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May 27 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from York County

Honorable Daniel D. Hall, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

XAVIER LAMAR HOLBROOKS,

APPELLANT

APPELLATE CASE NO. 2024-000473

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**{THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
STATE’S EXHIBIT NO. 2 (PICTURE OF [MINOR])}**

STATE OF SOUTH CAROLINA) SOUTH CAROLINA CIRCUIT COURT
) 16
COUNTY OF YORK) DOCKET NO. 2022-GS-46-01685

STATE OF SOUTH CAROLINA,)
 Plaintiff,)
versus)
)
XAVIER LAMAR HOLBROOKS,)
 Defendant.)

H E A R I N G
BEFORE THE HONORABLE DANIEL D. HALL

DATE: March 12-13, 2024
TIME:
LOCATION: South Carolina Circuit Court 16
TRANSCRIBED BY: Natasha Barrientos

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1 would also -- but that -- that would require you to register
2 as sex offender and be under GPS monitoring.

3 MS. SHELTON: Yes, Your Honor. And that is -- is not a
4 defendant. That would be something ---

5 THE COURT: That's a possibility that could be
6 entertained. That would -- certainly they can withdraw that
7 offer that's not been officially made. However, if that's
8 something that you wish to talk to your lawyer about, I'll
9 give you an opportunity to do that. On the other hand,
10 nobody can make you plead guilty. You have absolute right to
11 have a trial by jury and have a jury listen to all the
12 evidence and determine whether the state had proven their
13 case beyond a reasonable doubt, but before you could be
14 convicted. So, that's where we are this morning. We're
15 ready to go to trial. Do you wish to talk to your lawyer
16 anymore before we get started?

17 MR. HOLBROOKS: (Inaudible).

18 THE COURT: I -- I'll do this. I'll give you 10
19 minutes. You all talk to your client and then we'll be ready
20 to start in 10 minutes. We're on the record.

21 2022-GS-46-01685, State vs Xavier L. Holbrooks (inaudible)
22 trial. Representing Mr. Holbrooks is Mark McKinnon, Melissa
23 Rogers representing the state and Misti Shelton (inaudible).
24 Let's take care of motion in limine. First, Mr. McKinnon, do
25 you have a copy of the motion in limine?

1 MR. MCKINNON: Yes, sir. You should have a copy up
2 there.

3 MS. SHELTON: Those are -- those are his, Your Honor,
4 the State does not have anything written. They are probably
5 for the -- just ease of -- of the court. I would go through
6 Mr. McKinnon's motions one by one, skipping number one.
7 because I think we would not get to that until after [REDACTED]
8 [REDACTED] MINOR's proffer. Number two, we have, to my knowledge,
9 turned over everything that the state has or is aware of at
10 this time. I sent Mr. McKinnon a couple additional things
11 yesterday after they were sent to me. But they are not
12 anything that I intend to introduce in trial and they are not
13 -- to -- did not have anything exculpatory on them. We have
14 discussed the defendant's prior record. I confirmed this
15 morning that his conviction from 2009 ended in 2013. So I
16 would not be able to use that for impeachment purposes, but
17 he did have a conviction in 2013 for forgery that I believe
18 is appropriate for impeachment purposes. We have provided a
19 ---

20 THE COURT: Tell me -- tell me about the -- the other
21 one you said that ended.

22 MS. SHELTON: That -- his supervision ended in
23 2013, so I think it falls outside of the 10 year window.

24 THE COURT: Okay. All right.

25 MS. SHELTON: The ---

1 THE COURT: All right. Hold on. Mr. McKinnon, you
2 agree that the -- the forgery conviction is a crime moral
3 turpitude and can be used against him if you testify?

4 MR. MCKINNON: Yes, sir. Or I guess kind of dishonesty
5 is the -- the newer terminology I believe, but yes. I agree
6 with that.

7 MS. SHELTON: Going on to number four, I have provided
8 a list of witnesses. The only witness who could who
9 potentially would have it an available criminal history is
10 Christiana Tabron (ph). I have asked my paralegal to run
11 that and see if there is criminal history for her. To my
12 knowledge, there is none. State has no objection to the
13 sequestration motion as long as it is reciprocal. I don't
14 believe that Mr. McKinnon has anything other than usually his
15 client.

16 MR. MCKINNON: That's correct.

17 MS. SHELTON: Your Honor, we do not intend to enter --
18 to introduce any lie or previous bad acts. We do not intend
19 to introduce any statements made by the defendant. There --
20 he did speak briefly to Detective Feldman (ph) prior -- pre
21 -- prior to arrest. It was over the phone. So I do not
22 think it would trigger Miranda or anything like that. We
23 don't intend to introduce that statement. In our case in
24 chief, it could come into play during cross-examination if
25 the defendant chooses to testify.

1 THE COURT: All right. And again, that was simply a
2 own conversation.

3 MS. SHELTON: Yes, sir.

4 THE COURT: All right.

5 MS. SHELTON: And then I don't intend on -- number
6 nine, do not intend to call any of the DNA semen. There was
7 no serology done. I do not intend ---

8 THE COURT: Let's go back to number eight.

9 MS. SHELTON: Okay.

10 THE COURT: Yes. Motion preclude the state referring
11 to DNA as matched.

12 MS. SHELTON: Oh, yes. I don't think -- they don't --
13 they don't do that. They -- scientist not say match or not
14 match. they say included and excluded, I believe is their
15 terminology. The -- yes, there was no serology done. No one
16 will be referring to any of the substances any of the DNA as
17 semen. I do not intend to elicit any testimony on a CODIS
18 hit. I've instructed Detective Feldman to stay away from
19 talking about CODIS. I don't intend to say that we have any
20 testimony that we had a difficult time locating the
21 defendant. And then we -- we do agree with the motion to --
22 to determine the competency of MINOR who is the victim
23 in this case. And she is here and ready to proffer that
24 testimony.

25 Your Honor, additionally, the only other motion that

1 the state has is a motion to there is three items of DNA in
2 the case. There is one that was from a rectal swab that
3 could -- that the defendant was included as a contributor to
4 that mixture. There is a hair that was found in the victim's
5 underwear that the defendant was included as a contributor to
6 that DNA and there was a vaginal swab of suspected saliva.
7 And the defendant that was a mixture of MINOR and an
8 unknown person, an unknown unrelated person, the defendant
9 was excluded from that under the rape shield statute. I will
10 make a motion to preclude any testimony about that. I do
11 think it would be more appropriate to take that up at the end
12 of the day so we don't keep the jury waiting. I don't intend
13 to -- there won't be any testimony about that until tomorrow.

14 THE COURT: All right. We'll deal with that later.

15 MS. SHELTON: And I will get ---

16 THE COURT: All right. Hold on just a sec. Only thing
17 left then is competency.

18 MS. SHELTON: Yes, sir.

19 MR. MCKINNON: Yes, sir.

20 THE COURT: Mr. McKinnon, you have any motions in -- I
21 mean that were your motions and state has no motions in
22 limine?

23 MS. SHELTON: Other than the -- other than the rape
24 shield, which we can address later today.

25 THE COURT: Okay. All right. And then we -- we'll

1 deal with the voir dire questions once we get through the
2 proper court competency.

3 MS. SHELTON: Your Honor, just so the court knows, I
4 told Mr. McKinnon since we did not previously think that Ms.
5 Davis would be able to testify that just so that he is aware
6 of what her testimony would most likely be. I will proffer
7 her entire testimony so the court can also ---

8 THE COURT: All right.

9 MS. SHELTON: --- for -- for competency. And since
10 this is a -- a pre-trial hearing, I -- I do intend to lead
11 for pretrial because the rules don't ---

12 THE COURT: I'm sorry. You intend to?

13 MS. SHELTON: I do -- I do intend to lead (inaudible)
14 the rules don't ---

15 THE COURT: We'll -- we'll deal with that. This --
16 this, again, is not -- this is to determine competency. And
17 so the rules are a little more relaxed on what we need to do.
18 It's just simply for the court to make a determination about
19 competence.

20 MR. MCKINNON: Your Honor, I would say I would agree
21 with that, but at the same time, I guess we need to bear in
22 mind that she also needs to be able to -- to -- you know,
23 tell a narrative on her own to be competent.

24 THE COURT: Well, and I think the solicitor understands
25 that rule. And -- and yes, this is not going to be testimony

1 from the solicitor, but to determine whether ---

2 MR. MCKINNON: Yes.

3 THE COURT: --- the -- the -- the victim in the case
4 can testify.

5 MS. SHELTON: Your Honor, just for that purpose of --
6 of leading questions, I would reference State versus Hale. I
7 have copies of that if the court needs it.

8 THE COURT: I'll pull that up right now.

9 MS. SHELTON: Where it is particularly with children
10 and then these types of cases up to the court's discretion,
11 how far to allow the state to lead. And it is not completely
12 out of the ordinary.

13 THE COURT: Well, again, I assume I haven't looked at
14 State v Hale, I assume that's talking about testimony in the
15 state's case in sheet.

16 MS. SHELTON: Yes, sir.

17 THE COURT: Not necessarily to determine competency.

18 MS. SHELTON: Yes.

19 THE COURT: We'll deal with that if and when we get to
20 that issue.

21 MS. SHELTON: I'm going to go talk to her, Your Honor.

22 THE CLERK: (Inaudible).

23 MINOR : MINOR .

24 MINOR ,

25 being duly sworn testified as follows;

1 DIRECT EXAMINATION

2 BY MS. SHELTON:

3 Q. Okay. Now, remember yesterday where you had to
4 sit in a special chair?

5 A. (Inaudible).

6 Q. Okay. Have a microphone make you louder. Okay.
7 You okay?

8 A. Uh-huh.

9 Q. And remember yesterday we talked about -- and here
10 you're safe, right?

11 A. Uh-huh.

12 Q. And we talked about all the people that are in
13 here. Somebody sitting there like I said there would be,
14 right?

15 A. Uh-huh.

16 Q. And there's lady sitting here. And remember I
17 said the judge would be sitting up here and he is?

18 A. Uh-huh.

19 Q. And I told you he wasn't (inaudible) right?

20 A. Uh-huh.

21 Q. And there's just a few more other people in here,
22 right?

23 A. Uh-huh.

24 Q. Okay. And **MINOR**, you know who I am. Is that
25 right?

1 A. Uh-huh.

2 Q. And can you -- can you say yes for me? Like
3 instead of uh-huh, can you do that for me?

4 A. Yes.

5 Q. Okay. And do you know what -- what this is right?
6 The courtroom?

7 A. Yes.

8 Q. And do you know why you're here? Is that right?

9 A. Yes.

10 Q. And do you know what the truth is?

11 A. MINOR's favorite color is pink.

12 Q. MINOR's favorite color is pink. Is that because
13 that is a -- a true statement?

14 A. Yes.

15 Q. If I said MINOR's favorite color is green, what is
16 that?

17 A. A lie.

18 Q. That's a lie. And if I said MINOR's favorite ice
19 cream is chocolate. What is that?

20 A. Strawberry.

21 Q. Strawberry's your favorite. So strawberry's the
22 truth and chocolate is what?

23 A. A lie.

24 Q. A lie. And when you're in court, are you supposed
25 to tell truth or are you supposed to tell lies?

1 A. Truth.

2 Q. And could something happen? Would you get in
3 trouble if you told a lie?

4 A. Yes.

5 Q. Is telling the truth good or bad?

6 A. Good.

7 Q. And is telling a lie good or bad?

8 A. Bad.

9 Q. And are you going to tell the truth today?

10 A. Yes.

11 Q. MINOR, do you remember the last time that you saw
12 Xavier Holbrooks the same night that the police officers were
13 at your house?

14 A. My old house?

15 Q. Yes. Your old house. Do you remember that? Your
16 house on Frank Street? It's just the last time that you --
17 that you saw him in the police office were there. Do you
18 remember -- just remember that night?

19 A. We saw (inaudible).

20 Q. When the police officers came. Do you remember
21 that?

22 A. Yes.

23 Q. You do? Do you remember being at home that day?

24 A. Yes.

25 Q. Who was at home with you?

1 A. Mama.

2 Q. Your mama and her name's Kenika (ph)?

3 A. Uh-huh.

4 Q. And did -- did Xavier come to the house that day?

5 A. Yes.

6 Q. When Xavier came to the house, where did you go?

7 A. My bedroom.

8 Q. And -- your bedroom. And when you were in the

9 bedroom, who was in the bedroom with you? You and who else?

10 It's okay (inaudible). Who else was in the bedroom?

11 A. Xavier.

12 Q. Xavier Holbrooks is that the name?

13 A. Xavier.

14 Q. Xavier was in the bedroom with you? And this is
15 the part that you don't like to talk about. Okay? Just look
16 at me. Mute it. Okay? When you were in the bedroom, how
17 was the door? What was happening with the door?

18 A. Closed.

19 Q. It was closed? Was anything else happening with
20 the door?

21 A. Locked.

22 Q. It was locked. Why -- why was the door locked?
23 You remember?

24 A. Door lock.

25 Q. (Inaudible). Okay. You remember (inaudible)?

1 Did you lock the door?

2 A. Yes.

3 Q. Why did you lock the door? When the door was
4 locked? Was it just you and Xavier in there?

5 A. Only me looking out of the window.

6 Q. Yeah. You were looking out of the window?

7 A. Yeah.

8 Q. Yeah. And after you looked out of the window, did
9 anything happen?

10 A. Yes.

11 Q. Can you tell me what happened? Okay. Can you
12 tell me what happened?

13 A. Yes.

14 Q. Okay. Tell me what happened after you looked out
15 of the window.

16 A. No, ma'am.

17 Q. Before Xavier, was there something going on when
18 Xavier came?

19 A. Yes.

20 Q. Okay. You don't like to talk about, can you just
21 say a little bit about it. You saw Xavier doing something?

22 A. Yes.

23 Q. What was he doing? You want to talk about
24 something else (inaudible)? Can you tell me what was doing
25 or (inaudible)?

1 A. Yes.

2 Q. Can you tell me? (Inaudible), can you tell me
3 what was he doing? Okay. After -- after (inaudible) there,
4 did you have to go see a nurse?

5 A. Yes.

6 Q. And after you talked to the nurse, did she ---

7 A. Did Scheana talk to the nurse?

8 Q. When you were there, did you hear what Christiana
9 was saying to the nurse?

10 A. I don't remember.

11 Q. You don't remember? Okay. But do you remember
12 the nurse doing a test on -- doing test on you?

13 A. Yes.

14 Q. Yeah. Do you remember her having a look at
15 certain areas of you?

16 A. Yes.

17 Q. Had anyone else ever looked at or touched those
18 same areas that day?

19 A. No.

20 Q. No? No one has? Okay. Are you nervous?

21 A. Yes.

22 Q. Are you scared?

23 A. Yes.

24 Q. Yeah. You want to be here?

25 A. Yes.

1 Q. You do. Do you want to answer any more questions?

2 It's okay if you don't

3 A. No. Thank you.

4 Q. No. Thank you. You don't have to answer anymore

5 for me. Okay? But there's a lady whose name is Melissa

6 Rogers. Remember we talked about yesterday that there would

7 be people on the other side? Ms. Rogers ---

8 A. Yes.

9 Q. And Ms. Rogers, is going to ask you some

10 questions, okay? Maybe. Okay. And so just remember that

11 you tell the truth too, okay?

12 A. Okay.

13 MS. SHELTON: Okay.

14 THE COURT: All right. Ms. Rogers or Mr. McKinnon?

15 MS. MCKINNON: Your Honor, is a cross-examination

16 necessary?

17 THE COURT: Well, that's for you to make that

18 determination. You have the right to cross-examine any

19 witness.

20 MS. MCKINNON: I -- I mean, as far as your

21 determination?

22 THE COURT: In this procedure we followed, you have --

23 you have to make a decision about whether to cross-examine or

24 not. I don't know what may or may not be enlisted during

25 cross-examination.

1 MR. MCKINNON: Yes, sir.

2 THE COURT: You don't have -- you're not required to
3 cross-examine, and then the court will make finding, on the
4 other hand, you have a right to cross-examine and then the
5 court take that into consideration.

6 CROSS-EXAMINATION

7 BY MS. MCKINNON:

8 Q. Hi, MINOR. My name is Mark.

9 A. Hey.

10 Q. How are you?

11 A. Good.

12 Q. You told Ms. Shelton, the lady of the yellow hair
13 there that you liked or you knew the difference between
14 telling the truth and the lie, right?

15 A. Yes.

16 Q. If I told you something. Does that make it the
17 truth?

18 A. Yes.

19 Q. If I said, these tissues here are purple and then
20 someone else ask you to tell the truth about that, what would
21 you say?

22 A. No, sir.

23 Q. Very good. Do you like repeating what other
24 people say to you?

25 A. My mom.

1 Q. Sorry?

2 A. My mom.

3 Q. Your mom?

4 A. Uh-huh.

5 Q. What about Christiana? Do you like
6 repeating what she says?

7 A. No. Thank you.

8 Q. No. Thank you? Remember that night that Ms.
9 Shelton was talking to you about on the 3rd, do you remember
10 Christiana telling you things to tell the officers, police
11 officers?

12 A. Yes.

13 Q. You do. And you told the police officers what
14 Christiana told you to say?

15 A. Yes.

16 Q. What about Michelle? Has she told you what to
17 say? The lady with the yellow hair who was just talking to
18 you?

19 A. Yes, sir.

20 Q. She did tell you what you think? If it's not your
21 version of what happened, that that might be a lie?

22 A. No.

23 Q. No, that's the truth because someone else told you
24 to say it? (Inaudible) having asked this -- this question.

25 A. That's okay.

1 Q. Ms. Shelton or Christiana or your mom, tell you to
2 say something, does that make it the truth?

3 A. My mom.

4 Q. You mom?

5 A. Uh-huh.

6 Q. Christiana?

7 A. Yes.

8 MR. MCKINNON: All right. No further questions.

9 THE COURT: Thank you. Anything further state?

10 MS. SHELTON: Just one, one quick question.

11 REDIRECT EXAMINATION

12 BY MS. SHELTON:

13 Q. [REDACTED] last name. Okay? (Inaudible). Okay.

14 Right before you seen your (inaudible) you remember telling
15 that?

16 A. Yes.

17 Q. Was this yesterday?

18 A. Uh-huh.

19 Q. You (inaudible) Xavier told your mom to go against
20 you, is that right?

21 A. Uh-huh.

22 Q. Does that make you sad?

23 A. Yes.

24 Q. Did it make you scared?

25 A. No.

1 Q. No? Did it make you not want to be here?

2 A. No.

3 Q. Has your mom talked to you about -- about it?

4 A. Yes.

5 MS. SHELTON: (Inaudible).

6 THE COURT: Hold on just a second. Any recross?

7 MR. MCKINNON: No, Your Honor.

8 THE COURT: Thank you.

9 MS. SHELTON: (Inaudible)?

10 THE COURT: Yes, ma'am.

11 MS. SHELTON: (Inaudible).

12 THE COURT: All right. Anything further as ---

13 MS. SHELTON: No, sir.

14 THE COURT: --- far as the copy?

15 MS. SHELTON: No, sir.

16 THE COURT: Mr. McKinnon?

17 MR. MCKINNON: No, Your Honor.

18 THE COURT: All right. I find that she is not
19 competent. And under our rules, under Rule 601 and under a
20 case law, the determination of a witness's competency
21 testifies a question for the trial court. And the trial
22 court's decision will not be overturned absent of abuse of
23 discretion. Citing 601, a person or some case law is -- is
24 disqualified to be a witness if the court determines; one, if
25 she is incapable of expressing herself concerning the matter

1 as to be understood by the jury, board of the jury, or two,
2 she is incapable of understanding the duty of a witness to
3 tell the truth. Competency of a child witness is to be
4 determined by the trial court.

5 The factors to be considered are; a, if the child is
6 mature enough to understand the questions and narrate
7 answers. I find that the bulk of all of the questions, both
8 by the state and the defense in this paper case were all
9 leading questions requiring basically a yes or no answers.
10 And even those answers had to be interpreted by the solicitor
11 of the court, to not understand what those answers were.

12 Two, to perceive the facts accurately through the
13 medium of the sentence. And three, to recall them correctly
14 or to relate a true version of the facts perceived, I find
15 that she was the ultimate issue in the case involving
16 criminal, sexual conduct, minor second degree. Those
17 elements she was unable on her own to recall them for the
18 court to hear, and certainly for a jury to be able to hear.
19 She was unable to on her own to relate a true version of the
20 facts proceed. She does seem to appear to know the
21 difference between right and wrong, good and bad and truth,
22 tell the truth and -- and the difference between that
23 appeared a lie.

24 I find that weighing those factors under 601, even
25 though under 601; a, every person is competent to be a

1 witness except is otherwise provided by statute of these
2 rules. And b; disqualification witness a person is
3 disqualified to be a witness if the court determines that;
4 one, the proposed witness is incapable of expressing this
5 case herself concerning the matter as to be understood by the
6 judge and jury, either directly or through interpretation by
7 one who can understand him.

8 It appears that the only thing that the court could
9 understand was when the solicitor investment acted as the
10 interpreter. And that was -- and -- and -- and that she was
11 un -- and even the -- the -- the -- on the -- the leading
12 questions and have to interpret those answers. I find that
13 -- that she is incapable of expressing herself concerning the
14 matters (inaudible) and the ultimate matters is regarding the
15 elements of this particular offense. So I find that she's
16 not competent (inaudible).

17 MS. SHELTON: Your Honor, and we -- and we agree with
18 the court's ruling. I -- could I just briefly put on the
19 record the -- the reasons behind?

20 THE COURT: Yes, (inaudible).

21 MS. SHELTON: Yes, Your Honor. I have met with MINOR I
22 believe three times. She -- it -- I did not know how she
23 would testify today and so I thought it was better to proffer
24 it, see how she would testify. She -- yesterday when we met,
25 she did better yesterday and was able to give a little bit

1 more of a narrative, and was certainly more confident. I
2 don't know what has changed between today and -- and
3 yesterday other than it's for real today and there are more
4 people in the courtroom and the defendant is in the
5 courtroom. But I did, based on my previous conversations
6 with her, feel like it was the appropriate thing to do to
7 proffer her testimony as opposed to just calling her as a
8 witness.

9 THE COURT: All right. Thank you. And let -- and let
10 me say it again too, that as far as the court's observations
11 are very -- 16-year-old young lady that has some significant
12 medical challenges and presents herself as very reserved,
13 very -- she may have been afraid. On the other hand, I was
14 -- appeared -- also presented herself as being incapable of
15 giving more than one or answer any question. Again, that's
16 the court's observation and that's where we're, she's not
17 competent to testify. All right. Motion two.

18 MR. MCKINNON: Your Honor, I -- therefore number one
19 and my motions in limine motion to continue. We will
20 withdraw that motion.

21 THE COURT: All right. And we're ready to proceed.
22 Let's -- let's talk about the voir dire. The -- looking at
23 the state's voir dire for questions. I see no issue with any
24 of those particular. I do -- on -- on number one, have you
25 or a member of your immediate family ever been arrested for

1 right. Anything else before we bring the jury up?

2 MR. MCKINNON: Nothing from defense, Your Honor.

3 MS. SHELTON: Nothing from the state, Your Honor.

4 THE COURT: You all take your break while they're
5 bringing the jury up and then those of you in the courtroom,
6 you're going to have to -- the bailiffs are going to instruct
7 you, I think, to move all the way over into the corner.
8 Because we have -- we've got to get we are bringing the
9 entire panel up, which is, I think, 65 or so people. So the
10 bailiffs will instruct you on where you can sit during jury
11 selection. All right. We'll take a quick -- I'm going to
12 step out while they bring the jury up. Let's bring the jury
13 up.

14 (Jury enters courtroom)

15 THE COURT: All right. Thank you. Ladies and
16 gentlemen, I appreciate your patience this morning. We have
17 been working and conducting business since 9:00 this morning,
18 And court does not often run real efficient. However, we've
19 been working hard. We're now ready to go to the next step in
20 jury selection. I explained to you yesterday the third and
21 final selection step in jury selection, is to determine
22 whether you will qualify to service particular jurors on this
23 particular case. We're about to begin the case of the State
24 versus Xavier Lamar Holbrooks indictment 2022-GS-46-01685.

25 Mr. Holbrooks has been indicted for -- on an allegation

1 that on or about June the 3rd of 2021 here in York County,
2 that he was charged with criminal sexual conduct with a minor
3 in the second degree. He is being -- the -- I'm going to go
4 through some questions about if you know anything about the
5 case and about the lawyers in the case and that type thing.
6 And so the first question is, does any member of the jury
7 panel have any knowledge about this case whatsoever? If so,
8 please stand. Thank you. No one stands. Solicitor, if you
9 had introduce yourself and your co-counsel and ---

10 MS. SHELTON: I am Misti Shelton with York County
11 Solicitor's Office and Landon Finnie with York County
12 Solicitor's Office.

13 THE COURT: Is there any member of the jury panel
14 related by blood or marriage or have a close business
15 professional or social relationship with either Misty Shelton
16 or Landon Finnie from the York County Solicitor's Office? Or
17 for that matter, anyone who is employed by the York County,
18 the 16th Circuit Solicitor's office in any capacity whether
19 there's a lawyer that works there in addition to Ms. Shelton
20 and Mr. Finnie or anybody that works in any programs that are
21 operated by the solicitor's office? Is anybody on the jury
22 panel related by blood or marriage? Have a close personal
23 business relationship with any of these two lawyers. Anyone
24 in the solicitor's office then please stand? Thank you. No
25 one stands. Mr. McKinnon, if you'd introduce yourself and

1 MR. MCKINNON: Please seat the juror.

2 THE CLERK: Please have a seat in the jury box. Alyssa
3 K. Sadler, juror number 154. What's said for the state?

4 MS. SHELTON: Please present this juror.

5 THE CLERK: And the defense?

6 MR. MCKINNON: Please seat this juror.

7 THE CLERK: Please have a seat in the jury box.

8 THE COURT: Anything further as far as the jury
9 selection from the state?

10 MS. SHELTON: Nothing from the state, Your Honor.

11 THE COURT: From the defense?

12 MR. MCKINNON: No, Your Honor.

13 THE COURT: All right. Ladies and gentlemen, jury --
14 the panel -- those of you who are not selected to serve as
15 jurors in this particular case, you're going to -- you're
16 free to leave for the rest of the day, however you need to
17 call tonight. After 6:00, you'll receive instructions on
18 where you'll come in and where you'll be needed next. With
19 that, you're free to leave if one remains seated while this
20 jury panel is excused. Call tonight after 6:00. Thank you.
21 All right. Thank you Madam Clerk, if you would swear this
22 jury.

23 THE CLERK: All right. Ladies and gentlemen of the
24 jury, please stand and raise your right hand. You shall,
25 well and truly try and true deliverance make between the

1 state of South Carolina and the defendant at the bar whom you
2 shall have a charge and a true verdict give according to the
3 evidence and the law. So help you God. Please respond by
4 saying I will.

5 (JURY SWORN)

6 THE CLERK: Thank you.

7 THE COURT: Thank you. You may be seated. Ladies and
8 gentlemen, I'm going to give you a brief general introduction
9 in charge of this case. Anything that I tell you during this
10 general instruction is not what we call a charge on the law.
11 It is simply me giving you an outline of the procedure that
12 we're going to follow in the case and what to expect
13 throughout the case and then some particular duties that are
14 required of you. In this particular case there's an
15 indictment 2022-GS-46-01685 State versus Xavier Lamar
16 Holbrook has been indicted of criminal sexual conduct, a
17 minor second degree.

18 This is simply a piece of paper or the document that
19 brings the -- it's the charge which brings the defendant in
20 the court. It is not in any sense evidence of any of the
21 allegations. The indictment, the charge is not evidence of
22 the allegations. The defendant in this case has pled not
23 guilty to that indictment. Therefore, the state has the
24 burden of proving each element of the indictment, the charge
25 beyond a reasonable doubt. Be your -- and -- and it's going

1 to be your duty, ladies and gentlemen, to decide whether the
2 state has met that burden.

3 Your purpose as jurors is to find, to determine the
4 facts in the case. You are the sole judge of the facts. If
5 at any time I make a comment regarding the facts, you must
6 disregard. Because the -- your -- that is not my role to
7 determine or have an opinion about the facts. That is your
8 duty as jurors to determine the facts from the testimony and
9 the evidence that you hear in this courtroom.

10 The law that makes you the judge is the facts makes me
11 the judge of the law. The law that I give you is the only
12 law that you may consider. You must accept the law and
13 follow it even though you may disagree with it. I cannot
14 tell you what the facts are and you cannot tell me what the
15 law should or should be. Should not be. Your job is to take
16 the law as I give it to you and apply to the facts as you
17 find them from the testimony of the witnesses that you'll
18 hear and any other evidence that's introduced. After that,
19 you'll have an opportunity to deliberate on the verdict in
20 the case.

21 One instruction that I'm going to give you, you're
22 going to get tired of hearing Judge Hall say it throughout
23 this trial. And -- but it is simply this. You are -- you
24 are not to discuss the case at all with anybody even among
25 yourselves until all the evidence is in the case. You're not

1 to use any electronic devices to Google people, places, to
2 look up the law for you determine that is not allowed.
3 You're not to discuss the case when you go home this evening,
4 people that you live with, you're not to discuss the case at
5 all. And the reason for that is -- is that you've taken a
6 oath to be fair and impartial and to determine the facts of
7 the case and apply it to the law.

8 You're not going to know anything or be able to discuss
9 it until the end of the case with all the evidences been and
10 all the law that is -- that -- that applies in the case is I
11 give it to you, then you can start discussing the case in --
12 in your -- in your jury room. So in the meantime don't be
13 tempted to use those electronic devices or to discuss the
14 case with anybody. You've got to listen to the evidence
15 that's presented here in the courtroom and -- and the law as
16 I give it to you at the end of the case before you can be
17 enter deliberations about the case. And at that point we'll
18 have the information that allow you to be fair and impartial
19 to both the state and the defendant.

20 During the course of the trial, we -- we usually go
21 about an hour, hour and a half between witnesses. We try to
22 take a break every hour, hour and a half. But if you need to
23 take a break, simply raise your hand and we'll excuse you and
24 excuse everybody to the jury room. Again, don't discuss the
25 case anytime you're out, even when you're in the jury room.

1 Sometimes during the course of the trial the lawyers there
2 may be an issue that comes up in the court. The lawyers may
3 stand up and -- or they -- and say, "I object." When they do
4 that, I may be able to deal with it immediately.

5 On the other hand, I may have the lawyers come up here
6 to the bench and we can discuss outside of your presence any
7 particular issue of law, or sometimes we may have to ask you
8 to leave the courtroom so we can do that on the record
9 outside of your presence. When the lawyers do that, don't
10 hold that against them. They're doing their job. They're
11 making sure that -- that they're advocating for their
12 particular client or advocating for the state. And then
13 they're doing their job as lawyers to make sure that the case
14 is being tried properly. So don't hold that against them if
15 they make objections.

16 In just a moment, the solicitor will make an opening
17 statement that is not evidence in the case. However, it's an
18 opportunity for the solicitor to explain to you issues in the
19 case and what the issue solicitor believes the issues are in
20 the case. And then the attorney for the defendant may also
21 make an opening statement. Whatever they say in opening
22 statement is not evidence. The evidence that you're going to
23 receive is not through this opening statements or closing
24 arguments. That's going to be through the evidence that you
25 hear from witnesses and any evidence or exhibits that are

1 introduced into evidence.

2 In determining what are the true facts in the case, you
3 as jurors must decide whether or not the testimony of the
4 witnesses is believable. It's my responsibility rules the
5 matter of law as whether a certain testimony is admissible at
6 all or not. But once testimony is admitted, whether or not
7 you believe it is solely for you to determine. In deciding
8 whether to believe a witness, you have the right to consider
9 the interest of any witness, the bias of any witness, the
10 prejudice of any witness, the opportunity for the witness to
11 have seen the matters and the things about which the witness
12 may testify. And the way the witness acts on the witness
13 stand.

14 You have a right to consider anything that is in the
15 record that will help you evaluate the testimony of the
16 witnesses. When you come in and out of the courtroom at
17 least for the first day, the two alternates. If you two will
18 keep those two seats, the rest of you can sit wherever you
19 feel like it. Until sometime tomorrow, I will ask you to
20 elect a foreperson from among yourselves. A foreperson
21 doesn't have any greater say in the deliberations or the what
22 goes on the jury room, but the for -- foreperson somebody the
23 court needs to be able to communicate through the back and
24 forth to the jury.

25 When you elect a jury -- and I'll instruct you on that

1 tomorrow when you elect a foreperson at that time, the
2 foreperson will come back in and take this and seat through
3 the rest of the trial. Again, the rest of you can sit
4 wherever you feel like when you come in and out. Feel free
5 to bring water with you. We ask that you don't bring any
6 soft drinks or coffee in here. This is -- I still consider
7 this a -- a relatively new facility. And our clerk report
8 has control over the buildings doing a very good job of
9 keeping it nice and clean. And one way we can do that is not
10 have coffee spills or soda spills in here.

11 So just bring water. We all have water available to
12 us. Feel free to bring water in and out of the courtroom
13 with you. Again, at any time you need to -- to take a break,
14 simply raise your hand and we will make sure the bailiffs or
15 (inaudible) and we'll allow you an opportunity to -- the jury
16 panel can be excused. Anything further as far as general
17 instructions from the state?

18 MS. SHELTON: Nothing from the state, Your Honor.

19 THE COURT: From the defense?

20 MR. MCKINNON: No, Your Honor.

21 THE COURT: All right. At this time ladies and
22 general, give your attention to the opening statements.
23 Solicitor?

24 MS. SHELTON: Ladies -- Your Honor, this is a serious
25 case, but it's not a long case. This case will not take very

1 long. The trial itself will not take very long, but that
2 does not mean that the case is not serious. Endeavor deserve
3 your full detention. So I'll ask that over the next couple
4 of days. You do take it seriously. Take your oath seriously
5 and pay close attention to everything that is said by -- by
6 everyone that -- that is in courtroom. Xavier Holbrooks is
7 charged with criminal sexual conduct with a minor, second
8 degree. That is our way. The people that do this jobs way
9 of saying that he committed a sexual battery on a child that
10 was between the ages of 11 and 14.

11 You will hear, that on June 3, 2021, MINOR who is
12 the victim in this case, was at her home on Frank Street,
13 which is in (inaudible) and that Xavier Holbrooks, the
14 defendant, came to her home. MINOR was there at the time of
15 her mother, whose name is Kenika. Both MINOR and kenika are
16 sexually disabled. You will hear that at some point MINOR and
17 Xavier were in a locked room. You'll hear that after the
18 defendant left MINOR was state in (inaudible) where she was
19 examined by a sexual assault nurse.

20 You'll hear that that sexual assault nurse collected
21 swabs of MINOR's vagina and rectum. Those swabs were sent to
22 South Carolina Law Enforcement Division where they were
23 analyzed. The other evidence in case were analyzed. And you
24 will hear that Xavier Holbrook, the defendant in this case
25 was listed as an included contributor to the mixture of DNA

1 found both in the victim rectum and then also a chair that
2 was found inside the room. After you've heard all of the
3 testimony, talk with you again at end of the trial, that is
4 called closing argument at the time, a closing argument.
5 I'll ask you to find him guilty of this time.

6 THE COURT: Mr. McKinnon? Ms. Rogers?

7 MS. ROGERS: Ladies and gentlemen of the jury there is
8 nothing about this case that is -- that is easy, that's going
9 to be easy to listen to. And in today's world, we often have
10 unlimited access to the news where we see pretty difficult
11 information. We hear difficult information. And with
12 technology, we have the option to tailor our news to our
13 particular viewpoints, our favorite topics. If we don't want
14 to see the bad stuff, well, we can choose to scroll past it.

15 You read the headline maybe to see that it's about
16 something terrible like somebody has been arrested for a
17 heinous crime. Maybe you think to yourself, "That person is
18 definitely guilty." And then you move on. You don't have
19 the option of just reading the headline and moving on here.
20 And I know that's tough. You have to listen to all of the
21 evidence presented and then you have to decide guilt or
22 innocence. We're just asking that you look past the
23 difficult content and if you do, you'll see there's another
24 explanation of what happened.

25 What happened was this, you'll hear testimony that on

1 June 3, 2021, Xavier Holbrooks got off work and went over to
2 his friend Kenika's house to paint a picture for you. It's a
3 very small house. There's not a lot of parking. Xavier
4 parks his vehicle and is blocked in by another car. He tells
5 the person who blocked him in to let him know when they're
6 going to leave. He doesn't have plans to stay long. He's
7 just checking on Kenika. There are multiple people outside
8 the house, including Kenika and her daughter MINOR

9 Xavier has known them both for a very long time and
10 he's -- and MINOR's comfortable with him. She wants him to
11 read her a book. So he does. Xavier again knows that there
12 are multiple people in and outside of the home and there's no
13 evidence he thought that everyone was gone and that's why he
14 went into the room with MINOR. The state wants you to believe
15 that because Mr. Holbrooks was in a room with MINOR and
16 there's DNA found that this means that there's a sexual
17 battery. They have to prove that Mr. Holbrooks is guilty
18 beyond a reasonable doubt. And to be clear, beyond a
19 reasonable doubt is not beyond all doubt, but it's more than
20 just Xavier was in a room with MINOR and DNA was found. That
21 is not enough. We're confident that at the end of this case
22 that you will find Xavier not guilty. Thank you.

23 THE COURT: Thank you, Ms. Rogers. Solicitor, call
24 your first witness.

25 MS. SHELTON: Yes, Your Honor. Christiana Tabron.

1 Christiana Tabron. (Inaudible) yes. Your Honor, may -- may
2 we approach?

3 THE COURT: Yes, you may.

4 CHRISTIANA TABRON,
5 being duly sworn, testified as follows;

6 DIRECT EXAMINATION

7 BY MS. SHELTON:

8 Q. Good morning.

9 A. Good morning.

10 Q. Can you state your name for the record please?

11 A. Christiana Tabron.

12 Q. Christiana Tabron. And -- do you mind if I
13 call you Christiana?

14 A. Uh-uh.

15 Q. You don't mind?

16 A. No, I don't mind.

17 Q. Christiana, do -- do you know MINOR ?

18 A. Yes.

19 Q. How do you know MINOR ?

20 A. That's my cousin.

21 Q. That's your cousin? Do you know her mother
22 Kenika?

23 A. Yes.

24 Q. What is Kenika's last name? Also ?

25 A. White.

1 Q. Kenika White?

2 A. Uh-huh.

3 Q. And how -- and how are you -- and how's she
4 related to Kenika?

5 A. That's my aunt.

6 Q. That's your aunt?

7 A. Uh-huh.

8 Q. So how long have you known them?

9 A. My whole life.

10 Q. Do you have any kind of special roles in their --
11 in their life?

12 A. I'm their primary caretaker and I'm their payee as
13 well.

14 Q. When you say their payee, what does that mean?

15 A. I'm over their finances and basically just
16 responsible for everything in the household.

17 Q. Does Kenika work?

18 A. No.

19 Q. So where did she get her finances from?

20 A. From the government. From Social Security.

21 Q. Social Security?

22 A. Uh-huh.

23 Q. Did she ever work?

24 A. No.

25 Q. What exactly is the nature of MINOR's disability?

1 A. She has a developmental delay.

2 Q. What age would you basically describe her as
3 at?

4 A. Probably nine.

5 Q. Can she fully read and write?

6 A. She can read certain things, but she doesn't read
7 like consistency on her grade level.

8 Q. Does she -- so she goes to school?

9 A. Uh-huh.

10 Q. Is she in mainstream classes?

11 A. No, she's in special needs.

12 Q. Has she always been in special needs?

13 A. Uh-huh.

14 Q. And what about (inaudible)?

15 A. Yeah, she's in special needs classes as well.

16 Q. And where are they living right now?

17 A. Right now they're living with me in Charlotte.

18 Q. Okay. And in -- in June of 2021, where are they
19 living?

20 A. [REDACTED] Frank Street in Rock Hill.

21 Q. Okay. Is that in York County?

22 A. Yes.

23 Q. Were they living there alone?

24 A. Yes.

25 Q. Have they always lived alone?

1 A. Primarily, yes.

2 Q. Have you always been a caregiver?

3 A. No. I got over their finances in 2020. Yeah,
4 2020 I believe or 2021.

5 Q. And prior to that, who was the caregiver?

6 A. My grandmother.

7 Q. And what happened with your grandmother?

8 A. She passed away.

9 Q. What is MINOR's birthday?

10 A. [REDACTED], 2007.

11 Q. So she is 16 now?

12 A. Sixteen. Uh-huh.

13 Q. And in June of 2021 she would've been ---

14 A. Like 13.

15 Q. --- thirteen?

16 A. Uh-huh.

17 MS. SHELTON: May I approach the witness?

18 THE COURT: Yes, you may.

19 MS. SHELTON: Christiana, I'm going to give you what's
20 been marked, for identification, as State's Exhibit Number 2.

21 (State's Exhibit 2 was marked for identification.)

22 BY MS. SHELTON:

23 Q. Christiana, who's that in that picture?

24 A. MINOR.

25 Q. And is that a picture an accurate reflection of

1 what MINOR looks like?

2 A. Yes.

3 Q. Is that more what she looks like now?

4 A. Uh-huh.

5 Q. Back in 2021, is that what she looked like or was
6 she different?

7 A. No, she looked like that.

8 MS. SHELTON: Your Honor, we would ask the move States
9 Number 2 into evidence.

10 MR. MCKINNON: Your Honor, I object. I don't see any
11 probative value in the -- in the photograph.

12 THE COURT: Oh, I note your objection. I overrule the
13 objection. States 2 is in evidence, a picture of MINOR.

14 MS. SHELTON: And, Your Honor, I -- I'm going to
15 publish that later, but I put it into evidence now.

16 (State's Exhibit 2 was entered into evidence.)

17 BY MS. SHELTON:

18 Q. I want to talk to you specifically about June 3rd
19 of 2021. Where were you living then?

20 A. In Charlotte.

21 Q. How often would you come here?

22 A. Every other weekend or so. And Kenika had a
23 primary caregiver, Lauren, who came there like three times a
24 week.

25 Q. And when you say she had a primary giver woman,

1 was that another family member?

2 A. No, she was through the state.

3 Q. That was the state?

4 A. Employee.

5 Q. And that was paid for by the state?

6 A. Correct.

7 Q. And -- and then you would come just to still check
8 on them, is that correct?

9 A. Uh-huh. And MINOR had a caregiver as well? Sorry,
10 I forgot to mention that.

11 Q. And the purpose of those two caregivers were just
12 to make sure for what -- what purpose were they -- were they
13 serving?

14 A. Kenika's caregiver is just basically to take her
15 back and forth to the doctor's office, making sure her
16 household is in order and they don't need anything. And
17 MINOR's caregiver was there after she got out of school, just
18 making sure that she got in the bath and her clothes were
19 ready for the next day, like that.

20 Q. And on June 3rd of 2021, did you come to Rock Hill
21 that -- that day?

22 A. Yes.

23 Q. And why did you come to Rock Hill that day?

24 A. I was just coming to check on them.

25 Q. Do you know the defendant in this case?

1 A. Yes.

2 Q. Do you see him in the courtroom?

3 A. I do.

4 Q. Can you point him out and describe what he's
5 wearing?

6 A. He's wearing a yellow shirt,

7 MS. SHELTON: Your Honor, please let the record
8 reflect that the witness has identified Xavier Holbrooks as
9 the defendant in this case.

10 THE COURT: All right. That's noted in the record.

11 BY MS. SHELTON:

12 Q. Do you remember seeing Mr. Holbrooks on June 3,
13 2021?

14 A. Yes.

15 Q. How -- describe the circumstances of you seeing
16 him that day?

17 A. I believe I was sitting in the car outside and he
18 pulled up as usual, I -- you know, he's a family friend, so
19 he comes over quite often just to check on them. And I was
20 outside sitting in the car at the time.

21 Q. Were there a lot of other people outside?

22 A. No.

23 Q. Who all was outside?

24 A. It was just me and my friend was in the car, but
25 they ended up leaving.

1 Q. Okay. At any point, what did you do while --
2 where did Xavier go? Once -- once he got there?

3 A. In the house.

4 Q. And who was in the house?

5 A. Kenika and MINOR.

6 Q. Had you ever -- had you been in the house at all
7 that day?

8 A. Yes, I was in the house prior to him coming.

9 Q. And was MINOR in the house while you were there?

10 A. Yes.

11 Q. To your knowledge, had MINOR been in the house all
12 day?

13 A. Yes, she was in the house all day.

14 Q. When he went in the house, where did you go?

15 A. I stayed outside.

16 Q. And what were you doing while you were outside?

17 A. I was outside in the car talking to my friend.

18 Q. Did you talk to anybody else while you were
19 outside ---

20 A. No.

21 Q. --- or anything?

22 A. No. Or -- well, my mom.

23 Q. Talk to your mom?

24 A. Uh-huh.

25 Q. And that's Kenika's sister ---

1 A. Correct?

2 Q. --- is that correct?

3 A. Uh-huh.

4 Q. At some point did you ever go into the house while
5 -- while Xavier was -- the defendant was in the house?

6 A. No.

7 Q. Did anyone go into the house while -- while he was
8 in the house?

9 A. Nevaeh.

10 Q. And who was Nevaeh?

11 A. Our cousin.

12 Q. And why did she go into -- without saying anything
13 that she said, why did she go into the house?

14 A. Because he had me blocked in and I was ready to
15 go.

16 Q. You were ready to go?

17 A. Uh-huh.

18 Q. And you were there first, so when his truck pulled
19 and when he pulled in, it blocked you in?

20 A. Right

21 Q. And so -- and so Nevaeh went in the house?

22 A. Right.

23 Q. What happened -- without saying what anybody said,
24 what happened next?

25 A. Without saying what anybody said, what happened

1 next?

2 Q. Did -- did Nevaeh stay in the house the whole
3 time?

4 A. No, she went in and came back out.

5 Q. And did everyone else that was in the house stay
6 in the house the whole time?

7 A. Right.

8 Q. Even -- even later that night?

9 A. Yes, I believe so.

10 Q. So Xavier stayed there the whole time?

11 A. Uh-huh.

12 Q. Even after the police got there?

13 A. Oh, no, no, no. I'm sorry. No. I didn't
14 understand what you were saying, like --

15 Q. After Nevaeh came in. She came back outside?
16 What is the next thing that happened?

17 A. She came back outside. She ---

18 Q. Without saying what she said.

19 A. I was basically telling her to tell him to come
20 outside to unblock me. She came back outside, she said
21 whatever she said?

22 Q. Without saying what she said.

23 A. Yeah. And then I sent her back in the house.

24 Q. Okay. And then what happened?

25 A. I sent her back in the house and I was like, tell

1 him to come unblock my car. And she came back out and
2 eventually he came out, Xavier. Xavier came out the house
3 and he just got in his car and left.

4 Q. Okay. So Xavier's gone?

5 A. Uh-huh.

6 Q. Did you stay outside at that point?

7 A. At that point I got out the car to go in the house
8 to see what was going on.

9 Q. Okay. And again, without saying anything that
10 someone else said?

11 A. Uh-huh.

12 Q. What did you do next?

13 A. Next, I asked everybody in the house what was
14 going on and then I proceeded to call the police.

15 Q. So you called the police?

16 A. Uh-huh.

17 Q. And then you met with the police?

18 A. Uh-huh.

19 Q. And after the police left, where did you go?

20 A. To Piedmont.

21 Q. And why -- and you took -- and took -- did you
22 take anyone with you?

23 A. Yes. MINOR and Kenika.

24 Q. And while at Piedmont, did you and MINOR speak with
25 anyone?

1 A. Yes, we spoke with the nurse.

2 Q. And did the nurse do anything?

3 A. She ran a rape kit on her, I believe.

4 Q. And were you present for that?

5 A. Yes.

6 Q. And then once that was done, where did you all go?

7 A. To my house.

8 Q. You took them to your house?

9 A. To Charlotte. Uh-huh.

10 Q. How long have they been living with you now?

11 A. Roughly three months.

12 Q. And before that, they were still at the Frank
13 Street?

14 A. Correct.

15 Q. (Inaudible)?

16 A. Uh-huh.

17 MS. SHELTON: Thank you. Please answer questions
18 that the defense may ask.

19 MR. MCKINNON: May it please the court?

20 THE COURT: Yes.

21 CROSS-EXAMINATION

22 BY MR. MCKINNON:

23 Q. Good afternoon.

24 A. Good afternoon.

25 Q. So you've known **MINOR** and Kenika your whole life?

1 A. Correct.

2 Q. So how long have you known Mr. Holbrooks?

3 A. For a couple of years. he's just been a family
4 friend.

5 Q. And so he would help out Kenika and MINOR as well?

6 A. Right. Sometimes I would come over or, you know,
7 do her hair and he would come by the house, speak to them and
8 that would really be pretty much it. Hang around.

9 Q. So frequently you would both come there ---

10 A. Right.

11 Q. --- separately and you just kind of run into each
12 other at the house?

13 A. Right.

14 Q. So how many -- how often, I guess, would he come
15 over?

16 A. If I could -- I -- I don't know. Quite often,
17 maybe. Yeah.

18 Q. Similar to how often you would come over?

19 A. No, not similar to every time I would come over,
20 but out of probably five times I might see him two.

21 Q. Okay. How many years do you think he's been
22 coming over there?

23 A. For a while. Over five.

24 Q. Over five?

25 A. Yeah.

1 Q. And so, when Mr. Holbrooks arrived on June 3,
2 2021? You said you were in your -- in the -- your car?

3 A. Correct.

4 Q. And you had not gone in the house?

5 A. No.

6 Q. And you had never went in the house, in fact, you
7 sent Nevaeh in?

8 A. Correct.

9 Q. So, I guess, what -- what were you doing over
10 there? You said you were there to help out.

11 A. Right.

12 Q. But you never went in the house and MINOR and
13 Kenika never came out. So what were you doing?

14 A. Well, prior to him arriving, I already had been in
15 the house for a couple of hours, so I was just hanging
16 outside. My friend came over like I stated, and we were in
17 the car talking, after they left, I was ready to go because I
18 had already been over there.

19 Q. And it's June 3rd, isn't it hot in the car?

20 A. Correct. The air was on in the car.

21 Q. You weren't doing anything else in the car, rugs
22 or anything?

23 A. Huh?

24 Q. You weren't doing any rugs in the car?

25 A. Oh, I was smoking in the car. Yes.

1 Q. Smoking weed?

2 A. Yes, I was.

3 Q. You didn't want to do that in the house around ---

4 A. Right.

5 Q. So how long were you in the car smoking weed?

6 A. Probably about 15 minutes.

7 Q. Okay. So you left after he left?

8 A. No.

9 Q. I thought you testified that he came out of the
10 house and you saw him come out of the house.

11 A. Right. No, I testified that I told him to come
12 out of the house to unblock me, but once it was suspicious
13 activity, I didn't leave. He left and I stayed and I went in
14 the house.

15 Q. Okay. So then you went in the house.

16 A. Right.

17 Q. And you said that no one was outside other than
18 you and your friend, right?

19 A. Right.

20 Q. Was your friend Navia?

21 A. No.

22 Q. So where was Navaeh?

23 A. They actually lived two houses down. And at the
24 time when my friend left, I -- like I stated, I was really
25 just hanging around in the car. After they left, she lived

1 two houses down, so she was just coming over to hang out like
2 she normally does. So once I seen her coming up, I was like,
3 tell him to come unblock me. Because I didn't want to get
4 out the car.

5 Q. Okay. When you saw Mr. Holbrooks, he was fully
6 clothed?

7 A. Correct.

8 Q. And when you eventually saw **MINOR**, she was fully
9 clothed?

10 A. Correct.

11 Q. And you didn't see him any cleaning supplies in
12 his hands or anything like that or ---

13 A. No.

14 Q. --- cleaning, tidying, nothing?

15 A. No.

16 Q. He just left?

17 A. Right.

18 Q. And when you were in the car, was the door open to
19 the house?

20 A. Yes. The front door was open.

21 Q. Okay. And you and your friend didn't hear
22 anything, any sounds of struggles or screaming, anything like
23 that inside?

24 A. No.

25 Q. And the -- the window that they were in, is that

1 open to the outside of the house? I would imagine.

2 A. The window that they were in. What do you mean?

3 Q. I'm sorry. The window of the room they were in.

4 A. You said, was it open?

5 Q. Does that window open to the front of the house?

6 A. Oh, yes. Uh-huh.

7 Q. Okay. So essentially just a few feet away from

8 where you were in your car? Was the window into that

9 bedroom?

10 A. Right.

11 Q. Do you like Mr. Holbrooks?

12 A. I don't have any problem with him. He always came

13 over and was very friendly.

14 Q. Did he have any control over their -- the social

15 security money?

16 A. No.

17 Q. That was all you?

18 A. Uh-huh.

19 Q. And finally, you were the one listed as a

20 complainant in this case. You're the one that contacted the

21 police, right?

22 A. Right.

23 MR. MCKINNON: Okay. No further questions, Your Honor.

24 THE COURT: Redirect?

25 MS. SHELTON: Just very briefly, Your Honor.

1 REDIRECT EXAMINATION

2 BY MS. SHELTON:

3 Q. Christiana, you testified that Mr. Holbrooks had
4 been coming around and --and helping out for -- for about
5 five years?

6 A. Right.

7 Q. And -- and helping out. He was not a caregiver,
8 is that Correct?

9 A. No, he would just come over and -- I mean, not
10 even really help out, just come over and say hi and kind of
11 just hang out with them.

12 Q. What was his relationship with Kenika?

13 A. I believe a couple of years ago him and Kenika
14 were in a relationship.

15 Q. Okay. And since he was not a caregiver, would
16 there have been any reason for him to help MINOR go to the
17 bathroom or anything like that?

18 A. No.

19 Q. Does MINOR need assistance going to the bathroom?

20 A. No.

21 MS. SHELTON: Thank you.

22 THE COURT: Any recross?

23 MR. MCKINNON: Nothing further, Your Honor.

24 THE COURT: All right. Thank you. Mr. Tabron, you can
25 step down.

1 MS. TABRON: Okay.

2 MS. SHELTON: Your Honor, the State would call Nevaeh
3 Nejaka (ph). Your Honor, may Ms. Tabron be excused?

4 THE COURT: Any objection from Ms. Tabron being
5 excused?

6 MR. MCKINNON: None from the defense, Your Honor.

7 THE COURT: You're excused.

8 MS. SHELTON: Will you have -- would you wait until
9 we're done? So we (inaudible) thank you.

10 NEVAEH NEJAKA,
11 being duly sworn, testified as follows;

12 DIRECT EXAMINATION

13 BY MS. SHELTON:

14 Q. Can you state your, your name for the record,
15 please?

16 A. Nevaeh Nejaka.

17 Q. And Nevaeh, you're very quiet. You may have to --
18 you may have to speak up just a little bit. Okay? Nevaeh,
19 how old are you?

20 A. Sixteen.

21 Q. Do you know MINOR ?

22 A. Yes.

23 Q. And you -- do you know Kenika White?

24 A. Yes.

25 Q. And you know Christiana Tabron?

1 A. Yes.

2 Q. How do you know all of them?

3 A. Christiana and MINOR's my cousin.

4 Q. Christiana and MINOR are your cousin?

5 A. Kenika is my aunt.

6 Q. She's your aunt. So have you known them basically
7 your whole life?

8 A. Yes.

9 Q. I'm going to talk to you -- okay. Back -- I'm
10 going to talk to you about -- back about June of 2021. Where
11 did you live at that point?

12 A. On Frank Street.

13 Q. On Frank Street? How close did you live?

14 A. Like four houses down.

15 Q. Like four houses down?

16 THE COURT: I'm going to ask that you speak up a little
17 bit more, very soft spoken, or if we need to turn the
18 microphone where it's close up. Just speak up a little
19 louder, please.

20 BY MS. SHELTON:

21 Q. So, back in June of 2021 you lived at -- a few
22 houses down from where MINOR and her -- Kenika White
23 lived. Is that correct?

24 A. Yes.

25 Q. Is that where you still live?

1 A. No.

2 Q. I'm going to ask you specifically about June 3rd
3 of -- of 2021. Do you remember going to the house that
4 evening?

5 A. Yes.

6 Q. What did you do? And again, we can't say talk
7 about what other people have said or what other people said
8 to you, but what did you do when you when you went to the
9 house?

10 A. I went inside the house and went to the door and
11 it was locked.

12 Q. You went inside the house and went to the door and
13 it was locked? What door?

14 A. Kenika's room.

15 Q. It was a -- a bedroom door?

16 A. Yes.

17 Q. who was in the room with the locked door?

18 A. MINOR and a man.

19 Q. MINOR and a -- and a man. Were there other -- any
20 other men in the house?

21 A. No.

22 Q. Who was the only person in the house? Was there
23 anybody else in the house?

24 A. Kenika.

25 Q. But she was not in the bedroom. What did you do

1 when you found the door locked?

2 A. I knocked on it.

3 Q. And at some point, did someone come out of that
4 bedroom?

5 A. No.

6 Q. No. Never? They're still in there?

7 A. They came out at some point?

8 Q. They came out. And who came out?

9 A. The man and MINOR.

10 Q. Who came out? The man and MINOR? And is that the
11 same man that left the house just a few minutes after that?

12 A. Yes.

13 Q. And that's the -- the same -- the only other man
14 that was in the house?

15 A. Yes.

16 Q. And you didn't -- and again without saying
17 anything that anybody said -- said to you. You couldn't hear
18 anything, could you?

19 A. No.

20 Q. But you're sure the door was locked?

21 A. Yes.

22 MS. SHELTON: Thank you. No further questions from the
23 state, Your Honor.

24 THE COURT: Cross-examination?

25 MR. MCKINNON: May it please the court?

1 THE COURT: Yes, Mr. McKinnon.

2 CROSS-EXAMINATION

3 BY MR. MCKINNON:

4 Q. So when you walked up to the house pretty much
5 immediately, were you asked to go inside?

6 A. No, I was talking to Christiana and then she asked
7 me to go check on MINOR

8 Q. Okay. Did you get in the car with her?

9 A. No.

10 Q. Okay. And then you walked in the house. This is
11 a pretty tiny house. It's just right -- the -- the door is
12 right there inside the front door on the left. Is that
13 correct?

14 A. Correct.

15 Q. And so you tried the door or did you knock first?

16 A. I tried the door and then I knocked.

17 Q. And did you try to jiggle it? Like does it stick
18 sometimes?

19 A. No.

20 Q. Doesn't? Did you say anything?

21 A. No.

22 Q. You just tried the door once and came right back
23 out? And about how much time passed before the man came out?

24 A. I don't remember.

25 Q. Like five seconds, 30 seconds?

1 A. Right around a minute.

2 Q. Right behind you? A minute. And did he appear
3 disheveled in any way when his clothes were all on?

4 A. Yes.

5 Q. And MINOR, same thing?

6 A. Yes.

7 Q. And you testified to the state that you didn't
8 hear anything. So no sounds of a struggle or no one
9 screaming? No one yelling for help?

10 A. No.

11 MR. MCKINNON: No further questions, Your Honor.

12 THE COURT: Any redirect?

13 MS. SHELTON: No, Your Honor.

14 THE COURT: All right. Thank you. You may step down.
15 (Inaudible). Lawyer's approach.

16 MS. SHELTON: Your Honor, can Mr. Nejaka be excused?

17 THE COURT: Any objection?

18 MR. MCKINNON: No objection, Your Honor.

19 THE COURT: Nejaka is excused. Thank you. Ladies and
20 gentlemen, just trying to get a feel for where we are
21 logistically in next witness. I think where we're is a good
22 time to take a lunch break. Go to lunch, be back after an
23 hour and a half (inaudible) hour and a half. We're going to
24 break. Be back at 2:00 ready to go. And do not discuss the
25 case among yourselves, even in the jury room. So don't

1 MS. SHELTON: Okay. Same nurse is probably going to be
2 lengthy.

3 THE COURT: Let -- let's -- well, let's stick to the
4 same nurse then (inaudible). All right. State ready to
5 proceed?

6 MS. SHELTON: State's ready, Your Honor.

7 THE COURT: Defense ready?

8 MR. MCKINNON: Yes, Your Honor.

9 THE COURT: Bring the jury in.

10 (Off the record.)

11 THE COURT: Lawyer's approach. All right. Solicitor,
12 call you next witness.

13 MS. SHELTON: Your Honor, the state would call Deborah
14 Davis.

15 DEBORAH DAVIS,
16 being duly sworn, testified as follows;

17 THE COURT: Solicitor, whenever you're ready.

18 MS. SHELTON: Yes, Your Honor.

19 DIRECT EXAMINATION

20 BY MS. SHELTON:

21 Q. Could you state your name for the record, please?

22 A. Deborah Davis.

23 Q. And Ms. Davis, what -- how are you currently
24 employed?

25 A. I'm a registered nurse at Piedmont Medical Center

1 in Rock Hill.

2 Q. And how long have you been a registered nurse?

3 A. Four years.

4 Q. And how long have you worked for Piedmont?

5 A. Twelve years.

6 Q. What were you doing with Piedmont before becoming
7 a registered nurse?

8 A. I was an emergency room tech, nurse tech.

9 Q. Can you just briefly explain the difference
10 between being a nurse tech and a registered nurse?

11 A. Nurse tech we do just vital signs anything that's
12 non-nursing related, really. Registered nurse, you do the
13 assessments of patients medication. It's more in depth
14 taking care of the patient.

15 Q. And is there a difference between your training
16 and education that you have to get between being a nurse tech
17 and a registered nurse?

18 A. Yes, ma'am. CNA courses are roughly about six
19 months. Then you go to school for two years to get your ADN.

20 Q. Okay. When you say CNA, what does that -- what
21 does that mean?

22 A. Certified nursing assistant.

23 Q. And that's when you were a nurse tech?

24 A. Nurse tech, yes, ma'am.

25 Q. And then what was the other initials that you

1 used?

2 A. ADN, associate degree in Nursing.

3 Q. And that's when you're -- and that's when you are
4 considered a registered nurse?

5 A. Yes, ma'am.

6 Q. And do you sit for boards or?

7 A. We do, we sit for the NCLEXs.

8 Q. And what is -- what was that?

9 A. NCLEX, it's a -- a registered nurse testing
10 statewide.

11 Q. And you have passed that in order to become a -- a
12 -- a registered nurse?

13 A. Yes, ma'am.

14 Q. And do you have to do any follow up training,
15 teacher certification?

16 A. We do, we do yearly CEEs, it's 30 hours and plus
17 we have to do certifications and specialties like the LS,
18 which is Life Saving CPR, PALS, which is pediatrics
19 certifications.

20 Q. And -- and you said you've been a registered nurse
21 working for Piedmont for the past four years?

22 A. Four years.

23 Q. Do you work in any particular department?

24 A. Emergency room.

25 Q. And have you worked in the emergency room the

1 entire four years?

2 A. Yes, ma'am.

3 Q. As part of your job as a registered nurse in the
4 emergency room in at Piedmont, do you have any other special
5 assignments?

6 A. I took the SANE course to do sexual assault nurse
7 and examiner.

8 Q. Is that what SANE stands for?

9 A. Yes, ma'am.

10 Q. And when you say you took the courses, what does
11 that mean exactly?

12 A. So 2020, I took a class. it was a 40-hour class
13 in 2020, I think it was November. And then I refreshed it
14 October of '23 with another 40-hour additional class.

15 Q. And does that class make you certified?

16 A. Yes, ma'am.

17 Q. So you are -- you are a certified sexual assault
18 nurse ---

19 A. Yes.

20 Q. --- examiner?

21 A. Examiner.

22 Q. Is there a step beyond CERTIFI test
23 certifications?

24 A. It is. you have to do a three hour worth of
25 courses or three hours worth of classes or same cases are on

1 call to sit and take the board.

2 Q. And have you done that?

3 A. No ma'am.

4 Q. You have not. So you're not board certified?

5 A. No, ma'am.

6 Q. You're just -- you're certified in case on the
7 clock?

8 A. Yes, ma'am.

9 Q. And what exactly does a sexual assault nurse
10 examiner do?

11 A. We have rape victims that come in. We do the
12 actual history and then we do the safe kit itself, which we
13 go and we do the assessment of the patient. We take swabs of
14 anything DNA might have been on. And then we look for any
15 injuries to the patient.

16 Q. And what age victims are they you trained to
17 perform those exam on?

18 A. We can do them on any age at 10 and younger is
19 when registered nurses or SANE nurses aren't allowed to do
20 the actual, like vaginal exams.

21 Q. Who has to do those?

22 A. The doctors.

23 Q. That's for only for 10 and under?

24 A. Ten and under.

25 Q. For 10 and up, you can -- you can do the full

1 exam?

2 A. Yes.

3 Q. Since -- when did you become a -- a SANE nurse?

4 A. November of 2020.

5 Q. And since November of 2020, how many exams have
6 you performed?

7 A. Thirteen.

8 Q. Thirteen since November of '20. Prior to becoming
9 a SANE nurse during your four year career, had you done
10 pelvic exams or anything like that on other patients outside
11 of training?

12 A. No, ma'am.

13 Q. So just -- just as your experience in the SANE
14 nurse?

15 A. Yes, ma'am.

16 Q. And the -- how are you -- do you receive those
17 cases as part of being on call in the emergency room?

18 A. We do have an on-call system where we have things
19 like seven SANE nurses that do call shifts. But if we're on
20 shift, then we just take that case as they come in if there's
21 no one available.

22 Q. How many exams have you performed prior to June
23 3, 2021?

24 A. I want to say two.

25 Q. And as part of the exam and as part of your

1 training, are you trained in how to collect the evidence and
2 how to package it?

3 A. Yes, we have to take a special class for that.
4 For Jessica Stillwell on evidence collection.

5 Q. Is your participation in the same program
6 volunteer basis or is it part of your job as your -- as an
7 emergency registered nurse?

8 A. No, it's part of our job as a registered nurse.

9 Q. And so are you paid for by the state to perform
10 that job or by Piedmont?

11 A. Piedmont.

12 Q. How many SANE nurses does Piedmont have?

13 A. I think right now we have a total of seven.

14 Q. And who is your direct supervisor?

15 A. Jessica Stillwell.

16 Q. And is she your direct supervisor just for your
17 participation in SANE or is she your direct supervisor in the
18 emergency room?

19 A. She is our nursing supervisor for the ER, but
20 she's our direct supervisor for the SANE case -- of the SANE
21 program.

22 MS. SHELTON: Your Honor, at this time I would like to
23 offer Ms. Davis as an expert in the field of nursing and
24 examination.

25 MR. MCKINNON: No objection, Your Honor.

1 THE COURT: All right. Ladies and gentlemen, I find
2 that Ms. Davis is qualified to testify as an expert in
3 nursing and SANE sexual examinations, SANE nursing.
4 Normally, a person cannot give opinion testimony. Normally,
5 when a person testifies, they must testify as to either what
6 they saw, heard, or sensed by smell or something of that
7 nature. However, there's an exception when someone is
8 qualified because of education or experience, they're
9 permitted to give their opinion in certain areas if the court
10 qualifies them that way.

11 This witness will be qualified in the area of general
12 nursing. And as an expert in sexual assault nurse
13 examinations, given opinion testimony in that area, that does
14 not mean that you must accept the opinion, but it is evidence
15 for you to use in any way you see fit and give it the weight
16 and credibility you believe is appropriate. Okay.

17 VOIR DIRE

18 BY MS. SHELTON:

19 Q. Okay. And, Ms. Davis, you briefly touched on
20 this, but can you go into a little more in-depth detail about
21 what all has entailed from intake through to the end of a
22 sexual assault examination? And we can't tell. Is there
23 anything that anyone said to you, but just briefly explain
24 the process of -- of a sexual assault examination?

25 A. Yes, ma'am. So a patient normally presents to the

1 emergency room and at that point they get a triage. The
2 triage nurse just takes like a brief snip of what they tell
3 them. So it's not, you know, they're not having to repeat it
4 again. And then we move them to a room. And from there the
5 SANE nurse goes in, she takes over they address any medical
6 needs for the patient first and foremost before we even start
7 anything same related, just to make sure nothing medically is
8 wrong with the patient.

9 Once they're cleared medically, that's when we start
10 our whole SANE process. We get a history, we talk to the
11 patient we kind of get a general idea of what happened. And
12 from there, that's when we start the SANE kit itself. From
13 whatever details they give us, that is what we work with as
14 far as what we swab what we look for. Any injuries then I
15 may or may not take pictures of depending on the patient.

16 Q. And is this a more invasive or intent just
17 examination than -- because you don't examine that woman
18 (inaudible)?

19 A. Yes, ma'am, it is. Because you're in their
20 vaginal area and usually their anus and possibly their
21 breast, any places like that. So you've got to completely
22 expose the patient. You've also got to -- if we do a vaginal
23 exam, you got to insert something in there and you got a
24 swab. You also got to feel around, you just got to make
25 sure, you know, there's no injuries that are hard to see on

1 the inside. So it makes it a little more invasive.

2 Q. And do you use a particular format to document
3 your interview and your findings?

4 A. For the interview, we do have the SLED form that
5 we use and it has questions on it. So we get through those
6 prior to doing the physical examination. And then at the
7 very end is where we document anything we may find. Usually,
8 I'll have like the patients write out if they're more
9 comfortable with it. We'll do that before we get started,
10 which will give me more detail on how to proceed with the
11 SANE exam.

12 Q. And since you mentioned that, I'll ask you this
13 now and again, you can't without saying anything was said to
14 you for this particular exam. Was the patient able to write
15 out a narrative?

16 A. No, ma'am.

17 Q. Can you explain to the jury what a SANE kit looks
18 like?

19 A. It comes in a white bag that is already sealed.
20 Once you break the seal, you open it up. We have envelopes
21 inside that are all labeled with what particular body part or
22 what you're collecting. You open those up and they have the
23 Q-tips inside and they're sealed as well. It comes with
24 evidence tape that we use to seal the package back up. It
25 comes with a little packet in there that kind of tells you

1 step by step how to do it just in case, you know. It comes
2 with biohazard stickers because sometimes we collect urine,
3 sometimes we collect blood and put them in there and then it
4 comes with a larger bag. We put everything back inside once
5 it's sealed up.

6 Q. And when you say it comes -- that it comes that
7 way, who provides those bags?

8 A. SLED.

9 Q. Has it always been bagged?

10 A. No, we once started with boxes. I think 21 was
11 when we started with the bag.

12 Q. And during this process of collecting material --
13 materials and packaging it back so back for SLED, do you take
14 precautions to make sure that the evidence is properly
15 preserved and there's no cross-contamination, that sort of
16 thing?

17 A. Yes, ma'am. We use a bedside table. We keep
18 everything separated and in between each swab. I change
19 gloves so there's no cross-contamination. And we also have a
20 dryer machine we use that's labeled that we put all of our
21 wet swabs in. And they're all labeled and separated.

22 Q. And do you wear gloves?

23 A. Yes, ma'am.

24 Q. Do you frequently change your glove?

25 A. I change between every swab.

1 Q. I'm going to talk to you specifically about this
2 case and get around to me. We cannot say specifically
3 anything that anyone said to us. Were you working on June
4 3rd of 2021?

5 A. Yes.

6 Q. And were you working just regularly in the ER that
7 night?

8 A. Yes.

9 Q. Do you remember performing a sexual assault
10 examination on [REDACTED] MINOR?

11 A. Yes.

12 Q. Prior to June 3, 2021, do you recall ever meeting
13 [REDACTED] MINOR before?

14 A. No, ma'am.

15 Q. Was there anyone present with her? Do you
16 remember?

17 A. Yes. The aunt.

18 Q. An aunt?

19 A. Yeah.

20 Q. Prior to that day of June 3, 2021, had
21 you ever had any interactions with the aunt before?

22 A. No, ma'am.

23 Q. Was that Christiana Tabron?

24 A. Yes.

25 Q. Prior to June 3rd of 2021, had you ever met the

1 defendant, Xavier Holbrooks, before?

2 A. No, ma'am.

3 Q. As part of the exam, you do meet with the -- with
4 the alleged victim. Is that correct?

5 A. Yes -- yes.

6 Q. And do you remember meeting with -- with -- with
7 [REDACTED] MINOR ?

8 A. Yes, ma'am.

9 Q. What was your impression of her, both physical
10 appearance and her mental abilities and her demeanor?

11 A. She was really nervous, real shy, kind of scared.
12 She didn't want to like talk a whole bunch with me of hers
13 she looked, well, kim, she wasn't -- hair was nice and clean,
14 clean clothes, but she did -- she was just real skittish.

15 Q. When you say that she did not want to talk to you
16 from a -- from an ability to talk based on your training
17 experience and encountering multiple victims and children,
18 how would you assess her ability to communicate as far as an
19 age bracket?

20 A. It was like maybe six or 7-year-old mentality that
21 we was talking to. I had to talk to her about, you know,
22 clothes and colors and food just to try to get her to, you
23 know, have a conversation so we can get started. But yeah,
24 it wasn't like talking to a 13-year-old.

25 Q. And physically her size.

1 A. She was small.

2 Q. As part of your exam, do you assess how quickly
3 after a possible encounter of the patient comes in?

4 A. I'm sorry?

5 Q. How's it -- do you ask about the timeframe when,
6 when the assault occurred? Until the time that they come
7 into the ER?

8 A. Yes.

9 Q. Do you remember about how long it was?

10 A. It was -- I think it was -- she said around 8:00
11 at night, but it was like 1:00, 1:00 when they came in that
12 morning.

13 Q. So it was a few hours?

14 A. It was.

15 Q. As part of your examination, did you ask any
16 questions about their medical history as far as multiple type
17 sexual activity (inaudible)?

18 A. Yes, ma'am. That's part of the sled as well as
19 the just a through assessment of the patient before we get
20 started.

21 Q. Was there anything reported to you with you as far
22 as injuries?

23 A. She had one scrape on her knee. That was the only
24 injury that we noticed. But that was prior to nothing to do
25 with the case.

1 Q. But you did not observe any physical injury ---

2 A. No.

3 Q. --- that would be related to a sexual assault?

4 A. No, ma'am.

5 Q. And you would've documented that ---

6 A. Yes.

7 Q. --- because (inaudible)?

8 A. Yes.

9 Q. Do you -- do you assess whether or not there's
10 been any hygiene -- post-assault hygiene that has occurred?

11 A. Yes, ma'am. We asked whether they've urinated,
12 defecated, showered, removed tampons, douched, any of that.

13 Q. And would -- would any relay information relay to
14 you that -- that would indicated that any of that had
15 occurred for MINOR?

16 A. No.

17 Q. Do you speak specifically to them about the
18 alleged assault?

19 A. I give them -- usually, an opportunity to tell me
20 about it, and then I just kind of follow up with questions
21 that they -- as they're telling me their story.

22 Q. And are those questions designed to get more
23 specific information for the exam?

24 A. It is.

25 Q. And what type what -- what are -- what types of

1 those questions?

2 A. So if they tell me if and I -- we've learned in
3 class it wouldn't, no matter what term they use to describe a
4 body part, that's what we continue to use. So they know and
5 we're clear and they're clear, we're talking about the same
6 thing. So I'll ask them, you know, if they prefer to call it
7 a thing, I'll say, "Where did they put the thing?" If they
8 tell me, "They put the thing in -- in my woo-hoo or my
9 vagina." Or whatever they call it I'll ask them, "Where did
10 they put the thing? Did they put the thing anywhere else?
11 Did they -- are they referred to it as kissing or licking?"
12 We just ask, you know, was it more licking here, more licking
13 there, or more kissing here, or more kissing there? Just to
14 kind of get a general idea of where we needed to swab on the
15 body.

16 Q. And were you able to obtain this information
17 during your interview with [REDACTED] and her (inaudible)?

18 A. Yes, ma'am.

19 Q. And how do you decide what areas to swab?

20 A. Whatever the patient tells me happened, that's the
21 areas that I focus on.

22 Q. So you base your swabs on -- on patient input?

23 A. Yes, ma'am.

24 Q. And in this particular case, what area did you
25 swab?

1 A. I swabbed her vaginal area, her anal area and then
2 of course her buccal swabs.

3 Q. All right. Can you explain what a -- what a
4 buccal swab is?

5 A. So we have to do a known DNA and that is the
6 victim's DNA. So we swab the inside of their cheeks. So we
7 have their DNA. It's separate between the Perpetrator and
8 the victim.

9 Q. And can you briefly describe as far as taking a
10 vaginal swab how do you do that?

11 A. We can do it one of two ways. We can use a
12 speculum, which normally we use on the adults. So we can
13 swab, we can open just like a yearly exam, you put in certain
14 speculum and kind of swab on the inside. With Ms. Davis, it
15 was a little more difficult with her mental age, so we just
16 didn't do the actual speculum. We just took the swab and put
17 the swab inside the Q-tip and sort it around to get DNA.

18 Q. And then did you repeat that process for the
19 rectal area?

20 A. Yes.

21 Q. And how -- or now, again, just briefly describe
22 how do you handle each one of those swabs and how those swabs
23 are packaged and what you do with each swab?

24 A. Okay. So for the vaginal swabs, we do one wet and
25 one dry, and we just use a normal saline. So we use one wet

1 to go in and we swab and then we take a dry one and -- and
2 swab it. We air dry those in our machine and then we change
3 gloves, we get the second set. I do a wet and a dry swab as
4 well for the anal area. We just take an insert very slightly
5 into the anus just to swab it around. And we put those in
6 the air dryer and then to swab anything on the outside we do
7 repeat. We change gloves, we wet and dry and we swab on the
8 outside.

9 Q. When you -- when you package the -- the swabs from
10 the vaginal area, are those swabs individually packaged and
11 sealed or -- or the wet swab and the dry swab packaged
12 together and then moved?

13 A. They're packaged together once they're dry.

14 Q. Once they're both dry?

15 A. Yes, ma'am.

16 Q. So you dry those, package them as vaginal swabs?

17 A. Yes, ma'am.

18 Q. And then put them in another white envelope, is
19 that correct?

20 A. Put them in a little white envelope.

21 Q. And then the rectal swab you ---

22 A. We dry ---

23 Q. --- package them both together and just label both
24 as -- as rectal swabs?

25 A. Yes.

1 Q. And when you say that you inserted it just a
2 little bit into -- into the rectal area, that it's more than
3 just swabbing the outside skin area, is that correct?

4 A. Yes, ma'am.

5 Q. It's actually goes into anus.

6 A. Yes, ma'am.

7 Q. And then did you take another vaginal swab for a
8 different person?

9 A. I did. There was mention of licking in that area,
10 so I went and dry swabbed the outside of the vagina along her
11 lips area and around her little thighs and thighs.

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

13 THE COURT: You may.

14 MS. SHELTON: Ms. Davis, I'm going to show you what's
15 been marked, for identification, as State's Exhibit 1.

16 (State's Exhibit 1 was marked for identification.)

17 BY MS. SHELTON:

18 Q. Now, do you recognize that outside bag?

19 A. Yes, ma'am.

20 Q. Is that a bag that you -- that you all use? The
21 out -- the outside (inaudible) bag?

22 A. No, ma'am.

23 Q. That is not a bag that you use. Do you recognize
24 what's inside the bag?

25 A. Yes, ma'am.

1 Q. And what -- what is that inside the bag?

2 A. These are -- this is the evidence bag that we put
3 all the swabs inside of. We put any clothes that we may have
4 collected blood, urine.

5 MS. SHELTON: All right. At this time I'm going to
6 open and State Exhibit 1 which is marked for identification
7 as State's Exhibit 1 to the -- (inaudible).

8 THE COURT: All right. Lawyers approach. (Inaudible)
9 Make sure the record is clear outside of the bag is marked as
10 ---

11 MS. SHELTON: State's Exhibit 1. And I am now marking
12 one of the inner bags as State's Exhibit 1A for
13 identification.

14 (State's Exhibit 1A was marked for identification.)

15 BY MS. SHELTON:

16 Q. And I am -- Ms. Davis, I just gave you what is
17 marked for identification as state's Exhibit number 1. Do
18 you recognize that bag?

19 A. Yes, ma'am.

20 Q. And how do you recognize that bag?

21 A. This is the same bags that we use. We put all our
22 evidence in that I put Ms. Davis' underwear and DNA envelopes
23 in.

24 Q. And how do you know that that bag is referenced in
25 the victim?

1 A. It's got the patient's name on it and I've got my
2 initials on the evidence.

3 Q. And on the front of that bag is a -- a chain of
4 custody, is that correct?

5 A. Yes, ma'am.

6 Q. Is that something that should normally have been
7 filled out?

8 A. Yes, ma'am.

9 Q. And that is not done in this case?

10 A. No, ma'am.

11 Q. Is there another way in your form that you tracked
12 who you gave that bag to?

13 A. Yes, ma'am. We have paperwork. The SLED form
14 that we do our SANE information kit exam on is signed by the
15 officer that picks up and takes custody of the kit itself.

16 Q. And do you know who you gave that bag to?

17 A. I do not recall the name.

18 Q. If you saw the form, would that refresh your
19 memory?

20 A. Yes.

21 Q. Okay. Do you recognize that form that I just gave
22 you?

23 A. Yes, ma'am.

24 Q. And can you explain what that form is?

25 A. So this is the SLED form that we use. We got --

1 like I said, with all the information. On the very back is
2 where we have another chain of custody where I sign it and
3 the law enforcement officer signs it and it just has the
4 patient's information on it and on what day.

5 Q. And what does that form indicate?

6 A. It indicates that Tyler Thomason was a law
7 enforcement officer that picked it up, June 3rd of 2021.

8 Q. And that is signed by you?

9 A. Yes, ma'am.

10 Q. And that would be the officer that you turned that
11 bag over to, is that correct?

12 A. Yes, ma'am.

13 Q. Okay. And looking at that bag, is it in the exact
14 same condition as it was when you bagged it up and sealed it?

15 A. No.

16 Q. What has happened to it?

17 A. It looks like it's been opened at the bottom.
18 Additional stickers have been placed on it.

19 Q. And -- but your -- your seal is the (inaudible)
20 indicating that that is the bag that you sealed up on you
21 (inaudible)?

22 A. Yes, ma'am.

23 Q. And when you gave that to Officer Thomason, it was
24 sealed in that condition?

25 A. Yes, ma'am.

1 Q. And before giving it to Officer Thomason, what did
2 you do with the bag?

3 A. As far as containment of the bag?

4 Q. Yes. But where did you keep it?

5 A. So we have a backpack, it's known as our SANE
6 backpack. We have to keep it on our person at all times.
7 And we do have a lock box at work. It, something happens and
8 we can't keep it on us. It has a key we keep on us, but in
9 my case, I was -- nothing. I had no other patience but this
10 one, so I put it in the backpack and I carried the backpack
11 around until the officer shows up.

12 Q. And is that what you did in this case?

13 A. Yes.

14 Q. And does that form indicate what time Officer
15 Thomason picked the bag up? Or take the from you?

16 A. Yes, ma'am. No, this one doesn't have the time on
17 it.

18 Q. But it -- it -- it appears to be the same day as
19 when you created the -- when you bagged everything up?

20 A. Yes, ma'am.

21 MS. SHELTON: Ms. Davis, I am handing you what's been
22 marked, for identification, as State 1D, 1C, 1B, and 1E.

23 (State's Exhibits 1B, 1C, 1D, and 1E were marked for
24 identification.)

25 BY MS. SHELTON:

1 Q. Okay. Let me just turn. Can you look at --
2 what's been offered, for identification, as State's Exhibit
3 1B?

4 A. You want me to tell you what's in it?

5 Q. Yeah.

6 A. Oh, I'm sorry. I'm sorry.

7 Q. I didn't ask you. I'm just letting you look at
8 it. Do you know what that is?

9 A. Yes, it her underwear.

10 Q. That's her underwear. And is that the underwear
11 that you packaged -- that you collected and packaged in?

12 A. Yes.

13 Q. And then could you take a look at that State's
14 Exhibit 1C?

15 A. Yes.

16 Q. And can you tell -- tell us what that is?

17 A. I'm trying to see. I'm not sure what's in there.
18 Is that looks like what we have the patient step out on to
19 undress.

20 Q. (Inaudible) the biohazard bag?

21 A. Yes.

22 Q. You did not collect anything off of that as direct
23 evidence?

24 A. No.

25 Q. And then could you take a look at 1D?

1 A. Yes.

2 Q. And what is that?

3 A. So these are all the swabs from the patient's
4 body.

5 Q. And those are all -- when I got that one, those
6 are all individually packaged and -- and placed in there,
7 correct?

8 A. All individually packaged and sealed? Yes,
9 ma'am.

10 Q. And then could you identify 1E?

11 A. So this is the debris collection just in case
12 anything comes off of the body

13 Q. And -- and there was nothing collected from that,
14 is that correct?

15 A. (Inaudible).

16 MS. SHELTON: I am going to give you what's been
17 marked, for identification, as State 1F.

18 (State's Exhibit 1F was marked for identification.)

19 BY MS. SHELTON:

20 Q. And is this the victim's outer clothing?

21 A. Yes, ma'am.

22 Q. And those are all items that you collected and
23 packaged on June 3rd, is that correct?

24 A. Yes, ma'am.

25 Q. Was it June 3rd or June 4th?

1 A. 3rd.

2 Q. So was it before midnight because the --the
3 incident happened on June 3rd at 8:00 p.m. Did she have --
4 would she have come in before midnight?

5 A. I did not triage -- triage her, so I'm not sure
6 what time she arrived.

7 Q. But it was the same date as the assault? As far
8 as the -- the time-frame, few hours afterwards?

9 A. Yes.

10 MS. SHELTON: Your Honor, I'm going to return this bag
11 to Detective Felman's custody until it is fully entered into
12 evidence. Thank you. Ms. Davis. Please answer any
13 questions that Ms. Rogers has for you.

14 THE COURT: Cross-examination?

15 CROSS-EXAMINATION

16 BY MS. ROGERS:

17 Q. Ms. Davis, as you discussed with the solicitor,
18 you did a thorough examination of MINOR in this case,
19 correct?

20 A. Yes, ma'am.

21 Q. And the examination involved checking for
22 injuries?

23 A. Yes, ma'am.

24 Q. Such as bleeding?

25 A. Yes.

1 Q. Bruising?

2 A. Yes.

3 Q. Tearing?

4 A. Yes.

5 Q. Redness? And you noted none of those things were
6 present?

7 A. No, ma'am.

8 Q. All right. So no physical injuries indicative of
9 sexual assault?

10 A. There's not always physical injuries, but no,
11 ma'am.

12 Q. But there were no injuries present here?

13 A. No, ma'am.

14 Q. Okay. And this examination also involved swabbing
15 for bodily fluid?

16 A. Yes.

17 Q. You also noted -- you examined Ms. Davis and noted
18 that there was no suspected bodily fluid?

19 A. Not visible. No, ma'am.

20 Q. You mentioned that you -- you conducted multiple
21 swabs on Ms. Davis' body, correct?

22 A. Yes.

23 Q. And you mentioned swabbing Ms. Davis's anus, is
24 that correct?

25 A. Yes.

1 Q. And you described inserting the swab just a little
2 bit?

3 A. Yes.

4 Q. And you talked about it was more than just the
5 outside area?

6 A. Yes.

7 Q. But it -- it did involve swabbing the outside as
8 well?

9 A. I just swabbed the inside.

10 MS. ROGERS: Okay. I beg the court's indulgence, Your
11 Honor?

12 THE COURT: All right.

13 BY MS. ROGERS:

14 Q. I just want to clarify, I know you just said that
15 -- that it only involved swabbing the inside, but I thought
16 that you testified that you conducted two swabs and put them
17 together. One was on the inside and then there's another one
18 on the outside area?

19 A. I testified for the anal swab. You do a wet and
20 dry. They're both inside. The vaginal, I swabbed the
21 outside and the inside.

22 MS. ROGERS: Okay. All right. Okay. Thank you.
23 Nothing further.

24 THE COURT: Redirect?

25 MS. SHELTON: Just very, very briefly.

1 REDIRECT EXAMINATION

2 BY MS. SHELTON:

3 Q. Ms. Davis, just to go one point that defense may.
4 Based on your training and experience of the 13 sexual
5 assault examination done, one is recently or yesterday?

6 A. Yes, ma'am.

7 Q. And your 80 hours of training, are all rape
8 violent?

9 A. No, ma'am.

10 Q. Do all rape leave behind physical evidence of
11 violence?

12 A. No, ma'am. Most don't.

13 Q. Most do not.

14 A. Most do not.

15 Q. So from your experience that the body does not
16 show (inaudible) tearing, breathing -- bruising, trauma
17 (inaudible)?

18 A. No, ma'am.

19 MS. SHELTON: Thank you.

20 THE COURT: Any recross?

21 MS. ROGERS: Nothing further.

22 THE COURT: All right. Thank you. Davis, you may step
23 down.

24 MS. DAVIS: All right. Thank you.

25 MS. SHELTON: Your Honor may Ms. Davis be excused to go

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

2 (Jury enters courtroom.)

3 THE COURT: Again, ladies and gentlemen, thank you for
4 your patience. I failed to answer one other question. There
5 will be no note taking. No note taking. All right. State,
6 let you call your next witness.

7 MS. SHELTON: Your Honor, state would call Deputy
8 Patrick Williams.

9 DEPUTY PATRICK WILIAMS,
10 being duly sworn, testified as follows;

11 DIRECT EXAMINATION

12 BY MS. SHELTON:

13 Q. State your name for the record, please.

14 A. Michael Patrick Williams.

15 Q. And a deputy?

16 A. Yes, ma'am.

17 Q. Deputy Williams, where are you employed?

18 A. York County Sheriff's Office.

19 Q. How long have you been with the Sheriff's office?

20 A. This April will be 10 years.

21 Q. And did you have any law enforcement experience
22 prior to becoming -- working with the sheriff's office?

23 A. Just grew up around it.

24 Q. Okay. Been actively employed for 10 years?

25 A. Yes, ma'am.

26 Q. Back in -- and what are your current duties?

1 A. School resource officer.

2 Q. And how long have you been employed with the
3 resource office?

4 A. About eight months.

5 Q. Back in October of 2022, were you assigned to a
6 particular unit?

7 A. Forensic service unit.

8 Q. And what is the forensic service unit?

9 A. Pretty much going out and handling and
10 investigating crime scenes collecting evidence documenting
11 crime scenes, stuff such as that.

12 Q. And at some point in time in October of 2022, did
13 you become involved in the investigation of Xavier Holbrooks?

14 A. Yes, ma'am.

15 Q. And what was the nature of that involve?

16 A. It was in reference to collecting a DNA swab.

17 Q. And how did you get involved?

18 A. I was notified that DNA swab was needed to be
19 obtained from Mr. Holbrooks' up at the solicitor's office.

20 Q. And did you do that?

21 A. Yes, ma'am.

22 MS. SHELTON: Deputy Williams, I'm going to show you
23 what's been marked, for identification, as State's Exhibit 3.

24 (State's Exhibit 3 was marked for identification.)

25 THE WITNESS: Yes, ma'am.

26 BY MS. SHELTON:

1 Q. And referencing specifically to the inner bag.

2 A. Yes, ma'am.

3 Q. Do you recognize that inner bag?

4 A. I do.

5 Q. And what is that inner bag?

6 A. It's going to be an evidence envelope that I
7 would've placed the swab into and then also signed and
8 sealed.

9 Q. And then what did you do with that bag after you
10 placed the evidence into it and signed it in sealed, where
11 did it go?

12 A. It was placed into my lock box locker within the
13 forensic service unit office that I had a key to as far as
14 securing the evidence until it can be picked up.

15 Q. And how long did it stay there?

16 A. I believe it would've been until the next day.

17 Q. And who got it after the -- after -- after that
18 day?

19 A. It would've been investigator John George.

20 Q. And who does Investigator George work with?

21 A. Rock Hill Police Department.

22 Q. And is his name on that form indicating that he
23 picked it up?

24 A. Yes, ma'am.

25 Q. Does that form indicate where he took it back?
26 He picked it up?

1 A. As best as I can read. I -- I see where he
2 collected it from me, but I can't read the ---

3 Q. I can get ---

4 A. --- signature next to it.

5 Q. And in the time that you had State's Exhibit 3,
6 was it in your care custody the entire time?

7 A. Yes, ma'am.

8 Q. Did you do anything to alter it or tamper --
9 tamper with it in any way?

10 A. No, ma'am.

11 Q. And just very, very briefly explain the -- the
12 process of taking the swab from the chief of -- of -- of Mr.
13 Holbrooks?

14 A. So I would've pretty much had to obtain a pair of
15 gloves, a sealed sterile applicator, which is what is used to
16 plug the swab from inside the cheeks. I would've went
17 upstairs, I believe when I went up we had the consent form
18 that was signed and once that was signed, I could carry out,
19 actually, obtain the swab itself, at which time I would've
20 put on gloves, open the sealed item that would have the
21 applicator in it, swabbed his cheek, and then immediately put
22 it back into a box and then taken it to be sealed and placed
23 back into an envelope.

24 Q. And at any time, did you touch the applicator?

25 A. No, ma'am.

26 Q. Did anything else touch the applicator?

1 A. No, ma'am.

2 Q. What is the only thing that the applicator besides
3 touching?

4 A. It would be the subject that the swab is being
5 taken from, and then it would go into that box. But again,
6 it's not touched by me or anything else.

7 Q. And you wore gloves the whole time?

8 A. Yes, ma'am.

9 MS. SHELTON: Thank you. I have no further questions.
10 You may have some from the defense.

11 THE COURT: Mr. Mckinnon?

12 MR. MCKINNON: Yes, Your Honor.

13 CROSS-EXAMINATION

14 BY MR. MCKINNON:

15 Q. Deputy Williams, just one question, I believe.

16 A. Yes, sir.

17 Q. You said he signed a consent form?

18 A. Yes, sir.

19 Q. What does that mean?

20 A. It was a consent to where it stated that it was a
21 checked off, marked for a buccal swab to be taken from you.

22 Q. Basically, Mr. Holbrooks didn't fight yet he -- he
23 voluntarily gave it to you?

24 A. Correct.

25 MR. MCKINNON: No further questions, Your Honor.

26 THE COURT: Any redirect?

1 MS. SHELTON: No, thank you.

2 THE COURT: All right. Thank you, Deputy Williams, you
3 may step down.

4 THE WITNESS: Thank you, Your Honor.

5 THE COURT: Call your next witness.

6 MS. SHELTON: Thank you, Your Honor. May Deputy
7 Williams be excused, Your Honor?

8 THE COURT: Yes. Any objection?

9 MR. MCKINNON: No objection, Your Honor.

10 THE COURT: Deputy Williams is excused.

11 MS. SHELTON: Your Honor, the state calls Daniel Popoff
12 at this time.

13 DANIEL POPOFF,
14 being duly sworn, testifies as follows;

15 THE CLERK: Thank you.

16 DIRECT EXAMINATION

17 BY MS. SHELTON:

18 Q. Investigator Popoff, can you state your entire
19 name for the record?

20 A. Daniel Popoff.

21 Q. And where are you currently employed?

22 A. At Rock Hill Police Department.

23 Q. And how long have you been with the Rock Hill
24 Police Department?

25 A. Twenty one years.

26 Q. And where -- what unit are you currently with?

1 A. I'm with -- under Criminal Investigations and
2 Forensics.

3 Q. How long have you been with forensics?

4 A. Eight years.

5 Q. Briefly describe some of your duty in forensics.

6 A. We respond to -- sorry, respond to different
7 scenes, burglaries sexual assaults homicides. We collect
8 evidence, document the scene transport evidence from labs to
9 our office or different places. We look -- process things in
10 the lab. We look at fingerprints, things like that.

11 Q. And are you familiar with how Rock Hill Police
12 Department keeps track of the chain of custody in their
13 cases?

14 A. Yes, ma'am.

15 Q. And is that an internal form?

16 A. We log everything on, on our computer system, our
17 reporting system, and then there's a sticker that's printed
18 out a label that gets attached to the item in question. And
19 then on that label, there's spots for your name, the date,
20 the time of where you receive it, or to somebody.

21 Q. And that's like a -- a form that would typically
22 be filled out when things are taken into custody?

23 A. Yes, ma'am.

24 Q. Correct? If that form is not filled out, is
25 there another mechanism within the evidence room that keeps
26 track of who handles the evidence?

1 A. When you say the form ---

2 Q. The -- the sticker on the ---

3 A. Okay.

4 Q. Or -- or the -- the -- the stamped form on the
5 SANE kit.

6 A. Okay. There is something -- because they --
7 everything gets a barcode, so they scan it in and out and
8 then any of us know, we go to a bank or something. They ask
9 you to sign your name when you're taking money out. It's a
10 very similar system with that.

11 Q. And so there is a digital record of everyone that
12 touches the other?

13 A. There should be. Yes, ma'am.

14 Q. I'm going to show you -- I'm going to show you
15 what's been marked, for identification only, as State's
16 Exhibits 1 and 1A. I'm going to ask you to look at State's
17 Exhibit 1 and see if you can identify that.

18 A. This is a -- what we call CSC kid or criminal
19 sexual ---

20 Q. Just looking at the outside bag.

21 A. Right. It -- this is ---

22 Q. Just the one -- the the plastic bag. What's the
23 plastic bag?

24 A. The outside bag is a bag that was sealed from the
25 State Department, SLED, from what -- their officials in there
26 where they would put our items in when they returned them to

1 us.

2 Q. And who picked up that bag?

3 A. This bag was picked up by me at -- in Columbia.

4 Q. So you went from SLED and then -- and then brought
5 it here?

6 A. Yes, ma'am.

7 Q. And then if you will open States 1 to look at
8 States 1A. Do you recognize State's 1A?

9 A. Are you referring to this as 1A?

10 Q. Yes. The whole -- the whole outside bag.

11 A. This is -- this is the CSC kit that would be
12 collected at the time of the examination by one of the
13 medical staff.

14 Q. And did you have any contact with that bag?

15 A. No, ma'am. Well, contact in the sense of, I took
16 it down but not sealing it up or anything on the inside. No.

17 Q. So you took that to -- to SLED?

18 A. I believe I was the one that took this down to
19 SLED.

20 Q. (Inaudible) I have gave some paperwork. It -- it
21 -- first of all, is there -- is there something about that
22 bag that makes it difficult for you to identify your -- your
23 role in the chain?

24 A. Well, in this one here, there's -- I don't see one
25 of our stickers on it. I do see where this is a way that
26 they mark it sometimes when it comes back. Because if it

1 comes back in their bags, our evidence people will print off
2 a label with our barcode to put in so they don't have to open
3 up the bag that they got from the lab. And that's on here.
4 And then I do see a sticker where I filled it out when I
5 returned it and gave it to our evidence. But the original
6 one, I don't see on it.

7 Q. But on the front of that -- of -- of State's 1A,
8 which is the -- the main bag from the same kit, is there a
9 mechanism on the front of that bag where the chain should
10 have been recorded?

11 A. Yes, ma'am.

12 Q. And is that normally filled out?

13 A. Not by us. It could be by the -- the nurse who
14 collected the sample because we put our own label on it when
15 we get this from them.

16 Q. But when the nurse who collected the sample signed
17 it over to another officer, would typically that officer not
18 sign it as take collection of it from the nurse?

19 A. There should be some kind of sign in from one
20 evidence to him. Yes, ma'am.

21 Q. And then typically once it's entered into
22 evidence, someone would sign it just acknowledging they
23 received it in evidence and then it will be placed in
24 evidence and then go into our -- to the Rock Hill Police
25 Department system?

26 A. Yes, ma'am. It would show the -- the trail.

1 Q. And then that is not done in this case.

2 A. I do not see it.

3 Q. But there would be within -- but that is the bag.
4 You could tell from the outer bag that, that is the bag that
5 he took to SLED, is that correct?

6 A. This would be a -- this would be a bag consistent
7 that I would take down the SLED for their lab. Yes.

8 Q. And if you saw the -- the -- the inner paperwork
9 from Rock Hill Police Department evidence, would that help
10 you recollect your position in the chain?

11 A. Yes, ma'am.

12 Q. Before we move onto that, I'm going to
13 show you what's marked, for identification, as State's
14 Exhibit 3. And then we'll go back to that. State's Exhibit
15 3, do you recognize that?

16 A. Yes, ma'am.

17 Q. And what is that?

18 A. This is a this is labeled as a buccal swab sample
19 from Mr. Halbrooks that was collected by the sheriff's office
20 officer here at the Moss Justice Center. And given to my
21 sergeant who turned it into our evidence, it's all ---

22 Q. Do you recognize Sergeant John George's
23 signature on?

24 A. Yes, I've -- I've seen it a lot.

25 Q. And recognize that he turned it into evidence?

26 A. He did.

1 Q. And then did you collect that bag from evidence to
2 paper SLED?

3 A. It does show that I did collect it from evidence
4 and take it down to SLED on a certain day and time then that
5 I brought it back from SLED on January 26th of last year.
6 I'm sorry. Yes, January 26th.

7 Q. And just so -- and -- and when you -- when you
8 took that -- when you take something out of evidence to take
9 to SLED, what condition is it in when you pick it up?

10 A. In this case with this one it'll be -- it was in
11 its packaging. It'll be sealed. Should have the officer's
12 initials and the date on the -- on the tape at some point,
13 along with the record, written on the label as far as who had
14 at what point and who to give it to.

15 Q. And if that had not occurred, if had the -- had he
16 sealed and tampered with in any way, what do you do?

17 A. I don't take it. It gets sealed before I take it.
18 Some -- somehow it gets sealed.

19 Q. So that would've been ---

20 A. They usually call the ---

21 Q. --- The one who took it?

22 A. Yes, ma'am.

23 Q. And do you know off the top of your head the
24 internal chain at Rock Hill Police Department from -- for
25 that piece above it for State's Exhibit Number 3?

26 A. I don't know everyone that was in that chain.

1 Q. If you are shown the internal chain, would that
2 help refresh your memory?

3 A. Yes, ma'am.

4 Q. This is the internal chain for what's been marked
5 for identification as State's Exhibit 3. Do you recognize
6 all the names of the people in that chain?

7 A. Yes, ma'am.

8 Q. And does that chain indicate that you are the one
9 that picked that item up to take to SLED?

10 A. It does show that I got this from our evidence and
11 it went out of custody to me, which would've been one of the
12 times I dropped at the SLED. Yes, ma'am.

13 Q. And you saw the name of Jeff (inaudible)?

14 A. When I -- when I received it from our evidence to
15 take it to the lab, it was from Becky Pryor who retired last
16 year.

17 Q. And that is a person that works in the evidence?

18 A. She did at the time.

19 Q. She did?

20 A. She did.

21 Q. And when someone in evidence -- when something is
22 placed into evidence, who else has custody over those items?

23 A. Just our evidence workers.

24 Q. And is there any other body -- anybody else in the
25 chain that had any access to that evidence?

26 A. There's our -- Deborah Kenny, who still is

1 employed by us and then Emily Stout, who's also employed by
2 us.

3 Q. Those are people that work internally in evidence,
4 that just store evidence moving around from one place to the
5 next or sign it out to someone?

6 A. Correct. They are the evidence -- evidence
7 techs. If you want to label it like that. I don't know
8 exact title, but they're the evidence people.

9 Q. And then going back to State's Exhibits 1A.

10 A. Yes, ma'am.

11 Q. If you have the -- had the internal chain from
12 Rock Hill Police Department, would that help refresh your
13 memory on your role in that chain and the other members and
14 the other people in that chain?

15 A. Yes, ma'am.

16 Q. I am giving you the internal chain in reference
17 State's Exhibits 1 and 1A.

18 Q. Can you tell from that -- from the internal chain
19 who placed State's Exhibit 1A into evidence?

20 A. Originally?

21 Q. Originally.

22 A. Officer Tyler Thomason, who is no longer with our
23 department because he moved, he collected it initially and
24 dropped it into one of our evidence refrigerators.

25 Q. And can you confirm from that internal chain that
26 you are the person who picked that State's Exhibit 1A and

1 take to SLED?

2 A. Yes. Once again, this one shows that I -- I got
3 this from Becky, Ms. Pryor, on that date before taking it to
4 SLED.

5 Q. And can you confirm that all other all other names
6 on that internal chain are all members of the evidence room
7 that would have just been involved with the evidence to visit
8 from one location to the other?

9 A. The only other names on here are Emily Stout and
10 still employed with us and Paul Willie who left us, but he
11 works here at the Moss in evidence. They're all evidence
12 people.

13 Q. And just going back to State's Exhibit 1A, now
14 that we have established the can, when you picked that up,
15 what condition would it have been in for you to transport it
16 to flood?

17 A. It would've been in a package like this sealed and
18 with tape similar to this, with initials or names of the
19 person who sealed the package.

20 Q. And had that not happened, had that been tampered
21 with in any way, would you (inaudible)?

22 A. No, ma'am.

23 MS. SHELTON: Thank you. You may answer any questions
24 that the defense has.

25 THE COURT: McKinnon?

26 MR. MCKINNON: Your Honor, I have no further or no

1 questions at all for this witness.

2 THE COURT: Thank you. Then you can sit down.

3 THE WITNESS: Thank you.

4 THE COURT: Lawyers' approach.

5 MS. SHELTON: Your Honor, may investigator Popoff be
6 excuse?

7 MR. MCKINNON: No objection, Your Honor.

8 THE COURT: Investigator is excused. Lawyer's
9 approach. Ladies and gentlemen, that's all the testimony
10 that you'll hear today. We will start back up at 9:15.
11 Tomorrow morning at 9:15. I'm going to instruct you again,
12 you're not to have any discussion about the case whatsoever
13 among yourselves or at night. Be googling or written
14 information off the internet on anything remotely relating --
15 related to this case. Then you're taking an oath to be fair
16 and impartial the way you can, impartial the way you've heard
17 all of the evidence, seen all the evidence and the law of the
18 case. Then be able to discuss the case among yourselves.

19 So with that instruction, I'm going to allow you to
20 leave for the evening. Be back and ready to go at 9:15
21 tomorrow morning. Everyone remains seated while this panel
22 is exiting. And when you come back in the morning, if you'll
23 elect a -- if you'll elect a foreperson from among sale and
24 that when we come back in tomorrow morning start up, the
25 foreperson will just take this in-seat on the side. Thank

1 THE COURT: In 2022-GS-46-01685, State versus Xavier
2 Holbrooks. And Mr. Holbrooks is exercising his right to have
3 a jury trial. He's been charged criminal social conduct
4 under second degree. We are ready to resume the State's case
5 in chief. I think where we ended yesterday, there was a
6 motion to exclude reference to other or third party DNA found
7 as a result of the DNA analyst testing of the swab -- of the
8 swabs from the victim in the case. is that that where we
9 are? That's the --

10 MR. MCKINNON: Yes, sir.

11 MS. SHELTON: Yes, sir. Your Honor.

12 THE COURT: All right. And the state had asked to
13 exclude that testimony under an application of 1636591, which
14 is what -- which deals with sexual conduct of the victim. We
15 generally call that the rape shield statute. I find that --
16 I'm going to deny the motion. I find that 1636591 does not
17 apply in this case. The whole -- the intent of that statute
18 and the wording, the statute is dealing with specific
19 instances of the victim's sexual conduct.

20 The -- and the reputation evidence of the victim's
21 sexual conduct. Those are certainly not admissible. And
22 this particular facts in this case, it doesn't apply because
23 we're talking about results of a test that the DNA analyst
24 ran. The -- in this case, there's a 13-year-old
25 intellectually disabled victim to sexual conduct. Certainly

1 is not an issue. It wouldn't even be an -- it is not an
2 issue.

3 And the -- the charge against Mr. Holbrooks, certainly
4 a disabled -- intellectually disabled 13-year-old who was
5 found incompetent to testify in court, certainly does not
6 have any ability to consent. Even if she did consent to some
7 type of other sexual activity, it would not be not an issue
8 in this case. It appears that the -- the results of the
9 testing done by the experts is simply a finding by the
10 experts during their test -- testing. And that does not, and
11 cannot speak to -- well, does not speak to the -- any sexual
12 conduct on of the victim in the case.

13 Determining under 403 whether this evidence is prob --
14 still have to do a 403 analysis of whether in intended
15 evidence is more probative than prejudicial. I find that --
16 that the --that the result of the complete test and what it
17 showed, one showing this defendant's DNA present and also the
18 DNA of an unknown individual, that that is probative of the
19 issue of how DNA may be left on evidence. I find that it is
20 not unfairly prejudicial just like any, to either party, like
21 all trial evidence. It can be used by the -- that -- that
22 that fact can be used cut both ways depending on the trial
23 strategy and how attorneys tend to use that. So I deny --
24 deny the motion to exclude any testimony about find -- from
25 the experts about the presence of other DNA from an unknown

1 individual. All right. Is there anything else we need to do
2 before?

3 MS. SHELTON: Nothing from the state, Your Honor. Can
4 I have just one minute. I had both versions of the court's
5 ruling and my PowerPoint slides I'm going to for -- for
6 exhibits. So I'm going to take out the --

7 THE COURT: All right. And then I got a note from the
8 jury. They have selected juror number 150, Dakota Robinson
9 as the -- as the foreperson. Excuse me. Solicitor, while
10 you're doing that, who is your next witness?

11 MS. SHELTON: My next witness is Rachel Wynn from South
12 Carolina Law Enforcement Division. And Your Honor, I had
13 told her that that was a pending ruling from the court, so
14 I'm going to step out and let her know ---

15 THE COURT: All right. Thank you.

16 MS. SHELTON: --- that the court: has ruled that she
17 can testify if -- if it comes up, I don't know that we'll
18 come up with her.

19 THE COURT: All right.

20 MS. SHELTON: Your Honor, just to let the court know,
21 the two (inaudible) folks came in with me. They're sitting
22 on -- in the back row, are both trainees with SLED. It's
23 part of their training requirement that they observe court.

24 THE COURT: That's fine. They can come and go as they
25 please.

1 MS. SHELTON: Thank you, Your Honor.

2 THE COURT: All right. State ready to proceed?

3 MS. SHELTON: State is ready, Your Honor.

4 THE COURT: Defense's ready?

5 MR. MCKINNON: Yes, Your Honor.

6 THE COURT: All right. Let's bring the jury in. All
7 right. Thank you. Ladies and gentlemen I appreciate your
8 progress this morning. We're now ready to proceed into the
9 trial this morning. Which -- where the state (inaudible)
10 witnesses they wish to call. Solicitor, call you next
11 witness.

12 MS. SHELTON: Your Honor, state calls Rachel Wynn.

13 THE COURT: And again, Mr. Robinson is the foreperson.

14 Mr. Dakota Robinson (inaudible) keep that seat
15 throughout the rest of the trial.

16 RACHEL WYNN,
17 being duly sworn, testified as follows;

18 DIRECT EXAMINATION

19 BY MS. SHELTON:

20 Q. Good morning.

21 A. Good morning.

22 Q. Can you please state your name for the record?

23 A. My name is Rachel Wynn.

24 Q. And Ms. Wynn, where are you employed?

25 A. I'm currently employed with the South Carolina Law

1 Enforcement Division, most commonly known as SLED.

2 Q. And what is your capacity -- what is your
3 employment there?

4 A. Am a forensic scientist within the DNA case work
5 department.

6 Q. And how long have you been with SLED?

7 A. I've been with SLED for nine and a half years.

8 Q. Does SLED do forensic services for the entire
9 state?

10 A. Yes, we do service the entire state.

11 Q. How do those cases come?

12 A. So any of the submitting agencies across the state
13 will bring evidence to our lab, which is located in Columbia.

14 Q. How long have you been with, specifically with DNA
15 now?

16 A. So I have been in the DNA casework department for
17 six and a half years.

18 Q. And prior -- have you -- have you always been --
19 but prior to you becoming -- being assigned to the DNA
20 department, what did you do?

21 A. So prior to working in the DNA casework
22 department, I worked in the toxicology department, still
23 within the SLED laboratory.

24 Q. And when you -- when you got assigned to the DNA
25 caseload department, did you immediately start fully

1 analyzing DNA?

2 A. So initially upon being hired within the DNA
3 casework department, I started off as a forensic serologist.
4 And then in 2021 I was promoted to A DNA analyst.

5 Q. And you said forensic serologist. Can you briefly
6 explain what a -- what a serologist is?

7 A. Yes. So serology is body fluid identification.
8 The body fluids that are tested for are blood, semen and
9 saliva. So the job responsibilities of a forensic serologist
10 are to process items of evidence for body fluids that I
11 listed, as well as examining items of evidence for ownership
12 or touch DNA, which is DNA, that's left behind either from
13 wearing an item or holding an item. And then preparing up
14 reports were applicable based on any test results or
15 findings.

16 Q. And what is your education background?

17 A. I have two Bachelor's of science degrees from the
18 University of New Haven, one in forensic science and one in
19 biology.

20 Q. And beyond your college education, what
21 specialized training and experience do you have?

22 A. So, specifically, for the DNA case work
23 department, I have undergone three different training
24 programs. one in the area of serology and evidence
25 processing. The other was in what we call direct to DNA

1 analysis. So that's going to encompass extraction and
2 quantitation, which are the first two steps of the DNA
3 analysis process. And then finally I went through training
4 in the last two steps of the laboratory portion of DNA
5 analysis. Our training program is very extensive, so there's
6 a period of observation of a court qualified examiner in that
7 field of testing.

8 Then I am given several practice sets to perform those
9 different types of analysis to show that I can perform them
10 independently. At the end of my training program, I then
11 will enter what's called competency testing. So that's
12 testing my knowledge and abilities to perform these different
13 types of analysis and tests independently. There are four
14 portions, a written exam, an oral exam, a mock case, and then
15 a mock core on that mock case. Once all the components are
16 successfully completed and then -- then am authorized to
17 perform analysis in that area of work. I am currently in
18 training for DNA analysis interpretation.

19 Q. How many times have you testified in court?

20 A. I've testified 28 times.

21 Q. And have you ever been qualified as an expert in
22 serology -- in forensic serology and forensic DNA analysis?

23 A. I have.

24 Q. And are you -- how many times have you been
25 qualified as an expert?

1 A. As it pertains to forensic serology, it's been
2 about 15 times. And for the DNA analysis process that I've
3 participated in, I believe it's approximately about three
4 times

5 MS. SHELTON: Your Honor, at this time, we would like
6 to offer Ms. Wynn as an expert in the field of forensic
7 serology and forensic DNA analysis.

8 MR. MCKINNON: No objection, Your Honor.

9 THE COURT: I find that she is qualified to testify as
10 an expert in forensic serology and forensic DNA analysis.

11 BY MS. SHELTON:

12 Q. And Ms. Wynn, as part of your training in
13 experience with experience, are you specifically trained in
14 how to appropriately handle evidence?

15 A. Absolutely.

16 Q. Briefly describe what that means.

17 A. So evidence, initially, you want to make sure that
18 you're receiving it in a sealed state. So that means whether
19 it's a box or a pouch has been heat sealed, you want to make
20 sure that upon receiving it, it has been properly packaged.
21 when you open the packaging, there might be other layers of
22 packaging. So you want to make sure that all of those layers
23 of packaging are also in a sealed state, nothing appears to
24 be tampered with. And in general, you want to make sure that
25 the information that may or may not be on those items of

1 evidence are consistent with the case identifiers. As it
2 correlates to that case.

3 Q. And as part of that evidence process, does SLED
4 maintain a chain of custody for -- for those items?

5 A. Yes. So SLED has a electronic chain of custody.
6 Our system is an electronic system, so the chain of custody
7 will track each item of evidence from the moment it's been
8 submitted to the laboratory and then until it's been returned
9 to the submitting agency.

10 Q. And if you were shown a copy of the internal chain
11 for this case, would you be able to identify every person in
12 that chain and what -- what role they perform?

13 A. Yes.

14 MS. SHELTON: May I approach, Your Honor?

15 THE COURT: Yes, you may.

16 THE WITNESS: May I refer to my notes?

17 THE COURT: Yes.

18 BY MS. SHELTON:

19 Q. Ms. Wynn, I'm going to ask you to review that --
20 that -- that chain of custody that I just provided to you, is
21 that from SLED?

22 A. It is. It seems to be an outdated copy from the
23 version I have, but it is consistent with the SLED seal, the
24 proper -- prepared for release stamp as well as being
25 consistent with the number of pages that I have.

1 Q. Does it appear that, that chain covers the entire
2 time that the items were with SLED before being released back
3 to Rock Hill Police Department?

4 A. Yes.

5 Q. So for your purpose, that would be a complete
6 chain if it was printed earlier?

7 A. Yes.

8 Q. And by looking through that, are you able to
9 identify every person that is in that chain?

10 A. Yes.

11 Q. And with the exception of Ryan Dwayne and Donna
12 Money and yourself, is there any person in that chain that
13 would've done anything to tamper with or work with this
14 evidence?

15 A. So none of the other individuals in this chain
16 would have tampered with or open the items of evidence. The
17 people involved are either evidence control technicians, so
18 they're taking them from shelves and transferring it to the
19 analyst for analysis, or there's a DNA technician who returns
20 the evidence back to the evidence control department to be
21 returned to the agency.

22 Q. Thank you. Can you briefly describe for what is
23 done by you in the testing process to prevent
24 cross-contamination?

25 A. So we have many elements to prevent

1 cross-contamination. First of all, you want to make sure
2 that we're wearing the proper protective equipment. So
3 that's a lab coat, a mask, gloves. In respect to gloves,
4 we're frequently changing them in between samples. So the
5 gloves you use on one sample are not used on another sample
6 that may cause transfer. We have one item out at a time when
7 processing, and then we will package up that item,
8 decontaminate our workspaces before and after processing or
9 any type of DNA analysis.

10 We also have larger areas such as our -- what we call
11 hoods, where we have all our supplies and things we use to
12 prep the samples that will be uvd after we use it. And then
13 we're also consistently looking at the items to make sure
14 that they are not getting switched during analysis.

15 Q. And as far as the services that you performed in
16 this case, can you briefly describe what you did? And as far
17 as from the science side of it, can you briefly describe what
18 you did and how you communicated that data to the next?

19 A. Do you want me to go through each item or?

20 Q. Yeah, just generally.

21 A. In general? Okay. So the item that was submitted
22 for analysis was a sexual assault kit. It contained various
23 swabs that were collected from the victim, and then it also
24 had other articles of clothing found within it, which were
25 underwear, a shirt, shorts, and a piece of toilet paper. So

1 those items, since they are larger than swabs, were analyzed
2 with our presumptive tests to detect the possible presence of
3 semen. These swabs did not have any kind of serology
4 testing. They were simply prepared for DNA analysis, which
5 means that I just cut a small portion off of each swab and
6 placed it in a tube and labeled that tube with the case
7 identifiers, which are the case number and its unique item
8 number.

9 Q. Okay. And when you say they were not tested for
10 serology, just to make sure everybody understand, understand
11 serology would reveal what the substance is, whether it's
12 semen or saliva or not one of those things. Is that correct?

13 A. Yes. So serology testing would be that
14 presumptive test for semen, saliva, or blood as it pertains
15 to the item. We are not doing it on smaller items such as
16 swabs, because you want to conserve as much sample as you can
17 for DNA analysis.

18 Q. And a serology report or a serology test would not
19 give you any information about DNA, is that correct?

20 A. No.

21 Q. And did you do a serology test on any of the items
22 that you collected or you analyzed?

23 A. So I did do it on the underwear, the shirt, the
24 shorts, and the toilet paper. However, all of those items
25 were negative for the possible presence of semen. There was

1 an area of fluorescence that was negative for that
2 presumptive test. However, it was still forwarded for
3 further analysis because the key scenario suggested possible
4 presence of saliva.

5 Q. And when you say it was -- that it was negative as
6 far as your testing, it did not show the bodily fluids that
7 serology would reveal?

8 A. Yes. So it was negative for the possible presence
9 of semen

10 Q. And doesn't necessarily mean that it would be
11 negative for -- for DNA fluid on?

12 A. That's correct. It's not indicating in the
13 presence of DNA.

14 Q. And did you do any of the extraction process?

15 A. I did. So as I mentioned before, my training, I
16 did the first two steps of the laboratory portion of DNA
17 analysis on these items, which encompasses extraction and
18 quantitation. Extraction is trying to remove any biological
19 material from a cutting or a swab and then further isolating
20 any DNA from the biological material. And then it is placed
21 on an instrument to determine if any -- and if so, how much
22 DNA is present on that item.

23 Q. And are there protocols in place that -- from --
24 from your testing, that if you were not able to properly
25 extract, if there was something -- some issue that it would

1 not be forwarded on for further testing?

2 A. Can you rephrase the question?

3 Q. Every -- did you forward every extraction that you
4 do on for further testing?

5 A. Yes. So I do not in, I didn't interpret any of
6 the data generated from these items. that would've been the
7 DNA analyst, Ryan Dwayne. So I just did the extraction and
8 quantitation and then she reviewed the results to determine
9 how it would proceed further.

10 Q. The quantification?

11 A. Quantitation.

12 Q. Quantitation? Quantitation would not impact
13 whether or not something goes forward for DNA analysis?

14 A. Ryan would've determined whether or not it
15 would've proceeded or not.

16 Q. So it does -- it does have some impact. You just
17 do not make that decision?

18 A. Yes, it has the possibility.

19 Q. Thank you. And so just to be clear, you would've
20 been the first person to handle the extract?

21 A. I would've been the first person to handle the
22 items of evidence.

23 Q. Okay. So when you -- when you -- just -- because
24 I don't -- I don't understand exactly what you guys do, so
25 I'm sure the jury does not understand when you extract, when

1 you prepare the extract, what is left behind -- is there
2 anything left behind that you touch or does that all go to --
3 to Ryan -- to Mr. Dwayne?

4 A. Okay, so I'm going to start at the beginning and
5 work my way forward. So these swabs and me cutting, I took a
6 small portion, placed it in a labeled tube to extract it. I
7 put different chemicals to help facilitate that, you know,
8 moving, taking the biological material out of that swab or
9 cutting. And then the tube will go on for quantitation, this
10 tube will be transferred to the DNA analyst, Ryan Dwayne, and
11 as well as all the physical evidence. So the primary swabs
12 that I cut from the underwear, those articles of clothing are
13 still moving forward. The evidence with the tubes to the
14 analyst

15 Q. And those tubes stay in their spot and stay
16 labeled and stay in a controlled environment the entire time?

17 A. Yes. So it'll stay in the DNA department, which
18 is a secured area, and the custody. So it will move from my
19 custody to a location where Ryan will be working. So then
20 where her area.

21 Q. And aid something happened where a tube wasn't,
22 where it was supposed to be or appeared to be tampered with
23 in some way, what would happen in the process?

24 A. That would be appropriately documented and
25 ultimately the DNA technical leader would make a decision on

1 how to proceed further.

2 MS. SHELTON: And I am going to now show you what's
3 been marked for identification as State's Exhibit 1 and
4 State's Exhibit 4.

5 (Plaintiff's Exhibit 4 was marked for identification.)

6 BY MS. SHELTON:

7 Q. I'm going to ask you to look at State's Exhibit 1
8 first. Do you recognize State's Exhibit 1, which is just the
9 outer bag?

10 A. I do recognize it. It has the unique case number
11 which matches this case, and it also has my initials and date
12 on multiple seals.

13 Q. And when did you receive that -- the -- that bag?

14 A. I received it on September 17th of 2021 at 9:23 in
15 the morning.

16 Q. And when you received that -- that -- that bag --
17 that heat -- that -- what's the outer bag called?

18 A. We call this a heat sealed pouch. So it's a
19 plastic like pouch, and then we use heat to make the
20 different seals along the edges.

21 Q. And is that something specific to SLED?

22 A. It is a SLED-issued pouch in this case.

23 Q. And what -- and then if you will -- and is that
24 pouch had it been tampered with in any way when you were
25 received it?

1 A. No, it was not.

2 Q. And what would you have done had it been tampered
3 with in some way?

4 A. I would've appropriately documented it and then
5 depending on the severity, I would've escalated it. And --
6 meaning I would either bring it to the attention of the
7 evidence control department, tell my technical leader to
8 determine how to proceed or call the submitting agency to
9 determine if it was packaged this way when they had brought
10 it to SLED.

11 Q. And when you received what was inside the -- the
12 outside heat seal pack when -- when you received it?

13 A. What was inside was this white envelope, which is
14 the sexual assault kit

15 Q. (Inaudible). And inside that it states what's
16 been marked identification as State's 1A. Would you have been
17 the first person at SLED to open that bag, State's Exhibit 1
18 A?

19 A. Yes, I would've.

20 Q. And how did you document that as far as on the
21 bag?

22 A. So I labeled this bag with the unique case number
23 and the item number, it wouldn't have come with this. I did
24 that and then in the corner I have my initials and the date I
25 opened it.

1 Q. And then once you were done with it doing that
2 process, you -- you opened the bag?

3 A. I did open the bag.

4 Q. And did you -- and you took out all the items?

5 A. Yes. So I -- what we call inventorying the kit.
6 So I opened the bag and to see what's inside. And then each
7 item that was found inside, I made a unique item number for
8 each of the envelopes or the articles of clothing.

9 Q. And can we take a look at those items?

10 A. Is there a specific one you'd like me to take out?

11 Q. I'll pull it out. I'll tell you the exhibit
12 number. Just go -- go for -- whichever -- however --
13 whichever one's first, if you will tell me what it is. I'll
14 put the exhibit number on the record.

15 A. Okay. So first I have item 1.7

16 Q. And item -- and you gave item 1.7, that number of
17 item 1.7, which is the toilet paper. Is that correct?

18 A. Yes. 1.7 is the toilet paper.

19 Q. And is that the bio paper bag?

20 A. Yes.

21 MS. SHELTON: Your Honor, that is for purpose of
22 identification States 1C.

23 BY MS. SHELTON:

24 Q. And that that test that you performed on, that
25 would've been serology and it was negative, correct?

1 A. That's correct.

2 Q. And then once you were done, did you repackage it
3 and seal it?

4 A. I did.

5 Q. And has that seal been tampered with in any way?

6 A. No. The seal is still intact with my initials and
7 the date I sealed it. Your Honor,

8 MS. SHELTON: Your Honor, at this time we would ask to
9 move State's 1C into evidence.

10 MR. MCKINNON: No objection.

11 THE COURT: State's 1C is into evidence without
12 objection.

13 BY MS. SHELTON:

14 Q. Okay. Move on to the next item.

15 A. Next I have item 1.1, which is the underwear.

16 MS. SHELTON: Your Honor, let the record reflect that
17 we are referencing State 1B. And you were the first person
18 to unpackage that, correct?

19 A. That is correct.

20 Q. And from that, did you -- you did serology on the
21 underwear, correct?

22 A. I did.

23 Q. And that was negative?

24 A. It was.

25 Q. Was there any other evidence collected from that

1 underwear?

2 A. Yes. So I took a cutting from the crotch of the
3 underwear, which was then designated as item 1.1. I also
4 collected hair off of the underwear, which was designated as
5 item 1.1.2.

6 Q. And as far as the -- all of that would have been
7 repackaged back in that one -- in -- if -- that one bag, is
8 that correct? If there was anything to revalue?

9 A. Yes. So the underwear is in this package here and
10 then the items that I created would've been put into new
11 envelopes with the new item number.

12 Q. And as far as the item 1.1.21, I believe it was
13 the hair?

14 A. Correct.

15 Q. That was suitable for testing, is that correct?

16 A. Yes, there was one hair that was suitable for
17 testing.

18 Q. And what happened with that hair as part of the
19 testing process? Are you -- are you aware?

20 A. So because it was a small hair, it was consumed in
21 analysis.

22 Q. And as far as the cutting from the crotch, what
23 happened with that?

24 A. So there should still be the cutting from the
25 crotch, more than likely located in this envelope, which

1 contains all of the other envelopes with -- found within the
2 kit.

3 Q. And as far as item one -- State's 1B, your item
4 1.1, was that resealed by you?

5 A. It was.

6 Q. And has it -- has that seal been broken since
7 then?

8 A. No, the seal is still intact with my initials and
9 the date that I sealed it.

10 Q. And you would've been the last person to
11 physically handle that piece of evidence?

12 A. That is correct.

13 MS. SHELTON: All right. At this time we would ask to
14 introduce State's 1B into evidence.

15 MR. MCKINNON: No objection.

16 THE COURT: State's 1B is in evidence.

17 BY MS. SHELTON:

18 Q. (Inaudible) I'm having a pile. I'm going to --
19 okay. Do you want to move on to the next piece?

20 A. There was a debris collection located and it was
21 not collected, so it did not get a SLED, I remember. But it
22 does have a exhibit number.

23 Q. And that would be Exhibit 1E?

24 A. That's correct.

25 Q. And did you do anything with that debris paper?

1 A. I did not, because on the exterior of the
2 envelopes found within the kit, there is usually a semen that
3 is -- was the sample collected. So the sexual assault nurse
4 examiner will indicate yes or no to help determine which
5 items I need to test versus not test. So in this case it was
6 no, so I didn't open it.

7 Q. And -- and so that has not been tampered with at
8 all or -- or -- or done anything with since it was placed
9 into evidence, is that correct?

10 A. No, it appears that it still has its original seal
11 on it.

12 MS. SHELTON: Your Honor, at this time we would ask to
13 move State's Exhibit 1E into evidence.

14 MR. MCKINNON: No objection, Your Honor.

15 THE COURT: Okay. So 1E is in evidence.

16 BY MS. SHELTON:

17 Q. (Inaudible) you onto your name.

18 A. I have here item 1.6, which is the outer clothing,
19 which I further identified as items 1.6.1 and 1.6.2, which is
20 the shirt and the shorts.

21 Q. And the only testing done on that was serology, is
22 that correct?

23 A. That is correct.

24 Q. And -- and no -- no results from that or negative
25 results?

1 A. The -- the results were negative.

2 Q. And you were -- are you the last person that
3 handled that package it and sealed it?

4 A. Yes, it still has an intact seal with my initials
5 and the date that I sealed it.

6 Q. And just for the record, Your Honor, we are
7 referring to what's been marked identification as State's
8 Exhibit 1F. And we would ask to move that into evidence at
9 this time.

10 MR. MCKINNON: No objection, Your Honor.

11 THE COURT: State 1F is in evidence.

12 BY MS. SHELTON:

13 Q. And then that should leave you with just the
14 package of swabs and what the crotch cutting, is that
15 correct?

16 A. Yes.

17 Q. And that should be for identification as State
18 1D, Your Honor. And are those the items that you perform the
19 extraction and quantitation process on?

20 A. It should be. I also want to note that the item
21 that we just spoke about, the shorts, I did do a hair
22 collection off of that. So the hair collection would also be
23 located in this envelope.

24 Q. Was there a hair collection from the shorts?

25 A. There was. It was actually -- I'm sorry, it was

1 from both of the outer clothing. So both the shirt and the
2 shorts.

3 Q. It's not tested, is that correct?

4 A. There was one hair that was tested from the
5 collection.

6 Q. Okay. And that is item -- which item was -- was
7 it that was tested

8 A. Item 1.6.3.1.

9 Q. On your evidence worksheet chart. It says for 6.3
10 -- 1.6.3.1 it says there was a sample remaining, but it was
11 shaft only. What does that mean?

12 A. So in order to determine whether a hair is
13 suitable for analysis, it must have hair root attached. So
14 if I forward a hair, it will contain the root as I previously
15 discussed. If it's small, the entire hair will go into the
16 tube and then therefore be consumed in analysis. This hair
17 was a little longer than is suitable to be placed in the
18 tube. So I'm going to cut that root end off and place it in
19 the tube and retain the remainder of the hair.

20 Q. And from you preserving it for testing does not
21 necessarily mean that Ryan would have tested it, is that
22 correct?

23 A. No. So the remainder of the hair would not be
24 tested because it doesn't have what we need for DNA testing,
25 which is nuclear material, which is what's found in the root.

1 We retain it because the shaft ultimately could potentially
2 have mitochondrial DNA performed on it, which is not testing
3 that we do at SLED.

4 Q. So in that bag that here is contained that you do
5 not know what further testing hind on?

6 A. No. So only the root would've been tested and
7 that would've been it.

8 Q. So of those swabs, I believe it should be items
9 1.3, 1.5, 1.4, 1.2. Is that correct?

10 A. That's correct.

11 Q. And 1.2 is the vaginal swab, correct?

12 A. That is correct.

13 Q. And 1.3 is the rectal swab?

14 A. That's correct.

15 Q. 1.4 is the suspected saliva swab?

16 A. That's correct.

17 Q. And 1.5 is MINOR's buccal swab with the swab
18 which is the cheek swab that that had already been described
19 to the jury, is that correct?

20 A. Yes.

21 Q. And those were the ones that you performed your
22 testing on?

23 A. Yes. Those would've gotten DNA analysis.

24 Q. And after the swabs, after you did the
25 extractions, did you repackage those swabs?

1 A. Yes. So I put the swabs back into this envelope,
2 which is where the swabs usually are contained.

3 Q. Does it appear that anyone else has opened that
4 package since you packaged it?

5 A. No. It, the seal that is remaining is initialed
6 and dated by me.

7 MS. SHELTON: Your Honor, at this time I would ask for
8 State's Exhibit 1D into evidence.

9 MR. MCKINNON: No objection, Your Honor.

10 THE COURT: State's 1D is in evidence.

11 MS. SHELTON: And, Your Honor, just for continuity, I
12 would ask to move State's Exhibit 1, which is the outer bag
13 into evidence.

14 MR. MCKINNON: I thought it was already in evidence,
15 but either way without objection.

16 MS. SHELTON: I had not moved the outer bag in yet.

17 THE COURT: (Inaudible).

18 MR. MCKINNON: Okay.

19 THE COURT: State's 1 in evidence.

20 MS. SHELTON: Thank you, Your Honor.

21 BY MS. SHELTON:

22 Q. You still have what's been marked, for
23 identification, as States 4 with you. Can you identify that
24 please?

25 A. I never had states four in my custody, but I can't

1 identify it.

2 Q. Are this -- are the tubes in -- in the inner bag
3 not initialed by you or is that Ryan's initial?

4 A. It's Ryan's initials.

5 Q. So those -- are those the extraction tubes that
6 were used in the case?

7 A. Yes. So they're consistent with the extraction
8 tubes that I would've given Ryan.

9 Q. But you don't actually make any markings on them,
10 is that correct?

11 A. I would just label the tubes but the tubes don't
12 have any particular individual's initials on them.

13 Q. When you say label, do you label the physical tube
14 or something outside representing the tube in?

15 A. So I physically labeled the tubes with the case
16 number and the item number. And that's all that is on the
17 tube.

18 Q. Can you see that (inaudible) on tube?

19 A. I can see the majority of them.

20 Q. Can you identify it as your handwriting as the
21 tubes get labeled in the tube?

22 A. So some of the tubes are in different tubes than
23 what I gave Ryan, but the majority of them are consistent
24 with my handwriting.

25 Q. And -- and from the -- the case number on the

1 outside, that is consistent with the (inaudible), is that
2 correct?

3 A. Yes, it is consistent with this case number as
4 well as the item numbers that we've been speaking about.

5 MS. SHELTON: Thank you. Your Honor, just to be safe,
6 I am moved to States 1 and 1A. I'm not sure that I said 1A
7 into evidence.

8 MR. MCKINNON: Also without objection, Your Honor.

9 THE COURT: State's 1 is in evidence. State's 1A is
10 now in evidence.

11 MS. SHELTON: Thank you, Your Honor.

12 BY MS. SHELTON:

13 Q. Thank you. Ms. Wynn, please answer any questions
14 -- oh, I -- I did want to briefly talk to you about the hair
15 collections from the kit -- from your notes, it says from the
16 underwear. Do you make any notations as specifically where
17 that hair is from the collection?

18 A. No. So specifically for the underwear, after I'm
19 done performing that presumptive test for semen, I'm going to
20 -- let me back up. Prior to analyzing any kind of evidence,
21 a piece of white processing paper will be placed on the
22 table. That's for while I'm processing the item. If any
23 debris falls off we'll examine that. So in this case, after
24 I processed the underwear, I then looked for hair and I found
25 multiple pieces of hair. So I notated that under the hair

1 collection, which was item 1.1.2.

2 Q. And only one of those hairs was suitable for
3 testing, correct?

4 A. Yes. Only one of the hairs was suitable.

5 Q. And all -- all that your testimony could be is
6 that it came somewhere from the underwear?

7 A. Yes, it came off the underwear.

8 MS. SHELTON: Thank you.

9 MR. MCKINNON: May it please the court?

10 THE COURT: Cross-examination?

11 CROSS-EXAMINATION

12 BY MR. MCKINNON:

13 Q. Ms. Wynn, I'll be pretty brief. as for the the
14 swab items, your testimony is essentially you're extracting
15 the DNA for someone else to test. That's all you're doing on
16 those items, right?

17 A. So the testing itself has four steps. So I'm
18 doing the first two steps and then the DNA analyst that's
19 assigned to the case will do the remaining two steps.

20 Q. Which is the final analysis portion?

21 A. That's correct. Which will then generate a
22 potential DNA profile if DNA is present.

23 Q. The large items, which would be the underwear, the
24 shirt, the shorts, and the toilet paper, essentially your
25 serology test is finished at that step, correct?

1 A. Yes. So the goal of serology is to locate any
2 areas that may have DNA because body fluids are rich in
3 DNA. So since those items were negative, nothing moved forward
4 for analysis.

5 Q. Just to be clear, all four items were negative.
6 There was no semen or any other bodily fluid suspected in
7 each?

8 A. So all four items were tested for the possible
9 presence of semen and they were negative. However, the
10 underwear did indicate that there may be saliva present, so
11 that's why I cut the crotch of the underwear. Based on the
12 case scenario, however, it was not tested for the presence of
13 saliva.

14 Q. Would that not have been you that would do that
15 test?

16 A. It would've been me. our saliva testing will
17 consume a portion of the sample. So as I mentioned earlier
18 any type of serology testing that may consume a portion of
19 the sample will not be done. It will just move forward. For
20 DNA analysis.

21 Q. How big was the -- the cutting?

22 A. I am unsure how big the cutting was.

23 Q. But essentially there was nothing you can
24 conclusively say it was any bodily fluid on any of these
25 items?

1 A. No. There was no body fluid conclusively found on
2 any of these items.

3 Q. And then just to make sure I heard you right, the
4 -- the hair sample from the underwear, you did not note where
5 in the underwear that came from?

6 A. No, we don't take hair off of -- in -- we don't
7 pick it off of items. We'll just collect whatever hair has
8 fallen off during processing on that white processing paper.

9 Q. So it could have come from the outside or the
10 inside?

11 A. Of the underwear? That's correct.

12 Q. And you said that the hair was so small that you
13 consumed the hair in the -- in the extraction process, you
14 put the whole thing in the tube?

15 A. For the hair that came off of the underwear.
16 That's correct.

17 Q. And just so we all understand, the hair, the shaft
18 as you referred to it does not have living tissue? It's not
19 -- there's no DNA there, right? Other than the mitochondrial
20 thing.

21 A. So it does not have the DNA that we test for at
22 SLED.

23 Q. Essentially just keratin that's produced by the
24 living organism, right?

25 A. I am not familiar of the different components of

1 hair, but it does not have the nuclear DNA that we test for
2 at SLED.

3 Q. But it could have DNA like touch DNA from someone
4 else if that someone had touched that here. Right?

5 A. It's possible.

6 MR. MCKINNON: Okay. No further questions, Your Honor.

7 REDIRECT EXAMINATION

8 BY MS. SHELTON:

9 Q. Just one quick follow up. Mr. McKinnon asked you
10 how big the cutting from the crotch was. Does the size of
11 the sample of the cutting have anything to do with the amount
12 of DNA present?

13 A. We can not tell how much DNA is present just
14 visually by looking at a cutting.

15 Q. So it doesn't really matter from a DNA standpoint
16 how big the cutting is?

17 A. It doesn't because I'm going to cut portions for
18 DNA analysis, so that's why I'm not performing a saliva test
19 as we mentioned, because I'm going to be consuming part of
20 the sample and ultimately we want to conserve that sample for
21 DNA analysis.

22 MS. SHELTON: Thank you.

23 MR. MCKINNON: Nothing further, Your Honor.

24 THE COURT: All right. Thank you. Wynn you may step
25 down.

1 MS. SHELTON: Your honor, I don't know if she wants to
2 stay since she has trainees with her, but may she be allowed
3 to stay in the courtroom since her testimony is complete?

4 MR. MCKINNON: No objection to that, Your Honor.

5 THE COURT: She's allowed to stay in the courtroom.

6 MS. SHELTON: Your Honor, my next witness is Ryan
7 Dwayne. She is the witness from Portland. I just need to
8 step out and make sure she's arrived.

9 THE COURT: All right -- all right. Solicitor call you
10 next witness.

11 MS. SHELTON: Your Honor, the state calls Ryan Dwayne.

12 RYAN DWAYNE,
13 being duly sworn, testified as follows;

14 DIRECT EXAMINATION

15 BY MS. SHELTON:

16 Q. Can you state your name for the record please?

17 A. Ryan Dwayne.

18 Q. Ms. Dwayne, how are you currently employed?

19 A. I'm a forensic scientist at the Washington State
20 Patrol in Vancouver, Washington.

21 Q. And how long have you been employed there?

22 A. A little over two years.

23 Q. And prior to that, were you -- where were you
24 employed?

25 A. I was employed with the South Carolina Law

1 Enforcement Division.

2 Q. And how long were you with the South Carolina Law
3 Enforcement Division?

4 A. Approximately six years.

5 Q. And during your time with the South Carolina Law
6 Enforcement division, what were your -- what was your job?
7 What did you do?

8 A. I was a forensic scientist in the DNA case work
9 department.

10 Q. And as part of that, do you have any specialized
11 education and training?

12 A. I do. I have a Bachelor of science degree in
13 biology, pre-professional from Appalachian State University.
14 I also have two minors in chemistry and English. I also have
15 a Master's of science degree in biological sciences from
16 Clemson University. And I'm currently enrolled in a graduate
17 program for forensic investigative genetic genealogy with the
18 University of New Haven.

19 Q. And what about training specifically for DNA?

20 A. Upon being hired at SLED, I underwent an extensive
21 training program. That program included practice samples,
22 training samples, mock cases for DNA and serology, a report
23 writing exam, a technical review exam, a mock core and a
24 competency test.

25 Q. About how many hours of specialized training have

1 you had?

2 A. Training programs take approximately a year?
3 Sometimes a little over a year. So at SLED my program was
4 about a year and a half. And at Washington it was about a
5 year.

6 Q. And have you testified in court before?

7 A. I have.

8 Q. How many times?

9 A. Approximately 15 times.

10 Q. Fifteen? How many times have you been qualified
11 as an expert in the field of forensic DNA analysis?

12 A. Fifteen times.

13 MS. SHELTON: Your Honor, at this time, we would offer
14 Ryan Dwayne as an expert in the area of forensic DNA
15 analysis.

16 MR. MCKINNON: Without objection, Your Honor.

17 THE COURT: I find she's qualified to testify as an
18 expert in forensic DNA analysis.

19 BY MS. SHELTON:

20 Q. Ryan, can you briefly explain to the jury what is
21 DNA and where in the body DNA can be found?

22 A. DNA stands for deoxyribonucleic acid. This is a
23 chemical found in all of our bodies. We get half of our DNA
24 from our mother and half from our father. And aside from
25 identical twins, no two people will have the exact same DNA

1 profile. DNA can be found in body fluids in your body such
2 as saliva, semen and blood. It can also be found in your
3 hair and what we call touch DNA, which are skin cells that
4 you leave behind when you touch something.

5 Q. What are -- and briefly describe to the jury the
6 testing process that you do that is specific for DNA
7 analysis.

8 A. There are four main steps in the analysis
9 process. The first is extraction. This is when we're
10 extracting or separating the DNA from the physical evidence
11 and we're purifying it. The second step is quantification.
12 So we're quantifying or measuring how much DNA we're working
13 with. The third step is called amplification. We're
14 amplifying or multiplying the DNA into millions of copies so
15 that our instrument can detect it. And the final step is
16 detection, where we're creating a visual representation of
17 your biological DNA in the form of a DNA profile.

18 Q. And is there controls put in place that lets you
19 know that the -- that what you're testing is appropriate to
20 go forward in the testing process?

21 A. Yes. We have multiple controls throughout the
22 entire process, including in the biological identification
23 step and then also the analysis steps that I just mentioned.
24 We have positive controls. This is something where we know
25 how it's going to react or we know we have a positive DNA

1 profile, we know what it's supposed to look like.

2 And so at the end of analysis, if it looks like that we
3 know our processes worked correctly, we also have negative
4 controls, which will be blank samples with no DNA in them.
5 So at the end of the analysis process, there should still be
6 no DNA analysis or no DNA in those tubes because it would've
7 followed the same exact procedures as the evidence.

8 Q. And are -- is there a peer review process?

9 A. Yes, we have an internal lab peer review process.
10 This involves two qualified DNA analysts reviewing your work
11 and your approaches and your results. One is a more
12 technical review, the other is a more administrative review.
13 And the whole idea behind that is that three qualified
14 forensic scientists will all have looked at the case, all of
15 the results, and make sure that everything is being reported
16 correctly.

17 Q. And without going into the jury the full process
18 that -- that you were trained with (inaudible) and -- and in
19 other forensic labs as far as protecting against
20 cross-contamination and ensuring the integrity results. This
21 one covered that I'll just specifically ask you, did you
22 follow that process in this particular case?

23 A. Yes, I did.

24 Q. And you took all measures to make sure there was
25 no cross-contamination and nothing that would impact the

1 results of your testing. Is that correct?

2 A. That is correct.

3 Q. Can you briefly describe the different types of
4 results that SLED at -- I guess those labs are today seem to
5 report their finding?

6 A. There are multiple kinds of results. Most
7 typically we have either no DNA profile was developed. We
8 can have an inclusion meaning that someone is included as a
9 potential contributor and there's usually a statistic
10 associated with that. We have exclusion, meaning someone is
11 not a contributor to the profile and we also have an unin
12 informative result, which can mean that there's not enough
13 information present for us to make inco a conclusion that
14 someone is either included or excluded as a contributor.

15 Q. And at some point SLED and other labs stopped
16 using the term match. You no longer use that term. Is that
17 correct?

18 A. That is correct.

19 Q. And can you explain why you no longer use that
20 term?

21 A. That was associated with a different type of
22 statistic. We now use a statistic called a likelihood ratio
23 and basically this is a mathematical comparison of two
24 opposing scenarios. So one scenario will be that an
25 individual, let's say person A is included in that profile.

1 The opposing scenario is that it's an unidentified unrelated
2 individual. So we do a comparison of that and then the
3 result is just going to state which of those two scenarios,
4 either a person's included or it's an unidentified person, is
5 supporting the DNA profile that was developed.

6 Q. And what is the program, meaning -- what is the
7 program called that you -- that you all use now?

8 A. We use a computer program called STRmix.

9 Q. And, basically, freely describe what that -- what
10 that program does for you?

11 A. This program is a what's called a probabilistic
12 genotyping system. It will break down the DNA profile that
13 we developed and come up with all of the possible
14 combinations of DNA in any possibility. We then will compare
15 a known reference from somebody, which just means we took the
16 DNA directly off their body so we know that's their DNA
17 profile and it will compare that profile to all of those
18 different possibilities and combinations and calculate a
19 statistic.

20 Q. And did STRmix change the science of DNA analysis?

21 A. No.

22 Q. What did it change?

23 A. It's just a different type of statistic.

24 Q. So as far as the science of how you extract DNA,
25 collect DNA, analyze DNA as far as creating that profile,

1 none of that has changed?

2 A. That is correct.

3 Q. It is basically just a computer program that labs
4 decided to go with, is that correct?

5 A. Yes, that's correct.

6 Q. And in this particular case, state versus MINOR
7 [REDACTED], did you work on this case?

8 A. I did.

9 Q. Did someone else do the first two steps of the
10 case?

11 A. Yes.

12 Q. And who is that?

13 A. That was forensic scientist Rachel Wynn.

14 Q. And how do you get her information?

15 A. She physically transferred the evidence to me,
16 including the DNA samples that she created from the evidence.

17 Q. And as part of that, part of what she reported to
18 you is the -- I struggle with -- it's not quantification,
19 it's -- it is quantification?

20 A. Uh-huh.

21 Q. She -- she reported to you the quantification?

22 A. That is correct.

23 Q. How does that factor into what you do?

24 A. The process I described earlier, she just did
25 those first two steps of extraction and quantification. Then

1 I took the -- or I did the remaining of the analysis, the
2 amplification in the development of the DNA profile.

3 Q. Do you look at the quantification to determine if
4 there is a reason to go forward in the process?

5 A. Yes, I do.

6 Q. And -- and what do you look at with that?

7 A. The quantification is to quantify and measure how
8 much DNA there is. So I am making sure there's enough DNA to
9 develop a suitable profile or that there is, or that it looks
10 as I'm expecting it to based on what type of sample it is.

11 Q. And other than the extraction that Ms. Wynn
12 created, you did not receive any of the physical evidence in
13 this case, is that correct?

14 A. She did transfer the physical evidence to me, but
15 I did not open it.

16 Q. (Inaudible)?

17 A. That is correct.

18 Q. I'm going to show you what's been marked by
19 identification as State's Exhibit Number 4. Do you recognize
20 that?

21 A. Yes.

22 Q. And can you explain to the jury what that is?

23 A. This is the remainder of the DNA after the
24 analysis process. sometimes we do not consume the sample, so
25 we will return it, preserve it, and return it to the agency.

1 And that is just preserved in these tubes.

2 Q. That's preserved, packaged for you to put the
3 third and fourth step?

4 A. That is correct.

5 Q. And how do you recognize that package?

6 A. I have my name and initials on the package and on
7 the seal.

8 Q. (Inaudible) seal since you placed it in
9 (inaudible)?

10 A. Yes, it has.

11 MS. SHELTON: Your Honor, at this time the state would
12 ask State's Exhibit Number 4 into evidence.

13 MR. MCKINNON: No objection.

14 THE COURT: State's four is into evidence.

15 BY MS. SHELTON:

16 Q. After you completed the -- the -- the last two
17 sets of testing. You talked about you developed a profile.
18 Is that correct?

19 A. That is correct.

20 MS. SHELTON: I'm going to show you what's in marked,
21 for identification, as State's Exhibit Number 7.

22 (Plaintiff's Exhibit 7 was marked for identification.)

23 BY MS. SHELTON:

24 Q. Do you recognize that?

25 A. Yes, I do.

1 Q. And what is it?

2 A. This is a worksheet from my bench notes and it is
3 the DNA profile for several items in this case.

4 Q. Is that an accurate reflection of -- of the form
5 -- of the profiles that you created?

6 A. This is four of them, yes.

7 Q. Does that also include MINOR 's -- MINOR '
8 buccal swab item, 1.5?

9 A. It does not.

10 MS. SHELTON: It does not. Your Honor, at this time --
11 time, the state would ask to move State's Exhibit Number 7.

12 MR. MCKINNON: No objection, Your Honor.

13 MS. SHELTON: And ask to publish to the jury.

14 THE COURT: All right. State's 7 is in evidence. You
15 can show it to the jury

16 BY MS. SHELTON:

17 Q. Just briefly. Because it -- it gets real sciencey
18 here. The -- the column on your far left, with all the
19 letters and numbers, right? Is that your (inaudible)?

20 A. That's correct.

21 Q. Those are individual loci, right?

22 A. Yes. This is what is called a loci or a section
23 on the DNA that we're testing. It's just the name of that
24 section.

25 Q. And those are the standard locations along with

1 DNA chain that you test in every case, is that correct?

2 A. That is correct.

3 Q. And the individual columns beside going -- going
4 out from each of those loci, I think -- is it loci?

5 A. That's correct.

6 Q. Each of the loci represent a profile that you
7 developed for each piece of evidence, is that correct?

8 A. Yes, that is correct.

9 Q. And that is an accurate reflection of the items
10 that you tested and the profiles that were represented,
11 correct?

12 A. Of four of the items that I tested, yes.

13 Q. Okay. Four of them. So looking at the first
14 column that is item 1.3, which was the rectal swab, is that
15 correct?

16 A. I -- mine starts with 1.1.1.

17 Q. Looking at item 1.1 that is the that is from the
18 crotch cutting of [MINOR] ' underwear, is that correct?

19 A. That is correct.

20 Q. And you were able to develop a profile for [MINOR]
21 [REDACTED]. Correct?

22 A. The result of that item was the DNA profile
23 developed is attributable to [MINOR].

24 Q. And then item 1.1.21, that next column, does that
25 indicate a mixture?

1 A. Yes.

2 Q. And MINOR was excluded as a contributor to
3 that mixture, is that correct?

4 A. No. the DNA profile was interpreted as a mixture
5 originating from two individuals. This is the likelihood
6 ratio I described earlier where there are two separate
7 scenarios. One scenario is MINOR and an unidentified
8 unrelated individual contributed to the mixture. The
9 opposing scenario is that it's two unidentified unrelated
10 individuals that contributed to the mixture. That means not
11 MINOR The result of that comparison is an
12 uninformative statistical result was obtained. No conclusion
13 can be made regarding MINOR as a possible contributor to
14 the mixture under the listed propositions, which are those
15 scenarios. So this is stating, I cannot say if she's
16 included or excluded to this mixture.

17 Q. And is that because you only have her profile at
18 this time?

19 A. No, I did compare her profile to this mixture and
20 there was not enough information to determine if she was
21 included or excluded.

22 Q. And then item 1.2 was a broken into a non sperm
23 fraction and a sperm fraction. Is that correct?

24 A. That is correct.

25 Q. And you were able to develop profiles from both of

1 those, correct?

2 A. Yes. The -- for the non sperm fraction, the DNA
3 profile developed is attributable to MINOR for the sperm
4 fraction. The DNA profile developed is also attributable to
5 MINOR.

6 Q. And just briefly explain to the jury non sperm
7 fraction and sperm fraction and how it is that a sperm
8 fraction has MINOR ' DNA?

9 A. Sure. For any sample that could potentially
10 contain semen, and this item is vaginal swabs, we will
11 perform what's called a differential extraction. We're we're
12 differentiating or separating out any potential sperm cells
13 from all of the other DNA, the other DNA, meaning skin cells
14 or bo other body fluids such as saliva and blood. The sperm
15 fraction in theory would contain any sperm cells that may be
16 present. that does not mean that any DNA in that sperm
17 fraction is sperm.

18 It would be a good analogy to think about as if you
19 were to open an egg and you wanted to separate the yolk from
20 the whites. we're you're doing that manually, so it's
21 possible for some of the whites to get into the yolk and some
22 of the yolk to get into the whites. So that's some of the
23 non sperm getting into the sperm fraction, possibly some of
24 the sperm fraction getting into the non sperm fraction.

25 MS. SHELTON: And in -- in this case -- well, I'm going

1 to show you what's been marked for the indication as State's
2 Exhibit 8.

3 (Plaintiff's Exhibit 8 was marked for identification.)

4 BY MS. SHELTON:

5 Q. Okay. Do you recognize that?

6 A. Yes, I do.

7 Q. And what is that?

8 A. This is a continuation of a worksheet from my
9 bench notes that is for other DNA profiles that I developed.

10 Q. And does that -- and it still shows the same goes
11 by with the same number. So that's the same place that you
12 look on every time. And then that one, did you develop a
13 profile for MINOR ?

14 A. Yes, I did.

15 Q. And just from a simple -- simplistic understanding
16 of that loci and the DNA profile, the DNA profile part also
17 has number, is that correct?

18 A. Yes. So the DNA profile is just a series of
19 numbers for an -- one individual, if I were to take a DNA
20 sample from somebody, that would be their unique series of
21 numbers and we compare that to the numbers in the evidence
22 that's developed.

23 Q. And every human being in the world is going to
24 have a unique set of numbers at each of those loci. Is that
25 correct?

1 A. For current scientific understanding, that is
2 correct.

3 Q. And some people have two numbers, some people have
4 one number. Is that correct?

5 A. Yes. If you have one number, that means you got
6 the same number from both your mother and your father.

7 Q. Just just for example, if your mom and dad have
8 the number 18 at the same website, you will only have 18?

9 A. It is possible that you would only have an 18,
10 which means you technically have an 18,18, 18, and we just
11 write it as one 18.

12 Q. And then what makes you unique is that the rest of
13 the combinations that you get from your parents are going to
14 be different from your parents.

15 A. That is correct.

16 Q. And so when you compare those profiles, what
17 you're looking for is **MINOR**'s known profile to the evidence
18 and -- and determining if there's any other profiles showing
19 up. Is that correct? The term mixture?

20 A. Can you repeat that?

21 Q. Once you develop the known profile, you compare
22 that to the profiles of the evidence, is that correct?

23 A. Yes, that's correct. And determine

24 Q. If the known profile is in any of the evidence.

25 A. We will first evaluate the evidence profiles

1 before we do any comparisons, even to a known individual. So
2 we will first determine if it is a single person or if it is
3 multiple people in that sample. Once we have that
4 determined, then we will do all comparisons.

5 Q. Is there most numbers that anyone should have any
6 profile to?

7 A. There is a rare occurrence called a trial allele
8 that can show three numbers at that a location, but it's very
9 rare.

10 Q. (Inaudible) have an evidence profile that shows
11 three numbers, you know that -- you generally know that that
12 is a mixture or believe that you believe it to be a mixture?

13 A. If it is at multiple parts of the DNA, then yes,
14 we would suspect that that is a mixture.

15 Q. And -- and speaking of what you did in this case,
16 at the time that you did your analysis, you only had a
17 (inaudible) file for MINOR [REDACTED], is that correct?

18 A. That is correct.

19 MS. SHELTON: Your Honor, if I didn't say so, I'd like
20 to move State's Exhibit 8 into evidence.

21 MR. MCKINNON: No objection.

22 THE COURT: State's 8 is in evidence.

23 MS. SHELTON: Your Honor, I do not think that the
24 evidence published. Did it publish? I don't think -- it did
25 not.

1 THE COURT: We never never saw anything.

2 MS. SHELTON: Okay. Can we just -- just, just for
3 continuity, published State's Exhibit 7.

4 THE COURT: That is fine.

5 MS. SHELTON: Thank you. Yeah, go ahead please. There
6 you go. Okay. Yeah, thank you. Sorry, Your Honor.

7 BY MS. SHELTON:

8 Q. And just so brief now that the jury has. That far
9 column with the numbers in bold are each of the left side,
10 correct?

11 A. That is correct.

12 Q. And then the each column beside represents an item
13 of evidence that you analyzed?

14 A. Yes, that is correct.

15 Q. And the numbers represent profile and the ones
16 where you see more than two numbers most likely represent a
17 mixture?

18 A. Yes. So for that first and third column, those
19 would be interpreted as a mixture of DNA.

20 MS. SHELTON: And then, Your Honor, publishing State's
21 Exhibit Number 8.

22 BY MS. SHELTON:

23 Q. Looking at this -- state -- we're still looking at
24 the same loci. That first column, there is a 1.5 in there
25 representing MINOR, is that correct? That (inaudible)?

1 A. The previous one had 1.5.

2 Q. (Inaudible)? And that was MINOR. Correct?

3 A. Yes, that's correct.

4 Q. And that -- that would just show two numbers along
5 that one to two numbers on each logo?

6 A. Yes, that's correct.

7 Q. And that profile is unique to her?

8 A. Yes, that is correct.

9 Q. Thank you. Did you prepare -- prepare a report
10 showing your results?

11 A. Yes, I did.

12 MS. SHELTON: It is been marked for identification as
13 State's Exhibit Number 5.

14 (Plaintiff's Exhibit 5 was marked for identification.)

15 BY MS. SHELTON:

16 Q. Do you recognize that?

17 A. Yes. This is the report that I issued in this
18 case.

19 Q. And just briefly, since we've pretty much covered
20 it through -- through previous testimony, is that a -- that
21 is an accurate copy of your report, is that correct?

22 A. Yes, that is correct.

23 Q. And that you reported all of your results in
24 there, correct?

25 A. Yes.

1 MS. SHELTON: Your Honor, at this time we would ask to
2 move State's Exhibit Number 5 into evidence.

3 MR. MCKINNON: No objection, Your Honor

4 MS. SHELTON: And ---

5 THE COURT: State's 5 is in evidence.

6 MS. SHELTON: Thank you, Your Honor.

7 BY MS. SHELTON:

8 Q. And then just one last question, as far as the
9 role that you played, you left SLED after completing this
10 first stage of the case, is that correct?

11 A. Yes.

12 Q. And when you -- just from your experience as -- as
13 forensic DNA analysis, there are times when you get a case in
14 at the beginning where you only have a known standard of the
15 victim. Is that correct?

16 A. Yes, that is correct.

17 Q. And then at some point in the future, you get a
18 known standard from a suspect there would be additional
19 testing?

20 A. Any reference can be submitted and we can do that
21 testing. Yes.

22 Q. And you had left SLED before anything else
23 happened in this case, is that correct?

24 A. That is correct.

25 MS. SHELTON: Thank you. Answer any questions the

1 defense has.

2 MR. MCKINNON: May it please the court?

3 THE COURT: Yes.

4 CROSS-EXAMINATION

5 BY MR. MCKINNON:

6 Q. Ms. Dwayne just to clarify for everyone here I
7 think we have a general understanding of DNA, but essentially
8 every single cell in your body is going to have the exact
9 same DNA, right?

10 A. Yes.

11 Q. So just one cell will be enough to develop in
12 theory, a profile for an individual?

13 A. Yes. That would not be enough for a forensic DNA
14 profile? We would need many. But in theory, yes.

15 Q. Just a small amount, a microscopic amount.

16 A. Yes.

17 Q. And DNA you get from the cells, so if they have
18 left your body, they can move around again, let's say.

19 A. Yes, that is correct.

20 Q. So DNA can transfer from a person to an object,
21 right?

22 A. Yes, that is correct.

23 Q. An object to another object?

24 A. Yes.

25 Q. An object back to a person?

1 A. Yes, that is possible.

2 Q. Or from one person to directly to another person.

3 Right?

4 A. Yes, that is possible.

5 Q. And you can't see like how or when these, these
6 transfers occur in you analysis?

7 A. No, and not in my analysis.

8 Q. The -- the hair with the hair root in this case I
9 think that was 1. ---

10 A. 2.1.

11 Q. 1. -- 1.1.21. I'm sorry. Lot of numbers. there
12 was testimony from Ms. Wynn that the -- because the hair was
13 so small that the hair and the root would've gone into the
14 solution that she did to extract the DNA in step one.

15 A. That is correct.

16 Q. And so therefore, if someone had touched someone
17 else, it's not MINOR, had touched the keratin part of the hair
18 of the shaft, if she -- Ms. Wynn called, would that not be
19 mixed in with the root DNA in your -- in your analysis?

20 A. That is a possibility.

21 Q. So essentially if that were the case, it's almost
22 tainted, right? And you can't say that the DNA that you
23 extract or that you analyze is the source of that hair or the
24 original owner of that hair?

25 A. Typically, we -- if there were a root present on

1 the hair, we would expect that to be the majority of the
2 DNA. However, if there were to be a body fluid on the outer
3 shaft of the hair such as saliva or even sweating when you
4 were to touch the hair, it is possible that that would also
5 be developed.

6 Q. But you could also have a, a root and not be able
7 to get any DNA from it, right?

8 A. Yes. If the root is damaged, it is possible that
9 you would not get any of the DNA.

10 Q. So again, I mean, if there's other people's DNA,
11 it could be a major contributor or minor contributor based on
12 whether or not how much DNA was on the shaft and whether or
13 not the root was damaged, right? I mean.

14 A. Yes, that is correct.

15 Q. Okay. Again, you can't -- not again, but let's go
16 back to the -- the hair. Whether you have the root or the
17 shaft, you can't say what type of hair that is, right?
18 Whether it's a head hair, body hair or pubic hair.

19 A. Yes. We don't do that kind of classification at
20 SLED.

21 Q. And if we look at the the results of the vaginal
22 swab, again, the sperm fraction is what you separated out
23 that you thought could contain sperm or semen.

24 A. This was Rachel Wynn and yes.

25 Q. I'm sorry. Yeah, that makes sense. And your

1 result came back as only attributable to MINOR ?

2 A. Yes. The sperm fraction was the DNA profile
3 developed is attributable to MINOR for the vaginal
4 swabs.

5 Q. Then rationally we would conclude then that
6 because MINOR is female, that no sperm was present,
7 correct?

8 A. No sperm was developed from the DNA sample that we
9 took.

10 Q. And MINOR is the only profile in the sperm
11 fraction, right?

12 A. That is correct.

13 Q. And MINOR biologically cannot produce sperm,
14 right?

15 A. That is correct.

16 Q. So therefore there cannot be sperm present.

17 A. There could be a very small amount technically if
18 she were overpowering it. So I can't answer that question,
19 but the profile that was developed was attributable to MINOR
20 .

21 Q. And again, if -- if you wanted to make sure you
22 could have put that sample under on a slide and look into a
23 microscope, right?

24 A. That is possible. Yes.

25 Q. Her cells have a tail, they're very easy to

1 recognize compared to other cells, correct?

2 A. Yes.

3 Q. And that was not done in this case.

4 A. That was not performed for this case,

5 Q. No serology was done on any of the swabs, is that
6 correct?

7 A. That is correct.

8 Q. Now, for the the rectal swab you don't know where
9 the swab came from, right? I mean it -- just for you just
10 says rectal swab, right?

11 A. That is correct.

12 Q. And you know generally, but you don't know how it
13 was swabbed or if it the inside or outside or both?

14 A. Generally, rectal swabs are internal, but you
15 would have to ask the sexual assault nurse examiner.

16 Q. Okay. Now, if we look at the suspected saliva
17 swab and you don't know where that is coming from, correct?

18 A. That is correct.

19 Q. And what we have here is from your results, you
20 have MINOR and an unknown other individual.

21 A. A DNA profile suitable for comparison was
22 developed. DNA attributable to MINOR is present in this
23 profile. And DNA foreign to MINOR is also present in
24 this profile.

25 Q. That's foreign. That's someone that's not MINOR

1 ██████, right?

2 A. That is correct.

3 MR. MCKINNON: Your Honor. I have no further questions
4 for this witness.

5 THE COURT: Redirect?

6 MS. SHELTON: Just briefly, Your Honor.

7 REDIRECT EXAMINATION

8 BY MS. SHELTON:

9 Q. Ms. Dwayne, Mr. McKinnon went through
10 touch DNA and transfer DNA, are there things that would act
11 as a barrier to DNA being transferred?

12 A. Yes, definitely.

13 Q. Condom?

14 A. Yes.

15 Q. Gloves?

16 A. Yes.

17 Q. Clothing?

18 A. Yes.

19 Q. So DNA just can't walk through a barrier at -- all
20 the time?

21 A. That is correct. Yeah.

22 MS. SHELTON: Thank you.

23 THE COURT: Recross?

24 MR. MCKINNON: One question, sir.

25 RECROSS EXAMINATION

1 BY MR. MCKINNON:

2 Q. Absent one of these barriers, there's no reason
3 that you know, anyone touches another living thing. You
4 can't transfer or -- or not living thing, correct?

5 A. Yes. Generally, if you are to come in contact
6 with something, that theory is that you could leave DNA
7 behind.

8 Q. So if like someone put on a glove and touched on
9 the living thing, that other living thing, DNA would be on
10 the outside of the glove and person wearing the gloves. DNA
11 would be on inside, but the couldn't contaminate, right?

12 A. I can't say that it couldn't contaminate, but yes,
13 in theory that would be exactly what I would expect.

14 MR. MCKINNON: (Inaudible).

15 THE COURT: All right. Thank you. Ms. Dwayne, you may
16 step down.

17 MS. SHELTON: Your Honor, may I ask that Ms. Dwayne be
18 excused so she can fly back to Portland?

19 MR. MCKINNON: No objection, Your Honor.

20 THE COURT: Okay. Ms. Dwayne is excused. Lawyer's
21 approach. Ladies and gentlemen, the jury, this is
22 appropriate time to take a morning break. We're going to
23 break for 15 minutes. Do not discuss the case among
24 yourselves. Don't ask each other questions about the case
25 regarding evidence (inaudible) discussing about anything

1 else. (Inaudible) a 15-minute break. Everyone remain seated
2 while this jury is excused. 15-minute break.

3 MS. SHELTON: Thank you, Your Honor.

4 (Off the record.)

5 THE COURT: Y'all ready to proceed? State ready?

6 MS. SHELTON: State's ready, Your Honor.

7 THE COURT: Defense's ready?

8 MR. MCKINNON: Yes, Your Honor.

9 THE COURT: Bring the jury in? All right. Thank you.
10 State call your next witness.

11 MS. SHELTON: Your Honor, the state at this time would
12 call Donna Money with State Law Enforcement Division.

13 DONNA MONEY,
14 being duly sworn, testified as follows;

15 THE COURT: Solicitor, whenever you're ready.

16 MS. SHELTON: Yes, sir, Your Honor.

17 DIRECT EXAMINATION

18 BY MS. SHELTON:

19 Q. Good morning.

20 A. Good morning.

21 Q. Could you state your name for the record, please?

22 A. Donna Money, M-O-N-E-Y.

23 Q. And Ms. Money, where are you employed?

24 A. I am currently employed at the South Carolina Law
25 Enforcement Division Forensic Services Laboratory, also known

1 as SLED.

2 Q. And how long have you been there?

3 A. Over 11 years.

4 Q. And without going into like the long list of
5 education and training and experience, because jury's heard
6 it twice already, have you received the required training and
7 education and experience to work at SLED as a DNA analyst?

8 A. Yes.

9 Q. And you've been qualified to testify?

10 A. Yes.

11 Q. And how many times?

12 A. Over 50.

13 Q. And have you been qualified as an expert in DNA --
14 forensic DNA analysis?

15 A. Yes.

16 Q. And how many?

17 A. Over 50?

18 MS. SHELTON: Your Honor, at this time we wouldn't
19 offer Ms. Money as an expert in forensic DNA analysis.

20 MR. MCKINNON: Without Objection, Your Honor.

21 THE COURT: I find she's qualified to testify as an
22 expert in forensic DNA analysis.

23 BY MS. SHELTON:

24 Q. And Ms. Money, you were involved in working on the
25 case, the State versus Xavier Holbrooks case. Is that

1 correct?

2 A. Yes.

3 Q. And you were involved -- when did you get involved
4 in the process?

5 A. I was involved in the case when a known standard
6 was submitted from Xavier Holbrooks.

7 Q. So that was after Ms. Dwayne and Ms. Wynn had done
8 their process of analysis, is that correct?

9 A. Yes.

10 Q. And did you reanalyze any of the information that
11 they had already previously analyzed?

12 A. I did not.

13 Q. And in doing your portion of -- of this case, did
14 you observe all of the standards that SLED has in place to
15 protect the quality of the work?

16 A. Yes.

17 Q. And to protect from cross -- cross-contamination
18 and tampering with the evidence?

19 A. Yes.

20 Q. And was your work also peer reviewed?

21 A. Yes.

22 Q. And just very, very briefly, because they heard it
23 twice. What did you do with the known standard from Xavier
24 Holbrooks?

25 A. I was responsible for analyzing the known standard

1 from Xavier Holbrooks. I used our optimized analysis method
2 in order to develop a DNA profile.

3 Q. And as part of that process did you make any
4 conclusions about his DNA profile?

5 A. A DNA profile was developed from this item and it
6 was suitable for comparison purposes.

7 Q. And as far as -- did you do anything written to
8 record that? Did you record the DNA profile in any way?

9 A. The -- a copy of the DNA profile was included in
10 the case file.

11 MS. SHELTON: I'll show you what's been marked, for
12 identification, as State's Exhibit Number 9.

13 (Plaintiff's Exhibit 9 was marked for identification.)

14 BY MS. SHELTON:

15 Q. Do you recognize that?

16 A. Yes. This is a copy of the allele table, which is
17 -- an allele is another word for a DNA type or the profile of
18 Xavier Holbrooks.

19 Q. And the -- the column that's on the far left, the
20 book -- in the book. What -- what are those? What is that?
21 What are those called?

22 A. Those are the different locations that are
23 analyzed on.

24 Q. (Inaudible)?

25 A. Yes.

1 Q. And then the column beside that, are those the
2 unique individual numbers relating to Xavier Holbrooks known
3 standard ---

4 THE COURT: Hold on just a second. You need some
5 water?

6 MR. MCKINNON: Yes, sir.

7 THE COURT: The bailiff -- the bailiff, put some water.
8 Wait until he -- you need any Kleenex?

9 MR. MCKINNON: No, sir.

10 THE COURT: Get him some Kleenex. Hand him a couple of
11 tissues. I suffer from the same thing. Started this
12 morning. Allergies, sinus or both? Does anybody else need
13 any water? You okay? All right. Thank you. All right.
14 Solicitor?

15 BY MS. SHELTON:

16 Q. Going back to the question, Ms. Money, that the
17 column that is beside the column with the -- with the
18 location, is that a reflection of Xavier Holbrooke's DNA for
19 the file that you developed?

20 A. Yes.

21 Q. And those numbers are unique to him, is that
22 correct?

23 A. Yes.

24 MS. SHELTON: Your Honor, at this time I would ask to
25 State's Exhibit Number 9 into evidence.

1 MR. MCKINNON: No objection, Your Honor.

2 THE COURT: State's nine is in evidence.

3 BY MS. SHELTON:

4 Q. I'll show you what's been marked, for
5 identification, as State's Exhibit Number 3. Do you
6 recognize that?

7 A. I do.

8 Q. And what is it?

9 A. This is the known standard that was submitted for
10 Xavier Holbrooks. I can identify it by the SLED barcode
11 sticker that is at the top with the lab number, item number,
12 the agency that submitted it, and their agency case number,
13 my initials and handwritten notation of the lab number and
14 item number present on the outer envelope along with my
15 initials and the date that I opened and sealed it.

16 Q. And when you received that, had it been tampered
17 with in any way?

18 A. No.

19 Q. And what would done had it been tampered with?

20 A. If there was an indication that it had been opened
21 or tampered with prior to getting into my custody, I would've
22 not proceeded with analysis. Recorded what I observed and
23 contacted the law enforcement agency.

24 Q. And based on the items that were located in that
25 envelope, you were -- that was what you were able to use to

1 develop your (inaudible). Is that correct?

2 A. Yes.

3 Q. And once you were done, you resealed everything in
4 that -- in that outer bag?

5 A. Yes.

6 Q. And is then the same conditions when you reviewed
7 it?

8 A. Yes.

9 MS. SHELTON: Your Honor, at this time we would ask to
10 move State's Exhibit Number 3 into evidence.

11 MR. MCKINNON: No objection.

12 THE COURT: State's 3 is in evidence.

13 BY MS. SHELTON:

14 Q. And Ms. Money, were you able to -- through
15 developing that profile of Xavier Holbrooks, were you able to
16 compare that with the work that Ms. Dwayne had done prior to
17 you?

18 A. Yes.

19 Q. And specifically referring to item 1.121, which is
20 on, I believe, page two of your report.

21 A. Which item number are you referring to?

22 Q. 1.121.

23 A. Yes.

24 Q. That was initially analyzed by Ryan Dwayne, right?

25 A. That's correct.

1 Q. And can you explain from your report why there's a
2 proposition set one and a proposition set two?

3 A. Yes. Since work had been previously done by Ryan
4 Dwayne having a known profile from [REDACTED] MINOR [REDACTED], the comparison
5 of [REDACTED] MINOR [REDACTED] to that profile was proposition was a
6 proposition set in her report. Since a second standard was
7 submitted in this case, that initial proposition set still
8 remained as being reported. But since there was now a second
9 individual -- a second proposition set has to be included in
10 the report. And in order to differentiate between the two,
11 the first one was then numbered as number one, and then the
12 second one is numbered as number two.

13 Q. And just to briefly explain propositions that you
14 -- the STRmix you -- that -- you created a proposition set
15 because you do not assume what the evidence is going to show.
16 Is that correct?

17 A. A proposition set is set up because what is being
18 calculated is a likelihood ratio, which is a comparison of
19 two possible explanations for an event. So to set up your
20 possible explanations, you set up a proposition set where you
21 have one proposition versus a second proposition.

22 Q. And for the evidence that you had that you were
23 analyzing your proposition that you had two HP and HD can you
24 explain what that is and explain what those two propositions
25 were?

1 A. So generally speaking, HP is the first
2 proposition. It's -- or first hypothesis when it comes to
3 DNA analysis, that will be the one where you have the
4 individual of interest included as a contributor to the
5 profile. Whether it is a mixture or a single source. The HD
6 is then the alternative proposition or hypothesis where that
7 individual is not considered a contributor to that mixture or
8 single source profile.

9 Q. And that HD and HP, the proposition set, is that
10 unique to STRmix?

11 A. That is --

12 Q. I'll rephrase it. Doing the -- the science of
13 DNA, the extraction and the developing the profile doesn't
14 require that you make those proposition set. Is that
15 correct?

16 A. If what's being calculated is a likelihood ratio,
17 it -- forming a proposition set in general is required

18 Q. For the report?

19 A. It depends on the lab, how they want to report
20 things. SLED, the decision was to include all of the
21 information.

22 Q. If that decision hadn't been made, you can analyze
23 DNA without hypothesis? Scientifically, you can do an
24 extraction, you can do an amplification, you can do all all
25 of those things without having hypothesizes --hypothesis.

1 A. The laboratory portion, yes.

2 Q. But you do those to ensure the integrity of, of
3 the results. Is that correct?

4 A. In order to report out, excuse me, comparisons to
5 standards, we are required to provide a statistical weight to
6 the result for that individual. And for us, the statistics
7 that we use are likelihood ratios.

8 Q. So that's all created to create the statistics?
9 That -- they have -- they have -- these propositions set are
10 all created for the statistical purposes.

11 A. Yes.

12 Q. And then for this 1.2. -- 1.1.2.1, the hair,
13 referencing the hair, were you able to come to -- for a
14 conclusion about the hair? Did you get a result from your
15 comparison?

16 A. Are we referring to comparing with Xavier
17 Holbrooks?

18 Q. Yes.

19 A. Yes, I do have a result for that comparison.

20 Q. And what was that result?

21 A. The DNA profile is approximately 200 sextillion
22 times more likely if Xavier Holbrooks and an unidentified
23 unrelated individual contributed to the mixture than if two
24 unidentified unrelated individuals contributed to the
25 mixture.

1 Q. Were you able to determine a major contributor?

2 A. That's not something --

3 Q. (Inaudible) did?

4 A. That's correct.

5 Q. But it is the one in 200 sextillion times more
6 likely that Xavier Holbrooks (inaudible) an unidentified
7 unrelated individual were present in the DNA of that here.
8 What is the -- how do you quantify that in -- into language?
9 In words?

10 A. So the DNA profile is approximately 200 sextillion
11 times more likely Xavier Holbrooks and an unidentified
12 unrelated individual contributed than if it were two
13 unidentified unrelated individuals. And that is considered
14 very strong support.

15 Q. And as far as SLED standards, what is -- is that
16 -- what is the highest verbal equivalent that you use?

17 A. Very strong support, which is for a likelihood
18 ratio greater than one million.

19 Q. And is that based at all on population statistics?

20 A. Are you referring to the verbal scale or the
21 value?

22 Q. The verbal scale.

23 A. The verbal scale is just in place to provide a
24 verbal equivalent to the numerical values that are in the
25 report.

1 Q. Anything greater than -- you said one million?

2 A. Yes.

3 Q. Anything greater than one million is very strong
4 support?

5 A. Yes.

6 Q. In this case it was 200 sextillion?

7 A. Yes.

8 Q. Looking at item number 1.3, and we've already
9 discussed sperm fraction and non sperm fraction, so I won't
10 ask you to -- to share that through that, but -- but from the
11 non sperm fraction, was there a proposition set?

12 A. Yes.

13 Q. And what was that?

14 A. The DNA profile was interpreted as a mixture
15 originating from two individuals. MINOR is contributing
16 to the mixture. And the two possible explanations listed are
17 MINOR and Xavier Holbrooks contributed to the mixture or
18 MINOR and an unidentified unrelated individual
19 contributed to the mixture.

20 Q. That is 1.1 quintillion times more likely that it
21 was MINOR and Xavier Holbrooks contributed to a mixture
22 rather than this -- than the unrelated, is that correct?

23 A. The DNA profile is approximately 1.1 quintillion
24 times more likely if MINOR and Xavier Holbrooks
25 contributed to the mixture than if it were MINOR and an

1 unidentified unrelated individual.

2 Q. And again, that would fall under that very strong
3 support?

4 A. Yes.

5 Q. And then going to item 1.4, the suspected saliva
6 swab. From the information that you have inform, you don't
7 know what part of the body those swab came from, is that
8 correct?

9 A. That's correct. The document that was provided
10 from the hospital did not list a collection location.

11 Q. And there was no serology done on the swab,
12 correct?

13 A. That's correct.

14 Q. So when -- when -- from your perspective of
15 looking at them, you're looking at her purely DNA?

16 A. Yes.

17 Q. And those swabs from -- was there a result from
18 looking at those swabs, comparing it to Xavier Holbrooks DNA
19 profile?

20 A. Yes.

21 Q. Could you report on that please?

22 A. Xavier Holbrooks is excluded as a contributor to
23 the mixture under the listed propositions.

24 Q. And there was a mixture?

25 A. Yes.

1 Q. Correct? And MINOR is -- it was -- was
2 included as contributing to the mixture?

3 A. Yes. This mixture was interpreted as originating
4 from two individuals. And MINOR is considered one of
5 the contributors to the mixture since it was collected
6 directly from her body.

7 Q. When you have a profile that you -- that you don't
8 have any information on, there's nothing more you can do as
9 far as being able to prepare, is that correct? You have a
10 profile that without a known standard, there is no way,
11 there's no way that you in that moment can do anything to
12 determine who contributed to that mixture in the lab right
13 then?

14 A. It depends on the type of sample.

15 Q. Was there any, without going into what that
16 process is, without saying describing the --what the process
17 is, was this sample enough to take to a further process?

18 A. I'm not sure what you're asking.

19 Q. I -- I am asking is there anything else without a
20 known standard with this particular profile, is there
21 anything else that you could have done with it based on your
22 report?

23 A. There wouldn't be anything additional since a
24 profile suitable for comparison was developed and unless
25 that's a --

1 Q. There nothing else that you could have done?

2 A. Uh-huh.

3 Q. And -- did -- and you were pre-prepared a report
4 to reflect all of this information, is that correct?

5 A. Yes.

6 MS. SHELTON: Your Honor, I'm showing the witness
7 what's been marked, for identification, as State's Exhibit
8 Number 6.

9 (Plaintiff's Exhibit 6 was marked for identification.)

10 BY MS. SHELTON:

11 Q. Do you recognize that?

12 A. Yes. This is a copy of my supplemental report.

13 Q. Is it an accurate copy of your supplemental
14 report?

15 A. Yes.

16 MS. SHELTON: Your Honor, at this time we would ask to
17 move State's Exhibit Number 6 into evidence.

18 MR. MCKINNON: No objection, Your Honor.

19 THE COURT: State's 6 is in evidence.

20 MS. SHELTON: Your Honor, the state have no further
21 questions for Ms. Money. Please answer any questions that
22 Mr. McKinnon has for you.

23 MR. MCKINNON: May it please the court?

24 CROSS-EXAMINATION

25 BY MR. MCKINNON:

1 Q. This morning, again, the profile for [REDACTED] MINOR
2 was done by Ryan Dwayne. Right. So you did not do anything
3 with that, is that correct?

4 A. That's correct.

5 Q. So on on your report there for item 1.1, 1.11, did
6 you do any work on those at all? It says 1.1 is just -- is a
7 serology, correct?

8 A. Yes. That was previously done by Rachel Wynn.

9 Q. That was done by Rachel Wynn. Right. So then the
10 -- the analyzation of 1.1.1, the cutting from the underwear
11 was only done by Ms. Dwayne because [REDACTED] MINOR was the only profile
12 that showed up. That'll be correct?

13 A. The analysis of that item was done by Ryan
14 Dwayne. Yes.

15 Q. You wouldn't redo that analysis, right? Because
16 you already know that Xavier Holbrooks is not part of that
17 for while?

18 A. That's correct.

19 Q. Now, on the 1.1.21, the hair from the underwear
20 you don't know where that hair came from on the underwear,
21 right? You just know from underwear per Rachel Wynn?

22 A. That's correct. A specific collection location is
23 not indicated.

24 Q. And again on this here, Rachel Wynn testified that
25 because it was small, she put the whole thing in the solution

1 to extract meaning the shaft and the -- the root, right?

2 A. Yes.

3 Q. And so again, if someone else had touched that
4 hair, for instance Xavier Holbrooks the shaft of that hair
5 and the hair follicle was MINOR ' hair follicle. When
6 the extraction is analyzed by you, essentially that result
7 could end up with what you saw with MINOR contributing
8 and Xavier Holbrooks contributing. Correct?

9 A. Since the entire item was submitted, if there were
10 cells from another individual on that exterior of the hair,
11 they would've also been consumed in the analysis process.

12 Q. And then showing Xavier profile, if it was Xavier
13 profile -- Xavier, I'm sorry, it touched the shaft, then it
14 would show Xavier profile -- Xavier's profile as a
15 contributor to this mixture as your result show, right?

16 A. Eventually. Yes.

17 Q. Then you can't say or no one can say that the hair
18 root therefore the owner of the hair, the origin of the hair
19 is Xavier Holbrooks versus MINOR .

20 A. That -- that cannot be determined.

21 Q. And you did not find Xavier Holbrooks profile in,
22 1.2, vaginal swab?

23 A. Ryan Dwayne had previously reported that the
24 profile developed from that item was attributable to MINOR
25 . So there was no additional need to compare Xavier

1 Holbrooks

2 Q. And looking at your portion of the testing, once
3 it was determined that no further DNA analysis was needed
4 from the vaginal swab, you could have then done serology or
5 asked Rachel to do serology. Correct? To determine presence
6 of bodily fluids.

7 A. The option is available, but as an analyst, that's
8 not a request I would make on work that was already
9 previously reported.

10 Q. Once the analysis is done, DNA wise, any leftover
11 material could potentially be submitted for serology.

12 A. If there were -- if there was sample remaining for
13 an item and a request was made, yes, serology could be
14 performed.

15 Q. And same thing for the rectal swab. once you
16 finished your analyzation of the rectal swab that remaining
17 sample could have been re-submitted for serology to test for
18 the presence of bodily fluids.

19 A. If a portion of that item is still remaining, yes,
20 a request can be made for serology

21 Q. And that was not done as well?

22 A. It was not.

23 Q. And for both swabs of those swabs, you could have
24 put sample under a microscope on a slide to check for sperm
25 cells, correct?

1 A. Yes. That's one of the things available through
2 serology.

3 Q. And that was not done.

4 A. That's correct.

5 Q. And for the rectal swab, all, you know, it says
6 rectal swab, right? You don't know how it was taken or from
7 what part of the rectum or anus it was taken. Your job is
8 just to analyze the DNA that's on -- or it was extracted from
9 the swab, I should say, right?

10 A. That's correct. There was no more specific
11 information provided for that item.

12 Q. And item 1.4, essentially, you had the two
13 proposition sets as you're talking to Ms. Shelton about HP,
14 which would be a mixture of MINOR and Xavier Holbrooks.
15 Correct?

16 A. It's one proposition set that contains two
17 propositions.

18 Q. A -- a possible outcome of your analysis would be
19 what that is?

20 A. It's two possible explanations for the DNA profile
21 that was developed

22 Q. And -- okay. Through the analysis, the profile
23 for Xavier Holbrooks was excluded from this sample?

24 A. That's correct.

25 Q. So that means HD is the results of -- of the

1 analysis?

2 A. The HD statement is the one that supports is --
3 has more support for explaining the DNA profile.

4 Q. Okay. And then the rest of the items, the large
5 items, you didn't do anything with those, right?

6 A. Being?

7 Q. Shirt, the toilet paper, the pants.

8 A. The shirt, shorts, and toilet paper were
9 previously examined by Rachel Wynn.

10 Q. Right. So you -- you did nothing on this?

11 A. Uh-huh.

12 Q. So to sum up your report, there was no, serology
13 wise, there was no suspected semen or semen or any bodily
14 fluid really anywhere. Correct?

15 A. Serology was not performed on the swabs that were
16 contained in the kit. Serology had been performed on larger
17 items such as the underwear, the shirt, the shorts, and the
18 toilet paper.

19 Q. You didn't do those, but you have the report, I
20 mean, you have access to it?

21 A. Yes.

22 Q. And there were no positive results?

23 A. That's correct.

24 MR. MCKINNON: Your Honor, I have no further questions.

25 THE COURT: Any redirect?

1 MS. SHELTON: Just very briefly.

2 REDIRECT EXAMINATION

3 BY MS. SHELTON:

4 Q. Ms. Money, going back to, I'm just going to say
5 that analysis Exhibit 1.1 to 1. -- I believe Mr. McKinnon,
6 when questioning you said that that was attributed to a
7 mixture of Xavier Holbrooks and MINOR, but that was not
8 his conclusion from your analysis. Is that correct?

9 A. That's correct.

10 Q. It was Xavier -- Xavier Holbrooks and an -- an --
11 an unknown unrelated that you could not -- you had no more
12 information?

13 A. When comparing MINOR to this profile, Ryan
14 Dwayne had previously reported out that an uninformed
15 statistical result was obtained, meaning the likelihood ratio
16 was one, it was not in favor of an inclusion or an exclusion.
17 And this is all based on the profile itself that was
18 developed when comparing Xavier Holbrooks to this profile,
19 the DNA profile is approximately 200 sextillion times more
20 likely if Xavier Holbrooks and an unidentified unrelated
21 individual contributed.

22 Q. Right. Correct. Like MINOR is not included
23 in your proposition?

24 A. Correct.

25 Q. And then Mr. McKinnon has asked a bit about

1 serology and sperm and that there's no sperm and you could
2 have looked at a microscope and seen the sperm because it has
3 a tail. Where does sperm come from?

4 A. So sperm cells are the cellular portion of semen.

5 Q. And so if there is no ejaculation, there is no
6 sperm?

7 A. Generally speaking, yes.

8 MS. SHELTON: Thank you.

9 THE COURT: Brief, any recross?

10 RECROSS EXAMINATION

11 BY MR. MCKINNON:

12 Q. So, I'm sorry, I misspoke on the the hair portion,
13 but the point still stands that there's no way to tell if
14 this unidentified person or Xavier holbrooks, both one either
15 had or owned the -- the -- the hair or one of them touched
16 it. There's no way to know which one would be which,
17 correct?

18 A. That's correct.

19 MR. MCKINNON: That's all, Your Honor.

20 THE COURT: Thank you, Ms. Money. You can step down.
21 Lawyer's approach.

22 MS. SHELTON: Your Honor, may Ms. Money be excused?

23 MR. MCKINNON: No objection, Your Honor.

24 THE COURT: Thank you. Ms. Money, you're excused.

25 Ladies and gentlemen, jury -- just discussion with the jury

1 THE COURT: Not yet? All right. Thank you. Ladies
2 and gentlemen, we're ready to proceed in trial. Thank you
3 for prompt us. Call your next witness.

4 MS. SHELTON: Your Honor, at this time the state will
5 call Detective Brooks Felman.

6 DETECTIVE BROOKS FELMAN,
7 being duly sworn, testified as follows;

8 DIRECT EXAMINATION

9 BY MS. SHELTON:

10 Q. State your full name please.

11 A. Detective Brooks Felman.

12 Q. Detective Felman, where do you currently work?

13 A. The Rock Hill Police Department.

14 Q. How long have you been with Rock Hill Police
15 Department?

16 A. I've been with the police department 16 and a half
17 years.

18 Q. So you've been employee with law enforcement prior
19 to that?

20 A. No, ma'am.

21 Q. So you're -- your entire law enforcement career at
22 Rock Hill Police Department?

23 A. That's correct.

24 Q. What division are you currently assigned to?

25 A. I'm in the Criminal Investigations Division,

1 Crimes Against Persons.

2 Q. And what types of crimes are Crimes Against
3 Persons?

4 A. Primarily through my career in investigations.
5 I've worked sex crimes child abuse, special victims, as you
6 guys probably would know it.

7 Q. Homicides?

8 A. Yes.

9 Q. Armed robberies?

10 A. Yes. Essentially anything. I don't -- I haven't
11 worked property crimes. Yes, ma'am.

12 Q. (Inaudible) ---

13 A. No, I don't.

14 Q. -- (inaudible) all victims?

15 A. Yes, ma'am.

16 Q. How long have you been a detective?

17 A. Ten years.

18 Q. How many of those years did you specialize in sex
19 crimes investigations?

20 A. I went primarily for sex into sex crimes. I was
21 about two years in, so eight years now. Or is it -- two
22 years since start to current.

23 Q. And you still primarily investigate sex crimes?

24 A. Primarily, my duties are surrounded with digital
25 forensics. I still handle special victims and missing

1 persons now.

2 Q. So were you working with the sex crimes --
3 investigating sex crimes back in June of 2021?

4 A. Yes, ma'am.

5 Q. And did you specifically become involved in an
6 investigation of Xavier Holbrooks on that date?

7 A. Yes, ma'am. I was working -- it was actually my
8 week to cover second shift detective and on-call status. And
9 so I believe that call came out while I was on duty that
10 night.

11 Q. And what was your involvement in that
12 investigation?

13 A. I was asked to respond, and my understanding was
14 that it was a report of a sexual assault on a -- on a minor.

15 Q. And did you respond?

16 A. Yes, ma'am.

17 Q. Where -- where to?

18 A. It was on Frank Street. It was 500 block. I
19 don't remember the -- the exact number.

20 Q. And was that in your county?

21 A. Yes, ma'am.

22 Q. And did you speak with anyone while you were
23 there? Without saying what anyone said to you, did you speak
24 with anyone while you were there?

25 A. Yes, ma'am.

1 Q. And based on that investigation, did you advise
2 the family to do anything?

3 A. I advised them to take MINOR for a sexual assault
4 examination at the -- at Piedmont Medical Center's ER.

5 Q. And based on your investigation, what, if any,
6 charges did you make that night?

7 A. That night I did not make any charges.

8 Q. Why not?

9 A. I felt that the victim given her -- she had a
10 severe intellectual disability and I -- I was concerned about
11 her competency and ability to testify and using that as my
12 only evidence at that point.

13 Q. So what did you do in -- in order to further
14 investigation about the case?

15 A. So in this case, since I knew that sexual assault
16 examination was going to be done, I wanted to see what the
17 test results of that would look like.

18 Q. And at some point in the future, did you get those
19 results?

20 A. Yes, ma'am.

21 Q. And then what, if anything, based on those results
22 did you do?

23 A. Based on the results that I got where DNA profile
24 was developed I decided that, or I determined that I had
25 sufficient probable cause to make a charge.

1 Q. And at some -- so you made the charge?

2 A. Yes, ma'am.

3 Q. And who did -- and what -- what charge did you
4 make?

5 A. It was criminal sexual conduct in the second
6 degree given the victim's age -- sorry. Criminal sexual
7 conduct with a minor, second degree.

8 Q. And how old was the victim at the time?

9 A. She was 13 at the time.

10 Q. And who did you charge with that?

11 A. Xavier Holbrooks.

12 Q. And then at some point after that, did you do any
13 further follow up with that case? Was there anything else
14 that happened?

15 A. Because we got a DNA result a known standard was
16 required to be submitted. So I worked to try to get ahold of
17 Mr. Holbrooks to submit that standard.

18 Q. And did you -- were able to do that?

19 A. Eventually. Yes.

20 Q. And that standard was submitted?

21 A. Yes, ma'am.

22 Q. And does -- based on your experience as a sex
23 crimes investigator, how many cases -- approximately, how
24 many cases have you investigated involving children?

25 A. Unfortunately, it -- more than I could be able to

1 count accurately.

2 Q. So you've had a lot of interaction with children
3 involved in sex crimes?

4 A. Yes, ma'am.

5 Q. And based on that experience, how would you
6 describe **MINOR**, the victim in this case, both -- both her
7 physical appearance and her mental ability based on what her
8 intellectual ability?

9 A. I guess I would say when she was first introduced
10 to me, I assumed she was younger than she was. She's very
11 small. I would've pegged her at maybe eight or nine years
12 old when they told me she was 13 -- matter of fact, when I
13 saw her recently, she, to me now she looks like she's 13,
14 she's 16. But she -- she had a hesitancy to respond to any
15 direct questioning and I felt like any questioning that she
16 would respond to was kind of leading. I'd have to make a
17 suggestion or, you know, ask her a yes or no, and she would
18 make a bit of a yes or no question. And I noticed that she
19 was parroting a lot of what was being said around her. The
20 people that were out there were very agitated, which
21 understandable. So everything was kind of heightened at the
22 time and -- and she wasn't dealing with it very well.

23 Q. And based on her level of response, what age
24 equivalent would you give her (inaudible)?

25 A. I mean, kids -- kids always vary. I would put her

1 on par with maybe the average the average 5-year-old, maybe
2 slightly below average for a 5-year-old.

3 Q. And as part of your investigation, did you call
4 any other units out or any other --

5 A. Yes, I -- I contacted the forensic services unit,
6 our forensic services unit to process the scene.

7 Q. And did they do anything?

8 A. They processed the scene.

9 Q. What does that mean?

10 A. Generally, they take photographs, they collect
11 items in sexual assault cases, they basically try to
12 determine items that may be of value. For example, a condom
13 in the trash can bedsheets if it happened on a bed discarded
14 clothing that were -- was being worn at the time, the general
15 sort of thing.

16 Q. Did they use any special equipment there?

17 A. I believe they used ALS, alternate light source,
18 which is like the -- you guys you've probably seen on camera
19 or on tv, the -- the black lights with the lenses on them.

20 Q. And as case agent, are you aware the results from
21 that?

22 A. No, I don't believe there were any results from
23 that.

24 Q. And then going, gain, based on your years as a --
25 as an investigator, sex crime, is it common to find evidence

1 of DNA or bodily fluids at a crime scene? Does it always --
2 I guess I should say, does it all the time?

3 A. No, and I wouldn't say that it's common. Matter
4 of fact, it's uncommon to get DNA results back from sexual
5 assault kids and -- a lot of times.

6 Q. What about the scene itself?

7 A. The -- the scene is -- is I would say is very
8 rare. That really happens. It's not like what you would see
9 on TV with the -- the glow in the dark. Oh, what's this
10 stuff called? The -- the spray that they spray and they
11 light up the room and everything is glowing. It -- it
12 doesn't -- it's not like that.

13 MS. SHELTON: Thank you.

14 THE COURT: All right. Cross-examination?

15 CROSS-EXAMINATION

16 BY MR. MCKINNON:

17 Q. Detective Felman, you notified as a case agent and
18 a detective on this case?

19 A. Yes, sir.

20 Q. So you be familiar with all the evidence that was
21 collected, whether (inaudible), all that kind of stuff?

22 A. For the most part, yes.

23 Q. And your decision to make, you know, whether she
24 could warrant, whether call (inaudible), that kind of stuff?

25 A. Yes, that's correct.

1 Q. (Inaudible).

2 A. Yes.

3 Q. You got a -- you looked at the house from the
4 inside the house, went inside the bedroom yourself?

5 A. Yes, I did

6 Q. Characterize the house as a -- a large house?

7 A. No, it's -- it's a fairly small house. I'd say
8 there's a, an open living room area. I remember the, the
9 bedroom was off to the left and the bathroom, there might be
10 a second bedroom. I don't remember it that much
11 specifically, but it's small.

12 Q. Small, pretty, pretty -- very small house.

13 A. Yep.

14 Q. And the bedroom also you -- that's a very small
15 bedroom?

16 A. I would say it was a average sized bedroom. But
17 may -- I mean on the small side, depending on your -- your
18 preference, 10 by 10.

19 Q. Do you recall the window in the bedroom?

20 A. Yeah, I believe it faced the front of the house.

21 Q. Do you remember like the condition of the blinds
22 on that -- that window?

23 A. Not specifically. I believe they were drawn.

24 Q. I showed you a photograph that your (inaudible)
25 investigators look of the bedroom, will that refresh your

1 memory?

2 A. Sure.

3 MR. MCKINNON: May I approach, Your Honor?

4 THE COURT: Yes, you may.

5 BY MR. MCKINNON:

6 Q. That essentially the scene of the bedroom in
7 question?

8 A. Yes.

9 Q. And the window there appear that some slats are
10 missing, some openings are available?

11 A. Yeah. There's a fair amount of damage to the
12 blind on.

13 Q. They say if someone was outside that bedroom
14 window in the front house, they could see what was going on
15 in the bedroom. If they were to appear through these holes.

16 A. I wouldn't think it's fair to say that you could
17 just see, you would have to walk up to the window and -- and
18 look spaces.

19 Q. (Inaudible) locked window and look through the
20 hole here?

21 A. Sure.

22 Q. If somebody's body fluid, are you -- I'm sorry,
23 you testified upon direct, it is rare to find any sort of
24 evidence in these forensic scouring of a crime scene, right?

25 A. Yes.

1 Q. But if some sort of violent fluid had gotten on
2 the carpet or the bed red or anywhere that light would've
3 shown that, right?

4 A. As far as I understand it, I -- I'm not trained in
5 its use, but as far as I know, sense of it, yes.

6 Q. (Inaudible).

7 A. Yes.

8 Q. Ejaculate, vaginal excretions, blood, things like
9 that.

10 A. Anything that would show up under ALS.

11 Q. Which (inaudible)?

12 A. As my -- as I understand it, yeah.

13 Q. So there's nothing on the carpet?

14 A. Not that I was aware of, no.

15 Q. Nothing on the bed?

16 A. No, I don't believe the incident was reported to
17 have taken place on the bed.

18 Q. So I guess whatever the incident was, nothing
19 showed up.

20 A. Correct.

21 Q. And no evidence or cleaning supplies were
22 (inaudible)?

23 A. No, I don't believe so.

24 Q. Towels, lysol, (inaudible)?

25 A. No. Not anything of significance.

1 Q. No. You said no condom (inaudible)?

2 A. No.

3 Q. No gloves?

4 A. No, sir.

5 Q. Did it look like the room was disheveled?

6 A. No, not really.

7 Q. So as a result of that, there was no further
8 further investigation needed for the crime scene itself?

9 A. No.

10 MR. MCKINNON: No further questions.

11 THE COURT: Redirect?

12 MS. SHELTON: (Inaudible).

13 THE COURT: All right. Detective Felman, you can step
14 down.

15 MR. FELMAN: Thank you, Your Honor.

16 THE COURT: Solicitor, call you next witness.

17 MS. SHELTON: Your Honor, the state would rest at this
18 time.

19 THE COURT: Ladies and gentlemen, when the state rest,
20 what that means is they have presented all of the evidence
21 that they intended to introduce at this point. And also at
22 this point I'm going to ask you to go back to your jury room.
23 We need to take some matters up outside of your presence and
24 then we'll have you back in here shortly. Even though you've
25 heard the state's evidence in the case, you have not heard a

1 charge on the law and what the law is in the case. So do not
2 discuss the case even when you go back to your jury room at
3 all. wait until we gotta the point where you heard closing
4 arguments and you heard me charge you on the law. So with
5 that, you're allowed to go back to your jury room, we'll have
6 you out when we finish legal matters we've got to deal with.
7 Everyone remains seated while this panel is excused. All
8 right. State has rested. Any motions Mr. McKinnon?

9 MR. MCKINNON: Yes, Your Honor. First, like to renew
10 all motions and objections prior to this moment.

11 THE COURT: All right. I note that you renewed your
12 objections. The court abides all his -- abide all its prior
13 rules.

14 MR. MCKINNON: And then, Your Honor, we would like to
15 make a motion for a directed verdict.

16 THE COURT: Does the state wish to be heard?

17 MS. SHELTON: Do you want me to go first or does he
18 need to put his --

19 THE COURT: He just made the motion. Didn't say
20 anything. So I assume he had said all he wanted to say.

21 MS. SHELTON: Yes, sir.

22 MR. MCKINNON: I -- I have not said all I wanted to
23 say. I -- I was waiting on your response.

24 THE COURT: It's appropriate if you make your motion
25 and you give me the basis for it.

1 MR. MCKINNON: Yes, sir. The basis is simply this
2 there's insubstantial circumstantial evidence that a sexual
3 battery occurred. What the state, if you take the -- the
4 case law says, look at the evidence in the light most
5 favorable to the state. You have Mr. Holbrooks in the house
6 in -- with the mother and the daughter for approximately 15
7 minutes. Pretty much uncontroverted testimony some unknown
8 amount of time, him being in the bedroom with her.

9 The knock -- the door is tried by Nevaeh and
10 approximately one minute later he comes out with no -- in --
11 in completely clothed and no evidence of cleaning, no
12 evidence of tussle. There's no evidence of auditory evidence
13 that anything happened in there. There's no -- you know, no
14 -- no screams, no struggling, no shuffling. There's no
15 physical evidence anything happened in the bedroom that is,
16 there is no bodily fluids of any kind or as you just heard,
17 condom wrappers, anything like that.

18 And then finally we have DNA taken the light most
19 favorable to the state. His profile was in her rectum or --
20 or outside of her rectum. We sort of heard possibly could be
21 both. And then a hair that was either on the inside or
22 outside of her underwear that had his DNA on it. That's not
23 the state cannot say that it's his hair, but taking the light
24 most favorable to the state, there is no mechanism before,
25 Your Honor, before this court, before the jury that

1 establishes any sort of sexual battery.

2 We have possible opportunity that's not great. And we
3 have DNA, but there's nothing in the middle. There's --
4 there's no evidence or testimony of a sexual battery.
5 There's no injuries consistent with sexual battery. There's
6 no bodily fluids. There's simply nothing but DNA cells at
7 taking light most favorable estate simply in her rectum with
8 no injury whatsoever. And then we have the opportunity, the
9 middle is missing.

10 THE COURT: All right. Thank you. Solicitor, I'll be
11 glad to hear from you.

12 MS. SHELTON: Your Honor, in the light most favorable
13 of the state, you have heard testimony from both a witness
14 who was at the scene and the SANE nurse that the defendant
15 and the victim were alone in a room that that door appeared
16 to be locked, that at some point in time the defendant came
17 out of the room and left. And after having a conversation
18 with the victim, they reported to law enforcement based on
19 that law enforcement sent them for a sexual assault
20 examination.

21 You've heard testimony from that nurse that she relies
22 on the information provided to her in order to know what
23 areas to swab. I believe the testimony has been clear,
24 although she initially misspoke on direct, she clarified in
25 cross that she swabbed the inside of the rectum. And then

1 the DNA analyst, when she was asked about it, testified that
2 usually the swabs are on the inside of the rectum.

3 So I think that in light of -- in the light most
4 favorable of the state, that was the testimony of the witness
5 that she swabbed the inside of the rectum. There was also
6 the hair where no, that a testimony was not that it was
7 Xavier Holbrooks hair, but that his DNA was on the hair and a
8 substantial amount of his DNA was on the hair or a -- like
9 that the number that it was him was substantial, one in six
10 sextillion or something like that from her underwear.

11 I would argue that the circumstantial evidence in this
12 case is that the defendant had no reason to be in a closed
13 room with her for any period of time. And that almost
14 immediately, within a few hours of that she was taken for a
15 sexual assault examination. And there is DNA in areas of her
16 body that should not be there for, but for a sexual battery.
17 And so we believe that based on the circumstantial evidence,
18 there is enough for this to go to the jury.

19 THE COURT: All right. Thank you.

20 MR. MCKINNON: Brief response, Your Honor?

21 THE COURT: Yes, you may.

22 MR. MCKINNON: Your Honor, first I'd like to clarify
23 what Ms. Shelton said about the SANE. Nurse clarifying. She
24 did not clarify what she did was lie and say she did not say
25 that at all in direct when she did.

1 THE COURT: What are you saying that she lied about?

2 MR. MCKINNON: On direct, she said -- she told Ms.
3 Shelton that she swabbed the outside of the rectum and the
4 inside. And then when asked about that with Ms. Rogers on
5 direct, she said, "No, I did not say that. All I said was
6 swab the inside."

7 THE COURT: Well ---

8 MR. MCKINNON: That's not clarification.

9 THE COURT: Well. All right. I appreciate it. I'm --
10 I'm going to deny the motion to direct the verdict. The way
11 the court heard the evidence and the jury will have to decide
12 how they hear the evidence. What the court heard was the
13 SANE nurse indicated that she did that. Her practice was
14 that she would -- or a rectal examination, she would insert
15 the Q-tip of the swab into the -- partially into the rectum.
16 Again, that's the way the court heard it. And a jury will
17 have to decide on what what they heard.

18 I find that taking a light -- the evidence in light
19 most favorable to the state, a non-moving party will remind
20 you that an element of criminal sexual conduct with minor is
21 that -- second degree is that a sexual battery, is a -- is
22 sexual intercourse, (inaudible) lay-show anal intercourse or
23 any intrusion, however slight of any part of the person's
24 body or of any object in the genital or anal openings of
25 another person's body excepting the intrusions compass

1 medically recognized treatment or diagnosed -- diagnostic
2 purposes.

3 This particular case, the evidence has been presented
4 as a 13-year-old female with a severe intellectual disability
5 is very limited certainly here in court with her ability to
6 communicate. That officer testified when he interviewed her
7 that she was extremely limited in her ability to communicate.
8 And that that is what the state has proven who this
9 13-year-old girl was. And again, that there's testimony of
10 -- of this defendant's DNA being found all swabs that the
11 SANE nurse took. The jury will need to make a determination
12 about whether the state is proven beyond a reasonable doubt.
13 So as that's not the standard to for a direct verdict. I
14 find there's sufficient evidence for the case to go in front
15 of the jury to make a determination on the ultimate issue of
16 the case. All right. Any other motions?

17 MR. MCKINNON: Not from the defense, Your Honor.

18 THE COURT: All right. Mr. McKinnon, do you intend to
19 present a defense?

20 MR. MCKINNON: Your Honor, if you will please give me a
21 few minutes to discuss that with my client.

22 THE COURT: All right. Let's -- let's bring him around
23 then. Let me -- while you're discussing with him. Let me
24 bring him around, let me talk to him about his right not to
25 testify. Then when we take a break, you can talk about

1 THE COURT: I'm going to tell the jury that we're going
2 to take a break. So everybody get electronic devices, videos
3 and whatever power points, make sure they're working, lawyers
4 ---

5 MS. SHELTON: Will you please ask -- will you please
6 tell them that we need to have a conference on the charge so
7 that they don't blame me for having to wait? Because I think
8 I'm the only one with electronics.

9 THE COURT: Yeah, I'm going -- well, I'm going -- yeah,
10 I'll tell them all of that. Just so they'll know what we're
11 doing and they'll -- but then I'm going to tell them when
12 they come back they -- they will hear closing arguments and
13 charge and then they'll deliberate. And obviously when we
14 get to closing no testimony from the defense (inaudible) the
15 state has to argue. And then (inaudible).

16 MS. SHELTON: Yes, sir.

17 THE COURT: There's no -- there's no rebuttal.

18 MS. SHELTON: Yes, sir.

19 THE COURT: And no testimony. All right. Let's bring
20 the jury in. All right. Thank you ladies and gentlemen.
21 We're now at the point of the trial where the defense may
22 produce evidence if they wish. Mr. McKinnon, do you have any
23 evidence that you'd like to present to the jury?

24 MR. MCKINNON: Defense would like to rest, Your Honor.

25 THE COURT: All right. Thank you. Ladies and

1 MS. SHELTON: No, sir. I read it and it -- it -- I --
2 it ---

3 THE COURT: This is straightforward?

4 MS. SHELTON: Yes, sir.

5 THE COURT: Basic charge with criminal -- the -- the
6 elements and definition of criminal sexual conduct from minor
7 second degree?

8 MR. MCKINNON: Your Honor, I have not had a chance to
9 look at it, but we did not have any request to charge from
10 the defense for.

11 THE COURT: You and Ms. Rogers, take a look at it. If
12 you have anything you want to add or objection to it, let me
13 know.

14 MR. MCKINNON: Very good. Thank you. Your Honor.

15 THE COURT: Defense, any objections to the charge?

16 MR. MCKINNON: No, Your Honor.

17 THE COURT: Thank you. Let's bring the jury in. Thank
18 you. Ladies and gentlemen, we're now ready for the closing
19 arguments. Solicitor?

20 MS. SHELTON: Madam Clerk, will you publish please?
21 Ladies and gentlemen, I told you on Tuesday, yesterday, this
22 was a series case, but it was not a small case. It would not
23 take very long and that we would finish today. And I will
24 get to you for a little bit and then Mr. Mckinnon will speak
25 to you a little bit and the judge will speak to you for a

1 little bit and then it'll be in your hands to make the
2 decision of what to do with what you've heard over the last
3 day and a half.

4 We're here because back in 2022, I believe in March of
5 2022, Xavier Holbrooks was arrested for the crime, criminal
6 sexual conduct with a minor second degree. What is that?
7 It's two things in criminal sexual conduct with a minor
8 second degree. One is a sexual battery, the other is the
9 victim between the age of 11 and 14 and sexual battery. I
10 don't -- it may not mean anything to you. It's the law has
11 been helpful and given us a definition for what a sexual
12 battery is. Sexual battery is sexual intercourse
13 (inaudible), anal intercourse or any entry to the body.

14 However, notice that that definition does not require
15 proof of actual intercourse. That definition does not
16 require proof of ejaculation. That definition does not
17 require proof of force. That definition does not require
18 proof that the victim called out, that the victim cried, that
19 the scene would be disturbed. That definition only requires
20 that the victim be between the ages of 11 and 14 and in this
21 case, **MINOR** is 13 and that one of these types of sexual
22 batteries occurred.

23 So think about each one of the witnesses that we've
24 heard from in deciding whether or not this happened. We've
25 heard from Christiana Tabron. Who is Christiana? She is

1 [REDACTED]'s cousin, but called aunt and has been involved in
2 [REDACTED]'s life since [REDACTED] was born. Has been involved in
3 Kenika, who's [REDACTED]'s mother her life since Christiana was
4 born. The grandmother was a caregiver for years, was with
5 Katie on Kenika's check and the Katie on [REDACTED]'s check.

6 There was testimony that they both view intellectual
7 (inaudible), have never worked. Anything I may state
8 appointed caregiver that comes to check on her several days a
9 week. They also has an state appoint caregiver that comes to
10 check on her several days a week. And then Christiana, as a
11 family member, comes in every once in a while on the weekend,
12 during the week to check on them, make sure they're okay, and
13 handles all of their finances. And she's been doing that
14 since the grandmother passed away.

15 She was at the home on Frank Street -- Frank Street on
16 June 3rd of 2021. She was there. She saw [REDACTED] there that
17 day. She was there when Xavier Holbrooks came in. She was
18 parked in the car, parked in her car. He blocked her and
19 went in the house. She testified that she was never in the
20 house while he was in there, but that she did speak him, go
21 in and saw him go leave that. And she identified him in
22 court. Based on on her conversation with [REDACTED], she called
23 the police and reported to the police.

24 And then she took [REDACTED] for a sexual assault examination
25 and that was the basis of her testimony. Then we heard from

1 Nevaeh Nejaka, who was just a kid that lived down the street
2 and at the time she was just a kid to lived down the street.
3 She was (inaudible), MINOR, she was 13. They were cousins.
4 She just came to hang out and that's what kids do. They go
5 and hang out with just their cousins down the street. And
6 when she did she was sent by Christiana into the house to
7 check on MINOR.

8 Her testimony was that the only people in the house
9 were MINOR, Xavier Holbrooks, the defendant, and Kenika, who
10 was on the couch. And MINOR and Mr. Holbrooks, the defendant,
11 were in a room with the door closed with the door, according
12 to Nevaeh's testimony locked. She said she tried the door,
13 she knocked on the door, and then she went back out to talk
14 to Chris County. Her testimony was that she remembered that
15 being Kenika's bedroom, not MINOR's bedroom. The only other
16 person in the house was Kenika. There were no other men in
17 the house. She was very clear about that. But there were --
18 there -- it was just the defendant, even though she didn't
19 miss him, she identified him as the only other man in the
20 house. And Christiana identified the man in the house as it
21 Xavier Holbrooks.

22 Nurse Deborah Davis. She's worked at -- she was
23 working at Piedmont on June 3, 2021. I think she said she'd
24 been working there for 12 years that had been a nurse for
25 before. And just recently from sexual assault in the nurse

1 examiner, this is I think she said her second or third sexual
2 assault examination. She said MINOR did come in for sexual
3 assault examination that night, but she took swabs of her
4 rectum, her vagina and buccal swab, which was the cheek swab
5 for DNA. And she testified that she limited her area that she
6 swabbed based on what was relayed to her about the sexual
7 assault.

8 That it -- that she doesn't just blanket swab
9 everything she swabs based on what it related to her. She
10 testified on cross was very clear on cross that she swabbed
11 the inside of the rectum. She swabbed the inside and outside
12 of the vagina, but on cross she testified that she swabbed
13 the inside of the rectum. She testified about MINOR's
14 physical appearance and demeanor. She said -- you remember
15 when I asked her about date of size? She said she was very
16 smart, very quiet, very shy, very unique. She equated her on
17 the level of (inaudible). She was very difficult to talk to
18 and said a while to open for testimony about that.

19 She was asked about trauma from sexual assault. She
20 testified in her experience as a nurse, all of her training
21 the approximately 13 to 14 sexual assault kids, which she
22 done. It is not her experience that rape needs to tie
23 evidence of violent trauma. She said, "More often than not,
24 there is no bleeding." There is no tearing, there is no
25 bleeding. And remember, that is not an element of this

1 crime.

2 Detective Felman testified that he waited to get DNA in
3 this case. He was concerned about MINOR's ability to
4 communicate. He was concerned about her ability, her
5 competency to testify and participate in the prosecution of
6 this case. So he waited, he waited to see that there was any
7 DNA that would support a sexual assault. He advised the
8 family to go and have her be examined so that he could get
9 that evidence that it existed. And then he waited to get
10 that evidence back before making the charge.

11 He also testified that in his training and his
12 experience in the many, many, many sexual assault cases that
13 he has investigated, it is not common to get evidence of
14 bodily rape from the scene of the crime. Even he went so
15 far. I did not ask the question, but he went so far as to
16 say it is not common to get DNA evidence from a sexual
17 assault. He also testified about MINOR's (inaudible) and
18 about her demeanor that she was very small, that she was very
19 visible, that she basically just repeated things back that
20 was said to her, which is why he made the decision that it
21 was the best for his job as a police officer to wait to see
22 if there retain other evidence.

23 And did we get other evidence? I know the -- the DNA
24 ladies are confusing and that the science of DNA is not easy
25 to understand and digest in, you know, a 30 minute timeframe.

1 I've been doing this for 22 years and I still don't
2 understand it completely. But there was hair collected from
3 MINOR's underwear. There was testimony that we don't know
4 exactly where that hair was located, but when they are doing
5 their extraction -- the processing, the extraction, they
6 collect any of the debris from the underwear. And there was
7 debris, there was hair in that debris. That hair was tested.

8 And a profile was developed by Ryan Dwayne. That
9 profile showed a mixture. They could not include MINOR
10 in that mixture. So then they were done because they had
11 nothing else until months and months later when they had a
12 known standard from Xavier Holbrooks. They were able to
13 compare that and Xavier Holbrooks was indicated as a
14 contributor to that mixture by one and, I think sextillion,
15 which means out of the 8 billion people on the planet, that
16 number is that much higher. If you took the DNA of every
17 person on this planet, it would not have that profile.

18 The rectal swabs collected during the sexual assault
19 examination MINOR. And then there's going to be some
20 controversy as to whether or not those swabs were taken from
21 the inside or the outside of her rectum. I think the nurse
22 on direct did say she swabbed the outside. She was asked
23 about that on cross. She said she did not testify that way.
24 I submit to you that she just misspoke because she was very
25 clear on cross that she swabbed the inside of the rectum.

1 And when the defense asked the DNA, I believe it was Ryan
2 Dwayne, if the rectal swabs are typically from the inside or
3 the outside of the rect the DNA expert that they typically
4 are from the inside of the rectum.

5 I submit to you that when Nurse Davis said that she
6 swab outside of the rectum on direct that, that was just a
7 misstatement because she -- she was very clear on cross that
8 it would be inside. And that rectal swab came back also as a
9 mixture. [REDACTED] MINOR was included in that mixture, which is
10 expected because it's her body. And then the other
11 contributor to that mixture was Xavier Holbrooks. And that
12 number again was way beyond 8 billion. So again, if you took
13 the DNA of every single person on the planet you wouldn't get
14 that match from that -- that -- not that match that inclusion
15 from anyone else. Very strong support with how the
16 scientists from SLED described it. But they also said that
17 would the highest wording that they would give any test
18 anything over a million is the highest that they would rate
19 it. And this is number, I don't even know how to write that
20 number out. That number is way beyond a million, way beyond
21 the 8 billion people on the planet.

22 We did talk about transfer DNA and would there be
23 things that are a barrier to transfer DNA? She talked about
24 your skin cells have DNA and sometimes if you touch something
25 or hold something, it could leave behind your DNA. If you're

1 sweating and touch something, it could leave behind your
2 DNA. But then we asked about a barrier. Are there things that
3 would act as a barrier to the transfer? And she said, "Yes."
4 And the things that she agreed as barriers were condoms, were
5 gloves, clothing, and the defense made multiple questions or
6 ask multiple questions to make it very clear that MINOR
7 wasn't clothed. At some point in time, I submit to you that
8 she was at least partially unclothed, which is how Xavier
9 Holbrooks' DNA got into her record, that that DNA would not
10 have transferred in any other way past the barrier of her
11 clothing.

12 Without her being (inaudible). The DNA expert also
13 testified up to sperm, per Ms. Money, who I think was the
14 hardest to understand and relate to. At the end of her
15 testimony, I asked her, "Where's sperm from? Where do you
16 semen come from?" And she eventually said, "Ejaculation."
17 And without ejaculation, we wouldn't find sperm. Well,
18 you're in the process of molesting from (inaudible) and you
19 were interrupted by an knock on the door. Doesn't have an
20 ejaculation. He was interrupted by a knock on the door.

21 These are two version -- two charts. The one, the
22 smaller one is testimony of Xavier Holbrooks', DNA chart. We
23 talked about the different loci, which are the longer
24 combinations of letter of numbers, and then the numbers to
25 the -- to the side of that. Each individual person has their

1 own unique set of numbers at each loci. When you put them
2 all together, you know that that is Xavier Holbrooks'
3 profile. The profile on the other side, if you look at 1.3,
4 which is the rectal swab, and then 1.5, which is MINOR's
5 profile. If you compare those two columns are those three
6 columns Xavier Holbrooks', known profile, MINOR', known
7 profile in the profile of the rectal swab.

8 You will see those numbers match up. You will find a
9 representation of MINOR and you will find a representation of
10 the defendant. That is what our DNA analysts are looking at
11 when they develop these profiles. They -- both -- both DNA
12 analysts testified that no person on the planet has the same
13 combination of numbers. And that when you find a mixture
14 that has numbers being represented from both profiles, that
15 is where they get their results. Now, you'll have this back
16 in the jury room that you can look at for as long as you want
17 to.

18 And I urge you to do it. Look at the numbers and
19 compare them for yourself. This is something that you can
20 see with your naked eye that is not just science talk after.
21 Her report, she did two things on her report and we talked
22 about proposition sets. And that -- that is the way -- the
23 way that I understand that is just here, they don't start
24 looking at the science until they come up with a theory of
25 what they think the science will show. And with the hair,

1 the theory that they had is that the science would show they
2 knew that this was a mixture.

3 Their first theory was that mixture would be Xavier
4 Holbrooks and an unidentified, unrelated source. Their
5 second theory is that it would be a two unrelated
6 unidentified sources of that mixture. That's what
7 proposition says. One and two means. That's what HP and HD
8 means. It just means their theories that they then look at
9 science to either prove or disprove their theories. That's
10 what proposition says. Xavier and an unknown unidentified
11 contributor and two unknown unidentified contributor. And
12 after extracting that DNA from the hair that was found in
13 **MINOR**'s underwear. That's where we get this number. 206
14 sextillion, that that is Xavier Holbrooks' and an
15 unidentified unrelated source.

16 And then for the rectal swab, again, we just have those
17 two theories. Theory one is that it is **MINOR** and Xavier
18 Holbrooks. Theory two is that it is **MINOR** and an
19 unknown unidentified contributor. And then from that you
20 have that 1.1 trillion, that it is **MINOR** and Xavier
21 Holbrooks. And so when you look at the locus low side charts
22 that you have -- you can look at that 1.3 and look at those
23 numbers and match them up for yourself. Reasonable doubt.
24 What is reasonable doubt the judge will give you at the end
25 of this, will give instructions on all the law.

1 And he'll talk to you about reasonable doubt. He will
2 tell you that reasonable doubt is not beyond all doubt.
3 Nothing can be proven beyond all doubt. We are not -- the
4 state is not required to prove you a hundred percent. It
5 just must be reasonable. It would cause a reasonable person
6 to hesitate to act. It doesn't require that you not question
7 the evidence. It doesn't require that you not deliberate.
8 In fact, you should. That's -- that's your job. Your job is
9 to look at the evidence, to think about the evidence to
10 deliberate just because if you go back in that room and have
11 questions.

12 That's why there's 12 of you the top those questions
13 up. It doesn't mean that you can't end up with a guilty
14 verdict. You should have questions that you talk about. But
15 once you talked about all of those questions and issues and
16 thought about it and heard each other out, because we all
17 have your own experiences and your own understanding, you
18 should be firmly converting that he notice that doesn't say a
19 hundred percent or beyond all doubt. Reasonable doubt.

20 Reasonable doubt. The way I like to show this in a
21 visual is if you're in this room, we can't see outside, can't
22 see outside, we can't hear outside very well, but we leave
23 here today, and as you're walking past the windows, you see
24 that there's raindrops on the windows. And as you're walking
25 out the front door, you notice a wet umbrella by the front

1 door. And then as you're walking to your car, you notice a
2 puddle. There may not be a cloud in the sky. You may not
3 have heard it rain, you may not have seen it rain. You may
4 not have heard anyone tell you that it was raining.

5 But you can use your common sense and your
6 understanding to put those pieces together and know beyond a
7 doubt, beyond a reasonable doubt that it did rain. I want to
8 talk a little bit about the fact that you would (inaudible)
9 guilty. One thing we have to prove is jurisdiction that this
10 occurred in York County. The only testimony about any of
11 these people being anywhere on June 3rd of 2021 was that they
12 were at Frank Street, which is in York County. It is
13 undisputed that Xavier Holbrooks was there and in a room
14 alone with MINOR, that is a fact.

15 It is not disputed that MINOR was a 13-year-old
16 girl with a fairly severe intellectual disability, that is a
17 fact. It is undisputed that DNA attributed to Xavier book
18 was found in her rectum and a hair that has his DNA on it.
19 Notice, I'm not saying it was his hair because that's not
20 what the evidence shows, but has his DNA on it and not MINOR's
21 DNA on it was found in her underwear or on her underwear.
22 Those are the facts. So when you're deliberating what is
23 missing, what's missing? But there was no screaming, no
24 signs of struggle.

25 You've heard how MINOR has been described by every

1 witness that has seen her or know her. Is it reasonable to
2 that -- that she (inaudible)? Is that reasonable? It's also
3 not an element, not something that we have to prove to you.
4 But there were no injuries. There's -- there was testimony
5 that that is not prevalent. Also not an element. It has to
6 be proved to be. There's no evidence of semen or saliva
7 either on the scene or for -- for forensic swabs. That is
8 correct. There is not. Could there have been serology
9 (inaudible) testimony about to determine if those things
10 existed from the forensic swabs? Yes.

11 Is that something that could have happened? Yes.
12 Would have changed the fact that his DNA is in her rectum?
13 No, it would not. Does it matter if the DNA in her rectum is
14 skin cells or saliva or sweat? No, there is no reasonable
15 innocent explanation for his DNA to be in her rectum. So
16 from a serology standpoint, it does not matter. Also, we do
17 not have to again, prove ejaculation for him to be guilty of
18 an intrusion however slight. I like to put the serology and
19 the fact that I'm sure Mr. McKinnon is going to talk about.
20 SLED exhibit 1.4, which was the suspected saliva swab, which
21 had MINOR's DNA and unknown unrelated contributors.

22 That's that. That's that. Has MINOR's, has someone
23 else, DNA also on her body. But I put that in the box of
24 these are things that the defense will say to distract you
25 from the fact that the defendant's DNA was also found in her

1 body. If someone else was also taking advantage of this
2 child, it does not give him free reign to then also take
3 advantage of this child not knowing exactly what the DNA was
4 that was in her body does not give him the right to put his
5 DNA in her body. So I would urge you to look at that
6 argument as a distraction evidence, it does not make him not
7 guilty.

8 I'd like to go through reasons why you should believe
9 the evidence. We're going to talk a little bit about the
10 consistency of the two witnesses who did testify to what
11 happened there that they could see those in the Nevaeh and
12 Christiana testified that there was no one else there and
13 they testified separately. There were neither one of them
14 were (inaudible) The other testified the door was closed.
15 Xavier had Christine -- Christiana blocked in. I know there
16 was some -- there was some mentions during opening that
17 Christiana had Xavier blocked in. You heard no testimony
18 about that. The defense made -- mentioned about that.
19 You've heard no testimony about that. The only testimony you
20 heard was that Xavier blocked Christiana in, which is why she
21 sent Nevaeh in the house.

22 The swab from inside the rectum. Even though I would
23 -- I would agree with the defense that Nurse Davis misspoke
24 on direct. She clear -- she changed that testimony on cross
25 and that it was be inside. And then the DNA lady, again, I

1 believe it Ms. Dwayne said that that was standard, swab the
2 inside. The DNA is consistent with a sexual assault, the DNA
3 is consistent with this man being alone in the room with this
4 child and sexually assaulting her.

5 Credibility, Christiana, you have to judge the
6 witness's credibility for yourself. Christiana did not seem
7 like she had anything to hide. When she was asked about what
8 she was doing in the car, she very freely volunteered. I was
9 smoking weed as the person who was partially responsible for
10 the care of [REDACTED] MINOR. She freely and voluntarily admitted
11 that, "I was outside smoking weed while she was inside with a
12 man." Who, to her credit, they up until that point had
13 trusted. He had been coming around for a while.

14 She had no reason not to trust him. Not to that point,
15 but she wasn't trying to hide anything. Nurse Debra Davis,
16 she doesn't know any of these people. She was literally just
17 doing her job. There is no reason for her to have come here
18 to lie to you about anything. The DNA witnesses, also, know
19 none of these people. They are scientists. You could tell
20 by the way that they testified that they are, they testified
21 by the way the evidence (inaudible). They were not here to
22 support or not support any one side. They testified about
23 the evidence, your common sense.

24 If Kenika was the only other person in the house at the
25 time, which that is all the testimony that -- all the

1 testimony there was there. Why would Xavier Holbrook a grown
2 man need to be behind a closed door with a child? Transfer
3 DNA. You heard a lot of testimony about what DNA is. It is
4 transferring a DNA, does it make sense that this little child
5 in a closed room and innocently doing whatever she was doing
6 with Mr. Holbrooks behind closed doors. Behind what I submit
7 to you is a locked door that his DNA ended up in her rectum.
8 Is there an innocent reason for that to cap it?

9 Christiana testified that although **MINOR** is -- is
10 intellectually disabled, she does not need as assistance
11 going to the bathroom. Mr. Holbrooks was not a nurse, he was
12 not a caregiver. He was not a family member. He was a man
13 from down the street who had known Kenika, who was also
14 severely intellectually disabled, who came to hang out from
15 time to time and read books to **MINOR** from time to time. If
16 that is all he is doing. How is his DNA in her rectum? How
17 did it transfer there when she was wearing clothes? A
18 barrier.

19 There is no (inaudible) intellectually (inaudible).
20 There is no reason for that to be behind a closed door with
21 that child when no one else is in the house, except for her
22 mom. (Inaudible) talked about circumstantial evidence and
23 direct evidence. Direct evidence is someone saying what they
24 heard, what they saw, they testifying to you about their
25 direct impressions. You'll have no (inaudible) -- you'll

1 have no direct evidence of this sexual assault. But what you
2 will have is enough circumstantial evidence that you can put
3 those pieces together to leave yourself firm and convinced
4 that there was an (inaudible).

5 As a prosecutor, we sometimes have to paint the picture
6 within the slides that we have, and it may not always be all
7 the colors that we -- that doesn't stop you from being able
8 to see the picture. It shouldn't stop you from being able to
9 see the picture. I want to talk to you a little bit about
10 **MINOR**, because you did not get to meet her. Who was
11 watching out for her? Who was taking care of her? Who was
12 protecting her? No one. No one (inaudible). No one went
13 immediately in the house to check on her. Her mother was not
14 capable of protecting her and he knew it. He knew it. She
15 was the perfect victim, the vulnerable victim that no one
16 would care about and no one would hear from, but he left his
17 evidence behind. I'm asking you to hold him accountable and
18 I'm asking you to find him guilty.

19 THE COURT: Thank you, Solicitor.

20 MR. MCKINNON: May it please the court? Ladies and
21 gentlemen, now we've -- all glad this is coming to an end.
22 Not much left, so I'm not probably -- I won't take too much
23 of your time. Yesterday you heard Ms. Rogers tell you that
24 you were going to hear a lot of testimony. It was
25 uncomfortable. Not great, not fun to hear. And you did. I

1 think we probably all brought that after to witness after
2 witness talking about chains of custody, opening bags of
3 evidence. Talking about DNA. So we got through it. How do
4 you process that? Ms. Rogers mentioned that easiest way I
5 would submit is to just admit that Mr. Holbrooks is innocent.
6 They haven't proven their case against him.

7 He's what we consider to have a veil of innocence
8 surrounding and throughout entire process that bail cannot be
9 pierced unless you as a juror decide. The state has proven
10 that Xavier Holbrooks committed a sexual battery against MINOR
11 [REDACTED] beyond a reasonable doubt. What testimony did you hear
12 about a sexual battery? None. State is just presenting you
13 a theory where perhaps there was opportunity for that to
14 happen. Then there's DNA. I'll submit to you that there is
15 reasonable doubt shockful in both of those theories, and they
16 need to get past reasonable doubt on all of it. Essentially
17 to prove that there was no other way the DNA to get where it
18 was other than a sexual battery. They're not going to be
19 able to do that. They have not done that.

20 But first, let's talk about the opportunity. Testimony
21 you've heard from is Christiana that she was already at the
22 house. Her car was parked right up next to the house and
23 then he pulled in the back of the driveway to here. Here's
24 the house. When he got there, the front door is left wide
25 open. Her car -- her in it and her friend in it right up

1 next to the house. You heard testimony that the window
2 facing where the car was in the front yard was off that
3 bedroom and the blinds were all messed up.

4 Detective Felman agreed they were in terrible condition
5 and if you walked up to the window, appeared in, you could
6 see exactly what was going on in that bedroom, middle of the
7 day. Broad daylight. You've heard testimony from both
8 ladies; Nevaeh and Ms. Tabron, that Mr. Holbrooks and **MINOR**,
9 when they saw them next, were fully clothed. No hair messed
10 up, nothing out of place. No one cleaning products or trying
11 to clean up anything. There was nothing in the room that
12 would suggest that sexual assault happened. Not no bodily
13 fluid on the bed, on the floor anywhere, no used condoms, no
14 gloves, nothing to block the transmission of DNA.

15 You simply have a very tiny window for this to have
16 occurred. Nevaeh said after she knocked on the door, she
17 went back -- right back out the house. She just came back
18 out. How long did she say it took for Mr. Holbrooks to then
19 come out of the house? One minute. 60 seconds. So think
20 about that state's theory that in one minute Mr. Holbrooks
21 caught in the middle of this sexual battery against **MINOR** in
22 one minute, manages to get all his clothes back on, clean up
23 any mess that possibly could have been in the room. Get rid
24 of all the evidence, and then on top of that, get **MINOR**
25 dressed up, get all her clothes back up, get her hair back

1 perfect. A 13-year-old child with the mentality you've
2 heard, testimony of a 6-year-old. Does that even possible,
3 does that seem remotely possible to you? That all those
4 sayings, bang, bang, bang, bang, bang, one minute later,
5 everything's perfect again like it never happened?

6 Then I will add this, the state also is making you --
7 their theory would make you think that after coming over the
8 house several times a week for years, five plus years is what
9 Ms. Taylor -- Ms. Tabron said. I'm sorry that this
10 particular day he decided, "This is my time to strike and
11 waiting it out and this is the perfect time. I've got the
12 front door wide open in this tiny house and these messed up
13 blinds that anyone can see in. If they want to look with two
14 adults right up next to the house in their car, I know
15 they're still there because they can't leave because I'm
16 blocking them in. Mom is in the house in this tiny house.
17 Mom's in there. Now's the time. Then now's my opportunity
18 to do this crime." Does that make sense?

19 Now, the lack of the physical evidence, yes, she's
20 right. Those are not elements, anything like that. Bodily
21 fluids, injuries, any of that I would submit is
22 corroboration. The state has nothing physically to
23 corroborate their theory other than the DNA and where it is.
24 So again, there's nothing to corroborate it. So you have to
25 believe that the DNA being where it was necessarily has to be

1 a sexual battery. We'll come back to that in a second. When
2 we talk about DNA. We have anal swab, which Ms. Shelton is
3 correct believe. Deborah first said she swabbed the inside
4 and the outside and she said she -- then changed her
5 testimony on cross.

6 I'll agree with that, but I'll submit that maybe she
7 just doesn't know what she was doing. She was not board
8 certified at the time. This was like her second or third
9 state examination she'd ever done. Maybe she just messed it
10 up. We don't know. Is that not reasonable doubt that if the
11 swab maybe was on the outside, maybe on the inside, maybe
12 both. That that would be contaminated and then the DNA
13 ladies could not tell where that came from. All you know,
14 it's just says anal swab and then it had Xavier Holbrooks'
15 profile.

16 Transfer of DNA. Her DNA can go from item to item, item
17 to person, person to item or person to person. Xavier
18 Holbrooks' DNA has got bound to be all over that house as
19 much as he'd been in there. All the rooms, all the
20 countertops he's touched. Utilities, refrigerators, clothes.
21 His DNA was there. If she touched what he had touched,
22 there's a significant chance that that DNA that was his,
23 would go from the object that he touched onto her. Now, what
24 if she touches herself? I mean, it's not nice to think
25 about, but these things happen. She's eventually challenged.

1 She can transfer a DNA from something he touched or from him
2 directly. What if she just touches him on the shoulder,
3 touched him on the arm, and then she touches herself?

4 Isn't that reasonable doubt? I mean, he could have
5 touched clothing of hers. Then she -- let's say the hair had
6 floated down and landed on her pile of laundry. Then she put
7 that underwear on DNA transfer right there. As for the hair.
8 Now, that's a bit confusing, but final testimony was the hair
9 has a mixture of Xavier Holbrooks' hair --sorry, I'm sorry.
10 DNA, his DNA. Somebody else can't say whether it's his hair,
11 the other person's here that we don't know, or perhaps a
12 third person's here that the other two people touched. So
13 DNA is very accurate, but as far as to how things happen,
14 it's not that cut and dried. It's not that clear. They can
15 say his DNA somehow contributed to the mixture of the hair.

16 Transfer. Let's go back to that. So let me looked a
17 little confused on that. That's not just my theory. That's
18 not just the DNA technicians or that's first theory. There
19 are two instances in this case that are obvious that transfer
20 is occurring. That is the two unknown individuals on the
21 hair. It's somebody else. It's not mixture of Xavier and
22 **MINOR** like the analysts thought it would be. No, it's Xavier
23 and someone else. Where'd that DNA come from? The obvious
24 answer is transfer. Just like we were just talking about for
25 Xavier.

1 Somehow somebody touched something and it goes object
2 to person, person to object. We don't know who this person
3 is, but no one else is accused of sexually assaulting her.
4 The simplest answer is DNA transfer and then we'll go back to
5 the suspected saliva, which you never found out if that was
6 saliva or not, but that was, that's why you heard testimony
7 was taken from the vulva, the outside of her vagina.

8 The expectation was that would be Xavier Holbrooks',
9 DNA and instead someone completely different. Not **MINOR**, not
10 Xavier. Again, how did that get there? Transfer. Maybe
11 someone touched her clothes, underwear or whatever. She sat
12 on a counter that someone had touched. We don't know. The
13 point is DNA completely accurate as to the -- the sequencing
14 and all that. But they cannot say how it got where it went
15 and when it happened. Ms. Shelton was saying, "How is it
16 possible for DNA to have been in her underwear or in her
17 rectum without her clothes being off? "

18 The answer is because we don't know when it got there.
19 We don't, it could be there for days. It could be there for
20 hours beforehand. There's no test saying DNA was not there
21 10 minutes before this, then it was there 10 minutes after.
22 I would agree with her if that was the case, but there's no
23 testimony, no evidence of when it got there. Who knows?
24 Maybe they were sitting there innocently doing nothing. Then
25 they came out and the DNA that had been in there for forever

1 is what's showing up

2 Injuries. Let's go back (inaudible). State wants to
3 point out that sane nurse said that most rapes do not cause
4 tearing, bleeding, bruising, all that. But if you listen to
5 terminology carefully, when she asked sane nurse that it was
6 not rapes of small children, it was all rapes. So that's
7 including the majority of rapes, which would be adults, that
8 maybe some of them were considered consenting or borderline
9 date rape, where there's not any like violence or anything.
10 The other testimony you've heard from MINOR that she was 13
11 years old and tiny for her size, her age, I'm sorry.

12 You've heard that from the sane nurse that when she
13 swabbed MINOR, she did not use the standard practice, which,
14 which she would use with an adult. Someone that's much
15 bigger, where she would open up the orifices, essentially a
16 spectrum. She couldn't do that because MINOR was so small.
17 She uses a tiny little swab, just kind of poked it in, twist
18 it because MINOR was so small. So use your common sense. If
19 she was being sexually battered by Xavier Holbrooks, this
20 tiny girl, would there not be some sort of corroboration in
21 this? Some sort of purging, even bruising, a little bit, a
22 little bit of bleeding, a little bit, bit of discomfort, a
23 little bit of redness. Nothing, absolutely nothing. No
24 bodily fluids of any kind.

25 No, nothing physical to corroborate the state's theory

1 that a sexual battery's in place. So if DNA transfer exists
2 and there's nothing to corroborate that a battery took place,
3 the state has not proven their case. Just DNA being present
4 in an or present in an orifice where it shouldn't be, one
5 would think does not equate to a sexual battery. Something
6 must corroborate. What I'm telling you is this is reasonable
7 doubt. Reasonable doubt exists that opportunity and it's a
8 weak opportunity. DNA in the rectum where is the battery?
9 Nothing to corroborate. Plenty of reasons or other ways DNA
10 have gotten where it was.

11 Let's just bring it all together. The opportunity here
12 again, I would submit is not a good one. It just doesn't
13 make sense. This is the time to make your move. That's if
14 you're a pedophile, you wait years and years and years to
15 make your strike now. Now, again, tiny house messed up
16 window. Two adults right up there, close to the house, front
17 door wide open. You know they're still there because they
18 can't leave because you're blocking them in. You know, the
19 mom's in the house. Timing doesn't make sense. One minute
20 again to realize you're being interrupted. Get your clothes
21 on, get this young girl's clothes back on. She's, you know,
22 she's going to need help. She's the mentality of a five or
23 6-year-old. Get her hair back, right? Clean up everything,
24 make it pristine like it never happened in one minute.

25 Again, with no bodily fluids, no semen, no nothing, no

1 injuries, no blood, no bleeding, no bruising, no redness.
2 There simply is nothing to support the proposition that they
3 want you to believe Xavier Holbrooks committed a sexual
4 battery. I -- I'm almost forgot. You have the screams.
5 There's no signs of a struggle. There's nobody that says
6 they hurt anything out of the ordinary in this tiny house.
7 Exactly, you know, just feet away. No one hurt anything out
8 of the ordinary. No movement, no struggling, no screaming,
9 no nothing.

10 Again, something to corroborate their theory. There's
11 just not anything there. There's weak opportunity and then
12 there's DNA that can't be explained through transfer
13 DNA. Again, evidence as this own case shows, there are two
14 different samples that have essentially mystery DNA, where no
15 one has any theory of how out there or even who they are.
16 That's the transfer unknown individuals. Feel free to look
17 at the -- the results that the DNA experts did. There are
18 mysterious DNA with no theories as to how I got there or who
19 it is. I'll submit to you all day every day. This is the
20 definition of reasonable doubt. The judge will give you the
21 legal definition, but I can tell you this case is missing the
22 meat. Where is the sexual assault? Not guilty.

23 THE COURT: Ladies and gentlemen, I'm now going to
24 charge you or instruct you on what always in this case, and
25 that simply means I'm going to read to you to listen to what

1 the law is that you'll apply when you go back to the jury
2 room. Deliberate, I remind you that during this trial, you
3 and I have certain duties to perform. As the trial judge.
4 It is my responsibility to preside the trial of this case.
5 And I've also had the duty to rule on the admissibility of
6 the evidence offered during this trial. You're to consider
7 only the competent evidence before you. If there was any
8 testimony ordered stricken from the record in this case
9 during this trial, you must disregard that testimony. You're
10 to consider only the testimony which has been -- been
11 presented from this witness stand and any exhibits which have
12 been made a part of the record in this case.

13 I have the additional duty to charge you the law
14 applicable to this case. As the presiding judge, I am the
15 sole judge of the law of this case. And it is your duty as
16 jurors to accept and apply the law. As I now stated to you,
17 if you already have any ideas of what the law is or what the
18 law ought to be and it does not agree with what I now tell
19 you, the law is you must abandon this idea because you're
20 sworn to accept the law and apply the law exactly as I stated
21 to you. In every case tried in this court before a jury.
22 The jury becomes the sole and exclusive judge of the facts in
23 the case. A trial judge cannot imitate state, comment on or
24 make any statement to a trial jury about the facts in the
25 case.

1 Since you the jury are the sole judge of the facts in
2 this case, you're not to infer from what I've said during the
3 progress of this trial and rule it upon the admissibility
4 evidence or otherwise or anything that I say now during the
5 course of this instruction to you that I have an opinion
6 about the facts of the case. The law does not allow me to
7 have an opinion about the facts of this case. This is a
8 matter solely for you. The jury to determine as jurors. It
9 is your duty to determine the effect value, weight, and truth
10 of the evidence presented during this trial.

11 The indictment charges of the defendant, Xavier Lamar
12 Holbrooks, was second degree criminal sexual conduct with a
13 minor or attempt of a victim age 11 to 14 years old. I
14 remind you that the fact that the defendant was arrested,
15 charged, and indicted in this case is not evidence and cannot
16 be considered by you as evidence of guilt in this case, nor
17 does it create any presumption or inference of guilt. This
18 document is simply the formal written instrument which
19 contains the charge made against the defendant is the formal
20 document by which the case is brought into this court.

21 The defendant has pled not guilty to this indictment
22 and that plea puts the burden on the state to prove the
23 defendant guilty. A person charged with committing a
24 criminal offense in South Carolina is never required to -- to
25 prove his own innocence. I charge you that it's an important

1 rule of the law that the defendant in a criminal trial, no
2 matter what the seriousness of the charge may be, will always
3 be presumed to be innocent of the crimes for which the
4 indictment was issued. Unless guilt has been proven by
5 evidence satisfying you of that guilt beyond a reasonable
6 doubt.

7 This presumption of innocence does not end when you
8 begin your deliberation, but it accompanies the defendant
9 throughout the trial until you reach a verdict of guilt based
10 on evidence satisfying you of that guilt beyond a reasonable
11 doubt. The presumption of innocence is like a robe of
12 righteousness placed about the shoulders of the defendant,
13 which remains with the defendant until it has been stripped
14 from the defendant by evidence satisfying you of the
15 defendant's guilt beyond reasonable doubt.

16 The presumption of innocence is not mere legal theory.
17 It is not just a legal phrase. It is a substantial right to
18 which every defendant is entitled unless you, the jury, are
19 satisfied from the evidence of the defendant's guilt beyond
20 reasonable doubt. So what is a reasonable doubt in the law?
21 A reasonable doubt is the kind of doubt that will cause a
22 reasonable person to hesitate to act. The state has the
23 burden proving the defendant guilty beyond reasonable doubt.
24 Some of you may have served as jurors in civil cases where
25 you were told that is only necessary to prove that a fact is

1 more likely true than not true, such as by the greater weight
2 or preponderance of the evidence. In criminal cases, the
3 state's proof must be more powerful than that. It must prove
4 every element of a crime beyond a reasonable doubt. Proof
5 beyond reasonable doubt is proof that leaves you firmly
6 convinced of the defendant's guilt.

7 There are very few things in the world that we know
8 with absolute certainty and in criminal cases the law does
9 not require proof that overcomes every possible doubt. If
10 based on the consideration of the evidence you are firmly
11 convinced that the defendant is guilty of the crime charge,
12 you must find the defendant guilty. If on the other hand you
13 think there is a real possibility that the defendant is not
14 guilty, you must give the defendant the benefit of the doubt
15 and find him not guilty.

16 There are two types of evidence which are generally
17 presented during a trial, direct evidence and circumstantial
18 evidence. Direct evidence directly proves the existence of a
19 fact and does not require deduction. Circumstantial evidence
20 is a proof of a chain of facts and circumstances indicating
21 the existence of a fact. Crimes may be proven by
22 circumstantial evidence. The law makes no distinction
23 between the weight or value to be given to either direct or
24 circumstantial evidence.

25 However, to the extent the state relies on c

1 ircumstantial evidence, all of the circumstances must be
2 consistent with each other and when taken together point
3 conclusively to the guilt of the accused beyond reasonable
4 doubt. If these circumstances merely portray the defendant's
5 behavior as suspicious the proof has failed, the state has
6 the burden of proving the defendant guilty beyond a
7 reasonable doubt.

8 This burden rests with the state regardless of whether
9 the state relies on direct evidence, circumstantial evidence,
10 or some combination of the two necessarily, you must
11 determine the credibility of witnesses who testified. In
12 this case, credibility simply means believability. It
13 becomes your duty as jurors to analyze and to evaluate the
14 evidence and determine which evidence convinces you of its
15 truth. And determining the believability of witnesses who
16 have testified in this case. You may believe one witness
17 over several witnesses or several witnesses over one witness.

18 You may believe a part of the testimony of a witness
19 and reject the remaining part of the testimony of that same
20 witness. You may believe the testimony of a witness in its
21 entirety or reject the testimony of a witness in its
22 entirety. You may consider whether any witness has exhibited
23 to you any interest, bias, prejudice, or other motive in this
24 case. You may also consider the appearance and manner of a
25 witness while on the witness stand the rule of evidence. The

1 rules of evidence ordinarily do not permit witnesses to
2 testify to opinions or conclusions. An exception to this
3 rule exists for witnesses we call expert witnesses. A
4 witness who by education and experience has become an expert
5 in some art science profession or calling may state an
6 opinion as to relevant and material matters in which the
7 witness claims to be an expert and may also state the reasons
8 for the opinion.

9 You should consider any expert opinion received in
10 evidence in this case and like any other evidence, give it
11 the weight you think it deserves. If you decide that the
12 opinion of an expert witness is not based on sufficient
13 education and experience, or if you conclude that the reason
14 given in support of the opinion are not sound or that the
15 opinion is out outweighed by other evidence, you may
16 disregard the opinion entirely. An expert witness's
17 testimony is to be given no greater weight than that of other
18 witnesses simply because the witness is an expert.

19 Further, you're not required to accept an expert's o
20 pinion even though it's not contradicted. In order to
21 establish criminal liability, criminal intent is required.
22 For example, the mental state required to be proven by the
23 state for a particular crime might be purpose, intent,
24 knowledge, recklessness or criminal negligence. Criminal
25 intent must be proven by the state beyond reasonable doubt.

1 Criminal intent is always a matter that must be
2 determined by the jury from the circumstances surrounding the
3 situation. There's no way to prove intent to a mathematical
4 certainty. There's no way medical science can dissect a
5 person's brain and determine what the person had in mind. So
6 the law says that criminal intent may be inferred from the
7 circumstances shown to have existed. This is how you make a
8 determination of whether or not the element requiring intent
9 was present. It is not necessary to establish intent by
10 direct and positive evidence, but intent may be established
11 by inference in the same way as any other fact, by taking in
12 consideration the acts of the parties and all the facts and
13 circumstances of the case. Criminal intent is a mental
14 state, a conscious wrongdoing. It is up to you to determine
15 what the defendant intended to do based on the circumstances
16 shown to existence.

17 Criminal intent can arise from action or a failure to
18 act and may arise from negligence, recklessness, or an
19 indifference to the duty or the consequences that is
20 considered by the law to be the equivalent of a criminal
21 intent. I instruct you and emphasize that the fact that the
22 defendant did not testify is not a factor to be considered by
23 you in any way in your deliberation and in your consideration
24 on the question of the guilt or the innocent of the
25 defendant. It must not be considered by you in any manner

1 whatsoever.

2 A defendant has the constitutional right to remain
3 silent and the assertion of this right must not be considered
4 by you in your deliberations. I repeat under your oath,
5 you're to draw no conclusion whatsoever from the fact that
6 the defendant in this case did not testify. The fact that
7 this defendant did not testify should not even be discussed
8 in the jury room. The burden of proof is I have stated to
9 you is on the state. The defendant is not required to prove
10 his innocence. The burden of proof remains on the state to
11 prove guilt beyond reasonable doubt.

12 The defendant is charged with second degree criminal
13 sexual conduct with a minor or attempt with a victim age 11
14 to 14 years old. The state must prove beyond reasonable
15 doubt that the defendant engaged in a sexual battery with the
16 victim, a sexual battery, a sexual intercourse, cleanliness,
17 lay-show, anal intercourse, or any intrusion, however slight
18 of any part of a person's body or of an any object into the
19 genital or anal openings of another person's body. Except
20 when the intrusion is accomplished for medically recognized
21 treatment or diagnostic purposes, the state must then prove
22 beyond reasonable doubt that the victim was at least 11 years
23 old, not more than 14 years old at the time of the sexual
24 battery.

25 Consent, willingness and deference or ignorance on the

1 part of the minor, if any as to what was taking place, does
2 not in any way affect the charge of criminal sexual conduct
3 with a minor because an individual under the age of 14 cannot
4 legally consent to sexual intercourse. An attempt is an
5 effort to accomplish a crime which does not succeed. An
6 attempt includes a specific attempt, do a particular criminal
7 act along with an act falling short of the act intended.

8 The state must show more than mere preparation and
9 intent. There must be some overt act committed in the effort
10 to admit the crime. Intent means intending the result with
11 which actually occurs. Not accidentally or involuntary
12 intent may be shown by acts in conduct of defendant and other
13 circumstances from which you may naturally and reasonably
14 infer intent.

15 You've been selected as fair and impartial, jurors
16 sworn to impartially, try and determine the facts of this
17 case. And when you comply with your oath to do so, no one
18 will have a right to criticize your verdict and you will
19 fully discharge your duty as your order. You are to decide
20 this case according to the testimony that you've heard from
21 the lips and the sworn witnesses along with other evidence
22 introduced during the trial.

23 When you go back to your jury room, Mr. Foreman, you'll
24 have a verdict form along with the evidence that admitted in
25 the case. once you have reached a unanimous verdict in the

1 case, you will need to complete the verdict form. It's
2 pretty straightforward and I'm going to read part of it to
3 you and the way I read it has no significance on -- on the
4 ultimate issue in the case, you have to just put, I have to
5 be able to put one in front of the other.

6 It says that on second degree criminal sexual conduct a
7 minor or attempt victim age 11 to 14 years old. we the jury
8 find the defendant Xavier Lamar Holbrooks guilty of second
9 degree criminal, sexual of sexual criminal conduct with a
10 minor or attempt victim age 11 to 14 years old, or we the
11 jury find the defendant Xavier Lamar Holbrooks, not guilty of
12 second degree sexual criminal conduct with a minor or attempt
13 with a age 11 to 14 years old.

14 Once you've reached a unanimous verdict, you will check
15 the appropriate verdict, sign and date the verdict form, keep
16 the verdict form in your hand, knock on the jury room door
17 and tell the bailiff that you've reached a verdict. you can
18 hand all the evidence to the bailiff, but keep the verdict
19 form in your hand when you come back out here and have a
20 seat.

21 I'll ask you if you reached the verdict and if you
22 have, you'll hand the verdict form to the bailiff who will
23 then hand it up to the court. When you're deliberating, all
24 12 jurors must be present in the courtroom, in the jury room
25 during deliberations. For some reason, somebody has to

1 leave, go to the restroom or maybe leave the room. You must
2 cease deliberations until all 12 jurors are in jury room.
3 The verdict must be unanimous. All 12 jurors must agree on
4 the verdict. If you have questions for the court, you can
5 simply take the pad and a piece of paper back there and write
6 a question down and knock on the door, hand it to the
7 bailiff, he'll bring it to -- to the court, bring it to me
8 and we will deal with whatever questions in -- in the
9 appropriate manner.

10 Again, when you reach the verdict, knock on the door,
11 hold the verdict form in your hand, you'll be brought back
12 out here and the verdict will be passed up in read in open
13 court. With that, I'm going to allow you to go back to your
14 jury room. Do not begin deliberating or discussions until
15 the bailiff brings the verdict form back. And any evidence
16 introduced is going to take us just a couple minutes to get
17 all that together. Once he brings that back, you can then
18 begin to deliberate. The alternates, if -- our two
19 alternates, if you all would just come down here, slow down,
20 we're not going -- you're going to wait right here, you're
21 not going to go back right now. And with that we'll allow
22 this jury panel to be excused into the jury room. Everyone
23 remain seated.

24 All right. This is where it gets another awkward point
25 in a trial. I'm going to ask you all to just step right

1 outside that door. Do not go in the jury room. Step right
2 outside the door, we'll have you back in just a moment. We
3 -- we straightened up the -- the verdict form to say second
4 degree criminal sexual conduct. We had that language a
5 little bit, correct?

6 MS. SHELTON: With a minor?

7 THE COURT: Yes. Well, we had sexual criminal conduct
8 with a minor should be criminal sexual conduct.

9 MS. SHELTON: Yes.

10 THE COURT: It is cleaned up on this. Any of any
11 objections to the charge or anything needs you need wish to
12 be heard?

13 MS. SHELTON: Nothing from the state, Your Honor.

14 THE COURT: And the defense?

15 MR. MCKINNON: Not from the charge, Your Honor, but we
16 would like to renew all previous motions and objections.

17 THE COURT: Thank you. I note that you have renewed
18 all your previous motions co-abide by its prior rulings.
19 Let's come down here and make sure we've got all the
20 evidence. All right, we will be at ease. Misty, I think --
21 I'm not sure if anybody's known. I need to make sure if, do
22 we have any trial to go tomorrow or, I think we had resolved
23 everything and one -- some point.

24 MS. SHELTON: The only two left were Dan's and SLED and
25 then I think also continued (inaudible).

1 THE COURT: That's right. He's in the hospital. Yeah.
2 Okay. All right.

3 MS. SHELTON: (Inaudible).

4 THE COURT: All right. Take that back. Thank you all.
5

6 You did a good job. Well tried case on most sides.

7 UNIDENTIFIED SPEAKER: Thank you, Judge.

8 THE COURT: All right. We'll be at ease while the jury
9 (inaudible). You're good right there. You all are free to
10 leave. We the -- never know these days when somebody gets
11 sick or not able to be here and you just slide into their
12 place. But thankfully all 12 are here. You can talk to
13 anybody about the case. You -- sometimes lawyers will
14 contact you and want to ask you some questions and do that
15 effort to help -- help them figure out whether they're doing
16 a good job, whether hey need changes, if they call you, you
17 do not have to talk them, not improper for a lawyer to
18 contact you.

19 On the other hand, you're not required to talk them.
20 Bring that up. If you want to stay with us, you prefer you
21 can do that. Have a seat out in the audience. On the other
22 hand, you're a free lead and you do not have to come back for
23 the rest of this week for the next three years. All right.
24 You all just have a seat. We don't -- you know, we -- it is
25 now left up to 12 people decide when take the next step. But

1 you all can have some (inaudible). All right. Anything else
2 from the state?

3 MS. SHELTON: Nothing from the state, Your Honor.

4 THE COURT: From the defense?

5 MR. MCKINNON: No, Your Honor.

6 THE COURT: All right. We'll be at ease while the
7 jury's out.

8 MS. SHELTON: Thank you, Judge.

9 THE COURT: I received a note from the one of the
10 bailiffs presented to the -- to me from the jury. The --
11 just a number of questions about evidence. Why was the
12 mother not mentioned during, and that's all they say. What
13 time did the incident unfold prior to the 911 call? Why is
14 the toilet paper evidence? Can we confirm the location of
15 the saliva was collected, specifically Frank Street timeline
16 and where **MINOR** was before and after Xavier's arrival? Those
17 are -- if you want look at the note. That's the question.
18 My standard response to these type of questions is you have
19 all the evidence in the case. Any -- anything you all want
20 to say? All right. All right ---

21 MR. MCKINNON: Your Honor, welcome to read the
22 testimony or whatever.

23 THE COURT: I'm not going to say that. I'm going to
24 say ---

25 MS. SHELTON: Yeah, there's not enough. There's all

1 over the place.

2 THE COURT: Right now, I'm going to say you have all
3 the evidence in the case. All right. We need to mark that
4 as court's exhibit and then in a different handwriting to
5 reference 1.4, suspected saliva swab. Where did the SANE
6 nurse collect the other contributing DNA?

7 MS. SHELTON: In evidence.

8 THE COURT: The answer is you have all the evidence.

9 MS. SHELTON: (Inaudible) testified to that (inaudible)
10 from the vagina (inaudible).

11 THE COURT: We have a transcript of Nurse Davis's
12 testimony. Well, and I know that.

13 MS. SHELTON: He said no.

14 THE COURT: The answer is you can listen to -- you can
15 listen to a recording of her testimony. They're entitled to
16 that if that's what they want to do. So the answer is you
17 can hear a recording of her testimony if that's what you
18 want.

19 MS. SHELTON: Yes, sir.

20 THE COURT: All right. Thank you ladies and gentlemen.
21 I did receive your note about the testimony of the SANE
22 nurse, Ms. Davis, and we are prepared to play that testimony
23 for you. It is about 40 minutes, 35, 40 minutes, the entire
24 testimony. And we'll -- we have plenty of time to do that.
25 We've ordered we've ordered pizza that should be here

1 hopefully toward -- when we get through this part. On the
2 other hand, was there a particular or is there a particular
3 part that needs to be heard or do we need to hear the our
4 testimony? That's not unusual that we do that often. Replay
5 testimony.

6 UNIDENTIFIED SPEAKER: We're actually looking to see
7 where ---

8 THE COURT: Well, here's what I want to do. We're
9 going to start the -- we're not going to get too much
10 conversation here. We're going to turn the testimonial. If
11 at some point you have heard all you need to hear, if you
12 would just signal to the -- to the foreperson and let him
13 know on hand. On the other hand, we will play the -- we will
14 play all the testimony, 40 minutes is not that long if you
15 just keep it. Where, if we pick up where we left off and the
16 foreman indicated that they had heard all they needed to hear
17 at this point. And so they have now returned to the jury
18 room. All right. We'll be at ease. The verdict? All
19 right. Everybody is in place. Let's bring the jury in. All
20 right. Thank you. Mr. Foreman, as the jury receiver.

21 JUROR NUMBER 150: Yes, sir.

22 THE COURT: If you hand the bailiff the verdict form. Madam
23 Clerk. If you publish the -- the verdict.

24 THE CLERK: The State of South Carolina (inaudible)
25 State of South Carolina versus Xavier Lamar Holbrooks on

1 indictment number 2022-GS-46-01685. Second degree criminal
2 sexual conduct with a minor or -- or attempt victim age 11 to
3 14 years off of age. Second degree criminal sexual conduct
4 with a minor or attempt, victim age 11 to 14 years old. We
5 the jury find the defendant, Xavier Lamar Holbrooks, guilty
6 of second degree criminal sexual conduct with a minor or
7 attempt, victim age 11 to 14 years old. Ladies and gentleman
8 of the jury, is that -- be your verdict state, so you all by
9 raising your right hand. Let the record show all jurors
10 affirm this verdict.

11 THE COURT: All right. Thank you ladies and gentlemen
12 that concludes your service. Let me ask you, is anything
13 further for the jury?

14 MS. SHELTON: Nothing from the state, Your Honor.

15 THE COURT: From the defense?

16 MR. MCKINNON: No, Your Honor.

17 THE COURT: That concludes your service. You can talk
18 to anybody about the case that you wish. Sometimes lawyers
19 may call to get information or might be helpful to them.
20 That's not improper. On the other hand, you're not required
21 to talk to them, you're not required to talk to anybody about
22 the case. On the other hand, you're free to discuss the
23 case, talk to anybody about it as you submit. With that,
24 you're excused. We will we will bring the defendant around
25 for sentencing in just a few moments. We don't -- we're not

1 like the federal system where sentencing is delayed for
2 several months.

3 We sentence when verdicts are in. So if you'd like to
4 stay for sentencing, we're going to be at ease. We'll bid
5 you come back in and sit in the back room, but if not, you're
6 free to leave. You -- the bailiff will help you out this
7 door. Let's -- let's take a out this door and then if you
8 want to come back, you can come back around. Well, let's do
9 this. That's -- that's fine. You're excused. You can head
10 out that door if you want to leave, leave your tags with the
11 bailiff if you want to stay, have a seat. Unless you have
12 something you left in the jury room. And stand up. Yes
13 (inaudible). You have sentencing sheet?

14 UNIDENTIFIED SPEAKER: Yes.

15 THE COURT: All right. Mr. McKinnon, let's bring the
16 defendant around. All right. Solicitor, do you wish to be
17 heard?

18 MS. SHELTON: Yes, Your Honor. I think they were
19 inquiring if any of the jury wanted to be present sentence.

20 THE COURT: Okay. All right.

21 MS. SHELTON: Are any of them coming in -- are any of
22 them coming in for sentencing?

23

24 THE BAILIFF: Yes. Coming around right (inaudible).

25 MS. SHELTON: Thank you.

1 MR. MCKINNON: Your Honor, I -- I need to put something
2 on the record as well before dismissing.

3 THE COURT: All right. Then normally, I would hear
4 Solicitor in regards to sentencing. Do you have something
5 you want put on the record prior to that?

6 MR. MCKINNON: Yes, Your Honor.

7 THE COURT: All right. I'll be glad to hear from you.

8 MR. MCKINNON: Your Honor, we'd like to renew all
9 previous motions and objections and ask for the court to set
10 aside the verdict.

11 THE COURT: All right. I note your object -- I note
12 your objection. I deny that motion. I stand by all my prior
13 (inaudible). All right. Solicitor?

14 MS. SHELTON: Your Honor, I'm going to give you his
15 prior criminal history first. And then I would like to speak
16 on behalf of the victim in sentencing. Your Honor, his prior
17 criminal history is criminal domestic violence from 1997. He
18 has 31 counts of forgery from 1999 as another forgery. From
19 2005, a child endangerment and failure to stop for a blue
20 light from 2000, a forgery and financial institution.
21 Institution fraud from 2009, where I believe he received a
22 four year sentence. And another forgery charge from 2013,
23 Your Honor. And, Judge, I'm going to -- I do want you to
24 speak on behalf of the victim and I will do my best to do it
25 without becoming emotional.

1 I've been doing this for 22 years and this was probably
2 the hardest case that I've worked on from an emotional
3 standpoint. I met with **MINOR** on several occasions. This
4 court got to see her on Tuesday and determining her
5 competency. She is a sweet, innocent, bright light who just
6 is not in a position to be able to communicate for herself or
7 protect herself. This defendant has been found guilty of
8 taking advantage of truly one of the most vulnerable kids I
9 have ever met in my career. I've met four year olds who, who
10 could communicate what happened to them better than she could
11 with me. She was not even able to say a name that she had
12 for a -- for a male's private part.

13 Not even in a kid-like way. But she did acknowledge to
14 me that men or boys are different than girls. They have
15 different parts. And she did say that he put the part that
16 made him different in her. That was the only way she could
17 communicate that. She was very biddable, timid, meek, never,
18 ever going to be in the position to try to fight back, never
19 going to be in the position to cry out, never going to be in
20 the position to be able to tell somebody what he did to her.

21 Thank God for Christiana Tabron who pushed the issue,
22 who made **MINOR** tell what happened to her who called law
23 enforcement, who took her for that sexual assault
24 examination. We are asking for the -- the maximum of this
25 sentence, which is 20 years. I know that that is above where

1 we were with plea negotiations. My plea negotiations were
2 nowhere close to what I think this man deserves what he did
3 to this child. My plea negotiations were to avoid this trial
4 because I knew she would not be able to testify. I'm asking
5 for 20 years, Your Honor.

6 THE COURT: Thank you, Solicitor. Ms. Shelton and Ms.
7 Rogers out here for you. And -- and I'll hear from your
8 client.

9 MR. MCKINNON: Your Honor, may it please court? You
10 heard his criminal record. There's nothing like this
11 remotely on the record. I mean, his -- most of his offenses
12 were in the nineties. I think it was a domestic violence
13 first offense and a lot of forgeries frankly said that he had
14 a gambling problem back then. But it sat he's, you've heard
15 he is not had a conviction for anything since 2013. So 11
16 years ago he had another conviction for forgery and it's
17 stayed out of trouble since then.

18 You heard from a juror that said that they knew him
19 because her husband employed him, so he worked. I think
20 there was testimony that when every day when he would come
21 over there, he was coming home from work and he'd go over
22 there to help out. Certainly the allegations here that he's
23 been convicted of or -- or not good. But we'd ask that you
24 give him a just sentence. And I believe he was in jail for
25 about a week and then he's been, you know, in the jail for

1 two more days during this trial. So we'd ask that you give
2 him nine days of credit.

3 THE COURT: Thank you. Mr. Holbrooks. Anything you
4 wish to say?

5 MR. HOLBROOKS: Yes, sir. Sorry the jury ruled this
6 way. Me -- and I've been knowing MINOR since she was a baby.
7 Raised her up, never would touch her. I don't know how come
8 they come to this verdict. I check on her every day or every
9 other day. Even Christiana wasn't around. She just came
10 around two years ago after grandmother left. Okay. So I
11 don't know what would happen to make them think that I would
12 do something to MINOR never would hurt MINOR. MINOR's like my
13 -- could -- could be my child or my grandchild. Okay.

14 THE COURT: Thank you, Mr. Holbrooks. Well, the jury
15 in our system, the jury is the fact finder of the case. In
16 this particular case. That's the that was their role. The
17 jury heard the evidence that was presented in the court after
18 two and a half hours of deliberation, which is not limit the
19 amount of time for this type charge. They returned a verdict
20 of guilty. The sentence on 2022-GS-46-01685, Xavier Lamar
21 Holbrooks, having been found guilty, convicted by a jury of
22 his peers of criminal sexual conduct with a minor second
23 degree in this court. He be committed Department of
24 Corrections for 20 years. I will give him credit for 10
25 days. Thank you.

SOUTH CAROLINA LAW ENFORCEMENT DIVISION

FORENSIC SERVICES LABORATORY REPORT

HENRY D. MCMASTER
Governor



MARK A. KEEL
Chief

February 15, 2023

Brooks Felmet
Rock Hill Police Department
120 East Black Street
Rock Hill, SC 29730

DNA ANALYSIS

SLED LAB: L21-16566
Your Case No: 2106030094
Incident Date: 06/03/2021
[V] **MINOR**
[S] Xavier Holbrooks

This is an official report of the South Carolina Law Enforcement Division Forensic Services Laboratory and is to be used in connection with an official criminal investigation. These examinations were conducted under your assurance that no previous examinations of person(s) or evidence submitted in this case have been or will be conducted by any other laboratory or agency.

Mark A. Keel, Chief
South Carolina Law Enforcement Division

SUPPLEMENTAL

COMPARISON STANDARDS

1.5 Buccal swabs from **MINOR**

RESULTS:

- The DNA profile developed is suitable for use as a known standard.

3 *Buccal swab from Xavier Holbrooks*

RESULTS:

- *The DNA profile developed is suitable for use as a known standard.*



ITEMS OF EVIDENCE**1 Sexual Assault Evidence Collection Kit from MINOR****1.1 Underwear****RESULTS:**

- Examination for a component of semen (acid phosphatase) was negative.

1.1.1 Cutting from crotch of underwear**RESULTS:**

- The DNA profile developed is attributable to MINOR

1.1.2 Hair from underwear**1.1.2.1 Hair****RESULTS:**

- A DNA profile suitable for comparison was developed.
- Likelihood Ratios (LR) for this profile were calculated using STRmix™.
- **Proposition Set I:**
 - The DNA profile was interpreted as a mixture originating from two individuals.
 - H_p = MINOR and an unidentified unrelated individual contributed to the mixture.
 - H_d = Two unidentified unrelated individuals contributed to the mixture.
- An uninformative statistical result was obtained. No conclusion can be made regarding Jayda Davis as a possible contributor to the mixture under the listed propositions.

• Proposition Set II:

- *The DNA profile was interpreted as a mixture originating from two individuals.*
- *H_p = Xavier Holbrooks and an unidentified unrelated individual contributed to the mixture.*
- *H_d = Two unidentified unrelated individuals contributed to the mixture.*



- *The DNA profile is approximately 200 sextillion ($2.0E23$) times more likely if Xavier Holbrooks and an unidentified unrelated individual contributed to the mixture than if two unidentified unrelated individuals contributed to the mixture.*

- DNA types from this mixture have been entered into the Combined DNA Index System (CODIS) as 21-16566 1.1.2.1-2P (87).

1.2 Vaginal swabs

RESULTS:

- NON-SPERM FRACTION:

- The DNA profile developed is attributable to MINOR
- The presence of a minor male contributor is indicated but is insufficient for interpretation.

- SPERM FRACTION:

- The DNA profile developed is attributable to MINOR

1.3 Rectal swabs

RESULTS:

- NON-SPERM FRACTION:

- A DNA profile suitable for comparison was developed.
- *Likelihood Ratios (LR) for this profile were calculated using STRmix™.*

- **Proposition Set:**

- *The DNA profile was interpreted as a mixture originating from two individuals.*
- MINOR is contributing to the mixture.
- H_p = MINOR and Xavier Holbrooks contributed to the mixture.
- H_d = MINOR and an unidentified unrelated individual contributed to the mixture.
- *The DNA profile is approximately 1.1 quintillion ($1.1E18$) times more likely if MINOR and Xavier Holbrooks contributed to the mixture than if MINOR and an unidentified unrelated individual contributed to the mixture.*



- DNA types from this profile have been entered into the Combined DNA Index System (CODIS) as 21-16566 1.3NS-2P(4).

- SPERM FRACTION:

- The partial DNA profile developed is insufficient for interpretation.

1.4 Suspected saliva swabs

RESULTS:

- A DNA profile suitable for comparison was developed.

- *Likelihood Ratios (LR) for this profile were calculated using STRmix™.*

- **Proposition Set:**

- *The DNA profile was interpreted as a mixture originating from two individuals.*

- **MINOR** is contributing to the mixture.

- $H_p =$ **MINOR** and Xavier Holbrooks contributed to the mixture.

- $H_d =$ **MINOR** and an unidentified unrelated individual contributed to the mixture.

- *Xavier Holbrooks is excluded as a contributor to the mixture under the listed propositions.*

- DNA types from this profile are not suitable for entry into the Combined DNA Index System (CODIS).

1.6 Outer clothing

1.6.1 Shirt

RESULTS:

- Examination for a component of semen (acid phosphatase) was negative.

1.6.2 Shorts

RESULTS:

- Examination for a component of semen (acid phosphatase) was negative.



1.6.3 Hair from outer clothing

1.6.3.1 Hair

RESULTS:

- No DNA profile was developed.

1.7 Toilet paper

RESULTS:

- Examination for a component of semen (acid phosphatase) was negative.

NOTES:

Serology, DNA extraction, and quantitation for items 1.1, 1.1.1, 1.1.2, 1.1.2.1, 1.2, 1.3, 1.4, 1.5, 1.6, 1.6.1, 1.6.2, 1.6.3, 1.6.3.1, and 1.7 were performed by Forensic Scientist Rachel Nguyen.

This report supplements the original testing performed on items in the report issued on November 22, 2021 by Forensic Scientist Ryan O. DeWane.

DNA analysis was performed using Short Tandem Repeat (STR) PCR DNA analysis.

The following kits/loci were utilized in the analysis of this case:

GlobalFiler™ Express: D3S1358, vWA, D16S539, CSF1PO, TPOX, Yindel, AMELOGENIN, D8S1179, D21S11, D18S51, DYS391, D2S441, D19S433, TH01, FGA, D22S1045, D5S818, D13S317, D7S820, SE33, D10S1248, D1S1656, D12S391, D2S1338

GlobalFiler™: D3S1358, vWA, D16S539, CSF1PO, TPOX, Yindel, AMELOGENIN, D8S1179, D21S11, D18S51, DYS391, D2S441, D19S433, TH01, FGA, D22S1045, D5S818, D13S317, D7S820, SE33, D10S1248, D1S1656, D12S391, D2S1338

The verbal scales listed in the tables below were implemented by SLED for use with STRmix™ results only. Verbal scales are designed to assist in conveying the weight of likelihood ratios.

Supported Proposition	Likelihood Ratio	Verbal Wording
First proposition (Hp) is supported against the alternative proposition (Hd)	1	Uninformative
	2 to 99	Weak support
	100 to 9,999	Moderate support
	10,000 to 999,999	Strong support
	≥ 1,000,000	Very strong support



Supported Proposition	Likelihood Ratio	Verbal Wording
The alternative proposition (Hd) is supported against the first proposition (Hp)	1	Uninformative
	2 to 99	Moderate support for Hd
	≥ 100	Exclusion

Reported likelihood ratios are based on the stated propositions. Alternate propositions may require calculation of additional likelihood ratios. If interpretation based on propositions other than those reported is needed, please contact the analyst listed below and allow up to **30 business days** for calculation and reporting of additional likelihood ratios.

Definitions:

Proposition: A statement, based on case circumstances and genetic results, that expresses an opinion

Hp: First proposition

Hd: Alternative proposition

Likelihood ratio: The comparison of the probability of the evidence given Hp and the probability of the evidence given Hd

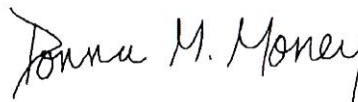
Person of interest: An individual whose known standard has been submitted for comparison

Italics indicate additional items and/or result(s).

Item 1.1.2.1 was consumed in analysis. Any remaining evidence and/or packaging will be returned to the requesting agency.

This report contains the conclusions, opinions and interpretations of the analyst whose signature appears below.

Technical records supporting the conclusions in this report are available upon request. Afford sufficient time for production.



Donna M. Money

Forensic Scientist





ARREST WARRANT
2022A4620300777
STATE OF SOUTH CAROLINA
☐ County/ ☒ Municipality of
ROCK HILL

FILED-RECEIVED
2022 MAR 23 AM 9:52
DAVID HAMILTON
C.C.C.P. & G.S.
YORK COUNTY, SC

THE STATE
against
HOLBROOKS, XAVIER LAMAR
Address: [REDACTED]
Phone: [REDACTED]
Sex: M Race: B Height: 602 Weight: 172
DL State: SC DL#: [REDACTED] Agency ORI #: 460300
DOB: [REDACTED] 1968
Prosecuting Agency: RHPD
Prosecuting Officer: BROOKS FELMET
Offense: CRIMINAL SEX. COND W/MINOR 2ND

Code/Ordinance Sec. 16-3-655
This warrant is CERTIFIED FOR SERVICE in the
☐ County/ ☐ Municipality of
is to be arrested and brought before me to be
dealt with according to law.

Date: [REDACTED] (L.S.)
RETURN
A copy of this arrest warrant was delivered to
defendant Xavier Holbrooks
on 3-18-22
Signature of Constable/Law Enforcement Officer
K. Link 2037

STATE OF SOUTH CAROLINA)
☐ County/ ☒ Municipality of)
ROCK HILL)

Signature of Affiant 7. B. 22
Affiant's Address ROCK HILL MUNICIPAL COURT
Affiant's Telephone 803-329-5695
ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:
It appearing from the above affidavit that there are reasonable grounds to believe that
on 06/03/2021 defendant HOLBROOKS, XAVIER LAMAR
did violate the criminal laws of the State of South Carolina (or ordinance of
☐ County/ ☒ Municipality of ROCK HILL) as set forth below:

DESCRIPTION OF OFFENSE:
CRIMINAL SEX. COND W/MINOR 2ND DEGREE - 16-3-655
Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said
defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to
the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me
on 3-17-2021
Judge's Address ROCK HILL MUNICIPAL COURT
ROCK HILL SC 29730
Judge's Telephone 803-329-5695
Signature of Issuing Judge
Judge Code: ☐ Magistrate ☒ Municipal ☐ Circuit

ORIGINAL

ENTERED

ENTERED
NCIC

WITNESSES

261

RHPD

Witnessing Officer: Price

ARREST WARRANT NUMBER

2022A4620300777

ACTION OF GRAND JURY

TRUE BILL

Heather Bochini

Foreperson of Grand Jury

Date: 8/18/2022

VERDICT

Guilty

John Bohmer 3-13-24

Foreperson of Petit Jury

Date:

DOCKET NO. 2022-GS-46-01685

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

AUGUST 18, TERM 2022

THE STATE

VS.

XAVIER LAMAR HOLBROOKS

Defendant

Witness:

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

INDICTMENT FOR

**CRIMINAL SEXUAL CONDUCT WITH A
MINOR, SECOND DEGREE**

C.C.C. PLS. AND G.S.

SC Code: § 16-03-0655(B)(1)

CDR Code: 0396

STATE OF SOUTH CAROLINA
COUNTY OF YORK

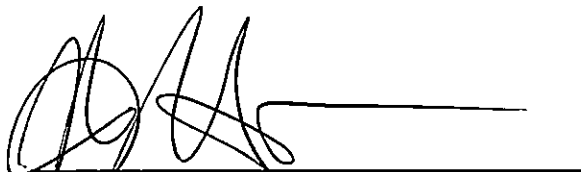
INDICTMENT

At a Court of General Sessions, convened on August 18, 2022, the Grand Jurors of York County present upon their oath:

CRIMINAL SEXUAL CONDUCT WITH A MINOR, SECOND DEGREE

The defendant, Xavier Lamar Holbrooks, did on or about June 3, 2021, in York County, South Carolina, commit the crime of Criminal Sexual Conduct with a Minor in the Second Degree by engaging in a sexual battery with a minor, MINOR (D.O.B. [REDACTED] 2007) who is fourteen (14) years of age or less but who is at least eleven (11) years of age. All in violation of 16-03-0655(B)(1), *South Carolina Code of Laws* (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



MISTI H. SHELTON
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF YORK

STATE

VS.

INDICTMENT/CASE#: 2022-GS-46-01685

XAVIER LAMAR HOLBROOKSAKA: Xavier L Holbrooks, Xavier HolbrooksRace: B Sex: M Age: 55

DOB: [REDACTED]

Address: [REDACTED]

City, Sta: [REDACTED]

DL#*: [REDACTED]

A/W#: 2022A4620300777

Date of Offense: 06/03/2021

S.C. Code §: 16-03-0655(B)(1)

CDR Code #: 0396

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was

☒ CONVICTED OF or ☐ PLEADSTO: Criminal Sexual Conduct with a Minor, Second Degree (NMT 20 years)In violation of § 16-03-0655(B)(1) of the S.C. Code of Laws, bearing CDR Code # 0396
☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45
 (CSC w/minor 1st or CSC w/minor 3rd)

 The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)
The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

/s Misti H. Shelton
Solicitor69393
SC Bar #/s Xavier Lamar Holbrooks
Defendant/s Mark T. McKinnon
Attorney for Defense74065
SC Bar #WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of 20 days/months/years Time Served ☐ Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or paymentof \$; 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.10 days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:☐ **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 \$ _____

§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 \$ _____

§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 \$ _____

☐ 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** \$ _____Clerk of Court/Deputy Clerk: Angie BryantCourt Reporter: DCRP

Presiding Judge: _____

Judge Code: _____

Sentence Date: _____

March 13, 2024

CERTIFICATE OF COUNSEL FOR APPELLANT

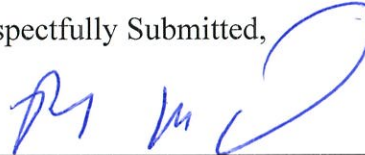
Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

RECEIVED

May 27 2025

SC Court of Appeals

Respectfully Submitted,



Robert M. Dudek
Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 27th day of May, 2025.

RECEIVED

May 27 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from York County

Honorable Daniel D. Hall, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

XAVIER LAMAR HOLBROOKS,

APPELLANT

APPELLATE CASE NO. 2024-000473

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 Mark Farthing, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 27th day of May, 2025.



Robert M. Dudek
Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT