so we can
8 update the Court on those issues, she's already been sent a
9 link. It's the new link for tomorrow morning and she's --
10 the, the track -- the, the video she's, she's got in her
11 possession through track means (phonetic), along with her
12 report. So all that's taken care of. We'll be here early.
13 We'll---

14 THE COURT: Yeah.

15 SOLICITOR JOHNS: ---have the Smart Board already
16 hooked up and ready to go at 9:00.

17 THE COURT: Sheriff?

18 Sheriff, sheriff, I'd like him here at 9:30, excuse me,
19 8:30 like in, in the building.

20 And, Mr. Jones, you still have all the stuff that
21 you -- you, you gave me copies of stuff today. I just want
22 to make sure that wasn't---

23 MR. JONES: Yes, sir, I have my own copy.

24 THE COURT: All right.

25 MR. JONES: Thank you.

1 wednesday, July 13th, 2022

2

3 THE COURT: Good morning. Please be seated.

4 Okay. All right. We've got a, a setup here of the,
5 the video board TV and I think we're ready to proceed with
6 this in camera hearing.

7 Is that right, Madam Solicitor?

8 SOLICITOR JOHNS: Yes, Your Honor.

9 THE COURT: Mr. Jones, I think we're about ready to
10 proceed with this in camera hearing.

11 MR. JONES: Yes, Your Honor.

12 THE COURT: Okay. What I wanted to make sure we were
13 clear on is we all watched the video yesterday with the
14 other witness, and, Doctor Foster, can you hear me?

15 DOCTOR FOSTER: Yes, sir.

16 THE COURT: Were you able to watch the, the video, the,
17 the interview before this morning?

18 DOCTOR FOSTER: Yes, sir.

19 THE COURT: Okay. So, you've -- it's fresh in your
20 mind.

21 What I was gonna do is have the State ask you questions
22 and then, when we would ordinarily play the video, probably
23 just let the defendant ask you any questions he wishes to
24 ask you on cross-examination and kind of -- I just didn't
25 see the need of watching the 40 minute video again. I just

1 want to make sure that you're comfortable with that and the
2 State is comfortable with that.

3 DOCTOR FOSTER: Yes, sir.

4 THE COURT: Okay. All right. And, Mr. Jones, and
5 you're okay with that plan too is my understanding?

6 MR. JONES: Yes, Your Honor.

7 THE COURT: All right. Well then we can call your next
8 witness, Madam Solicitor.

9 THE CLERK: We need to swear her.

10 THE COURT: Yeah, let's put her under oath.

11 THE CLERK: Please raise your right-hand.

12 ALLISON FOSTER, being first duly
13 sworn, testified as follows:

14 THE CLERK: Thank you. Please state your name for the
15 record.

16 DIRECT EXAMINATION

17 BY SOLICITOR JOHNS:

18 Q. Please state your full name for the record.

19 A. Allison Marie Foster. F-O-S-T-E-R.

20 Q. Good morning, Doctor Foster.

21 A. Good morning.

22 Q. Doctor Foster, can you tell us a little bit about your
23 involvement with the case of MINOR [REDACTED]?

24 A. Yes, I was the forensic interviewer.

25 Q. Okay. And what was your role in regards to this

1 particular case other than it's -- give us some more
2 information about how you got the case.

3 A. Sure. So, I'm employed as chief psychologist at the
4 Metropolitan Children's Advocacy Center. And so I happened
5 to be on the schedule for the date that MINOR came in.
6 We're just on a rotation. So it just happened to fall on my
7 morning and I had an intake to review prior to the --
8 conducting the interview. The information on that intake is
9 provided by law enforcement in this case. So that was
10 Investigator Chris Odom.

11 So I reviewed the general facts of what the suspicion
12 was and that's ordinary for us and then that's it. So I
13 reviewed that and also we would have -- I would of received
14 a caregiver questionnaire that just gives some basic
15 demographics about the child --

16 Q. Yes.

17 A. -- like her age, her grade in school, any concerns that
18 the parent might have. And so then with that information I
19 go and introduce myself to the child. That's what I did
20 with MINOR and brought her back to the interview room and
21 conducted the forensic interview with Investigator Odom in a
22 observation room where she could watch it in real time and I
23 could take a break at an appropriate time and consult with
24 her, see if they're any other followup questions to ask.

25 In this case, there was a photo lineup to, to conduct

1 and then close the interview and accompany MINOR to the next
2 step of her morning, which was, was her physical exam.

3 Q. Okay. And do you have a date as to when the interview
4 was conducted?

5 A. I don't have the document in front of me but it was the
6 end of July, 2019.

7 Q. Okay.

8 A. Maybe it was July 30th but, but I might be off by a
9 day.

10 Q. Okay. And do you remember or can you tell us that --
11 you stated earlier that this was -- the interview was audio
12 and video recorded?

13 A. Yes, it was.

14 Q. Okay. Can you tell me what will qualify you as a
15 forensic interviewer?

16 A. Sure. So, to be a forensic interviewer, so you have to
17 be -- you have to have received some specific training. You
18 do not have to have a particular professional degree. It's
19 more about the training and employment.

20 So, in my case, I happened to be a clinical
21 psychologist. I work at a Children's Advocacy Center, which
22 qualifies me in terms of employment to be a forensic
23 interviewer, and then the minimum expectation is a five day,
24 40 hour training course in forensic interviewing.

25 I had my first of those types of academy trainings in

1 the late 1990s. I have continued to receive continuing
2 education. I've attended several child forensic interview
3 training courses included events, courses, and I'm on the
4 faculty for our statewide child forensic interview training
5 course that's called Child First.

6 So, I have training in all of the specific areas that
7 are required. That in -- that includes child development,
8 linguistics, memory and suggestibility, dynamics in child
9 sexual abuse, following an evidence, informed protocol, and,
10 and the like.

11 Q. Okay. Can you give us a, a little bit of information
12 about how such inter -- interview is conducted with regard
13 to what you were allowed to ask and what you are not allowed
14 to do?

15 A. Sure. So we followed protocol which is a
16 semi-structured approach. It includes four phases.
17 There's -- the first phase is the rapport building phase.
18 They're quite a few particular steps and techniques that are
19 involved in the rapport building phase. Then there's a
20 transition face. Then there's the gathering of substantive
21 information, which we call report explanation phase, and
22 then there's a closure phase.

23 Q. Okay.

24 A. And I can tell you more about each of those as you
25 wish.

1 Q. Okay. What did you do at the recording of the
2 interview?

3 A. With the recording?

4 Q. Yes, ma'am.

5 A. I dub the recording onto a DVD to be saved at the
6 Children's Advocacy Center and we provided a second copy of
7 the very same forensic interview on a DVD to the
8 investigator.

9 Q. Okay. And have you had an opportunity to review the
10 video since 2019?

11 A. Yes, I have. I reviewed it yesterday evening.

12 Q. Okay. And in that video that you reviewed, was there
13 any questions regarding veracity or truth telling in that
14 video?

15 A. In the version I watched last night, it appeared to be
16 redacted.

17 Q. Okay.

18 A. So it's not present in the current video.

19 Q. I have what's been previously marked as State's Exhibit
20 No. 18.

21 A. Yes, I see it.

22 Q. Okay. And did you receive a copy of this to review
23 yesterday---

24 A. Yes.

25 Q. ---and last night?

1 A. Yes, ma'am, I did.

2 Q. Okay. Did it appear to be altered, other than the
3 redaction of voracity, any other way?

4 Okay.

5 A. No, ma'am.

6 Q. All right. And with regard to the lineup of what you
7 had with you, I'm gonna show you what's been marked as
8 State's Exhibit No. 21 for ID.

9 Do you recognize this?

10 How do you---

11 A. Yes, I do.

12 Q. How do you recognize that?

13 A. I recognize the initials on the bottom left corner. I
14 was present when those initials were placed on the, on the
15 document, on the photo array. And I also recall the photo
16 array been handed to me that morning. I brought it into the
17 interview room and introduced it in the interview.

18 Q. Okay. Did, did anybody in any way inform you whether
19 or not the suspect was in this lineup?

20 A. I was not told.

21 Q. Okay. And did you ask the child to attempt to identify
22 the suspect in her crime?

23 A. Yes, I did.

24 Q. Okay. And how did she identify him?

25 A. She was given the opportunity to look at those six

1 pictures as well as given instructions that she was free to
2 say he's not there, I can't say, which is a technique that
3 I'm trained in for children in identifying a photo. So with
4 that instruction, she was given the opportunity to look and
5 then she selected the photograph. And then I asked her to
6 initial -- place her initials there to document her
7 selection.

8 Q. Okay. Thank you.

9 Your Honor, at this time the State would offer State's
10 Exhibit No. 21 into evidence.

11 THE COURT: For the purpose of this hearing?

12 SOLICITOR JOHNS: No, Your Honor. We did that---

13 THE COURT: Oh.

14 SOLICITOR JOHNS: Oh.

15 THE COURT: Well, this is the in camera still.

16 SOLICITOR JOHNS: Okay. Let me, let me -- State's.
17 Exhibit No. 11, I'm sorry, for the purposes of this hearing.
18 The -- State's Exhibit No. 11 has already been entered.

19 THE COURT: Thank you.

20 Q. And she was able to pick out the suspect.

21 What number is that?

22 A. I believe it's Number 4. It's the bottom left section
23 where her initials are.

24 Q. Okay. I show you now what's been marked for
25 identification State's Exhibit No. 15.

1 A. Yes, ma'am, I see that. Thank you.

2 Q. Could you tell us what this is?

3 A. Yes. That is what we call an anatomical diagram or a
4 human figure diagram that -- it was created about nearly 20
5 years ago I believe and we use it. We have a, a set of
6 anatomical diagrams for the purpose of introducing to
7 children so that they can provide for us their language for
8 body parts.

9 Q. Okay. And did you use this diagram to assist in the
10 interview of MINOR [REDACTED]?

11 A. Yes, I did.

12 Q. And did you find this helpful to her?

13 A. Oh yes.

14 SOLICITOR JOHNS: Okay. Your Honor, the State moves
15 State's Exhibit No. 15 into evidence.

16 THE COURT: Without objection?

17 MR. JONES: No objections.

18 THE COURT: All right. So admitted.

19 (WHEREUPON, State's Exhibit No. 15 was received into
20 evidence for purposes of this hearing only at this time.)

21 SOLICITOR JOHNS: Beg the Court's indulgence.

22 (Pause.)

23 SOLICITOR JOHNS: Thank you, Doctor Foster. I have no
24 further questions for you at this time.

25 THE COURT: Okay. Mr. Jones.

1 MR. JONES: Yes.

2 THE COURT: Doctor Foster, Mr. Jones will have the
3 opportunity to ask you some questions now on cross.

4 CROSS-EXAMINATION

5 BY MR. JONES:

6 Q. Hello, Doctor Foster.

7 Can you hear me?

8 A. Hello. Yes, sir, I can and please let me know if
9 there's any problem hearing me.

10 Q. No, we're fine on my end. Thank you.

11 All right. Just a few questions I'd like to ask.

12 First of all, despite training to avoid it, do
13 interviewers still sometimes use suggestive or leading
14 words, tones, or gestures even if only by accident?

15 A. Yes, that can happen.

16 Q. Okay. Okay. And how long after the alleged incident
17 was the interview conducted?

18 A. I don't know precisely. I can tell you that, having
19 reviewed the intake, it appears that it was referred to our
20 center at the end of June of 2019 and I did not conduct the
21 interview until the end of July, 2019.

22 Q. Okay. Okay. So about a month ago.

23 All right. Were you able to absolutely control outside
24 influences during that time gap regarding the---

25 A. No.

1 Q. Did the accuser mention any reference to this issue
2 with her peers in the interview?

3 A. Reference to this issue with her peers?

4 I'm not sure I know what you're asking. I don't recall
5 any reference that she made to talking to peers.

6 Q. Okay. So, so you do not remember her -- let's see.

7 Peers. Peers.

8 Her -- do you not remember her saying that her sister
9 asked about it, guessed about it?

10 A. Her sister, Z.R.?

11 Q. Yes.

12 A. I do recall her talking about her sister Z.R. But I
13 think when you're asking about peers, I was thinking of like
14 friends. But, yes, she talked about Z.R.

15 Q. Okay. Okay. And do you remember her saying that Z.R.
16 was trying to talk to her brother?

17 I believe his name is C.R. I don't know if that
18 information is correct.

19 A. Yes.

20 Q. Okay. So you do remember that?

21 A. Yes, sir, I do.

22 Q. All right. All right. Okay. All right. Another
23 thing.

24 Did you notice any contradictions within the testimony?

25 A. I noticed that I explored at some length where Z.R. was

1 during conversation with MINOR and her mother and then
2 whether Z.R. was present in the car when it sounded like
3 there was a phonecall from mother to father.

4 Q. Okay.

5 A. I think I was just trying to explore how Z.R. -- what --
6 how Z.R. learned of the allegation and her presence. And so
7 I'm not sure if I recall that contradiction per se. But I
8 do recall kind of going over that in some detail because it
9 seemed like, on the one hand, she said Z.R. wasn't present
10 and, on the other hand, it seemed like Z.R. was present.

11 Q. Okay. Do you remember any other contradictions about
12 specifically the accusation of being touched or anything
13 happening inappropriate?

14 A. No, I don't recall anything that I would term a
15 contradiction. But you're welcome to point me to anything
16 that, that you've specified.

17 Q. Okay. So, do you remember asking early in the
18 interview did something happen that people are worried about
19 and her responding no?

20 A. Yes, I do recall that.

21 Q. Okay. And then later did you -- do you remember asking
22 did something happen with that guy and then she responded
23 yes?

24 A. Yes.

25 Q. Okay. And do you understand how this could be

1 interpreted as a contradiction?

2 A. Yes. However, in my field, we're accustomed to using
3 multiple friendly rather vague cues for children.

4 Q. Uh-huh.

5 A. And so it's not uncommon that the first cue is
6 insufficient. For example, the first cue in this interview
7 was just getting her talking about them being at the river.

8 Q. Right.

9 A. So sometimes it takes more than one invitation before a
10 child recognizes the specific topic that the interviewer is
11 seeking more information on.

12 Q. And just for clarification, with that first cue, you
13 did mention peep -- something that people are worried about,
14 so necessarily a problem, correct?

15 A. Correct. Because we don't just interview children
16 randomly. Children are referred for our Children's Advocacy
17 Center because there's a law enforcement incident and
18 there's a specific allegation.

19 Q. Right.

20 And that was the question she responded no to
21 initially, right?

22 A. I -- sorry.

23 On which question?

24 Q. Did something happen that people are worried about.

25 A. Right. Correct.

1 Q. All right. Thank you. Thank you.

2 Do you remember her first telling you that she felt
3 something over her bathing suit and also nothing inside her
4 bathing suit but then later, after you asked did the suit
5 move, she changed her answer?

6 A. Yes.

7 Q. Okay. Okay. And do you understand how that could be
8 interpreted as a contradiction?

9 A. Yes. And that would be for the jury to determine.

10 Q. Fair enough. Fair enough.

11 All right. All right. I believe that's all the
12 contradictions.

13 Did you use any leading questions to your knowledge?

14 A. I heard -- I didn't write it down. She answered what
15 did you -- but I heard at least one question that I, I don't
16 think really it was about anything substantive. But I
17 believe I heard at least one leading question.

18 Q. And what was that question?

19 A. I don't recall it.

20 Q. Okay. Right, right, you did say.

21 well, the first one I can ask is when we -- there's
22 actually two we just discussed.

23 When you said did something happen with that guy, do
24 you interpret -- do you understand how this could be
25 interpreted as leading?

1 A. It -- technically, sir, that's not a leading question.
2 That's a yes/no question.

3 Q. Okay.

4 A. And it is incredibly broad. So, no, it's not leading.
5 It doesn't point to anything criminal specifically.

6 Q. Okay. And the question did the suit move, same
7 questions.

8 A. Yes/no question, right.

9 Q. Okay.

10 A. So that's not classified as a leading or suggestive
11 question.

12 Q. And you asking did it hurt, same opinion?

13 A. Same, same assertion.

14 Q. Yes.

15 A. It's a yes/no question.

16 Q. Correct.

17 A. It can be answered yes or no.

18 Q. Okay. Okay.

19 A. And, in fact, she did say no, I believe, to that
20 question.

21 Q. Okay. Okay. Did you use an accusation a tort --
22 accusatory tone at all at any point?

23 A. No -- in my opinion, no, I had reviewed my video and am
24 satisfied with my tone.

25 Q. Oh, okay. Okay. Did you give negative reinforcement

1 to exculpatory statements by ignoring them and questioning
2 accuser in a way opposed to those statements?

3 A. I do not believe I did. I mean I invited her to tell
4 me if anyone else had ever done anything inappropriate and I
5 pursued any line of statement or -- that the child provided.

6 Q. Okay. Okay. Fair enough. Fair enough.

7 And did you give any positive reinforcement to
8 inculpatory statements such as nodding or otherwise
9 expressing agreements at various points throughout?

10 A. Yes, I do tend to nod---

11 Q. Uh-huh.

12 A. ---and I nod pretty formally throughout an interview as
13 I provide reflective statements and I nodded and, and
14 connected myself consistently whether she was saying that
15 the man was nice or whether she was saying that something
16 happened.

17 Q. Okay. Okay. And did you probe into the outlandish
18 nature of the claim regarding height difference between the
19 accuser and the defendant?

20 A. I have no recollection of anything outlandish in the
21 interview. And so I'm not sure what you're speaking of.

22 Q. Okay. Okay. So, you do not believe that the portion
23 of the claim regarding height difference is outlandish?

24 You do not believe it is outlandish?

25 A. I'm sorry.

1 Can you point me to where in the interview and what
2 statement in the interview you're referring to?

3 Q. Certainly. Certainly. At one point the accuser
4 mentioned that she was standing up with water up to her
5 chest, and I was standing up, at another portion, at a --
6 just after it, that I was standing up with water up to my
7 chest and you, you don't believe that's outlandish that---

8 A. No, I, I -- on its face I can certainly understand the
9 interpretation of the jury is that you're both standing on
10 your feet at the same point in water, and if that's the way
11 it comes across, the jury can evaluate that --

12 Q. Okay.

13 A. -- cause that's not my job. But my recollection of
14 that portion of the interview, I just don't recall it being
15 implausible and outlandish and I think there are alternative
16 hypotheses that it might generate as far as how, how
17 something could be -- how, how two people, people could be
18 in the water at the same moment in time and have the water
19 covering them to the same degree.

20 Q. All right. And did you probe into the nature of the
21 claim regarding family members being present at the time?

22 A. I believe that -- yes, I believe I did explore that.

23 Q. Okay. Okay. And did you -- oh, sorry.

24 Did the accuser express any anger or outright fear
25 towards the defendant?

1 A. I would say no.

2 Q. Okay. Did the accuser have a positive opinion of the,
3 the defendant?

4 I believe you already mentioned --.

5 A. Yes, I believe the mother -- what she reported to me
6 was along the lines of the mother asked her if she thought
7 you were nice I believe was the word. Like -- yeah, I don't
8 have it in front of me.

9 Q. That's what I have on it, yes. Thank you.

10 And did you address the unlikeliness of such a hap --
11 such a thing happening in a public location?

12 A. In, in my 28 years of experience, sir, there was no
13 reason for me to, to consider it unlikely.

14 Q. Okay. Okay. Did -- okay. That's -- that cover that.

15 To your knowledge, was the accusation corroborated in
16 any way?

17 A. So, you will recall I interviewed the sister as well.

18 Q. Yes.

19 A. That's outside of this interview. So, I don't know if
20 it's relevant for me to speak of that here.

21 MR. JONES: Any, any objection from the --?

22 THE COURT: What's the question?

23 MR. JONES: To her knowledge, was the accusation
24 corroborated in any way.

25 THE COURT: Well, I think that if that's not involved

1 in the interview, I think the---

2 MR. JONES: Okay. And we'll---

3 THE COURT: ---her job is to --.

4 MR. JONES: We'll pass over that one.

5 THE COURT: Okay.

6 Q. So that also takes care of the next question as well

7 and the one after that.

8 All right. Final question and thank you for your time.

9 Do -- did you consider the accuser to be a victim of a
10 crime when starting the interview?

11 A. No.

12 Q. Okay. Okay. Fair enough and thank you for your time.

13 THE COURT: Just, just a moment. Just let me have a
14 moment.

15 (Pause.)

16 THE COURT: Madam Solicitor.

17 Just one moment, doctor.

18 (WHEREUPON, a bench conference was held at this time.)

19 THE COURT: All right. Doctor Foster, I'm gonna let
20 the defendant here ask that question again as far as a
21 separate interview with a separate -- with the sister and
22 just to the fact of, of -- we use the word---

23 THE WITNESS: Yes, sir.

24 THE COURT: ---corroboration. But I would limit it to
25 just what happened to the sister, if anything, or what the

1 sister saw, if anything.

2 Q. So, just to be clear now, in your inter -- interviews
3 and -- were you aware of the -- sorry, sorry, sorry. Gonna
4 change things here.

5 Did the older sister witness any inappropriate touching
6 as described by the younger sister?

7 A. If, if that is your question, the answer is no.

8 Q. Okay. That's all.

9 Thank you for your time. No further questions.

10 THE COURT: All right. Any redirect, Madam---

11 SOLICITOR JOHNS: No, Your Honor.

12 THE COURT: Oh.

13 SOLICITOR JOHNS: No, Your Honor.

14 THE COURT: All right. So no redirect. But the
15 witness is excused for the purpose of this hearing. But
16 we're gonna probably go right back into the next stage here
17 very shortly.

18 All right.

19 (Pause.)

20 THE COURT: Madam Solicitor.

21 SOLICITOR JOHNS: Thank you, Your Honor.

22 Your Honor, at this time we would ask that the Court
23 admit the out-of-court statement made by the child. Under
24 the statute, Your Honor, it's the State's contention that
25 this testimony is permissible, that the doctor is qualified,

1 and that she can certainly present this witness -- we can
2 present this video to the jury under the limited purpose of
3 her using the, the video to establish that the child was
4 young at the time and permissible by statute.

5 THE COURT: Okay. Mr. Jones.

6 MR. JONES: Yes, Your Honor.

7 THE COURT: Just any response to the State?

8 MR. JONES: In light of the interviewer's sworn
9 testimony, and considerations as set forth by State Supreme
10 Court, the defense contends that the statement certainly
11 lacks the required particularized guarantees of
12 trustworthiness and contains unreliable, contradictory
13 statements elicited by at least one leading question
14 admitted by the interviewer and other objectionable
15 behaviors that are not allowed by a questioner before the
16 jury.

17 THE COURT: Okay. I think the totality of the factors
18 here, I -- the, the, the, the doctor here is -- has
19 qualifications appropriate and elicited the, the, the
20 procedures she used in conducting the interviews. I
21 believe -- I don't believe the interview was overly leading.
22 If there was one leading question, it was still a 35 minute
23 or so video or interview. But I don't think that was a --
24 it crossed the line as far as the -- trying to, you know,
25 lead someone down a particular path of responses.

1 Overall, I do think the interview itself, based on the
2 qualifications, the methods used, do contain the
3 particularized guarantee of trustworthiness that makes it
4 admissible for the jury to ultimately decide whether they
5 believe -- what evidence -- what weight they give to the
6 evidence is up to them. But I think it's appropriate for it
7 to go to the jury and for them to weigh.

8 So, the, the -- I find it's admissible.

9 Okay. For the purpose of the jury, we'll turn the
10 television and we'll, we'll play a split screen. I -- we'll
11 probably do what we do now except it will just be playing
12 the interview.

13 We'll move the television so, Mr. Jones, you can sort
14 of sit in this general vicinity so you can see---

15 MR. JONES: Okay.

16 THE COURT: ---what the jury is seeing.

17 MR. JONES: One more thing before the jury.

18 Also in light of the interviewer's sworn testimony, the
19 defense contends that the same considerations provided by
20 the defendants to this Court must now be used to assess the
21 personal knowledge specifically and the competency of the
22 child witness as a predicate to the admission of her in
23 court testimony as insisted on, on by Supreme Court in New
24 Jersey versus Margaret Kelly Michaels with similar opinions
25 held by this state In Re: Robert M.

1 MR. SUTHERLAND: Judge, they're, they're bringing a
2 security issue to, to my attention, and just -- if you --
3 can we tell the Court for --?

4 THE COURT: All right.

5 (WHEREUPON, a bench conference was held at this time.)

6 THE COURT: All right. Are we ready to bring the jury
7 in essentially?

8 SOLICITOR JOHNS: The State's ready, Your Honor.

9 THE COURT: All right.

10 MR. JONES: Defense is ready.

11 THE COURT: Okay. We're gonna -- we're about to bring
12 the jury back in. There's gonna be video testimony
13 presented to the jury. I don't want to have any
14 distractions for them while we want them watching this
15 video.

16 So, if you're in your seat, please stay in your seat.
17 Don't, don't have any conversations that anyone can hear.
18 Please don't move about the courtroom. If you feel like
19 you're gonna need to move about, you can excuse yourself
20 now. But I've asked the Sheriff's Department to just keep
21 movement to a minimum inside this courtroom while we have
22 the jury inside the courtroom.

23 One last thing I'm -- I want to get clarified now.
24 We've done the in camera hearing.

25 Your -- and, Doctor Foster, can you hear me?

1 DOCTOR FOSTER: Yes, Your Honor. I, I can.

2 THE COURT: And, and I'm sure you know this but I'm
3 gonna tell you anyway.

4 So obviously we've been through the in, in camera
5 hearing and the State's foundational questions are very
6 short and, and your answers are really only to go to the
7 point that an interview was conducted, you conducted it, and
8 this is when it happened essentially. That -- we need to be
9 very mindful of not giving any testimony that could be even
10 mildly inferred as improper bolstering or any sort of -- any
11 testimony about the process. That's not what we're here
12 for. We just had that testimony.

13 So this should -- your questions should be very short
14 and, Mr. Jones, you know, your cross-examination was, was
15 thorough on your pretrial hearing. Here there's really not
16 much more to go into and---

17 MR. JONES: That's understood by defense, Your Honor.

18 THE COURT: Okay. If we -- as long as we understand
19 that. I don't want you to inadvertently --

20 MR. JONES: Right.

21 THE COURT: -- do something that that will -- I think
22 we had a, a, a good enough conversation about it. But just
23 we're on the same page.

24 And, Doctor Foster, I think you understand what I'm
25 telling you too so?

1 DOCTOR FOSTER: Yes, sir.

2 THE COURT: All right. Anything else?

3 SOLICITOR JOHNS: No, Your Honor.

4 THE COURT: I'm gonna take two minutes too. We'll take
5 sixty seconds. I'm gonna take one minute.

6 (WHEREUPON, a short recess was taken at this time.)

7 THE COURT: All right. Thank you.

8 All right.

9 MR. JONES: Your Honor, I ad -- advised him to renew
10 as -- just as soon as they call the witness, to get it out
11 of the way, to renew his previous objections. Just said---

12 THE COURT: Okay. And that will simply be done by
13 saying the defendant would renew its previous objections and
14 that's it.

15 MR. JONES: Yes, sir.

16 THE COURT: All right.

17 MR. SUTHERLAND: Yes, sir.

18 MR. JONES: All right. Let's bring in the jury please.

19 THE BAILIFF: Yes, Your Honor.

20 (WHEREUPON, the following takes place within the
21 presence of the jury.)

22 THE BAILIFF: The jury has been seated, Your Honor.

23 THE COURT: Thank you.

24 All right. Ladies and gentlemen of the jury, welcome
25 back. Hope y'all had a nice evening. We're gonna continue

1 on with the next witness in the State's case in chief and
2 I'll just go ahead and say this will be a little bit
3 different than you might be accustomed to.

4 We're gonna have a, a witness appear via video cause
5 that was just really the only way to have the witness here
6 was by video.

7 So, the State may call their next witness.

8 SOLICITOR JOHNS: Thank you, Your Honor.

9 Your Honor, the State -- the State calls Doctor Allison
10 Foster.

11 THE CLERK: Please raise your right-hand.

12 ALLISON FOSTER, being first duly
13 sworn, testified as follows:

14 THE CLERK: Thank you. State your full name for the
15 record.

16 THE WITNESS: Allison Marie Foster. F-O-S-T-E-R.

17 THE COURT: Okay. Madam Solicitor.

18 MR. JONES: Your Honor, the defense would like to renew
19 its previous objections.

20 THE COURT: So noted. Overruled.

21 DIRECT EXAMINATION

22 BY SOLICITOR JOHNS:

23 Q. Good morning, Doctor Foster.

24 A. Good morning.

25 Q. Doctor Foster, where are you employed?

1 A. I am employed at the Metropolitan Children's Advocacy
2 Center in Columbia.

3 Q. Are you familiar with a child by the name of MINOR
4 [REDACTED]?

5 A. Yes, I am.

6 Q. Did you have an opportunity to interview her?

7 A. Yes, I did.

8 Q. Can you tell me when you interviewed her?

9 A. Yes, on July 30th, 2019.

10 Q. Okay. Did you make any personal observations regarding
11 the child's behavior?

12 MR. JONES: Objection. Not relevant to the time and
13 place.

14 SOLICITOR JOHNS: Withdrawn.

15 THE COURT: Okay. Thank you.

16 Q. Did you provide a -- did you provide a recording with
17 regard to the interview?

18 A. You asked if I provided a recording?

19 Q. Yes, ma'am.

20 A. Yes, I did.

21 Q. Thank you. I have nothing further.

22 THE COURT: Well -- and, and you're gonna play the
23 video at this time, Madam Solicitor?

24 SOLICITOR JOHNS: We can, Your Honor, yes.

25 Your Honor, did you want to have the examination of

1 Doctor Foster done first or do you want to do---

2 THE COURT: No, no. Well, if that's -- I -- you've --
3 I want you to lay the foundation for the video and then play
4 it.

5 SOLICITOR JOHNS: All right.

6 Doctor Foster, did you -- I asked you already if you
7 had any recording of the interview and did you---

8 A. Yes.

9 Q. Did you provide the interview to law enforcement in
10 this case?

11 A. Yes, I provided it to Investigator Chris Odom.

12 Q. Okay. And did you have an opportunity to review that
13 video?

14 A. Yes, I did.

15 Q. And that's been marked as State's Exhibits -- beg the
16 Court's indulgence, Your Honor.

17 (Pause.)

18 THE COURT: Do, do we need a moment?

19 SOLICITOR JOHNS: Oh. Yes, Your Honor. I need to find
20 the --.

21 THE COURT: All right. While, while we're getting our
22 technology clarified here, let's wait in the jury room.
23 I'll get you right back out. Thank you.

24 Please don't discuss the case.

25 (WHEREUPON, the following takes place outside the

1 presence of the jury.)

2 MR. JONES: Your Honor?

3 THE COURT: Sir?

4 MR. JONES: Just for clarification, is---

5 THE COURT: Yeah.

6 MR. JONES: ---that the redact -- are we sure that's
7 the reacted version?

8 THE COURT: I, I asked the very same question.

9 Let's -- I want to know. Sometimes we have a lot of CDs
10 floating around.

11 MR. JONES: Right.

12 THE COURT: I want to avoid a mistake.

13 THE COURT REPORTER: Okay. State's 25 for ID.

14 THE COURT: And State's 25 for ID is what?

15 SOLICITOR JOHNS: The forensic interview. The
16 interview.

17 THE COURT: Okay. The one you held up this morning?

18 SOLICITOR JOHNS: Yes, Your Honor.

19 THE COURT: Okay. You know, I -- we're sure that it's
20 the right one?

21 SOLICITOR JOHNS: Yes, Your Honor.

22 THE COURT: Cause if we play the wrong one --.

23 SOLICITOR JOHNS: We only have two --.

24 THE COURT: Y'all know where the redactions were.
25 why don't you fast forward to the section and make

1 sure?

2 (Pause.)

3 SOLICITOR JOHNS: We checked that yesterday. We put
4 this on the record.

5 THE COURT: Okay. All right. Fair enough.

6 SOLICITOR JOHNS: All right.

7 THE COURT: Fair enough.

8 SOLICITOR JOHNS: All right.

9 (WHEREUPON, a bench conference was held out of the
10 hearing of the jury at this time.)

11 THE COURT: We about there?

12 SOLICITOR JOHNS: We're ready.

13 THE COURT: Oh, I'm sorry.

14 All right. Let's bring them back in please.

15 THE BAILIFF: Yes, Your Honor.

16 THE COURT: Thank you.

17 (WHEREUPON, the following takes place within the
18 presence of the jury.)

19 THE BAILIFF: The jury has been seated, Your Honor.

20 THE COURT: All right. Thank you. We're ready to
21 proceed with the video?

22 SOLICITOR JOHNS: Yes, Your Honor.

23 THE COURT: All right. Ladies and gentlemen, the video
24 will now be presented to you. Just please pay attention to
25 it.

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1 It's how long?

2 SOLICITOR JOHNS: It's about 35 minutes.

3 THE COURT: Okay. So, hopefully everyone's good to go.
4 If something comes up, you need a break, please let me know.
5 But let's try to get through this.

6 All right. Thank you.

7 (WHEREUPON, a portion of State's Exhibit No. 25 was
8 played for the jury at this time.)

9 THE COURT: Do you -- do we want to fast forward a
10 little bit too?

11 We -- Mr. Jones, you okay if we fast forward, fast
12 forward?

13 You can fast forward if you want.

14 Okay. All right. The parties stipulate that you can
15 fast forward a little bit.

16 SOLICITOR JOHNS: Yes.

17 THE COURT: That's fine.

18 MR. JONES: No objection---

19 THE COURT: Thank you.

20 MR. JONES: ---from the defense.

21 THE COURT: Thank you, Mr. Jones.

22 (WHEREUPON, the remaining portion of State's Exhibit
23 No. 25 was played for the jury at this time.)

24 SOLICITOR JOHNS: Your Honor, at this time the State
25 would move Exhibit No. 23 into evidence.

1 THE COURT: Subject to previous objections?

2 MR. JONES: Subject to previous objections.

3 THE COURT: All right. Very well.

4 State's Exhibit 20 what?

5 SOLICITOR JOHNS: Three.

6 THE COURT: 23's admitted in evidence subject to
7 objection.

8 (WHEREUPON, State's Exhibit No. 25 was received into
9 evidence at this time.)

10 SOLICITOR JOHNS: And, Your Honor, that's all the State
11 has for Doctor Foster.

12 THE COURT: All right. Mr. Jones, do you have any
13 questions for Doctor Foster?

14 SOLICITOR JOHNS: 25, I'm sorry.

15 MR. JONES: No, Your Honor.

16 THE COURT: All right. Doctor -- or, excuse me,
17 Mr. Jones has no questions. The witness is excused.

18 Ladies and gentlemen, we're gonna take a -- go ahead
19 and take a short break. I'll get you back out here in a few
20 minutes. Refresh yourselves. Please don't discuss the
21 case.

22 Thank you.

23 We can just hold off one minute with the doctor.

24 (WHEREUPON, the following takes place outside the
25 presence of the jury.)

1 THE COURT: Madam Solicitor, she still there?

2 SOLICITOR JOHNS: No.

3 THE COURT: Okay. It's fine.

4 All right. Let's just take five minutes.

5 MR. SUTHERLAND: Perhaps seven, judge, get me time to
6 get through the --?

7 THE COURT: Mr. Sutherland.

8 Okay. Very well. We'll, we'll take a, a hard -- a
9 seven minute break there.

10 All right.

11 (WHEREUPON, a short recess was taken at this time.)

12 THE COURT: All right. Okay. We were -- I think we're
13 ready to move forward. We're, we're done with the video
14 portion. So, we'll have live witnesses from here on out.

15 Just a reminder to, to everyone in the room, that
16 obviously we have to keep our composure in the courtroom at
17 all times. So, if we need to take a break we can do that.
18 But hopefully we will move forward with these witnesses in
19 an efficient manner.

20 Okay.

21 SOLICITOR JOHNS: Your Honor?

22 THE COURT: You ready?

23 SOLICITOR JOHNS: Yes, I have a, a, a question for the
24 Court with regard to qualifying the child witness. I
25 preferred not to do that. If the Court is satisfied that

1 the child is competent to testify as a witness, I don't need
2 to go through any of that.

3 THE COURT: Yeah, I, I -- that's true because we sort
4 of did it out of --.

5 SOLICITOR JOHNS: Yes.

6 THE COURT: Because we did the video first.

7 SOLICITOR JOHNS: Okay.

8 THE COURT: I've already found her competent. I've,
9 I've -- again, just -- it's, it's on the record. But I mean
10 that -- she told me her age and that she was aware of where
11 she was and the purpose of she was here and was to answer
12 some questions and the only thing that -- is no wrong
13 answers. The only thing we could do wrong is if we don't
14 tell the truth. I think she's fully aware of that and I
15 think you can just lead into basic -- your typical basic
16 background information.

17 SOLICITOR JOHNS: Thank you, Your Honor.

18 THE COURT: All right. Anything else --

19 SOLICITOR JOHNS: State's ready.

20 THE COURT: -- before we bring in the jury?

21 SOLICITOR JOHNS: No, Your Honor. State's ready.

22 THE COURT: All right. Let's bring them back in
23 please.

24 THE BAILIFF: Yes, Your Honor.

25 (WHEREUPON, the following takes place within the

1 presence of the jury.)

2 THE BAILIFF: The jury has been seated, Your Honor.

3 THE COURT: Very well.

4 Okay. Madam Solicitor.

5 SOLICITOR JOHNS: Thank you, Your Honor.

6 Your Honor, the State calls MINOR .

7 THE COURT: Very well.

8 SOLICITOR JOHNS: MINOR, you ready?

9 THE CLERK: Your Honor, did you want to swear her in or
10 do you want me to?

11 THE COURT: I can do it---

12 THE CLERK: Okay.

13 THE COURT: ---as I did it before.

14 THE CLERK: Thank you.

15 THE COURT: That's fine.

16 Good morning.

17 MINOR, being first duly
18 sworn, testified as follows:

19 THE COURT: Very well. Thank you. Please be seated.

20 Actually, yeah. Let's -- the TVs.

21 SOLICITOR JOHNS: Your Honor, I'm gonna ask
22 permission---

23 THE BAILIFF: And you need to speak nice and loud into
24 the microphone.

25 SOLICITOR JOHNS: ---to publish some of the documents

1 or some of the exhibits that we have.

2 would you like for me to move it?

3 THE COURT: I just want to have the defendant to be
4 able to see the witness stand. As long as he can see,
5 that's fine.

6 Can you see, Mr. Jones?

7 MR. JONES: Yes.

8 THE COURT: Very well. Thank you.

9 DIRECT EXAMINATION

10 BY SOLICITOR JOHNS:

11 Q. Good morning.

12 Can you see me?

13 (WHEREUPON, there was no audible response.)

14 Q. Okay. When I ask you a question, the lady sitting next
15 to you has to write everything down.

16 So, when you nod your head, can you also say yes?

17 A. Yes.

18 Q. And when you shake your head, can you say no?

19 A. Yes.

20 Q. Okay. All right. Say your name so that she can write
21 your name down.

22 A. MINOR .

23 Q. Okay. And spell your first name, MINOR?

24 A. MINOR .

25 Q. Okay. Spell your last name.

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1 A. MINOR [REDACTED].

2 Q. And, MINOR [REDACTED], how old are you?

3 A. Ten.

4 Q. Okay. And where do you go to school?

5 A. [REDACTED].

6 Q. Okay. What grade are you in?

7 A. I'm going into fifth grade.

8 Q. You're going into --?

9 A. Fifth grade.

10 Q. Fifth grade.

11 Okay. Do you see your mom in the courtroom today?

12 A. Yes.

13 Q. And where is she?

14 A. Back there.

15 Q. Okay. And is your dad here?

16 A. Yes.

17 Q. And where is he?

18 A. Back there.

19 Q. Okay. Now, are you nervous today?

20 A. Kind of.

21 Q. Okay. Do you remember in the Summer of 2019 how old
22 you were?

23 A. Yes.

24 Q. How old were you?

25 A. Seven.

1 Q. Okay. And do you remember moving from your two story
2 house to your trailer?

3 A. Yes.

4 Q. Okay. And you moved with your mom or dad?

5 A. Mom.

6 Q. Okay. Do you remember swimming in the summer that
7 summer either at a pool or a river?

8 A. Yes.

9 Q. Where?

10 A. At the River walk.

11 Q. Okay. And do you remember who went with you when you
12 were swimming in the River walk?

13 A. Yes.

14 Q. Okay. Who went with you?

15 A. My mom and my sister.

16 Q. Okay. Now, when you were at the River walk swimming,
17 did you meet anybody?

18 A. Yes.

19 Q. Do you -- you remember the name?

20 A. No.

21 Q. Okay. Who did you meet?

22 A. Two men.

23 Q. All right. And do you remember where the men were when
24 you were coming down to the river?

25 A. No.

1 Q. Okay. Do you remember if, if either of these -- well,
2 let me ask you this.

3 Do you remember what the man -- one of the man (sic)
4 looked like?

5 A. No.

6 Q. Okay. Do you remember whether or not he had a friend?

7 A. Yes.

8 Q. Okay. Do you remember what the friend looked like?

9 A. No.

10 Q. Okay. Now, while you were on the river, do you
11 remember playing with these two people?

12 A. I remember playing in the water with them.

13 Q. Okay. And do you remember if something happened to
14 you?

15 A. Yes.

16 Q. Okay. Do you remember meeting a doctor later on that
17 summer to talk to her about what happened?

18 A. No.

19 Q. Okay. Do you remember seeing pictures shown to you?

20 A. No.

21 Q. Let me show you what I'm talking about. Now, I
22 asked -- going to show you something and I ask you if you
23 recognize it.

24 Let the record reflect that I've shown opposing
25 counsel.

1 THE COURT: Very well.

2 Q. I'm gonna show you something and I'm gonna ask if you
3 recognize it.

4 Okay. Do you recognize this?

5 A. No.

6 Q. Okay. Does it have some letters on it?

7 A. Yes.

8 Q. And do you recognize those letters?

9 A. Yes.

10 Q. And how do you recognize those letters?

11 A. They're my initials.

12 Q. They're your initials.

13 (WHEREUPON, there was no audible response.)

14 Q. Okay. Do you remember putting your initials on there?

15 A. No.

16 Q. Okay. Can you tell the jury if your initials are
17 beside a number?

18 A. They are.

19 Q. Okay. And what number are they beside?

20 A. Number 4.

21 Q. Okay. Thank you for that. I'm gonna save this for
22 later.

23 MR. JONES: Objection. Foundation.

24 SOLICITOR JOHNS: I haven't asked to enter it.

25 THE COURT: Is this from a prior question?

1 MR. JONES: The admiss -- admissibility of the --.

2 THE COURT: She hasn't sought---

3 MR. JONES: The---

4 THE COURT: She hasn't sought to admit it.

5 MR. JONES: Oh.

6 THE COURT: Okay.

7 MR. JONES: Apologies.

8 THE COURT: So---

9 MR. JONES: Apologies.

10 THE COURT: ---to the extent, overruled.

11 Q. Now, MINOR, I'm gonna show you something else and ask
12 you if you recognize this.

13 Okay. Do you recognize this blue piece of paper?

14 A. No.

15 Q. No.

16 You don't?

17 A. No.

18 Q. Okay. Now, do you remember playing in the river with
19 some floats?

20 A. Yes.

21 Q. All right. And did the floats look something like
22 this?

23 A. I don't remember.

24 Q. Okay. Was -- do you think the float was bigger or
25 smaller?

1 A. I don't remember.

2 Q. All right. Are you familiar with Goosebumps?

3 A. Yes.

4 Q. Okay. How are you familiar with Goosebumps?

5 A. It's a TV show on Netflix.

6 Q. Okay. Do you remember watching Goosebumps?

7 A. Yes.

8 Q. Do you remember what chapters or what stories you
9 watched?

10 A. Yes.

11 Q. Okay. Can you name some for me?

12 A. There was the Night of the Living Dummy, The Mud
13 Monster I think. That's all I can remember.

14 Q. Okay. And can you tell me more about The Mud Monster?

15 A. I think he lived in like a creek or something.

16 Q. Okay. All right. I want to show you another picture
17 and ask you if you can identify this picture.

18 Let the record reflect that I showed opposing party --

19 THE COURT: Okay.

20 SOLICITOR JOHNS: -- this photograph. This is State's
21 Exhibit for identification No. 6.

22 Let me show you that. You can hold it if you want.

23 Do you recognize that?

24 A. I -- um.

25 Q. Is that a picture of you?

1 A. Yes.

2 Q. Okay. And can you tell me what you're doing in that
3 picture?

4 A. I was covering myself in mud.

5 Q. Okay. And do you know where that picture was?

6 A. At the River walk.

7 Q. Okay. Do you remember whether or not you -- whether or
8 not you had anybody help you put mud on you?

9 A. No.

10 Q. Okay. But is that you in that picture?

11 A. Yes.

12 Q. And how old were you?

13 Do you remember?

14 A. Seven.

15 Q. Seven.

16 Okay. Now I'm gonna show you another picture.

17 Let the record reflect that I've shown State's for ID
18 No. 5 to opposing party.

19 THE COURT: It will.

20 Q. You can hold that if you want.

21 Okay. Do you recognize that picture?

22 A. I recognize me and my sister.

23 Q. Okay. That's you and your sister?

24 (WHEREUPON, there was no audible response.)

25 Q. Okay. And when was that picture taken and what

1 about -- around what time?

2 A. 2019.

3 Q. Okay. And who else is in that picture?

4 A. Two men.

5 Q. Okay. And those two men in that picture, do they
6 appear to be playing with you?

7 A. Yes.

8 Q. Okay. Do you recognize one of the men in the picture?

9 A. Kind of.

10 Q. Okay. Which one do, do you recognize?

11 what's he wearing in the picture?

12 A. A blue shirt.

13 Q. Okay. Was that the man that was at the river that day?

14 A. Yes.

15 Q. Do you see a man in the courtroom today that looks like
16 him?

17 A. No.

18 Q. Okay. Okay. MINOR, I think that's all the questions I
19 have for you.

20 Okay. But you just stay there and the judge is gonna
21 tell you what you can -- when you can get down. It's not
22 right now.

23 okay?

24 THE COURT: All right. Thank you.

25 Mr. Jones, do you have any questions for this witness?

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1 MR. JONES: No, Your Honor.

2 THE COURT: All right. Very well. The witness is
3 excused.

4 SOLICITOR JOHNS: The State -- the State calls Erin
5 Rish.

6 ERIN RISH, being first duly
7 sworn, testified as follows:

8 THE CLERK: Thank you. Please have a seat in the
9 witness stand and state your name for the record.

10 THE BAILIFF: Talk loudly into that microphone.

11 DIRECT EXAMINATION

12 BY SOLICITOR JOHNS:

13 Q. Good morning.

14 A. Good morning.

15 Q. Can you state your full name for the record?

16 A. It's Ronica, R-O-N-I-C-A, Erin, E-R-I-N, Rish.

17 Q. And spell Rish.

18 A. R-I-S-H.

19 Q. Okay. Thank you.

20 Ms. Rish, may I call you Erin?

21 A. Yeah, I go by my middle name.

22 Q. You go by your middle name, Erin?

23 A. Yeah.

24 Q. Okay. Erin, can you just tell us where you're from?

25 A. I'm from Lexington, South Carolina.

1 Q. Okay. And what do you do for work?

2 A. I'm a cosmetologist.

3 Q. Okay. Do you have any educational background other
4 than cosmetology?

5 A. I do. I have a bachelor's of liberal arts from USC and
6 a master's in christian ministry from Liberty University.

7 Q. Okay. Erin, are you married?

8 A. No, I'm, I'm divorced. I'm single.

9 Q. Okay. How many children do you have?

10 A. I have three.

11 Q. And can you tell us the names and ages?

12 A. My oldest is C.R. and he's 15, and then I have Z.R.,
13 who is 13, and MINOR, who is 10.

14 Q. Okay. And is MINOR your youngest?

15 A. Yes, ma'am.

16 Q. Okay. You just said that. I'm sorry. Now, I'm going
17 to take you back to the Summer of 2019.

18 Okay?

19 (WHEREUPON, there was no audible response.)

20 Q. All right. In particular, the day was June the 23rd.

21 Do you remember anything about that day?

22 A. Yes, ma'am.

23 Q. Okay. What did you do that day?

24 A. I can't remember what I did in the beginning of the
25 day.

1 Q. Uh-huh.

2 A. But it was a Sunday and I'm off on Sundays. So, I
3 decided we would do something fun with the girls and I
4 decided that we would go to the River walk and let them swim
5 cause that's an activity that they like to do.

6 Q. Do you remember what route you took?

7 A. Yes. At, at this point in time I lived in Lexington.
8 So we got on the Interstate on I-20 and traveled down, got
9 on 378, and headed towards Columbia, and crossed the Gervais
10 Street bridge.

11 Q. Okay. I'm gonna show you that's State's Exhibit that's
12 been marked for identification No. 1 and ask if you
13 recognize this.

14 Do you recognize that map?

15 A. Yes, ma'am.

16 Q. Okay. And can you tell us what the landmarks are in
17 that map?

18 A. Well, there's the Gervais Street bridge, the Congaree
19 River, EdVenture Children's Museum and there's the area
20 where I parked to go to the river.

21 SOLICITOR JOHNS: Your Honor, I ask that State's
22 Exhibit No. 1 for ID comes in as State's Exhibit 1.

23 THE COURT: Without objection?

24 MR. JONES: No objection, Your Honor.

25 THE COURT: All right. State's Exhibit 1's admitted

1 into evidence.

2 SOLICITOR JOHNS: Thank you, Your Honor.

3 (WHEREUPON, State's Exhibit No. 1 was received into
4 evidence at this time.)

5 SOLICITOR JOHNS: Permission to publish?

6 THE COURT: You may publish.

7 Q. Okay. So you mentioned the Ger -- Gervais Street
8 bridge right here?

9 A. Yes, ma'am.

10 Q. And I'm pointing to the yellow mark with the heading
11 Gervais Street bridge right there and then you have -- you
12 said the EdVenture Children's Museum's here at the top?

13 A. Yes, ma'am.

14 Q. And then you also mentioned the Congaree River right
15 here?

16 A. Uh-huh.

17 Q. Now, does this map show you where the riverbank was
18 that you were on?

19 A. Not clearly.

20 Q. Okay. Now I'm gonna show you what's been previously
21 marked for identification State's Exhibit No. 2 and ask if
22 you can get your bearings on that map.

23 A. Yeah, I can, I can see better on this map.

24 Q. Okay. And does some of the landmarks in that map help
25 you describe to the jury where you were located that day?

1 A. Yes.

2 SOLICITOR JOHNS: Okay. Your Honor, we'd ask that
3 State's Exhibit No. 2 for ID be entered into evidence as
4 State's Exhibit No. 2.

5 THE COURT: Any objection?

6 MR. JONES: Without objection.

7 THE COURT: All right. So State's Exhibit 2's admitted
8 into evidence.

9 SOLICITOR JOHNS: And---

10 THE COURT: You may publish.

11 SOLICITOR JOHNS: Thank you, Your Honor.

12 (WHEREUPON, State's Exhibit No. 2 was received into
13 evidence at this time.)

14 Q. Okay. Can you explain to the jury in reference to
15 Exhibit No. 2 what some of the landmarks that you see in
16 there that will help assist the jury in locating where you
17 were that day?

18 A. So, when I crossed the river, I pulled in -- I turned
19 directly into I believe it's Gist Street.

20 Q. Okay. Now, is Gist Street on this map?

21 A. Yes, it's right there to the right.

22 Q. Okay.

23 A. Right before---

24 Q. You see the red car?

25 A. ---there's a -- buildings.

1 Q. Okay.

2 A. And then we went -- there's a little square area.

3 Q. Okay.

4 A. Just below the red dot or to the left bottom side of
5 the red dot --

6 Q. Okay.

7 A. -- that's where we parked.

8 Q. So, the red dot indicates where, where you pulled in to
9 park?

10 A. Yes.

11 Q. Okay.

12 A. So, we parked along the front side of that square, and
13 then, if you can -- down a little to the right there's a
14 little -- well, you can see there's like a cement, a
15 cement -- I'm guessing it's a cement landing to the right of
16 that red dot in a -- kind of a sandy area --

17 Q. Okay.

18 A. -- below it. That's where we traveled to get to the
19 river.

20 Q. Okay.

21 THE COURT: Madam Solicitor?

22 A. By foot.

23 THE COURT: Briefly, ladies and gentlemen of the jury,
24 I'd like for every -- everyone to just stand up. In your
25 seat, stand up and just move your arms. I'll do it with

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1 you. Just move your arms around a little bit. Get that
2 blood flowing.

3 All right. Thank you. You can have a seat.

4 Q. All right. Erin, I'm gonna show you what's been marked
5 as State's ID No. 3 and ask if you can recognize that map.

6 A. Yes.

7 Q. Okay. What is that?

8 A. It's an enlarged photograph Google maps of the landing
9 and area where we parked and --.

10 Q. Okay. And would that, that map assist you in
11 explaining to the jury where you and your daughter's were at
12 that day?

13 A. Yes, it --.

14 SOLICITOR JOHNS: And, Your Honor, at this time we
15 would ask that State's No. 3 be, be allowed into evidence
16 admitted---

17 THE COURT: Without objection?

18 MR. SUTHERLAND: Without objection.

19 MR. JONES: No objection.

20 THE COURT: All right. Thank you. State's Exhibit 3's
21 admitted into evidence. You may publish.

22 (WHEREUPON, State's Exhibit No. 3 was received into
23 evidence at this time.)

24 Q. All right. Now, you, you see the red dot on Exhibit
25 No. 3?

1 A. Yes, ma'am.

2 Q. Okay. And that's a street?

3 A. Yes, that's the street that we traveled on to get to
4 the parking lot.

5 Q. Okay. And is the parking lot depicted in this
6 enlargement?

7 A. Yes, ma'am.

8 Q. And what is the words that's right near the parking lot
9 that's kind of curved around?

10 what are the words there?

11 A. It says Three River Green View.

12 Q. Okay.

13 A. Green, Greenway.

14 Q. All right.

15 A. Sorry.

16 Q. And can you describe the parking lot better?

17 A. Yeah, it's -- it was like a square parking lot with
18 parking on the left side.

19 Q. Okay. And can you tell the jury what route you took to
20 get down to the riverbank?

21 A. We parked about two or three spots from the edge or, or
22 the bottom part of that parking lot and walked down the
23 pathway that's directly --

24 Q. Is this---

25 A. -- to.

1 Q. -- the pathway here?

2 A. Yes, ma'am.

3 SOLICITOR JOHNS: Okay. So, let the record reflect
4 that I am pointing to a very narrow pathway on State's
5 Exhibit No. 3.

6 And after you walked down this parkway -- this little
7 pathway, where did you then go?

8 A. We then turned to the left.

9 Q. Okay. So you turned---

10 A. Into that---

11 Q. ---to the left?

12 A. ---the sandy area I guess. It's --

13 Q. Okay.

14 A. -- gravely.

15 Q. Yes.

16 A. And then we traveled down the hill --

17 Q. Okay.

18 A. -- towards the river down the, the, the -- it's
19 somewhat of a landing I suppose.

20 Q. Is that the cement piece that you're speaking of --

21 A. Yeah.

22 Q. -- the, the lane in your -- you're taking about?

23 A. Yes, ma'am.

24 Q. Okay. And from that landing you went to the water?

25 A. Yes, ma'am, we went straight down.

1 Q. Uh-huh.

2 A. And, at that point -- previously when I had been to the
3 river, I would usually go to the left. But this was my
4 first time taking my girls with me and --.

5 Q. You mean the left of the bridge or---

6 A. I'm sorry.

7 Q. ---the left---

8 A. It's---

9 Q. I'm sorry.

10 A. Towards the bridge backwards. Normally I would go over
11 to the bridge area. But since I was with my girls, we went
12 to the left area, which is at the bottom of that picture --

13 Q. Okay.

14 A. -- because there's---

15 Q. I'm pointing---

16 A. ---like a beach, beachy area. Yes, ma'am.

17 Q. Am I, am I pointing to the area right here as where you
18 may of had the girls that day?

19 A. Yeah, it was a little bit further down. It looks like
20 there's some overgrown trees right there. Yeah. You can
21 see much better right there.

22 Q. Okay. And so it's about middle of State's Exhibit No.
23 3, the scene here?

24 A. Yes, ma'am.

25 Q. Okay. Now, when you arrived on that riverbank, beachy

1 area, what did you see?

2 A. There were two men swimming really close to the bridge
3 almost underneath the bridge.

4 Q. Okay.

5 A. And, at that point, there wasn't -- I don't remember
6 there being anybody else at the beach at that or at the
7 river on this side at that, at that point.

8 Q. Okay. So, there were two men there.

9 Were, were the two men, you, and your two young
10 daughters the only people in that area?

11 A. At, at that point.

12 Q. At that point?

13 A. Yeah.

14 Q. Okay. Do you remember about what time of day it is?

15 A. It was later in the afternoon probably around three
16 o'clock.

17 Q. Okay. All right. Now, when you went down there,
18 describe to the jury what you brought with you and where you
19 set up.

20 A. I had a beach chair, some towels, snacks, a Bluetooth
21 speaker, and two floats, two circular floats. I noticed
22 that there was a log or a, a tree limb close to where we
23 were at and I kind of sat my chair there cause it was close
24 to the water and I, I sat every -- you know, I kind of used
25 the log as a table --

1 Q. Okay.

2 A. -- and sat up and blew the floats up for the girls to
3 play with.

4 Q. Okay. And you had two floats?

5 A. Yes, ma'am.

6 Q. All right. Are the -- were the floats similar to these
7 floats that we have here?

8 A. Yes. Similar in size, yep.

9 Q. Okay. But these are not the floats?

10 A. No.

11 Q. Can you describe the floats for us?

12 Do you remember that?

13 A. One was a black float that has like a tire picture on
14 it. If I remember correctly, the other one was a -- I think
15 it was pink.

16 Q. Uh-huh.

17 A. That -- one of the floats was a little bit cheaper than
18 the other one. So, it didn't, didn't hold air properly.

19 Q. Okay. And what happened to that float that day?

20 A. When the girls were playing in the water, the float got
21 away from her or from them. I, I don't recall which one.
22 But, of course, they were upset about the float traveling
23 down the river towards the Blossom Street bridge and then
24 told them, you know, don't worry about it. It was a cheap
25 float. It's got a hole in it. It's -- don't worry about

1 it.

2 Q. Okay.

3 A. It's fine.

4 Q. I'm gonna show you State's Exhibit ID No. 7 and ask if
5 you recognize this.

6 A. Yes.

7 Q. And what is that -- what, what is that?

8 A. It's a picture of my daughters in the river with the
9 floats.

10 Q. Did you take that picture that day?

11 A. I did.

12 Q. Okay. Does that picture accurately and fairly depict
13 what was going on that day at the river?

14 A. At that point, yes.

15 SOLICITOR JOHNS: Your Honor, the State offers the --
16 State's Exhibit No. 7 into evidence.

17 THE COURT: Without objection?

18 MR. JONES: No objection.

19 THE COURT: Very well.

20 SOLICITOR JOHNS: And permission---

21 THE COURT: So admitted and you may publish.

22 (WHEREUPON, State's Exhibit No. 7 was received into
23 evidence at this time.)

24 Q. Okay. So in this picture, State's Exhibit No. 7, would
25 that be the float that we're talking about, the tire float

1 you said?

2 A. Yes, ma'am.

3 Q. Okay. And is that the float that got away?

4 A. I honestly can't remember. I, I believe it was the
5 pink float that got away.

6 Q. Okay.

7 A. But I can see the, the edge of the pink float --

8 Q. All right.

9 A. -- on the other side.

10 Q. Okay.

11 A. My other daughter's through the black -- yeah. You can
12 see the other float was---

13 Q. Yeah.

14 A. ---a little bit smaller in size.

15 Q. Okay. So, who, who is this young lady right here, this
16 child?

17 A. That's my middle daughter, Z.R.

18 Q. And what is she wearing?

19 A. A bathing suit.

20 Q. And does -- can you describe it a little bit so we can
21 get the record correct on---

22 A. Yeah.

23 Q. ---the people?

24 A. It's navy blue and white strips---

25 Q. Okay.

1 A. ---with corral ruffle and pink corral straps.

2 Q. Okay. And looking through the black float in State's
3 Exhibit No. 7, can you see a partial figure of a child in
4 there?

5 A. Yes.

6 Q. And who is this child?

7 A. That's my daughter, MINOR.

8 Q. Okay. And can you see beside the child in the
9 forefront of a little piece of another float?

10 A. Yes, ma'am.

11 Q. Okay. And one of those floats had gone out to the
12 river?

13 A. Yeah, it had been deflating apparently over time and
14 got loose out of their hand and started to travel down
15 towards the Blossom --.

16 Q. Okay. Now, what was going on when this float got away
17 with your daughters?

18 what were they -- what were they doing?

19 A. Well, they were panicking because their float was
20 drifting away and I just -- you know, they were wanting to
21 go get it and I said no, you're out far enough. Don't worry
22 about it. It's fine. It's got a hole in it obviously.
23 Don't worry about it.

24 Q. Okay.

25 A. Just let it go.

1 Q. And, after that, what happened?

2 A. I had noticed the two men that were swimming closer to
3 the Gervais Street bridge had kind of been slowly making
4 their way towards where we were.

5 Q. Yes.

6 A. And one of them saw that -- the commotion I suppose and
7 was swimming towards us and offered to get it and I told him
8 no, don't worry about it. It -- really it's fine. It was
9 like a \$2.00 raft. I'm, I'm not worried about it. Don't,
10 don't worry about it.

11 Q. And what did he do?

12 A. He continued to swim and got it.

13 Q. When you say he, now you got to tell me which, which he
14 you're speaking of or just -- why don't we do this?

15 why don't we describe the two men?

16 A. So, they were, they were both clothed fully in, in
17 street clothes.

18 Q. Uh-huh.

19 A. One had darker hair --

20 Q. Uh-huh.

21 A. -- and the other one had dark -- lighter brown hair or
22 I guess black hair and brown hair.

23 Q. Okay.

24 A. I couldn't really tell because they were far away at,
25 at first.

1 Q. Uh-huh.

2 A. But he was more vocal --

3 Q. Okay.

4 A. -- than the other one. The other one kind of trailed
5 behind.

6 Q. So, the brown head, head man was more vocal?

7 A. Yes.

8 Q. And the dark headed man was not as he---

9 A. Yes.

10 Q. Okay.

11 A. And he, he was the one that was kind of trailing behind
12 him.

13 Q. He been the man with brown hair --

14 A. Yes.

15 Q. -- or the one -- let me -- let's, let's clean this up.

16 A. The black haired man trailed behind the brown haired
17 man.

18 Q. Okay. And who actually, of those two men, brown headed
19 or dark headed black hair, got the float?

20 A. The brown haired.

21 Q. Okay. Can you get a description difference height if
22 there is any?

23 A. Well, once he retrieved the raft, they both came up
24 eventually.

25 Q. Okay. Who retrieved the raft?

1 A. The, the brown haired man.

2 Q. Okay.

3 A. He was roughly a -- around my height. Not, not real
4 tall.

5 Q. All right.

6 A. He had a, a blue shirt on --

7 Q. Okay.

8 A. -- and shorts. The, the other man, when he joined, was
9 a good bit taller --

10 Q. Okay.

11 A. -- and more slender.

12 Q. Okay. And what did, did the brown headed man do when
13 he got the float?

14 A. He then -- so the float ended up on the embankment down
15 the river right down from us. He, he retrieved it and then
16 proceeded to walk it back to us and gave it to my
17 daughters --

18 Q. Okay.

19 A. -- and he introduced himself as Clay.

20 Q. Okay. So, when he retrieved the float, he brought it
21 back to both of your girls?

22 A. Yeah, at that point we were all standing -- me and my
23 daughters were standing on the beachy area.

24 SOLICITOR JOHNS: Let the record reflect that I've
25 showed opposing party State's Exhibit for ID No. 5.

1 I'm gonna show you State's Exhibit for ID No. 3 and ask
2 if you can identify that.

3 A. Yes.

4 Q. And what is that of?

5 A. It's a picture that I took of my daughters playing at
6 the river that day with the two men that --.

7 Q. Did you take that picture?

8 A. I did.

9 Q. All right. Is -- what, what mechanism or what device
10 were you using?

11 A. My cellphone.

12 Q. Okay. And is that picture accurately and fairly depict
13 the picture that you took that day of what was going on that
14 day?

15 A. Yes.

16 SOLICITOR JOHNS: Your Honor, we'd ask that State's No.
17 6 --.

18 MR. JONES: No objection.

19 THE COURT: All right. State's Exhibit 6 admitted into
20 evidence.

21 THE COURT REPORTER: It's five.

22 SOLICITOR JOHNS: I'm sorry. Five.

23 THE WITNESS: Yeah.

24 THE COURT: Okay.

25 SOLICITOR JOHNS: Five, Your Honor. Sorry.

1 THE COURT: Excuse me.

2 SOLICITOR JOHNS: State's Exhibit No. 5.

3 THE COURT: State's Exhibit 5 is admitted into
4 evidence.

5 MR. JONES: No objection.

6 THE COURT: Without objection. Thank you.

7 It may be published.

8 (WHEREUPON, State's Exhibit No. 5 was received into
9 evidence at this time.)

10 Q. So, in this photograph that you took, can you identify
11 the person to the far left?

12 A. I, I don't remember his name.

13 Q. Okay.

14 A. That was the gentleman that was with Clay.

15 Q. Okay. So is Clay in this picture?

16 A. Yes.

17 Q. And who is Clay?

18 where is Clay?

19 Tell me what he's wearing.

20 A. He is wearing looks like a blue shirt with white emblem
21 on the left side.

22 Q. Okay. And the other man in the picture, what does he
23 appear to be doing?

24 A. It looks like he's just sitting there with his hands on
25 his knees.

1 Q. All right. And tell me who this young child is here
2 with the blue and white bathing suit on.

3 A. That's my daughter, Z.R.

4 Q. And how old was Z.R. then?

5 A. How old was she?

6 Q. Yeah.

7 A. She was 10.

8 Q. Okay.

9 A. Nine or 10. I'm trying to think.

10 Q. All right. And tell me who this child is here with
11 blonde hair.

12 A. That's my daughter, MINOR.

13 Q. Okay. And how old is MINOR?

14 A. She was seven at the time.

15 Q. Okay. And did you provide us with state -- with a
16 official birth certificate --

17 A. Yes.

18 Q. -- for MINOR?

19 A. Yes.

20 Q. And did you give us permission to make a copy of that
21 birth certificate?

22 A. Yes, ma'am.

23 Q. I'm gonna show you what's been marked for ID as State's
24 Exhibit No. 4.

25 what is that document?

1 A. It is a South -- a State of South Carolina
2 certification of vital record birth certificate.

3 Q. Okay. And do you have the original of this birth
4 certificate?

5 A. I do.

6 SOLICITOR JOHNS: Okay. Your Honor, we would ask
7 permission to enter into evidence a duplicate copy of an
8 official document that was provided by this witness, which
9 is a birth certificate.

10 THE COURT: Mr. Jones, without objection?

11 MR. JONES: No objection.

12 THE COURT: All right. State's Exhibit 4 --

13 SOLICITOR JOHNS: Yes, Your Honor.

14 THE COURT: -- is admitted into evidence. State may
15 publish.

16 (WHEREUPON, State's Exhibit No. 4 was received into
17 evidence at this time.)

18 Q. And in this birth certificate, have you listed the name
19 of the person in that birth certificate?

20 A. MINOR [REDACTED].

21 Q. Okay. And the date of birth please?

22 A. [REDACTED], 2011.

23 Q. And she was born to the mother named?

24 A. Ronica Erin Riddle.

25 Q. Okay. And was that your name at the time she was born?

1 A. No, I was married at that time.

2 Q. Okay. But it says mother's maiden name?

3 A. Yes, it does.

4 Q. And can you name the father's name please?

5 A. Charles Raymond Rish.

6 Q. And who -- and that is her father obviously?

7 A. Yes, ma'am.

8 Q. All right. So that shows that she was seven years old
9 in 2019?

10 A. Yes.

11 Q. All right. So in this picture, which is State's
12 Exhibit No. 5, how long would you say that Clay is playing
13 with your two young daughters on the river that day?

14 A. I would say probably about 30 minutes or so.

15 Q. Okay. All right. So, did you know what they were
16 playing, what, what kind of game they were playing here?

17 A. They had -- the girls had made up a game called Mud
18 Monster --

19 Q. Okay.

20 A. -- where they were covering themselves up with mud like
21 in the Goosebumps show that they watched putting mud all
22 over them.

23 Q. Okay.

24 A. Then they walk into the water, rinse it off, and then
25 start all over again.

1 Q. Okay. And would Clay participate in this play?

2 A. Yes, he, he did.

3 Q. Can you describe to the jury how it was that he
4 would -- what he would be doing during this active play?

5 A. Well, in the picture, you can -- he was obviously
6 putting mud on himself and then would go out into the water
7 and rinse it off too.

8 Q. Okay. All right. Did you witness him putting mud on
9 himself?

10 A. I did.

11 Q. And did you witness him putting mud on anybody else?

12 A. I believe he had put some mud on my daughter, the
13 oldest daughter's leg.

14 Q. Uh-huh.

15 A. But the way they were positioned and where I was
16 sitting, I couldn't see if he was doing it.

17 Q. Okay. I'm gonna show you State's Exhibit No. 6 for ID
18 and ask if you recognize this photograph.

19 A. Yes, I do.

20 Q. Okay. And did you take that picture?

21 A. I did.

22 Q. Does it accurately and fairly depict what was going on
23 that day on the riverbank?

24 A. Yes.

25 SOLICITOR JOHNS: At this time, Your Honor, we would

1 ask that State's Exhibit No. 6 be entered into evidence.

2 MR. JONES: No objection.

3 THE COURT: State's Exhibit 6 admitted into evidence
4 without objection.

5 (WHEREUPON, State's Exhibit No. 6 was received into
6 evidence at this time.)

7 SOLICITOR JOHNS: Permission to publish, Your Honor?

8 (WHEREUPON, there was no audible response.)

9 Q. And in this photograph, what, what does this photograph
10 depict?

11 A. It shows my daughter, MINOR, with mud caked on her legs
12 and on her hands and then my little setup in the background.

13 Q. Okay. And the beach chair and your bag and, and what
14 have you, sunscreen?

15 A. Sunscreen. I believe that's a bag of boiled peanuts
16 and a container of my Lowes diet sweet tea.

17 Q. And does it also depict the log you were using as a
18 table?

19 A. Yes.

20 Q. Okay. And this is little MINOR here?

21 A. Yes, ma'am.

22 Q. And tell the jury what she has all over her?

23 A. She has mud covering her legs --

24 Q. Okay.

25 A. -- and her bathing suit and hands.

1 Q. All right. And does she have shoes on?

2 A. I think so. I can't -- it's hard to tell in this
3 picture.

4 Q. Look at your -- look at your --.

5 A. I think you took it. We had been fighting about them
6 keeping their shoes on the whole day.

7 Q. And does she have shoes on?

8 A. It does appear that she has shoes on.

9 Q. Okay. And what are those shoes for?

10 A. They're water shoes.

11 Q. And what are -- what's the purpose of them?

12 A. Because we were in the river. I didn't want them to
13 step on any glass or anything like that.

14 Q. Okay.

15 A. Protection.

16 Q. All right. All right. Thank you.

17 Now, after this play had gone on, how many times would
18 you say that your little girls went into the river to wash
19 off?

20 A. It was, it was several times. I would, I would say at
21 least three or four.

22 Q. Okay. And when they got in the river, who else got in
23 the river with them?

24 A. On a couple of occasions Clay did.

25 Q. Okay. And what about his friend?

1 A. I, I don't recall -- he -- I think he might of gotten
2 in the water once.

3 Q. Okay.

4 A. But he, he didn't continue to put the mud on himself.

5 Q. And how deep would you let the little girls go into the
6 water?

7 A. I wouldn't let them go above or, or deeper than
8 waist -- between waist and their chest.

9 Q. Okay. Did you get in the water with them?

10 A. I, I did get in. I didn't get quite as far as where
11 they were. But I did get in a couple of times. Not every
12 time that they went in.

13 Q. All right. So, what happened at the end of this, this
14 day when you were leaving?

15 Tell us what was going on, what, what you were
16 thinking.

17 A. Well, after a while of playing, the other young man had
18 come and sat by me and was talking to me and just telling me
19 about where he worked and Clay was telling me a lot about
20 himself and---

21 MR. JONES: Objection. Objection. Hearsay.

22 THE COURT: The testimony was about say -- all right.
23 Please don't testify about what other people said.

24 Rephrase your question, Ms. Johns.

25 SOLICITOR JOHNS: I'll rephrase.

1 Can you tell me what Clay said to you?

2 A. Clay told me about how he had had a girlfriend
3 previously that had children similar in age to my daughters.
4 He knew a lot about Goosebumps. Was very familiar with the
5 Mud Monster. He told me about a trip that he was about to
6 go on with I believe it was an aunt to Disney. He told me
7 his birthday. I believe it was July 7th or 17th.

8 I, I don't -- I don't recall exactly. But he, he had
9 told me that he did IT work and was a tutor and had asked if
10 I needed any help with my kids, that he normally worked with
11 older people, but that he would consider working with my
12 kids if I need -- they needed help.

13 Q. Okay. And how long did Clay converse with you?

14 A. I mean it was probably -- I would say about 30 to 40
15 minutes in time.

16 Q. All right. Did he start his conversation with you
17 first before he started playing with the young -- your young
18 daughters or did it happen simultaneously?

19 A. I would say that it happened simultaneously --

20 Q. Okay.

21 A. -- cause he, he was talking to me about the Mud Monster
22 and, and to the girls while they were playing in the mud.
23 And then, when he was in the water, he was discussing going
24 to Disney and his birthday and just general conversation.

25 Q. And what else did he tell you about this girl that he

1 dated earlier?

2 A. He just stated that they were -- she had kids similar
3 in age and that he was good with kids.

4 Q. Okay. And you said that he offered to help you with
5 your children?

6 A. Yeah, he, he offered to, to tutor them if they needed
7 to in any IT.

8 Q. Okay. Did he tell you what he did for a living?

9 A. Yes, he, he told me about being a tutor.

10 Q. Okay. All right. Now, do you recall what happened
11 when y'all were leaving?

12 A. Yes, I'd -- I was starting to get uncomfortable just
13 because it was an odd situation and let them know that I
14 needed to go home -- we needed to leave --

15 Q. Uh-huh.

16 A. -- cause my son, who is 13 at the time, was home by
17 himself and we needed to get on out of there. And I just
18 wasn't feeling comfortable with the situation and was just
19 trying to, to leave. And so I eventually got the girls to
20 get in the water and rinse off and starting to gather up
21 their toys and things that we had brought and then we walked
22 back towards the car and --.

23 Q. Well, tell me what incident occurred that made you
24 start feeling I think you said uncomfortable.

25 A. Yes. So Clay was in the water talking to me about all

1 this stuff and his friend was sitting there talking to me
2 and he was kind of just more one-on-one with me, the, the
3 black haired man, where Clay was more interested, interested
4 in playing with, with my daughters and talking to me about
5 personal things I guess where the other guy was just telling
6 me, you know, where he worked and it was more -- I kind of
7 led that conversation where Clay led the other conversation.
8 It was just -- it was, it was awkward to me that he was a
9 stranger and, and physically involved playing in the mud
10 with my daughters.

11 Q. Okay. Did you feel the same way about his friend or
12 let me ask you this way.

13 How did you feel about his friend?

14 A. I, I didn't feel as though he was a threat. After
15 speaking with him for a few minutes, I kind of got the idea
16 that he was a little slow or, or maybe autistic or
17 something. I'm, I'm not -- so I, I didn't feel any kind of
18 threatening vibes from him.

19 Q. So, you were being a little sympathetic to him because
20 you thought he was slow?

21 A. Right.

22 Q. Now, with Clay, when you felt the uncomfortable
23 feeling, was that when he was in the water with **MINOR**?

24 MR. JONES: Objection. Leading.

25 SOLICITOR JOHNS: This---

1 THE COURT: Overruled. She can lead and develop the
2 testimony here.

3 Answer this question. You can answer the question
4 ma'am.

5 THE WITNESS: Answer the question?

6 THE COURT: Yes.

7 A. Okay. Can you repeat the question?

8 Q. Yes.

9 You said that you were feeling uncomfortable with Clay.

10 A. Right.

11 Q. Tell us what was going on when you got this feeling.

12 A. It, it was more so the repetitiveness of putting the
13 clay on --

14 Q. Uh-huh.

15 A. -- himself --

16 Q. Uh-huh.

17 A. -- and, and get into the water and out and just the --
18 I guess I felt like he was trying -- I don't -- he was
19 trying to be --.

20 MR. JONES: Speculation.

21 THE COURT: You can, you can ask that question again
22 and we'll take it from the top.

23 Q. What was Clay doing that made you feel uncomfortable at
24 that time?

25 A. Playing, playing with my daughters and just the

1 lingering around.

2 Q. Okay.

3 A. Not, not leaving.

4 Q. Okay. Now, you said that you started packing your
5 things up after getting this feeling. You were getting the
6 girls ready to go.

7 what happened then?

8 A. We made our way back up towards the landing and they
9 followed behind us --

10 Q. Okay.

11 A. -- Clay and the other gentleman --

12 Q. Okay.

13 A. -- cause they were ready to leave too. And we got to
14 the sidewalk of the parking lot and he then walked to his
15 car or to the car and retrieved a business card and then
16 proceeded to hand me the business card.

17 Q. All right.

18 A. And while we were walking up the hill, he was talking
19 to my daughters about playing games like Minecraft or any
20 other kind of computer stuff like that.

21 Q. Okay. So, he was still engaging with your daughters
22 when y'all were trying to leave?

23 A. Right.

24 Q. Okay. Now, you said also that he retrieved a, a card?

25 A. Yes, ma'am.

1 Q. Okay. Tell us about that.

2 How, how -- why did he retrieve the card?

3 A. He told me to, you know, that he would make an
4 exception for tutoring younger individuals than he was
5 usually tutoring cause usually they were older adults or
6 elderly people. But that he would make an exception to
7 tutor my, my son or my daughters in, in anything cause
8 you -- and with, within our conversation, I had expressed
9 that I don't know a lot about technology.

10 Q. Okay. Did you at anytime feel as if that you were a
11 target for him?

12 A. I wouldn't say a, a target. I would say that it was
13 more like he was trying to befriend me or I'm not sure the,
14 the right ways to say it. Coming on to me in not a, not a
15 overly sexual manner. Just more romantic like trying to
16 form a relationship --

17 Q. Okay.

18 A. -- I guess is the best way to --.

19 Q. Okay. Now, you mentioned the business card.

20 A. Yes, ma'am.

21 Q. I'm gonna show you what's been marked as State's
22 Exhibit for identification No. 8.

23 A. Okay.

24 Q. And do you recognize that?

25 A. Yes, ma'am.

1 Q. what is -- let, let me ask you this.

2 Is that -- does that -- referring to State's Exhibit
3 No. 8, is that the business card or a business card that he
4 gave you?

5 A. Yes, it is.

6 Q. Okay. And what did you do with that business card once
7 he gave it to you?

8 A. I believe I put it in my pocketbook or either in the
9 visor of my car.

10 Q. Okay. And later what did you do with that business
11 card?

12 MR. JONES: Objection. Irrelevant to time and place.

13 THE COURT: The business card or --?

14 SOLICITOR JOHNS: Business card.

15 THE COURT: Overruled.

16 what, what happened to the business card?

17 Q. what happened with the business card?

18 A. I had held onto it, and when I went to the police
19 later, I gave it to them so that they would have it.

20 Q. All right. Does that business card accurately reflect
21 what business card you saw that day?

22 A. Yes.

23 SOLICITOR JOHNS: And, Your Honor, the State would ask
24 that No. 8 be entered into evidence.

25 THE COURT: The business card.

1 MR. JONES: No objection.

2 THE COURT: All right. State's Exhibit 8 is admitted
3 into evidence without objection.

4 (WHEREUPON, State's Exhibit No. 8 was received into
5 evidence at this time.)

6 Q. Okay. Now, what is on that business card?

7 Read the, the top line there.

8 A. It's (sic) says the Tech Tutor Collective.

9 Q. Okay. And read what else is on there.

10 A. Clay Jones. Phone [REDACTED]-7389.

11 Q. Okay.

12 A. And then it is [REDACTED]@gmail.com.

13 Q. All right.

14 A. And then a website that's www.tttc.ga.

15 Q. All right. Okay. All right. And you held onto that
16 until you went to the police department?

17 A. Yes, ma'am.

18 Q. When did you go to the police department?

19 A. The following evening.

20 Q. Okay. Why did you do that?

21 A. While we were leaving the river, my daughter, MINOR
22 had---

23 MR. JONES: Hearsay.

24 THE COURT: Over -- overruled. Well, let me speak with
25 y'all real quick.

1 SOLICITOR JOHNS: Yes, Your Honor.

2 THE COURT: Defense, defense ready to proceed?

3 MR. JONES: Yes, Your Honor.

4 THE COURT: All right. Let's bring them back in
5 please.

6 THE BAILIFF: Yes, Your Honor.

7 THE COURT: And I don't know how much longer the
8 witness is and that -- we can take as long as necessary.
9 But when we do finish this witness, we will break for lunch.

10 (WHEREUPON, the following takes place within the
11 presence of the jury.)

12 THE BAILIFF: The jury has been seated, Your Honor.

13 THE COURT: Thank you, sir.

14 All right. Ladies and gentlemen, thank you for telling
15 me you needed the break, first of all, and we took a short
16 one ourselves and we'll just pick up where we were in the
17 middle of a witness and we'll pick up where the State was in
18 their direct examination.

19 You may---

20 SOLICITOR JOHNS: Thank you, Your Honor.

21 THE COURT: ---proceed.

22 SOLICITOR JOHNS: May it please the Court.

23 CONTINUED DIRECT EXAMINATION

24 BY SOLICITOR JOHNS:

25 Q. Now, Erin, we were at the point where you were leaving

1 the river.

2 You remember that?

3 A. Yes, ma'am.

4 Q. Okay. And the two men had followed you to the parking
5 lot.

6 All right. When you got to the car, what were you
7 doing with the children?

8 A. We were deflating the one float that didn't have a hole
9 in it.

10 Q. Uh-huh.

11 A. Z.R. was at the front of the car deflating that float
12 and I was on the driver's side with MINOR asking her if, if
13 she would like to change out of her wet -- well, didn't ask
14 her. I told her we needed to change out of the wet bathing
15 suit cause we had a 30 minute drive home.

16 Q. Okay. During that time that you're putting the
17 children in the car, did MINOR complain of anything that
18 happened?

19 A. When I told her we needed to change out of her wet
20 bathing suit bottoms, she had told me that she was touched.

21 Q. Did she tell you when this happened?

22 A. While we were at the river in the water.

23 Q. Now, after this complaint was made, what did you do?

24 A. I asked her where she was touched.

25 Q. Okay. We're not going into that but just what did you

1 do---

2 A. Oh.

3 Q. ---after?

4 A. Okay. I changed her out of -- we, we -- I had the two
5 doors opened and I had a towel covering her and we changed
6 her bottoms into her panties and shorts and put her in the
7 car seat. And I then walked to the front of the car and
8 asked my daughter, Z.R., if anything had happened with her.

9 Q. Okay. And, after that, what happened?

10 A. We then got in the car and I drove home. I called my
11 boyfriend at the time and explained to him what was going on
12 vaguely cause the girls were in the car with me. Once I got
13 home I spoke with him again in a private environment and I
14 then called my father that evening to talk to him. Prior to
15 calling my father, I had taken the business card and I had
16 Googled his name that was on the business card and I---

17 Q. Did you eventually go to the police department?

18 A. I, I did.

19 Q. When did you go?

20 A. Well, the next day.

21 Q. Okay. And did you file a complaint with the police
22 department at that time?

23 A. I did.

24 Q. And did you provide them with the business card you
25 were given?

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By Solicitor Johns

1 A. Yes, ma'am.

2 Q. At some later time were you then interviewed by
3 Investigator Odom here?

4 A. Yes, ma'am.

5 Q. Okay. And where were you interviewed?

6 A. I believe I spoke to two different officers. The first
7 night was an African-American officer and I then spoke with
8 Officer Odom at -- I believe we were at the Arc or where
9 the, the girls were --

10 Q. Okay.

11 A. -- interviewed.

12 Q. Uh-huh.

13 At that time did Investigator Odom ask you to provide a
14 written statement?

15 A. Yes, ma'am.

16 Q. And did you do so?

17 A. Yes, I did.

18 Q. Okay. And do you -- do you recall giving her
19 information about the identity of a suspect?

20 A. Yes, I did.

21 Q. Okay. Did Investigator Odom present to you a photo
22 array of six individuals?

23 A. Yes.

24 Q. I'm gonna show you what's been marked as State's
25 Exhibit -- identification State's Exhibit 20.

1 Do you recognize that?

2 A. Yes, I do.

3 Q. And how do you recognize that?

4 A. I remember the photographs of the different men and my
5 initials are on the bottom of the page.

6 Q. And what initials are those?

7 A. R.R.

8 Q. And what does R.R. stand for?

9 A. Erin Rish.

10 MR. JONES: Your Honor, may I approach?

11 (WHEREUPON, a bench conference was held out of the
12 hearing of the jury at this time.)

13 Q. All right. So while you're giving a statement to
14 Investigator Odom, you were shown a photo lineup?

15 A. Yes, ma'am.

16 Q. And you identified that photo lineup because you
17 recognized your initials, R.R.?

18 A. Well, yes, today I do.

19 Q. Okay. And did -- were you able to pick out the
20 photograph of the man that you saw at the river that day?

21 A. Yes.

22 Q. And which one did you pick?

23 A. Number 4.

24 Q. Okay. And can you show that to the jury?

25 A. It's Number 4.

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1 Q. Okay. Now, do you recognize the man in Number 4 in the
2 courtroom today?

3 A. Yes.

4 Q. Okay. And where is he?

5 A. He's at the defendant table.

6 Q. Okay. And what is he wearing?

7 A. A button up. I believe it's a white shirt with a
8 blazer jacket.

9 THE COURT: Sorry. We had some background noise. I---

10 A. Oh, a white---

11 THE COURT: No, no. I -- did you hear her, Madam Court
12 Reporter?

13 THE COURT REPORTER: I did.

14 THE COURT: Okay.

15 Q. Okay. And is there anything about him today that looks
16 different than he did when he was at the river that day?

17 A. Yes, his hair is considerably longer --

18 Q. Okay.

19 A. -- and he has way more facial hair.

20 Q. Okay.

21 A. His, his beard was short at the river and it's much
22 longer today.

23 SOLICITOR JOHNS: Okay. Your Honor, at this time the
24 State would offer State's Exhibit No. 20 into evidence.

25 THE COURT: Number B -- I'm sorry. State's Exhibit 20.

1 MR. JONES: No objection.

2 THE COURT: All right. State's Exhibit 20 is admitted
3 in evidence without objection.

4 (WHEREUPON, State's Exhibit No. 20 was received into
5 evidence at this time.)

6 Q. When you went to speak with Investigator Odom and
7 provided a statement, did you have MINOR with you?

8 A. I did.

9 Q. And did she speak to somebody at the same place where
10 you went?

11 A. Yes, ma'am.

12 Q. Okay. Have you spoken to MINOR about any of that,
13 that, that event at all since it happened?

14 A. No, ma'am.

15 Q. And did you in any way suggest to MINOR what to say?

16 A. No.

17 Q. Okay. Did you tell her that -- anything about the
18 defendant here, Mr. Jones, that would plant an idea in her
19 head of any kind?

20 A. No, I, I actually didn't talk to her about it --

21 Q. Okay.

22 A. -- at, at all really.

23 Q. Okay. All right. I don't have anything else for you,
24 Ms. Rich.

25 THE COURT: All right.

1 Q. Please answer any questions that he might have.

2 THE COURT: All right. Mr. Jones, you have any
3 cross-examination?

4 MR. JONES: No cross-examination, Your Honor.

5 However---

6 THE COURT: Hold, hold on.

7 MR. JONES: ---just -- no questions.

8 THE COURT: Okay.

9 MR. JONES: No question.

10 THE COURT: No questions?

11 MR. JONES: No.

12 THE COURT: All right. The witness is excused.

13 Now, we're gonna -- well, I'll wait till she steps
14 down. Watch your step.

15 Okay. Ladies and gentlemen, it's 1:05. I'd like you
16 back in your jury room at 2:15 and we will start hopefully
17 right about that time. Please don't discuss the case for an
18 hour or do any sort of independent research. But enjoy your
19 lunch. We'll see you back here in 70 minutes.

20 Thank you very much.

21 (WHEREUPON, the following takes place outside the
22 presence of the jury.)

23 THE COURT: Mr. Jones, you had something?

24 MR. JONES: Yes, Your Honor.

25 In light of the various testimony, I find that I must

1 SOLICITOR JOHNS: The State calls Investigator Chris
2 Odom.

3 CHRIS ODOM, being first duly
4 sworn, testified as follows:

5 THE CLERK: Thank you. Please have a seat in the
6 witness stand and state your full name for the record.

7 THE WITNESS: My name is Chris Odom.

8 SOLICITOR JOHNS: Thank you.

9 DIRECT EXAMINATION

10 BY SOLICITOR JOHNS:

11 Q. What is your occupation?

12 A. I'm an in -- investigator with the special victims unit
13 at Columbia Police Department.

14 Q. Investigator Odom, how long have you been with the
15 Columbia Police Department?

16 A. Twenty years.

17 Q. Okay. And did you receive training prior to your
18 employment?

19 A. Yes, ma'am. I went to the Criminal Justice Academy and
20 I've also taken numerous classes in sexual abuse cases,
21 domestic violence cases, and missing -- and investigating
22 missing people.

23 THE COURT: And, if you -- if you would please maybe
24 try to move a little bit closer to the microphone so we can
25 hear you. Thank you.

1 THE WITNESS: Yes, Your Honor.

2 Q. Okay. You were saying you had specialized training in
3 sexual assault cases?

4 A. Yes, ma'am.

5 Q. Are you assigned to a specialized unit at Columbia
6 Police Department?

7 A. Yes, ma'am.

8 Q. And what is the name of that unit?

9 A. It's the special victims unit.

10 Q. And what kind of cases do you investigate?

11 A. We investigate sexual assaults, domestic violence,
12 vulnerable adults, runaways, missing people.

13 Q. Can you estimate about how many cases you've had to
14 investigate while you've been an investigator with the
15 Columbia Police Department?

16 A. Numerous. Lots.

17 Q. All right. All right. Let's turn your attention to
18 the Summer of 2019 which was three years ago.

19 A. Yes, ma'am.

20 Q. How did you get, get involved in this case?

21 A. My sergeant assigned me the case on June 25th of
22 2019.

23 Q. Okay. When your sergeant assigns you a case, is it
24 based on a rotation or a certain selection of specialized
25 techniques?

1 A. It's just whoever is available to work the case on that
2 day.

3 Q. Okay. What would be your present duties as an
4 investigator on the sexual -- on special victims unit?

5 A. I investigate crimes where reports have been taken.

6 Q. Okay. Now, when your sergeant assigned you to this
7 case, what kind of things did you do to further your
8 investigation?

9 A. I contacted the mother, Ms. Erin Rish, and advised her
10 that I would be doing a referral to the Metropolitan
11 Children Advocacy Center to get MINOR interviewed.

12 Q. Okay. Now, what kind of steps did you take in
13 gathering other evidence?

14 A. The investigation led me to what was provided by
15 Ms. Rich was a, was a name, Clayton -- Clay Jones --

16 Q. Okay.

17 A. -- and I used that to further my investigation.

18 Q. And when you get the assignment, are you provided with
19 any other documents or other things that have been collected
20 by the responding officer?

21 A. Yes, ma'am, normally it's scanned in and it's attached
22 to our -- recording system.

23 Q. Okay. Can you tell us what kind of information was
24 attached to this case?

25 A. The, the scanned copy of the business card was attached

1 to it, a photo of the suspect, and a Facebook page.

2 Q. Okay. Can you describe the photograph that you're
3 speaking of?

4 A. It, it was a photo of -- it looked like a -- be -- on
5 the river of MINOR and her sister playing with two
6 gentlemen.

7 Q. And I'm gonna show you what's been marked State's
8 Exhibit No. 5 that's already been admitted into evidence.

9 Do you recognize that?

10 A. Yes, ma'am.

11 Q. Is that the photo you're referring to?

12 A. Yes, ma'am.

13 Q. And that was attached to the file?

14 A. Yes, ma'am.

15 Q. Okay. Now, what else were you provided in regards to
16 the attachments on this file?

17 A. A copy of the business card.

18 Q. Okay. And I show you what's State's Exhibit No. 8 and
19 ask if you can identify that.

20 A. Yes, ma'am.

21 Q. Is that the business card you're referring to?

22 A. Yes, ma'am.

23 Q. And what name is on that business card?

24 A. Clay Jones.

25 Q. Okay. Is that how you develop a suspect?

1 A. Yes, ma'am.

2 Q. Okay. Now, did your investigation involve an interview
3 with the mother in this case, Erin Rish?

4 A. Yes, ma'am.

5 Q. And were you provided with the date of birth of the --
6 potential suspect in this case that was involved in this
7 crime?

8 A. Yes, ma'am, it was actually on the incident report as
9 well.

10 Q. Okay. And did the date of birth or the birthday help
11 you identify who Clay Jones was?

12 A. Yes, ma'am.

13 Q. Okay. When you met Erin, where did you meet her?

14 A. I met her during the interview with MINOR at the
15 Metropolitan Child's Advocacy Center.

16 Q. Okay. And do you remember when that was?

17 A. July 30th, 2019.

18 Q. And do you recall when it is that the alleged crime
19 happened?

20 A. It was on the -- June 23rd, 2019.

21 Q. Okay. Now, when you met the mother at the Metropolitan
22 Child's Advocacy Center, who else was there?

23 A. It was myself and Allison Foster who did the interview
24 with MINOR.

25 Q. Okay. And were there anybody -- was anybody else

1 there?

2 A. Well, MINOR was there and Z.R. was there. But when I
3 was talking to Ms. Rish, they weren't present at the time.

4 Q. Now, you -- did you mention a referral that you had
5 provided to the Metropolitan Child Advocacy Center?

6 A. Yes, ma'am.

7 Q. And is that referral based on your investigation of
8 this case?

9 A. Yes, ma'am.

10 Q. And when you do a referral, does that mean that you
11 need a specialized interviewer to interview a child?

12 A. Yes, ma'am.

13 Q. Okay. Now, were you present when the child, MINOR, was
14 interviewed?

15 A. Yes, ma'am.

16 Q. Can you describe for us what that setup looks like?

17 A. MINOR and Allison Foster were in one room and there was
18 a TV set up in another room across the hall and that's how I
19 was able to observe the interview.

20 Q. Okay. Now, when you say that they were in an interview
21 room, and you were somewhere else, where is that somewhere
22 else in relationship to this interview room?

23 A. Are you talking about -- like I was in a room---

24 Q. Yes.

25 A. ---across the hall from where MINOR was having her

1 interview done.

2 Q. Okay. And is there -- is that an observation room?

3 A. It is the observation room.

4 Q. And what are you able to do while you're in the
5 observation room?

6 A. Listen and watch whatever **MINOR** says, how her demeanor
7 is, and stuff like that.

8 Q. Okay. Did you have the opportunity to obtain a copy of
9 a video or a recording of that interview?

10 A. Yes, ma'am.

11 Q. Did you have personal knowledge of that interview
12 through the observation room as well?

13 A. Yes, ma'am.

14 Q. Okay. Did you provide the photo lineup to the forensic
15 interviewer at the time that it was provided to the
16 children?

17 A. Yes, ma'am.

18 Q. Did you tell Allison Foster whether the suspect was in
19 the photo lineup?

20 A. No, ma'am.

21 Q. Did Doctor Foster -- did Allison Foster even know who
22 the suspect was at that time?

23 A. No, ma'am.

24 Q. Was your observation of the interview -- did it allow
25 you to watch each child look at the photo array?

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By Solicitor Johns

1 A. Yes, ma'am.

2 Q. Okay. And with regard to **MINOR**, were you able to see
3 her identify a photo out of that photo lineup?

4 A. Yes, ma'am.

5 Q. Okay. I'm gonna show you what's been marked for
6 identification as State's Exhibit No. 21.

7 MR. JONES: Objection.

8 THE COURT: Subject to prior objection?

9 well, we're gonna---

10 MR. JONES: Foundation.

11 THE COURT: Foundation?

12 MR. SUTHERLAND: well, they haven't moved to admit it
13 in yet.

14 MR. JONES: Oh.

15 THE COURT: Okay. Stand -- you can continue, Madam
16 Solicitor.

17 Q. Now, I show you what's been marked as State's Exhibit
18 21.

19 A. Yes, ma'am.

20 Q. Okay. Do you recognize that?

21 A. Yes, ma'am.

22 Q. And what is that?

23 A. It's a six person photo lineup.

24 Q. Okay. And is this a photo lineup or---

25 THE COURT: Hold on, Madam Solicitor.

1 what's the problem?

2 Come over here.

3 well, actually all three of you.

4 (WHEREUPON, a bench conference was held out of the
5 hearing of the jury at this time.)

6 THE COURT: Okay. Ladies and gentlemen, it's -- I'm
7 sure all of you had a very hardy lunch and it's that time of
8 the day where sometimes it can be tough to remain focused
9 and awake at times. So, let me just say this. If you feel
10 like you're having trouble keeping those eyes open, by all
11 means, feel free to stand up at the back of the jury box.
12 Not gonna offend me. Not gonna offend any of the, the
13 parties involved.

14 Okay. All right. And if, if, if we need to take a
15 break, let me know but just -- I need your help with making
16 sure everyone stays alert.

17 Thank you.

18 And regarding your objection, Mr. Jones, I guess I'll
19 let you make it after the next question. I've forgotten
20 what the question was.

21 Go ahead, Madam Solicitor.

22 SOLICITOR JOHNS: Thank you, Your Honor.

23 All right. You were looking at State's Exhibit for ID
24 No. 21.

25 A. Yes, ma'am.

1 Q. Okay. Do you recognize that?

2 A. Yes, ma'am.

3 Q. And did you have that photo array prepared?

4 A. Yes, ma'am.

5 Q. How did you do so?

6 A. By the South Carolina Law Enforcement Division.

7 Q. Okay. And why would you do that through SLED?

8 A. To keep it fair and not even looking---

9 Q. Okay.

10 A. ---the same.

11 Q. And when you received that, were you satisfied of the
12 fairness of it?

13 A. Yes, ma'am.

14 Q. Okay. And were you able to provide that to Doctor
15 Foster?

16 A. Yes, ma'am.

17 Q. And is that photo in the -- substantially the same
18 condition it was when you had provided it to Doctor Foster?

19 A. Yes, ma'am.

20 Q. Is there any alterations on it since you provided it to
21 Doctor Foster?

22 A. No, ma'am.

23 Q. Is there an identification on there?

24 A. Yes, ma'am.

25 Q. Okay. And other than that, is it substantially in the

1 same condition as it was when you provided it to Doctor
2 Foster?

3 A. Yes, ma'am.

4 SOLICITOR JOHNS: Okay. Your Honor, at this time we'd
5 ask the State to be allowed to enter into evidence State's
6 Exhibit No. 21.

7 THE COURT: Subject to---

8 MR. JONES: Objection. Foundation.

9 THE COURT: All right. Subject to defendant's
10 objection, State's Exhibit 23 -- 21's admitted in evidence.

11 SOLICITOR JOHNS: Thank you, Your Honor.

12 (WHEREUPON, State's Exhibit No. 21 was received into
13 evidence at this time.)

14 Q. Now, Investigator Odom, when you were observing the
15 forensic interview, did you witness MINOR put her initials
16 on this document?

17 A. Yes, ma'am.

18 Q. Okay. And what, what did she put on there?

19 A. She took a red pin -- a red marker and put MINOR.

20 Q. And where did she put it or what number did she put it
21 by?

22 A. She put it underneath Number 4.

23 Q. Okay. And do we know the identity of Number 4?

24 A. Yes, ma'am.

25 Q. And who is Number 4?

1 A. Clayton Jones.

2 Q. Okay. And had Mr. Jones been arrested at this time?

3 A. No, ma'am.

4 Q. Okay. Is it at that time that Mr. Jones became a
5 primary suspect in this crime?

6 A. Yes, ma'am.

7 Q. Okay. Was there -- beg the Court's indulgence.

8 (Pause.)

9 Q. Investigator Odom, I'm showing you State's Exhibit for
10 ID No. 20 -- State's Exhibit No. 9 for ID purposes and ask
11 you if you can identify this.

12 A. Yes, ma'am.

13 Q. Okay. How can you identify that?

14 A. This was attached to the incident report.

15 Q. Okay. Is that the incident report that was provided to
16 you through the responding officer?

17 A. Yes, ma'am.

18 Q. Okay. And would that information have been provided to
19 the responding officer?

20 A. Yes, ma'am.

21 Q. And then it was attached through -- to the report that
22 you reviewed?

23 A. Yes, ma'am.

24 Q. Okay. Does that look like -- is it substantially the
25 same condition as it was when it was attached to the report?

1 A. Yes, ma'am.

2 Q. Okay. And did it assist you in your investigation and
3 development of a suspect?

4 A. Yes, ma'am.

5 SOLICITOR JOHNS: Okay. Your Honor, at this time we
6 would offer State's No. 9 into evidence.

7 MR. JONES: No objection.

8 THE COURT: All right. State's Exhibit 9 --

9 SOLICITOR JOHNS: Yes, sir.

10 THE COURT: -- is admitted in evidence.

11 (WHEREUPON, State's Exhibit No. 9 was received into
12 evidence at this time.)

13 Q. Investigator Odom, can you tell us what is in that
14 document?

15 A. It's a -- looks like a Facebook from a Facebook page
16 and it's got Clayton Jones' name on it with a picture.

17 Q. Okay. Okay. When you're referring to a picture of
18 Clayton Jones, is it this picture right here?

19 A. Yes, ma'am.

20 Q. Okay. And does that look like Clayton Jones to you?

21 A. Yes, ma'am.

22 Q. All right. And is there anything else about this
23 photograph that substantiates any other part of your
24 investigation?

25 A. It's talking about free business cards.

1 Q. Okay. Is there a business card website listed there?

2 A. Yes, ma'am.

3 Q. All right. And did -- were you able to confirm whether
4 or not this advertisement for the business cards was the
5 same business card that Mr. Jones had provided to Erin?

6 A. No, ma'am.

7 Q. Could not?

8 (WHEREUPON, there was no audible response.)

9 Q. Okay.

10 A. Are you talking about the same company or --?

11 Q. Yes.

12 A. No, ma'am.

13 Q. Okay. Now I'm gonna show you what else -- what's been
14 marked as State's Exhibit for ID purposes 10.

15 Can you identify that?

16 A. It's a picture of Clayton Jones.

17 Q. Was that also provided to you in the course of your
18 investigation in this case?

19 A. Yes, ma'am.

20 Q. Okay. Was that attached to the file that you received
21 from the responding officer?

22 A. Yes, ma'am.

23 THE COURT: Can I ask y'all a quick question?

24 I'm sorry.

25 (WHEREUPON, a bench conference was held out of the

1 hearing of the jury at this time.)

2 Q. Investigator Odom, in looking at State's Exhibit No. 10
3 for identification, was that photograph attached to the file
4 when you received it in your duties as an investigator in
5 this case?

6 A. Yes, ma'am.

7 Q. Okay. Did that photograph help you identify or at
8 least investigate a, a potential suspect in the alleged
9 crime?

10 A. Yes, ma'am.

11 SOLICITOR JOHNS: Okay. Your Honor, at this time we
12 would ask that State's Exhibit No. 10 for ID be entered into
13 evidence.

14 THE COURT: All right.

15 MR. JONES: No objection.

16 THE COURT: All right. State's Exhibit 10 has been
17 moved into evidence.

18 SOLICITOR JOHNS: I'm sorry.

19 Is this 10?

20 THE COURT: Did I see---

21 SOLICITOR JOHNS: This is 10, right?

22 THE COURT: Ten, right?

23 SOLICITOR JOHNS: Ten.

24 THE COURT: Okay.

25 THE WITNESS: Looks like 10 to me.

1 SOLICITOR JOHNS: Yes, Your Honor.

2 THE COURT: All right.

3 SOLICITOR JOHNS: State's Exhibit 10.

4 THE COURT: Ten's admitted into evidence. Thank you.

5 (WHEREUPON, State's Exhibit No. 10 was received into
6 evidence at this time.)

7 Q. Investigator Odom, after the interview of MINOR, did
8 you also observe the interview of her sister?

9 A. Yes, ma'am.

10 Q. And what is her sister's name?

11 A. Z.R.

12 Q. And do you remember how old Z.R. was at the time?

13 A. I do not.

14 Q. Okay. Did you -- were you able to witness a photo
15 identification based on your lineup with Z.R. --

16 A. Yes.

17 Q. -- of the suspect?

18 A. Yes.

19 MR. JONES: Same objection, Your Honor.

20 (WHEREUPON, a bench conference was held out of the
21 hearing of the jury at this time.)

22 THE COURT: Let me take a short break.

23 Now, ladies and gentlemen, I'll send you back to the
24 jury room for hopefully a very short break. Refresh
25 yourselves. I'll get you right back in.

1 Thank you.

2 Please don't discuss the case.

3 (WHEREUPON, the following takes place outside the
4 presence of the jury.)

5 THE COURT: Okay. My concern is Zoe's not a witness,
6 correct?

7 SOLICITOR JOHNS: She is not.

8 THE COURT: And I've never seen a forensic interview
9 for her.

10 SOLICITOR JOHNS: No, but---

11 THE COURT: Okay.

12 SOLICITOR JOHNS: ---this investigator has.

13 THE COURT: Okay. I'm just -- but I -- did we talk
14 about Zoe's identification in that earlier hearing?

15 MR. JONES: We did not.

16 THE COURT: Okay. I -- that, that would be my concern.

17 SOLICITOR JOHNS: Okay.

18 THE COURT: And I'm -- but the reality is we could do
19 it pretty quick right now if we needed to. I mean you
20 got -- but I feel like we need to have some in camera
21 before --

22 SOLICITOR JOHNS: Okay.

23 THE COURT: -- we can talk about what a -- this minor
24 did or you got -- well --.

25 SOLICITOR JOHNS: Your Honor -- Your Honor, I can lay a

1 proper foundation with regard to her witnessing the photo
2 lineup identification of a witness who is not present as
3 part of a factual identification of a suspect. Now, she's
4 not identifying him as being a suspect to a crime.

5 THE COURT: Just as being present.

6 SOLICITOR JOHNS: Yes.

7 THE COURT: And maybe --.

8 MR. JONES: Your Honor, that's, that's really no
9 different than testifying that she identified me.

10 (WHEREUPON, a bench conference was held at this time.)

11 THE COURT: All right. Anything else before --?

12 SOLICITOR JOHNS: No, Your Honor.

13 THE COURT: Not the -- okay. Let's bring them back in.

14 SOLICITOR JOHNS: All right.

15 THE BAILIFF: Yes, Your Honor.

16 THE COURT: Mr., Mr. Jones, I'm gonna sustain your
17 objection in front of the jury and the solicitor will just
18 move on.

19 All right?

20 MR. JONES: Thank you.

21 (WHEREUPON, the following takes place within the
22 presence of the jury.)

23 THE BAILIFF: The jury has been seated, Your Honor.

24 THE COURT: All right. Thank you.

25 All right. Mr. Jones, your last objection is

1 sustained.

2 MR. JONES: Thank you, Your Honor.

3 CONTINUED DIRECT EXAMINATION

4 BY SOLICITOR JOHNS:

5 Q. Investigator Odom, I'm gonna show you what's been
6 marked as State's Exhibit No. 19 for iden -- identification
7 and ask if you recognize that.

8 A. Yes, ma'am.

9 Q. And what is that in general?

10 A. It's an interrogation advice of rights.

11 Q. Okay. And did you have an occasion to present that
12 form to the defendant---

13 A. Yes, ma'am.

14 Q. ---in this case?

15 A. Yes, ma'am.

16 Q. And when was that?

17 A. August 5th, 2019, at around 10:23 in the morning.

18 Q. Has the suspect been taken into custody at this time?

19 A. Yes, ma'am.

20 Q. Okay. And tell us what your procedure is in regards to
21 speaking with a defendant about a suspected crime.

22 A. We have to read them their rights and have them read
23 the waiver of rights so they understand that they can get a
24 lawyer if they want.

25 Q. And so when you read them their rights or explain to

1 them their rights, you use this form in the -- in the --
2 your regular role as an investigator to, to memorialize
3 their understanding of their rights?

4 A. Yes, ma'am.

5 Q. Okay. And is that what that form would represent?

6 A. Yes, ma'am.

7 SOLICITOR JOHNS: Okay. Your Honor, at this time I am
8 going to ask that State's Exhibit No. 19 be admitted into
9 evidence.

10 MR. JONES: No objection.

11 THE COURT: All right. State's Exhibit 19 is admitted
12 in evidence.

13 (WHEREUPON, State's Exhibit No. 19 was received into
14 evidence at this time.)

15 SOLICITOR JOHNS: Permission to publish, Your Honor?

16 THE COURT: Very well.

17 Q. Investigator Odom, will you read for the jury this
18 advice of rights form?

19 A. It says before we ask you any questions you must
20 understand your rights. You have the right to remain
21 silent. Anything you say can be used against you in court.
22 You have the right to talk to a lawyer for advice before we
23 ask you any questions and to have him with you during
24 questioning. If you can not afford a lawyer, one will be
25 appointed for you before any questioning if you wish. If

1 you decide to answer questions now without a lawyer present,
2 you still have the right to stop answering at anytime. You
3 also have the right to stop an -- stop answering at anytime
4 until you talk to a lawyer.

5 Q. Okay. Now, there's a second section on here.

6 Now, can you just describe to me where Mr. Jones was
7 and when -- a little bit about his appearance at the time
8 that you read him that first portion?

9 A. We were sitting in an interview room at our main
10 headquarters on the second floor. It's an interview room.
11 There's a table and two or three chairs. Me and Mr. Jones
12 were sitting at the table. He appeared to be incoherent to
13 everything I was saying to him.

14 Q. Okay. You didn't notice any signs of any alcohol use
15 at the time, did you?

16 A. No, ma'am.

17 Q. Okay. Did Mr. Jones appear to understand your
18 questions regarding his rights?

19 A. Yes, ma'am.

20 Q. Was his speech coherent to you?

21 A. Yes, ma'am.

22 Q. With regard to, to him wanting or needing an attorney,
23 did y'all have a conversation about that?

24 A. He just asked if he -- if an -- if he were to get an
25 attorney, if he could, you know, I think it -- I think it

1 was he was talking about prolonging me -- speaking to me,
2 and if he got an attorney, if that would -- if, if he was
3 going to jail. I told him yes and he asked about -- I
4 forgot how it exactly went. But something to the effect of
5 an attorney and he decided to still talk to me anyway.

6 Q. Did he say the reason why he wanted to talk to you?

7 A. He wanted to give me a statement.

8 Q. Okay. Did you understand that to be a waiver of his
9 rights at the time?

10 A. Yes, ma'am.

11 Q. Okay. Did, at anytime while he was talking, did he
12 ever change his mind and invoke his right to an attorney?

13 A. No, ma'am.

14 Q. Now, did you promise Mr. Jones anything in exchange for
15 his statement to you?

16 A. No, ma'am.

17 Q. Did you coerce him?

18 A. No, ma'am.

19 Q. Did you make any threats to him---

20 A. No, ma'am.

21 Q. ---at all?

22 Did you advise him that he was going to be going to the
23 jail anyway?

24 A. Yes, ma'am.

25 Q. All right. Did you have a, a long detention of

1 Mr. Jones?

2 A. I believe his interview lasted approximately 25, 30
3 minutes and I think the whole time he was in that interview
4 room he was there for I think 58 minutes.

5 Q. Okay. Did you deprive him with -- of any comfort, to
6 use of bathroom facilities, or anything like that?

7 A. He never requested to go to the restroom and I gave him
8 a cup of water.

9 Q. Okay. Based on the circumstances that you've just
10 described, do you believe that his statement to you was
11 voluntary?

12 A. Yes, ma'am.

13 Q. And do you believe that his statement to you is freely
14 made?

15 A. Yes, ma'am.

16 Q. And do you believe that he voluntary and freely made
17 knowing the consequences of his statement given to you?

18 A. Yes, ma'am.

19 Q. Did Mr. Jones make a statement to you this day?

20 A. Yes, ma'am.

21 Q. And was that after he had waived his rights?

22 A. Yes, ma'am, he, he read the waiver of rights and he
23 agreed to speak with me.

24 Q. Okay. And could you read for the jury that portion of
25 the waiver of rights?

1 A. Waiver of rights. I have read this statement of my
2 rights and I understand what my rights are. I'm willing to
3 make a statement and answer questions. I do not want a
4 lawyer at this time. I understand and know what I'm doing.
5 No promises or threats have been made to me and no pressure
6 of coercion of any kind has been used against me.

7 Q. Okay. And there's a signature on this form?

8 A. Yes, ma'am.

9 Q. And can you tell us whose signature is on there?

10 A. It's Clayton Jones and my -- my signature.

11 Q. Okay. And it's also listed the timestamp on there.
12 Could you tell the jury what the time was?

13 A. 10:25AM.

14 Q. All right. Did you record the statement that Mr. Jones
15 made to you on August the 5th, 2019?

16 A. Yes, they -- the interview rooms are audio and video
17 recorded.

18 Q. Did you have an opportunity to review that recording
19 before this Court -- before Court today?

20 A. Yes, ma'am.

21 Q. Okay. I'm gonna show you what's been marked for
22 identification as Court's Exhibit No. 25.

23 Will you tell the jury if you recognize that?

24 A. Yes, ma'am.

25 Q. And what is that?

1 A. It's a disk of Mr. Jones' interview with me.

2 Q. Have you had an opportunity to review that?

3 A. Yes, ma'am.

4 Q. And did you review that disk this week?

5 A. Yes, ma'am.

6 Q. And is it substantially in the -- the recording that
7 you had made during his statement to you on August the
8 5th of 2019?

9 A. Yes, ma'am.

10 Q. Is there anything in that recording that is
11 substantially -- did I ask -- I'm sorry.

12 Substantially different than it was when you made the
13 recording?

14 A. Yes, ma'am.

15 SOLICITOR JOHNS: Okay. Your Honor, at this time the
16 State would ask that Exhibit No. 23 be admitted into
17 evidence.

18 MR. JONES: No objections.

19 SOLICITOR JOHNS: Permission to publish.

20 THE COURT: Very well.

21 State's Exhibit what?

22 SOLICITOR JOHNS: Twenty-three.

23 THE COURT: Twenty-three. State's Exhibit 23 is
24 admitted in evidence.

25 (WHEREUPON, State's Exhibit No. 23 was received into

1 evidence at this time.)

2 THE COURT: Actually, before we -- ladies and
3 gentlemen, just stand up real quick. Just stretch your arms
4 and your legs. Take five seconds and sit back down.

5 Sorry. But I should of done that before you started.

6 All right. Thank you.

7 (WHEREUPON, State's Exhibit No. 23 was played for the
8 jury at this time.)

9 SOLICITOR JOHNS: Your Honor, on the break for lunch,
10 Mr. Jones and I discussed cutting out the dead space in
11 this -- rest of this video. I believe we're, we're gonna
12 stop this at 18 minutes and we're getting close to that time
13 right now. So, if you want to ask him on the record if we
14 can just---

15 THE COURT: Skip the---

16 SOLICITOR JOHNS: ---skip over.

17 THE COURT: Mr., Mr. Jones, the State's indicated y'all
18 had a consent -- discussion about fast forwarding through
19 the gap---

20 MR. JONES: Yes, Your Honor. No objection.

21 THE COURT: ---downtime on the video and you're okay
22 with that?

23 MR. JONES: Yes, Your Honor.

24 THE COURT: All right.

25 SOLICITOR JOHNS: Your Honor, I'm just letting it go to

1 18:00 real quick. Twenty seconds.

2 THE COURT: Okay.

3 Q. All right. Investigator Odom, you did make some notes
4 on this case, did you not?

5 A. Yes, ma'am.

6 THE COURT: What was the question?

7 MR. JONES: One moment. I, I can't see this exhibit.

8 THE COURT: Oh, okay. I can't see the solicitor. So
9 --.

10 (Pause.)

11 MR. JONES: Thank you.

12 Q. Did you make some notes on this?

13 A. Yes, ma'am.

14 Q. After this happened, was know -- was Mr. Jones then
15 arrested?

16 A. Yes, ma'am.

17 Q. And was he provided the warrant?

18 A. Yes, ma'am. NPO Brayboy read him the warrant on
19 camera.

20 Q. Okay. And you did show him a photograph during the
21 interview?

22 Do you remember that?

23 A. Yes, ma'am.

24 Q. And do you remember --?

25 A. This one.

1 Q. Yes.

2 State's Exhibit No. 5, is that what you had in your
3 file?

4 A. Yes, ma'am.

5 Q. And is that the photograph that you showed him?

6 A. Yes, ma'am.

7 Q. And he admitted that the man in the photograph was him?

8 A. Yes, ma'am.

9 Q. All right. And he also said his friend Andy was
10 present?

11 A. Yes, ma'am.

12 Q. And two little girls?

13 A. Yes, ma'am.

14 Q. So he did recall being at the river?

15 A. Yes, ma'am.

16 Q. What was his answer to whether or not Andy did it?

17 A. He said he -- Andy could of done it. But he -- it was
18 highly, I guess, unlikely I think's what he said.

19 Q. Okay. And what did he say with regard to **MINOR**
20 touching the water?

21 A. It could of been a fish. It could of been a stick.

22 Q. Okay. And what did he say with regards to accidentally
23 touching her?

24 A. I can't remember exactly what he said on that one.

25 Q. All right. Do you recall getting into anything

1 regarding motive by the mother?

2 A. Yes.

3 Q. All right. And what was his answer when you asked why
4 she would have a motive if she just met him?

5 A. I can't exactly remember.

6 Q. Okay. All right.

7 Your Honor, beg the Court's indulgence one moment.

8 (Pause.)

9 Q. I show you what's been marked as State's Exhibit for
10 identification No. 24.

11 Did you have an opportunity to observe, observe that in
12 MINOR's interview?

13 A. Yes, ma'am.

14 Q. Okay. Did you recall the testimony of, of, of Doctor
15 Foster with regard to that diagram?

16 THE COURT: Madam Solicitor.

17 MR. SUTHERLAND: He hasn't seen---

18 MR. JONES: What is that?

19 THE COURT: The -- yeah.

20 SOLICITOR JOHNS: Sorry.

21 THE COURT: Thank you.

22 MR. JONES: Objection. Foundation.

23 THE COURT: I don't even know what it is. It's
24 something -- so we'll -- is that the -- okay. That.

25 well, she hasn't asked but one question thus far. So,

1 let's see if the foundation gets laid.

2 Q. Have you had an opportunity to observe the interview
3 between MINOR and the forensic interviewer?

4 A. Yes, ma'am.

5 Q. Are you, are you familiar with a -- the diagrams that
6 they use that are anatomically age appropriate for child
7 victims?

8 A. Yes, ma'am.

9 Q. And did you see a diagram being used for the purposes
10 of identifying body parts made by MINOR?

11 A. Yes, ma'am.

12 Q. And have you seen this diagram before?

13 A. Yes, ma'am.

14 Q. Okay. Does this diagram represent what you've seen in
15 regards to your investigation in this case?

16 A. Yes, ma'am.

17 SOLICITOR JOHNS: And, Your Honor, we would offer
18 State's Exhibit 24 -- 24 into evidence.

19 THE COURT: State's Exhibit 24.

20 MR. JONES: Your Honor, objection. Foundation. I
21 don't believe that this witness was able to see such a thing
22 through their observation.

23 THE COURT: I, I, I believe the witness testified she
24 was in the -- behind -- present when the interview took
25 place when that was filled out on the same interview we saw

1 earlier. So the objection will be -- the evidence will be
2 admitted in evidence subject to defendant's objection.

3 (WHEREUPON, State's Exhibit No. 24 was received into
4 evidence at this time.)

5 Q. And is, is -- what's on this board State's Exhibit No.
6 24?

7 A. Yes, ma'am.

8 Q. Now, Investigator Odom---

9 MR. JONES: Approach, Your Honor?

10 Ask to approach.

11 (WHEREUPON, a bench conference was held out of the
12 hearing of the jury at this time.)

13 THE COURT: Ladies and gentlemen, I'm gonna take a
14 short break. Go back to the jury room. Refresh yourselves.
15 Please don't discuss the case. I'll get you back in here
16 momentarily.

17 (WHEREUPON, the following takes place outside the
18 presence of the jury.)

19 (WHEREUPON, a bench conference was held at this time.)

20 THE COURT: All right. We'll be right back.

21 (WHEREUPON, a short recess was taken at this time.)

22 THE COURT: All right. We took a recess here during
23 direct examination here. The State was -- I don't know if
24 they had moved or about to move but they shared a copy of a,
25 a handwritten letter from the defendant addressed to the

1 CONTINUED DIRECT EXAMINATION

2 BY SOLICITOR JOHNS:

3 Q. Investigator Odom, just trying to wrap up today.

4 So, based on your investigation, and looking at the
5 State's Exhibits that's been presented to this jury, you
6 have the, the photograph, State's Exhibit No. 5, that
7 identifies Mr. Jones as the -- being at the river with these
8 two young girls.

9 A. Yes, ma'am.

10 Q. All right. And, and also pictured in that photograph
11 is his friend, Andy?

12 A. Yes, ma'am.

13 Q. Okay. And in the statement that was played for the
14 jury, Mr. Jones admits to being at the river with his
15 friend?

16 A. Yes, ma'am.

17 Q. And along with that investigation, Investigator Odom,
18 you were able to develop a suspect based on a business card
19 that was given to the mom?

20 A. Yes, ma'am.

21 Q. Okay. Okay. Thank you. I have nothing further.

22 THE COURT: All right. Mr. Jones, you have any
23 cross-examination of this witness?

24 MR. JONES: Yes, Your Honor.

25 THE COURT: All right. Very well.

1 CROSS-EXAMINATION

2 BY MR. JONES:

3 Q. Hello.

4 Can you hear me okay?

5 A. Yes.

6 Q. All right. I only have a few questions today.

7 Based on what you remember and what you saw during
8 questioning, did the defendant appear to willingly answer
9 your questions?

10 A. Yes.

11 Q. Okay. And did the defendant assert his innocence
12 multiple times?

13 A. Yes.

14 Q. All right. Did you ask him to waive his constitutional
15 rights in questioning before providing him with any material
16 evidence or the warrant?

17 SOLICITOR JOHNS: Objection. Form of the question,
18 Your Honor.

19 THE COURT: Objection, form of the question?

20 SOLICITOR JOHNS: To the form.

21 THE COURT: Okay. Maybe you could rephrase that
22 question.

23 MR. JONES: Okay.

24 Did you present him with a form to give him the option
25 to waive his Constitutional rights?

1 A. Are you talking about the form that they showed?

2 Q. Yes.

3 A. Yes.

4 Q. Okay. And you gave this to him before providing the
5 warrant?

6 A. Yes.

7 Q. Okay. And did he ask for the warrants multiple times?

8 A. Yes.

9 Q. And despite this lack of information, was the defendant
10 still able to provide multiple alternative explanations for
11 the accusation?

12 A. Yes.

13 Q. Okay. No further questions.

14 THE COURT: Any redirect?

15 SOLICITOR JOHNS: No, Your Honor.

16 THE COURT: All right. The witness is excused.

17 SOLICITOR JOHNS: Your Honor, the State rests.

18 THE COURT: Very well.

19 Ladies and gentlemen, the State has rested their case.
20 I've got some matters I've got to take up with the attorneys
21 at the -- or the parties at this time. I'm just gonna put
22 you back in your jury room and I'll be back with you
23 shortly.

24 All right. Thank you.

25 (WHEREUPON, the following takes place outside the

1 presence of the jury.)

2 THE COURT: All right. Any motions?

3 MR. SUTHERLAND: May I have a couple minutes with Mr.
4 Jones?

5 MR. JONES: Beg the Court's indulgence.

6 THE COURT: Okay.

7 (Pause.)

8 MR. JONES: Thank you, Your Honor.

9 Yes, I have a, a motion.

10 When, when Judge Newman appointed standby counsel, he
11 informed me that I could change my mind and turn over part
12 of the representation of the case to Tivis and I now believe
13 that effective representation would be best achieved by him
14 in the, the matter of the directed verdict.

15 So, I ask for him to place in that specific matter.

16 THE COURT: Okay. Well, let me ask -- are you asking
17 to take over for the rest of the case?

18 MR. JONES: Just for the directed verdict.

19 THE COURT: I, I don't know about that.

20 MR. SUTHERLAND: I mean I was in the courtroom and
21 Judge Newman said if, if he flakes out---

22 THE COURT: I---

23 MR. SUTHERLAND: ---you know, that---

24 THE COURT: Well, no.

25 MR. SUTHERLAND: Yes, sir.

1 THE COURT: To me, I mean you're in or out.

2 MR. SUTHERLAND: Yes, sir.

3 THE COURT: I don't think you can make a special
4 appearance for the sake of making an argument.

5 MR. JONES: Well then for---

6 THE COURT: Respect -- I mean I'll, I'll look into
7 this. But I mean my inclination -- we'll, we'll look at it.
8 But my inclination is you, you can't represent yourself and
9 then hand off and then take the ball back.

10 MR. JONES: I understand that.

11 So for, for clarification, if I did not present the
12 directed verdict at this time, a motion for directed
13 verdict---

14 THE COURT: You need to turn around. I can't give you
15 advice.

16 MR. JONES: Right.

17 (Pause.)

18 THE COURT: And if y'all want to -- if you want to take
19 a moment to talk with your standby counsel---

20 MR. JONES: Yes, sir.

21 THE COURT: ---that will be fine.

22 MR. JONES: Thank you, Your Honor.

23 (Pause.)

24 MR. JONES: All right, Your Honor.

25 THE COURT: Okay. Well, I'm happy to hear from you but

1 I'm looking this up too. So --.

2 MR. JONES: Sorry. I, I would just state that, yeah,
3 I, I definitely feel that effective representation would be
4 best achieved by him for the remainder of the proceedings.

5 THE COURT: Okay. Anything else for the moment?

6 MR. SUTHERLAND: I'll do it, judge.

7 THE COURT: Just a moment.

8 MR. SUTHERLAND: Yes, sir.

9 (Pause.)

10 THE COURT: I'll be right back.

11 (WHEREUPON, a short recess was taken at this time.)

12 THE COURT: All right. All right. So --.

13 (WHEREUPON, a bench conference was held at this time.)

14 THE COURT: All right. Let's, let's do DV first and
15 then we'll let the jury go.

16 All right. We got everybody we need.

17 All right. We just -- the State just rested.

18 Mr. Jones stood up and asked the Court if Mr. Sutherland
19 could take over representation for him. Mr. Sutherland's
20 been present in the courtroom as his standby counsel for the
21 last -- what day is it?

22 Three days.

23 It's a little out of the ordinary but it's---

24 MR. SUTHERLAND: I've never done this before even not
25 getting -- took over.

1 THE COURT: However, it's better that the alternative
2 of, of the, the -- a client wanting to release his lawyer on
3 the third day of trial.

4 Mr. Jones went through a Faretta hearing last Thursday,
5 if I'm not mistaken, and was fully cognizant of his
6 constitutional right to represent himself and he's done that
7 throughout pretrial and the trial. He initially indicated
8 he would like his lawyer to handle just the motions. That's
9 what I heard. That may not have been what you meant.

10 But -- and I said no, no, no. It's either you're in or
11 you're out and I also explained to you that -- and
12 Mr. Sutherland that, should you put up a case, you can't
13 decide after the first witness that you want to represent
14 yourself. He's your attorney until the end whatever that
15 result is.

16 You understand that, Mr. Jones?

17 MR. JONES: Yes, Your Honor.

18 THE COURT: Do you want Mr. Sutherland to represent
19 your interest moving forward?

20 MR. JONES: That is correct, Your Honor.

21 THE COURT: Mr. Sutherland, do you want to do that?

22 MR. SUTHERLAND: Good to go.

23 THE COURT: You're prepared to do that?

24 MR. SUTHERLAND: Yes, sir.

25 THE COURT: All right. Mr. Sutherland, any motions?

1 Do you have any motions or renewals?

2 MR. SUTHERLAND: Yes, sir, I do. I would, of course,
3 renew all of Clayton's motions and objections and I would
4 renew my directed verdict motion.

5 I -- you know, just the issue about, you know, video
6 and this type thing coming in were the live testimony,
7 rather than corrob -- potentially bolstering or
8 corroborating the live testimony, I think it supplanted the
9 live testimony. Perhaps I should also move for mistrial in
10 that regard just real quick just to preserve it.

11 And so, in addition to everything I've already said,
12 I'd move for mistrial based on the live witness testimony
13 being supplanted by the video, sir.

14 THE COURT: Okay. Any response from the State?

15 SOLICITOR JOHNS: No, Your Honor.

16 THE COURT: All right. Well, based on previous
17 arguments I've heard, those motions will be denied.

18 MR. SUTHERLAND: Yes, sir.

19 THE COURT: Your objections are preserved though, and
20 to the extent you moved for a mistrial, that, that is denied
21 as well.

22 MR. SUTHERLAND: Yes, sir. Thank you.

23 THE COURT: All right. So, what we'll do is, is it --
24 first of all, is the jury all here?

25 THE BAILIFF: I can check, Your Honor.

1 THE COURT: Let's just see if they're all present.

2 MR. SUTHERLAND: I'm sorry. Just kind of running the
3 track over here before we --.

4 THE COURT: Okay.

5 THE BAILIFF: The jury's all present, Your Honor.

6 THE COURT: All right. So, when we bring them in,
7 first things first, I'll let them know that, at the close of
8 our proceedings yesterday, that Mr. Jones elected to have
9 Mr. Sutherland be his attorney of record moving forward and
10 that we'll, we'll now have an opportunity to hear from the
11 defendant in their case in chief. And then you can stand up
12 and rest and we won't go through the formality of taking a
13 break to renew directed verdict motions as they've already
14 been done.

15 Once you rest, I'll let them know they've -- you've
16 rested and it's now time for closing arguments.

17 Any, any questions about that plan?

18 MR. SUTHERLAND: No, sir.

19 SOLICITOR JOHNS: None from the State.

20 THE COURT: Okay. Obviously, just for the purpose of
21 closing arguments, we -- we'll keep those arguments confined
22 to the evidence that was presented at trial and go from
23 there.

24 Let's go ahead and bring the jury in please.

25 THE BAILIFF: Yes, Your Honor.

1 SOLICITOR JOHNS: One question, Your Honor.

2 THE COURT: Oh.

3 SOLICITOR JOHNS: Is this, is this blocking your view
4 of the jury at all?

5 THE COURT: I can see the jury fine.

6 Can y'all see the jury fine?

7 MR. SUTHERLAND: I can and can you?

8 Okay. Yeah, we're good to go.

9 THE COURT: If you prefer, you can even move the TV --
10 of course, you can move it closer to me if that would open
11 up that -- all right. Bring them in please. Thank you.

12 THE BAILIFF: Yes, Your Honor.

13 MR. SUTHERLAND: Is that, is that too far over, judge?

14 THE COURT: I can -- there. That's fine. Now I can
15 see everybody.

16 (WHEREUPON, the following takes place within the
17 presence of the jury.)

18 THE BAILIFF: The jury has been seated, Your Honor.

19 THE COURT: All right. Thank you.

20 Ladies and gentlemen, welcome back. Hope y'all had a
21 nice evening and you came in this morning refreshed.

22 Throughout the trial in this case, Mr. Jones has
23 elected to exercise his right of self-representation, which
24 is allowed under the Constitution. After we broke
25 yesterday, Mr. Jones elected to have Mr. Sutherland move

1 forward as his attorney of record. So, moving forward for
2 the rest of the trial, Attorney Sutherland will be Mr. Jones
3 counsel of record.

4 Okay. So, at this time -- yesterday the State rested.
5 Now we'll have an opportunity to hear from the defendant if
6 they wish to present a case.

7 Mr. Sutherland.

8 MR. SUTHERLAND: Yes, sir, the, the defense rests, Your
9 Honor.

10 THE COURT: All right. Very well. The defendant has
11 rested their case. So the parties have pre -- presented
12 their evidence in this case. It is now time for the
13 attorneys to make their closing arguments.

14 The arguments of the attorneys are not evidence in this
15 case. Their statements and arguments are meant to help you
16 understand the evidence and apply the law to the evidence.
17 You should disregard any remarks, statement, or argument
18 which is not supported by the evidence presented during the
19 trial or the law that I'll explain to you after the
20 arguments.

21 Now, please give your complete and undivided attention
22 to the attorneys as they make their closing arguments at
23 this time.

24 Madam Solicitor.

25 SOLICITOR JOHNS: Thank you, Your Honor.

1 Please the Court?

2 THE COURT: Yes, ma'am.

3 SOLICITOR JOHNS: Good morning, ladies and gentlemen of
4 the jury.

5 You were selected to come into this particular case,
6 the State of South Carolina versus Clayton Jones.

7 Mr. Jones, as you know, has been charged with criminal
8 sexual conduct in the third degree with a minor.

9 With regard to that, Mr. Jones has come into this court
10 asking for a jury trial, which he has every right to do.
11 Every citizen in this state has a right to come into a court
12 and claim that they are not guilty. We are here as the
13 State and we are representing the citizens of Richland
14 County.

15 Part of what we do as solicitors is we have a duty to
16 investigate, work with the investigating officer, work with
17 children, work with parents, whatever it is that we need to
18 do to come into this Court and present to you a case that
19 shows that the defendant is guilty beyond a reasonable
20 doubt. We accept that burden and we firmly believe that
21 this burden on the State is one that we can overcome.

22 Now, what I want to tell you is that, on June the
23 23rd of 2019, three years ago and some weeks, there was an
24 incident at the river. And while at the river, as we know
25 from the testimony, there was a young girl that was there.

1 She was with her mother, Erin Rish, her sister, Z.R. [REDACTED],
2 and, while there, they encountered the meeting of two
3 strangers.

4 Now, in regard to the meeting of those two strangers,
5 what we have is testimony from Erin Rish that she, that she
6 was living in Lexington County. She crosses over the
7 Gervais Street bridge right here. She comes through here
8 and ends up at 1115 Gist Street. There's a parking lot over
9 here. Across the street from the Gervais Street bridge on
10 the Columbia side is EdVenture Children Museum.

11 So, that's where she was located. She also testified
12 that over in this map you can see the area, which is more
13 like a street view that you can get, the dot over here
14 represents the parking lot where she's parked her car and,
15 from the parking lot, she walks down to the riverbank.

16 On the riverbank, you will see that she had described
17 coming down, this being sort of a ramp, and walking through
18 a path and ending up right here on this beachy area of the
19 bank.

20 During her testimony, she said that upstream or towards
21 the bridge she noticed two men. Those two men was Andy
22 Geddings, the tall skinner man, and the defendant, Clayton
23 Jones. What happens in this case is that the two young
24 girls have floats out there with them similar to the ones we
25 have in the courtroom today.

1 Now, her testimony is that, after she had settled down
2 with the kids, that the float got away from one of the
3 children. When the float gets away from the children, there
4 is a man with brown hair that comes in and rescues the
5 float. When he comes in and rescues the float, similar to
6 this picture here, this being a float, he basically makes an
7 opportunity to meet this family.

8 You can see in this water right here that this is Z.R.,
9 and through the inner tube right there, you can see MINOR.
10 MINOR is standing in water about waist deep.

11 During this situation right here when the float gets
12 away, the opportunity was posed by Mr. Jones to rescue that
13 float and bring it back to this family. That opened the
14 door for him to come in and start gathering some sort of
15 rapport with Erin Rish.

16 When things like this happen, obviously parents have to
17 be concerned if it was a simple gesture where he was just
18 being kind and brought the float back even though he
19 insisted that he didn't need to. There should be concern.
20 There should be concern because Mr. Jones didn't just bring
21 the float back and go back into the river and start hanging
22 out with his best friend, Andy. What he did instead is he
23 used that opportunity as a window to get to know Erin Rish.

24 What this does is this establishes rapport. This
25 allows Ms. Rish to get to know him a little bit, the -- all

1 the talk about what he did for a living. He was a tech
2 tutor. He taught teenagers and older people how to run a
3 computer or some sort of gaming device or how to get on
4 their phone, play games, that sort of thing.

5 where does he do that?

6 He does that at Tart Cafe. He does that at Starbucks
7 and public places like that.

8 So, with regard to Mr. Jones striking up a conversation
9 with Erin Rish, it went further than just returning the
10 float.

11 Now, had he returned the float, and it was just a kind
12 gesture, Ms. Rish would of thanked him. He would of gone on
13 his way.

14 But he saw two young girls there with their mother.
15 There's not a man around and he used this opportunity to go
16 in there and try to get -- gain their trust.

17 After he had gained the trust of Ms. Rish, here he is
18 in this picture that we've submitted into evidence playing
19 with these two young girls.

20 Now, I want you to notice that, in the statement that
21 Mr. Jones had given about this situation where he invents
22 being at the river, he gave you an alternative theory. He
23 gave you the alternative theory that he did not touch **MINOR**
24 but maybe his friend, Andy, his best friend, Andy, did.

25 well, you can see in this photograph that Andy is

1 sitting with his legs crossed, with his hands on his knees.
2 If you look real closely, you can see very little mud on his
3 hands. But you can see he is not engaged. He is not
4 engaged in the play with the children. But I want you to
5 look at Mr. Jones in this photograph. I want you to look at
6 MINOR and I want you to look at Z.R.

7 Now, MINOR recognized -- please recognize that MINOR's
8 hair is wet all the way up to at least her neckline and then
9 a little bit above that and there is mud on Mr. Jones hand
10 and there is mud on his knee and, in this photograph right
11 here, there's mud all over MINOR.

12 Now, what is he doing here when he's talking with
13 MINOR, the seven year old at the time, not the 10 year old?

14 It's he's obtaining trust from these two children and
15 he's got his friend here to act as a buffer perhaps because,
16 if it was just him in the river, and he came over and
17 started playing with two young children, two young, very
18 young girls, that would look a little more odd but he's
19 hanging out with his best friend, Andy, who he said possibly
20 could have touched her.

21 That was his alternate theory that, if she had been
22 touched, it wasn't him. It was Andy. If she had been
23 touched, it was because of the mud tossing and the packing
24 of the mud on and it could of been accidental. Another
25 alternative theory.

1 Now, the -- what I want you to also understand is that,
2 after he is established in -- this trust, you hear testimony
3 that the two girls, along with Mr. Jones, are seen in the
4 water. When they are seen in the water, obviously they have
5 to get wet. As you can see, MINOR is wet.

6 She gets in the water with Mr. Jones, and while she's
7 in the water, she describes to the forensic interviewer,
8 Doctor Foster, that somebody had touched her crotch, that
9 the man with the brown hair had touched her crotch. His
10 alternative theory for anybody touching her crotch is
11 possibly it was a stick. But no, no, no, that was too hard.
12 And if it's in the water, then his fourth alternative theory
13 was that it was a fish.

14 How ridiculous is that that he's gonna come up with a
15 theory about this young seven year old getting touched in
16 the crotch area and that it was a fish?

17 That's just unplausible.

18 Now, what the State has to prove is that the actor is
19 over the age of 14 and the victim is under the age of 16.
20 We've provided you a copy of her birth certificate. You can
21 see at the time she was seven years old. Her being seven
22 years old and Mr. Jones being over the age of 16, we've got
23 those two elements already met.

24 Now, what happens when Ms. Rich gets an uncomfortable
25 feeling is that she packs her children up after rinsing off

1 and she takes them back to her car.

2 while she's walking to her car through this pathway
3 back up to the parking lot, who's behind her?

4 Clay.

5 Clay is following in behind her cause his job at the
6 river is already done. He's already made what he wanted to
7 make of that Sunday and he's -- since the kids are leaving,
8 he's gonna leave and what does he do?

9 He gives her this business card because he's already
10 told her that he is a tech tutor, and he makes these
11 business cards for free, and he hands those business cards
12 out to who knows who. But he gave one to Ms. Rish that day.
13 And while she was getting the kids into the car, **MINOR** says
14 he touched my crotch.

15 Now, what I want you to realize is that this baby here
16 is seven. She was taught that if anybody touches your
17 private parts or touches your crotch that she named as a
18 private part, you should tell somebody but you know who
19 might not have learned that?

20 Mr. Jones.

21 Nobody told him that to touch a child that's under the
22 age as the statute requires is wrong.

23 The other thing that I want you to obviously recognize
24 is his face. Look at the joy on Mr. Jones face while he is
25 very much engaged in play with this seven year old. He is

1 not engaged with Z.R. He's not engaged with his best
2 friend, Andy. He is totally engaged with a seven year old.

3 Now, I want you to understand something. Erin Rish
4 came in here as her mother and she provided testimony to you
5 about her feeling, her feeling of being uncomfortable. Some
6 of us would say that was a weird feeling. Some of us would
7 say that that feeling in our gut made us want to leave and
8 some of us might want to blame her for what happened. But
9 there's nobody to blame for what happened to MINOR except
10 Clayton Jones.

11 Now, her judgment may have been off. She may have been
12 trying to be overly kind because she had noticed that Mr.
13 Geddings was a little bit off. She may have not wanted to
14 be rude and all those things are not wrong things.

15 So, I don't want you to blame the mother for what
16 happened to her child because the mother didn't do anything
17 wrong. The mother was going down to the river with her two
18 young children to enjoy a day of the summer so that they
19 could cool off and spend time together.

20 So, if, if you're gonna blame somebody for that, blame
21 Mr. Jones for what happened to MINOR. Don't blame Erin
22 Rish. She didn't do anything wrong. She's not charged with
23 doing anything wrong with her child or her children that
24 day. So, if you're gonna convict somebody for doing
25 something wrong, it has to be Mr. Jones and not Ms. Rish.

1 Now, after the disclosure at the car, which, by the
2 way, was within a few -- within an hour. It's not like
3 MINOR was sitting there saying oh, well, you know, I didn't
4 want to leave the river. I wanted my mom to stay. I am
5 going to tell my mom something that's going to upset her.

6 This disclosure was done immediately. It wasn't even
7 wait a few days, wait a month, wait two years, wait three
8 years and let it get really embedded in her, and then she
9 does a delayed disclosure.

10 She tells her mom immediately and what her mom did was
11 that she took the business card and found out that his real
12 name is not Clay Jones but Clayton Jones. And not only
13 that, but the business card itself was something that he was
14 advertising on his Facebook because they were free.

15 So, after she obtains his real name, then she goes to
16 the police, and when she goes to the police, they do an
17 investigation, and when Investigator Odom gets in touch with
18 her, she is shown a photographic lineup and she is shown a
19 photograph lineup independently of the photographic lineup
20 that was shown to MINOR.

21 Now, these are the exact same photographic lineups.
22 They were done independently of each other, and low and
23 behold, here's Ronica Rish picks out Number 4 and a seven
24 year old, MINOR, MINOR, picks out Number 4.

25 How could they have planned that?

1 How could they have known that Number 4 -- that they
2 were both gonna pick out Number 4?

3 They are in two different rooms.

4 It is implausible to believe that Erin Rish had somehow
5 planted this conspiracy in this seven year old's mind. You
6 saw the interview of this seven year old at the time in
7 front of Doctor Allison Foster. Doctor Allison Foster
8 didn't lead her into what to say. Doctor Allison Foster
9 showed her, after she was a little bit reluctant to talk
10 about the private parts, helped her by showing her this
11 diagram and she very forth -- was very forthcoming about the
12 body parts and she had mentioned the crotch.

13 Now, when she does this, remember, during her interview
14 when she said that Mr. Jones had touched her crotch, she got
15 into some very disturbing details about what he did with her
16 crotch.

17 What she said to Doctor Foster was that he put his hand
18 on her skin and it was going in circles, and when questioned
19 even further, she said that it was his finger that was going
20 around in circles.

21 **MINOR**, has anybody else ever touched you down there?

22 No.

23 **MINOR**'s only experience with anybody touching her
24 crotch was with Mr. Clayton Thomas Jones over there when he
25 put his finger inside her bathing suit and went around in

1 circles.

2 Now, the defense may propose to you that that's
3 something that she was told to say. But what I want you to
4 remember is that when she immediately disclosed it to her
5 mother, and then went to her forensic interview, it had been
6 about a month and a week or somewhere. June 23rd to
7 July 29th. Something like that.

8 So, even though some time had passed, the theory that
9 Mr. Jones may have is that perhaps the mother had something
10 against him because when he was asked by Investigator Odom
11 why would the seven year old say this, I don't know. Maybe
12 her mother had something against me.

13 What mother in their right mind would want to plant
14 something in a seven year old's head so that this mother can
15 hold something against Mr. Jones for what?

16 What motive would Erin Rish have against Mr. Jones at
17 all?

18 They just met. There is no reason to build up this
19 resentment to then tell a seven year old child to tell the
20 authorities that he touched her crotch and made circles.
21 That is unbelievable.

22 But that's what Mr. Jones wants you to believe.
23 Mr. Jones wants you to believe that, for some crazy reason,
24 this story was made up and he's just the victim of being
25 falsely accused.

1 You know that when he was spoken to by Investigator
2 Odom that he waived his right to have an attorney present.
3 In fact, you saw the first half of this trial. He knows
4 exactly what an attorney is. He knows exactly what an
5 attorney does. In fact, he acted as his own, his own
6 attorney earlier this week up until yesterday when he asked
7 Mr. Sutherland to be his lawyer. But he waived his right
8 after knowing what his rights were. He waived his right and
9 you saw video of his statement.

10 He knew that he could ask for an attorney. He even
11 asked Investigator Odom about it and he even asked how he
12 could get a public defender. But when Investigator Odom
13 started talking to him about what had happened that day, he
14 corroborates exactly what the seven old said because the
15 seven year old had disclosed two things that is surprising
16 that a seven year old could remember this some 30 days
17 later.

18 But he said to her, while his finger was going in a
19 circle on her skin in the crotch of her bathing suit, you
20 like that, right?

21 Anybody else hear that?

22 No.

23 And the second thing he said was if, if you come back
24 next Sunday, I'll give you more. If you come back next
25 Sunday I will give you more. This came from a seven year

1 old child.

2 How is she gonna remember that if it didn't happen?

3 And in the corroboration when he gave a statement, he
4 said I may have told her that I would be there next Sunday.

5 So, he admits saying something about Sunday but he
6 doesn't want to admit that he said I'll give you more
7 because he's hiding. He's hiding who he is. He's blaming
8 Andy. He's blaming a stick. He's blaming a fish. He wants
9 you to blame the mom for being a bad mom. He wants to blame
10 the State of South Carolina for not showing the jury that
11 we've got a case that we can prove beyond a reasonable doubt
12 because he's completely innocent and the judge will tell you
13 that he is until you guys start deliberating.

14 But you know what?

15 Like Ms. Chaffin said in opening statement, when you
16 walked into this courthouse the beginning of this week, you
17 did not check your common sense at that front door. When
18 you walked through that metal detector, it didn't take away
19 your common sense. Your common sense is still with you, the
20 common sense that you use to judge people who are in front
21 of you every day when you're talking to a co-worker, when
22 you're talking to a child, when you're talking to your own
23 children, you're talking to your sister, whoever it is that
24 you associate with.

25 When you are talking with them, you are constantly

1 assessing them and you are assessing them because you want
2 to make sure that they are telling you the truth and being
3 truthful with you. You do it every day and you're gonna use
4 your common sense in this case as well.

5 When you use your common sense in this case, cause it
6 wasn't stole from you from that metal detector, you will
7 realize that when a seven year old discloses to her mother
8 that she had been touched in the crotch, and then, a month
9 later, goes in for a forensic interview and gives the
10 details of what happened to her to that forensic
11 interviewer, and it is recorded, it tells you that something
12 happened to her, that there was a lewd act committed upon
13 her, that this lewd act was done with the intent of arousing
14 some sort of sexual desire.

15 Do you think that MINOR had a sexual desire to be
16 touched in the crotch or do you think that that's sexual
17 desire?

18 The joy on that man's face right there playing with the
19 seven year old tells you everything you need to know about
20 that man. Everything you need to know is right there.

21 Now, the reason that this is in this slide is because
22 June the 19th, I mean sorry, June the 23rd, 2019, was a
23 very long time ago. Three years ago almost to the date of
24 this trial this happened.

25 Now, you saw young MINOR came in here three years

1 later. She's 10 now. She took the stand and I asked her
2 questions about what happened. I don't know if I've ever
3 spoken to a child under oath that was as honest as MINOR
4 because three years ago something bad happened to her.
5 Three years ago she remembers being at the river. Three
6 years ago she remembers a man did something to her.

7 But you know what she couldn't remember?

8 She couldn't remember what he looked like. She
9 couldn't remember that Mr. Jones sitting over there right
10 now is still that man that when she picked out -- I'm sorry.
11 She picked out as Number 4.

12 Now, is that something that should shock you?

13 Look at this picture where she identified him and then
14 look at Mr. Jones. Look at him now three years later. And
15 when she got up there on the stand and I asked her if she
16 could see him in the courtroom, she did not lie to you. She
17 did not indicate to you she would be coached to point
18 somebody out. All she did when she took this stand is tell
19 you the truth when she looked all around this courtroom.

20 She looked at the judge's bench. She looked back
21 there. She looked out there in the gallery and she told you
22 the truth.

23 Now, I don't know what is more innocent in a child than
24 a child that will come in here and tell you the truth. She
25 had nobody to impress. She had nobody that she needed to

1 satisfy and she certainly isn't gonna come in, after three
2 years from suffering what she had suffered from, and make up
3 a lie to you cause she wasn't lying this week and she wasn't
4 lying back then when she did the interview.

5 She is an innocent child and something bad happened to
6 her and what that bad did was create this scenario to where,
7 even three years later, she is still sticking to her story.
8 And if she can't remember, that's fine with us. And if you
9 want to cut her loose because you think she can't remember
10 the details three years later, assess that because three
11 years ago we weren't going through COVID-19. Three years
12 ago we didn't suffer a lock down. We weren't suffering
13 closed schools. We weren't suffering from having to
14 homeschool our children and to navigate career, navigate
15 income for the house, navigate schooling. None of that was
16 going on and we all experience that including MINOR.

17 So, don't hold it against her because she came in here
18 and couldn't repeat what she said back in 2019. That's not
19 her fault.

20 Now, I'm going to try to express to you that some of
21 these things that I've put up here on the testimony that
22 came from this stand is testimony that you will take in as
23 evidence along with all of these exhibits. You'll also have
24 an opportunity to have the two videos, one of Mr. Jones'
25 interview and one of MINOR's interview, and these are

1 the only two people that you really need to pay attention
2 to.

3 The first thing is he gained access to the child by
4 returning the float. He was a rescue person. He was a
5 hero. He wants to be a hero. He wants to open up
6 conversation with the mom and he did -- he got his
7 opportunity because of this float.

8 He establishes rapport with the parent. Now, that's
9 not a word that I use. It's not a word that Investigator
10 Odom used. That word came from his very own statement. I
11 established rapport and people say I'm good with kids and I
12 get to make a little bit of money.

13 You can listen to it again. It's on here. So, he's
14 establishing rapport, which is exactly what he did, to a
15 kind woman who had two young children who were trying to
16 spend a summer cooling off.

17 He tests the waters by gaining trust of the child. You
18 saw the picture with the smile on his face. He knew exactly
19 what he was doing. He gained the trust of that child
20 because he was playing Mud Monsters with them.

21 What grown man is going to play Mud Monsters with a
22 seven year old?

23 That one right there.

24 He enjoyed every bit of it. You can see it on his
25 face.

1 He claimed it was an innocent touching. Well, yeah,
2 you can see in the picture he's rubbing mud on her but that
3 was innocent. That was innocent touching and maybe
4 accidentally happened. I don't know. Maybe it slipped up.
5 whatever. Playing innocent touching on his part cause he
6 would never intentionally do something like that even though
7 he enjoyed every bit of playing Mud Monsters with a seven
8 year old.

9 He tells the child something secretly, you like that,
10 right, while he's making a circular motion inside her
11 crotch. Even if it is outside of his crotch, he's still
12 guilty of the lewd act and in CSC with a minor we're not
13 trying to tell you that there was penetration. We don't
14 need to bring a doctor in here to prove to you that there
15 was injury to a child's crotch to prove that he's guilty of
16 criminal sexual conduct.

17 He could have merely touched the outside of her crotch
18 and he'd be just as guilty because it's not just the
19 touching. It's that he wanted sexual arousal and you can
20 see in that picture while he's on the beach that he's
21 definitely aroused here and he's enjoying it.

22 Now, criminal sexual conduct with a minor third degree,
23 actor over 14 years of age. Proven.

24 willful and lewdly. willfully he touched her and he
25 did so lewdly.

1 He commits or attempts to commit a lewd or lascivious
2 act. Lascivious, the definition. Common sense definition
3 to that is groping or sexually touching or filled with some
4 sort of sexual desire.

5 The touching. I mean he's getting something out of it.
6 He's getting off on it. Whether it is to the extreme that
7 we can think of, you know, how men are fully aroused or
8 whether or not it's just step one, it's still a lewd and
9 lascivious act.

10 Upon or with the body or its parts. The crotch.
11 That's what a seven year old calls her body part.

12 Of a child under the age of 16. Birth certificate.
13 **MINOR** was seven.

14 With the intent of arousing, appealing to, or
15 gratifying. Back to the picture on the riverbank when he's
16 playing with that seven year old. Appealing to, gratifying
17 lust, passions, or sexual desires of not **MINOR**.

18 You think **MINOR** enjoyed it?

19 If she did, you can convict him for that too of the
20 action or of the child. If you think **MINOR** was aroused,
21 convict him. If you think he was aroused with some sort of
22 pleasure that you can see all over his face, convict him.

23 Now, here's a summary of our evidence. I couldn't get
24 it all on there but the child discloses to the mother at the
25 car. Child selects defendant out of a photo lineup. The

1 defendant gives a statement saying that he did say something
2 about Sunday. He admits that he was at the river on Sunday.
3 He admits meeting this young family. Doesn't remember their
4 name. But oh, yeah, I, I think I remember that.

5 Also what you want to hear in his statement is that
6 he's not really concerned about the interview. He wants to
7 read the warrant. He's more concerned about what is alleged
8 than whether he's gonna answer these questions or not. But
9 he gives a statement and you heard it. You-all heard it.

10 You-all heard him say that he said something about
11 being back on Sunday. Oh, but it wasn't I'll give you more.

12 The child did a forensic interview.

13 Now, if she's making this up as a seven year old, why
14 would she put herself through that?

15 why would her mother put her through something like
16 that for a mere stranger that rescued a float?

17 He didn't do anything wrong.

18 why?

19 why would they come up with this conspiracy?

20 It's ridiculous.

21 You like that, right?

22 Secret told to the child and you know what she said in
23 response to that?

24 I didn't say anything.

25 You know why she didn't say anything?

1 She didn't know what to say but she knew to tell her
2 mother.

3 I'll be back next Sunday if you want some more and we
4 didn't make up next Sunday. He admitted to next Sunday. I
5 may have said something about next Sunday.

6 Ladies and gentlemen, in summary, this case gave me
7 goosebumps. I know it's a game and it's on the riverbank
8 and they were talking about Mud Monsters.

9 But when the monster's already in the water, and comes
10 close to your family, and you're trying to be kind to
11 strangers that did a favor for you, you really don't know
12 what to do. You don't know how to react. But when that gut
13 keeps talking to you, what you do is you collect all of your
14 things and you tell your girls let's go. We got to get home
15 and you even give the strangers a reason that you have to
16 leave because you don't want to be unkind. You don't want
17 to be rude. You don't want to be smug.

18 The thing is that, is that these two grown men were in
19 the river fully clothed and had nothing to do but go up on
20 the bank and play with two very young girls. Don't blame
21 the mother for making that mistake because she didn't do
22 anything wrong.

23 I'm gonna leave you with this photograph so that if you
24 have any question in your mind about what had happened,
25 there's your answer. That's your answer.

1 We submit to you that we have proven this case beyond a
2 reasonable doubt. We submit to you that, when the judge
3 gives you the instructions about how to come to that
4 decision, that you will apply the facts that we've provided
5 to you to the law that he will give you.

6 Think about this. Think about how this makes Ms. Rish
7 feel. Don't act on your sympathy. Act on what was going on
8 that day. Think about the testimony that came from this
9 witness stand. Think about the exhibits that we have put
10 before you for you to consider so that we could get to the
11 truth, so that we can convict Clayton Thomas Jones of
12 criminal sexual conduct with a minor in the third degree.

13 If I've done anything wrong in this trial, please blame
14 me. If Ms. Chaffin has done anything wrong in this jury
15 trial, blame her. If Ms. Rish made a bad decision about how
16 she should get her kids off the river cause of the two
17 stranger -- two strange -- strangers that they encountered,
18 maybe you can say you should of acted sooner. But don't
19 blame her for what he, this man who's almost nothing like he
20 looked three years ago, did to this poor baby child.
21 Consider seriously finding him guilty.

22 Thank you.

23 MR. SUTHERLAND: Ready, Your Honor?

24 THE COURT: Proceed.

25 MR. SUTHERLAND: Please the Court.

1 THE COURT: Yes, sir.

2 MR. SUTHERLAND: Okay. I am -- I mentioned earlier
3 before you-all came in, I'm about 17 hours into being the
4 lawyer here. I've been doing this 18 years and there's a
5 first time for everything.

6 I'm over there. I'm still kind of working this through
7 and processing this but I saw the same evidence that you-all
8 saw and I heard the same testimony and the same arguments
9 that you-all heard. So -- and I'm a trial lawyer. So I
10 think I'm in the -- a pretty good position to get this
11 squared away.

12 A couple things. The government lawyer said that
13 they're here representing the people of Richland County.
14 That's not -- that's not the way it is. They are
15 representing the government.

16 You know, we have a Constitution of the United States,
17 Constitution of the State of South Carolina that protects
18 defenses and gives them a right to a jury trial, defends
19 them from the government. So, you-all are the actual people
20 here. He's a citizen and he's a member of this community.

21 Also nobody's gonna be mean to the mom here. You know,
22 I guess, I guess they want to speculate about what I'm gonna
23 say honestly. You know, we're just gonna get through it and
24 we're gonna get to it because---

25 THE COURT: Well, Mr. -- the court reporter's having

1 trouble hearing you because you're---

2 MR. SUTHERLAND: I'm, I'm -- just talk---

3 THE COURT REPORTER: Okay. Move back to me.

4 MR. SUTHERLAND: Okay. I'll try -- yeah, I'll try to
5 yell or something.

6 But, you know, I'm thinking this through over there.
7 I'm listening to the government lawyer close, and because of
8 these circumstances, and, again, y'all've never seen it
9 before. I'm thinking, you know, what do I say. You know,
10 I'm listening to her and, you know, when you do this for a
11 living, your, your mind's got to work on maybe one track,
12 two tracks, three tracks. I'm listening to her and I'm
13 thinking, you know, what do I say, you know.

14 I mean maybe everybody saw me sitting over there
15 messing with my phone, you know, the whole time or sort of
16 jumping up and down going up there like a puppy or something
17 for these bench conferences and sort of trundling back.

18 So, I was thinking and I thought well, I didn't --
19 because I didn't open this case, and simply because I didn't
20 try this case, I never introduced myself. So, I thought
21 well who am I and why am I here while I'm listening to her.

22 But see there's a third line of thinking when you do
23 this for a living is it's hard to explain it. It's not
24 paranoia but you don't want to do anything wrong.

25 All right. You don't want to sink, sink the ship.

1 I guess a way to explain it, my great grandpa was born
2 in 1880 and he delivered 6,000 babies. About half of them
3 probably, you know, on horse back and then doctors have---

4 THE COURT: Step back a little bit. I just want her to
5 be able to hear what you're saying. So, I'm sorry.

6 MR. SUTHERLAND: Yes. Yes, sir.

7 And lean on this big computer here or something.

8 And doctors have this thing called the Hippocratic
9 Oath, this feels funny being this far back, called the
10 Hippocratic Oath which is to do no harm.

11 And so, when I thought, you know, who am I, why am I
12 here, immediately that this sort of third train of thought
13 kicks in and I just thought of Admiral James Stockdale.
14 He's a Metal Binner (phonetic) winner. He can barely hear
15 from being in the Hanoi Hilton and I thought, sitting over
16 there, and I thought of a vice-presidential debate where
17 he's on the stage with Dan Quail and Al Gore and the reason
18 that popped into my head was he went up there and said, you
19 know who I am, you know why am I here.

20 And, you know, he got basically just run off the stage
21 for saying that and with the -- you know, the media and the
22 politicians piled in on him and basically run out of
23 politics when, if you take Dan Quail and Al Gore, and you
24 mush them up into 100 yummy -- into one person, you know,
25 mush that -- them two politicians in one person, Jim

1 stockdale was a hundred times the man that that mused up
2 person is.

3 So, it was a warning that, when -- oh, shoot. I'm
4 trying to be careful here. I'm just used to being near
5 people.

6 It was a warning that when often I thought about it and
7 I said well, you know, that's politics and this is real life
8 here. And, again, with that third rail, you just always --
9 you know, you're just trying not to mess up.

10 So, I thought and I got the big computer TV, got the
11 Sharpie here.

12 I'll just say, you know, who am I and why am I here?

13 I mentioned earlier that -- I'm trying to, I'm trying
14 to get squared away.

15 I mentioned earlier that I didn't get to do the opening
16 statement in this case. It is typically where I introduce
17 myself, myself to people. So I'm gonna have to sort of do a
18 truncated version of that right now and the introduction
19 developed over time. Let me write my name down and maybe
20 you'll see why.

21 All right. T-I-V-I-S.

22 My name is Tivis and the first few years that I was
23 doing this, you know, because of the rules and the rules in
24 the aggregate are suppose to guarantee a fair trial for a
25 citizen and member of the community who's accused of a

1 crime, all right, but, because of the rules, I'm talking at
2 you right now. I think we have a senior drill sergeant back
3 there somewhere who's used to talking at recruits. But
4 it -- I'm used to conversations with people. So it feels
5 kind of rude to be talking at you. But because of the
6 rules, we can't talk. But we can talk after it's done.

7 All right. And so the first few years -- cause I just
8 told them, hey, I'm Tivis and the first few years I was
9 doing this, jurors would come up and be like is it Tom, is
10 it Tim, is it Travis?

11 It's Tivis and they'd ask me about my name. And so
12 we'd do five minutes or so, you know, tell them where my
13 people are from and all that stuff and I, after a few years,
14 I was like, you know, I need to lean in on the name here so
15 that we can talk about the trial. We can talk about, you
16 know, anything other than just talking about my name.

17 So, you know, my people are from up in the mountains.
18 If you go up 77, if you go all the way up where you go
19 through them tunnels, you get to Bluefield, West Virginia,
20 hook a left on 460/52, hit 19, get to Virginia State Route
21 81. You go round and round and round, up and up and up, all
22 the way up basically into the clouds, it's a town called
23 Haysi, Virginia.

24 That is a -- that is where the name comes from. And
25 because my, my great grandpa that I mentioned earlier, you

1 know, they're more Tivises up there because, before the mine
2 workers union got in, nobody had any money. So they paid
3 like eggs, corn, stuff like that. You know a, bushel of
4 corn, what -- you know, whatever, drink and some of them
5 would name their children after him. He delivered 11 babies
6 in one house.

7 All right. So, up there and I've just back up -- I was
8 back up there in January. You know, I say, you know, I give
9 a fellow my card to get some beef jerky, cigarettes, beer,
10 something like that, and he looks, he's like oh, you're
11 Junior's friends, huh, right. So, it's, it's not unheard of
12 like it is here.

13 But I came here. I've been here since I got out of the
14 Army and I went to college at the University of South
15 Carolina. And I, honestly, the only reason I went to
16 college was to get the Army money. I was one of those
17 fellows who graduated high school and like I'm never, never
18 going to school again.

19 About my third year in I met my wife. She gave me some
20 direction. Then I thought well, I'll go to law school and
21 I'll go back in the Army as judge advocate, as a JAG, and
22 make some real, you know, real money with my prior service.

23 We started having babies and she said you can go to
24 Japan. You know, we are staying here. So, that's it.
25 That's who I am and the why is really interesting this time.

1 But I've never seen anything like this.

2 We all know that you, you have a right to an attorney.
3 You know, in the beginning, the solicitor was saying, you
4 know, we all know this thing. We all know that thing. I'm
5 sitting over there just listening. So I'm like well, we
6 don't know. But we -- I'm comfortable saying that we all
7 know that we have a right to an attorney because it's
8 everywhere.

9 I was born in 1970 with three channels. A show Chips
10 would come on, California Highway Patrol. Once an episode,
11 you know, you have a right to remain silent. You have the
12 right to an attorney. It is everywhere. It's in movies.
13 People -- this is something that we all know, and, of
14 course, as an attorney, I know that. But what I did not
15 know until recently is you also have a constitutional right
16 to represent yourself, right, to represent yourself.

17 I don't think it's a good idea. But you have a
18 constitutional right to do that as well.

19 What happens then is that you -- the courts -- and,
20 ma'am, am I talking loud enough?

21 (WHEREUPON, there was no audible response.)

22 MR. SUTHERLAND: Not really.

23 Okay. What happens, what happens then is the court
24 became concerned because the principal job of a judge, in my
25 view, and I think probably in some judge's view, and I don't

1 want to speak for him in that regard, is that the citizen
2 and member of the community who's been accused of a crime
3 gets a fair trial.

4 All right. So, when someone who's not a lawyer wants
5 to represent themselves, the Court will have somebody have a
6 lawyer, right, trial lawyer, sit with them and answer
7 questions about procedures, about rules. You know, we got
8 the Rules of Criminal Procedure, the Rules of Evidence. We
9 got Supreme Court cases. You know, we got Appellate Court
10 cases, all these. It's really byzantine to, you know, the
11 uninitiated.

12 So that's what I was asked to do. And, you know, to
13 me, judge's like generals. They say jump. I say how high.

14 All right. So, I'm sitting here and you might of seen
15 me whispering to Clayton wondering, you know, is that the
16 defendant. You know, who's, who's that person over there.
17 But just taking him through and helping him with the rules,
18 helping him try to navigate this process because, honestly,
19 my view of self-representation is -- it's not something to
20 do.

21 All right. So, that is why I am here and I mentioned
22 that I'm in my 17th hour of doing this. But I also
23 mention that I saw a -- try to be -- this COVID stuff is
24 really messing me up over here.

25 But I also heard the same evidence that you all heard

1 and frankly, sitting over there, I had some issues and I had
2 some problems with the evidence in this case.

3 All right. The government lawyer, the solicitor, in
4 the opening says some things and then says, you know, there
5 are these two men, you know, and they're lurking about. It
6 sounded ominous like trolls under a bridge. You know,
7 they're get closer and closer and, you know, I was sitting
8 there. I mean I don't know. I'm like all right. That,
9 that doesn't sound too great.

10 But then their second witness, David Andrew Geddings,
11 was trying to remember people's last night, David Andrew
12 Geddings or Andy Geddings, their witness, all right, he gets
13 up and he testifies that no, we went down there, you know,
14 we went down there, swimming, you know, jump in the water.

15 All right. Well, where did you park and then he was
16 slow. You know, I mean it -- as, as the mother who I'm not
17 gonna be mean to. I actually met her outside. As the
18 mother indicated, you know, he's slow. He has some issues.

19 So, take a bead or two and answer the, the question.
20 He's like well, I parked in the parking lot, you know, and
21 then some of the things that, that they were talking about
22 that well, they were following them up to, you know, like
23 the trolls again. You know, like these two men were
24 following them up to the parking lot, and when -- the -- and
25 then the testimony reveals that well, their car is here.

1 This car is here. Oh, he went over. Read the car, right.

2 All right. You can see that. It's can't -- you know,
3 some of these things you have to estimate and come to
4 conclusions about. Well, if you can see if somebody goes,
5 grabs a card, a card out of their car, then it's right
6 there, maybe over there or something, but we're not talking
7 about, you know, a tremendous space here.

8 So, again, I know what their theme is. I know what
9 they're saying, you know, with the trolls under the bridge
10 and following them to the car because I, I heard it and, you
11 know, this is what I do for a living.

12 But I'm, I'm listening to him testify. I listened to
13 **MINOR** testify.

14 Well, there was a taller one and there was a, you
15 know -- well, I think just one guy was really tall.

16 What were they doing?

17 Swimming, right.

18 So two of the State's witnesses, when they're
19 testifying, and, again, you know, I don't know this stuff.
20 So then I'm like okay. You know, they said we had these
21 nefarious, you know, trolls over here, you know, skulking
22 about, you know, sinister stuff and their own witnesses are
23 saying ah, you know, they go up there and they go swimming.

24 All right. The first one said it slow. You know, you
25 all judge the credibility of witnesses here. That's not up

1 to me. It's a hundred percent up to you. But, you know,
2 Andy, he struck me as the kind of person might get -- you
3 might -- you know, might get a question -- misunderstand a
4 question. But, you know, he's up -- just there telling it.

5 And MINOR gets up there. She's just like that's --
6 something happened, you know. I don't see him in the
7 courtroom. I, you know, I don't remember.

8 You know, take that for what it is or I would say one
9 thing to distinguish the solicitor's argument is that that
10 was live witness testimony, which is the best evidence, all
11 right, in a trial. You know, present subject to
12 cross-examination, subject to testing. You know, it's --
13 so, you-all get to personally observe and listen.

14 So best evidence is this case. Well, she doesn't see
15 him. Something happened. She doesn't remember what it is.
16 You know, I know that government lawyer and the solicitor's
17 going on and on about this tape that we have where you
18 can't, you know, you can't cross-examine the tape.

19 All right. When MINOR's in there, she's in there with
20 sort of proxy government agent because we had the lead
21 investigator testify well, I was in the other room. So, I'm
22 sorry. But, you know, I'm sitting woa.

23 So, these, these identification -- let me, let me go
24 through here and where's this stuff at?

25 So, see, when they go up there, they're like hey, did

1 you do this, right?

2 So they're like I don't know. You know, I don't, I
3 don't remember.

4 well, they have to lay a foundation to get something in
5 for you-all to look at it, right. Something that's
6 trustworthy. And so they run the investigator looking
7 through a TV in another room saw someone else handing a
8 piece of paper. And, look, I wasn't looking to look at
9 the -- I mean you-all saw this stuff. I -- it just sounded
10 funny to me. I didn't see the TV stuff because there's
11 really no reason for me to watch it.

12 But the government agent in, in another room looking at
13 a TV, who knows how big the TV is, of a camera in another
14 room, right, that has another person that works at MCAC,
15 which the testimony was works with the police, right.

16 So you got another proxy, another government agent in
17 here and, you know, you got **MINOR** and you got what?

18 You got this. And so, through the TV, is what letters
19 did she put, S.T.R., and I'm sitting over there like what?

20 You know, it, it -- it's things like this are
21 important. You know, it's like the lurking troll thing
22 where they're reasonable ex -- explanations otherwise.
23 Like, yeah, they're just going down there swimming. There's
24 an angle.

25 Clayton, he did not do terribly. But, you know, I mean

1 it wasn't my case. I'm sitting over there. But he kind of
2 hit on it. It's, it's a theory, right. It's a theory.

3 And so the troll under the bridge thing is part of that
4 theory cause I'll tell you, you know, I sure wasn't there.
5 You know, I don't know what happened. But the government
6 people weren't there. You know, they don't know what
7 happened. That's a theory.

8 Clayton was spot on with that. I was -- well, you
9 know, I still root for a person who's representing himself
10 and I'm the -- start to say baby-sitter. I'm the fellow
11 who's sitting here answering questions about rules and
12 stuff. But when he said that I was like yeah. You know,
13 he's, he's on to it, and, you know -- but, anyway, you know,
14 complaint about why the troll under the bridge?

15 You know, why the -- to me, that's a bridge too far. I
16 don't know. You-all saw the -- squinting through the thing,
17 you know, the fourth person coming from two, three other
18 people away from a TV yet in another room. I saw the
19 letters S.T. I mean I don't know. But I'm sitting over
20 there like man, I don't know about that. You know, that
21 doesn't make sense. But, again, it's not my case. It's not
22 my -- whatever, you know, going forward with it.

23 I'm seeing some of the stuff for the first time. I'll
24 tell you listening to anything, you know, in like you listen
25 to people, I don't know about you, but I kind of paint a

1 visual picture when people are painting sort of a scene or a
2 scenario for me, I kind of try to build a mental picture of
3 things and I guess the best now just, you know, you ever
4 read a book and then you see the movie. You're like oh,
5 man, you know, you're way off.

6 This testimony about more of this trollish stuff and
7 oh, look at this. He's laughing. You know, he's a troll,
8 right.

9 I mean that, that doesn't make -- now, look, the way
10 they put it and they come to you with their theory and
11 stuff, you know, he's this monster, you know, coming up here
12 prowling under bridges and all that stuff. Maybe that makes
13 sense.

14 These -- this picture -- I started to fish for it. I
15 forgot it was up here. You know, this is the -- this is
16 where it happened. They're actually five people in this
17 picture. There's three adults and there's two children
18 because I don't know if it's a camera or a phone. Again, I
19 was born in 1970. I have a sick camera. But you got
20 cameras on your phones. So it's -- it worked.

21 There's five people and here's the spacial arrangement
22 because when I'm hearing the testimony and I'm thinking
23 about it, that's like oh, you know, he walked -- all --
24 Clayton walked all the way over to talk to the mother.

25 All right. And then Andy walked all -- you know, it's

1 like there are these big distances. Oh, and the water is
2 here and it's deep. You know, this is, this is actually --
3 I think that's kind of a favor to me from the States for
4 leaving this up here because this is what we're talking
5 about. You know, human being number five right here.

6 All right. You know, Clayton indicates like this
7 doesn't make sense. You know, I don't understand.

8 well, to me, it doesn't make sense. You have five
9 human beings, three adults, two children, in this area. Not
10 this sort of wide scape with the deep river and the bridge
11 and the trolls and the stuff I was imagining sitting over
12 there listening to this. Everybody's right here.
13 Everybody's right here.

14 Nobody sees anything. Nobody notices anything. Of
15 course, that's possible. Of course, that's possible. But,
16 you know, here we're like oh and he's staring off into the
17 distance. He's looking over there. He said he's looking at
18 the river. You know, they're here playing this game of Mud
19 Monster.

20 Now, I'm, in trying to think this thing through, well
21 you know, could something with the mud?

22 I mean I don't know. But, you know, they're sort of
23 making fun of Clay for in the interview saying oh, I want to
24 see the warrant.

25 All right. You can't put yourself in the place of the

1 person on trial. But I would think anyone that was being
2 accused of a very serious crime by the government would be
3 like what are you accusing me of. Exactly. What are you
4 saying I did. I remember that. Yeah, we were there. Yeah,
5 I remember, I remember that. You know, we were all -- but,
6 consistently, through the video, if you watch it again,
7 well, what are you saying I did?

8 Can I see the -- that's -- cause you ask for the
9 warrant, right, you know, what are you saying I did?

10 You know, okay, we're here talking. I'm talking to
11 you. I'm answering your questions. I don't know what
12 you're accusing me of, right.

13 Now that's the one thing I said over there and watch,
14 frankly, just wanted to get up and move around. But I got
15 away -- I asked that over there and I've watched that. And,
16 you know, again, I don't get this like troll, you know, look
17 at the evil laugh. You know, I don't get that from this
18 interview.

19 You know, you don't have to like people to not -- to
20 think they're not guilty of a crime. You know, you look at
21 a video, you know, I don't, I don't know. If it puts you
22 off, it puts off. If the nefarious, you know, evil, wicked
23 smile, laughing over here puts you off, it, it puts you off.
24 But I'm listening to that and saying and see they're just
25 painting things like putting an extra coat of paint on it.

1 You know, why are you going -- why, why not just go
2 with what you say?

3 Well, go with a theory of what you know, the facts.
4 None of the trolls under the bridge. You know, they're all
5 way separated and they're -- one guy runs up and talks to
6 the mom. The other, other guy runs up.

7 You know, well, you know, why, why shade it?

8 I mean this is the government we're talking about and
9 they're trying to strip a, a citizen of the United States,
10 citizen of South Carolina of his liberty, right. So, you
11 know, why the -- why the smushing, you know, smudging and
12 moving around the edges.

13 See that, that ain't right. I mean you, you -- cause
14 you look at that interview. You make whatever you want of
15 it. But all I saw was him saying yes, I remember.

16 What am I being accused of again?

17 Yes.

18 Well, could you tell me?

19 Could you show me a warrant or something?

20 There's nothing -- and, oh, so he knew about a warrant.
21 Yeah, we know about -- the, the cards and the chips. Since
22 I was seven years old we -- this stuff is everywhere. I
23 mean you got CSI and I don't watch these shows. But I know
24 about them. My wife watches some. She's a school teacher.
25 But like CSI New York, CSI Vegas, CSI Miami. I think

1 they're probably gonna have like a CSI taguchi gopla at some
2 point down in Honduras or something.

3 This stuff is everywhere and, you know, we absorb it
4 and we watch it. So, oh, I want to see what you're accusing
5 me of.

6 Is that a bad thing?

7 It's your decision to make. I don't think so. I can't
8 say that I would. But I don't think that any person, you
9 know, cause woa -- any person would be like what are we
10 talking about here. You know, what are you saying that I
11 did. Yes, okay, I was down there. Yeah, I remember those
12 people.

13 what are you saying I did again?

14 Is that unreasonable?

15 Is -- you know, is that the nefarious. Skulking troll
16 you think that oh, he asked to see the warrant.

17 well, I should think so, right. I should say so.

18 Again, can't talk about myself. Any person would say
19 what is this about, you know, a few questions. I remember
20 that. I remember that. well, wait a minute. Why are we
21 here?

22 You know, that's what we're talking about with that.

23 So, here, you know, this Mud Monster game, I don't know
24 what it is. Testimony about Goose -- I mean I was listening
25 as you were, Goosebumps, and there's some like kind of Mud

1 Monster in a book. So, they're all playing Mud Monster and,
2 you know, I mean government lawyer.

3 well, who would play Mud Monster, you know, with, with
4 kids?

5 well, I don't know. I mean your kid's asking you to do
6 it. I mean, you know, you come up there. The -- my
7 understanding of the testimony and listening to that tape is
8 these fellows are up there swimming, right.

9 To me, that is corroborated. They're not up there
10 being trolls under a bridge. We went down there to swim.
11 Andy drove there.

12 where'd you park?

13 Parked in the parking lot. Same parking lot as her.
14 His car, closest car, far away. You decide that, right.

15 They go up there swimming and they saw a tube, looks
16 like a tire, but a tube floating down the river with no
17 people in it, with no person in it.

18 Is it reasonable to be like hey, you know, this is a
19 river. People hold on to those things. You know, I'm
20 thinking this over -- is it reasonable to think well, man,
21 maybe somebody, you know, go out and get this and go up hey,
22 is this y'all's. You know maybe.

23 Again, I would think any person might be like is
24 everybody okay. Is, is -- you know, you have this
25 legitimate views that you can take of all of this evidence

1 and it is the correct view as citizens and members of the
2 community, members of the jury. You're here to be skeptical
3 of our government, right.

4 we're here representing the people. I almost objected
5 but I don't like to do that when -- I like to let people
6 say, you know, what they want to say.

7 All right. If you-all are the buffer between the
8 government and the citizens, that's what juries do.

9 The government, you know, why, why do we have this?

10 well, the English use to just throw people in a prison
11 hole or something. You know, just throw them in there,
12 accuse them, put them in there. The same guy accused of a
13 crime would make decision they were guilty, the English
14 magistrate, and you just lock them up.

15 All right. Everything that we have, all the rights
16 that we have are the reaction to our view of English
17 tyranny, right.

18 If you look at the Bill of Rights, well, what is that?

19 You know, why do we have this?

20 well, they're there -- the complaints, they're the
21 grievances of the people at the time, right. You got the
22 right to speak your mind. You got the right to go to church
23 you want to go to.

24 All right. You got freedom of the press, freedom of
25 assembly. That's the first one. That tells me that was

1 what was most important to them. Then you have the second
2 Amendment everybody gets mad about. I think the Second
3 Amendment makes a lot of sense in light of the Third
4 Amendment which hardly anybody knows about. You know, you
5 got the right to keep -- bare arms. People argue about that
6 malicious stuff. Look, it is what it is. Supreme Court's
7 made a decision. We got the right to bare arms.

8 The Third Amendment is the government may not quartered
9 soldiers in our houses, right. That's the Third Amendment
10 and then you got the search and seizure, the right to a
11 lawyer. You got all that stuff. But the order of this
12 thing is speech, religion, assembly, guns, no government
13 putting troops in your house, right, cause the English just
14 come up and they'd allow you. Not in this house. Get out.
15 I mean that, that is what they would do.

16 So, you are not here as -- you are not here with them.
17 You're not, you're not here with anybody really. You're not
18 here with me.

19 All right. But you are here as a buffer between, you
20 know, this story of these lurking trolls who were maybe
21 swimming. I mean their witnesses -- now, look, she said I'm
22 gonna be mean to mama. I meet mama outside. She's nice. I
23 like her. I'm not gonna be mean to you.

24 You know, but then mama does come up and we do get this
25 sort of lurking trolls thing. But I mean who -- you know, I

1 mean what are they gonna do. You got -- I'm gonna be mad as
2 hell you know. You think -- you know, think the worst but
3 believe, believe the worst about it.

4 I would -- the cops would have to get whomever before I
5 did, right, but that's personal. That's my life. Like I
6 oppose the death penalty, right. I do. I don't think the
7 government should have the power of life and death over its
8 citizen. That's too much power. In a sense, you know, they
9 pigeon hole me as a libertarian cause I don't like
10 republicans. I don't like the democrats or whatever. But
11 that's, that's the power of life and death over citizens.

12 what if they change, you know, their mind about what is
13 death penalty eligible?

14 All right. This is about power and, frankly, this is
15 putting power in the hands of -- we think -- we pick 13. I
16 usually pick two alternates anyways, 13 citizens and members
17 of the community to make these decisions. Not the people
18 who would say it's a bunch of trolls and stuff and the car's
19 mama's parked. Nobody so far apart. You know, this is
20 where they were, right.

21 This is your decision and you're the only one that
22 counts, right. You know, people think well, you know this
23 is a serious case and nobody likes the allegations. But we
24 lose -- I mean I was sitting in here for that. Like lose 18
25 people the first go round. It was like 17 or something. I

1 can't remember. Just a bunch of people were like I'm not
2 gonna sit here and listen to that kind of stuff.

3 All right. And, you know, that's fine because if
4 you're saying you can't be fair, that's what the judge wants
5 to know, you know, when, when he's doing this voir dire and
6 he's asking you this stuff. But the, the decisions here is
7 about maybe we don't like what he's accused of. Maybe we
8 don't, you know, no one like what he's accused of. That's
9 not what this about.

10 Maybe you don't like him. Maybe he's over there
11 looking like a hippie or something. You know, maybe that
12 bothers you or something. You know, that is not what this
13 decision is about, right.

14 When they talk about, you know, proof beyond a
15 reasonable doubt, all a reasonable doubt is doubt that
16 causes you to hesitate to act, right. If you think, with
17 these allegation and with this evidence, that there's a real
18 possibility that this didn't happen or that something else
19 happened, and they're making fun of him about the pointing
20 of this picture, they're like oh, where's the fish, where's
21 the stick.

22 Well, that's incongruence with their argument, right.
23 But if you're hesitating to act over any issue, like I was,
24 I'm like wait a minute. I thought they were trolls under
25 the bridge. wait a minute. I thought these cars were --

1 like one was in Dallas or something and, you know, one was
2 in Tallahassee. I thought, you know, listening to the
3 presentation, listening to the theory, listening to --
4 because it's, you know, when I'm here in opening, I know
5 what opening is. I hear. I've listened. It's what the
6 government wants you to believe and how they intend to get
7 you to believe it, right.

8 well, I was here and I heard it and that's why I,
9 again, yeah, over my phone and stuff. That's why I'm
10 talking about it now. Hard -- there are hard decisions --
11 you know, I say doing the right thing, you know, doing the
12 right thing is the, is the -- it's the American thing. It's
13 the constitutional thing. You may not like it and maybe who
14 would like saying no. You know, we've got this criminal
15 sexual conduct allegation with a seven year old and there's
16 no way -- you know, well, you can be on the other side.

17 There's no way. I just can't, you know, or, you know,
18 the really hard things -- situation like this is to vote not
19 guilty. You know, it's -- but that's what, what duty is.
20 You know, duty is hard. Honor is hard. Country is hard.

21 All right. But it's the right -- it's, it's why we are
22 where we were 230 some years since 1791, original
23 constitution. You know, how in the world, you know, atop
24 the world in this country right now.

25 well, it's things like this. It's keeping the

1 government distant from its citizens.

2 So, ladies and gentlemen, I, I can't thank you enough
3 for being here and, you know, again I think we're up to 18
4 hours now and really surprised. But this is a very
5 important decision. You know, the, the decision about who
6 we are, and if you think well, I'm, I'm not a person that
7 could vote not guilty today, that's, that's not what this
8 is.

9 It's did they, did they prove their case. It's --
10 let's say there's a video with those government agents and
11 all that and stuff, is that better than live witness
12 testimony?

13 It's not. My view. But I mean I think it's cool, the
14 legal view of that.

15 Is it better than live witness testimony?

16 Is there, there anything, could be a mistake, something
17 with Mud Monsters?

18 It could be anything. You know, that's, that's a
19 reasonable doubt.

20 So, I want to thank you-all for sort of putting up with
21 me getting on my feet and getting this figured out right in
22 front of you, right. But thank you for your patience, your
23 consideration. You know, you get a jury instruction. Don't
24 hold it against Clayton who represented himself and all
25 that. He didn't -- it's messy to do.

1 So I want to thank you for your time, consideration,
2 and your patience with me.

3 Thank you.

4 THE COURT: Okay. Ladies and gentlemen, we been going
5 about an hour and 20 minutes. Before I charge you on the
6 law of the case, I'll -- let's take a short break. Let you
7 refresh yourself in the jury room and I'll get you back here
8 and charge you on the law.

9 Now, please don't discuss the case while you're in the
10 jury room. We'll get you back in here in a few minutes.

11 Thank you.

12 (WHEREUPON, the following takes place outside the
13 presence of the jury.)

14 THE COURT: We'll just take 10 minutes before I, I
15 charge them.

16 MR. SUTHERLAND: Yes, sir.

17 THE COURT: All right. Thank you.

18 (WHEREUPON, a short recess was taken at this time.)

19 THE COURT: All right. Thank you. Please be seated.
20 All right. The party's ready?

21 MR. SUTHERLAND: Yes, sir.

22 SOLICITOR JOHNS: Yes, Your Honor.

23 THE COURT: All right. Let's bring them in please.

24 THE BAILIFF: Yes, Your Honor.

25 (WHEREUPON, the following takes place within the

1 presence of the jury.)

2 THE BAILIFF: The jury has been seated, Your Honor.

3 THE COURT: All right. Thank you, sir.

4 All right. Members of the jury, it is now my duty as
5 the trial judge to instruct you on the law applicable to
6 this case, and, in that regard, it is your duty, as jurors,
7 to accept and apply the law as I now, now state it to you.
8 Furthermore, it is your exclusive duty to decide all the
9 issues of fact in this case and to determine the effect, the
10 value, weight, and truth of the evidence. All the parties
11 have the right to expect you'll carefully consider and
12 evaluate the evidence and apply the law of this case to it
13 so that, in the end, all parties will receive a fair and
14 impartial trial.

15 During this trial, you and I have separate duties to
16 perform. As the trial judge, it is my responsibility to
17 preside over this trial and rule upon the admissibility of
18 the evidence offered during the trial. In that regard, you
19 are only to -- you are to consider only the evidence before
20 you. Thus you are to consider only the testimony which has
21 been presented from the witness stand together with any
22 exhibits admitted into the record of the case.

23 If you have any preconceived ideas as to what the law
24 is or what you think the law ought to be, and it does not
25 agree with what I now tell you the law is, you are

1 obligated, under your oath, to abandon these preconceptions
2 because you are sworn to accept the law as I now state it to
3 you.

4 In this trial, you are sole and exclusive judge of the
5 facts. Do not infer that I have an opinion about the facts
6 in this case from anything I have said or done during the
7 course of this trial. In this regard, the law simply does
8 not permit me to have an opinion about the facts. As
9 jurors, it is your duty alone to determine the effect,
10 value, weight, and truth of the evidence presented during
11 the course of this trial.

12 The evidence from which you are to decide what the
13 facts -- what are the facts consist in this case of the
14 sworn testimony of witnesses both on direct and
15 cross-examination, the exhibits which have been admitted
16 into evidence, and any facts which the attorneys have agreed
17 to stipulate.

18 Now, the following things are not evidence and you must
19 not consider them as evidence in deciding the facts of this
20 case:

21 Statements and arguments of the attorneys, questions
22 and objections of the attorneys, or any testimony that I
23 have instructed you to disregard.

24 While argument of counsel is a beneficial part of every
25 trial, you should remember that the statements made by

1 counsel are not evidence. In presenting arguments, counsel
2 often refer to evidence. However, you should base your
3 verdict on the evidence as you remember it. Therefore, if
4 they're any conflicts between the recollection of counsel
5 about the evidence and your own recollection, you should
6 rely upon your own understanding of the evidence.

7 Furthermore, evidence may be direct or circumstantial.
8 Direct evidence is testimony by a witness about what that
9 witness personally saw, or heard, or did. Circumstantial
10 evidence is indirect evidence. In other words, it is proof
11 of one or more facts from which one can find another fact.
12 You may consider both direct and circumstantial evidence
13 equally.

14 Crimes may be proven by circumstantial evidence. The
15 law makes no distinction between the weight or value to be
16 given to either direct or circumstantial evidence. However,
17 to the extent the State relies on circumstantial evidence,
18 all of the circumstances must be consistent with each other
19 and, when taken together, point conclusively to the guilt of
20 the accused beyond a reasonable doubt. If these
21 circumstances merely portray the defendant's behavior as
22 suspicious, the proof has failed.

23 The State has the burden of proving the defendant
24 guilty beyond a reasonable doubt. The burden rests with the
25 State regardless of whether the State relies on direct

1 evidence, circumstantial evidence, or some combination of
2 the two.

3 Furthermore, it is your job, as jurors, to determine
4 the credibility or believability of the witnesses who have
5 testified in this case. You must evaluate the evidence and
6 determine which evidence convinces you of its truth.

7 In determining the believability of witnesses who have
8 testified in the case, you may believe one witness over many
9 or many over one. You may believe a part of the testimony
10 of a witness and reject the remaining part. You may believe
11 the testimony of a witness in its entirety or reject it in
12 full. You may consider whether the witness has an interest
13 in the result of the trial, whether the witness is
14 prejudiced toward either party, the opportunity for the
15 witness to have seen the matters and things about which the
16 witness may testify, and the way the witness acts on the
17 witness stand.

18 During this trial, you've heard testimony from a child.
19 Where a witness is a child, you must determine, as with any
20 witness, whether that testimony is believable. In
21 determining believability, you may consider not only matters
22 that I have already discussed with you. But you, but you
23 may also consider the age of the child, the child's ability
24 to observe and remember facts, and the child's ability to
25 understand and answer questions. Because young children may

1 not fully understand what is happening here, it is up to you
2 to decide whether the child understood the seriousness of
3 appearing as a witness at the criminal trial, whether the
4 child understood the questions, whether the child has a good
5 memory, and whether the child understands the difference
6 between lying and telling the truth. In addition, young
7 children may be influenced by the way questions are asked.
8 It is up to you to decide whether the child understood the
9 questions asked.

10 The defendant in this case is presumed innocent. This
11 is no mere legal theory. It is a fundamental and
12 substantial right to which everyone is entitled. It is like
13 a robe of righteousness placed around the defendant that
14 remains with him through every stage of the trial, continues
15 with him after you retire to your jury room to deliberate,
16 and continues to exist so that the defendant is presumed
17 innocent unless and until you, the jury, determine that the
18 State has proved the guilt of the defendant beyond a
19 reasonable doubt.

20 A defendant is not required to prove his innocence.
21 He's not required to prove anything. The burden is upon the
22 State to prove the guilt of the defendant beyond a
23 reasonable doubt and it is required that every essential
24 element of an offense charged be proven by the State beyond
25 a reasonable doubt. The State is not required to prove

1 guilt of the defendant beyond all or beyond every doubt,
2 however. The appropriate standard is beyond a reasonable
3 doubt.

4 Now, the Sixth Amendment of the United States
5 Constitution guarantees that a person charged with a crime
6 has the right to assistance of counsel. The constitutional
7 guarantee also provides that an individual charged with a
8 crime has the right to waive representation by legal counsel
9 and proceed to trial representing himself and act as his own
10 attorney.

11 The defendant has elected to waive his right to counsel
12 and represent him -- represent himself during a portion of
13 this trial. You are not to let the fact that Clayton Jones
14 elected to represent himself for a portion of the trial
15 influence your decision in this case. Instead, you must
16 decide this case based upon the instructions and the
17 evidence received during the course of the trial.

18 Attorney Tivis Sutherland was previously appointed as
19 standby counsel to the defendant. During the State's case
20 in chief, standby counsel's role is limited to answering
21 questions and providing assistance to the defendant. Upon
22 conclusion of the State's case in chief, the defendant
23 elected to invoke his right to the assistance of counsel and
24 the Court appointed the -- appointed Attorney Sutherland to
25 assume the role of the defendant's attorney.

1 I remind you you're not to draw any inference
2 unfavorable to the defendant from the exercise of his right
3 to represent himself. This is not a matter to be, to be
4 discussed in the jury room nor is it to be considered in
5 determining whether the defendant is guilty or not guilty.

6 I instruct you and emphasize that the fact that the
7 defendant did not testify is not a factor to be considered
8 by you in any way in your deliberation and in your
9 consideration on the fact, excuse me, on the question of
10 guilt or the innocence of the defendant. It must not be
11 considered by you in any manner whatsoever.

12 A defendant has the constitutional right to remain
13 silent and the assertion of, of this right must not be
14 considered by you in your deliberations. I repeat, under
15 your oath, you're to draw no conclusion whatsoever from the
16 fact that the defendant in this case did not testify. The
17 fact that the defendant did not testify should not even be
18 discussed in the jury room.

19 The burden of proof, as I have stated to you, is on the
20 State. The defendant is not required to prove his innocence
21 and the burden of proof remains on the State to prove guilt
22 beyond a reasonable doubt.

23 A statement alleged to have been made by the defendant
24 has been admitted into evidence in this case. While the
25 Court has determined that the statement is admissible, I

1 instruct you that you make the ultimate decision of whether
2 or not the defendant made the statement. If the defendant
3 did make the statement, you must determine whether the
4 statement was made by the defendant voluntarily and of his
5 own free will.

6 This means the statement was not caused by pressure,
7 force, fear, threats, coercion, or intimidation, or by the
8 hope or promise of leniency or an award of any kind. In
9 determining whether the statement was voluntary, you should
10 consider both the characteristics of the defendant and the
11 details of the questioning.

12 Some of the factors that you must consider are the age
13 of the defendant, the defendant's education or lack of
14 education, the defendant's mental ability or capacity, the
15 defendant's IQ or intelligence, the defendant's background
16 and environment, the place and length of detention, the
17 nature of the questioning, and the advice or lack thereof to
18 the defendant of his constitutional rights including but not
19 limited to the right to remain silent, that any statement
20 could be used against him in a court of law, the right to
21 have a lawyer present, that he could not -- if he could not
22 afford a lawyer, a lawyer would be appointed to represent
23 him without any cost, and that he could stop making a
24 statement at anytime.

25 You must carefully consider all of the surrounding

1 circumstances before you give any weight to an alleged
2 statement. The State has the burden of proving, beyond a
3 reasonable doubt, that the alleged statement was voluntary.
4 If you determine it was -- if you determine it was, you may
5 give the statement any further consideration you deem
6 proper. You must decide what weight, if any, should be
7 given to the alleged statement. If you determine the
8 alleged statement was not free and voluntary, not a free and
9 voluntary statement of the defendant, then you should not
10 consider the statement at all.

11 An issue in this case is the identification of the
12 defendant as the person who committed the crime charged.
13 The State has the burden of proving identity beyond a
14 reasonable doubt. You must be satisfied, beyond a
15 reasonable doubt, of the accuracy of the identification of
16 the defendant before you may convict the defendant.

17 Identification testimony is an expression or belief or
18 impression by a witness. You must determine the accuracy of
19 identification of the defendant. You must consider the
20 believability of each identification witness in the same way
21 as any other witness.

22 You may consider whether the witness had an adequate
23 opportunity to observe the offender at the time of the
24 offense. This will be affected by things like how long or
25 short a time was available, or how far or close the witness

1 was, the lighting conditions, and whether the witness had
2 the chance to see or know the person in the past. Once
3 again, I instruct you the burden of proof on the State --
4 the burden of proof on the State extends to every element of
5 the crime charged and specifically includes the burden of
6 proving beyond a reasonable doubt the identity of the
7 defendant as the person who committed the crime. If, after
8 examining the testimony, you have a reasonable doubt as to
9 the accuracy of identification, you must find the defendant
10 not guilty.

11 Now, the State has the burden of proving the defendant
12 guilty beyond a reasonable doubt. Some of you may have
13 served as jurors in civil cases where you were told that the
14 only necessary -- it is only necessary to prove that a fact
15 is more likely true than not true such as by the greater
16 weight or preponderance of the evidence. In criminal cases,
17 the State's proof must be more powerful than that. It must
18 be beyond a reasonable doubt as to each element of each
19 offense charged.

20 Proof beyond a reasonable doubt is -- doubt is proof
21 that leaves you firmly convinced of the defendant's guilt.
22 There are very few things in this world that we know with
23 absolute certainty, and, in criminal cases, the law does not
24 require proof that overcomes every possible doubt. If,
25 based on your consideration of the evidence, you are firmly

1 convinced that the defendant is guilty of the crime charged,
2 you must find the defendant guilty. If, on the other hand,
3 you think there's a real possibility that the defendant is
4 not guilty, you must give the defendant the benefit of the
5 doubt and find him not guilty.

6 Mere suspicion, however strong, is not enough to
7 sustain a conviction. Suspicion implies a belief or opinion
8 as to guilt based upon facts and circumstances which do not
9 amount to proof. Mere presence at the scene is not
10 sufficient to prove someone guilty of a crime.

11 To prove the defendant guilty of a crime, the State
12 must prove, beyond a reasonable doubt, that the defendant
13 acted with criminal intent. Criminal intent required in
14 these cases is that the defendant must be proven to have
15 acted knowingly. To act knowingly means to act with
16 knowledge, to act consciously, not accidentally. An
17 intentional act, a willful act.

18 Intent is a mental state. It may be shown by acts and
19 conduct of the defendant and other circumstances from which
20 you may naturally and reasonably infer intent. But the
21 State must establish the necessary criminal intent beyond a
22 reasonable doubt in order for the defendant to be convicted
23 of a crime.

24 Now, I'm gonna explain to you the law as it applies to
25 this case. The defendant has been charged with third degree

1 criminal sexual conduct with a minor.

2 In order to prove criminal sexual conduct in the third
3 degree with a minor, the State must prove, beyond a
4 reasonable doubt, that the defendant was over 14 years of
5 age, willfully and lewdly committed or attempted to commit a
6 lewd and lascivious act upon or with the body or its parts
7 of a child under 16 years of age and with the intent of
8 arousing, appealing to, or gratifying the lust, passions, or
9 sexual desires of the actor or the child. The State must
10 prove each of these -- each of these elements beyond a
11 reasonable doubt.

12 Now, a verdict in this case can not be based upon
13 sympathy, passion, prejudice, or emotion, or some other
14 consideration not found in the evidence. I charge you that,
15 as jurors, you must decide the issues involved in this
16 proceeding based solely upon the evidence which you hear
17 during the course of the trial. Your verdict must be
18 without bias and without prejudice to any party. You can
19 not allow yourselves to be governed by sympathy, prejudice,
20 passion, by public opinion, or some other consideration not
21 found in the evidence.

22 Now, let me say something about your deliberations.
23 Deliberation is defined as careful consideration weighing up
24 with a view to decision. The genius of our jury system is
25 it allows 12 good men and women from 12 different

1 backgrounds, like experiences, and prospectives to consider
2 the evidence, talk about it, and ultimately reach a verdict.

3 We call them deliberations for a reason. You're to
4 consider the evidence in this case carefully and
5 deliberately and discuss it in a calm, thorough, and
6 courteous manner. Listen to the views of your fellow
7 jurors. Consider other people's points of view and talk
8 through and discuss the evidence. And remember, if you're
9 doing something deliberately, you're not in a big hurry and
10 you should not be in a big hurry here. This case is very
11 important to all the parties and this trial is their only
12 day in court.

13 When you retire to the jury room, you should discuss
14 the case with your fellow jurors to reach an agreement if
15 you can do so. Your verdict must be unanimous. Each of you
16 must decide the case for yourself. But you should do so
17 only after you've impartially considered all the evidence,
18 discussed it fully with the other jurors, and listened to
19 the views of your fellow jurors.

20 Do not be afraid to change your opinion if the
21 discussion persuades you that you should. But do not come
22 to a decision simply because other jurors think it is right.

23 It is important that you attempt to reach a unanimous
24 verdict but, of course, only if each of you can do so after
25 having made your own decision. Do not change an honest

1 belief about the weight and effect of the evidence simply to
2 reach a verdict. In other words, do not change your opinion
3 solely for the sake of reaching a unanimous verdict.

4 Now, I will give a copy of these instructions to you in
5 written form. During your deliberations you may refer to
6 these instructions to guide your decision making. You just
7 consider the instructions as a whole and not follow some and
8 ignore others. Please return the instructions to the Court
9 at the time your verdict is rendered.

10 There are two possible verdicts you may find in this
11 case, guilty or not guilty. There is no significance
12 whatsoever in the order which I state the possible verdicts.
13 It's simply one must be stated first.

14 Ladies and gentlemen, your verdict must be a unanimous
15 one.

16 Madam Forelady, when the jury agrees on the verdict,
17 you'll write the verdict on this verdict form and then knock
18 on the jury room door and inform the bailiff that you have
19 reached a verdict. At that time we will receive you back
20 into the courtroom.

21 I ask that you now return to your jury room. But do
22 not begin your deliberations until you are told by the Clerk
23 of Court or the bailiff to do so. There are some additional
24 matters I must take up with the attorneys before you can
25 begin your deliberations.

1 So, at this time, you may return to the jury room. Do
2 not discuss the case.

3 Thank you.

4 (WHEREUPON, the following takes place outside the
5 presence of the jury.)

6 THE COURT: All right. Counsel, any issues with the
7 charge?

8 MR. SUTHERLAND: No, sir. Good to go.

9 THE COURT: Madam Solicitor.

10 SOLICITOR JOHNS: None from the State, Your Honor.

11 THE COURT: All right. I'm gonna bring in the
12 alternate and dismiss the alternate.

13 Okay. And that alternate was Juror Number --?

14 I'd like to know her number before I --.

15 MR. JONES: Number 152, Your Honor.

16 THE COURT: And while she's getting that, I'm gonna
17 make this a Court Exhibit.

18 (WHEREUPON, the jury charge was marked as Court's
19 Exhibit No. 2 and received into evidence at this time.)

20 THE COURT: All right. I need --.

21 THE BAILIFF: You ready, judge?

22 THE COURT: Yeah, for the alternate, yeah.

23 (WHEREUPON, the alternate juror was dismissed at this
24 time.)

25 THE COURT: All right. Counsel, why don't y'all take a

1 look at the evidence and make sure---

2 MR. SUTHERLAND: Oh, we, we actually got that squared
3 away before, judge.

4 THE COURT: All right.

5 SOLICITOR JOHNS: One thing, Your Honor. Just as a
6 matter of convenience, the State has a blank laptop that has
7 nothing else on it. They can just play the disk in the jury
8 room or if the judge, of course, from your instructions,
9 they want to come back out and look at it. But that's,
10 that's what it's here for and the---

11 THE COURT: You have any objection to that, Mr.
12 Sutherland?

13 MR. SUTHERLAND: No, sir, all good.

14 THE COURT: All right. I'm fine with them having
15 the -- I'll call it the blank laptop---

16 SOLICITOR JOHNS: Right.

17 THE COURT: ---to play a video if they so choose. I've
18 made the jury charge a Court Exhibit and I'll send that back
19 with the evidence and the verdict form.

20 Anything else?

21 SOLICITOR JOHNS: No, Your Honor.

22 MR. SUTHERLAND: No, sir.

23 THE COURT: All right. Well then let's gather it up
24 and begin their deliberations. I think you can tell them
25 their lunch is on the way.

1 All right, sir.

2 MR. SUTHERLAND: Yes, sir.

3 THE COURT: They may begin.

4 Okay. Thank you.

5 (WHEREUPON, the jury began deliberations at 12:01PM and
6 returned with a verdict at 2:01PM.)

7 THE COURT: All right. Everyone be seated please.

8 I'm informed the jury has reached a verdict.

9 Is the State ready to proceed for me to bring the jury
10 back?

11 SOLICITOR JOHNS: Yes, Your Honor.

12 THE COURT: And the defense is ready?

13 MR. SUTHERLAND: Yes, sir.

14 THE COURT: So --.

15 We don't know what the verdict's gonna be, folks.
16 Regardless of what the verdict is, I'll just ask everyone in
17 the courtroom to maintain decorum in the courtroom
18 regardless of what the verdict is. And we'll just move on
19 from there.

20 So, let's, let's bring them in please. Thank you.

21 THE BAILIFF: Yes, Your Honor.

22 (WHEREUPON, the following takes place within the
23 presence of the jury.)

24 THE BAILIFF: The jury has been seated, Your Honor.

25 THE COURT: Very well.

1 Madam Forelady, it's my understanding you've reached a
2 verdict.

3 Is that correct?

4 THE FORELADY: Yes.

5 THE COURT: Is your verdict unanimous?

6 THE FORELADY: Yes, Your Honor.

7 THE COURT: All right. Please hand it to the bailiff.

8 (WHEREUPON, the forelady complies.)

9 THE COURT: All right. Madam Clerk, you may publish
10 the verdict.

11 THE CLERK: Yes, sir, Your Honor.

12 Indictment Number 2020-GS-40-0393, State of South
13 Carolina versus Clayton Thomas Jones, we, the jury, as to
14 Indictment Number 2020-GS-40-0393 for the charge of third
15 degree criminal sexual conduct with a minor unanimously find
16 Clayton Jones guilty. Signed Number 69, foreperson, July
17 the 14th, 2022.

18 Madam Forelady, was this your verdict and the verdict
19 of the entire jury?

20 THE FORELADY: Yes.

21 THE CLERK: Thank you.

22 THE COURT: Any motions from the defense?

23 MR. SUTHERLAND: Well, I just ask to poll the jury.

24 THE COURT: Very well.

25 MR. SUTHERLAND: I also ask to reserve the 10 day

1 MR. JONES: For what?

2 MR. SUTHERLAND: That you've been sitting in jail.

3 SOLICITOR JOHNS: August 5th.

4 MR. JONES: It's definitely over a thousand, Your
5 Honor.

6 THE COURT: Okay. well---

7 MR. JONES: I can confirm that much.

8 THE COURT: well, it's basically right. So --.

9 You know, Mr. Jones, you know, the trial itself is a
10 factor here. But really the, the prior record is really
11 concerning.

12 This, this will be your third conviction for a sex
13 offense. Obviously that will -- we -- you've got a sentence
14 here to think about but certainly you'll be screened for an
15 SVP program down the road as well.

16 So, in light of all the circumstances, you'll be
17 committed to the Department of Corrections for 15 years.

18 Court's in recess. That's all.

19 MR. SUTHERLAND: Thank you.

20 SOLICITOR JOHNS: Thank you.

21

22 (WHEREUPON, this case was in recess.)

23

24

25 * * *END OF REQUESTED TRANSCRIPT OF RECORD* * *

WITNESSES

(S) Chris E. Odum

- Columbia Police Department

Hass

ARREST WARRANT NUMBER

2019AA4021602389

ACTION OF GRAND JURY

TRUE BILL

David S. Wilson

Foreperson of Grand Jury

Date:

JAN 22 2020

VERDICT

DOCKET NO. 2020GS4000393

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

JANUARY TERM 2020

152

THE STATE

vs.

Clayton Thomas Jones

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

Indictment for

SEX / CRIMINAL SEXUAL CONDUCT WITH
MINOR, ERD DEGREE COMMIT/ATTEMPT
LEWD ACT VICTIM UNDER 16 RS &
ACTOR OVER 14 YRS

SC Code: 16-03-0655 (C)

CDR Code: 3661

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)

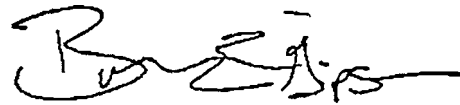
INDICTMENT

At a Court of General Sessions, convened on January 22, 2020, the
 Grand Jurors of Richland County present upon their oath:

SEX / CRIMINAL SEXUAL CONDUCT WITH MINOR, 3RD DEGREE -
COMMIT/ATTEMPT LEWD ACT (VICTIM UNDER 16 YRS & ACTOR
OVER 14 YRS)

That Clayton Thomas Jones did in Richland County on or between June 23, 2019, willfully and lewdly commit or attempts a lewd and lascivious act upon or with the body, or it parts, of one MINOR (dob. /2011), a child under the age of sixteen years, with the intent of arousing, appealing to or gratifying the lust, passions or sexual desires of himself/herself or such child; all in violation of South Carolina Code of Laws § 16-03-0655(C)0.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



BYRON E. GIPSON, SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF Richland

STATE

VS.

Clayton Thomas Jones

AKA:

Race: WHITE Sex: M Age: 31DOB: [REDACTED] 1990 SS#: [REDACTED]Address: [REDACTED]City, State, Zip: [REDACTED]DL#: [REDACTED]

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2020 - GS - 40 - 0393

A/W#: 2019A4021602389

Date of Offense: 6/23/2019

S.C. Code § 16-03-0655 (C)

CDR Code #: 3661

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was X CONVICTED OF or PLEADSTO: Sex / Criminal sexual conduct with minor, 1st degree commit/attempt lewd act victim under 16 rs & actor ovein violation of § 16-03-0655 (C) of the S.C. Code of Laws, bearing CDR Code # 3661

NON-VIOLENT

VIOLENT

SERIOUS

MOST SERIOUS

Mandatory GPS

§17-25-45

(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. (def.'s initials)

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:

Theresa Johns 15896 X
Johns, Theresa SC Bar # DefendantTEJ 6965
TEJ 15 LUTHERLAND SC Bar #WHEREFORE, the Defendant is committed to the X 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: ☒ 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. 1034 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. Clayton Thomas Jones INDICTMENT/CASE#: 2020 - GS - 40 - 0393**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		\$ <u>100</u>
§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		\$ <u>25</u>
§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		\$ <u>375</u>
☐ 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				\$ <u>128.75</u>

Clerk of Court/ Deputy Clerk:
 Court Reporter:

Jeannette W. McBrider
Natus

Presiding Judge:
 Judge Code:
 Sentence Date:

Walsh
27650
7-14-2022

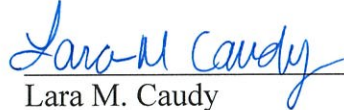
Aug 07 2024

CERTIFICATE OF COUNSEL FOR APPELLANT

SC Court of Appeals

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



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 7th day of August, 2024.

RECEIVED

Aug 07 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Richland County

Honorable Walton J. McLeod, IV, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

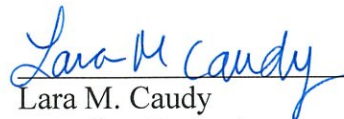
CLAYTON THOMAS JONES,

APPELLANT

APPELLATE CASE NO. 2022-001775

CERTIFICATE OF SERVICE

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 Joshua A. Edwards, Esquire, at his primary email address listed in the Attorney Information System (AIS), this 7th 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