

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

Certiorari to Lexington County

Honorable Jocelyn J. Newman, Circuit Court Judge

BRYAN JEFFREY ELLIS,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2025-000761

APPENDIX

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1 State of South Carolina)
2 County of Lexington) In the Court
3 State of South Carolina,) Of General Sessions
4 Plaintiff,) Indictment No.: 2017-GS-32-02303
5 vs.) 2017-GS-32-2305(A)
6 Bryan Jeffrey Ellis,) Transcript of Record
7 Defendant.)
_____)

8

9

July 10 through July 12, 2017

10

Lexington, South Carolina

11

12 BEFORE:

13

The Honorable R. Knox McMahon, Judge, and Jury

14

15 APPEARANCES:

16

17

Suzanne Mayes, Assistant State Solicitor
Le'Jessica Stringfellow, Assistant State
Solicitor
Attorneys for the State

19

20

David Mauldin, Assistant Public Defender
Attorney for the Defendant

21

22 ALSO PRESENT:

23

BRYAN JEFFREY ELLIS

24

25

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1 JULY 10, 2017

2 Thereupon, the following proceedings were had,

3 THE COURT: All right. Solicitor, you may call your
4 first case for trial.

5 MS. MAYES: May it please the Court. Your Honor,
6 before you is the State of South Carolina versus Bryan
7 Jeffrey Ellis. The first indictment is 2017-GS-32-2303.
8 This indictment is for criminal sexual conduct with a
9 minor in the first degree. Indictment number
10 2017-GS-32-2305A, the State versus Bryan Jeffrey Ellis.
11 This indictment is for criminal sexual conduct with a
12 minor third degree. Your Honor, the State is ready for
13 trial in this case.

14 THE COURT: Thank you. Thank you, Solicitor.
15 Mr. Mauldin, you represent Bryan Jeffrey Ellis?

16 MR. MAULDIN: Yes, Your Honor.

17 THE COURT: Is Mr. Ellis present?

18 MR. MAULDIN: He is, Your Honor.

19 THE COURT: All right. You ready for trial?

20 MR. MAULDIN: Yes, sir.

21 THE COURT: All right. Thank you. Thank you,
22 Mr. Mauldin. Ladies and gentlemen of the jury panel, if
23 you would please give me your complete and undivided
24 attention. We are going to go through a procedure
25 whereby we select a trial jury for the trial of this

1 case. In other words, I will ask you a series of
2 questions to determine your eligibility to serve as
3 members of this particular jury. You have been generally
4 qualified to serve as jurors. Now you will be
5 specifically qualified to serve as jurors on this case.
6 As part of that momentarily I will read or publish to you
7 the indictments.

8 Ladies and gentlemen, the indictments are not
9 evidence. The indictments are the formal charging
10 documents by which an individual is placed on notice of
11 charges that have been brought against him or her. The
12 indictments contain mere allegations and in no sense are
13 the allegations in the indictment evidence. I read these
14 indictments to you because of certain questions I will
15 have to ask you as we go through this procedure. If you
16 would, please, having taken an oath earlier this morning,
17 please continue with that oath in your responses to the
18 Court's questions.

19 Indictment 2017-GS-32-02303. It alleges that Bryan
20 Jeffrey Ellis, date of birth [REDACTED] [REDACTED] [REDACTED], did in
21 Lexington County, South Carolina on or about November
22 15th, 2015 through January 21st, 2016 willfully and
23 unlawfully committed criminal sexual conduct with a minor
24 in the first degree by engaging in sexual battery as
25 defined by our Code Section 16-3-651(H) with a minor who

1 was less than 11 years of age to wit Minor [REDACTED] date of
2 birth, [REDACTED] [REDACTED] [REDACTED] including but not limited to
3 fellatio in violation of Section 16-3-655(A)(1) South
4 Carolina Code of Laws 1976 as amended. That is an
5 indictment for criminal sexual conduct with a minor in
6 the first degree.

7 The next indictment 2017-GS-32-02305A alleges that
8 Bryan Jeffrey Ellis, date of birth [REDACTED] [REDACTED] [REDACTED]
9 being a person of 14 years of age did in Lexington
10 County, South Carolina on or about November 15th, 2015
11 through January 21, 2016 willfully and lewdly commit or
12 attempt to commit a lewd and lascivious act upon or with
13 the body or parts of a child under 16 years of age with
14 the intent of arousing, appealing to or gratifying the
15 lust or passion or sexual desires of himself or of the
16 child to wit touching of a sexual nature involving a
17 child Minor [REDACTED] date of birth [REDACTED] [REDACTED] [REDACTED].
18 Furthermore, the said child was under the age of 14 years
19 during the time of these offenses in violation of Section
20 16-3-655(C) South Carolina Code of Laws 1976 as amended.
21 That is an indictment for criminal sexual conduct with a
22 minor in the third degree.

23 The State is represented by Assistant Solicitors
24 Mayes and Stringfellow. If you would all please stand
25 and introduce yourself to the jury panel and any other

1 member of the Solicitor's staff that may assist you
2 during this case.

3 MS. MAYES: May it please the Court. My name is
4 Suzanne Mayes. I'm Deputy Solicitor here in the
5 Lexington County Solicitor's Office. We are part of the
6 Eleventh Judicial Circuit. Also present in the courtroom
7 will be Investigator James Sullivan with our office.
8 Sergeant Miles Rawl of the Lexington County Sheriff's
9 Department major crimes unit.

10 MS. STRINGFELLOW: My name is La'Jessica
11 Stringfellow. I'm an Assistant Solicitor with the
12 Eleventh Circuit Solicitor's Office.

13 THE COURT: Thank you, Solicitor Mayes and Solicitor
14 Stringfellow. Mr. Ellis is represent by Mr. Mauldin.
15 Mr. Mauldin, if you would please stand and introduce
16 yourself and your client to the jury panel.

17 MR. MAULDIN: My name is David Mauldin and I
18 represent Bryan Ellis to my left.

19 THE COURT: Thank you, Mr. Mauldin. Thank you,
20 Mr. Ellis. Is any member of the jury panel related by
21 blood or marriage, personal friends, know or have any
22 business or professional relationship with any of the
23 attorneys involved in the trial of this case either
24 Solicitor Mayes, Stringfellow or Mr. Mauldin? If so,
25 please stand.

1 (No one standing.)

2 THE COURT: Does any member of the jury panel or any
3 member - is there any member of the jury panel related by
4 blood or marriage, know, close personal friends, have any
5 business or professional relationship with Bryan Jeffrey
6 Ellis, the defendant in the case who has previously been
7 introduced to you? If so, please stand.

8 (No one standing.)

9 THE COURT: Does any member of the jury panel have
10 any knowledge about the facts of the case? If so, please
11 stand.

12 (No one standing.)

13 THE COURT: Has any member of the jury panel heard
14 or know anything about the case from any source
15 whatsoever, hearsay, media reports should there have been
16 any, read anything in the newspaper, hearing anything on
17 the radio, read anything on the Internet should there
18 have been anything? If so, please stand.

19 (No one standing.)

20 THE COURT: The named child in the case is Minor
21 Minor Is there any member of the jury panel related by
22 blood or marriage, know or have any personal or other
23 relationship with Minor ? If so, please stand.

24 (No one standing.)

25 THE COURT: I'm going to call a list of names.

1 Well, I think I'll wait just a moment to do that.

2 Has any member of the jury panel or any member of
3 your immediate family ever been a victim of a offense
4 involving a sexual nature, assault, child abuse or ever
5 been accused of such an offense? If so, please stand.

6 Your number please.

7 LARRY MCCUISTON: 134.

8 THE COURT: Step up here for me please. Yes, sir.
9 Your number.

10 CHASON MELTON: 139.

11 THE COURT: You can step up here also. Yes, ma'am.
12 Step up here also.

13 BAILIFF: 134, your Honor.

14 (Side bar discussions.)

15 THE COURT: Yes, sir. Good morning.

16 LARRY MCCUISTON: Good morning.

17 THE COURT: Tell me your name.

18 LARRY MCCUISTON: Larry McCuiston.

19 THE COURT: Tell me your response.

20 LARRY MCCUISTON: My son about 15 years ago was
21 subject to some kind of - I wasn't around but he was
22 subject to some kind of sting operation where he got
23 charged with rape. He didn't go through anything but he
24 did serve probation. He is currently listed in the State
25 of Ohio.

1 THE COURT: As a sex offender?

2 LARRY MCCUISTON: I believe so. Yes, sir. Felony,
3 of course.

4 THE COURT: Given that fact can you be a fair and
5 impartial juror in the trial of this case for the State
6 and the defendant?

7 LARRY MCCUISTON: I believe I could. Yes, sir.

8 THE COURT: When you say "you believe", you may have
9 been on jury duty before and --

10 LARRY MCCUISTON: I have never been on jury duty
11 before. Never.

12 THE COURT: Do you think you can decide the case
13 based upon the evidence and the testimony in the
14 courtroom, from the witnesses' testimony independent of
15 what may have occurred in the past so you can set that
16 aside --

17 LARRY MCCUISTON: Yes, sir.

18 THE COURT: -- and decide on the evidence?

19 LARRY MCCUISTON: On the evidence presented.
20 Correct.

21 THE COURT: All right. I believe you can stay with
22 us. Thank you very much.

23 BAILIFF: 139, Your Honor.

24 THE COURT: Good morning. Yes, sir. Tell me your
25 situation.

1 CHASON MELTON: My sister, she was abused multiple
2 times by my mom's boyfriend sexually.

3 THE COURT: As a child?

4 CHASON MELTON: Yes, sir.

5 THE COURT: What age?

6 CHASON MELTON: My sister now is 19.

7 THE COURT: What age was it?

8 CHASON MELTON: When she was nine.

9 THE COURT: Was the boyfriend prosecuted?

10 CHASON MELTON: Yes, sir.

11 THE COURT: She was the victim?

12 CHASON MELTON: Yes, sir.

13 THE COURT: Given those facts can you be a fair and
14 impartial juror in the trial of this case and give a fair
15 trial to the State and Mr. Ellis?

16 CHASON MELTON: I don't know. She was 11 years old.
17 Maybe.

18 THE COURT: Standing here right now you think you
19 can do that. Is that what you're telling me?

20 CHASON MELTON: Yes. There's no reason for that.

21 THE COURT: I'm sorry, sir.

22 CHASON MELTON: I said there's no reason for that.

23 THE COURT: All right. I think I have to dismiss
24 you from the trial of this case. Do not say anything to
25 your fellow jurors, okay?

1 CHASON MELTON: Thank you.

2 THE COURT: Okay. Thank you for coming.

3 BAILIFF: 186, your Honor.

4 THE COURT: Good morning.

5 SAMANTHA SHUMPERT: Good morning. My brother, he
6 was sexually assaulted when he was younger. His
7 assaulter went to trial and passed away so he was not
8 justified in the case.

9 THE COURT: Given that fact can you be a fair and
10 impartial juror in the trial of this case to the State
11 and defense?

12 SAMANTHA SHUMPERT: I don't understand that.

13 THE COURT: You just related that information to me.
14 Given that information can you be fair to both the State
15 and Mr. Ellis and set aside what happened?

16 SAMANTHA SHUMPERT: I don't believe so.

17 THE COURT: Okay. We'll set you aside for the trial
18 of this case. Do not say anything to the rest of your
19 jurors.

20 BAILIFF: 95, Your Honor.

21 THE COURT: Tell me your response.

22 KATHRYN JACOBS: My grandson. My grandson who is
23 now eight was abused at the age of two in a day care
24 setting and is now suffering from PTSD.

25 THE COURT: Given those facts can you be a fair and

1 impartial juror in this case to both Mr. Ellis and the
2 State?

3 KATHRYN JACOBS: No.

4 THE COURT: I'll set you aside for the trial of this
5 case. Please do not say anything to your fellow
6 jurors.

7 BAILIFF: 19, Your Honor.

8 THE COURT: Good morning. Yes, sir. Tell me your
9 response.

10 PETER BAUER: My 11 year old niece was sexually
11 molested by my late brother-in-law when she was 11. He
12 was found guilty.

13 THE COURT: Given those facts can you be a fair and
14 impartial juror in the trial of this case to both the
15 State and Mr. Ellis?

16 PETER BAUER: I believe I can.

17 THE COURT: When you say "I believe", you understand
18 you make a decision based on the evidence?

19 PETER BAUER: In this case, not that case.

20 THE COURT: And set aside that.

21 PETER BAUER: Yes, sir. Yes, sir.

22 THE COURT: You can do that?

23 PETER BAUER: I believe so, sir.

24 THE COURT: I believe you can say stay with us. Do
25 not say anything to your fellow jurors about that, okay?

1 PETER BAUER: Thank you, sir.

2 BAILIFF: Number 138, Your Honor.

3 THE COURT: Good morning.

4 DIANNE MEETZE: Good morning.

5 THE COURT: Tell me your situation.

6 DIANNE MEETZE: I was sexually molested as a child
7 but I think I can.

8 THE COURT: That was my next question.

9 DIANNE MEETZE: Yes, sir.

10 THE COURT: Can you be a fair and impartial juror in
11 the trial of this case to both the State and to
12 Mr. Ellis?

13 DIANNE MEETZE: Only on the facts.

14 THE COURT: What you hear in this courtroom.

15 DIANNE MEETZE: Yes, sir.

16 THE COURT: Not what happened to you.

17 DIANNE MEETZE: No, sir.

18 THE COURT: Okay. I believe you can stay. Thank
19 you.

20 DIANNE MEETZE: Thank you.

21 THE COURT: Any others? Thank you.

22 MR. MAULDIN: I would just move to strike that one
23 for cause.

24 THE COURT: Well --

25 MR. MAULDIN: Juror 138, prior sexual abuse, sexual

1 nature. I move to strike for cause.

2 THE COURT: She's under oath.

3 MR. MAULDIN: Yes, sir.

4 THE COURT: She's very firm in her responses. I
5 will deny that motion.

6 MR. MAULDIN: Yes, sir.

7 (End of sidebar conversations.)

8 THE COURT: Thank you, Mr. Mauldin. Is there any
9 member of the jury panel ever been employed -- Well,
10 let's see. My verb tense is incorrect. Is any member of
11 the jury panel employed at the present time or has been
12 employed in the past by the DISH, D-I-S-H Network in Irmo
13 or Lexington County? If so, please stand.

14 (No one standing.)

15 THE COURT: Is any member of the jury panel
16 presently employed or been employed in the past by
17 Wal-Mart located at 1780 South Lake Drive in Lexington
18 County? That's beyond Red Bank; is that right? That's
19 South Lake. If so, please stand. Can you tell me what
20 years you were employed.

21 CHAD SALLEY: 2012.

22 THE COURT: Speak up for me a little bit. I'm sorry

23 CHAD SALLEY: 2012.

24 THE COURT: Did y'all hear that answer? I'm getting
25 conflicting reports even in my own mind. Be that as it

1 may, thank you. You may be seated. What was that
2 number?

3 CHAD SALLEY: 177.

4 THE COURT: Is any member of the jury panel
5 presently or in the past been a member of or financial
6 supporter of or otherwise involved or connected with any
7 organization that demands stricter enforcement of the
8 laws or victims' rights such as Mothers Against Drunk
9 Driving, Students Against, really, Destructive Decisions?
10 Is that what it's called now?

11 MR. MAULDIN: They changed it.

12 THE COURT: They changed it?

13 MR. MAULDIN: Yes, sir.

14 THE COURT: Who knew. Well, the same thing.
15 Destructive Decisions. Citizens Against Violent Crime or
16 any other such organization? If so, please stand. Yes.
17 You're number please.

18 KATHRYN JACOB: 95.

19 THE COURT: Member of, contributor to what
20 organization?

21 KATHRYN JACOB: Mothers Against Drunk Drivers.

22 THE COURT: Given that fact can you be a fair and
23 impartial juror in the trial of this case for both
24 Mr. Ellis and the State?

25 KATHRYN JACOB: No, sir.

1 THE COURT: All right. Thank you. I'll set you
2 aside for the trial of this case. Any others?

3 (No one standing.)

4 THE COURT: Is any member of the jury panel or
5 member of your immediate family or close personal friends
6 ever been a law enforcement officer or otherwise had the
7 power of arrest? If so, please stand. Let's see. Tell
8 me your name.

9 LARRY MCCUISTON: 134.

10 THE COURT: Let's see. Mr. Mccuiston. All right.
11 Tell me your response to that question.

12 LARRY MCCUISTON: I have a nephew that's a border
13 patrol agent. He's also U.S. Customs Inspector in
14 Detroit.

15 THE COURT: Given that fact can you be a fair and
16 impartial juror in the trial of this case to both Mr.
17 Ellis and the State?

18 LARRY MCCUISTON: Yes, sir.

19 THE COURT: Thank you. You may be seated. Yes,
20 sir. To my right.

21 JOHN NEY: 147.

22 THE COURT: And your response?

23 JOHN NEY: My father is a retired New York City
24 police captain and my brother-in-law is a bailiff in
25 Columbia. My other nephew is a New York State Trooper

1 and my other nephew is a Columbia sheriff.

2 THE COURT: NYPD. How long with NYPD?

3 JOHN NEY: 20 years.

4 THE COURT: 20 years. Given those facts can you be
5 a fair and impartial juror in the trial of this case for
6 both Mr. Ellis and the State?

7 JOHN NEY: I believe so.

8 THE COURT: And you say "I believe so."

9 JOHN NEY: Yes.

10 THE COURT: That's kind of semantics.

11 JOHN NEY: Yes.

12 THE COURT: Okay. Thank you. You may stay with us.
13 Yes, sir. In the blue.

14 RANDY BARNES: 9. Randy Barnes. My uncle was with
15 SLED 20 something years and I could be fair.

16 THE COURT: Tell me your number again.

17 RANDY BARNES: Number 9.

18 THE COURT: Thank you. You may be seated. I think
19 I have set you aside for the trial of this case so you
20 may be seated. Thank you for responding though however.
21 On the right here.

22 KELLY WHITTINGTON: 219. My uncle was law a
23 enforcement officer in Anderson County, a bailiff.

24 THE COURT: You can be fair -- Given those facts can
25 you be a fair and impartial juror in the trial of this

1 case for both the State and the defense?

2 KELLY WHITTINGTON: Yes, sir.

3 THE COURT: I think that's Green.

4 WESTON STUART: Yeah.

5 THE COURT: Your number?

6 WESTON STUART: Number 200, Weston Stuart.

7 THE COURT: Response?

8 WESTON STUART: My grandfather was a Richland County
9 narcotics and my uncle was Richland County sheriff and
10 then Columbia.

11 THE COURT: Given those facts can you be a fair and
12 impartial juror in the trial of this case for both
13 Mr. Ellis and the State?

14 WESTON STUART: Yes.

15 THE COURT: Thank you. You may be seated. Yes,
16 ma'am, in the blue.

17 DIANNE MEETZE: 138. My father was first lieutenant
18 of the South Carolina Highway Patrol. My grandfather was
19 a SLED agent.

20 THE COURT: Given those facts can you be a fair and
21 impartial juror in the trial of this case for both the
22 State and the defense?

23 DIANNE MEETZE: Yes, sir, Your Honor.

24 THE COURT: Thank you. You may be seated. Yes,
25 sir, in the blue.

1 LLOYD CAIN: Number 25. Retired state investigator.
2 Also my son is a Charleston County deputy.

3 THE COURT: Given those facts can you be a fair and
4 impartial juror in the trial of this case to both Mr.
5 Ellis and the State?

6 LLOYD CAIN: Yes, sir.

7 THE COURT: Thank you. You may be seated. Yes,
8 ma'am.

9 LAUREN RIPPY: 167. I was formally a victims
10 advocate for West Columbia Police Department.

11 THE COURT: Given that fact can you be a fair and
12 impartial juror in the trial of this case for both the
13 State and the defense?

14 LAUREN RIPPY: Yes, sir.

15 THE COURT: Thank you. You may be seated. Yes,
16 sir.

17 CHRISTIAN TEBEAU: 209. My father is retired
18 federal law enforcement and many of my church members are
19 police officers in local municipalities.

20 THE COURT: Given those facts can you be a fair and
21 impartial juror in the trial of this case both for the
22 State and the defense?

23 CHRISTIAN TEBEAU: Yes, sir, Your Honor.

24 THE COURT: Thank you. You may be seated. Yes,
25 sir, in the blue.

1 CHRISTOPHER COOPER: My father-in-law.

2 THE COURT: Tell me your number.

3 CHRISTOPHER COOPER: 39. My father-in-law is
4 reserve for Lexington County.

5 THE COURT: Given those facts can you be a fair and
6 impartial juror in the trial of this case for both
7 Mr. Ellis and the State?

8 CHRISTOPHER COOPER: Yes, sir.

9 THE COURT: Thank you. Yes, ma'am.

10 PATRICE JONES: Juror 104. My father was a military
11 police officer. I have brother-in-law who is a police
12 officer.

13 THE COURT: Given those facts can you be a fair and
14 impartial juror in the trial of this case for both
15 Mr. Ellis and the State?

16 PATRICE JONES: Yes, Your Honor.

17 THE COURT: Yes, ma'am.

18 DAWN FELLERS: Juror 56. My brother is a police
19 officers in Nashville, Tennessee, (inaudible) in Columbia
20 and then he was highway patrol.

21 THE COURT: I couldn't quite hear that part. Given
22 those facts can you be a fair and impartial juror in the
23 trial of this case for both the State and the defense?

24 DAWN FELLERS: Yes, sir.

25 THE COURT: Thank you. You may be seated. Any

1 others?

2 (No one standing.)

3 THE COURT: Does any member of the jury panel have
4 any bias or prejudice towards the parties that being
5 either the State or Mr. Ellis or towards the subject
6 matter involved in the case? If so, please stand.

7 (No one standing.)

8 THE COURT: I'm going call a rather lengthy list of
9 names of potential witnesses in the trial of this case.
10 I would advise if the witnesses are present when your
11 names are called, if you would please stand and face the
12 jury panel. I would advise the panel that the witnesses
13 do not have to be present during this proceeding as far
14 as the jury selection process so perhaps names or many
15 names will be called and no one is standing.

16 Nikki Rodgers, Lexington County Communication
17 Center. Karen Miller, Aaron Poole, Sergeant Miles Rawl.
18 Sergeant Rawl is to my front right. Thank you. Sergeant
19 Jesse Laintz. I'm not sure how to -- You may be seated,
20 sergeant.

21 MS. MAYES: Laintz, Your Honor. Yes, sir.

22 THE COURT: Sergeant Jesse Laintz, Brandon Miller,
23 Tom Smith. All of those are officers with the Lexington
24 County Sheriff's Department. Minor [REDACTED] whose name I
25 called previously. L.D. [REDACTED], J. [REDACTED]. Of course

1 the question is is any member of the jury panel related
2 by blood or marriage, close personal friends, have any
3 personal or business relationship with any of these
4 parties whose names I have called? If so, please stand.
5 Yes, sir. Your number please.

6 LLOYD CAIN: 25.

7 THE COURT: Your response?

8 LLOYD CAIN: Aaron Poole. I know him real well.

9 THE COURT: All right. Given the fact you know
10 Aaron Poole an employee of the Lexington County Sheriff's
11 Department a potential witness in the trial of this case
12 can you be a fair and impartial juror in the trial of
13 this case for both Mr. Ellis and the State?

14 LLOYD CAIN: Yes, sir.

15 THE COURT: Thank you. You may be seated. Any
16 others?

17 (No one standing.)

18 THE COURT: The next list of names. J. [REDACTED],
19 Leslie Ellis Pierson. This is Ms. Pierson to my front
20 right. Thank you. Barbara Havird. Ms. Havird to my
21 front right, Thomas Havird, Daniel Havird. Again, the
22 question is any member of the jury panel related by blood
23 or marriage, know or close personal friends, have any
24 social or business relationship with any of those parties
25 whose names I called and/or who stood before you? If so,

1 please stand.

2 (No one standing.)

3 THE COURT: The next list of names. Olivia Woods,
4 Lexington County DSS. Trina Elfering, LMSW, Dickerson
5 Center for Children. Lacie Musgrave, Dickerson Center
6 for Children. Marlana Clary, FNP. Dr. Susan Luberoff,
7 Metropolitan Child Advocacy Center. Mike Phipps,
8 Lexington County Sheriff's Office.

9 The next names, Cain Mayrant, custodian of records
10 Lexington County Detention Center. Ira Hatchett, DISH
11 Network, Irmo. Deborah Purdie, custodian of records,
12 Wal-Mart. Antonio Ford. Is there another list of
13 potential witnesses?

14 MR. MAULDIN: No, Your Honor.

15 THE COURT: All right. Again, ladies and gentlemen,
16 these names having been announced and individuals
17 standing before you, is there any member of the jury
18 panel related by blood or marriage, friends, close
19 personal friends, have any social, business, professional
20 relationship with any of those parties whose names I have
21 just called and/or who stood before you? If so, please
22 stand.

23 (No one standing.)

24 THE COURT: Is there any member of the jury panel
25 have any personal, religious or moral beliefs which would

1 prevent you from passing judgment on another person as a
2 member of the jury? If so, please stand.

3 (No one standing.)

4 THE COURT: I think I have asked this question in a
5 different context previously. Has any member of the jury
6 panel been exposed to any kind of news reports regarding
7 this case? If so, please stand.

8 (No one standing.)

9 THE COURT: Because of the nature of the charges,
10 the subject matter involved in the charges cause any
11 member of the jury panel to have an opinion that they
12 could not be a fair and impartial juror in the trial of
13 this case for both Mr. Ellis and the State? If so,
14 please stand.

15 (No one standing.)

16 THE COURT: Any additional requested voir dire from
17 the State?

18 MS. MAYES: Your Honor, may we approach?

19 THE COURT: Yes, ma'am.

20 (Side bar off the record.)

21 THE COURT: Juror number 45, would you step up here
22 for me momentarily.

23 (Side bars.)

24 THE COURT: You work where?

25 TRACY CUMALANDER-MACK: Lexington Medical Center.

1 THE COURT: Do you know Ms. Pierson?

2 TRACY CUMALANDER-MACK: No. That's the doctor,
3 correct?

4 THE COURT: No.

5 TRACY CUMALANDER-MACK: No.

6 THE COURT: She stood before you. Which one is she,
7 Solicitor?

8 MS. MAYES: With the dark hair.

9 TRACY CUMALANDER-MACK: No, sir.

10 THE COURT: You do not?

11 TRACY CUMALANDER-MACK: I do not.

12 THE COURT: Don't have any impression about meeting
13 her?

14 TRACY CUMALANDER-MACK: No, sir.

15 THE COURT: Thank you very much. Juror 138. Juror
16 138. Do you know or recognize Ms. Pierson?

17 DIANNE MEETZE: No, sir.

18 THE COURT: You don't recognize her from church?
19 Stand up for me, Ms. Pierson.

20 DIANNE MEETZE: No, sir. We don't go to church
21 together.

22 THE COURT: All right. Thank you. Y'all made this
23 up. Juror 153. This is an old friend of an old friend.
24 I don't have any of those. How are you, sir?

25 DAVID PARKER: Good.

1 THE COURT: Do you know Ms. Pierson?

2 DAVID PARKER: No.

3 THE COURT: As an old friend of an old friend?

4 DAVID PARKER: No. I don't.

5 THE COURT: Thank you. Thank you. Juror number 28.

6 Juror number 28.

7 THE CLERK: She left. She was protected for this
8 afternoon.

9 THE COURT: Well, it's not afternoon.

10 THE CLERK: She left. That's a different one.

11 That's a different one.

12 THE COURT: Oh, I remember.

13 THE CLERK: I was thinking it was the other blond
14 that you let go.

15 THE COURT: Is this 28?

16 SUSAN CHASE: Hi.

17 THE COURT: Do you know Mr. Mauldin?

18 SUSAN CHASE: This guy right here?

19 THE COURT: Do you know him?

20 SUSAN CHASE: No. I didn't notice. You didn't have
21 a beard and mustache. I didn't even recognize him. No.
22 I didn't realize that.

23 THE COURT: It's not that he's so forgettable.

24 SUSAN CHASE: We were neighbors for a couple years
25 six years ago.

1 THE COURT: Given the fact that you were neighbors
2 of Mr. Mauldin, can you be fair as a juror to both the
3 State and the defense?

4 SUSAN CHASE: Yes. I can.

5 THE COURT: Thank you. Thank you very much. Any
6 others, Solicitor? Mr. Mauldin?

7 MS. MAYES: No, sir, Your Honor. Thank you, Your
8 Honor.

9 MR. MAULDIN: No, Your Honor.

10 THE COURT: Thank y'all. Any additional requested
11 voir dire from the defense, Mr. Mauldin?

12 MR. MAULDIN: No, Your Honor.

13 THE COURT: The State, Solicitor?

14 MS. MAYES: No, sir, Your Honor.

15 THE COURT: All right. Finally, ladies and
16 gentlemen, I have asked you a series of questions, read
17 the indictments, the allegations in the indictments to
18 you. Some of those questions some of you responded to,
19 answered my questions, and you know what our purpose is.
20 Our purpose is to select a jury panel, a jury that will
21 be fair and impartial in the trial of this case for both
22 Mr. Ellis and the State. After going through this
23 process I found that you know yourselves best. If there
24 is something that concerns you about your fairness, your
25 impartiality, if it concerns you, I want to address it

1 now, not after you may be selected as a member of this
2 jury panel. So if any member of the jury panel knows any
3 reason whatsoever why you feel like you could not be a
4 fair and impartial juror in the trial of this case for
5 both the parties, Mr. Ellis and the State, please stand.

6 (No one standing.)

7 THE COURT: All right. No one is standing. I find
8 our panel is qualified with the exception of those that I
9 set aside. Strikes, Mr. Mauldin.

10 MR. MAULDIN: Ten and five, Your Honor.

11 THE COURT: Solicitor.

12 MS. MAYES: Yes, sir, Your Honor.

13 THE COURT: Ten and five. All right. Madam
14 Clerk.

15 THE CLERK: Yes, Your Honor.

16 THE COURT: The Clerk is selecting random numbers,
17 names. They are doing it with a computer. Back in the
18 old days we plucked them out of a cigar box and it had to
19 be an individual that was either unsighted or a child
20 under the age of nine. So as my children came along, I
21 would take them to court with me during the summer and
22 they would be the jury girl or jury boy and as a result
23 of that all three of my children got JD degrees. Both
24 the girls are lawyers and my son is a John Deere dealer,
25 Citadel graduate and he's smarter than the other two. At

1 least one of the three turned out good. Now we do it
2 with a computer, IT. You ready to strike our jury panel?

3 THE CLERK: Yes, sir.

4 THE COURT: Give us a jury.

5 THE CLERK: As I call your name bring your personal
6 items with you, come up here to this podium dead center
7 in the courtroom, stand in front of it and turn around
8 facing back out towards the audience and remain there
9 until I give you instructions on whether to have a seat
10 in the jury box or to return to your seat in the
11 audience. Number 69, James Garner.

12 (Whereupon, James Garner, a white male, was called
13 forward.)

14 THE CLERK: What say for the State?

15 MS. MAYES: Please present the juror.

16 THE CLERK: What say for the defense?

17 MR. MAULDIN: Please seat Mr. Garner.

18 THE CLERK: Have a seat in the jury box, sir.

19 Number 4, Olivia Applewhite.

20 (Whereupon, Olivia Applewhite, a black female, was
21 called forward.)

22 THE CLERK: What say for the State?

23 MS. MAYES: Please present the juror.

24 THE CLERK: What say for the defense?

25 MR. MAULDIN: Please seat Ms. Applewhite.

1 THE CLERK: Have a seat in the jury box, ma'am.
2 Number 8, Annah Barfield.

3 (Whereupon, Annah Barfield, a white female, was
4 called forward.)

5 THE CLERK: What say for the State?

6 MS. MAYES: Please present the juror.

7 THE CLERK: What say for the defense?

8 MR. MAULDIN: Please seat Ms. Barfield.

9 THE CLERK: Have a seat in the jury box, ma'am. 49,
10 Christopher Drafts.

11 (Whereupon, Christopher Drafts, a white male, was
12 called forward.)

13 THE CLERK: What say for the State?

14 MS. MAYES: Please present the juror.

15 THE CLERK: What say for the defense?

16 MR. MAULDIN: Please seat Mr. Drafts.

17 THE CLERK: Have a seat in the jury box, sir.
18 Number 131, Joan Mcalister.

19 (Whereupon, Joan Mcalister, a white female, was
20 called forward.)

21 THE CLERK: What say for the State?

22 MS. MAYES: Please present the juror.

23 THE CLERK: What say for the defense?

24 MR. MAULDIN: Please excuse Ms. Mcalister.

25 THE CLERK: Return to your seat please, ma'am.

1 Number 158, Diana Penning.

2 (Whereupon, Diana Penning, a white female, was
3 called forward.)

4 THE CLERK: What say for the State?

5 MS. MAYES: Please present the juror.

6 THE CLERK: What say for the defense?

7 MR. MAULDIN: Please excuse Ms. Penning.

8 THE CLERK: Return to your seat please, ma'am.
9 Number 123, Ronald Lockhart.

10 (Whereupon, Ronald Lockhart, a white male, was
11 called forward.)

12 THE CLERK: What say for the State?

13 MS. MAYES: Please present the juror.

14 THE CLERK: What say for the defense?

15 MR. MAULDIN: Please seat Mr. Lockhart.

16 THE CLERK: Have a seat in the jury box, sir.
17 Number 16, Cathy Blanks.

18 (Whereupon, Cathy Blanks, a white female, was called
19 forward.)

20 THE CLERK: What say for the State?

21 MS. MAYES: Please present the juror.

22 THE CLERK: What say for the defense?

23 MR. MAULDIN: Please excuse Ms. Blanks.

24 THE CLERK: Return to the jury seat please, ma'am.
25 185, Lui Shek.

1 (Whereupon, Lui Shek, an Asian female, was called
2 forward.)

3 THE CLERK: What say for the State?

4 MS. MAYES: Please present the juror.

5 THE CLERK: What say for the defense?

6 MR. MAULDIN: Please seat Ms. Shek.

7 THE CLERK: Have a seat in the jury box, ma'am.
8 104, Patrice Jones.

9 (Whereupon, Patrice Jones, a black female, was
10 called forward.)

11 THE CLERK: What say for the State?

12 MS. MAYES: Please present the juror.

13 THE CLERK: What say for the defense?

14 MR. MAULDIN: Please seat Ms. Jones.

15 THE CLERK: Have a seat in the jury box. 42, Allen
16 Creighton.

17 (Whereupon, Allen Creighton, a white male, was
18 called forward.)

19 THE CLERK: What say for the State?

20 MS. MAYES: Please present the juror.

21 THE CLERK: What say for the defense?

22 MR. MAULDIN: Please seat Mr. Creighton.

23 THE CLERK: Have a seat in the jury box, sir. 183,
24 Joni Shealy.

25 (Whereupon, Joni Shealy, a white female, was called

1 forward.)

2 THE CLERK: What say for the State?

3 MS. MAYES: Please present the juror.

4 THE CLERK: What say for the defense?

5 MR. MAULDIN: Please excuse Ms. Shealy.

6 THE CLERK: Return to your seat please, ma'am. 45,
7 Tracy Cumalander-Mack.

8 (Whereupon, Tracy Cumalander-Mack, a white female,
9 was called forward.)

10 THE CLERK: What say for the State?

11 MS. MAYES: Please present the juror.

12 THE CLERK: What say for the defense?

13 MR. MAULDIN: Please excuse this juror.

14 THE CLERK: Return to your seat please, ma'am. 163,
15 Deborah Banks Reynolds.

16 (Whereupon, Deborah Banks Reynolds, a white female,
17 was called forward.)

18 THE CLERK: What say for the State?

19 MS. MAYES: Please present the juror.

20 THE CLERK: What say for the defense?

21 MR. MAULDIN: Please seat Ms. Reynolds.

22 THE CLERK: Have a seat in the jury box, ma'am.
23 Number 84, William Harmon.

24 (Whereupon, William Harmon, a white male, was called
25 forward.)

1 THE CLERK: What say for the State?

2 MS. MAYES: Please present the juror.

3 THE CLERK: What say for the defense?

4 MR. MAULDIN: Please seat Mr. Harmon.

5 THE CLERK: Have a seat in the jury box, sir.

6 Number 25, Lloyd Cain.

7 (Whereupon, Lloyd Cain, a white male, was called
8 forward.)

9 THE CLERK: What say for the State?

10 MS. MAYES: Please present the juror.

11 THE CLERK: What say for the defense?

12 MR. MAULDIN: Please excuse Mr. Cain.

13 THE CLERK: Return to your seat please, sir. 56,
14 Dawn Fellers.

15 (Whereupon, Dawn Fellers, a white female, was called
16 forward.)

17 THE CLERK: What say for the State?

18 MS. MAYES: Please present the juror.

19 THE CLERK: What say for the defense.

20 MR. MAULDIN: Please seat Ms. Fellers.

21 THE CLERK: Have a seat in the jury box, ma'am.
22 120, Mary Leaphart.

23 (Whereupon, Mary Leaphart, a white female, was
24 called forward.)

25 THE CLERK: What say for the State?

1 MS. MAYES: Please present the juror.

2 THE CLERK: What say for the defense?

3 MR. MAULDIN: Please excuse Ms. Leaphart.

4 THE CLERK: Return to your seat please, ma'am. 112,
5 Gabrielle Wadsworth.

6 (Whereupon, Gabrielle Wadsworth, a black female, was
7 called forward.)

8 THE CLERK: What say for the State?

9 MS. MAYES: Please excuse the juror from the trial
10 of this case.

11 THE CLERK: Return to your seat please, ma'am. 103,
12 Linda Jones.

13 (Whereupon, Linda Jones, a black female, was called
14 forward.)

15 THE CLERK: What say for the State?

16 MS. MAYES: Please present the juror.

17 THE CLERK: What say for the defense?

18 MR. MAULDIN: Please seat Ms. Jones.

19 THE CLERK: Have a seat in the jury box, ma'am.
20 Alternates, Your Honor?

21 THE COURT: Two alternates, strikes one and two.

22 THE CLERK: Yes, sir. Number 177, Chad Salley.

23 (Whereupon, Chad Salley, a black male, was called
24 forward.)

25 THE CLERK: What say for the State?

1 MS. MAYES: Please excuse the juror from the trial
2 of this case.

3 THE CLERK: Return to your seat please, sir. Number
4 20, Helen Brewster.

5 (Whereupon, Helen Brewster, a white female, was
6 called forward.)

7 THE CLERK: What say for the State?

8 MS. MAYES: Please present the juror.

9 THE CLERK: What say for the defense?

10 MR. MAULDIN: Please seat Ms. Brewster.

11 THE CLERK: Have a seat in the jury box, ma'am.
12 That's alternate one. 213, Tanya Tucker.

13 (Whereupon, Tanya Tucker, a black female, was called
14 forward.)

15 THE CLERK: What say for the State?

16 MS. MAYES: Please present the juror.

17 THE CLERK: What say for the defense?

18 MR. MAULDIN: Please excuse Ms. Tucker.

19 THE CLERK: Return to your seat please, ma'am. 87,
20 Angela Hicks.

21 (Whereupon, Angela Hicks, a white female, was called
22 forward.)

23 THE CLERK: What say for the State?

24 MS. MAYES: Please present the juror.

25 THE CLERK: What say for the defense?

1 MR. MAULDIN: Please seat Ms. Hicks.

2 THE CLERK: Have a seat in the jury box, ma'am.
3 That's alternate number 2, your Honor.

4 THE COURT: Any motions regarding the jury selection
5 process from the defense?

6 MR. MAULDIN: No, Your Honor.

7 THE COURT: From the State?

8 MS. MAYES: None from the State, Your Honor.

9 THE COURT: Step up here a minute please, Solicitor
10 and Mr. Mauldin.

11 (Side bar off the record.)

12 THE COURT: Ladies and gentlemen of the jury panel
13 that were not selected for the trial of this case please
14 do not give up hope. The week is young. There are cases
15 to be tried. Momentarily, I apologize to your fellow
16 jurors and colleagues that were selected to release you
17 in front of them, however, that is the most efficient
18 way. Momentarily I will release you from your jury
19 service for the remainder of the afternoon. I would ask
20 you to please call back your juror information number. I
21 think you can also check it on the Internet; is that
22 right, Madam Clerk?

23 THE CLERK: Yes, sir, Your Honor.

24 THE COURT: After 6:00 tonight. After 18:00 hours,
25 if you please call that number back. You're known as the

1 balance of the panel, give you instructions, prompt you
2 concerning your jury service for the remainder of the
3 week so if you would please call back after 6:00 p.m.
4 tonight. It has been my pleasure and privilege to be
5 with y'all this morning and this early afternoon. Any
6 questions? Thank you. Thank you very much. You're now
7 excused.

8 (Whereupon, the remaining jury venire was excused at
9 12:15 p.m.)

10 THE COURT: Ladies and gentlemen of the jury panel,
11 momentarily I will release you also from your service for
12 the remainder of the day. This case is like many if not
13 most others. There are certain pretrial matters that I
14 must take up outside of your presence and rather than,
15 it's always very tough to guesstimate how much time they
16 may take so rather than having you come back this
17 afternoon and then perhaps being held captive in your
18 jury room, I will take the afternoon to hear these
19 matters and hopefully we'll get off to a fresh trial
20 start in the morning. This is not unusual at all to have
21 matters but I must give you certain instructions that you
22 must follow throughout the trial of this case.

23 During the trial of this case you may not discuss
24 the case with others. That includes your fellow jurors,
25 family, friends or anyone else. You would not be

1 authorized to discuss the case until you have heard all
2 of the evidence, all of the testimony from the witness
3 stand from the witnesses testifying under oath, the
4 closing argument by the attorneys and the instruction on
5 the law by the Court and then directed by the Court to
6 begin your deliberations with your fellow jurors in your
7 jury room. If anyone tries to talk with you or speak
8 with you about the case, please report that to me, report
9 it to the Clerk who will then report it to me. Do not
10 read, listen to, watch any news reports about the case
11 should there be any. Do not use your computer, cellular
12 phone or any other electronic device with communication
13 capabilities or any other method to obtain or to disclose
14 information about the case when you are not in court.

15 Information about the case which is prohibited
16 includes but it is not limited to the following:
17 Information about a party, witness, an attorney or court
18 officer, news accounts about the case whether past or
19 present should there have or should there be any,
20 information collected through juror research on any
21 topics raised or testimony offered by any witnesses or
22 information collected through juror research on any other
23 topics the juror might think would be helpful in deciding
24 the case.

25 Again, remember, you decide the case on the evidence

1 and the testimony presented before you in this courtroom.
2 You, ladies and gentlemen, are the judge of the facts of
3 the case. I'm the judge of the law in the case. It is
4 your duty and responsibility to determine what the facts
5 are and apply the facts as you the jury find them to be
6 under the law as I tell you the law is and then reach a
7 verdict, a unanimous verdict in this case. That is your
8 responsibility. That is your duty as the trial jury and
9 as individual jurors.

10 With that in mind, ladies and gentlemen, are there
11 any questions?

12 (No response.)

13 THE COURT: All right. 9:30 in the morning. 9:30
14 in the morning. Hope you have a pleasant afternoon and
15 evening. See you promptly at 9:30 in the morning. Your
16 bailiff will show you how to get out of here and then he
17 will walk you in in the morning. Thank you. Thank you
18 very much.

19 (Whereupon, the jury was released for the day at
20 12:20 p.m.)

21 THE COURT: Anything further, Solicitor?

22 MS. MAYES: No, sir, Your Honor.

23 THE COURT: Mr. Mauldin?

24 MR. MAULDIN: No, Your Honor.

25 THE COURT: All right. We'll start back at a

1 quarter to two.

2 MS. MAYES: Yes, Your Honor.

3 THE COURT: Is Mr. Ellis in custody?

4 MR. MAULDIN: Yes, sir.

5 THE COURT: All right. Thank you. Thank you very
6 much.

7 MR. MAULDIN: Your Honor, can we approach?

8 THE COURT: Sure.

9 (Side bar off the record.)

10 THE COURT: All right. 1:45. All right. Thank
11 you. Court is in recess until 1:45.

12 (Lunch recess.)

13 BAILIFF: All rise.

14 THE COURT: Thank you. Thank you and good
15 afternoon. Thank you. Please be seated. We have Grand
16 Jury. All right. Of course. All right. Yes, ma'am.

17 CHERYL FERGUSON: Yes, sir. I am Cheryl Ferguson.
18 I'm the lady foreman. We had 14 jurors today. We had
19 two that were excused and two that were unexcused for
20 today and we had 199 true bills and zero no bills.

21 THE COURT: Thank you. Anything further to report,
22 Madam Forelady?

23 CHERYL FERGUSON: No, sir.

24 THE COURT: Thank you. Thank you very much. Thank
25 you for your service.

1 CHERYL FERGUSON: Thank you.

2 THE COURT: Yes, ma'am. All right. As far as
3 motions, who wants to start?

4 MS. MAYES: Your Honor, the defendant has indicated
5 they do wish a Jackson v. Denno hearing in regards to a
6 written statement, actually a verbal statement followed
7 by a written statement provided to Sergeant Rawl on the
8 date of the incident.

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

11 MS. MAYES: The State calls Sergeant Miles Rawl.

12 THE COURT: All right. Come around to be sworn
13 please.

14 Thereupon,

15 MILES RAWL

16 after having been first duly sworn, testified as follows,

17 THE CLERK: Please have a seat. Once you're seated,
18 state your full name spelling your last please.

19 THE WITNESS: My name is Miles Rawl, R-a-w-l.

20 DIRECT EXAMINATION

21 BY MS. MAYES:

22 Q. Good afternoon, Sergeant Rawl. Would you give us
23 some information about yourself. Where you are employed and
24 what your current job description is.

25 A. Yes, ma'am. I work for the Lexington County

1 Sheriff's Department as a sergeant in major crimes which is
2 dealing with crimes involving violent crimes against person.

3 Q. Can you tell us whether or not you were also
4 employed as a detective in the major crimes unit back in
5 January of 2016?

6 A. Yes, ma'am. As a detective.

7 Q. Did that include responses to crime scenes such as a
8 report of criminal sexual conduct with a minor?

9 A. Yes.

10 Q. I want to take you back to the date of January 24th,
11 2016 and ask you how you became aware of an incident located
12 on [REDACTED] and if you could take us through your
13 response to that scene?

14 A. At approximately 4:30 p.m. I was notified by my
15 supervisor Sergeant Jesse Laintz to respond to [REDACTED]
16 [REDACTED] in Lexington, an area of Lexington County in reference to
17 a sexual assault of a minor. Upon arrival I met with
18 responding deputies who had already been speaking to the
19 family members who actually reported this incident one to
20 include Leslie the wife of the defendant Bryan Ellis.

21 Basically they were made aware through [Minor] [REDACTED],
22 seven year old victim that she was, had been sexually
23 assaulted by her stepfather Bryan Ellis. At that time she had
24 handwritten a note to her grandmother that she needed to
25 report this note to her mother when her mother got off of

1 work. Upon our response Bryan was actually located at [REDACTED]
2 [REDACTED] [REDACTED]. We responded to [REDACTED] It's two houses that
3 sit side by side which is the in-laws to Mr. Ellis. After
4 some basic gathering some information I learned that I needed
5 a search warrant for the residence. At that point in time I
6 contacted Sergeant Laintz. He typed the search warrant. We
7 responded - I responded to [REDACTED]. I'm sorry. [REDACTED] and made
8 contact with Bryan Ellis.

9 Q. So to clarify, Mr. Ellis was at what location?

10 A. He was at [REDACTED] [REDACTED].

11 Q. Who lived at that residence to your knowledge?

12 A. Bryan Ellis, Leslie Ellis, [Minor] and there are two
13 other children.

14 Q. So his wife Leslie, [Minor], the seven year old victim
15 and then two siblings?

16 A. That's correct.

17 Q. And then who did you mention residing at [REDACTED]
18 [REDACTED]

19 A. It would be Leslie's parents, Mr. and Mrs. Havird,
20 last name. I do apologize. I have to find it here.

21 Q. All right. And what is your -- You have been to the
22 location?

23 A. That's correct.

24 Q. What is your estimate of the distance between those
25 two homes?

1 A. I would say no more than 25 to 50 yards.

2 Q. Now, you mentioned a note. Did you have a chance to
3 actually observe and examine that note there yourself at the
4 scene upon receiving this report?

5 A. I did.

6 Q. Who is the person who actually called in the report
7 to law enforcement of requesting an investigation because Minor
8 had made an allegation of sexual abuse?

9 A. Leslie Ellis.

10 Q. All right. Having observed that note yourself, did
11 it appear to be in a child's handwriting?

12 A. It did.

13 Q. Who did she indicate was the perpetrator?

14 A. Her father Bryan Ellis.

15 Q. All right. Did it involve a sexual assault
16 according to what you saw in the note?

17 A. It did.

18 Q. That note was taken into evidence?

19 A. It was.

20 Q. And then in addition to observing that note you had
21 a chance to actually talk with the grandmother of the child
22 and the mother of the child?

23 A. I did.

24 Q. Were they able to relate to you as well as other
25 officers at the scene what the child reported to them?

1 A. They did.

2 Q. Having all of that information how did you go about
3 making contact with Mr. Ellis who was approximately a hundred
4 yards away at the next residence?

5 A. Well, after obtaining some information, like I said
6 some fact gathering information regarding the incident after
7 meeting with Leslie and her parents, I relocated -- Detective
8 Miller stood by on the scene. I relocated to [REDACTED] Deputy Tom
9 Smith was actually inside the residence with Bryan. At that
10 point in time I asked for them to step out; that I was
11 securing a search warrant for the residence and at that time
12 Bryan basically said that he was willing to cooperate with
13 this investigation and stated that I could have consent to
14 search the residence to gather whatever I needed. But I
15 informed him that we needed to take the proper steps to get
16 the warrant.

17 Q. He verbally indicated to you that he was okay with a
18 consensual search of the residence?

19 A. That's correct.

20 Q. You still followed through with getting an actual
21 written search warrant for that residence?

22 A. I did.

23 Q. Now, in addition to that, how would you describe his
24 general demeanor? Did he appear cooperative?

25 A. He appeared cooperative. Kind of emotionless at the

1 time and was willing to cooperate with the investigation.
2 Wanted to talk about what he had done.

3 Q. All right. Did at any point he rebuff you or any of
4 the other officers at the scene?

5 A. He did not.

6 Q. All right. Now, after the conversation where he
7 indicated that he would give consent to search the residence
8 but you followed through on plans with the search warrant,
9 what, if any, measures did you take to actually have an
10 interview with Mr. Ellis?

11 A. Well, basically after learning of this case and of
12 this incident, that he had already spoken with his wife
13 concerning this incident in addition to his in-laws, I asked
14 if he was willing to talk with me and he agreed to come to my
15 county car which was located in front of [REDACTED] just in the
16 driveway. He was willing to come in and talk to me regarding
17 this incident.

18 Q. All right. You were dressed in plain clothes as a
19 detective, correct?

20 A. I did have a badge on my chest but it was a Polo
21 shirt, not in a full uniform.

22 Q. Was he aware that you were a law enforcement
23 officer?

24 A. He was.

25 Q. Prior to your arrival on the scene, were there other

1 officers in uniform who were there maintaining the scene?

2 A. Yes, ma'am.

3 Q. Okay. And do you recall how it was that you posed
4 the question to him and what his exact response was regarding
5 coming to your vehicle for an interview?

6 A. He said that he was willing to cooperate with this
7 investigation. When I asked if he could, if he wanted to talk
8 with me, he agreed to come talk.

9 Q. Any time you need to read directly from your report
10 you can do so but the events of that day have you documented
11 in an incident report?

12 A. Yes, ma'am.

13 Q. So what happened after you walked towards the
14 vehicle?

15 A. Basically I stated here that Bryan agreed to talk
16 with me in my county issued vehicle which was located in the
17 front yard of [REDACTED] [REDACTED] [REDACTED]. At approximately 18:25
18 hours I began to interview Bryan in my vehicle. I was sitting
19 in the driver's seat. He was sitting in the passenger seat.

20 Q. All right. Please continue.

21 A. At which time I obtained Bryan's basic information
22 and I informed Bryan of his Miranda Rights. As I read them,
23 read each of them out loud from my Advisement of Right card,
24 Bryan understood each of his rights and informed me he was
25 willing to waive his rights and wanted to speak with me

1 regarding this incident.

2 Q. All right. So initially as he's in your car, you're
3 in the driver's seat, he's in the passenger seat, you advise
4 him of his Miranda Rights at that time?

5 A. That's correct.

6 Q. And did he appear to understand those rights as you
7 read them to him verbally?

8 A. He did.

9 Q. Did that include all of his rights?

10 A. That's correct.

11 Q. Do you have with you the Miranda card, a Miranda
12 card today?

13 A. I do.

14 Q. Can you tell us whether or not the Miranda card you
15 have with you today is the same or consistent with the Miranda
16 card you used on the incident date?

17 A. It's the same one. I keep it in the same location
18 behind my Lexington County Sheriff's Department ID.

19 Q. I'm going to ask you to read into the record slowly
20 enough for the court reporter to follow along what you advised
21 Mr. Ellis of as he sat in your vehicle in the passenger seat
22 prior to beginning this interview.

23 A. I advised Mr. Ellis of his Miranda Rights which
24 state you have the right to remain silent. Anything you say
25 can and will be used against you in a court of law. You have

1 the right to talk to an attorney and have him or her present
2 with you while you're being questioned. If you cannot afford
3 to hire an attorney, one will be appointed to represent you
4 before any questions, if you want. You can decide at any time
5 to exercise these rights and not answer any questions or make
6 any statements. Do you understand these rights as I have
7 explained them to you?

8 Q. And did he indicate that he understood his rights?

9 A. He did.

10 Q. Did he indicate whether or not he was willing to
11 waive his rights?

12 A. He stated he wanted to talk to me regarding this.

13 Q. So based upon your observations did he appear to
14 freely and voluntarily waive those rights and continue a
15 conversation with you?

16 A. He did.

17 Q. At any point in time there did he request an
18 attorney?

19 A. No, ma'am.

20 Q. Did he request for the interview to stop?

21 A. No, ma'am.

22 Q. Now, looking at your notes after you indicated that
23 he did appear to understand his rights and waive his rights
24 what, if anything, did you note regarding his admissions to
25 you?

1 A. They were voluntarily basically. He had already
2 made admissions to his wife, his in-laws and now he was making
3 admissions to me basically stating that his first initial
4 statement was, I asked my daughter to stimulate me two to
5 three times over the past three to four months.

6 Q. Please continue.

7 A. Bryan stated that this activity started back in mid
8 November of 2015 and the last time was Thursday, January 21st,
9 which was just a few days prior to this. Bryan stated that
10 back in mid November he asked his seven year old stepdaughter
11 Minor [REDACTED] to stimulate him by using her hands on his penis to
12 perform what he referred to as a hand job. Bryan stated that
13 this was the first time that he did not - this was the first
14 time and he did not ejaculate during the sexual activity with
15 Minor [REDACTED]. He stated that during the last three months they have
16 had five to six sexual activities to include him introducing
17 Minor [REDACTED] to a silver bean, silver vibrating bean. Bryan stated
18 that Minor [REDACTED] walked in on him using the vibrating bean on his
19 testicles at which - and she wanted to try it on her vagina.
20 He stated that when she started using the bean on her vagina,
21 while she was messing with him and while she was performing
22 oral sex on him and he ejaculated in her mouth and on the
23 floor.

24 Q. All right. Let me stop you right there. When you
25 use terms such as messing with him in your report, is that in

1 quotes?

2 A. Yes, ma'am.

3 Q. And a term such as hand job in your report, is that
4 in quotes?

5 A. It is.

6 Q. Who is that phrase coming directly from?

7 A. Bryan Ellis.

8 Q. All right. And I believe you had stopped with the
9 word, with the phrase "and the floor." Please continue.

10 A. Bryan stated that they, he and [Minor] only used the
11 vibrator at least three times and that he has never put his
12 penis inside her vagina or any other part of her body except
13 her mouth. He stated that they have tried cherry lubricant
14 which should be located on the dresser in the master bathroom.
15 Bryan stated all of these incidences occurred in the master
16 bathroom while his wife was at work.

17 Q. All right. What else did he tell you as you were
18 gaining information there in the vehicle?

19 A. Bryan stated that he has touched [Minor's] vagina at
20 least twice. The first was rubbing the outside with his
21 fingers and the second was trying to put his mouth to her
22 vagina but he stated that he became nauseated and stopped.
23 Bryan informed me that he was simply teaching [Minor] that
24 masturbation was not wrong as he was always told by his
25 parents. He stated that he felt that he and [Minor] were both

1 receiving pleasure and he was teaching her from these - for
2 these - from these activities. He stated that [Minor] would
3 express her likes and dislikes to him and so I asked him what
4 she liked and did not like.

5 Q. All right. Please continue.

6 A. Bryan stated that [Minor] did not like cherry lubricant
7 and did not like him ejaculating in her mouth. She told him
8 that she would rather use her hands on him and the external
9 vibrator on her. [Minor] also expressed to him that she wanted
10 to see other people doing the same thing as they have done so
11 he showed her pornography two to three occasions on his phone.
12 He stated that [Minor] really liked women doing it to other women
13 and men doing it to other men. He stated that she got excited
14 when she watched it and she wanted to more, I guess I meant to
15 say, more about sexual intercourse but he informed her that
16 she would find out about more intercourse when she was older
17 with someone she loved. Bryan stated that it was not my
18 intention to take her virginity, only to allow her to
19 understand she was not bad for masturbating.

20 Q. And the portion where it said it was not my
21 intention to take her virginity, is that in quotes?

22 A. It is.

23 Q. And again that information is coming directly from
24 Mr. Ellis?

25 A. It did.

1 Q. Please continue.

2 A. Bryan stated that he has had the masturbation taught
3 with his nine year old son L.D. [REDACTED] but he did not seem to
4 understand the concept.

5 Q. All right. Let me ask you if there is anything else
6 in regards to Minor on the following page? Did you inquire as
7 to whether any of the other children may have also been
8 assaulted?

9 A. I did but he referred to, he did not feel they were
10 active like Minor nor other female and they would have found it
11 to be gross.

12 Q. Are the other two children male or female?

13 A. Male.

14 Q. So there were two male siblings in the home?

15 A. That's correct.

16 Q. And he stated he did not feel that they were active
17 like Minor and because they were not female it would have been
18 gross?

19 A. That's correct.

20 Q. What else?

21 A. Bryan informed me that his sister has had this type
22 of activity done to him by his mother's boyfriend when he was
23 about 13 years old.

24 Q. He and his sister?

25 A. That's correct. He stated that it was orally and

1 penetrative. Bryan stated I understand now that I need some
2 form of assistance to become a part of the functioning society
3 and that what I have tried to achieve is not becoming an adult
4 not much - much less a parent. Bryan provided a written
5 statement to the same. It should be noted that after he wrote
6 the statement, Bryan asked me if he was fucked up and if he
7 thought that he needed help for what he's done.

8 Q. So that was his question to you?

9 A. That's correct.

10 Q. All right. Now, this interview in your vehicle
11 began at approximately what time?

12 A. 18:25 hours.

13 Q. That was with the reading of rights by the Miranda
14 card?

15 A. That's correct.

16 Q. Did there come another point in time where
17 ultimately the information that he had provided to you he
18 agreed to put in writing?

19 A. He did.

20 Q. What is the procedure or protocol for that?

21 A. Basically our statement forms, our defendant
22 statement forms have a outline Advisement of Rights on it
23 as well at which point we would go through the top portion,
24 assisting them in filling out the top portion, name, high
25 school, date of birth, all of that, and then we would get down

1 to the rights at which I would read out loud again and he
2 would - I would initial beside the left side. That's just how
3 I do it, how I know I have read them again and he would
4 initial to the right side at the end of each right.

5 Q. Now, what time did this written statement begin?

6 A. 19:08.

7 Q. Which would be 7:08 p.m.?

8 A. 7:08. Yes, ma'am.

9 Q. So roughly 40 minutes or so, 43 minutes after he was
10 in your vehicle?

11 A. That's correct.

12 Q. And after the first waiver of rights and the verbal
13 statement was obtained?

14 A. That's correct.

15 Q. Did he agree to provide this information to you in
16 writing?

17 A. He did.

18 Q. Was he threatened in any way in order to provide a
19 written statement?

20 A. He was not.

21 Q. Was he promised anything in exchange for a written
22 statement?

23 A. He was not.

24 Q. I'm going to ask you, do you have it with you today
25 the original written statement?

1 A. I do.

2 Q. How do you recognize it?

3 A. I recognize it from my handwriting at the top,
4 Lexington County Sheriff's Department statement form.
5 Mr. Ellis' handwriting. My signature at the bottom left.
6 Bryan's signature at the bottom right. And it's a seven page
7 statement.

8 Q. Okay. Now, would you have had the actual statement
9 form with the Miranda Rights present the entire time you were
10 in the vehicle?

11 A. I did.

12 Q. Okay. When you get to the point where you are
13 actually starting to fill out the top such as the time, what
14 stage is that in the entire process?

15 A. That's when we actually write stuff pen to paper
16 basically whenever the statement is written.

17 Q. So this time of 7:08 is when he actually begins the
18 written statement?

19 A. That's correct.

20 MS. MAYES: Your Honor, at this time we would have
21 the statement identified by Sergeant Rawl marked as
22 Court's exhibit 1.

23 THE COURT: All right.

24 (Whereupon, Court's Exhibit #1 marked for
25 identification.)

1 BY MS. MAYES:

2 Q. Now, do you have with you a true copy of that
3 statement that has already been marked now as Court's exhibit
4 1?

5 A. I do.

6 Q. All right. You mentioned that once he agrees to put
7 the information in writing he was again advised of his Miranda
8 Rights?

9 A. That's correct.

10 Q. And do you have with you a copy of those rights as
11 it was read to him at the outset of his written statement?

12 A. I do.

13 Q. Slowly can you read into the record what he was
14 advised of and how he acknowledged that he understood those
15 rights?

16 A. Okay. In the middle of the statement after he
17 completes his basic information on himself is a portion here
18 that has the Miranda Rights as well. They state I have the
19 right to remain silent. Anything I say can and will be used
20 against me in a court of law. I have the right to talk to a
21 lawyer for advice before asked any questions and have him or
22 her present with me during questioning. If you have no money
23 for lawyer fees, the court will appoint one to represent me
24 without cost to me, if I wish. If I decide to answer
25 questions now without a lawyer present, I will still have the

1 right to stop answering questions at any time. Also the right
2 to stop answering questions at any time until I talk with a
3 lawyer. On the left side they are numbered 1 through 5. How
4 I know that I read it which is unique to how I can identify
5 that I read them is I circle each of them and initial beside
6 number 1. Mr. Ellis, how I know he read it, those are his
7 initials which I witnessed him initial each of these rights to
8 the right side or to the end of each advisement.

9 Q. Now, having been advised of those rights did he
10 indicate whether or not he wished to waive those rights and
11 provide a written statement?

12 A. He basically states and the form states I have read
13 this statement of my rights and I understand what my rights
14 are. I make the following statement with his initials in
15 between.

16 Q. All right. So that portion is initialed as well.
17 At any point in time did he request an attorney?

18 A. He did not.

19 Q. At any point in time did he request that questioning
20 stop?

21 A. He did not.

22 Q. Did he appear to understand your questions and was
23 able to communicate with you?

24 A. He did.

25 Q. Did he appear to be under the influence of alcohol

1 or drugs?

2 A. He did not.

3 Q. Did you question him regarding his educational
4 background?

5 A. At the top of the form, the statement form he says
6 that he completed 12 grades in school and he can read and
7 write.

8 Q. Did you have information at that point as to whether
9 he was employed and was able to maintain a job?

10 A. I did. He was employed by DISH Network that he had
11 told me toward the beginning of the statement, his verbal
12 statement.

13 Q. All right. Over the course of the next seven pages
14 whose handwriting is that statement actually in?

15 A. The first initial page is Mr. Bryan Ellis. The
16 second page we did question/answer. I did question/answer
17 with him. I wrote the question and then he wrote the answer.
18 He initialed beside each of his answers to show that they are
19 his answers.

20 Q. That first page before you start the question/answer
21 response, could you read into the record what Mr. Ellis wrote
22 himself in his own handwriting?

23 A. Yes, ma'am. I, Bryan Jeffrey Ellis, have damaged my
24 family by completing what should never have been done. It
25 started mid to late November 2015. I had my daughter perform

1 a hand job without ejaculation. Later in December, earlier
2 January she had done the act again with the flavored lubricant
3 and an external vibrator in which she used on herself after
4 seeing me use it on myself. I had asked if she would put her
5 mouth on my penis and she did. I ejaculated on the floor at
6 the - and some in her mouth. The last was again using her
7 mouth this past Thursday. I was going to put my mouth on her
8 vagina but I became nauseated and did not proceed in doing so.
9 I ejaculated in her mouth and on the floor.

10 Q. Whose initials follow that portion?

11 A. Bryan Ellis.

12 Q. And his signature is on this as well?

13 A. Correct.

14 Q. All right. And then pages 2 through 7 contain what
15 type of questioning format?

16 A. It is basically like I said, I asked the question
17 and he responded back in answer format.

18 Q. So anything with a "Q" beside it is for question.
19 Who wrote that question?

20 A. I did as indicated at the top of page 2, "Q",
21 Detective Rawl. "A", Bryan Ellis.

22 Q. You actually write out the question in your own
23 handwriting and then who writes out the response?

24 A. The defendant.

25 Q. That's in his own writing?

1 A. Yes, ma'am.

2 Q. Does he initial each response?

3 A. He does.

4 Q. Throughout this question/answer discussion which
5 goes on until the end of page 7, did he at any time indicate
6 that he wanted an attorney?

7 A. He did not.

8 Q. Was he threatened in any way in order to continue
9 giving this written statement?

10 A. He was not.

11 Q. Was he promised anything in exchange for this
12 written statement?

13 A. He was not.

14 Q. Did he always appear to freely and voluntarily be
15 providing this information?

16 A. He did.

17 Q. And this was upon his Waiver of Rights both on this
18 written form and earlier pursuant to the Miranda card?

19 A. That's correct.

20 Q. Following this written statement, does your written
21 statement form indicate the time at which he was arrested?

22 A. Yes, ma'am. At the end of each statement form that
23 I do I always put copy provided. At this time a copy provided
24 at 21:30 which would have been in the statement and the time I
25 placed him under arrest.

1 Q. That was after he had completed the written
2 statement?

3 A. That's correct.

4 Q. And after he exited your vehicle?

5 A. That's correct.

6 Q. During that time that he was in your vehicle
7 beginning at 6:25 on through the verbal statement and then the
8 beginning of this written statement at 7:08 p.m., did he at
9 any time indicate that he wanted anything to eat or drink?

10 A. He did.

11 Q. And how did you go about providing that for him?

12 A. Sergeant Laintz and Detective Miller were inside
13 conducting the search warrant. I made contact with Sergeant
14 Laintz by phone that Mr. Ellis stated he was thirsty and
15 hungry. At that point in time Sergeant Laintz, I believe,
16 brought the, it was a cup of water and some Gold Fish and I
17 handed them directly to Mr. Ellis and that's when Mr. Ellis,
18 he drank some water but he did not eat. He just --

19 Q. You're referring to Gold Fish crackers?

20 A. That's correct.

21 Q. Okay. Was there ever a time that he needed to use
22 the restroom?

23 A. Yes, ma'am. Multiple times.

24 Q. Was that opportunity provided to him as well?

25 A. It was.

1 Q. How so?

2 A. Outside my vehicle it was kind of secluded, very
3 secluded back behind their residence where we were parked I
4 think it was a couple trees there to the right and we were
5 able to get behind. I stood by with him while he stood
6 outside my vehicle and used the restroom.

7 MS. MAYES: Nothing further at this time, Your
8 Honor.

9 THE COURT: Thank you, Solicitor. Mr. Mauldin.

10 MR. MAULDIN: Thank you, Your Honor.

11 CROSS EXAMINATION

12 BY MR. MAULDIN:

13 Q. Now, when you first went to meet Mr. Ellis, he was
14 in his house with Deputy Smith; is that right?

15 A. That's correct.

16 Q. And Deputy Smith had been there to watch over him?

17 A. That's correct.

18 Q. How long had Deputy Smith been there with him, do
19 you know?

20 A. Bear with me one second please. I'm not exactly
21 sure. I responded out at, I arrived on scene at 5:15 so I'm
22 assuming prior to that is when he was there.

23 Q. So it was reported around 4:00 in the afternoon?

24 A. Yes, sir.

25 Q. And officers responded soon after that?

1 A. Yes, sir.

2 Q. Did you meet him at 6:25? Is that when you walked
3 him out of the house to your car?

4 A. At 6:25 is when I relocated from the first house
5 which is [REDACTED] to [REDACTED] and at that time is when, would be my
6 initial contact with Mr. Ellis to go over some basic
7 information and his Miranda.

8 Q. All right. Now, so you went inside the house and
9 Bryan and Deputy Smith are inside the house?

10 A. That's correct.

11 Q. Deputy Smith is a uniform deputy?

12 A. That's correct.

13 Q. With uniform, the gun, and all the other
14 accoutrements that a deputy normally wears, a Tazer?

15 A. That's correct.

16 Q. And you said you were plain clothes but you had a
17 badge on your chest?

18 A. Yes, sir. I mean, we wear -- This was a Sunday
19 afternoon. I was called from my residence. When called from
20 my residence, we can wear 511's and a Polo shirt with our
21 emblem on it.

22 Q. Okay. So it's an embroidered emblem on a shirt?

23 A. That's correct.

24 Q. Did you have your gun with you?

25 A. I did.

1 Q. Was that visible to anybody that was looking at
2 you?

3 A. Yes, sir.

4 Q. Now, when you got to the residence, you told Bryan
5 he had to get out?

6 A. That's correct.

7 Q. And that you wanted him to go to your patrol car?

8 A. I asked him to go to my patrol car and see if he
9 wanted to go to my patrol car.

10 Q. You had him sit in the passenger side in the
11 front?

12 A. Yes, sir.

13 Q. And you got in on the driver's side?

14 A. That's correct.

15 Q. Was it cold that night?

16 A. Based on the time, yes, sir.

17 Q. What was Mr. Ellis wearing?

18 A. If I'm not mistaken a black hooded shirt.

19 Q. Did he have shorts on, long pants?

20 A. I would have to refer to --

21 Q. If you don't remember.

22 A. I can't find it. I think it was a black hooded
23 shirt, hoodie style shirt.

24 Q. All right. And so you're dealing with Mr. Ellis at
25 6:25 and the written statement doesn't begin until 7:08?

1 A. That's correct.

2 Q. About 43 minutes in between?

3 A. Yes, sir.

4 Q. So you had a 43 minute conversation before you even
5 went to the written statement; is that right?

6 A. That's correct.

7 Q. I know this is your summary of what he told you.
8 That wasn't 43 minutes long here today, was it?

9 A. That did not take 43 minutes, no, sir, for me to
10 read it.

11 Q. Okay. So were there things that you talked about
12 that were not being said here in court today?

13 A. Everything was -- I mean, no, sir. It was basically
14 the exact same information. How I like to do it is actually
15 sit down and talk with the defendants prior to having them
16 write the statement is how I normally do it and so I'm sure we
17 went over question after question multiple times which would
18 take approximately 43 minutes.

19 Q. And you're saying you read him his Miranda Rights
20 off your card at the beginning of that conversation in the
21 car?

22 A. That's correct.

23 Q. And I notice in your summary of what he said you had
24 several things in quotes that you testified to with the
25 Solicitor; is that right?

1 A. That's correct.

2 Q. Aren't those quotes lifted directly from his written
3 statement?

4 A. They are not. Actually if you refer to my
5 handwritten notes they would be quotes from there that I wrote
6 down as we were just beginning to talk.

7 Q. But you said that he had stated it was not my
8 intention to take her virginity, only allow her to understand
9 she was not bad for masturbating. That is a direct
10 word-for-word quote written on page 5 of the statement?

11 A. Yes, sir.

12 Q. Okay.

13 A. Here again, we discussed, he basically told me
14 verbally what he would write or told me verbally everything
15 that he had done and then that's when we got into the written
16 statement portion.

17 Q. Well, I understand but I want to make sure that what
18 you are testifying to related to the verbal conversation and
19 not toward the written statement. Do you follow me?

20 A. Right.

21 Q. What information was related. If it's word-for-word
22 quote -- If that's a summary of the written statement and not
23 your conversation, that's what I'm trying to get at here?

24 A. Right. Well, I actually testified to both the
25 written and the verbal.

1 Q. Right. Well, you testified to the verbal and then
2 you said he conducted it in writing. Are you saying that he
3 verbally told you something and then word-for-word he again
4 wrote it out in his statement?

5 A. That's correct.

6 Q. In the same verbiage, same language?

7 A. Same language. Yes, sir.

8 Q. Exact same words. Okay. Now, when you got in the
9 car, you start out by saying you know why I'm here?

10 A. Yes, sir.

11 Q. Did he ever say that he didn't know why you were
12 there?

13 A. No, sir.

14 Q. Did you ever tell him, I know you did this to the
15 little girl? Why don't you go ahead and tell me what
16 happened?

17 A. No, sir. He was freely giving information.

18 Q. Were you brusque with him? Did you argue with him
19 any?

20 A. No, sir.

21 Q. Did you argue with him any about how many times it
22 may have happened?

23 A. I don't believe so. Maybe we had to, I had to talk
24 to him a little bit further. That's why I like to clarify
25 things before they write things down because it first started

1 off just one or two times to using his hands, then it elevated
2 to what it is now.

3 Q. Okay. How did you get quote unquote "talk to him"
4 to get him to change from one to two times to two to three
5 times to five to six times? How did that change occur? How
6 did you talk to him to induce those changes?

7 A. Just kept talking to him.

8 Q. Well, how would that conversation go?

9 A. Well --

10 Q. Did you call him a liar and say you knew it happened
11 more times than what you said?

12 A. No, sir.

13 Q. Did you try to ask your questions in a different way
14 to try to trick him into changing his answers?

15 A. I probably did do some, I wouldn't say trickery, but
16 I probably did ask it numerous times to maybe slip him up on
17 what he was telling me originally which is a detective
18 formality.

19 Q. And if you wanted to slip him up, would that
20 indicate that he hadn't been cooperative and you wanted to do
21 something to make him more cooperative?

22 A. No, sir.

23 Q. Because if he's cooperating, why are you wanting to
24 slip him up?

25 A. Basically, I mean, he was in my car giving the

1 information that he freely wanted to give so I think it would
2 be my job and duty to see if there was any other children that
3 he had possibly done this to and see how the extent of what we
4 are dealing with when talking to Mr. Ellis. So yeah, I would
5 say it's my responsibility as a detective to see how far Mr.
6 Ellis would be willing to talk.

7 Q. How do we get from him changing the number of times
8 it happened with **Minor** to whether or not he did it with other
9 children?

10 A. Because I knew there was other children in the home
11 and that's when he -- I mean, he basically stated that it was
12 - that his wife or something had caught his son playing with
13 his anus and that's when all that came out and that's when we
14 started talking about his other children.

15 MR. MAULDIN: Now, I need to look at the original.
16 I was provided with a copy. Have you got it, Your Honor?

17 THE COURT: (Proffering.)

18 BY MR. MAULDIN:

19 Q. All right. Now you said that your procedure when
20 going over Miranda on the written form was that you would
21 initial the right and then have the defendant initial the
22 right; is that correct?

23 A. That's correct.

24 Q. Did you follow that procedure in this case?

25 A. I did.

1 Q. Okay. I'm going to show you what's been marked as
2 Court's exhibit 1 which is the statement there. Isn't it true
3 you only initialed the first out of the five rights that you
4 advised him of and didn't initial any of the others?

5 A. That's correct. As I testified earlier, I know I
6 read the rights by circling each of the number which I
7 testified to earlier that I initialed beside the first one.

8 Q. All right. But why didn't you follow your
9 procedure? You said that's your procedure.

10 A. No. I did follow my procedure. I said I circled by
11 each one and initialed beside the first one showing that I
12 have done the circles.

13 Q. But you didn't initial by each one?

14 A. No, sir. It's not my procedure.

15 Q. And y'all were in the car until about 9:30?

16 A. That's correct.

17 Q. So overall it was about three hours?

18 A. That's correct.

19 Q. Just you and him in the car?

20 A. Yes, sir.

21 Q. You said he got out of the car several times. You
22 got out of the car with him to go use the bathroom?

23 A. I kind of stood behind him. Yes, sir.

24 Q. That was to make sure he didn't run away or anything
25 like that?

1 A. That's correct.

2 Q. So Mr. Ellis was detained by Deputy Smith and you
3 continued that detention in the car?

4 A. I guess technically. Yes, sir. Not restrained but
5 detained. Yes, sir.

6 MR. MAULDIN: No further questions of this witness,
7 Your Honor.

8 THE COURT: Redirect.

9 MS. MAYES: Briefly, Your Honor.

10 REDIRECT EXAMINATION

11 BY MS. MAYES:

12 Q. From the outset of that detainment was he advised of
13 his Miranda Rights pursuant to your card?

14 A. After he got to my car, he was advised of his
15 rights. Yes, ma'am.

16 Q. Throughout that detainment was he later advised of
17 his rights again on a written statement form in which he
18 himself acknowledged understanding those rights?

19 A. That's correct. Approximately 43 minutes later.

20 Q. And throughout that time did his participation
21 appear to be free and voluntary?

22 A. It did.

23 Q. Can you tell us whether or not it's routine to ask
24 follow up questions to try and determine whether he may be
25 minimizing or withholding information?

1 A. Absolutely.

2 Q. So when he initially tells you two to three times,
3 do you just take that as face value or do you follow up for
4 more?

5 A. I follow up for more.

6 MS. MAYES: Nothing further, Your Honor.

7 THE COURT: Recross?

8 MR. MAULDIN: No, Your Honor.

9 THE COURT: Thank you. Thank you, sergeant. All
10 right. You may step down. All right. Solicitor, you
11 may call your next witness.

12 MS. MAYES: No other witnesses on this matter, Your
13 Honor.

14 THE COURT: Thank you. Mr. Mauldin, does the
15 defense intend to present any evidence or testimony?

16 MR. MAULDIN: Yes, Your Honor. We would call
17 Mr. Ellis for the purposes of this hearing.

18 THE COURT: All right. Mr. Ellis, come around to be
19 sworn please.

20 Thereupon,

21 BRYAN JEFFREY ELLIS

22 after having first affirming, testified as follows,

23 THE CLERK: Please have a seat. Once you're seated,
24 state your full name spelling your last please.

25 THE WITNESS: My name is Bryan Jeffrey Ellis,

1 E-l-l-i-s.

2 THE COURT: Mr. Mauldin.

3 MR. MAULDIN: Thank you, Your Honor.

4 DIRECT EXAMINATION

5 BY MR. MAULDIN:

6 Q. Bryan, how long were you with Deputy Smith before
7 Detective, Sergeant Rawl came on the scene at your house?

8 A. It felt almost like an hour but I don't know the
9 exact timing.

10 Q. Okay. What was your interaction with that deputy
11 like?

12 A. Uh, pretty much, uh, you know, when Officer Smith
13 came up there, I said I would like to go inside and brush my
14 teeth and I would ask him, you know, everything I was about to
15 do I would ask him could I do this. Or if he was in the way,
16 like say when I said can I get something to drink, would you
17 like something to drink and he said no, I'm going to go into
18 the cabinet and grab me a cup of water, or a cup for some
19 water. So then he was sitting at my kitchen sink and probably
20 about three paces from him I said, sir, you're at my sink. I
21 would like to get a glass of water. So I got my glass of
22 water when he moved and he moved back and then I put the
23 island between us pretty much every chance I got. Everywhere
24 I went he followed and I asked if I could do.

25 Q. So you felt like you had to ask permission to do

1 anything?

2 A. I did.

3 Q. If you were going to move or do anything?

4 A. Right.

5 Q. When Deputy Rawl came into the house, how did he
6 come into the house?

7 A. Uh, I don't know. I didn't see. He just kind of
8 appeared in my kitchen.

9 Q. You didn't see or hear him announce himself or
10 anything like?

11 A. I was in my living room and where he came in was
12 blocked off by a wall where my microwave and my refrigerator
13 is at. Now, I did see Officer Smith. He and I were talking
14 back and forth but I did not see Officer Rawl.

15 Q. Okay. And when you did see him for the first time,
16 what did he say?

17 A. Officer Smith had told me that I needed to go ahead
18 and lock my front door and at that time that's when Officer
19 Smith introduced himself and said that he was an investigator
20 and he, uh --

21 Q. Was that Smith or Rawl?

22 A. Rawl. Well, I asked Smith or Smith asked me if I
23 could lock the front door and then Rawl introduced himself and
24 that's when he told me that he was looking to get a search
25 warrant. That he hadn't had a search warrant yet but he was

1 trying to get a search warrant for my house which I then did
2 say that he could search the house without the search warrant
3 but he did not. At that time I was told I had to get out of
4 my house and wait for the search warrant.

5 Q. How were you feeling at that time?

6 A. Me? I was -- Yeah. Pretty much alienated. I have
7 got two police officers. I don't know what's going on. I
8 don't know what I can or can't do which is why I'm asking
9 everything. You know, I don't want to do something and then
10 all of a sudden, you know, get tackled, you know.

11 Q. How did you end up in his police car?

12 A. Oh, uh, whenever he told me that we had to leave my
13 house and everything, uh, I left first. He left behind me and
14 I believe Officer Smith closed my door. I don't know if he
15 locked it. Well, he couldn't have. So anyway, Officer Rawl,
16 he's like, oh, well, it's chilly. Let's go get in my cruiser,
17 my unmarked police car and keep warm.

18 Q. Had you said anything to him about I know why you
19 are here and I want to cooperate? Did you say anything like
20 that?

21 A. I did not.

22 Q. So you get into the car?

23 A. I get -- Well, he opens the door for me to get into
24 the car and then he closes the door behind me and then he goes
25 around the car to the driver's seat and comes in. As soon as

1 he comes in he kind of half rolls his window down and then he
2 starts talking to me and saying, oh, well, do you know why I'm
3 hear? And I'm like, no, sir. I don't know why you're here.
4 And he asked me that, you know, three, four, five different
5 times and eventually I just get to where I'm like, dude, I
6 don't know why you're here and frankly I don't even want to
7 speak to you, you know. Because at that point it was like why
8 are you forcing yourself on me?

9 Q. So you told him you didn't want to speak to him?

10 A. I did at least three times.

11 Q. And then how did the conversation proceed?

12 A. He pretty much repeating I know why you're - that I
13 know why he's here and he knows what I did to that little girl
14 and I did it and he's here to prove it.

15 Q. And how long did this go on for?

16 A. Uh, before I gave in, probably about five, ten
17 minutes.

18 Q. So he just kept disagreeing with you or how did he
19 disagree with you?

20 A. I mean, pretty much, you know, I kept saying I
21 didn't want to speak with him and he's just like, you know,
22 I'm here now. You might as well just go ahead and get it over
23 with. It would go much easier if you just go ahead and, you
24 know, tell me what happened, you know.

25 Q. What was his attitude or demeanor?

1 A. He pretty much -- It was like -- It definitely was a
2 superiority kind of demeanor. Kind of like you're gonna
3 listen to me. You're gonna do what I say type thing.

4 Q. How did that make you feel?

5 A. Uh, I mean, it pretty much -- I backed down. What
6 am I gonna do to a police officer who's sitting there, got his
7 elbow on his pistol, you know? I mean, what am I gonna do
8 with someone who actually is part of law enforcement that -
9 that has this so-called oath he's supposed to uphold?

10 Q. Okay. And so you started talking to him for a
11 period of time; is that right?

12 A. That's right.

13 Q. And then he pulled out the paper form; is that
14 right?

15 A. After a long while. We started talking about, you
16 know, what he believed happened. And then he said, you know,
17 well, you can tell me some of this and some of that and then
18 he brought out the written statement form.

19 Q. Okay.

20 A. Whatever that is.

21 Q. Did he tell you how he arrived at what he believed
22 happened?

23 A. No. He just stated that he knew.

24 Q. And why did you respond to his behavior at all? Why
25 did you start responding to him?

1 A. I mean, first off, you know, it was night and day
2 between Officer Smith and him. Officer Smith was, you know,
3 he wasn't forcing me to do anything. He was just sitting
4 there talking about whatever, you know. He seemed fit that
5 didn't pertain to the case. But as soon as Officer Rawl comes
6 on scene he's like, you know, he really wants to get
7 something, you know?

8 Q. How did you feel forced?

9 A. How did I feel forced? Well, I mean, he keeps
10 repeating the same thing over and over again. I know you did
11 it. I know you did it. And this is, you know, something that
12 kind of if you keep pressuring somebody, that's going to
13 pretty much make them recoil and that's what I did.

14 Q. Now, at any point in time during that conversation,
15 you getting in the car, had he advised you of your right to
16 remain silent? That anything that you said could be used
17 against you in a court of law? That you had a right to
18 consult a lawyer? A lawyer would be appointed to you free of
19 cost if you couldn't afford one? Or that you could stop at
20 any time? Did he inform you of any of that during the verbal
21 conversation in the car?

22 A. During the verbal? No.

23 Q. Now, eventually he pulls out I guess these pieces of
24 paper which were blank at the time --

25 A. Yeah.

1 Q. -- other than what's printed on the form and wanted
2 you to write something. How did that begin?

3 A. Uhm, pretty much he had already come to the
4 conclusion that I had done everything. So I would tell him,
5 you know, okay, well, this is what happened. And then he
6 would go on to say, well, I believe this happened. So it was
7 more of a merger of what he said and what actually happened.
8 Uhm, being that he was in the car next to me probably what,
9 about a foot away, I'm gonna comply with whatever he says. No
10 matter what he says I'm complying with it. So he would invoke
11 what he wanted as I was telling my, you know, my so called
12 side of the story.

13 Q. Okay. And there's a part where you wrote like a
14 little narrative on the first page. Then there's a question
15 and answer that went on for several other pages and that took
16 about two hours for y'all to do?

17 A. If that's what its says, I guess. Yeah.

18 Q. Do you recollect how long it took you to do?

19 A. I know it took a while. I mean, I used the restroom
20 five or six times.

21 Q. And during the question and answer period, did he do
22 anything to force or pressure you to write any of the
23 answers?

24 A. Uhm, he would kind of, like I said, invoke what he
25 thought had happened and so I would give in and say all right.

1 Well, fine. Whatever. This is what happened. There would
2 also be times where he would ask a question and then I would
3 write an answer but then he would continue on and ask like a
4 second part to the question but not actually write it down.

5 Q. Now, did he write down the question and say it out
6 loud and y'all talked about it before you answered?

7 A. Yes. We talked about it before I wrote it.

8 Q. So you talked about what the answer would be before
9 you wrote it?

10 A. Right. So we talked, uh, we talked for the 43
11 minutes and then each question that he asked we would again
12 talk about the question before I wrote it out.

13 Q. And when did he advise you of your right to remain
14 silent? That anything could be used against you in a court of
15 law? That you had a right to an attorney? That if you
16 couldn't afford one, one would be appointed for you? Or you
17 could stop? When in that process were you informed of any of
18 those?

19 A. Verbally or written?

20 Q. At any point in time?

21 A. Uhm, he never verbally told me anything. Uhm, he
22 did circle however many number Miranda Rights and he did
23 initial the top one. Uhm, once he circled all the numbers, he
24 handed it to me and told me that he wanted me to initial the
25 blank boxes beside the circled numbers and that's exactly what

1 I did.

2 Q. Did you read them before you initialed them?

3 A. No.

4 Q. Why not?

5 A. I again, you know, I mean, I'm going to do whatever
6 he say. Even if - even if I had read them, I still would have
7 initialed them.

8 Q. When in the process did that occur?

9 A. Uhm, that started right after I did my basic info.
10 My name, the time. The basic info.

11 Q. So when did you do that part? Was that before you
12 gave the written statement? After you gave the written
13 statement? In the middle of the written statement? Was it
14 during the middle of the verbal statement? When did you go
15 over those rights on that paper? When did that happen?

16 A. It happened after I had written the statement but
17 before we did the questions and answers.

18 Q. So you're saying after you wrote the first page but
19 before you went through the questions and answers on the
20 subsequent pages?

21 A. Right.

22 MR. MAULDIN: All right. No further questions, Your
23 Honor.

24 THE COURT: All right. Solicitor.

25 CROSS EXAMINATION

1 BY MS. MAYES:

2 Q. Now, Mr. Ellis, let's go back to the events of
3 January 24th.

4 A. Mm-hmm.

5 Q. You're at work?

6 A. Correct.

7 Q. And around noon you get a text message from your
8 wife Leslie --

9 MR. MAULDIN: Your Honor, I think we need to
10 concentrate this hearing on the elicitation of the
11 statement and Miranda. I think his testimony is for the
12 limited scope of the --

13 THE COURT: What's the relevance?

14 MS. MAYES: Yes, sir, Your Honor. He's saying that
15 he didn't know why the officer was there. At some point
16 during his testimony just a few moments ago he said he
17 didn't understand what all this was about and so I'm
18 getting into the statements he made to family members
19 even before law enforcement arrived.

20 THE COURT: All right. I'll allow that.

21 BY MS. MAYES:

22 Q. And your wife texted you and said I need to talk
23 with you about something **Minor** told me?

24 A. Mm-hmm.

25 Q. And as a result you ended up coming home at 3:30?

1 A. Sure. 3:30.

2 Q. You got home around 3:30, correct?

3 A. I assume.

4 Q. All right. You have written a letter --

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

6 THE COURT: Yes, ma'am.

7 BY MS. MAYES:

8 Q. You recognize your handwriting? This is your
9 handwriting?

10 A. Yeah.

11 Q. Okay. These were letters that you wrote to Leslie
12 following your incarceration?

13 A. Mm-hmm.

14 Q. And are you familiar with the letter --

15 THE COURT: Please answer out loud yes or no.

16 BY THE WITNESS:

17 A. Yes.

18 BY MS. MAYES:

19 Q. -- when you wrote down the events that occurred once
20 you got to the house?

21 A. Yes.

22 THE COURT: Do that for our court reporter. He has
23 to take down everything you say. Thank you. I think I
24 over talked you, Solicitor. You might have to reask your
25 question.

1 BY MS. MAYES:

2 Q. And according to what you said, my wife texted me at
3 12 Sunday while I was at work. At 12:24 she texted me again.
4 I read the messages and called her to tell her I would come
5 home early to discuss the situation. I have never
6 intentionally told a lie to my wife.

7 A. Mm-hmm. Yes.

8 Q. She will tell you I'm brutally honest. Instead of
9 running away, driving to North Carolina or Tennessee on my way
10 to my workshop after I got - I drove home scared, nauseated,
11 mad with myself, correct?

12 A. Correct.

13 Q. And upset about everything done and about to happen,
14 correct?

15 A. Correct.

16 Q. Because she had told you that it was about **Minor**?

17 A. About **Minor**.

18 Q. I sat outside our new home to smoke after cigarettes
19 trying to calm myself. I entered the house and sat on the
20 couch and talked to my wife, correct?

21 A. Correct.

22 Q. And then you talk about Leslie actually confronting
23 you about the allegations and your words are, I said, quote
24 "everything is true", end of quote?

25 A. Correct.

1 Q. So you admitted it to Leslie just prior to law
2 enforcement getting there, correct?

3 A. I admitted to something but I did not admit to what
4 she had said to the police officers.

5 Q. Leslie said to you [Minor] said --

6 MR. MAULDIN: Your Honor --

7 BY MS. MAYES:

8 Q. -- [Minor] said she licked your pee-pee?

9 MR. MAULDIN: Your Honor, I object to this. I think
10 she has achieved her purpose that she stated going into
11 this extraneous matter. She said she wanted to prove
12 whether or not he knew what was going on, if he said he
13 didn't know what was going on to the officer. I think
14 that we are going beyond the scope of this hearing,
15 beyond the scope of what you allowed her to question
16 about.

17 THE COURT: Well, if he testified on direct I have
18 no idea why the officers were there, I don't know why
19 they were there, and then if there's evidence or
20 testimony that he had had conversations with others, at
21 least one that I have heard of, his wife, that same day,
22 same day of that conversation is the day that the
23 officers were there, those may be dots that can be
24 connected and that would go to his credibility or lack of
25 credibility which --

1 MR. MAULDIN: Which she's gotten --

2 THE COURT: -- is in the Denno Hearing. I didn't
3 take offense you interrupting me, Mr. Mauldin. Not at
4 all. I'm the fact finder based upon the preponderance of
5 the evidence but I'll be glad to hear from you, Mr.
6 Mauldin.

7 MR. MAULDIN: Thank you, Your Honor. I think the
8 fact that the topic of the conversation has been broached
9 but the nuts and bolts about what he's admitted to and
10 what he hasn't admitted to, that goes beyond the scope.

11 THE COURT: That's fair enough.

12 MR. MAULDIN: That's why I objected because they
13 were getting into that.

14 THE COURT: I don't disagree with that but there has
15 to be some connection and I wasn't taking it that she,
16 that the Solicitor was trying to prove, perhaps she could
17 not even try to prove it, that he said to his wife
18 exactly what the officer alleges he said, he, Mr. Ellis
19 said to the officer. I don't disagree with that,
20 Mr. Mauldin. All right. Solicitor, if you would form
21 your question in that regard.

22 MS. MAYES: Yes, sir, Your Honor.

23 THE COURT: Thank you.

24 BY MS. MAYES:

25 Q. You were aware that **Minor** had made an allegation of

1 sexual contact with you to Leslie, correct?

2 A. No.

3 Q. No?

4 A. No. Not a sexual contact or anything.

5 Q. So what is it, Mr. Ellis, when you wrote that you
6 said everything is true and that you were asking your wife for
7 help, what is it that you are alleging the conversation was
8 about?

9 A. The conversation was about, uh, Leslie had said, uh,
10 **Minor** said, and that's when I interrupted and said everything
11 is true and then Leslie completed her sentence and it was
12 white and all I could think of was jizz.

13 Q. I'm sorry. What?

14 A. Leslie said, **Minor** said - **Minor** had told her something
15 and I had said it's all true right as she was talking and the
16 last thing she had said was she said it was white and all I
17 could think of is it was jizz so I didn't agree to anything.
18 I said it was true before she had even said what it was that
19 she had assumed.

20 Q. In this letter you say you were hoping we could
21 resolve everything through therapy, counseling, anything?

22 A. Yes. Uhm, before this she actually wanted us to go
23 to marriage counseling.

24 Q. And then you go on to say that eventually you talk
25 to law enforcement, correct?

1 A. Could you repeat that?

2 Q. Eventually you go on to talk to law enforcement,
3 right?

4 A. Sure.

5 Q. Are you denying that you knew law enforcement was
6 there because of a sexual allegation regarding Minor?

7 A. I'm denying that I had told, uh, the officer there.
8 I did tell him that I did not know why he was there but I did
9 know why he was there.

10 Q. Okay. So how did you know why he was there?

11 A. Because Leslie had told me. I mean, what else could
12 you assume? What else could you assume?

13 Q. That's what I'm asking you. That's what I'm trying
14 to get straight on, exactly what you knew and who you learned
15 it from?

16 A. I knew. I knew why they were called.

17 Q. Okay.

18 A. But did I tell the police officer that? No. I told
19 him, no. I don't know.

20 Q. Okay. So your response to the officer then was
21 untruthful, correct?

22 A. Correct.

23 Q. And you did, in fact, know that they were there
24 because Minor had made an allegation to Leslie and you admit
25 that when Leslie confronted you, you said everything is true,

1 correct?

2 A. When she confronted me with what?

3 Q. About [Minor's] allegation of oral sex with you?

4 A. No. I don't remember an allegation of oral sex. I
5 remember an allegation of it was white and all I could think
6 of was jizz.

7 Q. And you stated everything is true?

8 A. Before she even completed her sentence.

9 Q. All right. So you acknowledge that you then began
10 after this conversation with Leslie you say that you don't
11 know that it's about sexual addiction, correct?

12 A. It's not about sexual addiction.

13 Q. Okay. And do you know what time she called 911?

14 A. 4:00.

15 Q. Would you agree with 3:57?

16 A. Sure. That'll work.

17 Q. 3:56. You would agree with 3:56. So you're home
18 about 3:30. You have the conversation with your wife. You're
19 saying you thought it was about juice but you said everything
20 is true?

21 A. Thought it was about what?

22 Q. Juice. Isn't that what you said a few moments ago?

23 A. Jizz. J-i-z-z.

24 Q. Okay. And then you at some point say that you want
25 therapy or counseling. She leaves the residence that you are

1 at and she goes next door to her parents' house and she calls
2 911 at 3:56, correct?

3 A. I don't know when she called the cops. She left the
4 house. Yes. But did I see her call the cops? No.

5 Q. Shortly after she left the house is when you would
6 have seen law enforcement arrive at the scene, correct?

7 A. Define shortly.

8 Q. 10 minutes?

9 A. Nope.

10 Q. 30 minutes?

11 A. Not at my house. No.

12 Q. Mr. Ellis, were you able to put two and two together
13 that after you had this conversation with your wife and she
14 goes next door and then law enforcement comes to your
15 residence?

16 A. Yes.

17 Q. And you had possession of your phone, the same phone
18 that ultimately was seized by Detective Rawl following your
19 arrest, correct?

20 A. Up until we got into Detective Rawl's car, unmarked
21 car.

22 Q. At 3:57 p.m. around the time that your wife is
23 calling 911 you're doing Google searches for sexual addiction,
24 correct?

25 A. Correct.

1 Q. All right. And you say that has nothing to do with
2 the fact that your wife had confronted you about allegations
3 of sexual abuse by Minor?

4 A. It had -- Excuse me. It did have relation to that
5 but I didn't read any of it.

6 Q. You just Googled it but didn't read it?

7 A. Look at the time stamps. They're but seconds apart,
8 if you can read an entire webpage in seconds.

9 Q. Okay. Well, you entered the Google search?

10 A. Sure.

11 Q. Let me clarify it that way.

12 A. There we go.

13 Q. All right. So now you are aware that law
14 enforcement is at the scene?

15 A. When?

16 Q. When they arrived.

17 A. Which was?

18 Q. When you were inside your house, you get a knock on
19 the door?

20 A. No. No knock.

21 Q. Take us through that then.

22 A. Okay. So take us from the time that Officer Smith
23 that was in there or from the time that --

24 Q. From the time that you first become aware that law
25 enforcement is at the scene.

1 A. All right. So Officer Smith came down. It was me,
2 Tommy Havird and his brother Danny Havird and we were standing
3 outside my house after Tommy had already threatened me and so
4 I, uh, I was held but they were released whenever Officer
5 Smith had arrived. Uhm, he took our driver's license and
6 asked us who we were and like I said released Tommy and Danny.
7 Then I asked if I could go inside to brush my teeth. Officer
8 Smith said sure. I walked up my back porch into my laundry
9 room and Officer Smith is following me. I go to close the
10 door, notice he's stepping up the porch and I just kind of
11 leave the door hanging there. You know, obviously he's trying
12 to come into my house. I'm not going to tell a police officer
13 you can't come in my house when I have no reason to hide
14 anything. Uhm, so he comes into my house and he follows me
15 around and I go into the master bathroom which he's following
16 behind me. Uh, I go to brush my teeth. After we come out of
17 the master bedroom, or master bathroom to the master bedroom
18 we go into the kitchen and we start talking and he finds out
19 that I was in the military so we started talking about the
20 military. Some of those things I don't remember exactly what
21 all we talked about but none of it pertained to the case. Uh,
22 eventually I had asked if he wanted some water. He said no.
23 I said, well, I would like some. Could I please grab a cup
24 and grab me some water? He said sure. So I tell him my cups
25 are in this cabinet up here. I would like to grab this cup

1 and --

2 Q. All right. So let's briefly talk about what you
3 just mentioned about your father-in-law which would be
4 Leslie's father and his brother. That would be Thomas Havird
5 and Daniel Havird. They were at the residence with you
6 waiting on law enforcement to arrive, correct?

7 A. Correct.

8 Q. And one of the things that you acknowledged in your
9 written statement was that you admitted to them that you had
10 done this with **Minor**?

11 A. Did I really?

12 MR. MAULDIN: Your Honor, again, I don't know how
13 this goes into Miranda or voluntariness.

14 THE COURT: Is it a Court's exhibit?

15 MS. MAYES: It is, Your Honor. It is Court's
16 exhibit number 1.

17 THE COURT: If it's Court's exhibit number 1, I
18 think she can use it for the purposes of this hearing.

19 MR. MAULDIN: Yes, sir.

20 BY MS. MAYES:

21 Q. Do you have a copy of that statement with you?

22 A. I have nothing with me.

23 Q. Okay. I'll give you one.

24 A. You see all this is coming from memory. I don't
25 carry stuff like this.

1 Q. Take your time to look over it.

2 A. Sorry. I don't have any paper to read and tell me
3 what happened, what didn't happen or what things looked like,
4 you know, like Officer Rawl.

5 Q. Now, your statement under oath a few moments ago was
6 that the only information you put in this written statement
7 was information that was provided to you by Detective Rawl?

8 A. You're saying this statement right here?

9 Q. Correct.

10 A. No. I'm saying it was a mixture.

11 Q. So it was a mixture of some coming from you and some
12 coming from Detective Rawl?

13 A. Correct.

14 Q. Well, what came from you?

15 A. Some things such as what is your daughter's name and
16 how old is she? That came from me. Since November 2015,
17 second question, that was coerced. He said I know it happened
18 more than that. You did it more than that. Where did these
19 sexual activities happen? Uhm, again, gave him the
20 information. [REDACTED]. How did they start between you and [Minor]?
21 Well, he didn't like the fact that I was telling him that
22 Leslie told me that she was masturbating. So what we did is
23 we kind of came to the whole thing of, hey, well, she touched
24 me so I carried on further. Have you ever touched [Minors]
25 vagina? No. I didn't. He didn't like that answer. How many

1 times and what did you do? Twice. First was rub the outside
2 with finger. Second was trying to put my mouth to her vagina
3 but I then became nauseated and stopped.

4 Now, you have a video where she states, [Minor] states
5 I never did such. I didn't. Did you show [Minor] how to use the
6 vibrator on her vagina? No. She saw me using it on my
7 testicles and mimicked. I never used it on my testicles. Did
8 I hand it to her? I did. How did she know how to put it on
9 her vagina? She has had a tendency to self stimulate herself
10 from what my wife stated. That's true. Oh, that is the only
11 way I could figure. My wife has stated she has masturbated
12 many times and could smell it on her fingers. How did you and
13 [Minor] use the cherry flavored lubricant? We don't have cheery
14 flavored lubricant, okay? Did y'all find cherry flavored
15 lubricant? No. So my wife and I have it in or on our dresser
16 that my wife and I bought for our own intimacy a long time
17 prior to my degradation. Again, where is this at? I told you
18 exactly where it was supposed to be at and yet you didn't find
19 it.

20 Have you ever inserted your penis inside [Minor's]
21 vagina? Never. That's true. Have you ever rubbed your penis
22 on [Minor] other than her hands and mouth? No. That is also
23 true. Have you ever helped [Minor] stimulate herself other than
24 already stated? No. I have never helped [Minor] stimulate
25 herself. Explain why you did not put your mouth on [Minor's]

1 vagina. Your mouth on [Minor's] vagina. Prior to me trying I
2 thought that we would enjoy it. When I came close, I had a
3 change of thought and did not proceed. This is when I figured
4 how disgusting not only what I was doing but how disgusting it
5 was to -- I crossed out whom I had, and then I initialed -- it
6 to my seven year old daughter.

7 Q. That's in your handwriting?

8 A. Yeah. That's in my handwriting.

9 Q. All right. Now, when I was asking you previously
10 about the time that you were with your father-in-law and Mr.
11 Havird, his brother, that would have been prior to law
12 enforcement's arrival, correct?

13 A. Yes.

14 Q. One of the questions on this written statement, I'll
15 refer you to page 5 of 7.

16 A. 5 of 7.

17 Q. Sergeant Rawl poses the question, have you ever told
18 anyone that you and [Minor] had sexual activities? Your answer
19 in your writing is, only when father-in-law's brother asked
20 what was going on when my father-in-law asked him to wait with
21 me while waiting on officers. So --

22 A. Correct.

23 Q. -- as you're waiting on officers to get there you
24 actually admit to them as well to sexual activities with [Minor],
25 correct?

1 A. To an extent. Uhm, I actually would not have if
2 Tommy hadn't threatened me. Again, you know, Leslie left the
3 house. She went running. I went to chasing. I stopped on
4 the back porch, watched her fall on the ground. Tommy went
5 out there. Picked her up. As soon as he picked her up, put
6 her in the house, he came down towards me and then he made a
7 sharp left, went over to his nephew's house and got his
8 brother Danny. Danny and Tommy both come over to my house and
9 that's when Tommy says he's not here to protect me. He's here
10 to protect you. Telling me that Danny - telling me that Danny
11 was here to protect me from harm.

12 Q. All right. So let me get this straight. When you
13 first have your conversation with Leslie and she confronts you
14 about this conversation with Minor you state that you said to
15 her everything is true but you didn't know what she was
16 talking about, correct?

17 A. Correct.

18 Q. And then she leaves and the police are called and
19 while the police are being called and you're waiting on them
20 to arrive you have a conversation with your father-in-law and
21 his brother and you state that you admitted to them that you
22 had sexual activities with Minor but it was only because you
23 were threatened?

24 A. So I had a conversation with them is what you're
25 saying I said. No. No conversation. No conversation

1 pertaining to what I so called had done. You want to know the
2 only two things that I said to Tommy? The only two things
3 that I said to Tommy. Tommy said he's here to make sure that
4 I don't drive off. I'm not going anywhere. Here's my keys.
5 I hand him my keys. The second thing. Well, I guess I better
6 go change from my work clothes. Yeah. I guess you better.
7 So I go inside, come back outside. They don't talk to me. I
8 don't talk to them.

9 Q. So when you wrote in your own handwriting that you
10 had admitted it to your father-in-law while you were waiting
11 on officers, was that true or not true, Mr. Ellis?

12 A. Not true.

13 Q. All right. So again, that's something in your
14 statement in your own handwriting that you say is not true and
15 you say you put it in there because Sergeant Rawl told you
16 to?

17 A. Because he was acting as if he were going to harm
18 me.

19 Q. All right. Detective Rawl would not have even known
20 about the conversation with your father-in-law?

21 A. And I can't just give up information that's wrong?

22 Q. And then moving onto when you're explaining,
23 rationalizing, however you want to term it, your sexual
24 activities with Minor you put in your own handwriting that
25 that's something that you grew up thinking was okay because it

1 had been done with you, correct?

2 A. Masturbation.

3 Q. All right. That is in your own handwriting,
4 correct?

5 A. My own handwriting.

6 Q. How would Sergeant Rawl possibly know what your
7 sexual activities and habits were as a child?

8 A. What happened to the 43 minutes? What happened to
9 him asking me questions?

10 Q. That's what I'm asking you, Mr. Ellis.

11 A. How do you figure?

12 Q. This information came from you, didn't it?

13 A. How do you figure? 43 minutes go by and
14 miraculously all this stuff here that doesn't make sense
15 you're asking me about. Why doesn't it make sense?

16 Q. Mr. Ellis, as Detective Rawl read those rights to
17 you --

18 A. He did not read --

19 Q. -- from his card --

20 A. He did not read me my rights. I did not know I had
21 a right to an attorney. I did not know that I would be given
22 a public defender.

23 Q. That document that you have right there in front of
24 you, I believe you have a copy of it, your testimony is that
25 as you initialed all those rights you did not read them,

1 correct?

2 A. Correct. I did not read those rights. And if you
3 look as Detective Rawl had said, he would initial each of the
4 numbers of the Miranda Rights as he read them.

5 Q. You were going over this form when it was blank when
6 he read those rights to you from his card in the very, very
7 beginning. You had a blank form just like this beside you
8 that he had provided, didn't you?

9 A. No. I mean, are you speaking of -- I'm not entirely
10 --

11 Q. I'm speaking of this form that contains your
12 initials, your handwriting and your signature.

13 A. Okay. And you're saying I had this when?

14 Q. At the very outset --

15 A. At the very beginning.

16 Q. -- you were shown this document even when it was
17 blank, correct?

18 A. At 19:08. Not at 18:25.

19 Q. Your testimony under oath is that at 19:08 you still
20 had not read your rights even though you acknowledged each one
21 with your initials, correct?

22 A. Correct.

23 Q. And you have got a 12th grade education. You're a
24 high school graduate, correct?

25 A. Military experience. Yeah. Some college.

1 Q. No doubt you can read?

2 A. Oh, I can read.

3 Q. You just happened to not be able to see the part
4 that says I have the right to remain silent right there next
5 to your initials?

6 A. I just happened to not see any of it. He told me to
7 initial. I did what he told me to do.

8 Q. Even as you were writing ten lines in your own
9 handwriting also followed by your initials and signature you
10 never happened to see those rights?

11 A. No. Once he told me to initial them, I didn't pay
12 them any attention.

13 MS. MAYES: Nothing further.

14 BY THE WITNESS:

15 A. How hard is that to understand?

16 THE COURT: Redirect, Mr. Mauldin?

17 MR. MAULDIN: No, Your Honor.

18 THE COURT: Thank you. You may step down,
19 Mr. Ellis. All right. Mr. Mauldin, you may call your
20 next witness.

21 MR. MAULDIN: We have no further witnesses, Your
22 Honor.

23 THE COURT: Any evidence or testimony from the State
24 in reply?

25 MS. MAYES: Yes, sir, Your Honor. The State calls

1 Leslie Ellis.

2 THE COURT: All right. Come around please.

3 Thereupon,

4 LESLIE PIERSON

5 after having been first duly sworn, testified as follows,

6 THE CLERK: Please have a seat. Once you're seated,
7 state your full name spelling your last please.

8 THE WITNESS: My name is Leslie Pierson,
9 P-i-e-r-s-o-n.

10 DIRECT EXAMINATION

11 BY MS. MAYES:

12 Q. Ms. Pierson, I want to start by asking you if you
13 could briefly take us through the events of January 24th, 2016
14 when this came to light. Your husband was where when you
15 first learned of this information from your daughter Minor

16 A. He was at work at DISH Network.

17 Q. And this was approximately what time of day?

18 A. It would be morning time when he was at work.

19 Q. All right. And how did you go about alerting him
20 that there was something that you needed to talk about?

21 A. I texted him at around 12, around noon that
22 afternoon that I needed to speak with him about something that
23 Minor had told me and, well, it was a note that she had written
24 me and --

25 Q. Have you seen these text messages since that time?

1 A. I have.

2 MS. MAYES: Your Honor, if I may approach.

3 THE COURT: Yes, ma'am.

4 BY MS. MAYES:

5 Q. This document may refresh your memory. At what time
6 did you first bring to his attention that there was something
7 that you needed to talk about?

8 A. It was at 12:03.

9 Q. What were your exact words in the text?

10 A. I state, hey, I need you to call me. Minor told me
11 something that we need to talk about.

12 Q. Okay. What time is your next text?

13 A. It was at 12:05. I don't know where this is coming
14 from but I'm sick to my stomach right now.

15 Q. What time was your next text?

16 A. It was at 12:20 and I stated that I'm not going to
17 work today.

18 Q. All right. So you said there was something that
19 Minor told me that we need to talk about but you were sick to
20 your stomach and you were not going to work, correct?

21 A. Correct.

22 Q. He arrived home at approximately what time?

23 A. I would say around 4:30 p.m.

24 Q. Do you know what time 911 was called?

25 A. I would say --

1 Q. Would 3:56 be correct?

2 A. Correct.

3 Q. So had he arrived home before or after you called
4 911?

5 A. That was after so he got home and then I confronted
6 him and then I walked over to my parents' house and called
7 911.

8 Q. So if 911 was called at 3:56, then your confrontation
9 or discussion with him would have been just prior to that?

10 A. Yes, ma'am.

11 Q. What exactly did you confront him with?

12 A. I asked him if what **Minor** was telling me was true.

13 Q. Which was?

14 A. Which was did you make **Minor** lick is your pee-pee?
15 Those were my words.

16 Q. All right. What was his response to that?

17 A. He says, yes. It was all true.

18 Q. All right. Where did you go to place the 911 call
19 at 3:56?

20 A. My parents' house.

21 Q. All right. And who had his phone one minute later
22 at 3:57?

23 A. He would have his phone.

24 Q. All right. If someone is making a Google search for
25 sexual addiction and help with sexual addition, who would that

1 person have been?

2 A. It's him.

3 Q. And prior to you going to make the 911 call what, if
4 anything, did he say to you regarding needing help?

5 A. Nothing.

6 Q. What, if anything, did he state to you regarding
7 therapy or counseling?

8 A. That was like years ago at the very beginning of our
9 marriage that I had come to him asking him for counseling.

10 Q. At any point that day did he tell you that he needed
11 help?

12 A. I do not recall.

13 Q. Did he ever ask you for help that day?

14 A. I do not recall.

15 Q. Did you provide a written statement to law
16 enforcement?

17 A. Yes.

18 Q. Have you reviewed that statement today?

19 A. Not in a while.

20 Q. Would it help to review that statement?

21 A. Yes.

22 Q. (Proffering.)

23 A. So he did ask.

24 Q. You wrote that statement on what date?

25 A. That was on the 24th.

1 Q. The same day law enforcement was there?

2 A. Yes, ma'am.

3 Q. What exactly did he state about needing help?

4 A. He begged for me to help fix him.

5 Q. All right. And that was prior to you leaving to
6 call 911?

7 A. Correct.

8 Q. Did you leave anyway?

9 A. I did.

10 Q. Did you ever observe law enforcement threaten
11 Mr. Ellis that day?

12 A. No.

13 MS. MAYES: Nothing further.

14 THE COURT: Thank you, Solicitor. Mr. Mauldin.

15 MR. MAULDIN: Thank you, Your Honor.

16 CROSS EXAMINATION

17 BY MR. MAULDIN:

18 Q. Now, you weren't present during any of Detective
19 Rawl's questioning of Bryan or anything like that, were you?

20 A. No, sir.

21 Q. And the house y'all lived in, that was a trailer at
22 the time?

23 A. Yes.

24 Q. You had moved into that the summer of that year
25 2015?

1 A. Yes.

2 Q. Prior to that you had lived with your parents next
3 door?

4 A. Correct.

5 MR. MAULDIN: No further questions.

6 THE COURT: Redirect, Solicitor?

7 MS. MAYES: No, sir, Your Honor.

8 THE COURT: Thank you. Thank you, Ms. Pierson. You
9 may step down. All right. Solicitor, you may call your
10 next witness.

11 MS. MAYES: We have no additional witnesses on this
12 matter, Your Honor.

13 THE COURT: All right. Mr. Mauldin, do you have any
14 evidence or testimony, witnesses in sur-reply?

15 MR. MAULDIN: No, Your Honor.

16 MS. MAYES: Be glad to hear from you, Solicitor.

17 MS. MAYES: Yes, Your Honor. The interaction with
18 law enforcement began after 911 was called. Your Honor,
19 I would submit that the version of events as provided by
20 Mr. Ellis during his testimony have been thoroughly
21 impeached even by the physical evidence that he admits.
22 He admits using his phone to make a search for help at
23 the exact time that 911 is being called, although he
24 states he has no idea what it was his wife was actually
25 confronting him about.

1 Your Honor, he also indicated at some point during
2 his direct testimony that he didn't fully understand why
3 law enforcement was there. He later then acknowledged
4 that he did. He just told the officer that he didn't
5 know why they were there. So looking at the totality of
6 circumstances, the credibility of Mr. Ellis is certainly
7 subject to scrutiny here. We know that when law
8 enforcement arrived, he was detained. He was not
9 threatened or coerced in any way. Was he free to leave?
10 Your Honor, probably not. They had substantial
11 information that they had obtained both from the
12 handwritten note from the seven year old as well as from
13 other family members who stated that the child had
14 confirmed to them these allegations.

15 When they first approached the residence, he
16 actually stated to them that they could search the
17 residence by consent and didn't need a search warrant. I
18 would consider that to be cooperative. He acknowledged
19 during his testimony that he did tell them they could
20 search the residence with consent. He acknowledged that
21 he then went to the officer's car voluntarily. While in
22 the vehicle with Sergeant Rawl, Sergeant Rawl has
23 testified that he first initially advised him of his
24 Miranda Rights pursuant to Advise of Rights form or card.
25 Sergeant Rawl indicated that he then waived those rights

1 and wished to talk. That went on for 43 minutes. It's
2 apparent from the defendant's own testimony that he is
3 long winded. He does like to offer explanations or
4 attempts to clarify or rationalize certain explanations
5 that he gives. The 43 minutes is certainly a reasonable
6 amount of time there for the officer to at least obtain
7 that additional information; that there was a substantial
8 basis here to go ahead and put some of this in writing if
9 he was willing to do so.

10 At some point around 7:08 he's actually given the
11 written statement form and then he acknowledges each of
12 the rights individually. He acknowledges them with his
13 individual initials by each right which he testified
14 under oath he didn't actually read them although we know
15 that he's been an active military member with a 12th
16 grade education. No doubt that he can read. I submit,
17 Your Honor, that's not credibility.

18 He then puts in the entire first paragraph of his
19 statement in his own handwriting an admission of guilt
20 having sexual relations with the child. He then signs
21 that statement with his own handwriting and puts the date
22 on it. Then we have an additional six pages where he
23 provided very detailed and specific answers to questions
24 that he then under oath attempted to state were coming
25 from Sergeant Rawl. And, Your Honor, looking at the

1 totality of the circumstances again that's - that's not
2 credible on the original issue of whether or not he was
3 read his rights onto where the information his statement
4 came from. I submit that that lacks credibility there.

5 Ultimately, Your Honor, he did acknowledge those
6 rights with his initials. On the surface by all
7 appearances he was read his rights and acknowledged them
8 prior to putting his statement in writing and only now is
9 he trying or attempting to retract that admission of
10 responsibility. He also acknowledged that he wrote the
11 letter from jail to Leslie Ellis where he acknowledged in
12 that letter certain admissions about that day. When he
13 wrote in his letter I said everything is true and then he
14 asked for counseling and therapy, he again tried to
15 explain and rationalize that answer.

16 Your Honor, looking at it from the stand point of
17 totality of circumstances it is apparent that although he
18 was detained the issue of custody certainly may have
19 applied at this point. He was advised of his writes. He
20 did waive those rights and he did put that entire
21 statement in his own handwriting and then acknowledged it
22 with his own signature I submit freely and voluntarily.

23 THE COURT: Thank you. Thank you, Solicitor. Mr.
24 Mauldin.

25 MR. MAULDIN: Thank you, Your Honor. Obviously we

1 have no recording either video or audio of this event to
2 determine, other than the testimony presented in court
3 today, what went on. They do have a method of
4 documenting Advisement of Rights on the form which wasn't
5 done 43 minutes until after the interview began.
6 Detective Rawl originally testified that he initialed
7 himself beside each right and then went on to say that he
8 only initials beside the first one. It's the defense's
9 contention that Mr. Ellis was not read his Miranda Rights
10 until after he had written, during the verbal portion of
11 the interview, the 43 minutes and during the first page
12 that he was not read his Miranda Rights and, therefore,
13 those statements should be excluded.

14 In addition, the question and answer period after he
15 said he was advised of his Miranda Rights we would say
16 that's inadmissible under State v. Navy and Missouri v.
17 Siebert where an uncounseled statement - that the police
18 can't obtain an uncounseled statement and then Advise of
19 Rights and then obtain a statement counseled under
20 Miranda. So we would move that those statements be
21 excluded under those grounds number 1, the verbal and the
22 first page because Miranda wasn't given and the rest
23 because of the improper non advise statement being given
24 and then the rights being given.

25 And finally, Your Honor, it's our contention that

1 statement is not voluntary. Mr. Ellis testified that his
2 will was overborn by Detective Rawl's demeanor and method
3 of questioning and the fact that he was armed, he was
4 alone with him in the car. The whole time he felt like
5 he had to ask permission what to do; that his will was
6 overborn and not voluntary, Your Honor.

7 THE COURT: Thank you. Thank you, Mr. Mauldin. All
8 right. As far as reviewing and factually and the law I
9 rely on State versus Washington, State versus Parker and,
10 of course, Jackson versus Denno that the circuit judge
11 looking at the posture at this point in time standard is
12 a preponderance of the evidence as far as the burden of
13 proof that is freely and voluntarily giving a statement
14 in compliance with Miranda based on the totality of the
15 circumstances.

16 As I understand the testimony, Deputy Smith was
17 there. Thereafter Sergeant Rawl arrived and verbally
18 advised him from his card that he typically carries of
19 his Miranda Rights. Custodial is no moment to this Court
20 whatsoever. It's custodial interrogation that's got to
21 be the intersection of the two, custodial interrogation.
22 No testimony whatsoever that any statements given, if
23 there were any, to Deputy Smith are being offered or that
24 there was any questioning by Deputy Smith. There is no
25 questioning by Sergeant Rawl until after Miranda.

1 Whether Miranda is verbal or written is no moment to this
2 Court. It's whether or not it's given and if it's given
3 according to Jackson versus Denno and there's testimony
4 that it was.

5 Further there's testimony that he was, Mr. Ellis was
6 cooperative. His own testimony. You don't have to get a
7 search warrant. Don't have anything to hide. You know,
8 the officer chose to get a search warrant otherwise. He
9 testified to that. He escorted him to the patrol car.
10 There is no testimony that - he was in custodial
11 interrogation but thereafter he's advised of his rights
12 in writing the second time of advisement and as I count
13 it on page 1 of 7 Mr. Ellis has initialed that page eight
14 times and signed it once. On page 2 of 7 Mr. Ellis has
15 initialed that page eight times and signed it once. On
16 page 3 of 7 Mr. Ellis has initialed that page seven times
17 and signed it once. On page 4 he initialed it five times
18 and signed it once. On page 5 he initialed it seven
19 times and signed it once.

20 On page 5 I would note in detail the fourth question
21 down his response, no, I did not want to have
22 intercourse. I did not even want her to use a dildo.
23 That is not what I thought she needed to know. She just
24 needed to know that masturbation was healthy even if --
25 and he corrected it. He scratched over it -- if her, I

1 think, or whatever is scratched out and it's initialed
2 within the paragraph that he wrote. No testimony
3 whatsoever regardless of what Mr. Ellis said the officer
4 mixed into this statement that the officer had him
5 correct anything. Nothing whatsoever.

6 Page 6 it's initialed nine times by Mr. Ellis,
7 signed once. There are two corrections in the same
8 sentence. She got excited. She stated she, and twice he
9 uses the word licked and crossed it out and then wrote
10 his initials twice and put the word liked. That's
11 telling to this Court. On page 7 there appears to be
12 five initials by Mr. Ellis and one signature.

13 Now, all of this coming from a man on the totality
14 of the circumstances, a high school graduate that can
15 read and write, that has some college, that was gainfully
16 employed. Based on the totality of the circumstances I
17 would find by preponderance of the evidence that the
18 statement is freely, voluntarily, knowingly and
19 intelligently given and it would be admissible as such.

20 All right. Anything further as to Jackson versus
21 Denno, Solicitor?

22 MS. MAYES: No, sir, Your Honor.

23 THE COURT: Mr. Mauldin?

24 MR. MAULDIN: No, Your Honor.

25 THE COURT: All right. Let's take about a 15 minute

1 recess. What motion do y'all want to hear next?

2 MS. MAYES: We have Ms. Elfering here, Your Honor,
3 from the Dickerson Center. We could potentially take up
4 the issue of the admission of the forensic interview at
5 least with her proffering her credentials and training.

6 THE COURT: All right. I have not yet reviewed the
7 video.

8 MS. MAYES: The other option would be to wait and
9 take up that matter which is going to need to be done in
10 camera but it can be done in camera outside of the jury's
11 presence on the day she is expected to testify or just
12 prior to her testimony which could be late tomorrow or
13 Wednesday morning.

14 THE COURT: Well, I don't want to hear it until I
15 look at the video.

16 MS. MAYES: That's fine, Your Honor.

17 THE COURT: That's the only thing. I think you said
18 it's a little over 40 minutes?

19 MS. MAYES: It is and we can do that in camera just
20 prior to her actual testimony.

21 THE COURT: All right. You have other motions?

22 MS. MAYES: Your Honor, the only other issue I
23 believe to take up is that also in the video the child
24 makes a reference to the fact that it has been going on,
25 I believe one time she said since six or seven and she

1 may have also made a reference to five but again when
2 Your Honor sees the video, I guess at that point it would
3 become an issue as to whether there is clear and
4 convincing evidence to admit the fact that she is
5 actually saying that it began earlier. To go in and
6 start redacting her responses to those questions is going
7 to be somewhat difficult because it's going to appear
8 edited. She does say seven and certainly that's within
9 the time frame of the indictment, November 2015 until
10 January 2016, but she does give an earlier start date
11 that he acknowledged in his own written statement.

12 However, that type of evidence, prior bad act with
13 the same victim has been routinely established as
14 admissible by our courts most recently in Curtain and
15 Wallace but dating all the way back to McClellan and
16 Whitner in the 50's so that's just something that
17 Mr. Mauldin indicated he wanted to address because she
18 does make that reference in the forensic interview. But
19 when she actually testifies, I anticipate her testimony
20 is gonna be limited to those events that occurred within
21 the time frame of the indictment.

22 THE COURT: All right. Mr. Mauldin, anything?

23 MR. MAULDIN: No, Your Honor. But I do believe that
24 since they intend to introduce it, that finding does have
25 to be made by the Court prior to them introducing it and

1 therefore we would require that you review that and in
2 your determination whether it's clear and convincing,
3 related, proof of one tends to prove the other, all the
4 factors that go into the 4B motion.

5 THE COURT: Thank you. Thank you, Mr. Mauldin.
6 Take about 15 minutes. Thank you all very much.

7 (Short break.)

8 BAILIFF: All rise.

9 THE COURT: Thank you. Please be seated. I have
10 reviewed the personnel file of Sergeant Miles Rawl.
11 There is nothing in here of an impeachable nature.
12 Nothing that is exculpatory. Madam Clerk, I'm going to
13 ask you to please put this in a file to be sealed and
14 initialed by me. It cannot be unsealed except by order
15 of the Court. Thank you. Thank you very much. All
16 right. Next matter, Solicitor.

17 MS. MAYES: I believe the other matters, Your Honor,
18 would occur at a time the Court deems appropriate after
19 the forensic interview has been reviewed and that deals
20 with the in camera hearing pursuant to South Carolina
21 Code Section 17-23-175 and then the matter of the State's
22 proffer of certain testimony or at least information in
23 that forensic interview of ongoing illicit conduct which
24 is the language used by the court when a child or victim
25 is testifying about prior acts being ongoing illicit

1 conduct.

2 THE COURT: All right. So I guess what you're
3 telling me, Solicitor, is I need to look at the video?

4 MS. MAYES: Yes, sir, Your Honor, for any of the
5 State's additional motions. I don't know that
6 Mr. Mauldin may have some more this afternoon.

7 THE COURT: Thank you, Solicitor. Mr. Mauldin.

8 MR. MAULDIN: Thank you, Your Honor. To revisit
9 your ruling before you addressed the Solicitor, Your
10 Honor, just to clarify for the record a little bit, I
11 issued a subpoena to the Lexington County Sheriff's
12 Department for the personnel file of Mr. Miles Rawl to
13 include any kind of complaints, demotions, promotions,
14 things of that nature for investigation purposes of the
15 case. Mr. Vie, the attorney for the Sheriff's Department
16 brought the materials here to court today. We had a
17 discussion in the office that he was objecting to that
18 material and Your Honor said that you would review that
19 material to determine whether or not in your opinion
20 anything in the material would be relevant for
21 impeachment purposes and Your Honor has ruled that there
22 is not and you will not be providing that to the
23 defendant.

24 THE COURT: Impeachment or exculpatory. Yes, sir.

25 MR. MAULDIN: That's just to clarify the record on

1 your ruling, giving the basis.

2 THE COURT: Yes, sir.

3 MR. MAULDIN: Thank you, Your Honor. Not to invoke
4 Miranda or voluntariness, those issues have already been
5 ruled upon, Your Honor, but there are some things in the
6 written statement that we would request that you redact
7 due to relevance and the prejudice outweighing the
8 probative value so...

9 THE COURT: Have y'all talked about this?

10 MR. MAULDIN: We talked about it a little bit on
11 Friday.

12 THE COURT: All right. Yes, sir.

13 MR. MAULDIN: On page 3 of the statement questioning
14 about whether or not any sexual activities were done with
15 other children in the house we would move to have that
16 redacted.

17 MS. MAYES: No objection to that, Your Honor.

18 MR. MAULDIN: That's the question at the bottom.

19 MS. MAYES: Question and answer regarding --

20 THE COURT: So that's the last three lines of page
21 3, correct?

22 MR. MAULDIN: Yes, Your Honor.

23 THE COURT: All right. You may redact.

24 MR. MAULDIN: Thank you, Your Honor. Now, the
25 original charge of dissemination of obscene materials to

1 a minor, warrants were obtained for that. It's my
2 understanding the Solicitor is not proceeding to trial on
3 those charges so in our opinion any mention of showing
4 pornography is a bad act and not relevant to this case
5 here as far as criminal sexual conduct and so there are
6 questions on page 5 of the statement about looking up
7 pornography on the Internet. That's the fourth question
8 and answer in the middle of the page. The question at
9 the bottom of page 5, when is the last time you looked at
10 porn?

11 MS. MAYES: I have both of those out.

12 THE COURT: All right.

13 MR. MAULDIN: All of page 6 which involves
14 discussion of the pornography and discussion of potential
15 sexual allegations against the other children which were
16 denied. Discussions with L.D. about masturbation.

17 THE COURT: What about page 6, Solicitor?

18 MS. MAYES: On that page, Your Honor, I have from
19 the top of the page I would say it has been at least a
20 week, I have that redacted down to the question what was
21 her reaction, and then the answer was who she loved. I
22 have all of that out, however, those last three question
23 and answer conversations I have in because this is about
24 him. He's basically saying in his statement his
25 rationalization for the activity with Minor it that it was

1 all about teaching her about sex and about masturbation
2 and that it was for some type of education purposes. So
3 for that reason from the State's position it's relevant
4 that he's saying he also discussed masturbation with his
5 son but that he didn't act on any - he didn't act on any
6 of those instructions to the son.

7 THE COURT: Mr. Mauldin.

8 MR. MAULDIN: Again, I think that's a bad act. It's
9 not relevant. The prejudice outweighs the probative
10 value. He's on trial for alleged acts against **Minor**.

11 MS. MAYES: I don't think it's a bad act. I think
12 from the State's perspective, Your Honor, that's what
13 makes it relevant. He's saying that he was educating his
14 children about masturbation. I don't think that that in
15 and of itself is a bad act because a parent has the right
16 to discuss things of a sexual nature with a child if it's
17 for educational purposes. But what he's saying is that
18 with **Minor** he not only discussed it with her but then
19 followed through by showing her and demonstrated to her
20 how it's normal and healthy. He says he had the same
21 conversation with his son but he did not act on it.

22 THE COURT: What's the prejudice, Solicitor? What's
23 the prejudice of that?

24 MS. MAYES: I don't believe that there would be
25 prejudice, Your Honor.

1 THE COURT: If it ain't prejudice, it ain't
2 admissible, it ain't relevant. If it's only unduly
3 prejudicial under 403 that all evidence should be
4 prejudice. All the State's evidence should prejudice to
5 the defendant to be relevant. I mean, if it's not a bad
6 act, then under what rule would it be as admissible? I'm
7 not tracking.

8 MS. MAYES: Right. I don't think that it is a bad
9 act but I do think it puts it in context. I think it's
10 more of a rule of completeness issue in that he is
11 pursuant to Rule 106 in that he is explaining that he had
12 these conversations about sex with **Minor** but then actually
13 instructed her on it physically and he's saying that he
14 had the same conversation with his son that, of course,
15 he did not instruct him on it physically.

16 THE COURT: Well, you know, that's like that old
17 McClellan case so to speak. I think that's the case with
18 the Bible.

19 MS. MAYES: It is, Your Honor.

20 THE COURT: With the children. To me now it's
21 obviously different because I don't think the fact that
22 he's ever talked to his two boys about masturbating, the
23 responses I have had the one, a conversation with my
24 oldest son. He did not seem to grasp the concept.

25 MS. MAYES: If it causes a concern, Your Honor, we

1 can take that entire page out. Then we have got moving
2 onto the next page.

3 THE COURT: Of course, I take it right out of
4 context. You're right, it's in the context but it takes
5 it out of the context but it does cause me concern
6 particularly the name of the child and the age. I think
7 I would take that out, Solicitor.

8 MS. MAYES: Yes, sir, Your Honor.

9 THE COURT: All right. Thank you.

10 MR. MAULDIN: Similarly the first two questions and
11 answers on the top of page 7 are a continuation of that
12 line of questioning.

13 THE COURT: I thought you had addressed that on page
14 6 and 7, Solicitor? The only three you were asking me to
15 review were the last three questions.

16 MS. MAYES: That's correct, Your Honor. Then on
17 page 7 of 7, question, what was his reaction? And
18 answer. That is out. Question, the next set of
19 questions is going to be did your wife know that you had
20 these conversations with L.D. [REDACTED] and Minor [REDACTED] where Minor [REDACTED] is our
21 victim. He says no. I never thought to tell her. From
22 the State's perspective again that's important that he's
23 now admitting that he did have these conversations with
24 our victim but never advised the wife that any of this
25 was going on. So I think the fact that L.D. [REDACTED] name is

1 in there too it's incidental. The jury is not going to
2 hear anything additional about that. So I do believe
3 that that in and of itself is consequential but it is
4 important that he is talking to [Minor] about sex and
5 actually taking it further than that but that the wife is
6 unaware.

7 THE COURT: Mr. Mauldin.

8 MR. MAULDIN: Your Honor, just again, [L.D.] is
9 injected and then the words talked to them about it, I
10 mean, they have got five and a half other pages of the
11 same topic that they can work with. I think the
12 prejudice is injecting potential sexual conduct even the
13 inference of it even if you deny it the prejudice
14 outweighs the probative value.

15 MS. MAYES: We certainly can redact the name [L.D.]
16 but the fact that this is going on with [Minor] and the wife
17 is unaware is important and I don't believe that's
18 addressed anywhere else in this statement.

19 THE COURT: I think you can put it in there without
20 reference to [L.D.], but also it's got to be some
21 reference back to what the conversations are about. Is
22 the only reference to conversation about masturbation the
23 third to the last question on page 6 of 7? You both are
24 probably much more familiar with the statement at this
25 point than I am.

1 MR. MAULDIN: Your Honor, on page 5, the first
2 question before the last, it's not my intention to take
3 her virginity. Only to allow her to understand she's not
4 bad for masturbating.

5 THE COURT: Well, that doesn't refer to a
6 conversation and there may be one in here. That's why
7 I'm asking.

8 MS. MAYES: I believe, Your Honor, at the top of
9 page 4, why did you perform these acts with [Minor] And he
10 does, he may not use the word conversation but he does
11 allude there that he is in the process of teaching her or
12 educating her.

13 THE COURT: Question: Do you believe you were
14 teaching [Minor] about masturbation? Both.

15 Well, I think the Solicitor is allowed to put that
16 question in context. She can redact [L.D.] but the
17 conversations are actually referenced to masturbation.

18 MR. MAULDIN: Your Honor, again, I would object. I
19 don't have the case name off the top of my head but
20 involving redactions and that sort.

21 THE COURT: Involving what now? I'm sorry.

22 MR. MAULDIN: Involving redactions and I think it
23 had to do with the co-defendant testifying and the one
24 defendant's name was redacted out.

25 THE COURT: That's right. That's Judge Cothran's

1 case over there in Lee County that I have never been able
2 to do a flow chart to put enough dots on the page to
3 connect anything that looks anything like I have ever
4 seen in existence so far. It's like that old Cruz case,
5 United States Supreme Court case and such like that. But
6 they have a right. They have got to get it in context.
7 You got to have a context. You can't -- It's like a
8 birth mark. You know what the birth mark is,
9 Mr. Mauldin.

10 MR. MAULDIN: The birth mark?

11 THE COURT: Yes, sir.

12 MR. MAULDIN: Yes, sir. I know what it is. But I
13 wouldn't be able to give you a technical definition.

14 THE COURT: The birth mark is my favorite short
15 story by Nathaniel Hawthorne, and this beautiful woman
16 had this birth mark and her husband wanted her perfect so
17 he wanted to extract the birth mark so he decided to have
18 an operation to extract her birth mark. The problem was
19 it was intertwined in her soul so extracting the birth
20 mark takes the soul. This is so intricately intertwined
21 in the case that you can't extract that one word out of
22 there without putting it in some type of context. You
23 can't redact L.D. and the other child but at the same
24 time it's got to be put in a context for the jury to not
25 have to rely on speculation. What conversations? The

1 conversations that question is referring to is
2 conversations about masturbation. I mean, so somehow
3 even parenthetically you have to put in reference to
4 masturbation and, of course, I give the jury a charge on
5 what redactions mean and not to speculate, not to hold it
6 for or against either party just by order of the Court
7 but there's got to be some kind of context for that
8 conversation. The jury could speculate it was about -
9 they could speculate -- They could speculate. I don't
10 know what about.

11 MS. MAYES: I think, Your Honor, that Sergeant Rawl
12 can bridge that gap because he does know the context.

13 THE COURT: Okay. But your objection is noted and
14 do redact **L.D. [REDACTED]** Anything further? Show him, Solicitor.
15 Get a redacted version prepared. Show it to him. Give a
16 copy to Mr. Mauldin and the Court so that if there are
17 any further, let me know and I'll look at them. Others,
18 Mr. Mauldin?

19 MR. MAULDIN: Thank you, Your Honor. I believe we
20 did have a discussion in chambers regarding certain items
21 seized from the house. There were a number of, I guess
22 you call them marital aids or sexual devices that were
23 found in the house but it's my understanding that the
24 State only intends to introduce the vibrating bean and
25 then possibly there's some lubricant jelly. There were

1 other items. A flesh colored phallus, a purple phallus,
2 an anal plug.

3 MS. MAYES: We're not offering those.

4 THE COURT: What are you going to offer, Solicitor?

5 MS. MAYES: Your Honor, there won't even be
6 testimony about that. The child has described, she
7 describes in her forensic interview but she also had even
8 described to family members beforehand that there was a
9 device that he used with her and he acknowledges that in
10 his own written statement. I believe in his statement he
11 called it a vibrating bean but it's silver in color and
12 the child can identify it. It's the same item she drew
13 during the forensic interview and that's the item we'll
14 offer.

15 THE COURT: Does that resolve that, Mr. Mauldin?

16 MR. MAULDIN: Yes, sir. We just wanted to put that
17 on the record.

18 THE COURT: All right.

19 MR. MAULDIN: In addition, Your Honor, I would have
20 a motion to sequester the witnesses in this case.

21 THE COURT: Why?

22 MR. MAULDIN: There are conversations between the
23 witnesses that are alleged to have happened. I don't
24 want them to hear what the conversation might have been
25 when they testify concurrently with what they heard

1 should those conversations be admissible. We have
2 objected to some of them.

3 THE COURT: All right. Does the State have any
4 position?

5 MS. MAYES: Your Honor, pursuant to the Carmack case
6 written statements were obtained by both Leslie Ellis and
7 her mother Barbara Havird who is the grandmother of the
8 child. They have given written statements. Beyond that
9 we don't expect their testimony to go very far other than
10 the events of that day. Obviously, Leslie Ellis, she
11 would be able to identify the conversations.

12 THE COURT: You're talking about Ms. Pierson?

13 MS. MAYES: Ms. Pierson, correct. The conversations
14 by text that lead to him coming home and then her
15 confronting him and then identifying certain items on
16 that phone chart but otherwise I don't expect it to go
17 far beyond what she's already summarized in her written
18 statement. And the same for the grandmother. I believe
19 it's the Carmack case that covers that when there's
20 sequestration of witnesses, it's not necessarily going to
21 apply to witnesses who have given written statements that
22 have been provided pursuant to discovery. Beyond that we
23 have a child who was seven when this occurred. She is
24 now nine. Her mother is by statute a victim in this case
25 because she is the parent of a minor child so she would

1 be exempt from the sequestration rule by statute.

2 THE COURT: Anything in response, Mr. Mauldin?

3 MR. MAULDIN: Your Honor, I just move for -- I
4 understand there's some statutory exemptions for a victim
5 and the chief investigating officer but just for Sixth
6 Amendment Right to a fair trial and the relevant
7 provisions under the South Carolina constitution.

8 THE COURT: Well, I typically always follow Carmack.
9 There are some older case law. I can't recall the name
10 of it right off but the fact that witnesses can hear each
11 other and there's a potential for them to blend or meld
12 their testimony alone is not sufficient. I can predict
13 anything but the future as far as whatever anybody is
14 gonna do. If they've given statements concerning this,
15 and I think the Solicitor cross examined Ms. Pierson on a
16 statement she had previously given on 24 January, perhaps
17 that was the date she gave it, I'm not sure, so I would
18 respectfully deny the motion to sequester and as you both
19 point out there are statutory victims that
20 constitutionally have a right to be present. Any other
21 motions?

22 MR. MAULDIN: Yes, Your Honor. The motions with
23 regard to note that was written by the child. We have
24 been provided with a copy of it. Basically it says -- I
25 don't have it in front of me, but basically it's

1 something along the lines of, and there's misspellings,
2 but when daddy's at work, tell mommy I lick daddy's
3 pee-pee. He makes me do it. Your Honor, it's our
4 contention that it's hearsay. A prior consistent
5 statement should not be admitted and also it's
6 cumulative.

7 THE COURT: All right. Solicitor?

8 MS. MAYES: Your Honor, I don't necessarily
9 disagree. I just want to make sure that if it is
10 restricted based on the motion of the defense, that there
11 won't be any issues raised in front of that jury at any
12 point including closing argument about where the letter
13 or where the note is and why haven't they seen the
14 note.

15 MR. MAULDIN: Well, Your Honor, I don't think there
16 should be any discussion of the note specifically. I
17 understand the time and place exception but the note is
18 detailed about who did it and what was done.

19 THE COURT: I haven't seen it.

20 MR. MAULDIN: Yes, sir.

21 THE COURT: I don't know what it says.

22 MS. MAYES: I have a copy of it, Your Honor, that I
23 can pass up. In addition, there may be testimony that
24 there was a note because that is what prompted the
25 child's disclosure but it doesn't necessarily mean that

1 we would offer the note.

2 MR. MAULDIN: Your Honor, the note does not indicate
3 a time or place so I don't think it falls within the
4 exception but I don't think there should be any mention
5 of it. And I think if I can put it in context, Your
6 Honor, the Solicitor can correct me if I'm wrong, there
7 was initially a verbal disclosure to the grandmother.
8 The grandmother wanted [Minor] to tell her mother Leslie
9 herself and wanted her to write a note to remind her to
10 tell her mother and that's the context of the note. It's
11 my understanding that the disclosure was not relayed
12 through the note. It was relayed verbally to the
13 grandmother and then the grandmother told [Minor] to write a
14 note so she could remember to tell her mother.

15 MS. MAYES: Then that note was given to the
16 mother.

17 THE COURT: What's this? I'm going to call it page
18 2. Made up cat. What is this?

19 MS. MAYES: Cat camp.

20 THE COURT: How does that relate or does it not
21 relate to the note?

22 MS. MAYES: She had drawn - she had drawn this story
23 of cat camp and the cats were in cages and they were
24 crying but again that was, I believe, on the back page of
25 the note.

1 THE COURT: So this was whatever was on the front
2 and one is on the back?

3 MS. MAYES: Yes, sir.

4 THE COURT: Is the drawing related?

5 MS. MAYES: They were contemporaneous. They were on
6 the same document.

7 THE COURT: But is the subject matter, is it related
8 by subject matter?

9 MS. MAYES: We believe that it is, Your Honor. That
10 was also the understanding of the family members that she
11 was drawing how she felt.

12 THE COURT: What is the time frame you said?

13 MS. MAYES: The night of the 23rd.

14 THE COURT: **Minor** revealed -- The timeline allegedly
15 is she told her grandmother Ms. Havird who then
16 instructed her to write a note to Ms. Havird to remind
17 Ms. Havird to tell her mother Ms. Pierson. Is that the
18 right flow and what's that time frame?

19 MS. MAYES: Right. So the grandmother Ms. Havird
20 would have learned of this directly from the child on the
21 night of the 23rd of January. January 23rd and the child
22 drew the photo and made the note to remind herself to
23 tell her mom, Ms. Pierson, the following day and then she
24 gave her mom the note the following day around noon and
25 then the child made a verbal disclosure to the mother

1 after giving her the note. So it's not the actual note
2 or the content of the note that we would offer but we do
3 anticipate that there would be some testimony from Leslie
4 Pierson that when her daughter disclosed to her, she
5 showed her a note and then told her what happened
6 although that's limited to time and place and then she
7 texted the defendant at work, told him the child had made
8 a disclosure. He comes home at 3:30. She confronted
9 him. He made an admission to her. She then went next
10 door and called 911.

11 THE COURT: All right. Solicitor, your position is
12 you're not going to offer the note but there will be
13 testimony about the note?

14 MS. MAYES: Yes, sir, Your Honor.

15 THE COURT: But not about --

16 MR. MAULDIN: The context.

17 MS. MAYES: That's correct.

18 THE COURT: Okay. And, Mr. Mauldin, your position
19 is?

20 MR. MAULDIN: That's what's the context, Your Honor.
21 Of course, mentioning the note may cause speculation on
22 the part of the jury.

23 THE COURT: There's only one way to clear that up.

24 MR. MAULDIN: I understand, Your Honor.

25 THE COURT: Well, I'll allow the, under those

1 guidelines the testimony about the note. If during the
2 presentation of that testimony, of course, Mr. Mauldin,
3 you object as you think appropriate as I know you will.

4 MR. MAULDIN: Yes, sir.

5 THE COURT: That wasn't a complaint. That was a
6 compliment, as I know you will. You know the rules of
7 evidence. Anything further?

8 MR. MAULDIN: And we're holding the video and the
9 404 in abeyance until Your Honor has reviewed it?

10 THE COURT: I'm gonna look at it this evening before
11 I leave, the tape.

12 MR. MAULDIN: Yes, sir.

13 THE COURT: All right.

14 MR. MAULDIN: The Solicitor mentioned it to me and
15 that's why I gave her certain sections I wanted redacted
16 last week. It may take some time if there are any
17 rulings on redactions for them to complete a redacted
18 video. They had their tech person create the redacted
19 video so I didn't know if the Solicitor would want to
20 have a hearing for her to be available to coordinate
21 that.

22 THE COURT: I'll leave that up to y'all. I'm gonna
23 look at this this evening. Anything further?

24 MS. MAYES: Not at this time, Your Honor.

25 THE COURT: Mr. Mauldin?

1 MR. MAULDIN: No, Your Honor.

2 THE COURT: All right. 9:30 in the morning. Thank
3 you.

4 (Whereupon, court was adjourned for the day at 4:45
5 p.m.)

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1 JULY 11, 2017

2 BAILIFF: All rise. The Honorable Judge Knox
3 McMahon presiding.

4 THE COURT: Thank you. Thank you very much. Good
5 morning. Please be seated. All right. Solicitor,
6 anything we need to take up at this time?

7 MS. MAYES: I guess, Your Honor, just as a matter of
8 scheduling on that forensic interview trying to get a
9 handle on when we might take up the argument about the
10 portions that Mr. Mauldin objects to and then that would
11 allow us to make any appropriate redactions.

12 THE COURT: Well, I would like to get started with
13 the jury first and then I can either send the jury to
14 lunch early and we can take it up before our lunch and
15 give them a somewhat extended lunch.

16 MS. MAYES: That would be fine, Your Honor.

17 THE COURT: Does that suit you, Mr. Mauldin?

18 MR. MAULDIN: Yes, sir.

19 THE COURT: Do you think I care if it matters if it
20 suits you or not? I do, Mr. Mauldin. Just say yes.

21 MR. MAULDIN: I took that as a rhetorical
22 question.

23 THE COURT: I do, Mr. Mauldin. I would like for us
24 to all be on the same sheet of music at least scheduling
25 wise. Anything before we bring in our jury?

1 MR. MAULDIN: No, Your Honor.

2 THE COURT: Anything from the State before we bring
3 in our jury?

4 MS. MAYES: No, sir, Your Honor.

5 THE COURT: Solicitor, here is your note, the note
6 that you handed up yesterday.

7 MS. MAYES: Thank you, Your Honor.

8 THE COURT: Let's see. Let me look at one other
9 thing real quick. Juror number 123, Madam Clerk, is that
10 Mr. Lockhart?

11 THE CLERK: Yes, sir. Ronald L. Lockhart.

12 THE COURT: 123 is the foreperson. 123.

13 THE CLERK: Yes, sir.

14 THE COURT: If you would bring in our jury please.

15 BAILIFF: Yes, sir.

16 (Whereupon, the jury entered the courtroom at 9:35
17 a.m.)

18 THE COURT: Good morning. Welcome back. There's an
19 initial matter. I have appointed juror number 123 as our
20 foreperson. Thank you. Thank you very much,
21 Mr. Lockhart, for volunteering for that very important
22 position. Any one of your number would have been an
23 excellent, excellent foreperson, but I did have that
24 election. There is no recount. If there were a recount,
25 it would come out the same. But thank you. Thank you

1 very much.

2 Ladies and gentlemen of the jury, the case we are
3 about to try is the case of the State versus Bryan
4 Jeffrey Ellis, the defendant to my front left. What I
5 will now say is intended to serve as an introduction to
6 the trial of this case. These remarks are not an
7 instruction on the law in the case. I will instruct you
8 on the law applicable to this case during and at the end
9 of the trial before you retire to consider your verdicts.
10 This is merely an explanation of the procedure that we
11 will follow in this trial so that you may better
12 understand what may be happening.

13 Mr. Ellis is charged by indictments with first
14 criminal sexual conduct with a minor in the first degree
15 and criminal sexual conduct with a minor in the third
16 degree, the elements of which will be explained to you
17 later. Again, ladies and gentlemen, these indictments
18 are simply a formal charging documents by which the cases
19 are brought before the Court.

20 Mr. Ellis has pled not guilty to these indictments.
21 The State, the party to my front right, therefore, has
22 the burden of proving each of the elements of the
23 indictments beyond a reasonable doubt. And it will be
24 your duty, ladies and gentlemen, to decide whether the
25 State has met that burden. Your purpose as jurors is to

1 find and determine the facts. You, ladies and gentlemen,
2 are the sole judge of the facts in this case. If at any
3 time I make any comment regarding the facts, you must
4 disregard it. You are to determine the facts from the
5 testimony you hear from the witnesses testifying before
6 you from this witness stand under oath and any other
7 evidence that may be introduced in the court. It will be
8 up to you to determine the inferences which you feel may
9 properly be drawn from the evidence. It is especially
10 important that you perform your duty of determining the
11 facts diligently and conscientiously because ordinarily
12 there is no way to correct an erroneous determination of
13 the facts by a jury. On the other hand and with the same
14 emphasis the same law that makes you the judges of the
15 facts make me the judge of the law. The law as given by
16 the Court is the only law you may consider. You must
17 accept and follow it even though you may disagree with
18 it. I cannot tell you what the facts are and you cannot
19 disagree with me about what the law is and what the law
20 should be. At this juncture I would ask the Clerk to
21 please swear our jury.

22 (Whereupon, the jury was duly sworn by the Clerk of
23 Court at 9:42 a.m.)

24 THE COURT: It's your job to take the law as I give
25 it to you and apply it to the facts of the case as you

1 find them from the testimony of the witnesses and any
2 other evidence that is introduced. After doing that, you
3 will render your verdicts based on the facts and the law
4 and the solemn oath that you just took as jurors. It is
5 important that you keep an open mind and not decide any
6 issue in the case until all of the evidence has been
7 presented, the parties have made their closing arguments
8 and I have instructed you on the law in the case. It is
9 your solemn responsibility to determine the guilt or
10 innocence of Mr. Ellis and your verdicts must be based
11 solely on the evidence as it is presented to you in this
12 trial and on the law as I instruct you and during the
13 trial and at the close of the case.

14 Now, in just a moment, ladies and gentlemen, the
15 Solicitor will make what is called an opening statement
16 in which the Solicitor will explain to you the issues in
17 the case or at least what the Solicitor thinks the issues
18 in this case are. Mr. Mauldin, the attorney for
19 Mr. Ellis, may also make an opening statement although he
20 is not required to do so. A criminal defendant in South
21 Carolina is always presumed to be innocent regardless of
22 the serious nature of whatever the charges may be.

23 Ladies and gentlemen, what the attorneys tell you
24 during their opening statements is not evidence in the
25 case. What the attorneys tell you in their closing

1 arguments is not evidence in the case. The questioning
2 by the attorneys, the questions is not evidence in this
3 case. It's the responses by the witnesses that is the
4 evidence in the case, the sworn witnesses to testify
5 before you truthfully and credibly and you determine
6 their truthfulness and their credibility. But that's the
7 evidence in the case. What the attorneys say is not
8 evidence but it is important that you pay attention and
9 be diligent in your focus on what the attorneys say, what
10 the Court says and obviously the witnesses' testimony.

11 That is how the evidence will be presented to you.
12 Testimony of sworn witnesses from the witness stand and
13 by any exhibits that may be introduced into evidence.

14 From time to time during the trial you may hear one
15 of the attorneys say something like, Your Honor, I
16 believe we have a question of law or a matter of law to
17 discuss with you. Or, Your Honor, may we approach the
18 bench. Or sometimes I myself might find it necessary to
19 excuse you from the courtroom for a short while so the
20 attorneys and I can discuss a matter of law. This is not
21 to hide anything from you. The reason for this is
22 because you are the judges of the facts in the case and
23 sometimes when I am discussing matters of law with the
24 attorneys, it may be necessary for me to make some
25 comment as to the facts in connection with ruling whether

1 or not a particular law applies. I am not supposed to
2 tell you what I think the facts are so I will excuse you
3 from the courtroom while these discussions take place so
4 that in no way will you be influenced by anything that I
5 might say or do in connection with the facts.

6 In determining what the true facts are, in using
7 your individual collective good judgment and common sense
8 you must decide whether or not the testimony of the
9 witnesses is believable. It will be my responsibility to
10 rule as a matter of law as to whether certain testimony
11 is admissible at all or not but once the testimony is
12 admitted whether or not you believe it is solely for you
13 the jury to determine. In deciding whether to believe a
14 witness you have the right to consider the interest, if
15 any, of any witness, the bias, if any, of any witness,
16 the prejudice, if any, of any witness, the opportunity
17 for the witness to have seen the matters and the things
18 about which the witness may testify, the consistency of
19 the witness' testimony whether the witness' testimony is
20 corroborated, made stronger or not corroborated by
21 testimony of other witnesses. And you may also consider
22 the demeanor, the manner, the way the witness acts on the
23 witness stand. You have the right to consider anything
24 that is in the record that will help you evaluate the
25 believability of the testimony of the witnesses.

1 That means it will be your duty to pay close
2 attention to the witnesses, to observe them, to listen to
3 them, to focus on them, to pay close attention to the
4 attorneys and to the Court. Don't let your thoughts
5 wander but give strict attention to the testimony in this
6 case so that at the end of all the testimony, after the
7 arguments of counsel and the instruction on the law by
8 the Court you will then be in a position to determine
9 what the true facts are and to apply the law as I
10 instruct you to the facts as you have found them to be
11 and thus render those true and just verdicts.

12 It will be your added responsibility, Mr. Foremen,
13 to preside in the jury room and be the jury spokesperson
14 here in the courtroom. It will also be your duty to
15 write the verdict, but I will give you further
16 instructions about that at the conclusion of the case.

17 Just several administrative matters. We have, of
18 course, a sound system in the courtroom. However, if you
19 cannot properly hear a witness or see a witness or an
20 exhibit or something, just get my attention, the
21 attention of one of the bailiffs and we'll certainly try
22 to have that witness speak up, sit up and the evidence
23 presented to you where you will be able to see it. Along
24 that line and I don't know what may be introduced into
25 evidence, sometimes they can be photographs, diagrams,

1 the like. I don't know. Sometimes they are just
2 displayed electronically. Other times they may be handed
3 to our foreperson and passed among the members of the
4 jury panel while you are in the courtroom in the box.
5 Anything that I allow, any physical item I allow into
6 evidence you will also have that with you in your jury
7 room at the time of your deliberations.

8 I tell you that to let you know you can look at it
9 all you want in the courtroom. Please keep in mind that
10 is not the only opportunity that you will have to view
11 physical items of evidence.

12 So a third thing, just again administratively, from
13 time to time you may see me on my computer and also my
14 law clerk will be in momentarily. You may see her on her
15 computer. I tell you this because some juror complained
16 about me. Imagine that. I was flabbergasted. But I do
17 try to take constructive criticism. Actually the older I
18 get, the less I take it but I still try to take it. I
19 don't tweet. I don't repeat. I don't know what hashrag
20 is. Instant. You instant is like Jell-o to me. I don't
21 do any of that. These are good trial lawyers. They're
22 experienced. I stay focused on the case. If I look down
23 that dusty trail, bumpy trail, I may see what I think is
24 a legal issue lurking off in the distance, I do some
25 research. My law clerk does the heavy lifting. It was a

1 distraction because I am sitting close to the witness.
2 If it distracts you, please let me know. I won't have
3 anything to do. I'll just have my law clerk do all the
4 research. I have no issue with that at all.

5 Also, seating. Observing jurors over a number of
6 years I have found that jurors many times are very
7 territorial. They like to sit in the same seat, the same
8 location each and every time. Have the same view of the
9 courtroom. I like it, too. I do the same thing. I need
10 our foreperson to maintain that seat and our two
11 alternates to maintain your seating. As far as the
12 others, wherever you would like to sit in the jury box
13 you, of course, may remain in the same seat each and
14 every time. As I say, I like it, however, you do not
15 have to do so. I just need to keep up with 13 people.

16 So at the end of the day what am I really in charge
17 of? I'm in charge of taking breaks. That's what I'm in
18 charge of. And I got a great theory on that, too, or
19 protocol. If I want to take a break, we take a break.
20 Works great. No debate. If at any time any of you need
21 a break, if you sit out here too long, if your thoughts
22 get to wandering, please raise your hand. This is not a
23 judicial marathon. Please raise your hand. You're
24 probably not the only one that needs a break. If y'all
25 need to take a break, we will take our break. So don't

1 hesitate. Don't hesitate at all in that request. All
2 you have to do is raise your hand and we'll take our
3 breaks. Sometimes I have a tendency to sit out here too
4 long. I try to take a break about every hour and 15
5 minutes or so depending on where we are at with a
6 particular witness and sometimes I may stay too long in
7 trying to finish a witness. But again it's going to be
8 your duty to determine the facts. You need to be focused
9 and attentive. If you feel yourself needing a break,
10 please raise your hand.

11 Any objections to anything I have told the jury from
12 the State, Solicitor?

13 MS. MAYES: Nothing from the State, Your Honor.

14 THE COURT: Defense?

15 MR. MAULDIN: No, Your Honor.

16 THE COURT: Thank you. Thank you very much. Ladies
17 and gentlemen, again, please give the parties your
18 complete and undivided attention. Solicitor, you may
19 address the jury.

20 MS. STRINGFELLOW: May it please the Court, Your
21 Honor.

22 THE COURT: Yes, ma'am.

23 MS. STRINGFELLOW: This is a case about broken
24 trust. This is a case about innocence that a child
25 should never lose and a shame a little girl should never

1 have to face. This is a case about what that man Bryan
2 Jeffrey Ellis did to his seven year old stepdaughter.
3 **Minor** is your typical fun loving little girl and she
4 likes doing what any little girl likes doing. She likes
5 to run and race and catch frogs. **Minor** has a mom, two
6 brothers and a stepfather who was the only father she has
7 ever known and she called Bryan Ellis her daddy. And as
8 her daddy she expected him to love her and take care of
9 her and provide for her like any good daddy would. But
10 that's not what Bryan did. Bryan broke the trust that
11 **Minor** had in her daddy.

12 On the night of January 23rd, 2016 **Minor's** grandma
13 was trying to bustle the kids off to bed because they had
14 church in the morning and as she had this verbal tug of
15 war with her grandkids **Minor** told her, grandma, the way
16 she puts her to bed is different than what Bryan does.
17 And it was that night that **Minor** was a brave little girl
18 and she told her grandma what Bryan had been doing to her
19 when the two of them were alone and **Minor's** grandma told
20 her she needs to tell her mama and that's what **Minor** did.

21 And today you will hear from **Minor** and **Minor** will tell
22 you exactly what Bryan made her do. You will see exactly
23 what Bryan made her do to him. And you will also hear
24 from Leslie who is **Minor's** mom and she will tell you that
25 after **Minor** came to her, that she confronted Bryan and

1 Bryan told Leslie that everything [Minor] said was true. So
2 Leslie called the police and they came out to do the
3 investigation. Today you will hear from Sergeant Miles
4 Rawl, a veteran of the Lexington County Sheriff's
5 Department and a member of the major crimes unit and
6 he'll tell you what information he was able to gather and
7 who he spoke to and what he saw. But most importantly he
8 spoke to Bryan and Bryan confessed to Sergeant Rawl. Not
9 only did Bryan verbally confess, he wrote a confession.
10 In his own words he told Sergeant Rawl and wrote it down
11 what he did to [Minor]

12 Bryan wrote, I asked my daughter to put her mouth on
13 my penis and she did. I had my daughter perform a hand
14 job on me. In his own words that's what Bryan Ellis said
15 he asked and made a little girl do to him. In his own
16 words he asked a seven year old to perform oral sex on
17 him. In his own words he asked a seven year old, his
18 stepdaughter to manually stimulate him.

19 The State will meet our burden of proof in this case
20 and we will prove to you that Bryan Jeffrey Ellis is
21 guilty of criminal sexual conduct with a minor in the
22 first degree and criminal sexual conduct with a minor in
23 the third degree. Criminal sexual conduct with a minor
24 in the first degree is oral sex with a minor and criminal
25 sexual conduct with a minor in the third degree is

1 touching a minor in a sexual manner.

2 You will see for yourself how Bryan broke the trust
3 that **Minor** had in him. How he shattered the innocence
4 that a little girl should never have to lose. How he
5 made her feel ashamed that no child should ever have to
6 reconcile. And at the conclusion of this case we will
7 come back before you and we will ask that you find the
8 defendant guilty of criminal sexual conduct with a minor
9 in the first degree and criminal sexual conduct with a
10 minor in the third degree.

11 THE COURT: Thank you, Solicitor. Mr. Mauldin.

12 MR. MAULDIN: Thank you, Your Honor.

13 Bryan and his wife, Leslie, now his ex-wife, she's
14 remarried now, had been having problems. They were
15 married for some time and for a good while they had been
16 living with her parents in their house and he and her
17 parents didn't really get along well and that caused him
18 and Leslie not to get along well.

19 Some time in the summer of 2005 or * 2015 they were
20 able to move out of the parents' house and into a trailer
21 just down the way very close to the parents' house. But
22 the marital problems still continued. Leslie wanted him
23 to do counseling. Now, unfortunately, during this period
24 of time, they worked two separate jobs and the two
25 separate jobs had two different shifts so one would be

1 home with the kids while the other is at work and then
2 they would switch out and the other one would be home
3 with the kids.

4 During this period of time Bryan had caught or
5 noticed [Minor] playing with herself masturbating and
6 instead of just leaving it alone or whatever, he didn't
7 want her to feel weird about it or ashamed about it and
8 so he talked to her about it a little bit. His wife had
9 a marital aid, a little vibrating thing and he gave her
10 the little vibrating thing to use to try to not make her
11 feel ashamed. That happened a couple times in November,
12 December, January, 2015. Never touched her. Never put
13 his penis in her mouth or anything like that, but that
14 was the behavior alleged.

15 On January 24th he gets a text from his wife. [Minor]
16 told me something we need to talk about. He's at work
17 working for DISH TV. He comes home. He doesn't run
18 away. He doesn't go off. He comes home. She confronts
19 him by saying [Minor] told me and he just said it's true
20 without knowing what she was going to say. And she made
21 some other comment and then leaves out to her parents'
22 house and calls the police. He stays in the trailer. He
23 doesn't get out and leave. Doesn't run or anything like
24 that. He knows that he might be in some trouble for the
25 behavior. He doesn't know what the law is. He doesn't

1 know what he could be charged with for what he did or
2 couldn't be charged. He doesn't know.

3 And the police come and he's sitting there with one
4 officer in his house for a good long period of time. He
5 doesn't know what to make of it or what to do and asking
6 the officer permission to go to the bathroom. Permission
7 to get a glass of water. That kind of thing. And then a
8 second officer comes, Officer Rawl. Sergeant Rawl now.
9 Sergeant Rawl has him leave the house and get into his
10 patrol car. And before this written statement they're
11 talking about, there was 43 minutes of interrogation that
12 goes on. I know what you did. Because Rawl had been
13 there. He had talked to other people that came up with
14 the story about licking his pee-pee or oral sex or
15 touching. I know what you did. Bryan tries to act like
16 he doesn't know what's going on. That kind of thing.
17 He's just scared and doesn't know what to do. But the
18 officer keeps at him. Keeps at him until he finally
19 capitulates and agrees that maybe if I cooperate, it
20 won't go so bad for me. I know I'm in some kind of
21 trouble. Maybe if I tell him what he wants to hear, that
22 things won't go too bad for me. Maybe things will work
23 out and I can get through this and work to get back with
24 my family.

25 Little did he know that the machine behind the

1 State, the machine that was operating was about to crush
2 him and that's why he's here today having this trial
3 because he's not guilty of these charges. Everything has
4 been misconstrued. He did what he did, but he didn't do
5 criminal sexual conduct with a minor in the first degree
6 or third degree and you should find him not guilty.
7 Thank you.

8 THE COURT: Thank you. Thank you, Mr. Mauldin.
9 Solicitor, you may call your first witness.

10 MS. MAYES: The State calls Nikki Rodgers.

11 THE COURT: All right. Ms. Rodgers. Come around
12 and join us please.

13 Thereupon,

14 NIKKI RODGERS

15 after having been first duly sworn, testified as follows,

16 THE CLERK: Please have a seat. Once you're seated,
17 state your full name spelling your last please.

18 THE WITNESS: Nikki Rodgers, N-i-k-k-i
19 R-o-d-g-e-r-s.

20 DIRECT EXAMINATION

21 BY MS. MAYES:

22 Q. All right. Good morning, Ms. Rodgers. Can you give
23 us a little bit of information about yourself? Where are you
24 employed?

25 A. I'm employed with Lexington County 911

1 Communications.

2 Q. All right. When you say 911 communications, tell us
3 a little bit about that place.

4 A. 911 communications is the 911 call taking and
5 dispatching center for Lexington County. We process all
6 incoming emergency calls for service for fire service, EMS,
7 the Sheriff's Department, all of the municipal police
8 departments except for Cayce, West Columbia, Batesburg.
9 Everything within the county.

10 Q. So if a 911 call is made, it comes through your
11 center?

12 A. Yes, ma'am.

13 Q. Now, if a 911 call is made, does your center
14 maintain a record of that?

15 A. We do.

16 Q. Does that include the date and time of the call?

17 A. It does.

18 Q. Does that include the nature of the call?

19 A. It does.

20 Q. Does that include information such as who is the
21 caller and what address EMS or law enforcement is being
22 dispatched to?

23 A. Yes. It does.

24 Q. Who is the custodian of records for the 911
25 center?

1 A. I am also the custodian of records.

2 Q. All right. As custodian of records, Ms. Rodgers,
3 can you tell us whether or not you had an opportunity to
4 research whether law enforcement was dispatched to a location
5 on [REDACTED] [REDACTED] on or about January 24th?

6 A. Yes, ma'am. It was.

7 Q. All right. What year?

8 A. In 2016.

9 Q. All right. We're talking about January 24th,
10 2016?

11 A. Correct.

12 Q. As for [REDACTED] [REDACTED] what is the time that a 911
13 call was made in order for law enforcement to respond to that
14 location?

15 A. It was at 15:56. That would be 3:56 p.m.

16 Q. 3:56 p.m. All right. Who was the caller?

17 A. Leslie Ellis.

18 Q. What was the time that the first unit for law
19 enforcement would have arrived there at that scene?

20 A. The arrival of the first unit was at 4:17 in the
21 afternoon.

22 Q. So roughly 21 minutes after that call was made?

23 A. Correct.

24 Q. All right. And then does your record also reflect
25 the nature of the call?

1 A. The nature of the call was a sexual assault.

2 MS. MAYES: Nothing further, Ms. Rodgers. Thank
3 you.

4 THE COURT: All right. Mr. Mauldin.

5 MR. MAULDIN: I have no questions for this
6 witness.

7 THE COURT: Thank you. Thank you as always, Ms.
8 Rodgers. You may step down. Any objections to Ms.
9 Rodgers being excused?

10 MS. MAYES: None from the State, Your Honor.

11 MR. MAULDIN: No, Your Honor.

12 THE COURT: Thank you again, Ms. Rodgers. All
13 right. Solicitor, you may call your next witness.

14 MS. MAYES: Yes, sir. With our next witness I'll
15 need technical assistance if the Court will permit.

16 THE COURT: As long as it's not from me, Solicitor.

17 MS. MAYES: The State calls Minor [REDACTED]

18 Thereupon,

19 [REDACTED], a minor

20 after having been first duly sworn, testified as follows,

21 DIRECT EXAMINATION

22 THE CLERK: Go right up there. Once you're seated I
23 need you to state your full name and spell your last.

24 MS. MAYES: Let me help get you situated.

25 THE WITNESS: Minor [REDACTED] [REDACTED] [REDACTED]

1 DIRECT EXAMINATION

2 BY MS. MAYES:

3 Q. Your name is Minor [REDACTED]?

4 A. (Witness nodding head.)

5 Q. Okay. Now, Minor [REDACTED] this man is Mr. LeBlanc and his
6 job is to type down every single thing that is said in the
7 courtroom so because of that we'll need you to actually give
8 an answer so even if you want to shake your head yes or shake
9 your head no, we'll need you to actually say the words yes or
10 no. Is that okay?

11 A. Yes.

12 Q. Okay. And if I ask a question that you don't
13 understand, it's okay to say I don't understand or could you
14 ask that question again, okay?

15 A. Okay.

16 Q. And if I ask a question and you don't hear it or you
17 need me to repeat it, you just let me know, all right? So,
18 Minor [REDACTED], how old are you today?

19 A. Nine.

20 Q. All right. And what's your birthday?

21 A. [REDACTED] [REDACTED]

22 Q. What grade did you just finish in school?

23 A. Third.

24 Q. Okay. What's the name of the school that you go
25 to?

1 A. [REDACTED] [REDACTED] [REDACTED].

2 Q. All right. And you just finished third grade so
3 you're going to be going into what grade?

4 A. Fourth grade.

5 Q. All right. Now, what have you been doing this
6 summer?

7 A. I have been going in the pool.

8 MR. MAULDIN: Objection, Your Honor. Relevance.

9 THE COURT: Overruled.

10 BY MS. MAYES:

11 Q. Okay. Minor, do you have any brothers or sisters?

12 A. Two brothers.

13 Q. Okay. I'm going to ask you a little bit about that.
14 What I'm going to do is I'll put their names on this board.
15 Can you see that from where you are?

16 A. Yes.

17 Q. Okay. So you are Minor and you're nine. Now, you
18 said you have two brothers. Are they older than you or
19 younger than you?

20 A. One's older and one's younger.

21 Q. Okay. What's the name of the one that's older?

22 A. L.D. [REDACTED]

23 Q. How old is L.D. [REDACTED] right now?

24 A. Ten.

25 Q. Okay. And what's the name of your younger

1 brother?

2 A. J. [REDACTED].

3 Q. How old is J. [REDACTED] right now?

4 A. Five.

5 Q. Okay. And then, Minor [REDACTED] what's your mom's name?

6 A. Leslie.

7 Q. Okay. Minor [REDACTED] how is it that you know the defendant
8 in this case Bryan Ellis?

9 A. Repeat.

10 Q. Okay. I will. I will. And that's good that you
11 asked me to repeat it. Okay. How is it that you know Bryan
12 Ellis?

13 A. He was my dad.

14 Q. Okay. Now, when you say he was your dad, what did
15 you actually call him?

16 A. Daddy.

17 Q. Okay. Do you remember about how old you were when
18 they were married or do you even remember them getting
19 married?

20 A. I don't.

21 Q. Okay. So from the time you were a baby up until you
22 became three or four who did you know as your daddy?

23 A. Bryan.

24 Q. Okay. And then I'm going to take you to the time
25 that y'all lived together. Where all do you remember living

1 with Bryan?

2 A. At my nana's and at my house.

3 Q. Okay. All right. When you say at your nana's, who
4 is your nana?

5 A. She's, uhm --

6 Q. Do you know your nana's name?

7 A. Barbara.

8 Q. Okay. All right. So your nana's name is Barbara.
9 But there was a time that y'all lived together at nana's
10 house?

11 A. Mm-hmm.

12 Q. Okay. And then after you lived at nana's house,
13 where did you live?

14 A. After?

15 Q. Mm-hmm.

16 A. At the house we live in now.

17 Q. Okay. All right. And who all lived at that house
18 once you moved into the house that you live in now?

19 A. My two brothers, Bryan and my mom.

20 Q. Okay. Your two brothers L.D. [REDACTED] and J. [REDACTED] and you and
21 who else lived there?

22 A. Bryan and my mom.

23 Q. All right. So your mom. And I'm going to put Bryan
24 down here who you call daddy. All right. And the five of
25 y'all all lived there together?

1 A. Yes.

2 Q. Okay. Was it just y'all?

3 A. And our pets.

4 Q. Okay. And who were they?

5 A. Seba, Moonlight, Sapphire.

6 Q. Okay. I'm going to show you a picture and ask you
7 whether or not you recognize it. Do you recognize that
8 picture?

9 A. Yes.

10 Q. How do you recognize it?

11 A. It's our house.

12 Q. Okay. I'm going to show you some more photos.

13 A. That's our dining room. My mom's, uhm --

14 Q. You recognize what's shown in these photos?

15 A. Yes.

16 Q. Is that how it looked when Bryan used to live
17 there?

18 A. Yes.

19 (Ms. Mayes showing photographs to the witness.)

20 A. That's my bedroom. My two brothers' bedroom. My
21 bathroom and my brothers'. Bryan's and my mom's bedroom.
22 Their bedroom. Their bathroom.

23 MS. MAYES: Okay. All of these are for evidence at
24 this time, Your Honor.

25 MR. MAULDIN: No objection, Your Honor.

1 THE COURT: What are the numbers?

2 MS. MAYES: State's exhibit 1, 2, 3, 4, 5, 6, 7, 8,
3 9, 10, 11, 12, and 13. All are of the interior of the
4 house except for State's exhibit 1 which is the exterior
5 of the home.

6 THE COURT: All right. State's 1 through 13 in
7 evidence without objections, Mr. Mauldin?

8 MR. MAULDIN: Yes, sir, Your Honor.

9 THE COURT: Without objections.

10 (Whereupon, State's Exhibits #1 through #13 marked
11 for identification and received in evidence.)

12 BY MS. MAYES:

13 Q. Now, Minor, which one did you say is your mom and
14 Bryan's bathroom and which one is your bathroom?

15 A. Their bathroom (indicating.)

16 Q. Okay.

17 A. Their bathroom.

18 Q. Which one would that be?

19 A. This one (indicating.)

20 Q. Can you point to the one that's their bathroom?

21 A. (Indicating.) And that's their closet.

22 Q. So the one that you pointed to is State's exhibit 9?
23 It's got a little number 9 right there. That's going to be
24 their bathroom?

25 A. (Witness nodding head.)

1 Q. Okay. And is that also what's number 10?

2 A. (Witness nodding head.)

3 Q. Okay. All right.

4 MS. MAYES: Permission to publish, Your Honor?

5 THE COURT: Yes, ma'am. Of course.

6 BY MS. MAYES:

7 Q. All right. Minor [REDACTED], what are we looking at right
8 here?

9 A. Our house.

10 Q. When you talked about living with nana and then
11 moving into another house, is this the house you lived in
12 after nana?

13 A. Yes.

14 Q. And the house that you said that you and your mom
15 and L.D. [REDACTED] and J. [REDACTED] all lived in together?

16 A. Yes.

17 Q. Now, in this house who all had their own rooms?

18 A. Me.

19 Q. All right. You had your own room. What about J. [REDACTED]
20 and L.D. [REDACTED]? Where do they normally sleep?

21 A. In their own room.

22 Q. So they had a room of their own?

23 A. (Witness nodding head.)

24 Q. Okay. And then what about your mom and Bryan?

25 A. They had a room of their own.

1 Q. Okay. What are we looking at here, the one that's
2 State's exhibit 8?

3 A. My room.

4 Q. All right. That's your room. This is State's
5 exhibit 7. Whose room is that?

6 A. L.D. [REDACTED] and J. [REDACTED].

7 Q. I'll show you some other rooms of the house. Let us
8 know what we are looking at. This one is number 6.

9 A. Mommy's and Bryan's living room.

10 Q. Okay. States exhibit 3?

11 A. Kitchen.

12 Q. Okay. Then State's exhibit 5?

13 A. Me and L.D. [REDACTED] and J. [REDACTED] play room.

14 Q. Okay. That's a play room. Whose chair is that?

15 A. Bryan's.

16 Q. When you say it's Bryan's chair, who is usually in
17 that chair?

18 A. Bryan.

19 Q. Okay. And you said that's a play room. What's
20 there where the chair is?

21 A. A computer.

22 Q. Whose computer was that?

23 A. Bryan's.

24 Q. Okay. Then what are we looking at here? This is
25 State's exhibit 13.

1 A. Mommy's and Bryan's bedroom.

2 Q. Okay. This is State's exhibit 12.

3 A. Their bedroom.

4 Q. When you say "their bedroom", you mean whose?

5 A. Mommy and Bryan's.

6 Q. Okay. So that dresser is in their bedroom?

7 A. Mm-hmm.

8 Q. And then I asked you before about a bathroom so I'm
9 going to show you two pictures of that. State's 9 has got
10 blue towels and then State's 10. Whose bathroom is that?

11 A. Bryan's and mommy's.

12 Q. Okay. So did they have their own bathroom?

13 A. Yes.

14 Q. Okay. And was there another bathroom, too?

15 A. Yes.

16 Q. Where was that bathroom?

17 A. Between me and L.D. [REDACTED] and J. [REDACTED] bedroom.

18 Q. Okay. So that's the kids bathroom, the other one?

19 A. Yes.

20 Q. All right. And then this one that I just showed you
21 that you said was mom and Bryan's bathroom, where is that at
22 in the house?

23 A. Repeat.

24 Q. Okay. The bathroom that I showed you with the blue
25 towels that is mom and Bryan's bathroom, how close is that to

1 their bedroom?

2 A. It's in their bedroom.

3 Q. Okay. So it's what you would call a master
4 bathroom?

5 A. Yes.

6 Q. Okay. Minor [REDACTED] when y'all lived together in the house
7 that we just saw, did anything ever happen that made you feel
8 uncomfortable?

9 A. Yes.

10 Q. What was that?

11 A. He touched me in a bad way.

12 Q. When you say "he", you mean who?

13 A. Bryan.

14 Q. Okay. Minor [REDACTED] did that happen one time or more than
15 one time?

16 A. More than one time.

17 Q. Okay. What rooms in the house do you remember that
18 happening in?

19 A. My bedroom and Bryan's and mommy's bathroom and in
20 their bedroom.

21 Q. Okay. And when you say he touched you in a bad way,
22 I'm going to have to ask you a little more about that, okay?
23 What part or parts of your body did he touch?

24 A. My mouth and private part.

25 Q. All right. I'm going to ask you a little bit more

1 about that. You said your mouth and your private parts.

2 THE COURT: And if you need water, Ms. Ellis, all
3 you have to do is ask the Solicitor, okay? Our bailiff
4 will get you some water.

5 BY MS. MAYES:

6 Q. So if you need water you just let us know. Okay.
7 You said your mouth and your private parts. I'm going to have
8 to ask you a little bit more about that, okay?

9 A. Okay.

10 Q. I'm going to ask you to take a look at this girl
11 from the top of the head all the way down to the bottom of the
12 feet. When you said the words "private part", do you see that
13 part on this girl?

14 A. Yes.

15 Q. Okay. Minor [REDACTED] I'm going to ask you if you can draw a
16 circle or draw an X, however you want to show us, can you show
17 us the part or parts of your body that he touched in a way
18 that you said was a bad way?

19 A. Yes.

20 Q. Okay. I'll hand this to you.

21 A. (Witness complies.)

22 Q. When you said "private part", you circled this part.
23 Is that the part that you're talking about?

24 A. Yes.

25 Q. Between the front of the legs?

1 A. Yes.

2 Q. And, Minor, what part or parts of his body touched
3 your mouth in a way that wasn't right?

4 A. His private part.

5 Q. Okay. And what part or parts of his body touched
6 your private part in a way that wasn't right?

7 A. His mouth and his hand.

8 Q. Okay. When you say "private part", I'm just going
9 to need a little more information about exactly what part
10 you're talking about, okay? If you can take a look at the man
11 from the top of the head all the way down to the bottom of the
12 feet, do you see where the part or parts would be on the man
13 that you called the private part? I'll ask you to show us
14 with this.

15 A. (Witness complies.)

16 Q. Okay. What other part or parts of his body touched
17 you in a way that didn't feel right?

18 A. (Witness complies.)

19 Q. So the part that you circled is right here. What
20 part were you referring to? Let me ask that a different way.
21 When you said a private part, is that what you were referring
22 to?

23 A. Yes.

24 MS. MAYES: Your Honor, this would be State's
25 exhibits 14 and 15 for evidence.

1 MR. MAULDIN: No objection, Your Honor.

2 THE COURT: State's 14 and 15 in evidence without
3 objection.

4 (Whereupon, State's Exhibit #14 and #15 marked for
5 identification and received in evidence.)

6 BY MS. MAYES:

7 Q. Minor when you talked about him putting his mouth on
8 your private part, has that happened one time or more than one
9 time?

10 A. More than one time.

11 Q. When you talked about him touching your private part
12 with his hand, has that happened one time or more than one
13 time?

14 A. More than one time.

15 Q. When you talked about him putting his private part
16 in your mouth, has that happened one time or more than one
17 time?

18 A. More than one time.

19 Q. Can you tell us whether or not that happened in this
20 house, the house that we looked at pictures of?

21 A. Yes.

22 Q. Did it happen in this house one time or more than
23 one time?

24 A. More than one time.

25 Q. Who was it who showed you what to do?

1 A. Bryan.

2 Q. And did you ever see anything come out of his
3 private part?

4 A. Yes.

5 MR. MAULDIN: Objection. Leading, Your Honor.

6 THE COURT: Under 611 I would allow it. You may
7 proceed, Solicitor.

8 MS. MAYES: Yes, sir, Your Honor.

9 BY MS. MAYES:

10 Q. What color do you remember coming out of his private
11 part?

12 A. White.

13 Q. Okay. Did that happen one time or more than one
14 time?

15 A. More than one time.

16 Q. Where do you remember it going when it came out of
17 his private part?

18 A. In my mouth sometimes.

19 Q. Okay. Did he ever say anything to you about whether
20 or not it was okay to tell?

21 A. He said don't tell.

22 Q. All right. Did you tell anybody when this was going
23 on?

24 A. My nana and then my mom.

25 MR. MAULDIN: Objection, Your Honor. Prior

1 consistent statement.

2 THE COURT: I couldn't quite hear you.

3 MR. MAULDIN: Prior consistent statement. Hearsay,
4 Your Honor.

5 THE COURT: Overruled.

6 BY MS. MAYES:

7 Q. Okay. You say you told your nana and then your mom
8 but did you tell them when it very first started happening?

9 A. No.

10 Q. Okay. Why or why not?

11 A. Cuz I was scared.

12 Q. Okay. What were you scared of?

13 A. I don't remember.

14 Q. Okay. When you say that he told you not to tell,
15 what kind of voice did he say that in?

16 A. I don't remember.

17 Q. Okay. When you were living with Bryan, how was it
18 that he was alone with you sometimes?

19 A. Cuz my two brothers were in the bed and my mom was
20 at work.

21 Q. Do you remember where your mom was working?

22 A. Walmart.

23 Q. Okay. And when mom was working at Walmart, where
24 would you kids be?

25 A. I would be with Bryan and L.D. [REDACTED] and J. [REDACTED] would be in

1 bed.

2 Q. Okay. When your mom worked at Walmart, was that
3 normally when you were at school or was that after school?

4 A. Sometimes both.

5 Q. Okay. If mom was working at Walmart and you got
6 home from school and she wasn't there, who would normally be
7 taking care of you?

8 A. Bryan.

9 Q. Okay. And then who would normally be the one at
10 home with you at night when you were getting ready for bed?

11 A. Bryan.

12 Q. When you said that you told nana about it, what made
13 you finally tell nana?

14 A. Because I was tired of it.

15 Q. What do you mean by that?

16 A. It just kept on happening and happening.

17 Q. Did you feel safe?

18 A. No.

19 Q. When you told nana, did your mom know about it
20 before you told?

21 A. No.

22 Q. Okay. Did your mom ever walk in and see any of this
23 with Bryan?

24 A. No.

25 Q. When you told nana, was it daytime or nighttime?

1 A. Nighttime.

2 Q. All right. And then how long did it take for you to
3 tell mom, if you remember?

4 A. The next morning.

5 Q. Okay. When you told mom, how did you feel?

6 A. Relieved.

7 Q. Okay. When you told mom, was Bryan there?

8 A. No.

9 Q. Where was he?

10 A. At work.

11 Q. Okay. Do you remember the police coming to your
12 house?

13 A. Yes.

14 Q. And after that, did Bryan ever live with you in your
15 house anymore?

16 A. No.

17 Q. I want to ask you about something else. When you
18 talked about he put his private in your mouth, how did you
19 know what to do?

20 A. I didn't.

21 Q. What do you mean by that?

22 A. Repeat.

23 Q. Okay. What do you mean by that when you say that
24 you didn't know what to do?

25 A. When he was, uhm --

1 Q. When he put his private part in your mouth, who told
2 you what to do?

3 A. Bryan.

4 Q. Was there ever anything else that he showed you or
5 gave you?

6 A. Yes.

7 Q. What was that?

8 A. A vibrating thing.

9 Q. Okay. Who was the person that gave you that?

10 A. Bryan.

11 Q. What did he show you to do with that?

12 A. He showed me how to turn it on and he showed me how
13 to use it.

14 Q. Okay. And when you say that, tell us, if you can,
15 tell us a little bit more about that. Who actually gave it to
16 you?

17 A. Bryan.

18 Q. Okay. And when you said cut it on, did it ever
19 touch your body?

20 A. Yes.

21 Q. Who touched your body with it? Was it you or
22 Bryan?

23 A. Me.

24 Q. Okay. And how so? What do you mean by that?

25 A. He told me to use it on me.

1 Q. Okay. And was he there when that happened?

2 A. Yes.

3 Q. All right. And what was he doing when that was on
4 you?

5 A. I don't remember.

6 Q. Okay. I'm going to show you something and ask you
7 whether or not you recognize that?

8 A. I recognize it.

9 Q. And how so?

10 A. That's the vibrating thing.

11 Q. Okay. And did he give this to you one time or more
12 than one time?

13 A. More than one time.

14 Q. Okay. And were your clothes on or off when it was
15 on you?

16 A. Off.

17 Q. Okay. And how did your clothes get off?

18 A. I took them off.

19 Q. Okay. Why is that?

20 A. Because he told me to.

21 Q. Okay. And did you have anything on you when this
22 was on your private part?

23 A. No.

24 Q. Okay. Was he there the whole time?

25 A. Yes.

1 Q. Do you recognize that?

2 A. Yes.

3 Q. What is that?

4 A. The vibrating thing.

5 Q. Okay. Is it the same thing that we see in this
6 photo?

7 A. Yes.

8 MS. MAYES: Your Honor, if we could mark for
9 identification only the evidence item and then the
10 photograph would be for evidence. I believe it would be
11 16 for evidence and 17 for ID.

12 THE COURT: Mr. Mauldin.

13 MR. MAULDIN: No objection, Your Honor.

14 THE COURT: All right. State's 16 in evidence
15 without objection. And 17 is ID only?

16 MS. MAYES: Yes, sir, Your Honor.

17 THE COURT: 17 ID only.

18 (Whereupon, State's Exhibit #16 marked for
19 identification and received in evidence. State's exhibit
20 #17 marked for identification.)

21 BY MS. MAYES:

22 Q. Minor [REDACTED] can you tell us whether or not Bryan's clothes
23 were ever off?

24 A. They were.

25 Q. Okay. Who took his clothes off?

1 A. Him.

2 Q. Okay. And were your clothes ever off?

3 A. Yes.

4 Q. How did they get off?

5 A. I took them off.

6 Q. Why is that?

7 A. He told me to.

8 Q. Okay. I want to ask you a little bit about when you
9 told nana and you said you remember that the police came so
10 that's going to be January of 2016. But I want to go back a
11 little bit before that and talk about Thanksgiving, Christmas,
12 and when you start back to school in January so that would be
13 the time leading up to when you told nana. Do you remember
14 when Bryan lived there that last Thanksgiving?

15 A. No.

16 Q. All right. So let me ask this a different way.
17 Where would you have had Thanksgiving? Where do you normally
18 have Thanksgiving?

19 A. At our grandma's.

20 Q. When I'm talking about Thanksgiving, do you know
21 which holiday that is?

22 A. Yes.

23 Q. Okay. What is it that people normally eat for
24 Thanksgiving?

25 A. Turkey.

1 Q. Okay. And then Christmas, do you remember having
2 Christmas in the house that we saw pictures of?

3 A. Yes.

4 Q. Okay. And then that's the same house you were
5 living in when you told nana; is that right?

6 A. Yes.

7 Q. So during that time from Thanksgiving when you eat
8 turkey all the way up to when y'all would have had Christmas
9 all the way up to when you told nana, can you tell us whether
10 or not this was still happening with Bryan?

11 A. Yes.

12 Q. And did you ever feel safe?

13 A. No.

14 Q. Did it ever stop happening?

15 A. Until mommy called the police.

16 Q. That's what made it stop happening?

17 A. (Witness nodding head.)

18 Q. So I just want to ask a little bit more about that.
19 During those last few months that y'all were living in this
20 house, the house that we saw the pictures of, you said it kept
21 happening until mommy called the police. Minor [REDACTED] did that
22 include him touching your private part?

23 A. Yes.

24 Q. Did that include him putting his private in your
25 mouth?

1 A. Yes.

2 Q. You said that after you told mom, you felt relieved.
3 What do you mean by that?

4 A. That I could tell her finally.

5 Q. Okay. And when you say "finally", how did it feel
6 to not tell her and to keep that a secret?

7 A. I just felt like I, uhm, wanted to tell her.

8 Q. Okay. And do you remember how it was that you
9 actually told mom?

10 A. I wrote her a note.

11 Q. Okay. And after the note, did you actually say the
12 words?

13 A. I don't remember.

14 Q. Okay. All right. And then later after the police
15 got called, do you remember going to a place and talking to a
16 lady about what happened?

17 A. Yes.

18 Q. Okay. Did you know that they took a video when you
19 were talking?

20 A. Yes.

21 Q. So they did explain that to you?

22 A. Yes.

23 MS. MAYES: Nothing further of Minor [REDACTED] at this
24 time, Your Honor.

25 THE COURT: Thank you, Solicitor. Mr. Mauldin.

1 MR. MAULDIN: Thank you, Your Honor.

2 CROSS EXAMINATION

3 BY MR. MAULDIN:

4 Q. Ms. Mayes showed you some pictures of the house that
5 you were living in, right?

6 A. Yes.

7 Q. Are you still living in the same house?

8 A. Yes.

9 Q. Do you have a new daddy now?

10 A. Yes.

11 Q. What's his name?

12 A. Steven.

13 Q. How long has he been there?

14 A. I don't remember.

15 Q. Was he there soon after Bryan left the house with
16 the police?

17 A. Not that soon.

18 Q. How soon was it? That same school year?

19 A. I think so.

20 Q. Bryan left in January; is that right?

21 A. Yes.

22 Q. And the house that she showed you where you said
23 these things happened, that's when it started, is that right,
24 in that house?

25 A. In my nana's house.

1 Q. Now, you said that you felt relieved when you told
2 about it; is that right?

3 A. Yes.

4 Q. Where did you learn the word relieved?

5 A. I don't remember.

6 Q. Did anyone tell you that word recently?

7 A. I think I learned it in school.

8 Q. Now, the object that they took the picture of, the
9 silver object, did Bryan call that the shaky thing?

10 A. I don't know.

11 Q. Where did you come up with the term vibrator?

12 A. Because it vibrates.

13 Q. How did you learn that word?

14 A. I don't remember.

15 Q. Now, Bryan would discipline you and your brother; is
16 that right?

17 A. Yes.

18 Q. And you didn't like that?

19 A. I didn't.

20 Q. And the Solicitor asked you about talking with the
21 lady in the video. Do you remember that?

22 A. Yes.

23 Q. Do you remember telling that lady on the day you
24 went February 8th of 2016 you were there because mommy said do
25 what I say?

1 A. What?

2 Q. When the lady asked you why you were there, didn't
3 you tell her mommy told me to do what I say?

4 A. No. She told me to say everything.

5 Q. Right. But you don't remember telling her that
6 mommy said do what I say?

7 A. No.

8 MR. MAULDIN: No further questions, Your Honor.

9 THE COURT: Redirect, Solicitor?

10 MS. MAYES: Yes, sir, Your Honor. May counsel and I
11 approach?

12 THE COURT: Yes, ma'am.

13 (Side bar off the record.)

14 THE COURT: Thank you, Solicitor and Mr. Mauldin.
15 Solicitor, redirect.

16 MS. MAYES: Yes, sir, Your Honor.

17 REDIRECT EXAMINATION

18 BY MS. MAYES:

19 Q. Minor [REDACTED] just a couple more questions. Mr. Mauldin was
20 asking you about when you went to the house where a lady was
21 asking you questions and she is an interviewer but how did you
22 feel about talking to a stranger about it?

23 A. Kind of, uhm, scared.

24 Q. Okay.

25 THE COURT: Kind of what, honey? I couldn't quite

1 here you, Minor [REDACTED]

2 BY THE WITNESS:

3 A. Scared.

4 THE COURT: Thank you.

5 BY MS. MAYES:

6 Q. You said you were kind of scared. Minor [REDACTED], Mr. Mauldin
7 was asking you about what your mom said. What did your mom
8 say about you talking to a lady about that was a stranger?

9 MR. MAULDIN: Objection, Your Honor. Hearsay.

10 THE COURT: Overruled.

11 BY THE WITNESS:

12 A. Repeat.

13 BY MS. MAYES:

14 Q. Okay. What did your mom say about you going to the
15 house to talk to the lady?

16 A. Say everything to the lady.

17 Q. Okay. And did you say everything to the lady about
18 what happened?

19 A. I think so.

20 Q. Okay. And one of the things that Mr. Mauldin was
21 asking you was where it started. Where were you living at
22 when it started happening with Bryan?

23 A. At my nana's house.

24 Q. And you lived at your nana's house before you moved
25 into this other house that we saw pictures of?

1 A. Yes.

2 Q. Okay. And that's where you were living when Bryan
3 first started touching you?

4 A. Yes.

5 Q. Did it happen one time or more than one time at
6 nana's house?

7 A. More than one time.

8 Q. And back then did you tell anyone or did you keep it
9 a secret?

10 A. Keep it a secret.

11 Q. Okay. And why is that?

12 A. I - he told me not to tell anyone.

13 Q. The other thing that Mr. Mauldin was asking you
14 about is about Bryan disciplining you. Was it just you or was
15 it all three of you?

16 A. All three of us.

17 Q. Okay. And he said you didn't like that. What is it
18 that you didn't like?

19 A. He would hang us on the closet.

20 Q. Okay. What do you mean by that?

21 A. There's a little hook on the closet and then he
22 would hang us on it.

23 Q. Okay. You mean by your clothes?

24 THE COURT: I couldn't quite understand that,
25 Solicitor. I apologize. Clarify that for me and the

1 jury please.

2 MS. MAYES: Yes, sir.

3 BY MS. MAYES:

4 Q. What do you mean by that?

5 A. He would put our shirt on it.

6 Q. Okay. And when he was alone and your mom wasn't
7 there and he was watching you or L.D. [REDACTED] or J. [REDACTED], how was he?

8 A. Repeat.

9 Q. Okay. How was he, how was he towards you? What
10 kind of voice did he use?

11 A. I don't remember.

12 Q. Okay. Did you feel safe when you were alone with
13 Bryan?

14 A. No.

15 MS. MAYES: Nothing further.

16 THE COURT: Recross, Mr. Mauldin?

17 RE CROSS EXAMINATION

18 BY MR. MAULDIN:

19 Q. When you lived with nana, you J. [REDACTED] and L.D. [REDACTED] were
20 all in the same room; is that right?

21 A. Yes.

22 Q. And your nana, your grandma and your grandpa were
23 there?

24 A. Yes.

25 Q. And there was an uncle Joel?

1 A. Yes.

2 Q. He was there, too. Now, when you talked to the lady
3 on the video, did you tell her anything about being hung on a
4 hook in the closet?

5 A. I don't remember.

6 MR. MAULDIN: No further questions, Your Honor.

7 THE COURT: Thank you. Thank you, Minor [REDACTED] You may
8 step down. All right. Ladies and gentlemen, perhaps now
9 would be a good time to take our morning recess. I would
10 remind you during this recess you're not to discuss this
11 case with anyone. That, of course, includes your fellow
12 jurors. We'll take about a 15 minute recess. Please
13 remember that's judicial time. It's not quite like
14 island time but it is judicial time. I'll certainly try
15 to get you back out here in 15 minutes. Thank you.
16 Thank you very much. You may now go with your bailiff.

17 (Whereupon, the jury entered the jury room at 11:00
18 a.m.)

19 THE COURT: Anything before we take our recess,
20 Solicitor?

21 MS. MAYES: Your Honor, I would just briefly put on
22 the record, I know we discussed it at the bench but the
23 testimony regarding the prior events and where that
24 began, the ongoing illicit conduct as it's termed
25 pursuant to the case law that was elicited by Mr. Mauldin

1 on cross examination and for that reason the State did
2 follow up with further questioning where she says that it
3 began at nana's house.

4 THE COURT: Anything further, Solicitor?

5 MS. MAYES: Not on that matter, Your Honor.

6 THE COURT: Mr. Mauldin?

7 MR. MAULDIN: That is correct, Your Honor.

8 THE COURT: Just administratively, how long is your
9 next witness, Solicitor, and how long do y'all think it
10 will take, just an estimate on the rulings on redaction
11 of the videotape?

12 MS. MAYES: Your Honor, Mr. Mauldin has submitted,
13 there's about five different areas of the videotape in
14 which he's submitted a proposal where he seeks a
15 redaction so I would say probably 20 to 25 minutes on
16 that matter to address that and we have two short
17 witnesses, Your Honor, that deal with work related
18 matters and work schedules that we could go ahead and fit
19 in and then possibly one more witness that would be
20 fairly brief.

21 THE COURT: All right. Well, why don't we get your
22 short witnesses in and then we'll send the jury to lunch
23 and we'll do the redactions. And, Mr. Mauldin, anything
24 from the defense?

25 MR. MAULDIN: No, Your Honor. That sounds fine.

1 THE COURT: All right. The only thing I would like
2 to put on the record, Solicitor, if you would please do
3 this for me, I noted that Ms. Pierson, I believe Ms.
4 Pierson's mother Ms. Havird, I don't know the other
5 parties that were in the courtroom, were not in the
6 courtroom during the testimony of Minor [REDACTED] Were there other
7 witnesses in the courtroom? Were there any witnesses
8 besides our chief investigating officer in the courtroom
9 during Minor's [REDACTED] testimony?

10 MS. MAYES: No, sir, Your Honor. The only person
11 present in the courtroom was our victim advocate Lauren
12 Cleach.

13 THE COURT: All right. Thank you. Thank you very
14 much. As far as sequestration at that point there were
15 no other witnesses present in the courtroom during Minor's [REDACTED]
16 testimony, correct?

17 MS. MAYES: Correct, Your Honor.

18 THE COURT: Thank you. Thank you very much. We'll
19 take about 15 minutes.

20 (Short break.)

21 BAILIFF: All rise.

22 THE COURT: Thank you. Please be seated. Thank you
23 very much. Anything before we bring in our jury,
24 Solicitor?

25 MS. MAYES: Nothing from the State, Your Honor.

1 THE COURT: Mr. Mauldin?

2 MR. MAULDIN: No, Your Honor.

3 (Whereupon, the jury entered the courtroom at 11:30
4 a.m.)

5 THE COURT: Nobody changed seats. Now the bad part
6 is I may know your name before the end of the week. My
7 plan is there's a couple of short witnesses. We'll try
8 to get through those and take an early lunch because I do
9 have another motion to rule on and rather than delay that
10 I can rule on it while y'all take your luncheon recess
11 and then we will be ready to start back. So please
12 continue to give the parties your complete and undivided
13 attention as you have done throughout the trial of the
14 case. Solicitor, you may call your next witness.

15 MS. STRINGFELLOW: Your Honor, the State calls Ira
16 Hatchett.

17 THE COURT: Mr. Hatchett?

18 MS. STRINGFELLOW: Yes, Your Honor.

19 Thereupon,

20 IRA HATCHETT

21 after having been first duly sworn, testified as follows,

22 THE CLERK: Please have a seat. Once you're seated,
23 state your full name spelling your last please.

24 THE WITNESS: Ira Hatchett, H-a-t-c-h-e-t-t.

25 DIRECT EXAMINATION

1 BY MS. STRINGFELLOW:

2 Q. Mr. Hatchett, where do you work?

3 A. DISH Network.

4 Q. How long have you worked there?

5 A. July 23rd will be five years.

6 Q. What's your position at DISH Network?

7 A. Operations manager.

8 Q. How long have you been the manager there?

9 A. Since the first date of employment.

10 Q. Mr. Hatchett, are you familiar with the defendant
11 Bryan Ellis?

12 A. Yes. I am.

13 Q. How do you know him?

14 A. He was an employee at my office.

15 Q. What was Bryan's position at DISH Network?

16 A. He was hired as a field service specialist one and
17 promoted to a field service specialist three.

18 Q. What were some of his responsibilities?

19 A. Installation, repair of DISH Network services, video
20 services as well as installation and repair of our DISH Net
21 service.

22 Q. How often would Bryan have to work?

23 A. As far as regular work schedule?

24 Q. Yes.

25 A. Everyone worked a 40 work week. Schedules

1 fluctuated depending on the needs of the business. For the
2 most part I believe when Bryan first started he was on the A
3 shift so he worked Sunday to Wednesday with his field service
4 manager and eventually his schedule changed. Really Bryan
5 requested that he work, our work week starts Saturday as he
6 worked Saturdays, Sunday, then he was off three days and he
7 worked Thursday, Friday.

8 Q. Okay. So he would work four days and be off three
9 days?

10 A. Yes.

11 Q. What hours did Bryan typically work?

12 A. Everyone is scheduled 7:15 to 5:00 p.m.

13 Q. How long did he have to work usually?

14 A. Uhm, you don't necessarily get off. At 7:15 you
15 report in and you're routed 7:15 to 5:00 but depending on how
16 your work day flows you could work later hours, 7:00, 7:30 so
17 you could typically work 12 hour days is not really unheard
18 of. It's pretty regular. Even though we schedule 10 hours,
19 we work 12 hour days sometimes.

20 Q. Was it typical that you would usually work longer
21 than 5:00 p.m. on most days?

22 A. Depending on the time. Summertime, yes, because our
23 work volume is a lot heavier so there are time where
24 individuals, and again, if the individual is not efficient,
25 then it takes them a little longer to get through jobs than

1 another individual might get through much quicker, but
2 typically you have to go to days where if you finish your
3 route early, then you're out at 3:30, 4:00 so it swings in
4 both directions.

5 Q. So I'm going to take you to Sunday, January 24th of
6 2016.

7 A. Okay.

8 Q. Was Bryan working that day?

9 A. Yes.

10 Q. Okay. How long did he work that day?

11 A. Probably say close to a half day. Uhm, Bryan had a
12 full route of work but he called me on his first job I believe
13 between 10:00 and 11:00 and told me he had a family situation
14 and he had to go home. So I asked him, well, do you need me
15 to pull you off that job and send someone else but he
16 indicated that he would finish that job and I just moved the
17 rest of his work so about two hours later he got back to the
18 office.

19 Q. So Bryan left early on Sunday --

20 A. Yes.

21 Q. -- January 24th?

22 A. Yes. He did.

23 MS. STRINGFELLOW: Your Honor, no further questions.

24 THE COURT: Thank you, Solicitor. Mr. Mauldin.

25 MR. MAULDIN: I have no questions for this

1 witnesses.

2 THE COURT: Thank you, Mr. Hatchett. Thank you very
3 much for being with us today. As you leave I'm gonna
4 take out the speaker system. I don't think you need
5 that. Have a pleasant day. All right. Solicitor, you
6 may call your next witness.

7 MS. STRINGFELLOW: Your Honor, the State calls
8 Deborah Purdie.

9 Thereupon,

10 DEBORAH PURDIE

11 after having been first duly sworn, testified as follows,

12 THE CLERK: Please have a seat. Once you're seated,
13 state your full name spelling your last please.

14 THE WITNESS: Deborah Lynn Purdie, P-u-r-d-i-e.

15 THE COURT: Solicitor.

16 MS. STRINGFELLOW: Thank you, Your Honor.

17 DIRECT EXAMINATION

18 BY MS. STRINGFELLOW:

19 Q. Ms. Purdie, where do you work?

20 A. Walmart.

21 Q. What's your position at Walmart?

22 A. Assistant manager.

23 Q. How long have you been an assistant manager at
24 Walmart?

25 A. About 17 years.

1 Q. Now, what are some of your responsibilities as
2 assistant manager?

3 A. Well, I have the responsibility of supervising
4 associates. I have apparel, front end.

5 Q. Were you responsible for supervising Leslie Ellis,
6 Leslie Pierson?

7 A. Yes, ma'am.

8 Q. Can you recall how long Leslie worked for you at
9 Walmart?

10 A. A couple months.

11 Q. Okay. Would you be familiar with Leslie's work
12 schedule?

13 A. She mostly worked nights, my evening shift. Usually
14 came in anywhere from 12:00 to 10:00 at night.

15 MS. MAYES: Your Honor, may I approach?

16 THE COURT: Yes, ma'am.

17 BY MS. STRINGFELLOW:

18 Q. Ms. Purdie, do you recognize this?

19 A. Yes.

20 Q. What is it?

21 A. These are our time clock archives.

22 Q. Whose time clock is that?

23 A. Goodness.

24 THE COURT: Here, Ms. Purdie (proffering.) I always
25 get one for Christmas.

1 BY THE WITNESS:

2 A. These are Leslie's.

3 MS. STRINGFELLOW: Your Honor, we would like to mark
4 Leslie's time clock archive identified as State's exhibit
5 18, please.

6 MR. MAULDIN: No objection, Your Honor.

7 THE COURT: All right. State's 18 is in evidence
8 without objection.

9 (Whereupon, State's Exhibit #18 marked for
10 identification and received in evidence.)

11 BY MS. STRINGFELLOW:

12 Q. Ms. Purdie, what shift did you say Leslie normally
13 worked?

14 A. Normally it was -- I have different schedules. Some
15 come in at 12:00. Some come in at 1:00 and usually it's until
16 to 10:00, 10:30 at night.

17 Q. So based on Leslie's time card --

18 A. Most of hers were the evening. Yes, ma'am.

19 Q. Okay. Typically what hours would that be?

20 A. About from 1:30 to about 10:00. I'm trying to
21 remember if hers were -- She has 10:00. My second shift is
22 from 1:00 to 10:00.

23 Q. How many days a week would she work typically?

24 A. Typically four to five.

25 MS. STRINGFELLOW: No further questions.

1 THE COURT: Thank you, Solicitor. Mr. Mauldin.

2 MR. MAULDIN: Thank you. May I approach the
3 witness, Your Honor?

4 THE COURT: Yes, sir.

5 CROSS EXAMINATION

6 BY MR. MAULDIN:

7 Q. Do you have that time sheet?

8 A. Yes. I do.

9 Q. Now, this time sheet, is this in military time?

10 A. Yes.

11 Q. Okay. So she would come around at 10:00 in the
12 morning?

13 A. This one Saturday was at about 7 minutes to 11 when
14 she clocked in and she left at 8:00.

15 Q. So 11:00 in the morning, 8:00 at night?

16 A. Yes. Well, afternoon. Almost afternoon. But most
17 of them - she was my zoner at night. I mean, she was --

18 Q. Okay. We're going to go through these. This one
19 she came in at almost 1:00?

20 A. Yes.

21 Q. That one is -- In the afternoon?

22 A. Yes.

23 Q. That's 2:00 in the afternoon?

24 A. Mm-hmm.

25 Q. That's about 4:30 in the afternoon until about

1 11:00?

2 A. That's 9:00.

3 Q. 20:56. 9:00. These are all during the day and
4 ending at night, aren't they?

5 A. No. 16:24 is 4:30.

6 Q. Right. That's during the day. 4:30 p.m., right?

7 A. That's my second shift. My second shift is anywhere
8 from 1:00 p.m. until 10:00 p.m.

9 Q. Right. So 1:00 p.m. is in the afternoon, isn't
10 it?

11 A. Right.

12 Q. So she didn't come to work at 10:00 p.m. at night?

13 A. No. That's 22:00. That right there's 20:56.

14 Q. So she would work --

15 A. 8:30. Well, almost 9:00 p.m.

16 Q. That's when she left?

17 A. Mm-hmm.

18 Q. But most of these she's coming in in the afternoon
19 or early afternoon and leaving at around like 8:00 to 10:00 at
20 night?

21 A. Right.

22 Q. So she wasn't working from 10:00 at night until 8:00
23 the next morning?

24 A. No.

25 MR. MAULDIN: No further questions.

1 THE COURT: Redirect, Solicitor?

2 MS. STRINGFELLOW: Just briefly, Your Honor.

3 REDIRECT EXAMINATION

4 BY MS. STRINGFELLOW:

5 Q. Ms. Purdie, what's a zoner at night?

6 A. They pick up the merchandise off the floor and fold
7 clothes and stuff like that.

8 Q. Just reorganize?

9 A. Right.

10 Q. And just to clarify, what shift did Leslie typically
11 work?

12 A. She usually worked like the afternoon shift like
13 anywhere from 1:00 on. Mostly if I had to bring them in. I
14 mean, my schedules are different for different people, what
15 their availability is.

16 Q. And about what time would she leave?

17 A. Anywhere from 9:00 at night, 10:00. Just depending
18 on what time she came in. Most of them worked eight hour
19 shifts. I had some of them that only worked four or five hour
20 shifts. It's just depending on what their availability is to
21 come in.

22 MS. STRINGFELLOW: No further questions for this
23 witness, Your Honor.

24 THE COURT: Recross, Mr. Mauldin?

25 MR. MAULDIN: No thank you, Your Honor.

1 THE COURT: Thank you. Thank you, Ms. Purdie.
2 Thank you for being with us today. Do you have another
3 short witness, Solicitor?

4 MS. MAYES: We do, Your Honor. The State calls
5 Lieutenant Cain Mayrant.

6 Thereupon,

7 CAIN MAYRANT

8 after having been first duly sworn, testified as follows,

9 THE CLERK: Please have a seat. Once you're seated,
10 state your full name spelling your last please.

11 THE WITNESS: Cain Mayrant, M-a-y-r-a-n-t.

12 THE COURT: All right. Solicitor, go right ahead.

13 MS. MAYES: Yes, sir, Your Honor.

14 DIRECT EXAMINATION

15 BY MS. MAYES:

16 Q. I'm going to ask you, Mr. Mayrant, where are you
17 employed?

18 A. Lexington County Sheriff's Department.

19 Q. All right. Specifically what location at the
20 Sheriff's Department?

21 A. Lexington County Detention Center.

22 Q. Now, if there is someone who is at the detention
23 center and they want to purchase any type of item from mail,
24 what kind of items do you have available that an inmate can
25 purchase?

1 A. Commissary items, hygiene, pens, pencils, food
2 items, beverages.

3 Q. And specifically what about envelopes?

4 A. That's correct.

5 Q. How does a person go about ordering an envelope?

6 A. They purchase it through the commissary, go out to
7 the kiosk and order it using their ID.

8 Q. Can you tell us whether or not Bryan Ellis has made
9 any such purchases of envelopes?

10 A. He has.

11 Q. All right. And specifically during the year 2016?

12 A. That's correct.

13 Q. Approximately how many kits has he ordered that
14 would contain envelopes?

15 A. 55.

16 Q. So 55 separate orders that would contain
17 envelopes?

18 A. That's correct.

19 Q. Do you have a sample kit available that contains an
20 envelope?

21 A. I do.

22 Q. All right. Is there any specific type of stamp that
23 is always present and used for these type of envelopes when
24 they are purchased?

25 A. It's the forever stamp with the eagle on it.

1 Q. Let me ask you this: Let me back up a little bit.
2 Who is the custodian of records for the detention center?

3 A. I am.

4 Q. And as such do you have knowledge as to the type of
5 envelopes and stamping that's used routinely at the detention
6 center?

7 A. I do.

8 Q. And that would also be for the year 2016?

9 A. That's correct.

10 Q. To your knowledge has that eagle forever stamp
11 always been present on the envelopes that are sold there
12 through your detention center?

13 A. Yes.

14 Q. I'm going to show you some items and ask you whether
15 or not you recognize anything unique on these items?

16 A. I recognize our stamp letting the person who it was
17 mailed to know the envelope is uncensored that we stamp on the
18 envelope and the forever eagle marking on the front of the
19 envelope on each piece you're showing me.

20 Q. Now, you mentioned a stamp that you have there. Let
21 me clarify that a little bit more. If an inmate happens to
22 send mail, they purchase an envelope, for example, and they
23 happen to send an item of mail, does it just go out
24 automatically or is there any kind of stamping process that
25 normally occurs there at the detention center?

1 A. One of the correction officers will stamp it saying
2 that the mail is uncensored coming from the Lexington County
3 Detention Center.

4 Q. Do each of these items contain that stamp saying
5 that the mail is uncensored?

6 A. They do.

7 Q. And that it's coming from the Lexington County
8 Detention Center?

9 A. That is correct.

10 Q. And that is your stamp?

11 A. Yes.

12 Q. You mentioned the envelopes purchased through the
13 detention center with the forever eagle stamp. Do each of
14 these items contain that stamp?

15 A. They do.

16 Q. All right. Now, also with that same kit where one
17 purchases an envelope with the eagle stamp, is there any type
18 of writing utensil that also comes with that kit?

19 A. Yes.

20 Q. What is that?

21 A. It's called a golf pencil.

22 Q. Is this a sample kit you have with you today?

23 A. Yes, ma'am.

24 Q. This sample kit contains the forever stamp on the
25 envelope?

1 A. Yes.

2 Q. And also the pencil?

3 A. Yes.

4 Q. I'm going to ask you to examine each of these. What
5 type of writing is used for these letters?

6 A. It's all written in pencil.

7 Q. All right. And then finally let me ask you what
8 about legal paper or legal pads that would contain paper with
9 the itemized lining?

10 A. We sell those in the commissary, white paper with
11 lines on it.

12 Q. Legal pads?

13 A. That's correct.

14 Q. Do you know whether or not, have you had the
15 opportunity to research and determine whether or not Mr. Ellis
16 has also made purchases of that type of legal paper?

17 A. I have.

18 Q. More than one purchase?

19 A. Yes.

20 MS. MAYES: Your Honor, these would all be for ID at
21 this time, State's, we have four items that we would
22 mark, I believe, 19, 20, 21, 22.

23 THE COURT: Mr. Mauldin.

24 MR. MAULDIN: No objection.

25 THE COURT: All right. That's ID 19, 20, 21, 22,

1 identification purposes only.

2 (Whereupon, State's Exhibits #19 through #22 marked
3 for identification.)

4 MS. MAYES: Nothing further, Your Honor.

5 THE COURT: Mr. Mauldin.

6 MR. MAULDIN: I have no questions for this witness.

7 THE COURT: Thank you. Thank you, lieutenant, for
8 being with us. You may be excused. Another witness,
9 Solicitor?

10 MS. MAYES: Not a short witness.

11 THE COURT: All right. Thank you. Thank you very
12 much. Ladies and gentlemen of the jury panel, perhaps
13 now would be a good time to take our luncheon recess. I
14 realize it's a little bit earlier. With that being said
15 though please remember do not discuss this case with
16 anyone including your fellow jurors, lunch mates, family,
17 friends or anyone else. Do not read, watch, listen to
18 any news reports about the case present or past should
19 there be any. Do not do any independent research or any
20 research on the Internet. Remember, you decide the case
21 based on the evidence and testimony presented from the
22 witness stand by the witnesses testifying before you
23 under oath, any physical items of evidence that may be
24 introduced and the reasonable inferences you think may
25 properly be drawn from the evidence and the law as I tell

1 you the law is. If you would please be back promptly at
2 1:15. If you would please be back promptly at 1:15. I
3 hope you all have a pleasant lunch and enjoy, enjoy
4 Lexington lunch time. Okay. It's delightful. Have a
5 good lunch. See you at 1:15.

6 (Lunch recess.)

7 THE COURT: All right. Let's take up our motions.
8 Mr. Mauldin has a motion on some redactions, Solicitor.

9 MS. MAYES: That is correct, Your Honor. And the
10 video that we submitted to the Court for in camera review
11 is the full video complete unredacted.

12 THE COURT: Yes, ma'am.

13 MS. MAYES: So the State agrees to and actually has
14 already made a redaction of the portion of that video
15 where the interviewer instructs the child to tell the
16 truth. Any references to telling the truth have already
17 been redacted. That's pursuant to the Kromah case. In
18 addition, Your Honor, there are portions of that
19 interview where the interviewer is asking the child about
20 being shown pornography by the defendant. We agree to
21 redact that. There are portions of the interview where
22 the interviewer asks the child whether she thinks he ever
23 may have photographed her and those portions the State
24 agrees to redact so that much I can tell you has been
25 agreed upon.

1 THE COURT: All right. Mr. Mauldin.

2 MR. MAULDIN: Yes, Your Honor. First, with
3 reference to the portions the Solicitor mentioned --

4 THE COURT: You need to speak up for me just a
5 little bit please, sir.

6 MR. MAULDIN: I apologize, sir.

7 THE COURT: That's all right.

8 MR. MAULDIN: First, to address the portions that
9 the Solicitor mentioned, the discussion of pornography
10 and speculation about taking pictures or videos, that was
11 roughly before 23 minutes, these are rough times, Your
12 Honor, roughly before 23 minutes in the video until about
13 27 minutes in the video and again the discussion around
14 about 40 minutes and 30 seconds to the end of the video
15 that she's agreeing to redact. There's a portion close
16 to 32 minutes in the video until about 34, a little after
17 34 minutes in the video. It's a discussion of, I think
18 it was a school mate or something that had hit her at one
19 time.

20 MS. MAYES: We have no problem with that. We can
21 take out that portion as well. I believe his name is
22 Z. [REDACTED]

23 THE COURT: I'm not tracking. You agree with the
24 truth is out, the porn's out and the videos or the
25 pictures of the victim out, correct?

1 MS. MAYES: Correct, Your Honor.

2 THE COURT: All right. Then now you're going to the
3 school mate. You want that redacted. Solicitor, you
4 gonna redact that?

5 MS. MAYES: We agree to that. I believe his name is
6 Z. [REDACTED] and that's gonna be about a three minute portion.

7 THE COURT: All right. So now your into those that
8 have not been addressed, correct, Mr. Mauldin?

9 MR. MAULDIN: Yes, sir, Your Honor.

10 THE COURT: Okay. All right. You may continue.

11 MR. MAULDIN: Our first motion would be to redact
12 practically the first 10 minutes and 30 seconds of the
13 video until the interviewer asks her if she knows why
14 she's here. Much of that introduction in the video is
15 there is discussion of the truth. They have agreed to
16 redact that. But a lot of that is discussion about her
17 school day and what classes she takes and who she plays
18 with at recess, what she eats for lunch and things that
19 really are not relevant to this case, Your Honor, and I
20 think that displaying her daily life that would appeal to
21 the passion or prejudice of the jury and that the
22 prejudice of that would outweigh the probative value.

23 THE COURT: All right. Solicitor.

24 MS. MAYES: Yes, sir, Your Honor. If I was tracking
25 correctly from opening argument that was made by defense

1 counsel, their entire defense to this case is basically
2 that this is all falls and for some reason the child has
3 been coached into saying this so to take out that entire
4 10 minute conversation in the beginning where there is
5 rapport building and it shows the child able to converse
6 and that the disclosure comes about even during the
7 interview in a natural process is extremely probative to
8 the State's case. Counsel is proposing that we start the
9 interview with the question, why are you here? And then
10 there's a disclosure. That would play right into this
11 defense that they are trying to propose where the child
12 comes into an interview and then regurgitates some type
13 of coached disclosure. So we think it's probative. We
14 also think that it's necessary and relevant pursuant to
15 Rule 106 as Rule of Completeness as to the entire context
16 of that interview and the rapport building which is a
17 necessary part of it. It also shows that the child is
18 competent, that she's able to converse and that she
19 understands the context of the interview and that it's
20 okay to say I don't know or I don't remember and that she
21 understands those rules of the interview.

22 THE COURT: Anything further, Mr. Mauldin, as far as
23 that point?

24 MR. MAULDIN: Well, obviously they are redacting the
25 rules of the video about things being real or true but

1 again just talking about the school day, what she does on
2 a day-to-day basis, it's almost like some kind of victim
3 impact evidence. I think that deals to the passion and
4 prejudice of the jury and that that prejudice outweighs
5 the probative value.

6 THE COURT: I clearly think it's not prejudicial.
7 It does not suggest to the jury that they would base
8 their verdict on passion, prejudice, sympathy or any
9 other emotion not in evidence in the case. The first
10 thing I want to know, they're the fact finders and as
11 fact finders they have to evaluate the credibility of the
12 witnesses that testify before them and part of evaluating
13 the testimony of any witness is tell us who you are.
14 Tell us where you live. Tell us where you're from. You
15 know me. Where you from? Who's your momma and daddy?
16 What part of Columbia you from? I mean, you want to know
17 those things about people and that goes to issues of
18 credibility and weight and value they give to their
19 testimony. I really don't think asking a nine year old
20 child -- Well, I take that back. A seven year old child
21 because it was done in February of '16, shows that she
22 can respond to questions that are consistent with
23 reality. If they ask her what grade of school are you in
24 and then she says, well, I'm a senior in high school and
25 she's in third grade or second grade, so I would deny

1 redacting that part. What's next?

2 MR. MAULDIN: Your Honor, there's a section about 14
3 minutes to 14:50 and a section that's 27 minutes to 28
4 minutes both a discussion of her telling other people
5 about what happened. I think we are getting into hearsay
6 within hearsay. I mean, the statute allows for the video
7 and the case law allows for the video but again the prior
8 consistent statement, yes. I did tell somebody else the
9 same thing, I would object to those portions coming in.

10 THE COURT: All right. Solicitor.

11 MS. MAYES: Yes, sir, Your Honor. Again, I do think
12 that establishes the natural flow of these events. It's
13 part of res gestae of the crime itself and that is how
14 the child actually made the disclosure, who it was to and
15 what the circumstances were that brought that about. In
16 this particular case she's not going into detail about
17 the content of that statement and actually what she said
18 so much as why she told and when she told and who she
19 told and that's certainly probative now in the State's
20 case considering what we have heard so far from the
21 defense theory that the child was somehow coached by
22 others or influenced by others to make this disclosure.

23 And also, Your Honor, on the matter of the redaction
24 about the rules of the interview, we are certainly
25 redacting any references to the truth and talking about

1 things that are real and true but the portions of that
2 interview where the interviewer is saying it's okay. If
3 I make a mistake, it's okay to correct me or it's okay to
4 say I don't know, if you don't know, those are all
5 necessary parts of the interviewing process to make sure
6 the child understands the rules of the interview. That's
7 certainly not bolstering to clarify that the child knows
8 she can correct the interviewer at any point.

9 THE COURT: Anything further, Mr. Mauldin --

10 MR. MAULDIN: No, Your Honor.

11 THE COURT: -- as to this issue? I will allow that.
12 I do not think it is unduly prejudicial. I think it's
13 part of the, it's relating res gestae of the case and
14 Chief Justice dissent State versus Smith five years from
15 then, her dissent was the law in South Carolina and in
16 re: Masters. I think it's part and parcel of the Rule of
17 Completeness also so I would deny the motion to redact
18 that. What's next, Mr. Mauldin?

19 MR. MAULDIN: I believe that's all I have, Your
20 Honor.

21 THE COURT: All right. Now, do you have any further
22 -- Wasn't there something about videos and a computer and
23 phone. That's already redacted, correct?

24 MR. MAULDIN: Yes.

25 MS. MAYES: Yes, Your Honor.

1 THE COURT: And wasn't there something about L.D. [REDACTED]
2 and J. [REDACTED] at different times. I wrote down 29:30. Of
3 course, it's come out already about discipline and Minor [REDACTED],
4 L.D. [REDACTED] and J. [REDACTED] and that may be part and parcel of that.

5 MS. MAYES: That was elicited again by defense
6 counsel about the discipline and whether or not she liked
7 the discipline so our intent would be to leave that in.
8 As to 29:30 on L.D. [REDACTED] and J. [REDACTED] we will take a look at
9 that.

10 THE COURT: I have it a little bit before that, too.
11 I wasn't perhaps not as precise as marking the time.
12 Also, wasn't there a discussion yesterday about it
13 started when she was five or six? Now, I realize there
14 has been questioning today of Minor [REDACTED] that it began when she
15 lived in nana's house. I take it that would relate back
16 to prior to when she was seven but is that in or out or
17 what's y'all's position on that?

18 MS. MAYES: Yes, sir, Your Honor. I believe the
19 testimony would be that and later testimony to come would
20 be that they moved to the new house in the summer of
21 2015, correct?

22 MR. MAULDIN: Yes.

23 MS. MAYES: 2015. So that would put the child at
24 age six.

25 THE COURT: I just remember y'all bringing it up

1 pretrial.

2 MR. MAULDIN: Yes, sir, Your Honor. I did ask that
3 question and the testimony was elicited so I would have
4 no objection to it.

5 THE COURT: All right. And during the presentation
6 of the tape, let's see how to say this, any time either
7 one of you start jonesing over what may be happening
8 next, somebody cut it off and we'll take it up outside
9 the presence of the jury, if we can.

10 MS. MAYES: Okay. Our intent would to go ahead and
11 make the redactions and have someone double check it, but
12 as to the references when she was five or six my
13 understanding is there's no objection at this point that
14 has been elicited by counsel.

15 THE COURT: All right. What about the testimony of
16 the witness that conducted the interview?

17 MS. MAYES: Yes, sir, Your Honor. We will actually
18 have her probably available late this afternoon and then
19 we can take up her credentials in camera just prior to
20 her testimony.

21 THE COURT: Anything further? How many more
22 witnesses you got before the Dickerson motion?

23 MS. MAYES: Probably three or four, Your Honor.

24 THE COURT: Okay. All right. Anything further?

25 MR. MAULDIN: No, Your Honor.

1 THE COURT: 1:15. All right. Y'all have a pleasant
2 lunch.

3 (Lunch recess.)

4 BAILIFF: All rise.

5 THE COURT: Thank you. Thank you very much. Please
6 be seated. Anything before we bring in the jury?

7 MS. MAYES: We have made the redactions as Your
8 Honor indicated before and if there is a problem at any
9 point, either side can approach it and stop the video
10 before it goes any further but I think so we are straight
11 on the redactions. We have also made redactions to the
12 written statement that we had discussed yesterday.

13 THE COURT: Mr. Mauldin.

14 MR. MAULDIN: I would like to take a look at the
15 written statement that they redacted.

16 THE COURT: All right.

17 MS. MAYES: I'm also going to submit a copy to Your
18 Honor to review. We'll need the accompanying jury charge
19 regarding redactions because it will be obvious at that
20 point that we are missing significant portions of the
21 statement.

22 MR. MAULDIN: Your Honor, the document appears to be
23 in order with your rulings although I would maintain my
24 prior objections that were overruled.

25 THE COURT: Okay. All right. Ready for the jury?

1 MS. MAYES: Yes, sir, Your Honor.

2 MR. MAULDIN: Yes, Your Honor.

3 (Whereupon, the jury entered the courtroom at 1:20
4 p.m.)

5 THE COURT: Good afternoon, ladies and gentlemen. I
6 hope y'all had a pleasant lunch. As you recall, we are
7 continuing the trial of the case by the presentation of
8 evidence and testimony by the State in its case in chief.
9 Please continue to give the parties your complete and
10 undivided attention. Solicitor, you may call your next
11 witness.

12 MS. STRINGFELLOW: Your Honor, the State will call
13 Barbara Havird to the stand please.

14 THE COURT: All right. Ms. Havird, if you would
15 come around and be sworn for us please.

16 Thereupon,

17 BARBARA HAVIRD
18 after having been first duly sworn, testified as follows,

19 THE CLERK: Please have a seat. Once you're seated,
20 state your full name spelling your last please.

21 THE WITNESS: Barbara Havird, H-a-v-i-r-d.

22 DIRECT EXAMINATION

23 BY MS. STRINGFELLOW:

24 Q. Ms. Havird, what's your occupation?

25 A. I work in school service * Sexton Elementary,

1 Lexington School District One.

2 Q. Where do you live?

3 A. [REDACTED] West Columbia.

4 Q. Here in Lexington?

5 A. Yes.

6 Q. How do you know the defendant Bryan Ellis?

7 A. He was married to my daughter Leslie Ellis
8 Pierson.

9 Q. How do you know [Minor] [REDACTED]?

10 A. She's my granddaughter.

11 Q. How many grandkids do you have?

12 A. Six. Well, seven, but yeah.

13 Q. How often do you spend time with your
14 grandchildren?

15 A. A good bit of the time almost every day.

16 THE COURT: Would you speak up a little bit for me
17 please, Solicitor.

18 MS. STRINGFELLOW: Yes, Your Honor.

19 THE COURT: Thank you.

20 BY MS. STRINGFELLOW:

21 Q. You see them every day. Does that include
22 weekends?

23 A. Yes.

24 Q. How often do you keep them on weekends?

25 A. A lot of times if their mom is not working, they

1 just come over to play for a while and then they go back
2 home.

3 Q. How often would they go to church with you?

4 A. Every Sunday.

5 Q. Where would they stay Saturday nights?

6 A. They usually spend the night with me on Saturday
7 night and go to church with me on Sunday morning.

8 Q. Okay. What time is usually their bedtime when
9 they're staying with you?

10 A. Usually around 9:00.

11 Q. What do you do when it's time for them to go to
12 bed?

13 A. I give them their dinner and put their bed clothes
14 on and their baths and all that and tell them it's time to go
15 to bed.

16 Q. I'm going to take you to the night of January 23rd.
17 That was a Saturday night. What, if anything, may have been
18 different about this bedtime?

19 A. Uhm, I was telling the kids that it was time for
20 them to go to bed, you know, around 9:00 and they were giving
21 me a little bit of problem. They still wanted to play and
22 stuff like that.

23 Q. Okay.

24 A. You want me to continue?

25 Q. Go ahead.

1 A. And while I was telling them that if they were at
2 home, that they would, their mom and dad would have them in
3 bed by then and they needed to go onto bed and come onto
4 bed.

5 Q. So, Ms. Havird, that night did **Minor** tell you that
6 she had been sexually assaulted?

7 A. Yes. She did.

8 Q. Where did she say it occurred?

9 A. At her house.

10 Q. And when would this happen to her? When did she say
11 this would happen to her?

12 A. When her mom was at work.

13 Q. What was **Minor's** demeanor like when she told you what
14 happened to her?

15 A. She was very sad and nervous and at first when she
16 told me she kind of hesitated and then she said, you know,
17 I'll go ahead and tell you.

18 Q. Okay. How did you respond? What did you do when
19 **Minor** told you what happened to her?

20 A. Well, it kind of floored me to hear that and, uhm,
21 shocked me and, uhm, I told her immediately that she needs to
22 tell her mom as soon as she can. Her mom was at work. She
23 works. She was at work until about 10:00 that night or
24 more.

25 Q. What did **Minor** do after you told her that?

1 A. Uhm, she went back to the back to her bedroom
2 because after that everything was kind of a shambles again,
3 you know, so she went back to her little bedroom at that
4 time.

5 Q. And what happened next?

6 A. She come back out and, uhm, had a little note in her
7 hand and she showed it to me. She said that was to remind her
8 to tell --

9 Q. Hold on.

10 A. Okay.

11 Q. What significance did the note have to you?

12 A. Uhm, it was telling what had happened to her.

13 Q. Okay.

14 A. Yeah.

15 Q. And why would **Minor** write a note?

16 A. She wanted to remind herself to tell her mom. She
17 seen me write letters and put them on my refrigerator to
18 remind myself to do things, you know, and everything and
19 that's what she thought of doing. I had nothing to do with
20 that.

21 Q. All right. So what happened after you saw the note?
22 How did you guys conclude your evening?

23 A. Well, we put the note on the table in the living
24 room and I told them that, you know, that we would go on to
25 bed because momma was at work and go to church the next day.

1 Q. What happened the next morning? Did you all make it
2 to church?

3 A. Yes.

4 Q. What happened when you all returned home from
5 church?

6 A. Uhm, Leslie come over to my house. Before she goes
7 to work, she comes over to see the kids and kiss them bye and
8 stuff like that and, uhm, she come over and [Minor] told her
9 about what had happened.

10 Q. Okay. And what happened after [Minor] spoke to her
11 mother?

12 A. Uhm, my daughter Leslie called in to her work and
13 told them she wasn't coming in.

14 Q. Okay. And what happened next?

15 A. Uhm, Leslie went over to her house and called her
16 husband and told him, uhm, that to come home.

17 Q. Where were you while Leslie was at her house?

18 A. I was at my house with the kids. I was keeping them
19 at my house.

20 Q. Where is your house in reference to Leslie's
21 house?

22 A. Right across my backyard.

23 Q. So while Leslie was inside waiting for Bryan what
24 were you doing?

25 A. I was keeping the kids, uhm, over at my house and I

1 was watching through my back door window to, you know, when he
2 comes home to see what was going to take place and happen.

3 Q. How well could you see Leslie's house from your back
4 door window?

5 A. Very good. I can see the back of their house where
6 they would come out the back door of their house.

7 Q. What happened while you were watching Leslie's
8 house? What did you see?

9 A. Okay. Her and Bryan came out of the house and he
10 did grab for her arm. I saw that. And, uhm, she pulled away
11 from him and she was, you know, very upset, crying and
12 everything and she proceeded to come across my backyard to my
13 house and she was so upset she collapsed in the yard and my
14 husband had to go out there and pick her up and bring her to
15 my house.

16 Q. What happened once Leslie got back to your house?

17 A. She got on the phone and called the police and told
18 them that her husband, you know...

19 Q. Okay. All right. Ms. Havird, what was your
20 relationship like - what was your relationship like with the
21 defendant Bryan Ellis?

22 A. Well, I got along because, uhm, I'm a Christian
23 person and I believe in getting along with everybody and
24 anybody who knows me knows that I do. I try to get along with
25 everybody and everything but it never was a real close

1 relationship.

2 Q. Why wasn't it close? Can you kind of explain about
3 that?

4 A. Because he didn't like my ways, that I was too close
5 to the children and he thought that was a problem.

6 Q. And what was his demeanor towards the children and
7 towards Leslie?

8 A. Uhm, most of the time, uhm, the children I'm gonna
9 say abusive because, you know, it was abusive.

10 Q. What was his demeanor towards Leslie?

11 A. Uhm, sort of that way too, but not as much as toward
12 the children that, around me, uhm, when he was around me and
13 my husband.

14 Q. And, Ms. Havird, you said that you would often keep
15 the children. Did you always keep all three of the kids at
16 the same time, Minor and her two brothers? Were they always
17 together when you kept them?

18 A. Uhm, when they would come over to my house, when
19 Bryan was at home, it wasn't always all three of them
20 together.

21 Q. Who would come to your house?

22 A. The two boys.

23 Q. Where would Minor be?

24 A. She would be over there with him.

25 Q. Who is "him"? Who are you referring to?

1 A. Bryan. Bryan.

2 Q. And how long would she stay with Bryan?

3 A. I would say at least an hour before she would come
4 to my house, too.

5 Q. And who was at [Minor's] house other than her and
6 Bryan?

7 A. Nobody.

8 Q. What was [Minor's] demeanor when she would come back to
9 your house?

10 A. Well, one time in particular before all this come to
11 light, uhm, she was coming across the yard. Bryan had
12 followed her out on the back porch and was smoking a cigarette
13 and watching her walk from their house to my house and [Minor]
14 did have a very disturbed look on her face coming across the
15 yard and that was a red flag to me but I gave him the benefit
16 of the doubt that there wasn't nothing near like this going
17 on, you know.

18 MS. STRINGFELLOW: No further questions, Your
19 Honor.

20 THE COURT: Thank you, Solicitor. Mr. Mauldin.

21 MR. MAULDIN: Thank you, Your Honor.

22 CROSS EXAMINATION

23 BY MR. MAULDIN:

24 Q. Ms. Havird, Bryan and Leslie lived with you for a
25 period of time with their kids; is that right?

1 A. Yes. Approximately six years.

2 Q. And then they moved into their own trailer next door
3 to you about the summer of 2015?

4 A. Something like that. Yeah.

5 Q. Something like that. And after that happened, you
6 didn't get a lot of visits from the kids as often as you would
7 like to; is that right?

8 A. Except when I needed to keep them. When Bryan was
9 at work and Leslie was at work, I kept the kids until he got
10 home from work and then I had them, you know, Saturday night
11 into Sunday.

12 Q. All right. Had you and Tommy thought when they were
13 married about giving them some property, the property their
14 trailer was on?

15 A. Yes. Because they put their trailer on the property
16 back there and everything.

17 Q. So the property the trailer is on was your property
18 as well, the land?

19 A. Well, it was actually Tommy's daddy's land and we
20 had to go through the legal logistics of getting the land into
21 my husband's name and before we could even, you know, deed it
22 to them.

23 Q. Right. So you discussed here on the evening of
24 January 23rd you're getting the kids ready for bed?

25 A. Mm-hmm.

1 Q. There's an issue with getting them ready for bed and
2 then **Minor** tells you this thing; is that right?

3 A. Yes, sir.

4 Q. And you put them to bed. You go to church the next
5 morning.

6 A. Mm-hmm.

7 Q. Then you go -- Then you have **Minor** go tell her
8 mother?

9 A. When she come over to my house, she was at work that
10 night so I didn't tell her that night until the next morning
11 and after we got back from church.

12 Q. Because work is important; is that right?

13 THE COURT: I didn't quite hear that.

14 BY MR. MAULDIN:

15 Q. Work is important?

16 A. Yes, sir. And I didn't want to upset anybody
17 because the next day was Sunday and I wanted to take the kids
18 to church and, uhm, tell her the next day because there was
19 nothing going to happen to them. They were safe at my
20 house.

21 Q. Did you wait because you wanted **Minor** to tell --

22 A. Yes, sir. I did.

23 Q. -- Leslie and not you?

24 A. Yes, sir.

25 Q. And that's because you were afraid that Leslie would

1 think you were making it up?

2 A. Kind of.

3 Q. And that you were putting ideas into [Minor's] head?

4 A. Right. I don't want anybody to think that I would
5 put any ideas like that in a child's head.

6 Q. But you thought Leslie might think that and that's
7 why you waited?

8 A. Mm-hmm. And let [Minor] do it.

9 MR. MAULDIN: No further questions, Your Honor.

10 THE COURT: Redirect, Solicitor?

11 MS. STRINGFELLOW: Briefly, Your Honor.

12 REDIRECT EXAMINATION

13 BY MS. STRINGFELLOW:

14 Q. Ms. Havird, why didn't you tell Leslie when [Minor]
15 told you?

16 A. That night you mean?

17 Q. Yes. That night.

18 A. Because like I said, I didn't want anyone to feel
19 like that I had put it into her head and she had had a hard
20 night at work and I felt it would be better to wait until the
21 next day because I myself was upset and at church I had spoken
22 to my preacher's wife for prayer and counsel because I was
23 really upset, too.

24 Q. And you said a little while ago that you wanted [Minor]
25 to tell Leslie?

1 A. Yes.

2 Q. Why did you want Minor to tell Leslie?

3 A. Because I think it would be better coming from her
4 than me.

5 Q. Why did you think Leslie should hear it from Minor
6 instead of you?

7 A. Well, like I said, you know, she would know that I
8 hadn't put any kind of idea into her head or anybody would
9 know that I hadn't put any kind of idea into her head.

10 Q. You mentioned that you and Bryan didn't have the
11 best relationship?

12 A. Mm-hmm.

13 Q. How did that reflect into your relationship with you
14 and Leslie about her marriage?

15 A. Well --

16 MR. MAULDIN: Your Honor, I believe that's beyond
17 the scope of cross.

18 THE COURT: Sustained.

19 MS. STRINGFELLOW: No further questions, Your Honor.

20 THE COURT: Recross, Mr. Mauldin?

21 MR. MAULDIN: No thank you, Your Honor.

22 THE COURT: All right. Thank you, Ms. Havird. You
23 may step down.

24 THE WITNESS: Thank you.

25 THE COURT: Yes, ma'am. All right. Solicitor, you

1 may call your next witness.

2 MS. MAYES: The State calls Leslie Ellis.

3 THE COURT: Is this Ms. Pierson?

4 MS. MAYES: Correct, Your Honor.

5 THE COURT: Ms. Pierson, if you come around
6 please.

7 Thereupon,

8 LESLIE PIERSON

9 after having been first duly sworn, testified as follows,

10 THE CLERK: Please have a seat. Once you're seated,
11 state your full name spelling your last please.

12 THE WITNESS: My name is Leslie Pierson,
13 P-i-e-r-s-o-n.

14 DIRECT EXAMINATION

15 BY MS. MAYES:

16 Q. Good afternoon, Ms. Pierson. I want to start by
17 asking you a few questions about yourself. You are what
18 relation to Minor?

19 A. Her mother.

20 Q. And to L.D.?

21 A. His mother.

22 Q. All right. And to J.?

23 A. Mother.

24 Q. All right. Where are you currently employed?

25 A. I'm currently at Park Ridge Baptist in the ICU.

1 Q. What type of work do you do there?

2 A. I am cardiac care technician. I watch arrhythmias.
3 I monitor their blood pressures and all their stats.

4 Q. Does that job have some type of certification with
5 it?

6 A. Yes.

7 Q. Leading up to your certification in your current
8 field where were you employed in the year 2015 and 2016?

9 A. I was at Walmart on South Lake Drive.

10 Q. Here in Lexington County?

11 A. Yes.

12 Q. Now, I'm going to ask you to take us through the
13 events regarding this defendant Bryan Ellis. When did you
14 originally meet Bryan Ellis?

15 A. Originally it was in high school.

16 Q. What high school was that?

17 A. White Knoll high.

18 Q. And the two of you attended there together?

19 A. Yes.

20 Q. Were you in the same grade?

21 A. Yes.

22 Q. At what point did your acquaintanceship with him
23 turn into an actual relationship?

24 A. That was back in 2009.

25 Q. All right. Now, you mentioned 2009. I'm going to

1 ask you about [Minor] who is now nine. What year was she born?

2 A. 2008.

3 Q. So just to clarify here, [Minor's] actual date of birth
4 is?

5 A. [REDACTED], 2008.

6 Q. All right. Now, is Bryan Ellis her biological
7 father?

8 A. No, ma'am.

9 Q. Is he the biological father of [L.D.]?

10 A. No, ma'am.

11 Q. Is he the biological father of your son [J.]?

12 A. Yes, ma'am.

13 Q. So around 2009 you and Mr. Ellis, your relationship
14 turned into a romantic relationship?

15 A. Dating. Yes.

16 Q. This would have been 2009 when [Minor] was
17 approximately what age?

18 A. She was about one, one and a half.

19 Q. So she was a toddler when Bryan came into her
20 life?

21 A. Yes.

22 Q. Did she ever know any other father figure through
23 that time?

24 A. No.

25 Q. And as she grew up what did she call Bryan?

1 A. She called him daddy.

2 Q. What about L.D. [REDACTED]?

3 A. The same. Daddy.

4 Q. When were you and Bryan Ellis married?

5 A. That was August 12th, 2010.

6 Q. All right. That would have made Minor [REDACTED] a little over
7 two at the time, correct?

8 A. Correct.

9 Q. Where did you first reside together as a family?

10 A. That was at my parents' house, [REDACTED] [REDACTED] [REDACTED].

11 Q. Is that in Lexington County?

12 A. Yes, ma'am.

13 Q. What area of Lexington County is that?

14 A. Uhm, I would say kind of High Springs Road area.

15 Q. Okay. As you resided there together as husband and
16 wife eventually did you become pregnant with J. [REDACTED] while living
17 there?

18 A. Yes.

19 Q. All right. The five of you in your family, you and
20 Bryan and L.D. [REDACTED] and Minor [REDACTED] and J. [REDACTED] lived there at your parents'
21 house for approximately how long?

22 A. I think it was at least six years.

23 Q. How did y'all go about making arrangements
24 eventually to get a place of your own?

25 A. We paid off all of our debts and then we pursued to

1 look for a mobile home of our own.

2 Q. Eventually were you able to purchase a mobile
3 home?

4 A. Yes, ma'am.

5 Q. When was that purchase made?

6 A. That was made in 2015.

7 Q. All right.

8 A. I'm not sure of the date but basically.

9 Q. Do you remember the approximate time of year?

10 A. It was March. I think it was in March.

11 Q. So in 2015 you make a purchase of a new home and how
12 close is that to your parents' home?

13 A. That is about maybe 50 yards.

14 Q. Okay. I'm going to show you two items and ask you
15 whether or not you recognize them. This is the first item.
16 This is the next item. Do you recognize what's depicted in
17 this item?

18 A. Yes. That is the floor plan of our house.

19 Q. That would be the house that you resided in together
20 after 2015, correct?

21 A. Correct.

22 Q. And you recognize this photograph?

23 A. Yes.

24 Q. Can you tell us whether or not that's a fair and
25 accurate representation of the distance or proximity between

1 your home and that of your parents?

2 A. Completely correct.

3 MS. MAYES: Your Honor, these would be for evidence
4 23, 24.

5 THE COURT: Any objection?

6 MR. MAULDIN: No objection.

7 THE COURT: State's 23, 24 in evidence without
8 objection.

9 (Whereupon, State's Exhibit #23 and #24 marked for
10 identification and received in evidence.)

11 BY MS. MAYES:

12 Q. Looking here at this aerial view are you able to see
13 that from where you are sitting?

14 A. Yes, ma'am.

15 Q. Whose residence is this right here?

16 A. That is my mom's house.

17 Q. And then here?

18 A. That is my house.

19 Q. Okay. Now, during this time you have moved into the
20 second home or the home behind your parents. You were working
21 I believe you have already testified at Walmart.

22 A. Yes, ma'am.

23 Q. What can you tell us about your normal schedule and
24 how that conflicted with Bryan's schedule and how y'all went
25 about making arrangements for the kids and who would be with

1 the kids if one of you were at work?

2 A. Normally I believe it was Sunday through Wednesday
3 that he worked and that was like from 7:00 in the morning
4 until 6:00, sometimes later and my schedule would be any day
5 of the week from 1:00 to 10:00 or 1:00 to 9:00.

6 Q. Okay. And generally you were working into the
7 evening hours?

8 A. Yes.

9 Q. All right. And you mentioned that Bryan's schedule
10 generally was what time?

11 A. Generally 7:00 in the morning until about 6:00.

12 Q. All right. Were there particular days of the week
13 that he normally worked?

14 A. Sunday through Wednesday.

15 Q. Sunday through Wednesday. How many days off did he
16 get?

17 A. He would get three.

18 Q. So he gets three days off a week. If you are
19 working during his three days off, who would watch the
20 children while you were at work?

21 A. It would either be Bryan and then on the weekend it
22 would be my mom.

23 Q. And if it was a week night where the kids had to get
24 ready for school or had homework to do or bedtime activities
25 such as that, who would normally be responsible for that?

1 A. Bryan.

2 Q. During that period of time, did you trust Bryan home
3 alone with your three children?

4 A. I did.

5 Q. At any point in time were you aware that there was
6 anything of a sexual nature going on between Bryan and your
7 seven year old daughter [Minor]?

8 A. No, ma'am. I did not.

9 Q. Had Bryan ever brought to your attention that he had
10 given a sex toy to [Minor] or used that sex toy with [Minor]?

11 A. No, ma'am.

12 Q. Now, I want to move forward to the date of January
13 24th, 2016 and that's going to be the date that 911 was
14 called. And specifically in this case who made that 911
15 call?

16 A. I did.

17 Q. All right. And if that call was made at 3:56 p.m.,
18 do you recall the events that were occurring earlier in that
19 day leading up to that 911 call at 3:56?

20 A. Yes. I went over to my mom's house to see the kids
21 before I went to work.

22 Q. Just to clarify, this is what day of the week?

23 A. It's a Sunday.

24 Q. Were you scheduled to work that day?

25 A. Yes, ma'am.

1 Q. What hours were you scheduled to work?

2 A. 1:00 to 10:00.

3 Q. So you're expecting to go into work at one. So
4 what's your normal routine if you are going into work at one
5 and the kids have stayed over with your mom because it's a
6 weekend and there's church the next morning?

7 A. I would typically go there, sometimes eat lunch with
8 them, see the kids and then I would go to work.

9 Q. Okay. And on this Sunday was Bryan working that
10 day?

11 A. Yes, ma'am.

12 Q. At the DISH Network?

13 A. Yes, ma'am.

14 Q. And you were scheduled to go in at one?

15 A. Yes, ma'am.

16 Q. The kids had spent the previous night where?

17 A. At my parents' house.

18 Q. So you are getting ready to go into work at one.
19 What happened next?

20 A. Uhm, my daughter presented me a note.

21 Q. And this is where?

22 A. At my parents' house.

23 Q. Okay.

24 A. And I read it and it floored me as well. I didn't
25 know how to respond to that.

1 Q. What was [Minor's] demeanor or mood as she showed this
2 to you?

3 A. Very standoffish. She was like -- It was almost
4 like she felt ashamed of it. And after I read it, I was in a
5 lot of shock and that's when I was like, okay, I need to do
6 something.

7 Q. Okay. Did you communicate with anyone?

8 A. I texted Bryan Ellis.

9 Q. Okay. Now, you can't say what was said to you but
10 in addition to the note did you actually have a conversation
11 with [Minor]?

12 A. Very, very briefly because I wanted to take care of
13 the whole situation as soon as I could.

14 Q. Okay. Again, this is a yes, no question. You can't
15 say what was said to you, but did she report to you a sexual
16 assault?

17 A. Yes.

18 Q. What is your understanding of the time or time frame
19 in which that had been occurring?

20 A. She said a long time.

21 Q. Okay. What is your understanding of when that event
22 would occur?

23 A. When I was at work.

24 Q. So who did you communicate with after you had
25 received this information?

1 A. I started texting Bryan.

2 Q. Okay. When you say "texting Bryan", did he normally
3 have a phone?

4 A. Yes. A cell phone.

5 Q. I'm going to show you an item and ask you whether or
6 not you recognize it?

7 A. Yes, ma'am.

8 Q. And who did that phone belong to?

9 A. It belonged to Bryan Ellis.

10 Q. Is that a phone that he normally had with him?

11 A. Yes, ma'am.

12 Q. And in addition to him having a phone, did you have
13 your own phone?

14 A. Yes.

15 Q. That was capable of texting and things of that
16 nature?

17 A. Yes, ma'am.

18 Q. And you say that you texted him as you received this
19 information from **Minor**. Do you know approximately what time it
20 was that you sent the text?

21 A. Around noon, 12:00.

22 Q. All right. If I show you a document, can you tell
23 us whether or not it would help to refresh your memory?

24 A. Yes.

25 Q. (Proffering.) Approximately what time was the first

1 text that you sent to Bryan?

2 A. That was 12:03 p.m.

3 Q. How many texts did you send?

4 A. Three altogether.

5 Q. And in summary can you tell us what you were saying
6 to him in those text messages after you had received this
7 information from Minor?

8 A. Uhm, basically I had told him that Minor had told me
9 something that we needed to talk about and that I wasn't going
10 to work that day.

11 Q. Okay. And how were you feeling?

12 A. Uhm, completely in shock and horrible that something
13 like that happened to my child.

14 Q. Okay. Do you know or do you recall whether or not
15 you expressed in any of the text messages how you were
16 feeling?

17 A. Yes. I said I was feeling sick to my stomach.

18 Q. So you sent three text messages beginning around
19 12:03 p.m., correct?

20 A. Right.

21 Q. He's at work?

22 A. Yes, ma'am.

23 Q. And eventually did you speak with him? Did he place
24 a call to you prior to coming home?

25 A. Yes, ma'am. One call.

1 Q. Okay. And ultimately were arrangements made for him
2 to come on home from work that day?

3 A. Yes.

4 Q. Okay. Approximately what time would he have gotten
5 home knowing that that 911 call was placed at 3:56 p.m.?

6 A. Say about 3:30.

7 Q. All right. Now, take us through those events. Once
8 he comes home at 3:30, he receives your text messages, he's
9 left work before 5:00 p.m. ahead of schedule to come on back
10 to the house. Where were you and where did he first make
11 contact with you?

12 A. I was at the house, my house and I confronted him in
13 the living room on the couch. We were sitting on the couch
14 and I asked him very specifically about, "Did you make **Minor**
15 lick your pee-pee?" And he says, "Yes. It's all true."

16 Q. All right. So your exact words to him were "Did you
17 make **Minor** lick your pee-pee?" And his response was "Yes.
18 It's all true"?

19 A. Yes, ma'am.

20 Q. And that was you and he together at your home?

21 A. Yes, ma'am.

22 Q. How would you explain or express his demeanor or
23 mood as he's making this admission to you?

24 A. Uhm, he was not crying but he was upset, uhm, almost
25 not completely emotionless. It's kind of hard to explain how

1 he was acting, uhm, but he admitted it to me. It's almost
2 like a blur was on his face.

3 Q. What was your response?

4 A. I immediately got up from the couch and went to
5 leave.

6 Q. What happened next?

7 A. He followed me out to the back porch, down the steps
8 and went to grab me and I told him don't you dare touch me.

9 Q. And then what?

10 A. And then I started walking over to my parents' house
11 and overcome with emotion, uhm, I collapsed in my parents'
12 yard and my dad came out and got me.

13 Q. Okay. So somewhere in here between these two houses
14 you fall to the ground, your dad comes out to assist you.
15 Where did you go next?

16 A. Into their kitchen which is right when you walk in
17 the back door and I called the police as soon as I got in
18 there.

19 Q. Okay. So that 911 call at 3:56 was made from your
20 parents' house?

21 A. It was.

22 Q. As soon as you return back to their home after
23 having this conversation with Bryan?

24 A. Correct.

25 Q. All right. Now, as you were having this

1 conversation with Bryan when he came home from work early and
2 just prior to the 911 call, who was there at the house
3 with you and Bryan?

4 A. No one.

5 Q. Where were the children?

6 A. They were at my parents' house.

7 Q. Both of your parents?

8 A. Yes.

9 Q. They were all there at the other house?

10 A. Right. Correct.

11 Q. At any point in that conversation after he made that
12 admission to you do you recall, as of today do you recall
13 whether or not he made any type of request for help?

14 A. He did ask me to help him but, I mean, I can't help
15 him.

16 Q. Did you even know how to help him or what measures
17 to take?

18 A. No, ma'am.

19 Q. Your only thought at that point was to notify law
20 enforcement?

21 A. Yes. To protect my children.

22 Q. And that phone, the phone that you just identified
23 --

24 A. Yes, ma'am.

25 Q. -- who was this phone with when you last saw it?

1 A. It was with Bryan.

2 MS. MAYES: I believe this will be for
3 identification 25.

4 (Whereupon, State's Exhibit #25 marked for
5 identification.)

6 BY MS. MAYES:

7 Q. Any web searches were made on that phone after your
8 911 call at 3:56 p.m. --

9 MR. MAULDIN: Objection, Your Honor. Calls for
10 speculation.

11 THE COURT: I haven't heard all the question yet.
12 Let me hear the question please.

13 BY MS. MAYES:

14 Q. Regarding use of that phone did you at any point
15 that day use that phone?

16 A. No, ma'am.

17 Q. Okay. And after that 911 call was made, are you
18 aware of any other person using that phone other than the
19 defendant Bryan Ellis?

20 A. No, ma'am.

21 Q. Now, while you are there at the residence law
22 enforcement eventually arrives there at the scene with the
23 first unit arriving approximately 4:17 p.m. Did you speak
24 with law enforcement?

25 A. Yes, ma'am.

1 Q. Did your mother and father also speak with law
2 enforcement?

3 A. Yes, ma'am.

4 Q. That 20 minutes or approximately 21 minutes that go
5 by as you're waiting on law enforcement to arrive for that
6 first unit to get there on the scene, who was with Bryan
7 during that time period?

8 A. That would be my dad and my uncle.

9 Q. Okay. And when you're making the 911 call, did you
10 see them leave to go over where Bryan was?

11 A. Yes.

12 Q. Okay. And to your knowledge and based on your
13 observations did they remain there with him until law
14 enforcement arrived?

15 A. Yes.

16 Q. Did you observe law enforcement have any interaction
17 with Bryan Ellis?

18 A. I did not see the cops with him that much. Just
19 very little.

20 Q. Were you aware of efforts that law enforcement was
21 undertaking throughout the rest of that afternoon and into the
22 evening to execute a search warrant at your residence?

23 A. I did not know that happened. No.

24 Q. Okay. Ultimately was Bryan Ellis arrested that
25 night?

1 A. Yes, ma'am. He was.

2 Q. Okay. And following his arrest, can you tell us
3 whether or not he made contact with you in any format?

4 A. Yes, ma'am. He tried to place phone calls and he
5 would write me letters constantly.

6 Q. Okay. And did you bring it to the attention of law
7 enforcement specifically Sergeant Rawl with the Sheriff's
8 Department that you were receiving this contact from Bryan
9 Ellis?

10 A. Yes, ma'am.

11 Q. How did you go about cooperating with law
12 enforcement to provide any evidence in that regard?

13 A. Any time he would write me letters I would take them
14 to Detective Rawl.

15 Q. Okay. I'm going to show you some items and then ask
16 you whether or not you can identify them. This is State's
17 exhibit 19, State's exhibit 20, State's Exhibit 21, and
18 State's exhibit 22. I'll start here slowly with exhibit 19.
19 Do you recognize the handwriting on the outside of that
20 envelope?

21 A. Yes, ma'am.

22 Q. How long were you and Bryan married?

23 A. Seven years.

24 Q. Throughout that time did he have any
25 responsibilities due to military service?

1 A. He was a reservist. Yes.

2 Q. Were there ever times when he was away from the
3 home?

4 A. Uhm, a weekend every month.

5 Q. Okay. Were there times that he would write you
6 letters or communicate with you that way?

7 A. Not through letters.

8 Q. Okay. You have had the occasion to be married to
9 him over five years. Do you recognize his handwriting when
10 you see it?

11 A. Yes, ma'am.

12 Q. The outside of this envelope?

13 A. That is his handwriting.

14 Q. I'll ask you to look at the contents inside. Take
15 your time to review it.

16 A. It's all his handwriting.

17 Q. I'll ask you to do the same with 20.

18 A. (Witness complies.)

19 Q. The outside of the envelope and the letter contained
20 therein.

21 A. That is definitely his handwriting on the outside
22 and the inside.

23 Q. Okay. And the next is going to be 21.

24 A. It's definitely his handwriting on the letters and
25 on the outside of the envelope.

1 Q. Finally 22.

2 A. Okay. It's definitely his handwriting.

3 Q. Okay. And were these letters signed by anyone?

4 A. Yes. By Bryan Ellis.

5 Q. Do you recognize his signature as well?

6 A. Yes, ma'am.

7 Q. Was there a return address on these letters?

8 A. Yes, ma'am.

9 Q. And can you tell us whether or not all of that was
10 consistent with these letters having come from the detention
11 center bearing its stamp to you at your home address or to
12 your parents at their home address?

13 A. Yes, ma'am.

14 MS. MAYES: Your Honor, this would be State's 19,
15 20, 21, 22 for evidence.

16 THE COURT: Mr. Mauldin.

17 MR. MAULDIN: No objection, Your Honor.

18 THE COURT: State's 19 through 22 is in evidence
19 without objection.

20 BY MS. MAYES:

21 Q. Now, you mentioned that you turned those letters
22 over to Detective Rawl at the Sheriff's Department. Did you
23 also have at any point in time a request sent to him?

24 A. I believe I sent one asking him to stop.

25 Q. All right. When you say "stop", you're referring to

1 what?

2 A. Stop writing me. Stop contacting.

3 Q. In fact, did he have any legal right at that point
4 to be contacting you?

5 MR. MAULDIN: Objection, Your Honor.

6 MS. MAYES: I can clarify that.

7 BY MS. MAYES:

8 Q. Where your daughter **Minor** is concerned, had he done
9 any type of formal adoption?

10 A. No.

11 Q. Did he have any legal right to have access to
12 **Minor**?

13 A. No, ma'am.

14 Q. By mail or otherwise?

15 A. No, ma'am.

16 Q. Ultimately after having learned of these events
17 notifying law enforcement did you pursue a divorce?

18 A. I did.

19 Q. Okay. And what channels did you take to pursue the
20 divorce? Did you actually file paperwork in that regard?

21 A. I did.

22 Q. Ultimately were you granted a divorce?

23 A. I was.

24 Q. Can you tell us when that divorce was finalized?

25 A. That was December 20th something of this year.

1 Q. Of 2016?

2 A. '16.

3 Q. '16?

4 A. Yes.

5 Q. And I want to ask you a little bit more about that.

6 I believe there may have been some questions raised at some
7 point during this case about a Steven Pierson. Who is Steven
8 Pierson?

9 A. He is my husband.

10 Q. Were you and Steven involved romantically when you
11 were married to Bryan Ellis?

12 A. No, ma'am.

13 Q. Was Steven even a part of your life at that point in
14 time?

15 A. No, ma'am.

16 Q. How so?

17 A. He was actually deployed. He was in Jordan and he
18 was a friend and that's who I turned to to talk to.

19 Q. Okay. When you say who you "turned to to talk to",
20 what effect -- I'm going to ask you this way: What effect did
21 it have on you having learned of these events, these
22 allegations and the arrest of Bryan Ellis for assaulting your
23 daughter?

24 A. It was horrifying and that's who I turned to as a
25 friend.

1 Q. All right. And eventually did your friendship turn
2 into something more with Steven?

3 A. Yes, ma'am.

4 Q. Have you had any contact at all with Bryan Ellis
5 other than the notification to him at the jail to stop writing
6 you since his arrest January 24th, 2016?

7 A. No, ma'am.

8 Q. Did you see it possible in any way to restore your
9 marriage after learning of these events?

10 A. No, ma'am.

11 Q. Now, during that time that you and Bryan were
12 married, let me show you this diagram here, State's exhibit 23
13 already in evidence. You and Bryan normally shared a bedroom;
14 is that correct?

15 A. Yes, ma'am.

16 Q. And that bedroom, if you can here, show us where
17 that would be on the diagram, the bedroom that the two of you
18 shared together?

19 A. Right there, the master bedroom.

20 Q. While you were married was there any type of sexual
21 aid that you and your husband had?

22 A. Yes, ma'am.

23 Q. I'm going to show you these photographs and ask you
24 whether or not you recognize them, 13, 16, and 12?

25 A. Yes, ma'am. Yes and yes.

1 Q. Okay. This item here item 16 to your knowledge who
2 was using that item or who was that item for?

3 A. That was for me.

4 Q. Okay. And that would be item 16 that's depicted
5 here in this photograph. Where was this item normally kept?

6 A. In my drawers.

7 Q. Okay. Is that depicted in any of these
8 photographs?

9 A. Yes.

10 Q. Which one?

11 A. That one.

12 Q. State's exhibit 12. Okay. So to your knowledge
13 that item is normally kept where -- and you can use this if
14 you need to for assistance -- that item is normally kept
15 where?

16 A. In the third one. In that drawer right there.

17 Q. Okay. Here within this bedroom. That would be the
18 master bedroom?

19 A. Yes, ma'am.

20 Q. Then we are specifically talking about this item
21 being item number 16. At any point in time, Ms. Ellis, did
22 Bryan ever make you aware that he was using that particular
23 sexual aid with **Minor**?

24 A. No, ma'am.

25 Q. Would you have ever permitted such a thing?

1 A. No, ma'am.

2 Q. And can you tell us whether or not you also had --
3 Can you tell us whether or not there were any additional
4 sexual aids such as lubricant?

5 A. There was.

6 Q. Can you tell us whether or not that included
7 flavored lubricant?

8 A. Yes, ma'am.

9 Q. Do you recall what type of flavor you and your
10 husband had as a sexual aid for your marriage?

11 A. It was cherry flavored.

12 Q. Okay. At any point in time were you aware that he
13 had used that item with your daughter Minor?

14 A. No, ma'am.

15 Q. Would you have permitted such a thing?

16 A. No, ma'am.

17 Q. During that last year of your marriage 2015, let me
18 take you specifically through that time period of Thanksgiving
19 into Christmas into New Year's and then on into early January
20 when law enforcement was notified, was Bryan typically working
21 this schedule?

22 A. Yes, ma'am.

23 Q. And were you typically working the schedule that you
24 spoke about that would have you away from the home sometimes
25 past the children's bedtime?

1 A. Yes, ma'am.

2 Q. If it was a week night, the children would normally
3 be with whom during that time period Thanksgiving leading into
4 January 2016?

5 A. Are you talking about just on the Weekends?

6 Q. Week nights.

7 A. Week nights they would be with their dad.

8 Q. When you say "with their dad", you're referring
9 to?

10 A. Bryan Ellis.

11 Q. During those final months of your marriage looking
12 back, can you tell us whether or not there was any type of
13 change in his demeanor or in your marriage communication?

14 A. He would not really even talk to me that much. We
15 didn't really have much of a relationship. He was just very
16 standoffish and didn't really want to have anything to do with
17 me.

18 Q. All right. And through out that time up until law
19 enforcement was notified did you have any personal knowledge
20 that anything was happening with your daughter **Minor**?

21 A. No, ma'am.

22 MS. MAYES: Nothing further at this time, Your
23 Honor.

24 THE COURT: Thank you, Solicitor. Mr. Mauldin.

25 MR. MAULDIN: Thank you.

1 CROSS EXAMINATION

2 BY MR. MAULDIN:

3 Q. During your marriage and during this period of time
4 when you say he was acting very standoffish, you thought that
5 y'all needed to go to marital counseling; is that right?

6 A. I had mentioned that. Yes.

7 Q. So there were problems?

8 A. Yes, sir.

9 Q. And you notified Sergeant Rawl of these letters
10 coming in around May of 2015, would that be fair to say?

11 A. No. It was happening as soon he was arrested.

12 Q. But you were continuing --

13 A. I was continuing to bring them to him. Yes, sir.

14 Q. You had contact. And one of those times would have
15 been May?

16 THE COURT: May of what year?

17 MR. MAULDIN: 2016, Your Honor.

18 THE COURT: Thank you.

19 BY THE WITNESS:

20 A. Yes.

21 BY MR. MAULDIN:

22 Q. And at that point in time you had already been with
23 Mr. Pierson; is that right?

24 A. In May we were maybe still talking.

25 Q. When did you get engaged to him?

1 A. December of 2017.

2 THE COURT: We haven't made it that far yet.

3 BY THE WITNESS:

4 A. Well, '16. I'm so sorry. My dates are al mixed
5 up.

6 THE COURT: We have '15, '16, '17.

7 BY THE WITNESS:

8 A. '16.

9 THE COURT: Thank you. Thank you, Ms. Pierson. You
10 may ask your next question.

11 MR. MAULDIN: Thank you, Your Honor.

12 BY MR. MAULDIN:

13 Q. And he attended a couple of your divorce hearings
14 with you; is that right?

15 A. Yes.

16 Q. And the divorce hearings had been going on from May
17 until about December; is that right?

18 A. Yes, sir.

19 Q. And you received all of the marital property in the
20 divorce; is that right?

21 A. Yes, sir.

22 MR. MAULDIN: No further questions.

23 THE COURT: Redirect, Solicitor?

24 MS. MAYES: Yes, sir, Your Honor.

25 REDIRECT EXAMINATION

1 BY MS. MAYES:

2 Q. As to the fact that you received marital property in
3 the divorce, did you make your divorce lawyer aware that he
4 had been arrested and charged with sexually assaulting **Minor**?

5 A. Yes.

6 MS. MAYES: Nothing further.

7 THE COURT: Recross, Mr. Mauldin?

8 MR. MAULDIN: No, Your Honor.

9 THE COURT: Thank you. Thank you very much. You
10 may step down, Ms. Pierson. All right. Perhaps now is a
11 good time to take a 15 minute recess. Do not discuss
12 this case during this brief recess. Thank you very much.

13 (Whereupon, the jury entered the jury room at 2:25
14 p.m.)

15 THE COURT: All right. Anything before we take our
16 recess, Solicitor?

17 MS. MAYES: No, sir. Nothing from the State.

18 THE COURT: Mr. Mauldin?

19 MR. MAULDIN: No, Your Honor.

20 THE COURT: Take about 15 minutes. Thank you.
21 Thank you very much.

22 (Short break.)

23 BAILIFF: All rise. Court is now in session.

24 THE COURT: Thank you. Thank you very much. Please
25 be seated. Anything before we bring in our jury,

1 Solicitor?

2 MS. MAYES: We have one brief witness, Your Honor.
3 He is going to be the grandfather of the child and then
4 we'll have the forensic interviewer so once I call her or
5 however you want to work it, we can take up in camera her
6 qualifications and make a court exhibit her training and
7 credentials or we can do that now.

8 THE COURT: Why don't we do that now, Solicitor.

9 MS. MAYES: Okay. The State calls Trina Elfering.

10 THE COURT: Yes, ma'am. Come around and be sworn
11 for us please.

12 Thereupon,

13 TRINA ELFERING

14 after having been first duly sworn, testified as follows,

15 THE CLERK: Please have a seat. Once you're seated,
16 state your full name spelling your last please.

17 THE WITNESS: My name is Trina Elfering,
18 E-l-f-e-r-i-n-g.

19 DIRECT EXAMINATION

20 BY MS. MAYES:

21 Q. Ms. Elfering, where are you currently employed?

22 A. Dickerson Children's Advocacy Center.

23 Q. What's your current job title there?

24 A. I'm the Director of Forensic Services.

25 Q. As the Director of Forensic Services can you tell us

1 whether or not that includes forensic interviewing of
2 children?

3 A. It does.

4 Q. How long have a you worked there at Dickerson Center
5 in that capacity?

6 A. I have worked at the Dickerson Center since 2014. I
7 became the Director of Forensic Services in 2015.

8 Q. What was your job description prior to joining the
9 Dickerson Center which is a child advocacy center?

10 A. My job description prior to joining there?

11 Q. Correct.

12 A. I worked at the South Carolina Network of Children's
13 Advocacy Centers as a program coordinator.

14 Q. And through that role were you also trained or
15 educated in the field of forensic interviewing of children?

16 A. Yes. My job there was I was available to do
17 forensic interview training or retraining at that time when I
18 took that job and then I set up peer review for all the
19 forensic interviewers in the state.

20 Q. Working at various child advocacy centers that were
21 part of the network?

22 A. Correct.

23 Q. And prior to that job where were you employed?

24 A. I worked at the Department of Social Services.

25 Q. While you were at the Department of Social Services

1 can you tell us whether or not you had the opportunity to
2 interact with children?

3 A. Yes.

4 Q. In what role?

5 A. I was a child protective services investigator
6 initially with DSS and interacted with children while
7 investigating reports of abuse and neglect and then I was a
8 supervisor of child protective services in foster care.

9 Q. Have you put together a CV which outlines your
10 credentials?

11 A. I have.

12 Q. And submitted that to the Solicitor's Office?

13 A. I have.

14 Q. I'm going to show you a document and ask you whether
15 or not you recognize it?

16 A. I do.

17 Q. All right. What else do you recognize in that group
18 of documents?

19 A. My social work license is on the back of it.

20 Q. So you are a licensed social worker?

21 A. I'm licensed by the State of South Carolina.

22 Q. And you are still currently licensed?

23 A. I am.

24 Q. Does that licensing involve any type of regular
25 training?

1 A. It does. Every two years we need to have 40 hours
2 of training, 20 of which is specific to social work training
3 from a social worker.

4 MS. MAYES: Your Honor, I'm going to mark the CV of
5 Trina Elfering along with the social workers state
6 licensing certification and have that marked as Court's
7 exhibit 2.

8 (Whereupon, Court's Exhibit #2 marked for
9 identification.)

10 BY MS. MAYES:

11 Q. So as noted in your CV you first became employed at
12 the Department of Social Services as a child protective
13 services interviewer approximately what year?

14 A. 2005.

15 Q. And you continued in that role at Child Protective
16 Services with DSS for how long?

17 A. For two years, I believe, and then I became a
18 supervisor.

19 Q. As a supervisor are you still keeping up with
20 training and literature and things of that nature involving
21 forensic interviewing with children?

22 A. Yes.

23 Q. Do you still have the opportunity to observe
24 forensic interviews or refer children for forensic
25 interviews?

1 A. Yes.

2 Q. When did you leave the Department of Social
3 Services?

4 A. In 2013.

5 Q. During that time 2005 until 2013 did you have the
6 opportunity to actually interview children yourself?

7 A. Yes. I did.

8 Q. Out in the field?

9 A. Yes.

10 Q. Can you tell us whether or not this training
11 regarding forensic interviewing was something that you DSS
12 workers were familiar with?

13 A. I was able to while I worked at DSS to get the
14 actual forensic interviewer training from the ARC so I did
15 Finding Words which was forensic interviewing training and I
16 was able to use that when I interview children throughout my
17 career at DSS.

18 Q. You mentioned from the ARC. That would be the
19 Assessment and Resource Center as it was known then?

20 A. Yes.

21 Q. Located in Richland County?

22 A. Yes.

23 Q. They offer that specific training for forensic
24 interviewing?

25 A. Yes.

1 Q. And following that your testimony was that you
2 coordinated forensic interviews for the South Carolina Network
3 of Children's Advocacy Centers?

4 A. I set up the peer review project so that all of the
5 forensic interviewers in the state could get together
6 quarterly and peer review each others interviews.

7 Q. Did that require regular training and reviewing of
8 the literature as well as what is accepted among the field of
9 forensic interviewers as the prevailing knowledge in the
10 field?

11 A. Absolutely. As a matter of fact, for that job I was
12 retrained in forensic interviewing and Child First which was
13 the new protocol after Finding Words so I had that
14 opportunity.

15 Q. And that included training in educational
16 requirements?

17 A. Absolutely. Yes.

18 Q. Currently at the Dickerson Children's Advocacy
19 Center you coordinate forensic interviews?

20 A. I do. I supervise the forensic interviewers and
21 train our new forensic interviewers and do forensic interviews
22 myself.

23 Q. Is forensic interviewing a field that is open to
24 peer review?

25 A. Yes.

1 Q. How so?

2 A. We attend peer review in South Carolina quarterly
3 within our region and then we have a yearly peer review that's
4 state wide.

5 Q. You had the opportunity to interview other forensic
6 interviews by professionals in the field?

7 A. Yes.

8 Q. And accept critique?

9 A. Yes.

10 Q. Offer critique?

11 A. Yes.

12 Q. Make changes when necessary?

13 A. Yes.

14 Q. Can you tell us whether or not the forensic
15 interviewing techniques used by the Dickerson Children's
16 Center are consistent with what's accepted among professionals
17 in the field of forensic interviewing?

18 A. They are.

19 Q. Can you tell us whether or not that same general
20 protocol was followed in your interview with **Minor** **[REDACTED]** on or
21 about February of 2016?

22 A. It was.

23 Q. You have had a chance to watch that interview?

24 A. I have.

25 Q. Upon reviewing it can you tell us whether or not you

1 complied with the general format for questioning?

2 A. I did.

3 Q. What is that?

4 A. Non leading, non suggestive questioning,
5 establishing rapport first, then letting the child tell their
6 story as narratively as possible.

7 Q. Did Minor appear to be competent?

8 A. She did.

9 Q. Aware of the surroundings?

10 A. Yes.

11 Q. Was she able to communicate with you?

12 A. She was.

13 Q. Did she appear to understand the guidelines that
14 were presented to her during the course of your interview?

15 A. She did.

16 Q. And that would include the ability to make
17 corrections, if necessary?

18 A. Yes.

19 Q. Again, we're outside the presence of the jury but
20 did you discuss with her any responsibility regarding truth
21 and lie and things of that nature?

22 A. I did. I asked her to tell me the truth and she
23 agreed to.

24 Q. Finally, did it appear based upon the entire
25 communication with her that she was able to offer significant

1 details regarding the sexual assault?

2 A. Yes.

3 Q. Regarding the approximate time frame that it would
4 have occurred?

5 A. Yes.

6 Q. As well as a seven year old can do?

7 A. Yes.

8 Q. And the locations in which it would have occurred?

9 A. Yes.

10 Q. And the type of activity which occurred?

11 A. Yes.

12 MS. MAYES: Your Honor, that's all from the State
13 for purposes of this proffer pursuant to South Carolina
14 Code Section 17-23-175 section (A) and section (B).

15 THE COURT: Thank you, Solicitor. Mr. Mauldin, do
16 you have any in camera questions?

17 MR. MAULDIN: No, Your Honor. I have no questions
18 of this witness.

19 THE COURT: All right. Thank you. All right. As
20 to 17-23-175(A)(1) I find that the statement -- What is
21 the precise date? February --

22 MS. MAYES: 8th of 2016, Your Honor.

23 THE COURT: The statement of February 8th, 2016 was
24 given in response to questioning conducted by an
25 investigative interview of the child and that an audio

1 and visual recording of the statement is preserved on the
2 film videotape or other electronic means which the Court
3 has reviewed in full.

4 Three, that the child Minor [REDACTED] has testified at
5 this proceeding and has been subject to cross examination
6 on the elements of the offense and the making of out of
7 court statements. And I further find based on the
8 totality of circumstances surrounding the making of the
9 statement provides particularized guarantees of
10 trustworthiness.

11 I consider the following factors among others. That
12 the statements both from testimony of the witness and
13 from review by the Court of Minor [REDACTED] is not elicited by
14 leading questions. I further find that based on the
15 testimony of this witness and the review of court's
16 exhibit number 2 that the interviewer has been trained in
17 conducting investigative interviews of children.

18 I further find that both on the statement of this
19 witness and review by the Court that the statement did
20 represent a detailed account of the alleged offense. I
21 also find based on the testimony of this witness and
22 review by this Court that the statement has internal
23 coherence.

24 Based on those and other factors particularly
25 considering the child interviewees responses and not only

1 as to truth and telling the truth but the manner in which
2 the interviewer conducted that showing the child various
3 visual aids also, one, for example, showing the child, I
4 believe, a visual aid that the interviewer said this is a
5 picture of a dog eating a pizza and the child disagreed
6 with that because, obviously I couldn't see it, but it
7 was a picture of a dog eating ice cream. So there was
8 not only verbal responses by the interviewee but visual
9 aids in that regard showing that the child not only told
10 the truth but clearly had the cognitive ability to relate
11 an event in this regard and the statement would be
12 admissible under 17-23-170 based on the totality of the
13 circumstances in its redacted form. All right. Thank
14 you, madam witness. You may step down. All right.

15 Anything further before we bring in our jury, Solicitor?

16 MS. MAYES: Nothing from the State, Your Honor.

17 THE COURT: Mr. Mauldin?

18 MR. MAULDIN: Your Honor, I don't know how far we're
19 going to get. Obviously we can't predict the future.

20 THE COURT: I have heard that before. Oscar Wilde,
21 I believe, said it. I misquote him very often.

22 MR. MAULDIN: I think he misquoted himself, too.

23 THE COURT: I think he did. Well, you know, as he
24 said, you take a drink, the drink takes a drink and then
25 the drink takes you and I think that's what many of

1 quotes came from in the third phase of drinking. Anyway.
2 Go right ahead, Mr. Mauldin.

3 MR. MAULDIN: Yes, sir, Your Honor. I understand we
4 have talked about redaction. If we're going to get to
5 Investigator Rawl today, I don't know if we are or not,
6 but we have redacted the written statement as far as the
7 issues of showing pornography and that kind of details,
8 that subject matter and I also wanted to make sure that
9 he didn't testify about that as far as his verbal
10 communications with Mr. Ellis as well for the same
11 grounds.

12 MS. MAYES: Your Honor, we have made redactions to
13 the written statement. I know that he is still looking
14 over that. Where we see today taking us is we have
15 enough witnesses to take us past 4:00. Detective Rawl is
16 probably going to be our most lengthy witness. We are
17 doing really well at staying on tract so it may be a
18 situation maybe just to end early today and start with
19 him tomorrow and that way we can make sure that
20 everything is properly redacted including his incident
21 report so that there is no mistake and give you time to
22 look over that written statement. I believe our
23 witnesses should take us past 4:30.

24 MR. MAULDIN: That's fine, Your Honor. They're not
25 getting to him today but we have redacted the written.

1 It's just that there was an oral conversation as well. I
2 wanted to make sure the same subject material that I
3 objected to was going to be redacted and not be testified
4 to about in the verbal conversation.

5 THE COURT: All right. Thank you, Mr. Mauldin.
6 Anything further?

7 MS. MAYES: Your Honor, just for the Court's benefit
8 I'm going to pass up what we have made redactions of from
9 that forensic interview. This is not a true transcript.
10 It's just sort of notes taken from that forensic
11 interview but we have given Mr. Mauldin a copy so we'll
12 give the Court a copy as well just in case any issues
13 arise where additional corrections may need to be made
14 but I believe these are all consistent with our pretrial
15 or in camera discussions earlier today prior to the lunch
16 break (proffering.)

17 THE COURT: Thank you, Solicitor. Anything further?

18 MS. MAYES: Nothing further at this time.

19 (Whereupon, the jury entered the courtroom at 3:05
20 p.m.)

21 THE COURT: Welcome back, ladies and gentlemen. As
22 you know, we are continuing the trial of the case by the
23 presentation of evidence and testimony by the State in
24 its case in chief. Please continue to give the parties
25 your complete and undivided attention. Solicitor, you

1 may call your next witness.

2 MS. STRINGFELLOW: Your Honor, the State calls
3 Thomas Havird to the stand.

4 THE COURT: Yes, sir. Mr. Havird, come around and
5 be sworn for us please.

6 Thereupon,

7 THOMAS HAVIRD
8 after having been first duly sworn, testified as follows,

9 THE CLERK: Please have a seat. Once you're seated,
10 state your full name spelling your last please.

11 THE WITNESS: Thomas Havird, H-a-v-i-r-d.

12 DIRECT EXAMINATION

13 BY MS. STRINGFELLOW:

14 Q. Mr. Havird, what's your occupation?

15 A. I'm retired.

16 Q. Okay. Congratulations. How do you know Bryan
17 Ellis?

18 A. He was my son-in-law married to my daughter
19 Leslie.

20 Q. How do you know Minor [REDACTED]?

21 A. She's my granddaughter.

22 Q. I'm going to take you to Sunday, January 24th, 2017.
23 Can you walk me through your day. What did you do that
24 morning?

25 A. Usually on Sunday mornings I get up early enough to

1 have a Bible study, then breakfast, then go to church. I sing
2 in the choir so we have two services on Sunday. That's 9:00
3 and 11:00. I was there for both services singing in the
4 choir.

5 Q. What did you do after church?

6 A. After church we came home, usually we have dinner
7 and things were a little different that Sunday.

8 Q. Okay. Kind of explain what was different about that
9 Sunday?

10 A. Uhm, there was - my granddaughter was upset. My
11 wife was upset. My daughter Leslie had come over. Yes. She
12 had come over. She was upset. There was some discussion
13 about something that had been done and that was brought to our
14 attention and events proceeded from there.

15 Q. Okay. When these brings are brought to Leslie's
16 attention, what did she do?

17 A. She immediately called her husband to talk to him
18 about it.

19 Q. Okay. Where did she go?

20 A. She went back to her house.

21 Q. Okay. And where were you while she went back to her
22 house?

23 A. I stayed at home.

24 Q. Okay. What were you doing?

25 A. Basically waiting to see what was going to happen.

1 Q. So where were you waiting?

2 A. In the kitchen, living room area kind of going back
3 and forth looking out the window looking back toward their
4 house.

5 Q. Could you see Leslie's house?

6 A. Clearly.

7 Q. What did you see?

8 A. Well, in prior to the time before he got back home
9 basically kind of watching. When he arrived, he went in. We
10 waited to see what would happen.

11 Q. Okay. What happened next?

12 A. After a few minutes or so she came back out and
13 started walking back toward our house. She was very upset.
14 You could see she was crying. She got to within maybe 30, 40
15 feet of the house and just collapsed. I went out, picked her
16 up, brought her back into the house, asked her what happened.
17 I said you need to call the police.

18 Q. While Leslie was calling the police, what did you
19 do?

20 A. I had earlier called my brother and wanted to have
21 him go with me over to Bryan and Leslie's house. I wanted to
22 talk to him.

23 Q. Okay. Why did you call your brother to go
24 with you?

25 A. The reason I called my brother was more so for moral

1 support being what was conveyed to us about what possibly
2 happened. I did not want to go over there and be in the frame
3 of mind that was not a good frame of mind.

4 Q. When you got to Bryan's house, what did you do?

5 A. Bryan was outside at that time and we went to him
6 and I asked him did you molest my granddaughter and he said,
7 yes, he did.

8 Q. Okay. Did Bryan make any other statements?

9 A. He wasn't very talkative for the rest of the time.
10 No.

11 Q. What was his demeanor when he admitted that he
12 did?

13 A. He hung his head and kind of mumbled out yes.

14 Q. Did you say anything else to Bryan while you were
15 standing there?

16 A. While we were waiting for the officers to arrive,
17 uhm, Danny and myself, we basically asked him what he had done
18 which he did not really give an answer to. We spent most of
19 the time, this may sound strange, but we spent most of the
20 time talking to him, how much God does love him, does care for
21 him, but there are consequences for actions done and it's best
22 for him to just wait and let the events take place and to
23 carry on otherwise if you do something not wise, you could be
24 in more trouble.

25 Q. How long were the three of you outside before police

1 arrived?

2 A. I would say approximately 25, 30 minutes.

3 Q. Okay. What were y'all doing this entire time you
4 were waiting? Just talking?

5 A. Just making small talk. I wouldn't say small talk,
6 but we were talking to him trying to reassure him that it's
7 better to stay, wait for the officers to come, talk to them.
8 Again, we were letting him know -- I was sharing the gospel
9 with him. That's very important.

10 Q. What happened once police arrived?

11 A. When the officers arrived, they arrived at my house
12 at [REDACTED]. First they went into the house there, took statements
13 from my daughter Leslie, also my wife. They then, after that
14 time, came back to the [REDACTED] address and Bryan and myself and my
15 brother were outside. They then took our driver's license,
16 got personal information.

17 Q. What happened after that?

18 A. Once the information was gathered from us, the
19 officers let Danny and myself go back to our houses, our
20 homes.

21 Q. Since that day have you had any communications with
22 Bryan?

23 A. I have not communicated to him. He has mailed
24 letters to my house.

25 Q. I'm showing you, Mr. Havird, State's exhibit number

1 22 to you. Do you recognize this?

2 A. No. This is the first time I have seen it.

3 Q. Who is it addressed to?

4 A. It says, "Dear, Tommy."

5 Q. Could you read the first couple lines?

6 A. "Dear Tommy, it's Bryan. I want to thank you for
7 everything you've done. I know you said you did it for your
8 kids but it wasn't just that, was it? When I was arrested you
9 could have torn me apart. I would have let you. You didn't
10 hurt me because you're a man of God. I see that now."

11 Q. Okay. Could you go down to the third paragraph?

12 A. Yes, ma'am. "Tommy, I know I messed up. I made a
13 distorted and horrible decision. I did not intend for it
14 honestly. I'm not proud of what happened, of how I went about
15 being loved. **Minor** asked questions and I wanted her to care
16 about me some way."

17 Q. And could you go to the back of that letter and the
18 fourth paragraph down. Can you read that first sentence?

19 A. "I know what I did was bad but we are strong
20 together."

21 Q. Thank you, Mr. Havird. What was your relationship
22 like with your son-in-law Bryan?

23 A. At best it was a tolerable relationship. I know the
24 scripture tells us that we should try as much as possible
25 within us to live in peace, live in harmony with people around

1 us, with us, and I tried to do that as very much as I could.
2 There again, I was thinking more of my daughter and
3 grandchildren. I want to take care of them. I always have.

4 Q. Why was your relationship with Bryan just
5 tolerable?

6 A. His demeanor toward me at times was quite arrogant
7 and sometimes confrontational and I tried my best to be nice
8 toward him.

9 Q. What was his demeanor towards Leslie and the
10 grandchildren?

11 A. Toward the grandchildren he was controlling,
12 domineering. He wanted to have superiority over them. He
13 wasn't exactly what I would call a loving father nor was he a
14 very loving husband.

15 Q. What was his demeanor towards Leslie?

16 A. There again, as I stated, I don't believe he was a
17 very loving husband. His demeanor toward her sometimes was
18 overbearing.

19 MS. STRINGFELLOW: No further questions, Your
20 Honor.

21 THE COURT: Thank you. Thank you, Solicitor. Mr.
22 Mauldin.

23 CROSS EXAMINATION

24 BY MR. MAULDIN:

25 Q. Good afternoon, Mr. Havird.

1 A. Good afternoon.

2 Q. Now, when you and Danny went over to the trailer,
3 you were doing that so Bryan wouldn't leave or go anywhere; is
4 that right?

5 A. I wanted him to make sure he stayed there. I wasn't
6 trying to detain him necessarily for his - I wasn't trying to
7 detain him or stop him but I did want to make sure he didn't
8 do something stupid or run off. He would have been in worse
9 trouble then if he had than if he had stayed and talked.

10 Q. You expressed to him that you wanted him to stay
11 there?

12 A. Yes.

13 Q. Did he give you his car keys and said I'm not going
14 anywhere, something like that?

15 A. He handed his car keys to me.

16 Q. Okay. Then he said something about going to change
17 out of his clothes or something like that?

18 A. Yes. I believe so. Yes, sir.

19 Q. Danny was there. Did you mention anything about how
20 Danny was there to kind of protect him from you, the state of
21 mind that you were in?

22 A. The statement that I made to Bryan was that I had
23 Danny there with me. I wanted him to be with me not so much
24 to protect me from Bryan but to protect Bryan from me and
25 that's true because any grandfather or any father is going to

1 protect his children or grandchildren.

2 MR. MAULDIN: No further questions, Your Honor.

3 THE COURT: Redirect, Solicitor?

4 MS. STRINGFELLOW: Nothing further, Your Honor.

5 THE COURT: Thank you, Mr. Havird. You may step
6 down. All right. Solicitor, you may call your next
7 witness.

8 MS. MAYES: The State calls Trina Elfering.

9 THE COURT: All right. Yes, ma'am. If you will
10 come around to be sworn please.

11 Thereupon,

12 TRINA ELFERING

13 after having been first duly sworn, testified as follows,

14 THE CLERK: Please have a seat. Once you're seated,
15 state your full name spelling your last please.

16 THE WITNESS: My name is Trina Elfering,
17 E-l-f-e-r-i-n-g.

18 DIRECT EXAMINATION

19 BY MS. MAYES:

20 Q. Ms. Elfering, where are you employed?

21 A. At the Dickerson Children's Advocacy Center.

22 Q. All right. Now, how long have you been employed at
23 the Dickerson Children's Advocacy Center?

24 A. For about four years.

25 Q. Prior to that, where were you employed?

1 A. For the South Carolina Network of Children's
2 Advocacy Centers.

3 Q. Prior to that, where were you employed?

4 A. At the Department of Social Services.

5 Q. In what capacity?

6 A. I was at first a child protective services
7 investigator and then a child protective services
8 supervisor.

9 Q. Is that the child protective services division of
10 the Department of Social Services?

11 A. Correct.

12 Q. Was that here in Lexington County?

13 A. Yes.

14 Q. So you have been working with children approximately
15 how many years of your career?

16 A. Since 2005.

17 Q. Can you give us a little bit of information about
18 any type of certifications that you hold?

19 A. Yes. I am a licensed social worker so I have a
20 masters degree in social work and then I'm licensed by the
21 state to practice social work.

22 Q. All right. And when you mentioned the Dickerson
23 Center for Children, that's a child advocacy center?

24 A. That's correct.

25 Q. Are forensic interviews conducted there?

1 A. They are.

2 Q. Forensic or investigative interviews, they are
3 referred to your center by what type of agency?

4 A. By law enforcement or by the Department of Social
5 Services.

6 Q. All right. And in general what is the purpose of an
7 investigative interview? What's the objective?

8 A. The purpose is, a forensic interview or a forensic
9 interview is a neutral assessment of a report of child
10 abuse.

11 Q. Does that include child sexual abuse?

12 A. It does.

13 Q. Can you tell us whether or not while working in your
14 capacity as a forensic interviewer and the Dickerson Center
15 for Children you had the opportunity to take a referral for a
16 forensic interview with a child by the name of Minor [REDACTED]?

17 A. I did.

18 Q. Who made that referral to the Dickerson Child
19 Advocacy Center?

20 A. Detective Rawl of the Lexington County Sheriff's
21 Department.

22 Q. Sergeant Miles Rawl?

23 A. Yes.

24 Q. Can you tell us whether or not those referrals for
25 forensic interviews are common or uncommon in criminal

1 investigations of sexual abuse?

2 A. They are very common.

3 Q. What's the date in which your forensic interview was
4 conducted with Minor [REDACTED]?

5 A. February 8th, 2016.

6 Q. 2/8/2016. And Minor [REDACTED] was how old when this interview
7 was conducted?

8 A. Seven.

9 Q. Now, is anyone else allowed in the room with you and
10 the child during the course of this interview?

11 A. No.

12 Q. Why is that?

13 A. Uhm --

14 Q. Well, let me just rephrase that. Is anyone else
15 watching it?

16 A. Yes. The investigators whether it's law enforcement
17 or DSS are both can watch the interview from another room.

18 Q. In this particular case can you tell us whether or
19 not anyone from the Sheriff's Department was present to
20 observe?

21 A. Yes. Sergeant Rawl was present and another
22 detective.

23 Q. Okay. In terms of the actual interview it's just
24 you and the child?

25 A. Yes.

1 Q. Now, is it recorded or documented in any way?

2 A. It's recorded.

3 Q. And then I'm just going to ask for no additional
4 details, but are you trained in the general format in which
5 the interview takes place?

6 A. Yes.

7 Q. That's training you have received for approximately
8 what percentage of your career?

9 A. All of my career.

10 Q. Including the year 2016 when this interview was
11 conducted with Minor [REDACTED]?

12 A. Yes.

13 Q. Have you had a chance to review that recording or
14 that videotape?

15 A. I have.

16 Q. In DVD format prior to today?

17 A. Yes. I have.

18 Q. I'll show you an item and ask you whether or not you
19 recognize it. I'm going to show you this DVD and then ask you
20 whether or not you recognize it and how so?

21 A. Yes. This is a copy of the DVD recording of my
22 interview with Minor [REDACTED].

23 Q. Do you recognize your own signature and initials on
24 it in any way?

25 A. Yes. I do.

1 Q. The TE on the CD, correct?

2 A. Correct.

3 Q. Can you tell us whether or not this is a fair and
4 accurate representation of your interview with Minor [REDACTED] on
5 February 8th of 2016?

6 A. It is.

7 MS. MAYES: Your Honor, at this time the State would
8 offer this as evidence. I believe it's going to be 26.

9 THE COURT: Mr. Mauldin?

10 MR. MAULDIN: Subject to prior objections, Your
11 Honor.

12 THE COURT: Step up here just a minute, Ms.
13 Solicitor and Mr. Mauldin.

14 (Side bar off the record.)

15 THE COURT: State's 26 is in evidence. Thank you,
16 Mr. Mauldin and Solicitor.

17 (Whereupon, State's Exhibit #26 marked for
18 identification and received in evidence.)

19 BY MS. MAYES:

20 Q. Now, during the course of the interview, if at any
21 point in time you feel the need to follow up with an
22 investigator such as Sergeant Rawl who is present and
23 observing the interview, what's the appropriate measure for
24 you to do that?

25 A. What I usually do with children is ask them if

1 they'll draw and stay in the room and wait for me to come
2 back. I set them up so they have something to do and then I
3 leave the room.

4 Q. So if there are portions of this interview where you
5 leave the room, it's for the purpose of consulting with who?

6 A. With the investigators.

7 Q. At any point are you leaving to consult with the
8 parents or relatives of the child?

9 A. No.

10 Q. Are they present and observing the interview at any
11 time?

12 A. No. They are not allowed to.

13 Q. So it's outside their presence?

14 A. Correct.

15 MS. MAYES: Your Honor, as to State's exhibit 26,
16 the State would request permission to publish.

17 THE COURT: All right. Yes, ma'am. Ladies and
18 gentlemen, this is State's 26 in evidence subject to
19 defense previous objection. It is not the full and
20 complete video of the interview because under my duties
21 and responsibilities I have reviewed the entire video and
22 there are portions that are not relevant, they're not
23 admissible so I have ruled and ordered that those
24 portions be redacted. The fact that it's been redacted
25 has nothing whatsoever to do with the parties for

1 whatever wait and value you give to the evidence. That
2 will be solely for you to determine but those are
3 portions again that I have removed, I ordered removed
4 from the exhibit because they are not relevant to this
5 case. So the fact that this video has been redacted
6 should not be considered by you for any purpose
7 whatsoever during your deliberations. All right. Thank
8 you. Thank you very much. You may continue, Solicitor.
9 You may publish.

10 MS. MAYES: Yes, sir, Your Honor. We may need some
11 technical assistance where the sound is concerned.

12 THE COURT: All right. Yes, ma'am. Can you move
13 the board?

14 MS. MAYES: We will, Your Honor, and also the
15 podium.

16 THE COURT: About how long is it? 39, 40 minutes?

17 MS. MAYES: Correct, Your Honor.

18 THE COURT: Okay.

19 (Whereupon, States' Exhibit #26, a CD, played for
20 the jury.)

21 BY MS. MAYES:

22 Q. Ms. Elfering, during the course of that interview
23 you were making notes as to the various family members?

24 A. Yes.

25 Q. And then at the one point **Minor** began drawing a

1 particular object; is that correct?

2 A. Yes.

3 Q. And I believe the reference was to the vibrating
4 thing?

5 A. Correct.

6 Q. Do you as part of your responsibilities there at the
7 advocacy center maintain a copy of that sketch from the actual
8 interview?

9 A. Yes.

10 Q. Do you have that with you today?

11 A. I do.

12 Q. Can you tell us whether or not this is the original
13 sketch that was drawn during the interview we just watched?

14 A. It is.

15 MS. MAYES: This would be, I believe, 27 for
16 evidence Your Honor.

17 THE COURT: Any objections, Mr. Mauldin?

18 MR. MAULDIN: No, Your Honor.

19 THE COURT: State's exhibit 27 is in evidence
20 without objection.

21 (Whereupon, State's Exhibit #27 marked for
22 identification and received in evidence.)

23 MS. MAYES: Nothing further of this witness, Your
24 Honor.

25 THE COURT: Thank you. Thank you, Solicitor. Mr.

1 Mauldin.

2 MR. MAULDIN: I have no questions for this witness,
3 Your Honor.

4 THE COURT: Thank you. Thank you very much for
5 being a with us this afternoon. You may step down. All
6 right. Solicitor, Mr. Mauldin, if y'all would step up
7 here please.

8 (Side bar off the record.)

9 THE COURT: All right. Solicitor, call your next
10 witness.

11 MS. MAYES: The State calls Lieutenant Jesse
12 Laintz.

13 Thereupon,

14 JESSE LAINTZ

15 after having been first duly sworn, testified as follows,

16 THE CLERK: Please have a seat. Once you're seated,
17 state your full name spelling your last please.

18 THE WITNESS: Jesse Laintz, L-a-i-n-t-z.

19 DIRECT EXAMINATION

20 BY MS. MAYES:

21 Q. All right. Good afternoon, Lieutenant Laintz. Can
22 you give us some information about yourself? Where are you
23 employed and in what capacity?

24 A. I work with the Lexington County Sheriff's
25 Department and I recently was just promoted to lieutenant.

1 Was a sergeant over major crimes. We would do anything from
2 simple assaults all the way up to murders. I have been with
3 the department 11 years. Started as a CO.

4 Q. Let me take you back to the date of January 24th,
5 2016. What was your job description at the time and how did
6 that relate to any involvement you had at the scene that
7 day?

8 A. On January 24th, 2016, I was a sergeant in major
9 crimes. That day was over the weekend and we were on-call.
10 On-call is we answer any calls that the road responds to that
11 need a major crime investigator to look farther into.

12 Q. Does that include sexual assault reports regarding a
13 minor?

14 A. Yes, ma'am.

15 Q. And at that point in time can you tell us whether or
16 not there were patrol units who were already on scene?

17 A. There were patrol units on scene. I was called by
18 the master deputy who was already on shift at that time.

19 Q. Now, as sergeant in major crimes, did you also have
20 any detectives who were present at the scene to assist in this
21 investigation?

22 A. I contacted Detective Rawl or Sergeant Rawl now and
23 Sergeant Miller who was a detective at the time as well and
24 asked them to respond to the scene and they were on the
25 scene.

1 Q. All right. Kind of take us through what you recall
2 at the scene that day and who had various responsibilities.

3 A. When I actually responded to the scene, I was at the
4 Sheriff's Department waiting to see what help they needed, if
5 there were any tools or anything that we needed that were at
6 the office. I was in phone contact with Sergeant Miller and
7 Sergeant Rawl while they were there. When I arrived on scene,
8 I obtained a search warrant from a judge and had arrived on
9 scene. During that time I made contact with Sergeant Miller
10 and he kind of filled me in on what was going on and Sergeant
11 Rawl was in the car talking to a white male.

12 Q. So in looking at the various responsibilities in
13 terms of actually interviewing the suspect at the time Bryan
14 Ellis who had responsibility for that interview?

15 A. Sergeant Rawl did.

16 Q. You mentioned a search warrant. Had you been in
17 communication with Sergeant Rawl who was at the scene and
18 conveying to you any information he was getting from the
19 defendant?

20 A. Yes. I had.

21 Q. As well as from other parties at the scene?

22 A. Yes, ma'am.

23 Q. Ultimately who prepared that search warrant and
24 obtained the signature from the judge?

25 A. I did.

1 Q. Were you present for the execution of that search
2 warrant and if so, can you give us the address?

3 A. I was present for the execution of the search
4 warrant and the address is [REDACTED] [REDACTED] [REDACTED] in West
5 Columbia.

6 Q. What did you understand that address to be in
7 relation to the defendant Bryan Ellis?

8 A. The defendant's house where he resided.

9 Q. All right. And also in relation to the victim in
10 this case [REDACTED] Minor [REDACTED]?

11 A. Where she resided. Her house as well.

12 Q. All right. Looking here at State's exhibit 1, I'm
13 going to ask you to take a look at these photographs as well
14 and ask you whether or not you can identify them. If you
15 will, for purposes of right now just take a look at these for
16 us.

17 A. Yes, ma'am. I know all of these.

18 Q. Can you tell us whether or not those are consistent
19 with photographs taken during the course or execution of that
20 search warrant?

21 A. Yes, ma'am. All of these were taken during that
22 time.

23 Q. I'm going to show you some additional photographs?

24 A. Yes, ma'am.

25 Q. Also taken during the execution of that search

1 warrant?

2 A. Yes, ma'am.

3 Q. Looking here at State's exhibit 13, what area of the
4 home was that?

5 A. That is the master bedroom. When you come in
6 through the back door, it's a room to the left if you will.

7 Q. All right. Then also State's exhibit 12.

8 A. That is in the same bedroom. You are looking at --
9 When you first walk in the door, you're looking at the corner
10 to the right where the bed is. This is in the corner to the
11 left.

12 MS. MAYES: And there's another photograph here that
13 you just identified moments ago so I'm going to go ahead
14 and ask that it be marked as evidence as well.

15 MR. MAULDIN: No objection, Your Honor.

16 THE COURT: What number is that, Solicitor?

17 MS. MAYES: I believe that's going to be 28.

18 THE COURT: 28 is in evidence without objection.

19 (Whereupon, State's Exhibit #28 marked for
20 identification and received in evidence.)

21 BY MS. MAYES:

22 Q. Now, in the context of this photograph that we are
23 looking at here, 12, I'm going to show you 28. What, if
24 anything, significant was recovered from the scene that is
25 depicted in this photograph State's exhibit 28?

1 A. On the right you can see it's in the drawer that was
2 inside that dresser. I don't know the exact term for it.
3 It's a vibrating bean that's used for sexual arousal. That's
4 what's pictured right there on the right.

5 Q. And then also State's exhibit 16.

6 A. That's the same object just items moved off the top
7 of it so you can see the entire thing.

8 Q. All right. Was this item retrieved and maintained
9 as evidence in this case during the execution of that search
10 warrant?

11 A. Yes, ma'am. It was.

12 Q. That was based on relevant information obtained
13 there at the scene?

14 A. Yes, ma'am.

15 Q. And conveyed to you by Detective Rawl as well as
16 others?

17 A. Yes, ma'am.

18 MS. MAYES: That's all for Lieutenant Laintz at this
19 time, Your Honor.

20 THE COURT: Thank you, Solicitor. Mr. Mauldin.

21 MR. MAULDIN: I have no questions for this witness.

22 THE COURT: Thank you very much. Thank you very
23 much, lieutenant, for being with us this afternoon. All
24 right. Solicitor.

25 MS. MAYES: May we approach?

1 THE COURT: Yes, ma'am.

2 (Side bar off the record.)

3 THE COURT: All right. Thank you. Is that one more
4 witness? You think you have one more total? I'm not
5 holding you to that.

6 MS. MAYES: Your Honor, both would be lengthy.
7 Would take us past five.

8 THE COURT: All right. Ladies and gentlemen, I
9 think now would be a good time to take our evening
10 recess. Please remember my instructions to you. Do not
11 discuss the case with others. Do not read, watch or
12 listen to any news accounts about the case should there
13 be any. Do not do any independent research or any
14 research on the Internet. With that being said I would
15 ask you to be back promptly at 9:30 in the morning.
16 Promptly at 9:30 in the morning. Thank you very much.
17 Hope y'all have a pleasant evening.

18 (Whereupon, the jury was released for the evening at
19 4:15 p.m.)

20 THE COURT: Mr. Mauldin, have Mr. Ellis come around
21 please.

22 MR. MAULDIN: (Complies.)

23 THE COURT: Madam Clerk, swear Mr. Ellis in for me
24 please.

25 Thereupon,

1 BRYAN JEFFREY ELLIS

2 after having first duly affirmed, testified as follows,

3 THE COURT: Mr. Ellis, I'm going to advise you of
4 certain rights concerning your right to testify or not to
5 testify. It appears the State may rest its case in the
6 morning and I want to give you the opportunity to hear
7 the questions I must ask you and the advise I must give
8 you and to have the evening to ponder that and perhaps
9 discuss it with your attorney. I need to go over these
10 things with you. I do this with everyone who is on trial
11 and I require their responses to be under oath.

12 As I stated, we have reached the stage of the trial
13 where the State may rest and thereafter after motions and
14 such are heard you would have the opportunity, your side
15 to present evidence for the jury to consider. Do you
16 understand that?

17 MR. ELLIS: Yes, Your Honor.

18 THE COURT: In that regard, your side, the defense
19 may call witnesses to testify on your behalf and if you
20 choose to testify yourself, you may do so. Do you
21 understand?

22 MR. ELLIS: Yes, Your Honor.

23 THE COURT: No one can force you to testify. You
24 have an absolute right to remain silent and if you choose
25 not to testify, I will tell this jury that they cannot

1 hold your silence against you in any way. I will tell
2 them that they are not to even discuss that in the jury
3 room. Do you understand?

4 MR. ELLIS: Yes, Your Honor.

5 THE COURT: Does Mr. Ellis have a record that would
6 subject him to impeachment under rule 609?

7 MS. MAYES: No, sir.

8 THE COURT: All right. Thank you. The decision
9 about whether you testify or not is your decision to make
10 and yours alone. I expect that you have conferred with
11 your attorney and perhaps others whose opinions you value
12 on life's important decisions but the ultimate decision
13 about whether you testify or not is your call to make.
14 Your decision. Do you understand?

15 MR. ELLIS: Yes, Your Honor.

16 THE COURT: Has anyone exercised any undue influence
17 over you to get you to choose to testify or not to
18 testify?

19 MR. ELLIS: No, Your Honor.

20 THE COURT: Today are you under the influence of any
21 medication, drugs, alcohol or anything that negatively
22 affects your thinking ability?

23 MR. ELLIS: No, Your Honor.

24 THE COURT: Do you suffer from any physical, mental
25 or nervous problems that affect your thinking today?

1 MR. ELLIS: No, Your Honor.

2 THE COURT: Do you have any questions you would like
3 to ask me about your right to testify or not testify?

4 MR. ELLIS: Do I have to decide today?

5 THE COURT: Excuse me.

6 MR. ELLIS: Do I have to decide today, sir?

7 THE COURT: No, sir. That's why I'm advising you
8 tonight. The answer to that is no, you do not. I advise
9 you the evening before perhaps you would have to decide
10 and make your decision so that you can be thinking about
11 it the over night hours.

12 MR. ELLIS: Right.

13 THE COURT: Any other questions you would like to
14 ask me about your decision to testify or not to testify?

15 MR. ELLIS: No. Your Honor.

16 THE COURT: All right. Thank you. Thank you very
17 much. You may return to your seat. All right. Anything
18 further, Solicitor?

19 MS. MAYES: Nothing from the State, Your Honor.

20 THE COURT: About what time do you think you would
21 rest tomorrow so that the defense would have some notice?

22 MS. MAYES: I would approximate 11.

23 THE COURT: All right. Thank you. Thank you very
24 much. So if you have any witnesses or testimony to
25 present, Mr. Mauldin, would you please have those

1 witnesses available by 11:00?

2 MR. MAULDIN: I understand, Your Honor.

3 THE COURT: All right. Anything further from the
4 defense for the day?

5 MR. MAULDIN: No, sir.

6 THE COURT: All right. Thank you all. Thank you
7 all very much. Court will be in recess until 9:30 in the
8 morning.

9 (Whereupon, court was adjourned for the day at 4:30
10 p.m.)

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1 JULY 12, 2017

2 BAILIFF: All rise. Court is now in session. The
3 Honorable Knox McMahon presiding.

4 THE COURT: All right. Thank you. Good morning.
5 Thank you very much. Please be seated. Anything before
6 we bring in our jury from the State?

7 MS. MAYES: Judge, I just want to address the fact
8 that the redacted statement that we will be using from
9 Mr. Ellis is going to be very apparent to the jury that
10 it is a copy and that there are missing portions. Could
11 we have your instruction on those redactions prior to
12 publishing that?

13 THE COURT: Yes, ma'am. I'll be glad to do that.

14 MS. MAYES: Okay.

15 THE COURT: Anything from the defense, Mr. Mauldin?

16 MR. MAULDIN: No, Your Honor.

17 THE COURT: All right.

18 (Whereupon, the jury entered the courtroom at 9:37
19 a.m.)

20 THE COURT: Good morning. I hope you all had a
21 pleasant evening. Welcome back. We're continuing the
22 trial of the case by the presentation of evidence and
23 testimony by to the State in its case in chief. Please
24 continue to give the parties your complete and undivided
25 attention. Solicitor, you may call your next witness.

1 MS. MAYES: The State calls Sergeant Miles Rawl.

2 THE COURT: All right. Sergeant, if you would come
3 around and join us please.

4 Thereupon,

5 MILES RAWL

6 after having been first duly sworn, testified as follows,

7 THE CLERK: Please have a seat. Once you're seated,
8 state your full name spelling your last please.

9 THE WITNESS: Miles Rawl, R-a-w-l.

10 DIRECT EXAMINATION

11 BY MS. MAYES:

12 Q. Sergeant Rawl, can you give us some information
13 about yourself? Where are you currently employed?

14 A. Lexington County Sheriff's Department.

15 Q. In what capacity?

16 A. Sergeant in major crimes.

17 Q. How long have you worked in law enforcement?

18 A. Approximately 13 years.

19 Q. Tell us a little bit about the major crimes unit at
20 the Sheriff's Department and what kind of work is done there.

21 A. As a sergeant in major crimes I'm responsible for
22 supervising a team of detectives and we respond and
23 investigate crimes against person, specifically violent crimes
24 against person ranging from assaults to homicides.

25 Q. Can you give us some information regarding your

1 background, training and experience that led you to become a
2 detective and specifically in the major crimes unit.

3 A. Well, a lot of it is on the job training. Being in
4 law enforcement you learn specific techniques, how to talk
5 with people, basic information. I have also attended a
6 interview and interrogation class called the Read Technician.
7 Prior to -- You know, a lot of it is just on the job
8 training.

9 Q. All right. Now, does your training within major
10 crimes include sexual assault investigations?

11 A. Yes, ma'am. It does.

12 Q. Tell us a little bit about how you became involved
13 in the investigation of this case regarding a suspect by the
14 name of Bryan Ellis on the afternoon of January 24th, 2016.

15 A. Well, at that time I was a major crimes detective
16 and I was contacted by Sergeant Laintz at approximately 4:30
17 p.m. on a Sunday afternoon to respond out to [REDACTED] in
18 reference to the sexual assault of a seven year old.

19 Q. Do you have with you a copy of the CAD sheet?

20 A. Yes, ma'am. I do.

21 Q. All right. When I say CAD sheet, give us a brief
22 description of what that entails.

23 A. The CAD sheet is basically the call information
24 obtained by the 911 operator at the time of the initial call.
25 It keeps up with our times as well as the actual call card and

1 what was placed into the 911 call center.

2 Q. So as well as the initial 911 call there is a record
3 of how many law enforcement officers respond at the scene
4 including detectives?

5 A. That's correct.

6 Q. Would it have also the time of your arrival there on
7 the scene?

8 A. Yes, ma'am.

9 Q. All right. What does it show as your time arriving
10 there at the scene?

11 MR. MAULDIN: Your Honor, I don't think foundation
12 has been laid by the document by the record custodian or
13 anything like that. I object to the use of the document.

14 THE COURT: All right. Prepare a subpoena for Ms.
15 Rodgers and have Ms. Rodgers come back over please and we
16 can recall Sergeant Rawl on that one.

17 MS. MAYES: Yes, sir, Your Honor.

18 THE COURT: Perhaps you can just call Ms. Rodgers at
19 a break. I'm sure she will respond to that.

20 MS. MAYES: Yes, sir, Your Honor.

21 THE COURT: Thank you.

22 BY MS. MAYES:

23 Q. Sergeant Rawl, can you tell us whether or not you
24 would have arrived before or after the first unit there at
25 4:17?

1 A. After.

2 Q. Okay. And then also do you have with you in your
3 incident report or your notes anything reflecting
4 approximately when you would have arrived at the scene?

5 A. 17:15 hours. 5:15 p.m.

6 Q. Okay. That's based on your own documentation?

7 A. Yes, ma'am.

8 Q. All right. Now, take us through your
9 responsibilities in this investigation once you arrived there
10 at the scene.

11 A. Upon initial arrival as detective first and foremost
12 our responsibility is to gather basic information as to why we
13 are needed at the scene. Upon initial response I met with
14 road officers at [REDACTED] [REDACTED] [REDACTED] in the West Columbia area
15 of Lexington County which advised me that the suspect Bryan
16 Ellis was actually behind that residence at his residence at
17 [REDACTED] [REDACTED] [REDACTED]. The seven year old Minor and her mother
18 and her grandparents were located at [REDACTED] [REDACTED] [REDACTED]

19 Q. What happened next?

20 A. At that point in time after gathering initial
21 information it was determined that there was possibly a sex
22 toy used during the commission of the sexual assault and it
23 was located in the adjoining residence of Leslie and Bryan and
24 I contacted Sergeant Laintz to obtain a search warrant.

25 Q. When you say you contacted Sergeant Laintz, how

1 would you have gone about making that initial contact with
2 him?

3 A. I called him by cell phone and advised him of my
4 findings thus far and stated that I did need a search warrant
5 in reference to this.

6 Q. All right. And what happened next?

7 A. Detective Miller also responded out with me and he
8 continued to gather statements and information from Leslie,
9 Barbara Havird and Tommy Havird regarding this incident and
10 then I relocated to [REDACTED] where a deputy, Deputy Tom Smith was
11 actually standing by with defendant Bryan Ellis.

12 Q. Let me kind of clarify some of these events. We're
13 looking here at an aerial view that separates the two homes.

14 A. Yes, ma'am.

15 Q. So if I understand correctly, Detective Miler is at
16 one residence interviewing family members?

17 A. That's correct.

18 Q. And where was the suspect at the time Bryan Ellis
19 located?

20 A. He was located behind [REDACTED]. Basically their house is
21 behind each other. One house is approximately I would say 20
22 to 50 yards behind and that address is actually [REDACTED]
23 [REDACTED].

24 Q. So he's at the other residence. You mentioned
25 another officer Tom Smith.

1 A. That's correct.

2 Q. What was Tom Smith's role at this point?

3 A. Just to standby with the defendant Bryan Ellis.

4 Q. So he was in the company of a law enforcement
5 officer up until you made contact with him?

6 A. That's correct.

7 Q. Now, you mentioned that various information had been
8 obtained there by family members by Detective Miller?

9 A. Yes, ma'am.

10 Q. You can't say anything that would be hearsay but was
11 that information shared with you?

12 A. It was.

13 Q. Now, what efforts did you make to actually have
14 direct contact with the suspect Bryan Ellis?

15 A. Well, basically like I said, Detective Miller stood
16 by with the family at [REDACTED] and I drove my county vehicle to [REDACTED]
17 and walked in the front residence where a deputy was already
18 on scene and I initially made contact with Bryan and
19 detective, correction, Deputy Smith.

20 Q. Now, are suspects required to talk with you?

21 A. They are not.

22 Q. What can you tell us about any efforts you made to
23 partake in an interview with Bryan Ellis?

24 MR. MAULDIN: Your Honor, at this time I would
25 object based on my prior motions.

1 THE COURT: I couldn't quite hear you.

2 MR. MAULDIN: Your Honor, at this time I would
3 object based on my prior motions, Your Honor.

4 THE COURT: All right. Based on the prior motions
5 your objection is noted. I reaffirm my previous in
6 camera rulings. You may proceed, Solicitor.

7 BY MS. MAYES:

8 Q. Are suspects required to talk with you?

9 A. No, ma'am.

10 Q. What efforts, if any, did you make to partake in an
11 interview with Bryan Ellis?

12 A. Upon the initial arrival at [REDACTED] with Deputy Smith
13 and the defendant Bryan Ellis I walked in and advised that I
14 needed a search warrant for his residence and I would need
15 them to exit the residence so we could secure it at that time.
16 Bryan basically stated that he did not - he stated that he was
17 willing to give me consent to get whatever I needed and he was
18 willing to cooperate with this investigation. At that point
19 in time I said okay. Are you willing to talk to me? And he
20 stated he was.

21 Q. All right. So let me back up a little bit. You
22 have communicated with Sergeant Laintz about needing a search
23 warrant. At this point you're aware that a sex toy may be
24 involved?

25 A. Correct.

1 Q. And a search warrant would be needed. Now, can you
2 tell us whether or not it's normal for lay persons, citizens
3 to remain in a residence when a search warrant has been
4 executed?

5 A. Absolutely not.

6 Q. What's the protocol there?

7 A. Protocol is we secure the residence so we can
8 maintain the integrity of the evidence and I want to correct
9 myself. We secure the residence to maintain the integrity of
10 the evidence.

11 Q. All right. And so any occupants of a residence
12 where a search warrant is anticipated what's the normal
13 procedure there?

14 A. I have everyone exit the residence and have a deputy
15 standby at the front door to ensure that no one is allowed
16 past that point and inside the residence.

17 Q. All right. And in this particular case was that
18 protocol followed?

19 A. It was.

20 Q. All right. So after that initial communication with
21 Mr. Ellis, can you tell us whether or not he chose to speak
22 with you?

23 A. He did.

24 Q. Where did that occur?

25 A. It was actually in my county vehicle which was

1 located in the front yard of [REDACTED] [REDACTED] [REDACTED].

2 Q. Now, was he in handcuffs at this point?

3 A. He was not.

4 Q. Was he under arrest at this point?

5 A. He was detained, not free to leave but he was not in
6 handcuffs and restrained by handcuffs.

7 Q. All right. At any point in time was he coerced by
8 you in order to participate in an interview?

9 A. No, ma'am. He was willing to talk.

10 Q. Had he indicated that to you verbally?

11 A. He did.

12 Q. I think you had mentioned previously regarding the
13 search of the residence what, if anything, did he convey to
14 you regarding consent to search that residence?

15 A. He stated that we were willing to search without a
16 search warrant and he was willing to cooperate with this
17 investigation.

18 Q. Did you proceed with the protocol of getting the
19 search warrant anyway?

20 A. I did.

21 Q. Did that indication to you that he was willing to
22 give consent to search the residence what did that indicate to
23 you?

24 A. That he was willing to cooperate with this
25 investigation and at that point in time, you know, based on

1 his own admissions to family members and he was willing to
2 talk to me.

3 Q. At this point in time had you been made aware that
4 he had made certain admissions to family members prior to your
5 arrival at the scene?

6 A. He did.

7 MR. MAULDIN: Objection. Hearsay, Your Honor.

8 MS. MAYES: That would be statement against interest
9 by the defendant, Your Honor.

10 THE COURT: Overruled.

11 BY MS. MAYES:

12 Q. So that is information you had already obtained as
13 part of your fact finding there at the scene?

14 A. That's correct.

15 Q. Now, did he enter your vehicle freely?

16 A. He did.

17 Q. And how did you go about advising him of his rights,
18 what we call the Miranda Rights?

19 A. Initially after gathering some basic information on
20 Mr. Ellis, I pulled out my Advisement of Rights card which I
21 carry every single day while on duty at Lexington County
22 Sheriff's Department and I read them out loud verbally to
23 him.

24 Q. Do you have a copy of your Miranda Rights card
25 with you today?

1 A. I do.

2 Q. I'm going to ask you to pull that out and slowly
3 read into the record what rights you advised Mr. Ellis of on
4 the afternoon of January 24th, 2016.

5 A. Again, after gathering some basic information from
6 Mr. Ellis, I advised him of his Miranda Warnings. They state,
7 you have the right to remain silent. Anything you say can and
8 will be used against you in the court of law. You have the
9 right to talk to an attorney and have him or her present
10 with you while you're being questioned. If you cannot afford
11 to hire an attorney, one will be appointed to represent you
12 before any questions, if you want. You can decide at any time
13 to exercise these rights and not answer any questions or make
14 statements. Do you understand these rights as I have
15 explained them to you? Having these rights in mind do you
16 still wish to talk with me now?

17 Q. What did he elect to do?

18 A. That he wanted to talk to me.

19 Q. Based upon your observations did he appear to freely
20 and voluntarily waive those rights and continue the interview
21 with you?

22 A. He did.

23 THE COURT: Step up here a minute please, Solicitor
24 and Mr. Mauldin.

25 (Side bar off the record.)

1 THE COURT: All right. Thank you, Solicitor. Thank
2 you, Mr. Mauldin.

3 BY MS. MAYES:

4 Q. Do your notes reflect what time you had the initial
5 contact with Mr. Ellis in your vehicle?

6 A. Yes, ma'am. 18:25 hours.

7 Q. All right. That would have been initially when you
8 would have made contact with him and entered the vehicle?

9 A. That's correct.

10 Q. And that's military time. Can you kind of break
11 that down for us in civilian time?

12 A. 6:25 p.m.

13 Q. All right. Having advised him verbally of those
14 rights from your card, did he appear to understand his
15 rights?

16 A. He did.

17 Q. Did you coerce him in any way in order to
18 participate in an interview?

19 A. I did not.

20 Q. Did you promise him anything in exchange for an
21 interview?

22 A. No, ma'am.

23 Q. Based upon your observations did he appear to freely
24 and voluntarily waive his rights and continue the conversation
25 with you?

1 A. He did.

2 Q. And upon doing so can you tell us whether or not he
3 made any admissions to you verbally as to the sexual assault
4 of Minor [REDACTED]?

5 A. He did.

6 Q. Did he indicate to you that that was one time or
7 more than one time?

8 A. Two to three times.

9 Q. All right. And having obtained that information
10 during the course of this verbal interview with Mr. Ellis, did
11 he at any point ask for an attorney?

12 A. He did not.

13 Q. Did he at any point ask for the questioning to
14 stop?

15 A. He did not.

16 Q. And ultimately can you tell us whether or not he
17 agreed to provide information in the form of a written
18 statement?

19 A. He did.

20 Q. And how did you go about the process of obtaining a
21 written statement from Mr. Ellis?

22 A. Well, after speaking to Mr. Ellis in my vehicle, I
23 asked him if he was willing to write this information down at
24 which time I pulled out a Lexington County Sheriff's
25 Department statement form which in addition has his Miranda

1 Warnings on it as well.

2 Q. All right. And let me stop you right there. During
3 the course of him having made verbal admissions to you, did
4 you relay that to anyone else involved in the case?

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

6 Q. All right. Who was that person?

7 A. Sergeant Laintz who was working on the search
8 warrant for the residence.

9 Q. So he also became aware of the fact that Mr. Ellis
10 had at least made a verbal admission thus far in the
11 investigation?

12 A. Yes, ma'am.

13 Q. And take us through the process of the written
14 statement that Mr. Ellis provided in this case.

15 A. Okay. Like I stated, on the Lexington County
16 Sheriff's Department statement form, the suspect form actually
17 has an Advisement of Rights in the middle of the page. We
18 would assist the defendant in gathering the basic information.
19 Sometimes we have to help them like place, time started, stuff
20 like that, then we move to the middle of the page and I go
21 ahead and read the rights to them out loud as well. I read
22 these rights by circling and I notate by circling each of
23 these rights to indicate that I did read him his rights and I
24 initial beside the first one to show that that is accurate
25 that I read them out loud.

1 Q. Now, for purposes of court this week did you bring
2 the original written statement that was obtained from Mr.
3 Ellis?

4 A. I did.

5 Q. I'm showing you this document currently marked as
6 Court's exhibit 1.

7 A. Yes, ma'am.

8 Q. Is that the original?

9 A. It is.

10 Q. I'm going to show you another document and ask you
11 whether or not you recognize this document?

12 A. I do.

13 Q. All right. Would this document be a fair and
14 accurate representation of the original that's marked as
15 Court's exhibit 1 other than the necessary redactions made by
16 the Court?

17 A. Yes, ma'am.

18 Q. So with this being a fair and accurate
19 representation, let me ask you whether or not it contains your
20 signature at any location?

21 A. It does. The bottom of each page on the left
22 side.

23 Q. All right. And what is the date of your
24 signature?

25 A. January 24th, 2016.

1 Q. Does it also contain the signature of the defendant
2 Bryan Ellis?

3 A. It does on the right side of the page.

4 MS. MAYES: All right. At this time, Your Honor, we
5 would mark this document as State's exhibit 29 for
6 evidence being a copy of the written statement.

7 MR. MAULDIN: Subject to my prior objections, Your
8 Honor.

9 THE COURT: All right. Thank you. State's 29 is in
10 evidence subject to previous objections. And again,
11 ladies and gentlemen, you have heard this instruction on
12 a previous document that was introduced, I think State's
13 26 redactions in the videotape. The State has introduced
14 State's exhibit number 29. A copy instead of the
15 original document which is Court's exhibit number 1 has
16 been introduced because I have determined that portions
17 of Court's exhibit number 1 is not admissible, therefore,
18 I have ordered that to be redacted or removed from
19 Court's exhibit number 1, therefore, it is now State's
20 exhibit number 29. You will see some markings on
21 there for items redacted or removed and the like. The
22 fact that I have redacted portions of State's 29 or only
23 allowed State's 29 into evidence should not be considered
24 by you for any purpose whatsoever during your
25 deliberations. I have ruled that it is not proper that

1 those portions which have been redacted would be a part
2 of the record in this case. Thank you. Thank you very
3 much. You may continue, Solicitor.

4 MS. MAYES: Yes, sir, Your Honor. This would be
5 State's 29 for evidence and this is a copy for the Court.

6 THE COURT: That is subject to previous objections.
7 Thank you, Solicitor.

8 (Whereupon, State's Exhibit #29 marked for
9 identification and received in evidence.)

10 MS. MAYES: Permission to publish, Your Honor?

11 THE COURT: Yes, ma'am. You may publish.

12 BY MS. MAYES:

13 Q. So we are looking here, Sergeant Rawl, at the top of
14 this statement form indicating it's a Lexington County
15 Sheriff's Department statement form. What does this time over
16 here to the right indicate?

17 A. The time the written statement started.

18 Q. Which was?

19 A. 19:08.

20 Q. Which is?

21 A. 7:08 p.m.

22 Q. All right. Now, who actually fills out this
23 information here such as an alternate contact which is listed
24 here as Leslie Ellis, a phone number being provided, et
25 cetera?

1 A. The defendant Bryan Ellis.

2 Q. Whose handwriting is this?

3 A. That is my handwriting.

4 Q. All right. And then we are looking here at the
5 place that this was obtained and what is that location?

6 A. [REDACTED] [REDACTED] [REDACTED] which is also my handwriting.

7 Q. Thank you. And I think you had indicated before
8 that you are in your county issued vehicle at this point?

9 A. That's correct.

10 Q. Can you slowly take us through the beginning of this
11 statement, I the undersigned?

12 A. "I the undersigned Bryan Jeffrey Ellis am 29 years
13 of age. My date and place of birth being the [REDACTED] [REDACTED] [REDACTED]
14 [REDACTED] [REDACTED] My present address is at [REDACTED] [REDACTED] [REDACTED],
15 West Columbia, South Carolina 29170. I completed 12 grades in
16 school. I can read and write."

17 Q. All right. Then whose initials are indicated
18 here?

19 A. Bryan Ellis.

20 Q. Please continue with the before answering any
21 questions.

22 A. "Before answering any questions or making any
23 statements to Detective Rawl", which is my handwriting, "a
24 person who identified him or herself as a LCSD deputy
25 sheriff", which is also my handwriting, "duly warned and

1 advised me that."

2 Q. All right. Now, you had indicated previously that
3 at the outset of the interview he was advised of his Miranda
4 Rights verbally?

5 A. That's correct.

6 Q. Here we actually have the Miranda Rights in written
7 form?

8 A. That's correct.

9 Q. Is he actually allowed to review and read these
10 rights?

11 A. Absolutely.

12 Q. How do you go about this process?

13 A. Again, when I have the form in front of me, I read
14 them out loud and circle each of them and initial beside the
15 first one. At that point in time I hand the statement form to
16 the defendant and ask them to read it to themselves and to
17 initial beside each of these making sure they understand these
18 rights. It's clarified in the last, before we start the
19 written statement, I have read this statement of my rights and
20 I understand what my rights are. I make the following
21 statement which as you can see he initialed in between those
22 lines.

23 Q. All right. So let's go back to the top beginning
24 with the first right. If you could tell us whose initials are
25 located here?

1 A. Bryan Ellis.

2 Q. All right. What about here to the left?

3 A. Those are mine.

4 Q. All right. And what is the first right that he was
5 advised of?

6 A. I have the right to remain silent.

7 Q. Then whose initials are located here to the right?

8 A. Bryan Ellis.

9 Q. Who is actually writing those initials?

10 A. Bryan Ellis.

11 Q. And next?

12 A. Anything I say can and will be used against me in a
13 court of law. Initialed by Bryan Ellis. I have the right to
14 talk to a lawyer for advice before asked any questions and to
15 have him or her present with me during questioning. Initialed
16 by Bryan Ellis. If I have no money for lawyer fees, the court
17 will appoint one to represent me without cost to me, if I
18 wish. Initialed by Bryan Ellis. If I decide to answer
19 questions now without a lawyer present, I will still have the
20 right to stop answering questions at any time. I also have
21 the right to stop answering questions at any time until I talk
22 with a lawyer. Initialed by Bryan Ellis. I have read this
23 statement of my rights and I understand what my rights are.
24 Initialed by Bryan Ellis. I make the following statement.

25 Q. All right. Looking here at State's 29 where it says

1 I make the following statement, how do you go about allowing,
2 or what's the procedure for a defendant who wants to write or
3 elects to write their own statement?

4 A. Basically I hand them this form that we have already
5 completed with the Advisement of Rights in the top portion
6 with a clipboard and a pen and I have them write and they are
7 willing to write whatever they would like.

8 Q. All right. And in this particular case whose
9 handwriting is located here along each line of this written
10 statement?

11 A. Bryan Ellis.

12 Q. Can you tell us where he was sitting or located when
13 he wrote this portion of the statement?

14 A. Yes, ma'am. I was in the driver's side of my
15 unmarked patrol vehicle and Bryan Ellis was in the passenger
16 side.

17 Q. Let's start here with the beginning where in his own
18 handwriting it says "I Bryan Jeffrey Ellis."

19 A. "I Bryan Jeffrey Ellis have changed my family by
20 completing what should never have been done. It started mid
21 to late November 2015. I had my daughter perform a hand job
22 without ejaculation. Later in December early January she had
23 done the act again with flavored lubricant and an external
24 vibrator in which she used on herself after seeing me use it
25 on myself. I had asked if she would put her mouth on my penis

1 and she did. I ejaculated on the floor and some in her mouth.
2 Last was again using her mouth this past Thursday. I was
3 going to put my mouth on her vagina but I became nauseated and
4 did not proceed in doing so. I ejaculated in her mouth and on
5 the floor."

6 Q. Whose initials are located here?

7 A. Bryan Ellis.

8 Q. All right. Now, there are corrections here where
9 the word hand job is located and then another correction here
10 with the word December. Who made those corrections?

11 A. Bryan Ellis.

12 Q. And can you tell us whether or not that was at his
13 own volition?

14 A. Actually he was directed by me. Once we have
15 someone complete a statement form and they scratch through
16 their own information and correct, and corrections are made,
17 we have them initial to indicate that they made the change and
18 not law enforcement.

19 Q. All right. What do you mean by that?

20 A. To show that I did not scratch through this. That
21 Bryan Ellis scratched through this.

22 Q. All right. So what are we looking at here?

23 A. Bryan Ellis' initials.

24 Q. Then what are we looking at here?

25 A. Bryan Ellis' initials.

1 Q. Indicating that he made these corrections?

2 A. That's correct.

3 Q. Now, the information that's contained thus far in
4 this confession, very detailed information such as ejaculating
5 on the floor --

6 A. That's correct.

7 Q. -- and other portions indicating that he ejaculated
8 in the child's mouth --

9 A. That's correct.

10 Q. -- is that information that you had even been made
11 aware of at that point in this investigation?

12 A. No, ma'am.

13 Q. This was information that you were hearing for the
14 first time?

15 A. Well, verbally as well as on the written statement
16 here.

17 Q. But hearing for the first time from who?

18 A. Bryan Ellis.

19 Q. Now, what's the next step in this process even after
20 someone has given you a detailed confession such as this with
21 very specific details of a sexual assault?

22 A. Well, being an investigator it's our duty to try to
23 elaborate as much as we can from what information we are
24 initially given so after doing so we do what they call a
25 question and answer page to try to get as much information as

1 we can from the defendant who is willing to confess to this
2 incident.

3 Q. All right. And is that normal protocol whenever
4 you're investigating or conducting an interview with a
5 suspect?

6 A. Mostly on every statement that I perform is done by
7 question and answer again.

8 Q. Including homicide investigations?

9 A. That's correct.

10 Q. I'm going to take you now to the next page which
11 would be at the top of page 2 of 7. Now, you mentioned the
12 question and answer scenario which is routine with your
13 interrogations. Is that also routine with other investigators
14 at the Sheriff's department?

15 A. Yes, ma'am.

16 Q. How do you note who is posing the questions and then
17 who is providing the answers?

18 A. Before beginning the question/answer portion on the
19 statement, I always do a Q and put my name and then I do an A
20 and then put the defendant's name. In this case me being the
21 person who is asking the questions and Bryan Ellis being the
22 person who answers the questions.

23 Q. All right. So each one of these that have a Q, who
24 is actually writing those questions to be answered?

25 A. I am.

1 Q. And then each one of these that has an A, who is
2 providing that information?

3 A. Bryan Ellis.

4 Q. Whose handwriting is each one of these that has an A
5 for answer, whose handwriting is each one of those in?

6 A. The A is actually my handwriting. Beside the A is
7 Bryan Ellis' handwriting.

8 Q. After the A: any response would be the handwriting
9 of the defendant?

10 A. That's correct.

11 Q. What do the initials by each one of these answers
12 indicate?

13 A. That he answered those questions and it was his
14 handwriting.

15 Q. So let's start here with your first question. If
16 you could give us the question and the response.

17 A. My question is, what is your daughter's name and how
18 old is she? Bryan Ellis' answer is, Minor [REDACTED],
19 stepdaughter, seven years.

20 Q. Next.

21 A. Continue. My next question. Since November 2015
22 how many times has this type of activity occurred between you
23 and Minor [REDACTED]? Bryan Ellis' answer. Five to six times. My next
24 question. Where did these sexual activities happen? His
25 answer. [REDACTED], living room and master bedroom.

1 My next question. How did these activities start between you
2 and [Minor]? Bryan's answer. [Minor] had brushed against my pants
3 and I asked her to continue. After a short period of time I
4 took my pants off -- I believe it's of. -- and she continued
5 with her hand.

6 Q. So if there is a spelling error such as this, is
7 that common or uncommon when you have a civilian providing a
8 statement?

9 A. Not only the civilian, me as well.

10 Q. So again that last sentence is your understanding of
11 what he's conveying?

12 A. Yes. He took his pants off.

13 Q. She continued with her hand?

14 A. That's correct.

15 Q. Now, this type of detail, is this information that
16 you had even been made aware of at this stage of the
17 investigation?

18 A. No, ma'am.

19 Q. Had you received any information until your
20 interview with him that manual stimulation of him was
21 involved?

22 A. No, ma'am.

23 Q. Next.

24 A. Next question. Have you ever touched [Minor's] vagina?
25 Bryan's answer. Yes. Next question. How many times and what

1 did you do? Bryan's answer. Twice. First was rubbing
2 outside with fingers. Second was trying to put my mouth to
3 her vagina but I - but I then became nauseated and stopped.

4 Q. All right. And again, let me ask you, at this stage
5 in the investigation had you even been made aware that
6 touching of a child's vagina was involved?

7 A. No, ma'am.

8 Q. Please continue.

9 A. Next question. Did you show **Minor** how to use the
10 vibrator on her vagina? Bryan's answer. No. She saw me
11 using it on my testicles and mimicked. Next question. How
12 did she know how to put it on her vagina? Bryan's answer.
13 She has had a tendency to self stimulate herself from what my
14 wife stated.

15 Q. All right. I'll take you to page 3. And throughout
16 this process if you have additional questions or feel that as
17 part of your investigation you need more information, what's
18 your approach?

19 A. To ask another question on the form.

20 Q. And at any point during this process had he
21 requested for the interview to stop?

22 A. No, ma'am.

23 Q. Had he requested an attorney?

24 A. He did not.

25 Q. Did you threaten or coerce him at any point during

1 the course of this interview?

2 A. I did not.

3 Q. Did you promise him anything in exchange for the
4 interview?

5 A. No, ma'am.

6 Q. Let's look here at the top of page 3. I believe
7 that's a continuation of his previous answer.

8 A. That's correct. I'll just start with the answer
9 again and continue on into page 3.

10 She has had a tendency to self stimulate herself
11 from what my wife stated. That is the only way I could
12 figure. My wife has stated she has masturbated many times and
13 could smell it on her fingers. My next question. How did you
14 and Minor use the cherry flavored lubricant? Bryan's answer.
15 First time was with her hands, then with hands and mouth the
16 time after. My next question. Where did you get the vibrator
17 and lubricant from? Bryan's answer. My wife and I have had
18 it in/on our dresser that my wife and I bought for our own
19 intimacy a long time prior to my degradation.

20 Q. That phrase there, a long time prior to my
21 degradation, whose terminology was that?

22 A. Bryan Ellis.

23 Q. Next.

24 A. Next question. Have you ever inserted your penis
25 inside Minor's vagina? Bryan's answer. Never. My next

1 question. Have you ever rubbed your penis on [Minor] other than
2 her hands and mouth? Bryan's answer. No. Next question.
3 Have you ever helped [Minor] stimulate herself? Bryan's answer.
4 Other than already stated, no. Next question. Explain what
5 you did not put - why did you not put your mouth on [Minor's]
6 vagina?

7 Q. All right. Why did you ask that question?

8 A. Because he had previously stated it on his first
9 page so I wanted him to elaborate.

10 Q. All right.

11 A. Bryan's answer. Prior to me trying, I thought that
12 we would enjoy it. When I came close, I had a change of
13 thought and did not proceed. This is when I had - this is
14 when I had figured how disgusted not only was I, what I was
15 doing but how disgusting it was it to my seven year old
16 daughter.

17 Q. All right. This entire portion again is in whose
18 handwriting?

19 A. Bryan Ellis.

20 Q. What, if any, corrections are made and how is that
21 signified?

22 A. The scratch out on the last line is scratched out by
23 Bryan Ellis and initialed beside it by Bryan Ellis.

24 Q. But how disgusting it was to, and then we have the
25 scratch out, it to my seven year old daughter. So again he

1 has initialed what he had scratched out there?

2 A. Yes, ma'am.

3 Q. The words whom I had. And each page as we go, page
4 2 that we saw previously and now page 3, how is each page
5 documented and reviewed by Mr. Ellis?

6 A. I always before asking the person to sign their
7 statement, I put an X there showing that they reviewed it and
8 their signature right beside my X.

9 Q. Now we're at page 4.

10 A. Next question. Why did you perform these acts with
11 **Minor**?

12 Q. What made you ask that question?

13 A. Based on his own prior admission. Bryan's answer.
14 **Minor** seemed like she wanted to perform actions. I had a
15 twisted idea that I could teach her to enjoy herself unlike
16 her mother who was always told that sexual stimulation was
17 wrong. In the end this was way left field of how I should
18 have educated her. When I was younger, one of my mother's
19 boyfriends molested my sister and I. He taught at least to me
20 to be free with my urges.

21 Q. All right. This entire last portion concerning his
22 background and ending with to be free with my urges, is that
23 information that you had ever received before regarding this
24 suspect?

25 A. No, ma'am.

1 Q. There at the scene or is there any other background
2 information?

3 A. No, ma'am.

4 Q. That information is coming directly from whom?

5 A. Bryan Ellis.

6 Q. Next.

7 A. Next question. Explain what your urges are and what
8 you mean by saying that. Bryan's answer. He, my mother's
9 boyfriend, when I was young, taught me to not be scared to
10 experiment with different items open to sexuality and to get
11 suppressed curiosity around masturbation and stimulation.
12 Next question. Do you believe you were teaching [Minor] about
13 masturbation or pleasuring yourself?

14 Q. Why did you ask that question?

15 A. Because of the prior statements made by Mr. Ellis
16 and it was pertinent to this investigation as to was he was
17 teaching her or was he doing it for his own pleasure.

18 Q. His response?

19 A. Both. We reciprocated on what felt good and what
20 did not. She found what she did not like.

21 Q. When he said she found what she did not like, he is
22 referring to who?

23 A. [Minor]

24 Q. The seven year old?

25 A. Correct.

1 Q. What did you ask next?

2 A. What did [Minor] not like? Bryan's answer. She
3 did not like the cherry lubricant. She expressed to me this
4 last time she did not like using her mouth and preferred using
5 her hand as she used the external vibrator. As she used the
6 external vibrator.

7 Q. Okay. And when he says this last time, at this
8 point he's indicated to you that oral sex has occurred one
9 time or more than one time?

10 A. More than one time.

11 Q. All right. And your next follow-up question.

12 A. How did [Minor] like it when you ejaculated in her
13 mouth?

14 Q. Why made you ask that?

15 A. The question before what she likes and dislikes and
16 as well as what he stated on the initial statement and as well
17 as verbal.

18 Q. Okay. His response?

19 A. She was disgusted and immediately told me not to do
20 it.

21 Q. Looking at page 5.

22 A. Next question. How did [Minor] like using the vibrator
23 on herself and when you touched and rubbed her vagina?
24 Bryan's answer. I think she liked the vibrator better than me
25 using my hand. She would always ask for it. Next question.

1 How many times has [Minor] used the vibrator? Bryan's answer.
2 Four or five times. Next question. How did you ever thought
3 about putting your penis - have you ever thought about putting
4 your penis inside [Minor's] vagina? Bryan's answer. No. I did
5 not want to have intercourse. I did not even want her to use
6 a dildo. That is not what I thought she needed to know. She
7 just needed to know that masturbation was healthy even if her
8 mother said she should stop.

9 Q. So he's referring again to educating her about
10 masturbation?

11 A. That's correct.

12 Q. Yet he has admitted to having oral sex with a
13 child?

14 A. That's correct.

15 Q. And moving down to the next question.

16 A. Have you ever told anyone that you and [Minor] had
17 sexual activities? Bryan's answer. Only - no. Only when
18 father-in-law's brother asked what was going on when my
19 father-in-law asked him to wait with me while waiting on
20 officers.

21 Q. All right. And he's referring to the previous event
22 after 911 was called?

23 A. That's correct.

24 Q. When Thomas Havird and Daniel Havird were in his
25 presence?

1 A. Yes, ma'am. Next question. Why did you not want
2 Minor to use a dildo? Bryan's answer. It was not my intention
3 to take her virginity, only to allow her to understand she was
4 not bad for masturbating.

5 Q. All right. Now, there is a page 6 which contains
6 necessary redactions and we are going to move now to page 7.

7 A. Question. Did your wife know that you had these
8 conversations with Minor? Bryan's answer. No. I never
9 thought to tell her. Next question. Is there anything else
10 that you want to tell me or talk to me about? Bryan's answer.
11 I understand now that I need some form of assistance to become
12 a part of the functioning society and that what I have tried
13 to achieve is not becoming of an adult much less a parent.

14 Question. Other than what we have talked about,
15 have you ever done this before last November 2015 with anyone
16 else? If so, what, when, where, how and who? Bryan's answer.
17 No. But I have had this done to my sister and I when we were
18 younger by my mother's boyfriend Mark Owens when I was about
19 13 years old both orally and penetrative.

20 Q. What is this portion here?

21 A. This indicates that the statement is ending by
22 nothing follows with my initials on each side and Bryan's
23 initials on the same line just showing that we did not add
24 anything in the statement.

25 Q. So the nothing follows is written by you indicating

1 that that's the end of the statement?

2 A. That's correct.

3 Q. And then what are we looking at here at the
4 bottom?

5 A. Which portion? I'm sorry.

6 Q. Right here at the bottom.

7 A. On each statement form that I complete I always put
8 the date and copy provided to whoever is writing the statement
9 at what time which at this time it was 21:30 which is 9:30
10 p.m.

11 Q. Can you tell us whether or not he signed this
12 statement indicating this would be the final page and each
13 page of the statement in its entirety?

14 A. He did.

15 Q. Now, I'm going to refer you to your incident report.
16 At the conclusion of this statement did he ask you anything?

17 A. Bear with me one second. "It should be noted that
18 after Bryan, he wrote his statement, Bryan asked me if he was,
19 quote, 'fucked up' and if I thought that he needed help for
20 what he'd done."

21 Q. All right. Now, he's relaying to you a question as
22 to whether he needs help. He also had indicated I believe on
23 page 7 of 7 here that I understand now that I need some form
24 of assistance to become part of the functioning society. So
25 can you tell us whether or not he relayed to you that he may

1 need help?

2 A. He did.

3 Q. And after obtaining this information from Mr. Ellis
4 and based on all the circumstances that you are aware of at
5 that point, what happened next?

6 A. At that point in time Mr. Ellis was placed under
7 arrest and was transported to Lexington County Detention
8 Center by Deputy Tom Smith.

9 Q. Having received this information he was placed under
10 arrest for criminal sexual conduct with a minor?

11 A. Correct.

12 Q. What is the normal protocol for seizing any type of
13 relevant evidence that he may have on his person as he's
14 searched incident to his arrest?

15 A. Anything on his person, he only had one thing on his
16 person at this time which was his cell phone which I seized in
17 reference to this arrest.

18 Q. I'm going to show you item 16 and ask you whether or
19 not you recognize this?

20 A. Yes, ma'am.

21 Q. All right. Do you recognize any type of markings or
22 notations on the back or otherwise?

23 A. I do. My signature, initials, case number and bag
24 number 3.

25 Q. All right. So in addition to taking it off his

1 person, who is responsible for actually sealing that item of
2 evidence and then submitting it to your evidence department?

3 A. I am.

4 MS. MAYES: Your Honor, at this time the State would
5 offer what is 16 for ID. I'm sorry. It's actually 25 as
6 evidence. This would be the cell phone of Bryan Ellis.

7 MR. MAULDIN: No objection, Your Honor.

8 THE COURT: State's 25 is in evidence without
9 objection.

10 BY MS. MAYES:

11 Q. Now, that phone in addition to actually being seized
12 and submitted as evidence to your evidence department, can you
13 tell us whether or not you prepared a search warrant for the
14 contents of that phone?

15 A. I did.

16 Q. And ultimately who in the CSI unit is responsible
17 for extracting or obtaining any information from the cell
18 phone?

19 A. Detective Mike Phipps.

20 Q. Can you tell us whether or not that was done in this
21 case pursuant to your search warrant?

22 A. It was.

23 Q. Now, following his arrest and the seizure of his
24 phone, were you present once Sergeant Laintz and other
25 officers arrived to execute the search warrant at the

1 residence?

2 A. I was.

3 Q. I'm going to show you a photograph and ask you
4 whether or not you recognize it?

5 A. Yes, ma'am.

6 Q. All right. What is depicted in that photo?

7 A. Uhm, the drawer in the master bedroom with the
8 vibrating instrument.

9 Q. Okay. Does that appear to be the same as depicted
10 in State's 28 already in evidence?

11 A. Yes, ma'am.

12 Q. Ultimately once this item was seized from the
13 residence, who was responsible for collecting it as evidence
14 and then maintaining it as evidence?

15 A. I was.

16 Q. That is the item currently marked for ID being
17 State's exhibit 17?

18 A. Yes, ma'am.

19 Q. And depicted there in that photograph?

20 A. Yes, ma'am.

21 Q. What happened next in the course of the
22 investigation?

23 A. After leaving the scene, after collecting the item
24 and entering it into evidence, it was my job and duty to make
25 contact with Lexington County DSS as well as the Dickerson

1 Center to schedule a forensic interview for the seven year old
2 victim **Minor**.

3 Q. And that's going to be the interview that we heard
4 from Trina Elfering yesterday which occurred on February 8th,
5 2016?

6 A. That's correct.

7 Q. Are you actually present for that interview?

8 A. Uhm, I'm present there at the Dickerson Center but I
9 am not in the room with the interviewer as well as the victim.
10 I'm actually outside the room in another room and watching it
11 externally on a video.

12 Q. Is that normal protocol?

13 A. It is.

14 Q. Now, in addition to you not being allowed in the
15 room, what about various family members?

16 A. No one is allowed other than the victim and the
17 interviewer from the Dickerson Center.

18 Q. Now, one question that I want to ask you. The
19 confession that you have already testified to and it's
20 currently in evidence as State's exhibit 29 --

21 A. Yes, ma'am.

22 Q. -- is that confession provided to outsiders such as
23 the family of **Minor** or other citizens?

24 A. Not this short in the investigation.

25 Q. All right. So we are talking about February 8th,

1 2016 generally about two weeks. Did anyone other than law
2 enforcement or a necessary investigating agency have the
3 details of his confession?

4 A. No, ma'am.

5 Q. Or would have had the means to obtain a copy of
6 it?

7 A. No, ma'am.

8 Q. Now, how necessary is a forensic interview when you
9 are talking about a seven year old child?

10 A. It is absolutely necessary.

11 Q. Are you trained in forensic interviews with a seven
12 year old?

13 A. No, ma'am.

14 Q. What about other investigators in your department?

15 A. No, ma'am.

16 Q. So the normal protocol is?

17 A. To send them to the Dickerson Center for a follow up
18 interview.

19 Q. Now, what if a child doesn't want to go to an
20 interview or doesn't want to talk to a stranger?

21 A. At this point it's mandated by the parent to take
22 the child to the interview process.

23 Q. When you say mandated, what do you mean by that?

24 A. Any allegations of sexual assault on a child if the
25 child does not want to go, the parents have to take them to

1 the interview.

2 Q. And you relay that to the parents?

3 A. That's correct.

4 Q. Now, at any point did you become aware that after
5 Mr. Ellis was arrested, he was continuing to make contact with
6 Leslie Ellis?

7 A. Quite frequently. Yes, ma'am.

8 Q. As well as other family members?

9 A. That's correct.

10 Q. Including **Minor** and including the father-in-law and
11 mother-in-law?

12 A. That's correct.

13 Q. What, if any, efforts did you take to stop that?

14 A. Myself and Detective Miller responded back to the
15 Lexington County Detention Center and spoke with Mr. Ellis and
16 advised him to stop sending letters and harassing the victim's
17 mother in this case.

18 Q. All right. And once you advised that he stop
19 sending letters, can you tell us whether or not you continued
20 to get letters from Ms. Ellis or other family members?

21 A. Continued quite frequently.

22 Q. All right. Were the letters always unopened or can
23 you kind of tell us about the various conditions you recall
24 them being in?

25 A. After speaking to Leslie regarding this, I advised

1 her each time she received a letter just to bring them to me
2 at the Lexington County Sheriff's Department at which time she
3 did and a majority of them that she brought in were unopened
4 as she had not even read them.

5 Q. I'm going to show you items that are currently
6 marked as 19, 20, 21 and 22. I'll put them in that order.
7 I'll refer you first to item 19. Is that State's exhibit 19
8 that you have before you?

9 A. Yes, ma'am.

10 Q. All right. I'm going to refer you to what would be
11 page 1. When I say page 1, how are these documents written?
12 In what type of pen or utensil?

13 A. Pencil.

14 Q. Do they also contain various page numbers?

15 A. Yes, ma'am.

16 Q. Okay. Which appear to be handwritten by the author
17 of the letter?

18 A. That's correct.

19 Q. Okay. As to page 1, I'm going to direct you to
20 between lines 5 and 10. What, if anything, is stated
21 in regards to, you said you didn't know if? Between line 5
22 and 10 on page 1, do you see a reference approximately line 8.
23 You said you didn't know if.

24 A. Bear with me.

25 MS. MAYES: Your Honor, if I may approach?

1 THE COURT: Yes, ma'am.

2 MS. MAYES: Beg the Court's indulgence.

3 THE COURT: Yes, ma'am.

4 BY MS. MAYES:

5 Q. All right. You said you didn't know if.

6 THE COURT: What exhibit are we referring to,
7 Solicitor?

8 MS. MAYES: 20, your Honor.

9 THE COURT: State's 20, is that correct?

10 MS. MAYES: Yes, sir.

11 THE COURT: All right. State's 20. Page what?

12 MS. MAYES: Page 1.

13 THE COURT: Page 1. Line?

14 MS. MAYES: Approximately 7, Your Honor.

15 THE COURT: All right. You may continue.

16 BY THE WITNESS:

17 A. You said you didn't know if you could trust me
18 anymore. Well, if that were true, why I respond your text?
19 Why did I leave my job site, drive to my office to pick up a
20 car, then drive home when I figured out what your texts were
21 about? I could have run away. Why wouldn't - why would I
22 admit to you? I love you and need you. Need your help.

23 BY MS. MAYES:

24 Q. All right. And this particular letter is addressed
25 to who? At the very top there line 1.

1 A. To my wife Leslie Gill Ellis.

2 Q. So here he's indicated why would I admit it to you
3 and a discussion about help. Can you tell us whether or not
4 that's consistent with his discussion with you during the
5 confession?

6 A. Very consistent.

7 Q. All right. I'm going to refer you down now to what
8 would be approximately line 22. You say I did something.

9 A. You say I did something to your daughter but you
10 jumped the gun. She obliged only retaliating when I wouldn't
11 have sex with her.

12 Q. All right. So the words your daughter, do you know
13 of any other daughter that Mr. Ellis has other than **Minor**?

14 A. I do not.

15 Q. Or Ms. Ellis?

16 A. No, ma'am.

17 Q. All right. And then moving down to approximately
18 line 28. I know what **Minor**.

19 A. I know what **Minor** and I did was fucked up which is
20 only why when I came to my sense I thought of suicide.

21 Q. Okay. Now, is there any portion of this letter
22 which is addressed to **Minor** directly? And I'm going to refer
23 you to what would be page 4.

24 A. Which is what exhibit?

25 Q. 19. What, if anything, about that letter indicates

1 that it is directed strictly to Minor?

2 A. It's got Minor's name on the left underlined by Bryan
3 Ellis.

4 Q. What does it state?

5 A. Minor, I love you when you prefer me to brush your
6 hair. I regret everything that happened. I was the adult and
7 shouldn't have been involved with you in that way. You made
8 me feel loved but I was wrong for how that feeling was
9 obtained.

10 MS. MAYES: And, Your Honor, this item being in
11 evidence, may I publish?

12 THE COURT: Yes, ma'am.

13 BY MS. MAYES:

14 Q. So looking here at this portion, this paragraph is
15 directed directly to Minor and then how is it signed?

16 A. Love, daddy. Bryan J. Ellis.

17 Q. All right. Now, I'm going to refer you to one more
18 which is exhibit 21, page 3. Does Mr. Ellis ever address his
19 thoughts about Minor following a visit from a DSS worker?
20 Refer you to the middle of the second paragraph.

21 A. Beginning third paragraph.

22 Q. All right. Can you tell us whether or not Mr. Ellis
23 indicates that he had a visit from a DSS worker?

24 A. Yes.

25 Q. What, if anything, does he state being his

1 reaction?

2 A. The DSS lady came by on the 7th. I was caught off
3 guard. She asked if I wanted my lawyer and I declined. She
4 stated what she was there for and read [Minor's] statement. I
5 broke down, Leslie. I broke down hard. I pray for [Minor]
6 She's young and will learn to block it out but for her to even
7 know hurts me so bad.

8 Q. All right. Thank you. Now, regarding the statement
9 of Mr. Ellis that is in evidence, it's an element of the
10 offense so I will ask you was he questioned regarding his date
11 of birth?

12 A. He was.

13 Q. Yes. And what did he indicate being his date of
14 birth?

15 A. [REDACTED]

16 Q. All right. And whose handwriting is that?

17 A. Bryan Ellis.

18 Q. At that location on [REDACTED], can you tell us
19 whether or not it's within the jurisdiction of Lexington
20 County?

21 A. It is. It's in the West Columbia area of Lexington
22 County.

23 MS. MAYES: Nothing further, Your Honor, of Sergeant
24 Rawl at this time.

25 THE COURT: Thank you. Thank you, Solicitor.

1 Ladies and gentlemen, I would like to press on with cross
2 examination but if anyone needs a break, raise your
3 hands. Thank you. Thank you very much. Mr. Mauldin.

4 MR. MAULDIN: Thank you, Your Honor.

5 CROSS EXAMINATION

6 BY MR. MAULDIN:

7 Q. Sergeant Rawl, since this happened you have been
8 promoted to sergeant from detective; is that right?

9 A. That's correct.

10 Q. Congratulations.

11 A. Thank you.

12 Q. I noticed when you were testifying with Solicitor
13 Mayes about arriving at the scene and which deputy was with
14 Mr. Ellis and stuff, you were referring to your notes; is that
15 correct?

16 A. That's correct. And first hand knowledge.

17 Q. Because it's a little difficult for you to remember
18 everything that happened that day?

19 A. That's correct.

20 Q. You say that you arrived on scene about 5:15 in the
21 afternoon on the 24th?

22 A. Yes, sir.

23 Q. 2016?

24 A. Yes, sir.

25 Q. And you met with the deputies and the officers that

1 were already there?

2 A. That's correct.

3 Q. And you met a little bit with the family members,
4 Leslie and her parents --

5 A. Yes, sir.

6 Q. -- as well. And then you went over to the Ellis'
7 residence and you met with him around 6:25?

8 A. Yes, sir.

9 Q. That time period. That means you would have been
10 there a little over an hour before you went over?

11 A. That's correct.

12 Q. Gathering that information. Okay. And you did not
13 record your interview with Bryan in any form or fashion as far
14 as audio or videoing like that?

15 A. That's correct. I did not.

16 Q. Didn't have a body camera?

17 A. No, sir.

18 Q. They have those, like the narcotics agents have
19 those and use those, don't they?

20 A. Yes, sir.

21 Q. And you didn't have a video camera in your car?

22 A. I did not.

23 Q. There were other uniformed deputies there that had
24 video cameras in their cars, right?

25 A. I don't think any of our cars are equipped with

1 video. If so, I didn't have knowledge of them having video.

2 Q. Uniformed deputies that often pull over people for
3 DUI are required to have video?

4 A. They do. That's more or less traffic division with
5 the in car cameras.

6 Q. And hand held recording devices such as on your
7 phone or whatever, they're not very hard to obtain, are
8 they?

9 A. No, sir. I actually have one.

10 Q. But you didn't use it?

11 A. No, sir.

12 Q. Is it a Sheriff's Department policy not to record
13 interviews with defendants?

14 A. It's not a policy. I just responded from my
15 residence on a Sunday afternoon and my recorder was actually
16 in my office.

17 Q. Does it happen very often that they are not
18 recorded? Is that a common occurrence?

19 A. Yes, sir.

20 Q. More often than not they are not recorded than they
21 are recorded?

22 A. More often. Yes, sir.

23 Q. Very rarely are they recorded?

24 A. Very rarely. Yes, sir.

25 Q. And you were in the car with him from roughly 6:25

1 to 7:08 before the written statement form was produced and
2 that process; is that correct?

3 A. I'm sorry. How long did you say?

4 Q. From about 6:25 to 7:08 in the p.m.?

5 A. Yes, sir.

6 Q. So that's roughly 45 minutes. Just a shave less
7 than 45 minutes?

8 A. That's correct.

9 Q. That conversation took place between you and him and
10 that wasn't preserved in any way as far as an audio or video
11 recording; is that right?

12 A. No, sir.

13 Q. And the written statement commenced at 7:08 p.m. and
14 finished around 9:30 p.m.; is that right?

15 A. That's correct.

16 Q. So that's close to an hour and a half, hour and 22
17 minutes --

18 A. Correct.

19 Q. -- of discussion there. And none of that was
20 preserved by any kind of audio or video recording; is that
21 correct?

22 A. That's correct.

23 Q. And there were other officers on scene?

24 A. Yes, sir.

25 Q. But you alone conducted the interview with Mr.

1 Ellis?

2 A. That's correct.

3 Q. No one else was there to observe it, hear what was
4 going on?

5 A. Not to observe it. They were in and out of the
6 residence conducting the search warrant but not to - they
7 observed Bryan sitting in my car but did not observe or listen
8 to the interview.

9 Q. Okay. When you first talked to Bryan, you already
10 had an idea in your mind of what happened from talking with
11 those people for that hour?

12 A. That's correct.

13 Q. And when you conduct the question and answer, are
14 you passing the paperback and forth --

15 A. Yes, sir.

16 Q. -- between them? Are you talking about, do you
17 verbally say your question out loud and you talk about what
18 the answer would be before they write it?

19 A. Typically not. That would be done during the verbal
20 portion of talking to the defendant. Uhm, but yes. I do read
21 the questions out loud to the defendant before I asked him to
22 respond.

23 Q. Okay. And you say typical but it may or may not
24 have occurred that some discussion of the answer may have
25 occurred before it was written?

1 A. No. I read them out loud before I asked him to
2 respond.

3 Q. I know you read your questions out loud. What I'm
4 asking is there might be some discussion about what the answer
5 would be before the answer is written?

6 A. If they have questions, you know, we try to get them
7 to elaborate as much as possible so it's very possible to
8 discuss the question. Yes, sir.

9 Q. So it's possible that could occur. All right. And
10 did you find any cherry flavored lubricant in the house?

11 A. We did not.

12 Q. And you say Bryan only had his phone on him. He
13 might have had his wallet or other items. Did you bother to
14 check for that or did you let another deputy handle that?

15 A. He had the phone on his person visibly while we were
16 talking. I asked him to put the phone on my dash while we
17 were discussing this information.

18 Q. Did he receive any calls or anything like that while
19 you were talking?

20 A. Not that I'm aware. I'm unaware if he did or not.

21 Q. You don't remember if he did?

22 A. I don't. I know he was kind of playing with the
23 phone while we were starting the conversation and that's when
24 I advised him to put it on the dash.

25 Q. And these letters, you and Detective Miller discuss

1 this with Leslie Pierson, now Pierson on May 10 of '16; is
2 that right?

3 A. I don't remember exact date. Me and Leslie actually
4 communicated a lot because of the number of letters that she
5 was receiving by Bryan.

6 Q. Okay. And but you do recall that those happening
7 over a period of time?

8 A. Yes.

9 Q. The contact with you and Detective Miller; is that
10 right?

11 A. Contact with?

12 Q. You, Leslie had contact with you and Detective
13 Miller?

14 A. Yes.

15 Q. And did Detective Miller have any questions that he
16 posed to you about her having a new boyfriend? You thought
17 that was a little curious?

18 A. Yes.

19 Q. And you thought that she might have an engagement
20 ring on her hand when she met with you?

21 A. Yes, sir.

22 MR. MAULDIN: No further questions, Your Honor.

23 THE COURT: Redirect?

24 MS. MAYES: Yes, sir, Your Honor.

25 REDIRECT EXAMINATION

1 BY MS. MAYES:

2 Q. Now, Mr. Mauldin was asking you specifically about
3 the process in which you read the question aloud. When there
4 is a detailed answer, who is that coming from?

5 A. The defendant Bryan Ellis.

6 Q. At any point are you instructing him what to say?

7 A. Absolutely not.

8 Q. Are these specific details such as ejaculation on
9 the floor or in Minor's mouth, was that any information you had
10 received prior to him saying it in his responses?

11 A. I had no knowledge other than his own verbal
12 admissions.

13 Q. And are you as a detective equipped with a body
14 camera?

15 A. I am not.

16 Q. Those are generally used by what officers in the
17 field?

18 A. Patrol units soon to be and traffic division soon to
19 be but the officers are not equipped right now. Some are but
20 some are not.

21 Q. All right. And he was asking you about cherry
22 lubricant but was lubricant recovered from the scene?

23 A. It was lubricant, just regular lubricant located in
24 the drawer. Yes, ma'am.

25 Q. And in this particular case did you have the, during

1 the course of this search warrant did you all go through trash
2 cans or dispensers to see what type of trash may have been
3 thrown away?

4 A. We did.

5 Q. All right. And specifically as to the search for
6 cherry lubricant do you know when that would have last been
7 used?

8 A. I do not. I do not.

9 Q. Okay. You don't know or have any information that
10 it would have been used that day, the day of the execution of
11 the search warrant?

12 A. That's correct.

13 MS. MAYES: Nothing further.

14 THE COURT: Recross?

15 MR. MAULDIN: No further questions, Your Honor.

16 THE COURT: Thank you, Mr. Mauldin. Thank you,
17 Sergeant. You may step down. All right. Ladies and
18 gentlemen, perhaps now would be a good time to take our
19 morning recess. We'll take about 15 minutes. Do not
20 discuss the case. Thank you.

21 (Whereupon, the jury entered the jury room at 11:10
22 a.m.)

23 (Short break.)

24 THE COURT: Anything before we bring in the jury,
25 Solicitor?

1 MS. MAYES: Nothing from the State, Your Honor.

2 THE COURT: Mr. Mauldin?

3 MR. MAULDIN: No, Your Honor.

4 THE COURT: Okay.

5 (Whereupon, the jury entered the courtroom at 11:30
6 a.m.)

7 THE COURT: Welcome back. I apologize for messing
8 up anybody's lunch break. We'll try to just take a
9 quicker luncheon recess and during that recess allow you
10 to take a walk around or something of that nature rather
11 than keeping you captive but I do apologize. Sometimes I
12 don't bring my manners with me. Just like my heart.
13 People say you don't have a heart, Judge. I say, yeah, I
14 do. I keep it in the jar back there in the office. All
15 right. Please continue to give the parties your complete
16 and undivided attention. Solicitor, you may call your
17 next witness.

18 MS. MAYES: The State calls Detective Mike Phipps.

19 THE COURT: Detective Phipps, if you would come
20 around and join us please.

21 Thereupon,

22 MICHAEL PHIPPS

23 after having been first duly sworn, testified as follows,

24 THE CLERK: Please have a seat. Once you're seated,
25 state your full name spelling your last please.

1 THE WITNESS: Michael Stuart Phipps, P-h-i-p-p-s.

2 DIRECT EXAMINATION

3 BY MS. MAYES:

4 Q. Detective Phipps, if you can give us a little bit of
5 information about yourself. Where are you employed and in
6 what capacity?

7 A. I currently work for Lexington County Sheriff's
8 Department. I work in our forensic services unit as a
9 forensic technology examiner.

10 Q. Can you tell us whether or not that is a division of
11 the CSI or crime scene investigative unit?

12 A. Yes. Forensic services encompasses different
13 aspects of our department. Crime scene is one of them. The
14 forensic examinations I do is another. Our chemistry lab is
15 another.

16 Q. Leading up to your experience in digital evidence
17 did you have experience in the field of CSI or crime scene
18 investigation?

19 A. Yes. Like most people I started out in the
20 department on the road as a deputy. Worked about five years
21 as a deputy. When an opening came within our crime scene
22 unit, I put in for that. Worked in the crime scene unit for
23 about 14 years. During that time I developed an interest in
24 digital forensics so as far as a parallel while I was working
25 crime scene I started taking classes in digital examination so

1 about 2005 is when I started that.

2 Q. What type of education and training do you have
3 specifically in the field of the forensic examination of
4 digital evidence?

5 A. Like I said, I started about 2005 taking courses
6 specifically offered to law enforcement for the examination of
7 computers and cell phones. During that course of that period
8 of time I probably had about eight courses that deal strictly
9 with digital evidence.

10 Q. How many forensic examinations of digital evidence
11 would you estimate you have done over the course of your
12 career involving mobile phones?

13 A. Really hard to say but certainly over three or
14 400.

15 Q. Specifically when we're talking about the type of
16 education and training you have received in this field, what
17 type of law enforcement agencies and organizations offer those
18 trainings that you have attended?

19 A. National White Collar Crime Center. The National
20 Institute of Forensics in Alabama that's administered by the
21 secret service. I would have to refer to my notes.

22 Q. What's the general type of software that's utilized
23 in digital examination conducted there at the Sheriff's
24 Department?

25 A. For cell phones we use a product made by Cellebrite

1 and we do exclusively cell phones on that product.

2 Q. That type of software and extraction process, can
3 you tell us whether or not that's also utilized by other law
4 enforcement agencies?

5 A. Yes. It's the prime software and forensic tool used
6 by all the major government entities.

7 Q. Does that include SLED or the State Law Enforcement
8 Division?

9 A. It does. Yes, ma'am.

10 Q. And can you tell us whether or not the FBI also has
11 used or have training involving the Cellebrite process?

12 A. They do.

13 Q. Is it accepted by other experts in this field?

14 A. Yes, ma'am.

15 Q. Now, have you testified previously as an expert in
16 the field of forensic examination of mobile phones?

17 A. I have.

18 Q. And the results contained or obtained from the
19 extraction of a mobile phone?

20 A. Yes, ma'am.

21 Q. Is it possible for you to estimate how many such
22 times you have been qualified previously as an expert in the
23 field of forensic analysis of digital evidence?

24 A. I believe it's more than six now dealing with
25 digital evidence.

1 Q. Does that include Lexington County General Sessions
2 court such as we are in at this time?

3 A. It does. Yes, ma'am.

4 Q. Has that testimony included results of extractions
5 from mobile phones?

6 A. Yes.

7 MS. MAYES: Your Honor, at this time the State would
8 offer Detective Mike Phipps as an expert in the field of
9 forensic analysis of digital devices including mobile
10 phones.

11 MR. MAULDIN: No objection, Your Honor.

12 THE COURT: All right. Thank you. Thank you very
13 much. Mr. Foreman, ladies and gentlemen of the jury,
14 normally a person cannot give opinion testimony.
15 Normally when a person testifies, they must testify as to
16 what they saw, heard, sensed by smell or something of
17 that nature. However, there is an exception when someone
18 is qualified in a particular art, science, craft or
19 profession because of their education or experience or
20 training or the like. They are permitted to give their
21 opinion in certain areas and the basis for holding those
22 opinions if the court qualifies them that way. This
23 witness, Detective Mike Phipps will be qualified in the
24 area of forensic technology analysis in digital
25 technology to include mobile devices to give his opinions

1 and the basis of holding those opinions. That does not
2 mean that you must accept the opinions or the basis of
3 the opinions but it is evidence for you the jury to use
4 in any way you deem fit and appropriate. Thank you,
5 Solicitor. You may continue.

6 MS. MAYES: Please the court.

7 THE COURT: Yes, ma'am.

8 BY MS. MAYES:

9 Q. I'll show you this item, Detective Phipps, which is
10 marked as State's exhibit 25 and ask you whether or not you
11 have had any involvement with that item of evidence?

12 A. Yes, ma'am. I have.

13 Q. How do you recognize it?

14 A. It has our bar coded evidence label as well evidence
15 seal with my initials on it.

16 Q. Can you tell us whether or not you conducted an
17 extraction of that cell phone being the cell phone retrieved
18 from the defendant in this case Bryan Ellis?

19 A. Yes, ma'am. Back on August 10th, 2016 I examined
20 this device and made an extraction.

21 Q. Now, take us through the process once you have
22 extracted the phone what type of evidence are you recovering
23 and do you have access to?

24 A. As you can imagine, smart phones today have just
25 about everything on them so in addition to your

1 incoming/outgoing calls you'll have a contact lists, photos,
2 videos, Internet browsing, history information, and possibly
3 recovered deleted items as well.

4 Q. You say possibly. Do you always recover deleted
5 items?

6 A. Not always. No, ma'am.

7 Q. Do you always recover deleted Internet history?

8 A. Not always.

9 Q. Specifically are you able to develop a chronology of
10 events or a timeline to determine what actions have occurred
11 on specific dates?

12 A. Yes, ma'am.

13 Q. I'm going to ask you whether or not you downloaded
14 that extraction in any format?

15 A. Yes. In this case I generated a report that had
16 data in a PDF format.

17 Q. I'm going to show you an item and ask you whether or
18 not you recognize it?

19 A. Yes, ma'am. This has the PDF report on it.

20 Q. How do you recognize that?

21 A. It has my initials and date and that's my
22 handwriting on the disk.

23 Q. Okay. And when you say handwriting, does it also
24 contain a signature of yours at any location?

25 A. Yes. It has my initials over the date.

1 MS. MAYES: Okay. Your Honor, we would offer this
2 item as State's exhibit 30 being the CD version of the
3 extraction.

4 MR. MAULDIN: Your Honor, may we approach?

5 THE COURT: Yes, sir.

6 (Side bar off the record.)

7 THE COURT: All right. What we'll do is mark what
8 you offered as State's exhibit 30 as the next Court's
9 exhibit and it would not go to the jury, State's 30 but
10 you follow up with the other exhibits that you have, Ms.
11 Solicitor.

12 MS. MAYES: Yes, sir, Your Honor.

13 (Whereupon, Court's Exhibit #3 marked for
14 identification. State's Exhibit #30 marked for
15 identification.)

16 BY MS. MAYES:

17 Q. Now, from that extraction were you able to develop
18 or summarize -- First, let me ask you, how voluminous is that
19 extraction, the full extraction of a smart phone?

20 A. Thousands of pages.

21 Q. Were you able to develop a summary to make more
22 concise relative information pertaining to an incident date
23 being January 24th, 2016?

24 A. I was.

25 Q. So first I want to ask you what is the phone number

1 that this extraction was for?

2 A. The phone number coming back to this exhibit or
3 phone is area code [REDACTED]-5407.

4 Q. All right. I'll write that down here. [REDACTED]

5 A. Yes. [REDACTED]-5407.

6 Q. 5407 being the last digits. And were you able to
7 obtain information from this phone for the date of January
8 24th, 2016?

9 A. I was.

10 Q. All right. I'm going to show you another document
11 and ask you whether or not you recognize it.

12 A. I do.

13 Q. How so?

14 A. It is a summary of events that occurred on that date
15 and time that were specifically identified as pertinent to
16 this case.

17 Q. Have you had an opportunity to review this summary
18 from the extraction?

19 A. I have.

20 Q. Is this information coming directly from your
21 extraction report?

22 A. It does.

23 Q. All right. And this came from that same CD
24 currently marked as Court's exhibit 3?

25 A. It did.

1 MS. MAYES: Your Honor, this would be State's
2 exhibit 30 for evidence.

3 THE COURT: Mr. Mauldin?

4 MR. MAULDIN: No objection, Your Honor.

5 THE COURT: All right. State's 30 is in evidence
6 without objection.

7 MS. MAYES: Your Honor, we would request permission
8 to publish and also permission for the witness to step
9 down.

10 THE COURT: Yes, ma'am. You may publish and the
11 witness may step down. Just keep your voice up please,
12 Detective.

13 BY MS. MAYES:

14 Q. Detective Phipps, we may need to move this document
15 along as we go, Detective Phipps, but we'll need you to keep
16 your voice up so that Mr. LeBlanc can catch everything that
17 you are saying. But take us here to the top of the document
18 with the date 1/24/16 and explain to us what we are looking at
19 and how the chronology of events flow.

20 A. Yes, ma'am. The first line here again on January
21 24th, 2016 at 10:58 in the morning a.m. there was an outgoing
22 phone call to an Ira or the phone number which was
23 [REDACTED]-0853 and the Ira is who identified in his address book
24 as that number belongs to and it was an outgoing call that
25 last two minutes and 57 seconds which you can see there under

1 duration on the right hand margin.

2 Q. When there is a name beside a number such as Ira,
3 where is that information coming from?

4 A. The contacts that the person enters when they enter
5 a phone number and they choose to identify a particular person
6 with that number and they enter it in their contact list.

7 Q. So if it's already a pre-labeled number that is
8 within their contacts list, when you do the extraction report,
9 does that name affiliated with that number come up on your
10 report?

11 A. It does.

12 Q. And here it came up as Ira?

13 A. Yes, ma'am. The next line again on the 24th, 2016
14 but now at 12:03 p.m. there was a text message incoming from
15 Leslie G. Ellis, phone number [REDACTED]-6237.

16 Q. Again, when you say Leslie G. Ellis, that
17 information would have been pre-labeled where within the
18 phone?

19 A. Within the contact list of the phone.

20 Q. What is the content of that text message that is
21 sent to the person to that phone number, to the phone number
22 of Bryan Ellis?

23 A. It was an incoming text that read, "Hey, you need to
24 call me. [REDACTED] told me something that we need to talk about."

25 Q. All right.

1 A. The next is an additional text message now at 12:04
2 on the same date an incoming from Leslie G. Ellis, that reads,
3 "I don't know where this is coming from but I'm sick to my
4 stomach right now."

5 Q. All right. So that text message was one minute
6 after the previous text message at 12:03?

7 A. Yes, ma'am.

8 Q. And the time of the next text message?

9 A. The third one again is another incoming at 12:20
10 again from Leslie G. Ellis and it reads, "I'm not going to
11 work today."

12 Q. Okay. All right. Now, do you see that the person
13 with the phone is responding at all to the text messages from
14 Leslie G. Ellis?

15 A. They are not.

16 Q. All right. Does the person with the phone at any
17 point make an outgoing call to Leslie G. Ellis?

18 A. Subsequent to that there are outgoing phone calls.

19 Q. What time is the outgoing phone call?

20 A. The first outgoing phone call again on the 24th is
21 at 1:38 p.m. to Leslie G. Ellis and it lasts for a minute and
22 47 seconds.

23 Q. All right. Were there any outgoing phone calls made
24 after that one to Leslie at 1:38?

25 A. Yeah. After 1:38 at 1:40 there was a second

1 outgoing call to an Ira. That particular call lasted 48
2 seconds.

3 Q. All right. Do you see any other outgoing calls on
4 this date other than those last two to Leslie at 1:38 and to
5 Ira at 1:40?

6 A. No, ma'am.

7 Q. What is the - can you tell us whether or not you're
8 able to determine web activity such as a web search?

9 A. Yes. The phone has a Chrome browser on it just like
10 your home computer would have and it logs certain Internet
11 artifacts as you surf the Internet or go to certain websites
12 so it's able to pull that up.

13 Q. Now, in this particular case, Detective Phipps,
14 there is a 911 call that is placed to law enforcement at 3:56
15 p.m. Do you detect any web search or web activity by the
16 person with that phone around the time frame of this 911 call
17 at 3:56 p.m.?

18 A. Yes, ma'am. At 3:57 there was a Google search
19 conducted with the search terms of help with addiction. Those
20 three words.

21 Q. What do you mean by that?

22 A. You go to open a Google search query within the
23 block where you enter your search terms, you enter those three
24 words.

25 Q. So where it denotes that this is a Google search and

1 if you could move that over just a little bit and take us
2 through to what indicates to you that that Google search
3 contains the words help with addiction?

4 A. You can see the, after the https://Google.com you
5 have a search, then equals, then you have got a help plus with
6 plus addiction. Those are the terms that were entered.

7 Q. So someone has to manually enter those three words
8 in that search phrase?

9 A. That's correct.

10 Q. What web activity do you show next?

11 A. Subsequent to that at 5:50 p.m. there was an
12 additional Google search with just the term addiction. Again,
13 you can see it here with just addiction listed.

14 Q. All right.

15 A. Subsequent to those two searches there was activity
16 on a webpage for Psychologytoday.com was the webpage and
17 specifically that occurred at 5:51 and the subsection of that
18 webpage dealt with addiction.

19 Q. All right. What, if any, web activity do you show
20 after that on this phone?

21 A. Then at 5:52 we have a second Google search again
22 for addiction. Then at 5:52 again an additional beat
23 addictions. So the terms were changed up a little bit. Right
24 there you can see the two terms beat plus addiction were
25 entered in the Google search query.

1 Q. All right. What next?

2 A. Then at 5:53 we have an additional Google search
3 where it specifically using the term beat sex addiction.

4 Q. Beat sex addiction. Again, is there any indication
5 that that term would have been entered by the person using the
6 phone?

7 A. That's correct. Those three words have to be
8 manually entered within the search.

9 Q. That's at 5:53?

10 A. That's correct.

11 Q. And are any articles accessed following the entry of
12 that search term beat sex addiction at 5:53?

13 A. There were from that Google search Internet activity
14 lead to a webpage, the web address sexualcontrol.com and the
15 title of the page was overcome sex addiction.

16 Q. So this would be the web address for this article
17 overcome sex addiction would be www.sexualcontrol.com?

18 A. Yes.

19 Q. And that's at 5:53 p.m.?

20 A. It is.

21 Q. Is there any web activity following that?

22 A. None dealing with addiction or anything.

23 Q. All right. And then are there any received calls
24 after that time period?

25 A. There was a call at 6:14:19 from a Chris Mitchell

1 area code [REDACTED]-0320.

2 Q. Chris Mitchell DISH?

3 A. DISH. Correct. And it indicates that it has a zero
4 time which is indicative of a call that was not answered.

5 Q. All right. And then are you aware of whether or not
6 this phone came into possession of law enforcement on this
7 date January 24th, 2016?

8 A. That's what I was advised.

9 MS. MAYES: Thank you. You may return. I have
10 nothing further of Detective Phipps at this time, Your
11 Honor.

12 THE COURT: Thank you, Solicitor. Mr. Mauldin.

13 MR. MAULDIN: I have no questions for this
14 witness.

15 THE COURT: Thank you, Mr. Mauldin. Mr. Phipps, you
16 may step down. Or Detective Phipps. Thank you. Thank
17 you for being with us this morning. All right.
18 Solicitor, you may call your next witness.

19 MS. MAYES: At this time, Your Honor, the State will
20 rest.

21 THE COURT: Thank you. Thank you, Solicitor. All
22 right. Do you have motions, Mr. Mauldin?

23 MR. MAULDIN: Yes, sir.

24 THE COURT: All right. Mr. Foreman, ladies and
25 gentlemen of the jury, if you would please step to your

1 jury room. Do not discuss the case during this brief
2 recess. Thank you. Thank you very much.

3 (Whereupon, the jury entered the jury room at 11:55
4 a.m.)

5 THE COURT: All right. Mr. Mauldin, glad to hear
6 from you.

7 MR. MAULDIN: Thank you, Your Honor. At this time
8 on behalf of Mr. Ellis I move for a directed verdict in
9 the matter on the charges of criminal sexual conduct
10 first degree and third degree taking the evidence
11 presented in a light most favorable to the State, that
12 they have not presented a case to submit to the jury. In
13 addition, I base this motion on all my prior motions and
14 objections.

15 THE COURT: Thank you, Mr. Mauldin. Solicitor.

16 MS. MAYES: Yes, sir, Your Honor. The elements of
17 both of those charges have been met. As to criminal
18 sexual conduct with a minor in the first degree, the
19 child has testified that fellatio was performed. She
20 also indicated that that occurred or continued occurring
21 between Thanksgiving and when the police came. It is on
22 the record that she was under the age of 11. We know
23 that the defendant, we know his date of birth that he was
24 of the age of 16. Jurisdiction has been established as
25 well.

1 In addition, Your Honor, the child indicated that
2 there was vaginal touching. I believe she indicated that
3 both verbally and through use of the anatomical diagram
4 and she also indicated some other activity which the
5 State submits would establish proof of attempting or
6 committing a lewd act on a child but specifically she
7 reported that there was vaginal touch. That is also
8 indicated on the record by the defendant's own admission.

9 Again, that would, that alone would support evidence
10 of the criminal sexual conduct with a minor in the third
11 degree offense and again the child testified that this
12 activity continued up until the time that the police came
13 to the home.

14 THE COURT: Thank you. Thank you, Solicitor. Any
15 response, Mr. Mauldin?

16 MR. MAULDIN: No, Your Honor.

17 THE COURT: Thank you. Based on the standard I must
18 apply now and looking at the evidence in a light most
19 favorable to the non moving party, I would find there is
20 both direct and circumstantial evidence as far as both
21 the elements of criminal sexual conduct with a minor in
22 the first degree and criminal sexual conduct with a minor
23 in the third degree and respectfully deny defendant's
24 motion for a directed verdict on both counts. Any other
25 motions, Mr. Mauldin?

1 MR. MAULDIN: No, Your Honor.

2 THE COURT: All right. Mr. Ellis, if you would
3 please come around to the podium. Madam Clerk, place Mr.
4 Ellis under oath please.

5 Thereupon,

6 BRYAN JEFFREY ELLIS
7 after having first duly affirmed, testified as follows,

8 THE COURT: Tell me your full name.

9 MR. ELLIS: Bryan Jeffrey Ellis.

10 THE COURT: Tell me your age.

11 MR. ELLIS: I am 30.

12 THE COURT: Your educational level?

13 MR. ELLIS: Some college.

14 THE COURT: Today are you under the influence of any
15 medication, drugs, alcohol or anything that negatively
16 affects your thinking ability?

17 MR. ELLIS: No, sir. I'm not.

18 THE COURT: Do you suffer from any physical, mental
19 or nervous problem that affects your thinking today?

20 MR. ELLIS: Anxiety.

21 THE COURT: Do you take medications for that?

22 MR. ELLIS: I do.

23 THE COURT: Do you take those medications according
24 to a doctor's prescription?

25 MR. ELLIS: I do.

1 THE COURT: Do those medications assist you in your
2 anxiety?

3 MR. ELLIS: They're supposed to.

4 THE COURT: Do you know what you are doing today?

5 MR. ELLIS: Yes, sir.

6 THE COURT: Did you have the opportunity, if you
7 recall yesterday we discussed your right to testify or
8 not testify. Do you recall those discussions?

9 MR. ELLIS: I do, sir.

10 THE COURT: Have you had the over night to think
11 about that or assess that and also the morning hours?

12 MR. ELLIS: Yes, sir.

13 THE COURT: Do you have any questions you would like
14 to ask me about your right to testify or not to testify?

15 MR. ELLIS: Not that I can think of, sir.

16 THE COURT: Have you made your decision about
17 whether you will or will not testify?

18 MR. ELLIS: I will testify, sir.

19 THE COURT: You will testify?

20 MR. ELLIS: Yes, sir.

21 THE COURT: And that is your decision?

22 MR. ELLIS: That's my decision.

23 THE COURT: Made of your own free will and accord?

24 MR. ELLIS: My own free will.

25 THE COURT: All right. Do you have any questions

1 that you would like to ask me about your decision?

2 MR. ELLIS: Not that I can think of, sir.

3 THE COURT: All right. Thank you, Mr. Ellis. You
4 may return to your seat. Mr. Mauldin, do you anticipate
5 any other witnesses or testimony?

6 MR. MAULDIN: No, Your Honor.

7 THE COURT: All right. All right. Bring us our
8 jury please.

9 MR. MAULDIN: Your Honor, can we have a brief -- He
10 needs to use the bathroom.

11 THE COURT: What now?

12 MR. MAULDIN: Mr. Ellis needs to use the bathroom.

13 THE COURT: We'll take about ten minutes. All
14 right. Thank you. Court is in recess ten minutes.

15 (Short break.)

16 THE COURT: Anything from the defense before we
17 bring in our jury, Mr. Mauldin?

18 MR. MAULDIN: No, sir, Your Honor.

19 THE COURT: The State?

20 MS. MAYES: No, sir, Your Honor. Mr. McNair and I
21 have consulted and I believe what we're gonna do is
22 proceed with plea court tomorrow and you can advise the
23 jury to not return.

24 THE COURT: Thank you, Solicitor. Thank you,
25 Mr. McNair.

1 (Whereupon, the jury entered the courtroom at 12:10
2 p.m.)

3 THE COURT: All right. Ladies and gentlemen, as you
4 heard before our brief recess the State has rested. You
5 have heard all of the evidence and all of the testimony
6 you are going to hear from the State in its case in
7 chief. Mr. Ellis, the defendant, now has the opportunity
8 to present evidence and testimony if he chooses to do so.
9 As you heard me say earlier at the beginning of the case
10 a criminal defendant is never required to prove himself
11 or herself innocent. The State bears the burden of proof
12 to prove each and every element of the offenses charged
13 beyond a reasonable doubt. However, a criminal defendant
14 may present evidence and testimony if he chooses to do
15 so. So with that we'll turn our attention to Mr. Mauldin
16 and ask Mr. Mauldin does the defendant intend to present
17 any evidence or testimony?

18 MR. MAULDIN: Yes, Your Honor.

19 THE COURT: Would you call your first witness
20 please.

21 MR. MAULDIN: Yes, Your Honor. The defense would
22 call Bryan Ellis.

23 THE COURT: Mr. Ellis, if you would please come
24 around to be sworn.

25 Thereupon,

1 BRYAN JEFFREY ELLIS

2 after having first duly affirmed, testified as follows,

3 THE CLERK: Please have a seat. Once you're seated,
4 state your full name spelling your last please.

5 THE WITNESS: Bryan Jeffrey Ellis, E-l-l-i-s.

6 DIRECT EXAMINATION

7 BY MR. MAULDIN:

8 Q. Good morning, Mr. Ellis.

9 A. Good morning.

10 Q. How old are you, Bryan?

11 A. I'm 30.

12 Q. Where are you from originally?

13 A. All over South Carolina I guess you would say.
14 Lexington.

15 Q. How far did you go in school?

16 A. I went into a little bit of college at DeVry
17 University in Decatur, Georgia and a little bit of military
18 experience, eight years.

19 Q. All right. And when you were arrested, where were
20 you working?

21 A. DISH Network.

22 Q. How long had you been working for them?

23 A. I had been working there for three years and four
24 months.

25 Q. And who are you married to?

1 A. Nobody.

2 Q. Who were you married to at the time of your
3 arrest?

4 A. Leslie Gail Havird.

5 Q. How long were you married to her when you were
6 arrested?

7 A. When I was arrested, we were married for six
8 years.

9 Q. All right.

10 A. And three months.

11 Q. Did she have children of her own?

12 A. She had two.

13 Q. What are their names?

14 A. L.D. [REDACTED] and Minor [REDACTED].

15 Q. Did you have your own child with her at some time
16 after that?

17 A. In 2011.

18 Q. What's that child's name?

19 A. J. [REDACTED]

20 Q. Now, going to the time between November 15th of 2015
21 and January 21 of 2016 what, if any, sexual contact or sexual
22 conversations did you have with Minor?

23 A. Uhm, beginning around November, I don't know the
24 exact date but I was notified by my then wife that Minor was --

25 MS. MAYES: Objection to hearsay.

1 MR. MAULDIN: I believe that those were in the
2 written statements that were admitted.

3 THE COURT: I think it is in State's exhibit. I'll
4 overrule the objection. You may continue.

5 BY THE WITNESS:

6 A. Uhm, my wife at the time, she notified me that Minor
7 had been playing with herself; that she could smell it on her
8 hands and she didn't say anything else of it so I kind of took
9 that as, hey, you deal with this and so over time I just kept
10 asking, hey, Minor, are you still doing this and she would say
11 no, she's not and I would let her know that, you know, it's
12 okay to play with yourself. It's just, you know, be a little
13 more discreet about it. Wash your hands. Take baths. Just,
14 you know, don't let anybody know that you are doing that, you
15 know. Uhm, about, I would say about it was after Christmas,
16 probably after Christmas before New Years when I asked Minor
17 again, Do you still do what mommy told you not to do? She
18 said no again and that's when I brought her back into the
19 master bathroom and did give her the shaky thing as she called
20 it which now today she says I said it was a vibrating bean or
21 something.

22 Q. Okay. Why did you give that to her?

23 A. Just to kind of let her know, hey, you can express
24 yourself. You don't have to sit there and, you know, just
25 hold everything back just because it's natural to experiment

1 with yourself. Uhm, it's just a part of growing up. I mean,
2 I had grown up and it was something that, you know, just
3 wasn't looked bad upon.

4 Q. All right. And what, if any, physical contact did
5 you have with her during these occasions?

6 A. I didn't have any physical contact.

7 Q. When, if ever, did you -- Did you ever watch her do
8 any of this?

9 A. No.

10 Q. How would she know how to use the --

11 A. I mean, she's playing with herself. How else would
12 someone know to use something?

13 Q. How to operate it? Did you show her how to --

14 A. I did show her how to operate it. Yes. But I did
15 not show her how to use it. I guess it was kind of self, her
16 self awareness, you know, in the context of, do you still play
17 with yourself? Here you go.

18 Q. How many occasions did you let her have this
19 vibrating bean or shaky thing?

20 A. That I can remember twice.

21 Q. Now, on January 24th you received text messages from
22 Leslie; is that right?

23 A. Correct.

24 Q. And what did you make of those text messages?

25 A. Uhm, I actually was working and I went back to my

1 van to smoke a cigarette and that's when I noticed my phone
2 was going off. Uhm, I opened up my text, my texting app and
3 saw that it was Leslie was trying to contact me and I read her
4 messages and pretty much I figured, you know, she knows now.
5 She knows, you know, what **Minor** and I had done. You know, I
6 told her it was okay to, you know, masturbate and I, you know,
7 encouraged her to do it.

8 Q. What was your wife's attitude towards the
9 masturbation?

10 A. Uhm, she actually didn't want - she didn't want the
11 masturbation. Rather have intimate contact.

12 Q. I mean as far as **Minor**?

13 A. Oh, as far as **Minor**. Uhm, I never really asked her.
14 I just -- I never asked her so I wasn't sure. I know how she
15 feels about it which, uhm...

16 Q. All right. Well, what did you do after you received
17 the text messages?

18 A. After I received her last text message saying she
19 wasn't going to work, I, uhm, put the phone to my ear and it
20 automatically called and I can't remember if she said hello or
21 whatever, but basically she said, "Do you know what I'm
22 talking about?" I said no. I don't know what you're talking
23 about. Uhm, and she started, you know, saying, well, you need
24 to come home now. You need to, you know, we've got to do
25 something about this basically. I don't remember her exact

1 words but I do remember her saying that I do have to come home
2 now. So what I done was I hung up with her and then I called
3 my boss' boss Ira Hatchett and I told him, hey, I have a
4 family emergency. Uhm, I need to go and he was like, okay.
5 Well, you just started another job. Can you finish it? I was
6 just kind of like, yeah. I'll finish it. Because at that
7 time I was like still kind of in shock and by the time I
8 finished it and left the house, I kind of calmed down a little
9 bit, uhm, and that's when I drove back to the office in
10 Irmo.

11 Q. Okay. Did you eventually go home?

12 A. I did.

13 Q. Okay. Describe the events of when you went home.

14 A. Well, when I went home, I, uhm, parked, I parked our
15 Ford Focus in the backyard which is called the front yard in
16 all technicality, uhm, and I sat outside and smoked three or
17 four cigarettes just trying to calm down and I go inside the
18 door and go to the couch and she's sitting down watching TV,
19 Team Mom or something and, you know, she doesn't say hey. She
20 doesn't say anything. She doesn't even look at me and she -
21 she - I sat down and I took my boots off and she waited
22 probably, it felt like 10 or 20 seconds and she just, she
23 said, **Minor** said, and I just, I just broke out and started
24 saying yeah. Everything is true, you know. I just started -
25 everything is true and that's all I had said and she jumped up

1 from the couch and she jumped over the love seat and she
2 started saying all this stuff and I'm sitting there trying to
3 turn the TV on just trying to get some - some kind of
4 control.

5 Q. What kind of stuff was she saying?

6 A. I don't know.

7 Q. Did she say anything about anything being white?

8 A. She said -- Well, the first thing she said was, Minor
9 said. And that's when I broke in and said everything is true
10 and then the last part of her sentence was it was white and
11 all I could think of was it was jizz.

12 Q. That's what she said?

13 A. That's what she said.

14 Q. Not what you were thinking?

15 A. No.

16 Q. And what happened after that interaction?

17 A. After she jumped up from the love seat, she went to
18 the kitchen island and, uhm, she said some more stuff and then
19 she told me to grab some of my things and leave. I could come
20 back for the rest. Don't take her Ford. Don't take her car
21 and, uhm, that she doesn't know if she could trust me anymore.
22 I was like, come on. Help me. I mean, I'm - I'm - I'm trying
23 to figure out what exactly is going on. I don't know what's
24 going on. And she - she left. She ran out the back door and,
25 uhm, everything just seemed like Jell-O and --

1 Q. What do you mean by that?

2 A. Everything seemed slow. Like just slow. I was
3 moving slow. She was moving fast. But by the time I got to
4 the back door she was already, uhm, she was already half way
5 across the yard.

6 Q. And at some point in time you started looking up
7 things on the Internet; is that right?

8 A. I did.

9 Q. Why were you doing that?

10 A. She - I mean, to be honest I really don't know.
11 Uhm, I don't know. I just started searching up addiction, you
12 know, and, you know, it's just, I don't know.

13 Q. What happened with Tommy and Danny came over? How
14 soon after that?

15 A. It was immediately after Leslie ran up to her
16 parents' house. Uhm, she threw herself on the ground right
17 where we once had a pool for the kids and Danny, not Danny,
18 Tommy was already down the porch and walking over to her and
19 picking her up and he brought her to just right inside the
20 door and then he walked down like in my general area like
21 towards my house, uhm, but his nephew lives over to our right
22 so, you know, he - he, you know, cut a half right or half left
23 and, you know, went over to his nephew's house which is where
24 he had his brother Danny waiting, I suppose, and brought Danny
25 over to where I was at at my house and, you know, the first

1 thing he says to me, he's not here to protect me. He's here
2 to protect you. And I took that as a threat that he was going
3 to harm me, you know. What else could you think?

4 And after that, you know, he's like I'm here to make
5 sure you're not gonna go anywhere, you know. And I handed him
6 my keys, the Ford key and said here's my keys. I'm not going
7 anywhere. And he took the keys from me and I don't remember
8 if he put them in his pocket or if he kept them on him. I
9 don't remember. But, uhm, after a while Danny started asking
10 me, you know, he said, I work for the Mental Health Department
11 and I don't know what he does there. I assume, I thought it
12 was mechanic work but I don't know what he does there. So I
13 just kind of was like, yeah. Okay. I didn't say anything but
14 I was thinking in my head, yeah. Okay. Whatever. And he
15 started asking me like, well, what happened? And I didn't say
16 anything. I just sat there, you know, not saying anything.
17 And he's like, you know, I guess he, Tommy had already told
18 him what had happened and that's when Danny starts like
19 pointing or looking like, did it happen there or did it happen
20 here or did it happen here? And I didn't say anything.

21 Q. When, if ever, did Tommy ask you if you molested his
22 granddaughter?

23 A. He didn't.

24 Q. Danny was doing most of that conversation?

25 A. Yes.

1 Q. And how long were you with those two before Deputy
2 Smith arrived?

3 A. I don't remember. I just remember Tommy saying one
4 word where are the police. It's been forever so it had to at
5 least been 30 minutes. Now, they could have been up at [REDACTED]
6 and not down at us because our driveway is by [REDACTED]

7 Q. Well, I mean, when Deputy Smith arrived --

8 A. Deputy Smith? Man, that was, yeah, like I said,
9 probably about 30 minutes.

10 Q. And what happened with your interaction with Deputy
11 Smith?

12 A. Deputy Smith? Well, first he got out of his car,
13 his police car and, uhm, he said, hey, guys. I don't know
14 what's going on but I was told to come down here just to, you
15 know, I don't remember exactly what he said but basically just
16 to come down there and make sure we weren't going anywhere or
17 something like that. I think he said stand by is what he had
18 said, uhm, which then he asked for our driver's licenses.
19 Asked us who was, you know, like who we are as far as how we
20 are related to each other and then he returned Danny and
21 Thomas' licenses back and he dismissed them so...

22 Q. What do you mean by that, he dismissed them?

23 A. Pretty much he - he didn't tell me I could leave but
24 he told them they could go back to where ever they wanted to
25 go. Basically he released them from custody or whatever

1 you want to call it.

2 Q. How long were you with Deputy Smith before Sergeant
3 Rawl arrived?

4 A. That I'm not sure of. I'm really not sure of. Uhm
5 --

6 Q. Well, if you're not sure, you're not sure.

7 A. I mean --

8 Q. What did you do before Deputy Rawl came?

9 A. Yeah. So once he released Danny and Thomas, I had
10 asked him, hey, can I brush my teeth? Can I go inside and
11 brush my teeth? He said, yeah, sure. So I go up my back
12 porch and I go to close the door but I notice he's coming up
13 the back porch too so I'm kind of like, okay. Whatever. I
14 leave the door cracked open and I walk in and he follows me
15 back to the master bathroom where I brush my teeth and after I
16 brush my teeth, we go back through the master bedroom into the
17 living room and then into the kitchen and he kind of took a
18 position by our kitchen sink which is on the other side of an
19 island and I stayed on the opposite side of the island from
20 him. Uhm, he was leaning back on the cabinet where the sink
21 was at and I was leaning forward on the island facing each
22 other. Uhm, eventually I - we were talking about just random
23 stuff, not why he was here or anything like that. It didn't
24 seem like he was too interested in that. Uhm, but eventually
25 I said, hey, do you want anything to drink? He said no. I

1 was like, hey, well, I'm thirsty. Do you mind if I get
2 something to drink? He says yeah. So --

3 Q. Why were you asking him about brushing your teeth or
4 getting a drink? Why did you feel like you had to ask him
5 that?

6 A. Because he's an officer. I mean - I mean, you have
7 to -- I mean, if I walked off, what was he gonna do, you know?
8 I have to ask an officer because at that time I'm in his
9 custody. If he - if he - you know, I just felt like I had to,
10 you know.

11 Q. Okay. How many times did you ask him permission to
12 do sort of little things around the house?

13 A. Every - every thing I went to do that didn't pertain
14 to me like leaning on the cabinet.

15 Q. How many times do you reckon that was?

16 A. It was exactly two, three, four, five times.

17 Q. So you felt like you needed his permission to do
18 anything?

19 A. Yes.

20 Q. Well, how were you feeling? What were you feeling
21 at the time that you had to ask permission?

22 A. I mean, I was just feeling, I mean, it's a police
23 officer. You're supposed to listen to what they say and I
24 felt like I hadn't a chance to do what I wanted to do. I
25 didn't want to walk off and then him, you know, like put me in

1 handcuffs or anything, you know, because I didn't do anything,
2 you know.

3 Q. What kind of clothes was he wearing?

4 A. He was wearing a police uniform.

5 Q. All right. What was on his belt?

6 A. Uhm, handcuffs, like a five hour interview thing, a
7 pistol.

8 Q. But did you feel safe or not safe?

9 A. I mean, I felt relatively safe with him. Uhm, he
10 wasn't aggressive towards me. He wasn't asking me any
11 questions pertaining to why he was there or anything like that
12 so I didn't really - I didn't really feel threatened when he
13 came in.

14 Q. Well, what happened when Detective Rawl came in?

15 A. When Detective Rawl came in -- Well, first off, I
16 didn't see him come in. He just kind of came in my door.

17 Q. When did you notice him?

18 A. Uhm, I noticed him in my kitchen talking to Officer
19 Smith and that's when Smith turned to me and said we need to -
20 we need to lock the front door and head out the back. Could
21 you please lock the door and I did and that's when Rawl came
22 around and said, Officer Rawl said, you know, we're getting a
23 search warrant for this residence. We can't, you know, we
24 can't be in here. You have to get out of the house. So I was
25 like sure. Whatever. I'll leave. If that's procedure,

1 that's what I'll do. We got out on the back porch. I leave
2 first. Detective Rawl came after me and then, uhm, Officer
3 Smith closed the door and I don't think he locked it because I
4 don't think they would be able to get back in so I think it
5 was just left unlocked. After that I didn't see Smith.

6 Q. Where did you go after that?

7 A. Uhm, after that, uhm, Officer Rawl had said it's
8 pretty much, it's chilly out here. Let's keep warm in, you
9 know, in my car and so we walked over to his car and he opened
10 up the door for me. I sat in and he closed the door. He goes
11 around the front of his car, uhm, sits down in the driver's
12 seat so I'm sitting in the passenger seat in the front.

13 Q. Did you ask any questions about what was going on?

14 A. No. (Witness shaking head.)

15 Q. Why didn't you ask any questions about what was
16 going on?

17 A. I'm just listening to what, you know, I'm being told
18 to do so, you know, I didn't have any reason to ask any
19 questions. He's an officer.

20 Q. Well, what happened after he got in the car
21 with you?

22 A. Uhm, after he got in the car with me, uhm, he
23 started - it was probably about three or four minutes, maybe
24 five, something like that, uhm, he started asking, hey, do you
25 know why I'm here and even though I knew or I had an idea of

1 why he was there I told him no. I don't know why you are
2 here.

3 Q. Why did you do that?

4 A. Because I didn't want to talk to him. I didn't want
5 to talk to him about, you know, what was assumed.

6 Q. Well, at that time you're saying that you had only
7 encouraged **Minor** or said it was all right to masturbate. You
8 had given her some vibrating object to do that with. Why
9 didn't you want to talk to him about that?

10 A. Uhm, I mean, that's why the police were called, you
11 know, because, I mean, you probably shouldn't do that. I
12 mean, I know you shouldn't do that.

13 Q. Well, at some point in time you did start talking
14 with him; is that right?

15 A. Yeah.

16 Q. When, if ever, did he advise you of your Miranda
17 Rights, your right to remain silent --

18 A. Never.

19 Q. -- during the conversation?

20 A. During the conversation. No. Uhm, there was a
21 brief, uhm, the written statement, uh, there was a brief, uhm,
22 kind of, hey, this is the Miranda Rights. This is the first
23 Miranda Right but then after that he didn't say anything else
24 because he handed me the paper and told me to sign or initial
25 these circled numbers that he had.

1 Q. Okay. Well, how long had you been in the car before
2 you were handed that paper?

3 A. Uhm, going off of the time he said that we started
4 at 18:25, 6:25, uhm, if you look at the paperwork that we
5 actually --

6 Q. No. Just from your recollection.

7 THE COURT: Don't interrupt him.

8 MR. MAULDIN: I apologize, Your Honor.

9 THE COURT: Answer the question, Mr. Ellis.

10 BY THE WITNESS:

11 A. 19:08. 7:08.

12 BY MR. MAULDIN:

13 Q. So in that 40 or so minutes what was the interaction
14 between you and him to where you didn't want to talk to him to
15 all of a sudden you're starting to tell him stuff?

16 A. Well, he was - he was aggressive and pushy. I felt
17 threatened that he was going to harm me. I don't think he
18 would have shot me but it definitely made me feel like he was
19 going to at least reach across and, you know, harm me that
20 way.

21 Q. Well, the things that he says you admitted to are
22 pretty serious stuff, aren't they?

23 A. They are.

24 Q. And you did that just because he's aggressive and
25 pushy?

1 A. I mean, he's sitting there. He's a police officer
2 and he's telling me, you know, I know what you did. I know
3 what you did to that little girl and everything will be fine.
4 Everything will go a lot smoother if you just go ahead and,
5 you know, tell me.

6 Q. What, if any, details did he give you about what he
7 knew that you did?

8 A. Uhm, I mean, you know, he just sat there and said he
9 knew what happened and everything like that and then, uhm,
10 that's pretty much all the real details he gave me during the
11 verbal conversation. Uhm, I kind of put two and two together
12 and understood what Leslie was talking about whenever she
13 called the police, you know. She said it was white. All I
14 could think of was jizz and so I told the police officer, you
15 know, pretty much anything I could come up with. I basically
16 used my past history as my statement.

17 Q. Why did you pick oral sex type of thing versus
18 vaginal sex?

19 A. That's what happened to me when I was a kid. That's
20 the only thing I could really relate to.

21 Q. Okay. But didn't you describe some of it as being
22 penetrative in the past?

23 A. Yes.

24 Q. Why would you do that? I mean, wouldn't that get
25 you in big trouble? If that's not what happened, why would

1 you say something like that?

2 A. I mean, I assumed since he was an investigator,
3 since he was a police officer that there was some form of
4 recording and whenever that gets played back it would be seen
5 that, hey, he's not, you know, he's not listening to the guy.
6 The guy said he doesn't want to talk to him. The guy says he
7 doesn't know why he's there. There should have been a dash
8 cam. There should have been a body camera. There should have
9 been at least, should have at least been some sort of
10 recording or something or a secondary person, something.

11 Q. What did you think would happen if you didn't say
12 anything?

13 A. If I didn't say anything?

14 Q. Yes.

15 A. I mean, like I said, I felt threatened. I felt
16 like, you know, the way his demeanor was if I didn't listen to
17 what he had said and I didn't word things how he wanted me to
18 word it, then I would, uhm, you know, I perceived that I would
19 actually be harmed. Uhm --

20 Q. Why did you have that perception?

21 A. Just because of his aggressiveness.

22 Q. What do you mean by that? What do you mean by
23 aggressiveness?

24 A. Well, first off, I mean, like I said, I had told him
25 I don't know why you're here. I told him that multiple times.

1 And I told him multiple times that I didn't want to speak to
2 him and so, you know, if I'm telling you things and you're
3 telling me, no, you have got to do this pretty much, he didn't
4 say you have got to do this but he, you know, kind of forced
5 it on me, you know. Just, you know, he didn't verbally say
6 you have to do this but my perception of his aggressiveness
7 was you have to do this.

8 Q. And how long do you think it was when you said that
9 you weren't interested in talking until you started saying
10 that things happened?

11 A. Uhm, maybe five minutes. I mean, maybe. You're
12 talking about when he started, you know, making me feel like I
13 should just go ahead and say stuff?

14 Q. Yes.

15 A. Yeah. You know, after - after he denied me, you
16 know, from being able to be silent or from saying why I don't
17 know why you are here, uhm, I pretty much felt like, well,
18 screw it, you know. He's pretty much already entered my
19 house. I didn't invite him in my house. I did give him
20 permission to search my house but my thought was they have
21 already entered my house so why tell them they can't search it
22 and then at that time, you know, the police are the
23 authority.

24 Q. All right. So eventually you went from talking to
25 him to writing a statement; is that correct?

1 A. That's correct.

2 Q. And I'm going to put on the projector here State's
3 exhibit 29. Did you write that?

4 A. I did.

5 Q. Why did You write that if you didn't do anything
6 wrong?

7 A. Like I said, he kind of pushed himself onto me and
8 started telling me, you know, everything will be better if you
9 just go ahead and, you know, say what you did. I already
10 know, you know, what you did to the little girl and
11 everything. And like I said, Leslie had already, you know,
12 pretty much led me to know what was already going on so I kind
13 of used my, uh, like I said, I used my past history to just
14 write out what happened to me when I was a kid just because,
15 you know, like I said, that's the only experience I have
16 got.

17 Q. I mean, what would you think would happen to you if
18 you admitted to this stuff? I mean, what did you think was
19 going to happen?

20 A. At the time I didn't feel - I didn't feel like it
21 would be used against me because once the video or the
22 recording or whatever was found they would see that he pushed
23 me into, you know, saying what he wanted me to say and that he
24 was aggressive and forceful.

25 Q. Where did you come up with these details about

1 flavored lubricant?

2 A. Uhm, the flavored lubricant we actually did have and
3 I was just thinking about it. Uhm...

4 Q. What about this I ejaculated on the floor? Where
5 did you come up with these details?

6 A. That actually happened to me when I was a kid, uhm,
7 by Mark Owens. Uhm, he first started out, you know, coming
8 with what I ended up doing by giving, you know, an assist, an
9 assisting device and then he just progressively got on and on
10 and on until he orally penetrated me.

11 MR. MAULDIN: May we approach, Your Honor?

12 THE COURT: Yes, sir.

13 (Side bar off the record.)

14 THE COURT: Go right ahead with your next question,
15 please, Mr. Mauldin.

16 MR. MAULDIN: Thank you, Your Honor.

17 BY MR. MAULDIN:

18 Q. Now, this is your handwriting on these lines with
19 the A and the little colon next to it, aren't they?

20 A. That's right.

21 Q. And where did you come up with these details **Minor's**
22 hand brushed against my pants and I asked her to continue.

23 A. That was completely made up. I didn't know how to
24 answer his question, uhm, because, I mean, I didn't - I didn't
25 make her lick my pee-pee. Uhm...

1 Q. Well, why didn't you tell him what really happened
2 instead of this other stuff?

3 A. Well, because he already supposedly knew what had
4 happened and he was going to put - I felt he was going to put
5 anything on me he could so I pretty much went as far as making
6 things up.

7 Q. And what, if any, discussion did you and Detective
8 Rawl have about your answers before you wrote them down?

9 A. Before I wrote them down? He would write his
10 question and he would kind of - I wouldn't - I wouldn't really
11 say coach but he would sit there and say, all right. Well,
12 this is what I mean or this is how I want you to answer it.

13 Q. Did he put words in your mouth or --

14 A. Not really words in my mouth but he did make me feel
15 like I kind of had to comply.

16 Q. Did you think something good was going to happen if
17 you did all that?

18 MS. MAYES: Objection to the form of the question.

19 That's leading.

20 THE COURT: Rephrase the question please, Mr.

21 Mauldin.

22 BY MR. MAULDIN:

23 Q. What would you hope to possibly achieve by writing
24 all of this?

25 A. Just staying out of harm's way.

1 Q. Now, after you were arrested and placed in jail, you
2 wrote letters, didn't you?

3 A. A good many.

4 Q. Going to State's 19 when you write to Minor I was
5 the adult. I shouldn't have been involved with you in that
6 way. You made me feel love but I was wrong for how that
7 feeling was obtained.

8 What did you mean by that?

9 A. I had felt that by encouraging her to masturbate
10 showed that I was willing to be, you know, uh, I wanted to be
11 a better dad. Uhm, we have had - we have had issues in my
12 family pretty much our entire - our entire, uhm, marriage and
13 since we got the new house I just didn't, I didn't feel like
14 --

15 THE COURT: I can't hear you, Mr. Ellis.

16 BY THE WITNESS:

17 A. Since we got the new house I felt more for my family
18 than I have ever felt. You know, my wife is working. I'm
19 working. We tried to get our schedule to where we didn't have
20 to pay for child care or anything and, uh, we just - we didn't
21 see each other much and then the kids, they just wanted to go
22 over to nana's all the time and I just - I just felt like my
23 family wasn't there and I wanted them to know that I do love
24 them and I want to be a better dad. I didn't feel - I didn't
25 feel like I was, you know, a good dad until we, you know, got

1 our place. I worked for so hard for so long to get us out of
2 the Havird's house. And I just - I just --

3 BY MR. MAULDIN:

4 Q. And you wrote and again in exhibit 19 in one of the
5 letters in there, nothing I did seemed to work out especially
6 with **Minor**. Your mother told her not to do something which I
7 thought was fine for her to do. **Minor** asked me questions one
8 night and it was taken out of hand. It was something she was
9 enjoying so I looked at it like I was teaching and bonding.

10 What did you mean by that?

11 A. Just what I said. I mean, she - she was - we were
12 spending time together. I mean, I know - I know it's not how
13 we should have spent time together but she was asking me
14 questions and I just - I - I just felt, you know, it was -- I
15 don't know. She was asking me questions so I felt like, you
16 know, I was communicating and making our relationship
17 stronger, you know. I tried to do that with the other kids,
18 too, you know. Make our relationship stronger. But with **Minor**
19 it just - it just was taken out the wrong way.

20 Q. And going on again from exhibit 19 you wrote I was
21 more depressed then I thought I could be until Leslie told me
22 about **Minor's** habit a few months prior to my arrest. I asked
23 **Minor** about it for those few months telling her it was all
24 right to do if she was clean about it.

25 What did you mean about that?

1 A. As long as she washed her hands, you know. I didn't
2 - I - I - I encouraged her to just do something her mother
3 told her not to do.

4 Q. Then you wrote, I felt this way. This was the way
5 to connect with her. I now understand I wasn't in my right
6 mind. In fact, I realized it when **Minor** asked when we got to
7 do what her cousin's parents do putting their private parts
8 together or in adult terms intercourse or sex, I thought to
9 accidentally end my life while driving to my job site that
10 Saturday.

11 What is that all about?

12 A. I don't like what happened, you know. I know I was
13 wrong for what happened. I - I - I didn't like myself after I
14 realized, you know, what I was doing was basically what
15 happened when I was a kid.

16 Q. But you were molested as a kid you say?

17 A. It began with touching. It began with giving, you
18 know, toys, lubricants, you know, encouragement, coaching.

19 Q. Were you doing the same thing with **Minor**?

20 A. I mean, I was encouraging and I did give her the
21 vibrating bean. I did give her that and, uhm, you know,
22 that's as far as it went. I mean, for it to go further would
23 just be wrong and that's when I was like, no. I don't want
24 this to happen, you know. I don't want what happened to me to
25 happen to her, you know.

1 Q. Going to State's 20 here, you write, you say I did
2 something to your daughter but you jumped the gun. She
3 obliged only retaliating when I wouldn't have sex with her.
4 She pulled the wool over your eyes.

5 Now, I mean, what does that mean?

6 A. Minor - Minor lied. Minor lied about --

7 Q. Do you know what she told them? Did you know what
8 she told them?

9 A. At that time I had the motion to discovery so I knew
10 what they were talking about. Uhm...

11 Q. So then you go on to write, I know what Minor and I
12 did was fucked up which is why when I came to my senses I
13 thought of suicide.

14 Why would you write that?

15 A. I'm just trying to get my family back. I'm just -
16 I'm just -- I wanted my family. I - I - I wanted to do
17 anything I could to have my family back.

18 Q. In exhibit 21 you wrote, I never expected this to
19 happen. Nobody did. But I can tell you it can never happen
20 again.

21 Did you write that?

22 A. I did.

23 Q. What did you mean by that?

24 A. I - I hurt my family. Uhm, I hurt them pretty bad.
25 I, uhm, I felt bad for what I had done and my wife didn't want

1 me anymore.

2 Q. Going to State's 22, you wrote, Tommy, I know I
3 messed up. I made the distorted and horrible decision. I did
4 not intend for it honestly. I am not proud of what happened,
5 of how I went about being loved. [Minor] asked questions and I
6 wanted her to care about me in some way.

7 What did you mean by that?

8 A. The only way I felt like I could connect was by
9 talking to the kids and helping them out with situations like,
10 you know, letting them know that I was there; that, you know,
11 I'm not - I'm not trying to be this parent who just tells you
12 what to do, you know. I mean, they kind of saw me as that.

13 Q. Didn't you discipline the kids a lot?

14 A. I did.

15 Q. Did that involve hitting them?

16 A. I would spank them. I would spank them.
17 Occasionally put them in the corner. I, uh, I got down and
18 did push ups with [L.D.] a couple of times. He thought it was
19 funny, you know.

20 Q. Going on the same exhibit, you write, I couldn't
21 bear -- This is to Leslie. I couldn't bear the words coming
22 from your mouth so I rushed in and admitted it. I love you so
23 much that I wouldn't lie to you.

24 What are you talking about on that?

25 A. I'm talking about admitting that I did whatever she

1 was saying, you know.

2 Q. Well, she's saying you had oral sex with her
3 daughter.

4 A. But I didn't know that's what she was saying at the
5 beginning. I didn't know that's what she was saying. When
6 she burst out, I didn't know what to do. I was -- I didn't
7 know what to do so all I said, all I could do is, you know,
8 agree. I didn't want to hear what she - what she had to say.
9 I just wanted -- I just wanted it to be over. I just wanted
10 -- I didn't -- I didn't want to hear it.

11 Q. Bryan, when, if ever, during that period of time did
12 you touch Minor in a sexual manner?

13 A. I didn't. I wouldn't even - I wouldn't even bathe
14 her privates. I mean, I washed her hair but everything else
15 she had to do it on her own. I wouldn't. I wouldn't touch
16 her.

17 Q. Why did you think that was a good idea talking to
18 her about masturbation?

19 A. Like I said, I was just trying to be -I was trying
20 to show her --

21 MS. MAYES: Objection. Asked and answered.

22 THE COURT: I'll allow him to answer.

23 BY THE WITNESS:

24 A. So can you repeat that for me?

25 BY MR. MAULDIN:

1 Q. Why did you think that was a good idea? Why didn't
2 you let her mother deal with that?

3 A. Well, like I said, Leslie had said that [Minor] was
4 playing with herself, you know, and she didn't say anything
5 else, you know. I assumed she was saying, hey, you're the
6 disciplinarian and you deal with it, you know. We didn't have
7 any conversation about it afterwards. She just said [Minor] is
8 doing this. I said, oh, okay. Whatever. You know. So I
9 just felt that was a way to connect with her, you know. I
10 mean, at the time I didn't think that was a way to connect
11 with her, but when she started asking questions that was
12 pertaining to masturbation and things like that, when I would
13 say, are you still doing that, you know, doing what mommy said
14 not to do, you know, she started asking questions and, I mean,
15 I know I shouldn't have but I started answering her questions,
16 you know.

17 MR. MAULDIN: I have no further questions for you at
18 this time, Bryan. Please answer any questions the State
19 may have.

20 THE COURT: Thank you, Mr. Mauldin. Solicitor.

21 MS. MAYES: Yes, sir, Your Honor.

22 CROSS EXAMINATION

23 BY MS. MAYES:

24 Q. Let me get this straight, Mr. Ellis. You just
25 testified that when your wife confronts you and you have

1 gotten the text message about something **Minor** said and your
2 wife is sick to her stomach and isn't going to work and needs
3 you to come home, you call your boss and make arrangements to
4 come home, you get home at 3:30 and your wife confronts you
5 and according to your testimony just a few moments ago you
6 said you heard Leslie talking about white stuff and you
7 thought it was what?

8 A. No. No. No.

9 THE COURT: Answer the question.

10 THE WITNESS: Sorry?

11 THE COURT: Answer the question.

12 BY THE WITNESS:

13 A. I did not say I thought it was jizz. She said it
14 was jizz. Or all she could think of is it was jizz. That was
15 out of context.

16 BY MS. MAYES:

17 Q. So you heard your wife talking about ejaculation and
18 your answer is, "everything is true"?

19 A. She never spoke of ejaculation. She said jizz and I
20 didn't admit to that.

21 Q. Your testimony just a few moments ago was that when
22 your wife was confronting you, you said "everything is
23 true"?

24 A. You're incorrect. I actually said that while she
25 was stating that I had said everything is true and she

1 finished her sentence.

2 Q. And what was your response to that?

3 A. I didn't respond to that. She jumped up from the
4 couch.

5 Q. Your wife also said to you, is it true that you made
6 **Minor** lick your pee-pee, and your answer was, "everything is
7 true" and then you begged her for help; isn't that correct?

8 A. That's not correct.

9 Q. You admit that you begged your wife for help as she
10 is leaving the home?

11 A. I wanted to understand what she was talking about.
12 I mean, I understood --

13 Q. You just according to your testimony you just heard
14 her ask you about something white and you heard the word jizz
15 and then you ask for help, correct?

16 A. I did.

17 Q. And then Leslie leaves and calls law enforcement.

18 A. Okay.

19 THE COURT: That's not an answer. Okay is not an
20 answer.

21 BY THE WITNESS:

22 A. Yes, ma'am.

23 THE COURT: It's yes or no or I don't know.

24 BY MS. MAYES:

25 Q. At that point Leslie called law enforcement,

1 correct?

2 A. Correct.

3 Q. First you have contact with Tom Smith and he's
4 basically there to watch you, correct?

5 A. Correct.

6 Q. And then Detective Rawl arrives on the scene and you
7 voluntarily go into his vehicle, correct?

8 A. I do.

9 Q. All right. And your testimony now today under oath
10 is that this officer made you feel threatened?

11 A. Yes.

12 Q. And that you were not advised of your rights?

13 A. Correct.

14 Q. Let me show you this document State's exhibit 29.

15 A. Yes. I know this document.

16 Q. You know this document. And right here, Mr. Ellis,
17 whose initials are by each one of those rights? I have the
18 right to remain silent.

19 A. Bryan Jeffrey Ellis. That's me.

20 Q. So you wrote your initials beside each of these
21 rights?

22 A. I did.

23 Q. And you have over 12 years of education. In fact,
24 your testimony a few moments ago is that you have a college
25 education, correct?

1 A. Some.

2 Q. As well as military?

3 A. Correct.

4 Q. So there is no question that you can read and
5 write?

6 A. Correct.

7 Q. You were waiving your rights and wishing to speak
8 with the officer, correct?

9 A. No.

10 Q. You didn't read those rights?

11 A. I did not read those rights.

12 Q. All right. So as we go through each one of these
13 and you have your initials beside I have the right to remain
14 silent, anything I say can and will be used against me in a
15 court of law, I have the right to talk to a lawyer for advice,
16 if I have no money for lawyer's fees, the court will appoint
17 one, and then I have the right to stop questioning at any
18 point in time, each one of those bears your initials and your
19 testimony today under oath is that although you can read and
20 write and have a college education you didn't read these
21 rights?

22 A. Correct.

23 Q. Mr. Ellis, the fact is that you thought that you
24 could talk your way out of it that night with that officer and
25 every bit of that information came from you, didn't it?

1 A. No. All of that information didn't come directly
2 from me. Some of it was pressed upon me.

3 Q. Well, for example, Mark Owen, the fact that as you
4 have testified a few moments ago you said that you were
5 molested as a child was your testimony a few moments ago, is
6 that that perpetrator as you termed it encouraged, he used a
7 lot of the same, he did what I ended up doing was your exact
8 quote from a few moments ago. You said he used the
9 encouragement. The coaching. He used lubricant and he gave
10 you sex toys, correct?

11 A. Correct.

12 Q. None of that information came from this officer. He
13 didn't know that. It came directly from you, didn't it?

14 A. Like I said, I made stuff up.

15 Q. I'm sorry?

16 A. I made some of this stuff up. I have already told
17 you that.

18 Q. Well, you didn't make up that there was an external
19 vibrator that you had given to **Minor**?

20 A. No. He asked me about it.

21 Q. Your statement a few moments ago was that you wanted
22 to be a better dad and your idea of being a better dad was to
23 encourage **Minor** to masturbate and to use that sex toy,
24 correct?

25 A. Look, I admit it was wrong. Yes.

1 Q. And exactly the same method that you testified a few
2 moments ago you were groomed as a child by a sex offender,
3 correct?

4 A. Yes.

5 Q. And as you testified a few moments ago, you ended up
6 doing the exact same thing, didn't you?

7 A. I didn't go as far as he had went.

8 Q. You didn't have sex with Minor, did you?

9 A. No.

10 Q. Now, one of the things that you said a few moments
11 ago is that you had received your motion for discovery as
12 you're sending out these letters from the jail, correct?

13 A. Correct.

14 Q. You knew full well that Minor had told it all. She's
15 told everything now. It's more than one time. It's oral sex
16 and it's touching. You knew all of that, didn't you?

17 A. I mean, they had the same information I had. I
18 mean, if I wrote a statement, all they have to do is read it
19 and say, yeah, that's true.

20 Q. Who is "they"?

21 A. Leslie. I mean, whoever got it.

22 Q. Leslie doesn't have your statement. Leslie didn't
23 have your statement.

24 MR. MAULDIN: Objection, Your Honor.

25 MS. MAYES: I can clarify that.

1 MR. MAULDIN: She instructing the witness, basically
2 testifying.

3 MS. MAYES: I can clarify that, Your Honor.

4 BY MS. MAYES:

5 Q. When we talk about discovery that came to you, what
6 I'm asking you is you were aware of what [Minor] had told law
7 enforcement? You were aware of what [Minor] had said in that
8 forensic interview?

9 A. By the motion of discovery.

10 Q. Correct.

11 A. Yes. Yes.

12 Q. And by the arrest warrants, the fact that you were
13 being charged with having oral sex with a child and with
14 touching a seven year old, correct?

15 A. Right. Yes.

16 Q. Do you recognize these items?

17 A. I do. Again, I do.

18 Q. That's yet another letter that you have written to
19 Leslie and kids at [REDACTED] [REDACTED] [REDACTED] in your handwriting,
20 correct?

21 A. Correct.

22 Q. This one is dated April of 2016.

23 A. All right. Yes.

24 Q. Do you recall writing in that letter addressed to
25 Leslie and the kids, do not deny your spouse sexual relations

1 for Satan may intrude into your sanctum?

2 A. First Corinthians 7. Yes.

3 Q. I am very sorry, Leslie. I did not mean to allow
4 this to happen. Please forgive me and bring peace to our
5 marriage and our family.

6 A. (Witness nodding head.)

7 Q. Those are your words?

8 A. Those are my words.

9 Q. You wanted a reconciliation even after all of this
10 came to light, correct?

11 A. I wanted my family back.

12 Q. And they made it clear to you that you could not go
13 back to the family, correct?

14 A. No. She had never written me up until this point.

15 Q. You were made aware by the Department of Social
16 Services worker?

17 A. No. I wasn't.

18 Q. You didn't know that there would have been a safety
19 plan in effect where you would not have been allowed to have
20 contact with any of those children?

21 A. No.

22 Q. So you're completely unaware of that?

23 A. Completely unaware of that.

24 Q. Okay. So where it says, I also ask that Minor
25 forgive me, that came from you, didn't it?

1 A. Correct.

2 Q. So you are aware of what Minor has told?

3 A. Correct.

4 Q. And a few moments ago in direct examination you sat
5 on that stand and said Minor lied.

6 A. Okay. I did say she lied.

7 Q. And in this very letter you state, I also ask that
8 Minor forgive me. She has an open heart and I know she may not
9 know exactly what it is to forgive but she is not old enough
10 to need to repent or face sin. In this I know she has
11 forgiven me.

12 Those are your words?

13 A. They are.

14 Q. Not one time do you call that child a liar, do you,
15 Mr. Ellis?

16 A. No.

17 Q. We only hear that today after she's told everything
18 and you can't go back home on it. On this date you only
19 wanted forgiveness from Minor correct?

20 A. No.

21 MS. MAYES: Your Honor, this would be State's
22 exhibit for evidence, I believe it's gonna be 31.

23 MR. MAULDIN: No objection, Your Honor.

24 THE COURT: State's 31 is in evidence without
25 objection.

1 (Whereupon, State's Exhibit #31 marked for
2 identification and received in evidence.)

3 BY MS. MAYES:

4 Q. State's exhibit 20 is already in evidence. Again,
5 that is authored by you by the envelope and the content
6 therein, correct?

7 A. Correct.

8 Q. In this letter you stated, I know I was wrong for
9 what **Minor** and I did. That's why I confessed. I know I was
10 wrong for what **Minor** and I did. That's why I confessed.

11 Those are your words right there in that letter,
12 aren't they, Mr. Ellis?

13 A. They are.

14 Q. That's why you confessed.

15 A. In context I confessed to her that it is true.

16 Q. That it is true when she said to you you made **Minor**
17 lick your pee-pee?

18 A. No. She never said I made **Minor** lick my pee-pee.
19 Not at that point.

20 Q. So now your testimony is that you have no idea what
21 Leslie was saying to you and you have no idea what you were
22 admitting to when you said everything is true and you have no
23 idea what it was you were confessing to, isn't that right, Mr.
24 Ellis?

25 A. That's been my testimony the whole time.

1 Q. So you really still don't even know why you are here
2 or what you confessed to, do you?

3 A. I know the allegations.

4 Q. Those phone searches --

5 A. Yes, ma'am.

6 Q. -- those phone searches, beat sex addiction right
7 before you got into the car with this sergeant, these phone
8 searches were by you, weren't they, Mr. Ellis?

9 A. They were.

10 Q. So you don't know what it's about or what the
11 allegations are and you just happened to be searching for beat
12 sex addiction, correct?

13 A. Oh, uhm, I did search for beat sex addiction but I
14 didn't actively type that out.

15 Q. You didn't actively type that out. You have to
16 enter the words beat and sex and addiction for it to be a
17 Google search and return those items?

18 A. No. When you start typing, Google assumes. All you
19 have to do is hit an arrow and hit enter.

20 All right. State's exhibit 30, take a look at that.

21 MS. MAYES: And, Your Honor, for demonstrative
22 purposes we have an identical exhibit.

23 BY MS. MAYES:

24 Q. All right. Down here, beat sex addiction at 5:53
25 p.m. Those terms are actually entered, beat plus sex plus

1 addiction into the phone to return any articles and here is
2 the article that was returned and access was
3 sexualcontrol.com, correct?

4 A. So what you're saying is I typed that in hand free?

5 Q. Yes. No. I'm saying that you typed that in with
6 your hands?

7 A. No.

8 Q. No. So the phone must have been self operating at
9 that point?

10 A. I mean, technically. Yes. But that's not
11 completely true. Uhm --

12 Q. And this is just after you have been confronted by
13 your wife and as she leaving by your own admission on that
14 stand a few moments ago you were stating to her help me. I
15 need help?

16 A. Yes.

17 Q. Yes.

18 A. The URL is actually something people usually do not
19 type into the web bar especially with some things with so many
20 different characters and different numbers and things like
21 that. That's a query on a search engine.

22 Q. And that query on the search engine occurred just
23 moments or within the same two hours of you stating to this
24 officer as you are in his vehicle and after your rights have
25 all been initialed by you, is there anything else that you

1 want to tell me or talk to me about? Answer, in your writing
2 and let's confirm, that entire answer is in your writing,
3 correct?

4 A. Correct.

5 Q. I understand now that I need some form of assistance
6 to become a part of the functioning society and that what I
7 have tried to achieve is not becoming of an adult much less a
8 parent.

9 Your words, correct?

10 A. My words.

11 Q. I'll show you a State's document addressed to Thomas
12 and Barbara Havird, correct?

13 A. Correct.

14 Q. Also in your handwriting?

15 A. Correct.

16 Q. And the letter that you wrote. And this is
17 addressed to who?

18 A. Father and mother-in-law. That would be Tommy and
19 Barbara Havird.

20 Q. Okay. With this you ask, how could you do what you
21 did? You were supposed to love them. Exactly how could I?

22 And then you go on to explain that you and Leslie
23 had issues, correct?

24 A. Correct.

25 Q. And you go on to thank Thomas Havird and Danny for

1 being there that afternoon when you said earlier in your
2 letters that you had contemplated suicide, correct?

3 A. Correct.

4 Q. And you were contemplating suicide all because as
5 you state you had shown **Minor** a vibrator?

6 A. Encouragement.

7 Q. And encouragement?

8 A. Correct.

9 Q. Dad, thank you and Danny for being there for me.
10 Thank you for everything. I was so torn I may have killed
11 myself. I do not like what I did and wanted to end my life
12 for it. God wanted you there for me.

13 So you were at the point of suicide until they were
14 present, correct, by your own words?

15 A. Yes.

16 MS. MAYES: Your Honor, this would be State's
17 exhibit 32 for evidence identified by the defendant.

18 MR. MAULDIN: No objection, Your Honor.

19 THE COURT: State's 32 is in evidence without
20 objection. How many more of those do you have,
21 Solicitor?

22 MS. MAYES: That was the last one, Your Honor.

23 (Whereupon, State's Exhibit #32 marked for
24 identification and received in evidence.)

25 BY MS. MAYES:

1 Q. Minor trusted you?

2 A. Yes.

3 Q. Her whole life from the time she was 18 months old
4 you were the only father she ever knew; isn't that correct?

5 A. Rough estimate 18 months. Yes.

6 Q. She trusted you with everything that she had, didn't
7 she?

8 A. To an extent. Yes.

9 Q. To the extent that she would do what you asked her
10 to do, correct, Mr. Ellis?

11 A. Not that I -- I mean, she would do whatever I asked
12 her to do. Sure. Yes.

13 MS. MAYES: Yes. Nothing further.

14 THE COURT: Redirect?

15 MR. MAULDIN: Thank you, Your Honor.

16 REDIRECT EXAMINATION

17 BY MR. MAULDIN:

18 Q. Now, when you're talking about not typing things out
19 with handling the phone, are you talking about the automatic
20 fill in thing?

21 A. Yes. As you type in a letter, it pops up, you know,
22 suggestions that people have, you know, searched based on how
23 often they have been searched.

24 Q. Okay. But you were searching for that stuff and
25 that was entered into your phone; is that right?

1 A. I was searching for addiction.

2 Q. And you said you didn't read the rights. Why didn't
3 you read them?

4 A. Uh, because Officer Rawl pretty much just said here.
5 Initial, you know, everything that I have circled and so he
6 handed me the paperwork and away I went.

7 Q. When did you do all the initialing on the paper?

8 A. After I did the statement and the paragraph below.

9 Q. Does that include the initialing when you strike
10 stuff out or did you do that as you went?

11 A. I did that as I went.

12 Q. So you're referring to the initials all down the
13 side of the paper on the left?

14 A. On the left? We did that at the very end after we
15 signed with the nothing follows and that's also when we did
16 the signatures.

17 Q. Now, you have been through high school, a little bit
18 of college, right?

19 A. Correct.

20 Q. You watch TV and movies, that kind of thing?

21 A. Not as much as your average person but yes, sir.

22 Q. You know that you have heard of the Miranda Rights
23 before, haven't you?

24 A. No.

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

1 THE COURT: Recross?

2 MS. MAYES: Yes, sir, Your Honor.

3 RECROSS EXAMINATION

4 BY MS. MAYES:

5 Q. So you don't know that you have the right to remain
6 silent? You have never seen that on any --

7 A. Never.

8 Q. -- television show in --

9 A. No.

10 Q. -- your entire life?

11 A. Like I said, I don't really watch TV that much.

12 Q. Okay. And in order to fill out this form and then
13 write that paragraph below you have to actually hold it,
14 correct? You weren't leaning over and filling it out in the
15 lap of Sergeant Rawl?

16 A. I was holding it.

17 Q. You were holding it?

18 A. Correct.

19 Q. And the entire time you're holding this you say you
20 never bothered to read it or acknowledge the rights known as
21 the Miranda Rights?

22 A. Correct.

23 Q. And, in fact, until you came into court this week
24 you didn't even know that there were such thing as Miranda
25 Rights, correct?

1 A. Not correct.

2 Q. So you did know?

3 A. Once I got in jail. Yes.

4 MS. MAYES: Okay. Thank you. Nothing further.

5 THE COURT: Thank you, Mr. Ellis. You may step
6 down. All right. Mr. Foreman, ladies and gentlemen,
7 perhaps now would be a good time to take our luncheon
8 recess.

9 MR. MAULDIN: Your Honor, if I may --

10 THE COURT: No, sir. You may not. Please remember
11 during this recess do not discuss this case with your
12 fellow jurors. Do not read, watch, listen to any news
13 accounts about the case. Do not do any independent
14 research or any research on the Internet. Take an hour.
15 Take a walk about. Get out. Get some fresh air, what
16 have you and we'll take about an hour. Thank you. We
17 will take an hour. Thank you very much. Hope you have a
18 pleasant lunch.

19 (Jury luncheon recess.)

20 THE COURT: Mr. Mauldin.

21 MR. MAULDIN: Your Honor, I was just going to rest
22 on the record.

23 THE COURT: I haven't asked if there were any
24 motions. I haven't asked you to call your next witness.
25 I would be delighted to do that.

1 MR. MAULDIN: I apologize, sir.

2 THE COURT: Somebody's got to run the court and in
3 this courtroom it's going to be me. Thank you very much.
4 Court will be in recess until 2:30.

5 MS. MAYES: Thank you, Your Honor.

6 (Lunch recess.)

7 BAILIFF: All rise.

8 THE COURT: Thank you. Please be seated. Good
9 afternoon. Thank you. All right. Mr. Mauldin, you
10 intend to rest?

11 MR. MAULDIN: Yes, sir.

12 THE COURT: Do you object if I hear any motions now?

13 MR. MAULDIN: No, Your Honor.

14 THE COURT: All right. I'll be glad to hear from
15 you.

16 MR. MAULDIN: Thank you, Your Honor. Thank you. On
17 behalf of Mr. Ellis I would renew my motions for directed
18 verdict on the grounds previously stated at the close of
19 the State's case.

20 THE COURT: I would respectfully deny the motions
21 for directed verdict as to both criminal sexual conduct
22 with a minor in the first degree and criminal sexual
23 conduct with a minor in the third degree. All right.
24 Solicitor, does the State intend to present any evidence
25 or testimony in reply?

1 MS. MAYES: No, sir, Your Honor.

2 THE COURT: All right. Y'all ready for closing
3 arguments, correct?

4 MS. MAYES: Yes, sir, Your Honor.

5 MR. MAULDIN: Yes, sir.

6 THE COURT: Y'all follow State versus Beatty?

7 MR. MAULDIN: Yes, sir.

8 MS. MAYES: Yes, sir. Although in this situation I
9 believe they have offered no evidence. Well, other than
10 his testimony. Yes. We do. We do, Your Honor. We do
11 intend to offer rebuttal depending on the context of the
12 closing argument by the defendant and whether or not
13 response on new information is warranted.

14 THE COURT: All right. So you close first in full,
15 Madam Solicitor, followed by Mr. Mauldin followed by
16 whoever in reply. I left my charge book in the back.
17 Would you ask my law clerk to step in for just a moment.
18 All right. The only requested charge I had was direct
19 and circumstantial evidence which is part of my general
20 charge. General intent which is part of my general
21 charge. Experts and redactions along with all my other
22 general charges and with the specific charges in the
23 indictments. Anything further?

24 MR. MAULDIN: Yes, Your Honor. I think we discussed
25 the charge regarding the statement of the defendant.

1 THE COURT: Yes. I have that. I do charge that. I
2 didn't laundry list them all. I just didn't see that
3 written down on the paper. Statement of the defendant.
4 I do have that also. Yes, sir. All right. Let's bring
5 our jury in.

6 (Whereupon, the jury entered the courtroom at 2:40
7 p.m.)

8 THE COURT: All right. Welcome back, ladies and
9 gentlemen. I hope you all had a pleasant lunch. I
10 understand, Mr. Mauldin, the defense rests; is that
11 correct?

12 MR. MAULDIN: That is correct, Your Honor.

13 THE COURT: All right. And your motions are noted
14 and part of the record. Solicitor, I understand the
15 State does not intend to offer any evidence or any
16 testimony in reply; is that correct?

17 MS. MAYES: Yes, sir, Your Honor.

18 THE COURT: All right. Thank you. Mr. Foreman,
19 ladies and gentlemen of the jury, you have heard all of
20 the evidence and all of the testimony that you are going
21 to hear in the trial of this case from both the State and
22 the defense. We're now at the point of the closing
23 arguments by the attorneys. As you recall, the closing
24 arguments are different from opening statements. The
25 attorneys may comment on the facts, the inferences to be

1 drawn from the facts and the law as you would apply the
2 law to the facts of the case as you find them to be.
3 Again, their closing arguments are not evidence but they
4 may comment on those various things.

5 After the closing arguments by the attorneys, I will
6 instruct you on the law that you are to apply to the
7 facts of the case as you find the facts to be for your
8 deliberation, your consideration and the return of your
9 unanimous verdicts. I would ask you during this
10 proceeding to please give the attorneys your complete and
11 undivided attention throughout these closing arguments.
12 Again, if at any time you need to take a recess, my
13 preference is you take it between the closing arguments.
14 In other words, after one, before the other.

15 The way it flows the State closes first being the
16 party having the burden of proof followed by Mr. Mauldin
17 on behalf of his client Mr. Ellis and the State also has
18 a right to reply after the argument of Mr. Mauldin, reply
19 briefly. With that being said, please give the parties
20 your complete and undivided attention. Solicitor, you
21 may address the jury.

22 MS. MAYES: May it please the Court.

23 THE COURT: Yes, ma'am.

24 MS. MAYES: Time always reveals the truth and in the
25 end it's the truth that will prevail. Here it's the

1 evidence that lights the path to the truth. It's the
2 evidence that has led us here. Many people get a
3 difficult hand in life. No doubt. But for [Minor] [REDACTED] the
4 hand that she was dealt could break the spirit of any
5 child. Could break the heart of any child and ultimately
6 leave that child with no voice at all. For [Minor] it
7 nearly did. It nearly did steal that voice. Until that
8 Saturday night her nana was putting her in bed, that
9 Saturday night nana was tucking her in in a place she
10 felt safe, someone that she felt the safest with and she
11 tells nana how it's different at nana's house than it is
12 with him (indicating.) Bedtime in her own house was
13 never safe. In his care she was never safe.

14 Imagine a life day after day after day your own
15 father betrays you in the worst possible way. To steal a
16 child's innocence. So what was left for [Minor]? I submit
17 at seven really nothing left except courage and hope that
18 night that she told nana, that one decision that that
19 child made at the age of seven. Imagine that. That one
20 decision carried with it the possibility of however small
21 of hope. Hope that it would stop. That's the only
22 reason she ever told. He told her not to tell and she
23 kept that secret for as long as her little heart could
24 bear until as she explained right there on that stand
25 from the viewpoint of a child I just got tired of it. I

1 got tired of it. I wanted it to stop. She didn't feel
2 safe in her own home. And that's what led us here. That
3 is the undefinable truth.

4 Despite everything that's been said in this
5 courtroom, despite that testimony you heard just an hour
6 or so ago from this defendant Bryan Ellis one thing
7 stands like stone above it all. He did it. He did it
8 and there is no other logical explanation for why we're
9 here. By his very own admission he did it. He did it
10 all. And now in 2017 reality has set in and it's no
11 longer convenient to own up to that confession. So now
12 he wants to take the stand and tell you that admission he
13 made to his wife, that admission he made to his
14 father-in-law, that full confession in his own words to
15 Sergeant Rawl right there on the night this happened that
16 somehow that was all just a mistake.

17 He takes that stand and calls that child a liar. Of
18 all his sins I submit that's right up there at the top.
19 Everything he's done to her that action is just as bad as
20 the crimes he committed against her soul and against her
21 body to call that child a liar when it's taken everything
22 she has to summon up the bravery not just to tell nana
23 but to then have to go tell strangers about it and to
24 take that stand for you 12, 13, 14 strangers and this
25 courtroom full of people she's never met and talk about

1 the most shameful of experiences. He's stealing her
2 innocence even now. Think about that as a price she's
3 paid for justice and give it back to her. It's what she
4 deserves the most.

5 Let's talk about the evidence in this case, the
6 overwhelming undeniable evidence as I said at the outset
7 that has led us here. Direct evidence as the Judge will
8 charge you momentarily, direct evidence under the law is
9 evidence that comes from someone who has experienced it
10 firsthand. Someone who is there. Who saw it. Who
11 witnessed it. It may be something that they heard. It
12 may be something that they felt. Something that they
13 witnessed. Here we have direct evidence from Minor [REDACTED]
14 as well as people who heard directly from his mouth what
15 he did to that child and, in fact, direct evidence by his
16 own hand every single word in that confession is true
17 except the one thing he had to do because that's how sex
18 offenders operate. Right there in that confession he's
19 still trying to cast blame on that child. Seven years
20 old. She had questions.

21 I had to ask what she liked and didn't like. What
22 she liked? That's how a sex offender thinks and I submit
23 to you it's something that can't be understood or
24 rationalized by anybody in this courtroom but that is not
25 the law. It is not our job to try to interpret what the

1 twisted mind of a sex offender thinks or feels or how he
2 operates. That's not the law. The way the law works is
3 do we have the proof that he did it? By his own
4 admission he did it and by that child's own sworn
5 testimony he did it.

6 So as he's trying to explain to Sergeant Rawl all of
7 his actions and trying to disburse blame onto that child
8 it comes out that all of this activity according to him
9 happened to him as a child and in his own words he knows
10 he needs help to be part of the functioning society by
11 his own words prior to my degradation. By his own words,
12 **Minor** seemed like she wanted to perform actions. I had a
13 twisted idea that I could teach her to enjoy herself
14 unlike her mother.

15 Again, these thoughts cannot be rationalized. These
16 thoughts make no sense to someone who abides by the law,
17 to someone who treasures a child. That's not who he is.
18 He is everything he owns up to being right here in this
19 confession. A sex offender is as bad as it gets.
20 Sergeant Rawl has to sit there and listen to this and
21 continues to follow up with him and hears him say what
22 he's done to this child and try and cast blame on that
23 child at age seven, Sergeant Rawl writes, "Do you believe
24 you were teaching **Minor** about masturbation or pleasuring
25 yourself?" His answer in his own words, "both. We

1 reciprocated on what felt good and what did not. She
2 found what she did not like." He is speaking of this
3 child as if he's speaking of an adult that he was in a
4 consensual sexual relationship with.

5 Question: What does [Minor] not like? Answer: She
6 did not like the cherry lubricant. She expressed to me
7 this last time she did not like using her mouth and
8 preferred using her hand as she used the external
9 vibrator. How did [Minor] like it when you ejaculated in
10 her mouth? Answer: She was disgusted immediately and
11 told me not to do it.

12 Yet he did it anyway over and over again. This type
13 of crime cannot be tolerated in society. There's nothing
14 that he can say or do now to try and rationalize or
15 explain any of this.

16 When we talk about [Minor's] statement what little she
17 is able to tell nana and mom and mom confronts him and he
18 admits that although now he suddenly says he doesn't even
19 know what he was admitting to. He just admitted it all.
20 He just said everything was true. He had no idea what he
21 was admitting to. Of course he does. He put it all in
22 that confession. We talk about [Minor's] interview. Keep
23 in mind she is seven years old. Seven years old when she
24 goes to that interview and as Sergeant Rawl explained
25 that confession that he wrote, that was in the law

1 enforcement file. That confession that he wrote, it
2 doesn't get released to the press, to the media, to the
3 victim's family, the people on the street. That
4 confession was right there in Sergeant Rawl's file. And
5 yet how is it that [Minor] goes for that forensic interview
6 and she can account for every single detail that he
7 talked about? There is no seven year old on the planet
8 who is that savvy or that sophisticated and in this case
9 it could never happen.

10 So the interviewer asks [Minor] if anything came out of
11 his pee-pee.

12 (Whereupon, State's Exhibit #26 was played for the
13 jury.)

14 "Was there ever a time when something came out of
15 his pee-pee? Tell me what that was like. It was white
16 and you couldn't see through it. It was white and you
17 couldn't see through it? And where did that stuff go?
18 He - it was on the carpet and he wiped it off me and he
19 threw it in the trash can. Okay. What did he wipe it
20 off with? A napkin or toilet paper. Okay."

21 (Whereupon, State's exhibit #26 was stopped.)

22 MS. MAYES: It was on the carpet. Same thing he
23 puts in his statement that it was on the floor but it was
24 on the carpet and he wiped it off me with a napkin or
25 toilet paper. He wiped it off me. There is no doubt

1 whatsoever that child experienced that event. There's no
2 way she would know these things. The interviewer asked
3 about being made to touch him.

4 (Whereupon, State's Exhibit #26 played for the
5 jury.)

6 "Okay. And when you were touching with your hands,
7 did anything ever come out of it. White stuff. White
8 stuff. Okay. All right."

9 (Whereupon, State's Exhibit #26 was stopped.)

10 MS. MAYES: And then she asks her about him putting
11 his private part in her mouth.

12 (Whereupon, State's #26 was played for the jury.)

13 "He made me go very fast so it would go on my cheek.
14 Okay. All right. And when you say he made you go very
15 fast, what do you mean by that? He made me go very fast
16 like this (indicating.) Okay. All right. And when you
17 just showed me what you did. Where was his pee-pee? Was
18 it when you were licking it or was it somewhere else? It
19 was in my mouth. Okay. It was in your mouth. Okay."

20 (Whereupon, State's Exhibit #26 was stopped.)

21 MS. MAYES: He made me go very fast like this. One
22 of the things he slipped up and said when he was on that
23 stand when he was talking about according to him that he
24 lived with a sex offender, he said I ended up doing what
25 was done to me. I don't think he really meant to say

1 that but that's what he said. It's hard to keep track
2 when everything you have said over and over again is
3 untruthful and have one untruth on top of another untruth
4 but what he ends up saying is everything that happened to
5 me is what I ended up doing. What do you mean by that?
6 Well, all the coaching and encouragement, the grooming
7 that he described is exactly what he has done to **Minor**.
8 He wanted to break down every barrier and inhibition that
9 that child had to teach her from the youngest age
10 possible that it was okay and that it was right so that
11 she would do everything that he said and I submit to you
12 that is only how a sex offender would think and would
13 act. It's all about making her believe that it's okay
14 and that it's their secret and not to tell because as
15 long as he's got her doing whatever he wants her to do,
16 he's going to keep doing it and it's going to keep
17 escalating exactly like it did and ultimately with **Minor**
18 it only stopped because she told. Had she not told it
19 would still be going on today and it would happen as she
20 said over and over and over again until she made it stop.

21 I want to talk a little bit about the law and the
22 law on this is actually quite simple. The Judge is going
23 to charge you momentarily about reasonable doubt. I
24 submit to you reasonable doubt is really doubt that
25 doesn't leave you firmly convinced. Here it's not a

1 standard beyond all doubt. Here the evidence leaves one
2 firmly convinced I submit to you and that is the law as
3 the Judge will charge you momentarily. Is there evidence
4 to leave you firmly convinced.

5 Criminal sexual conduct with a minor in the first
6 degree as I stated a few moments ago is actually quite
7 simple. It is sexual battery with a minor being a child
8 under the age of 11 and here we know that Minor [REDACTED] was
9 under 11. She's still under 11. No doubt about that.
10 Less than 11 years of age. So that leaves us here with
11 sexual battery with a minor. What is sexual battery?
12 The Judge will charge on that again momentarily but
13 sexual battery is any type of penetration however slight.

14 Now, it doesn't have to be genital penetration. It
15 can be oral sex. It can be oral sex where he places his
16 mouth on the child or oral sex where he has the child
17 perform oral sex on him and we know that happened not
18 just because he admits it which he does fully in detail
19 but because Minor [REDACTED] testified to it, described it in that
20 interview. That is proof beyond a reasonable doubt,
21 proof that leaves you firmly convinced that sexual
22 battery with a minor in the first degree has occurred,
23 fellatio as the Judge will charge you later, oral sex
24 with a minor.

25 Next we have the second charge. Criminal sexual

1 conduct with a minor in the third degree and this is
2 where the defendant is over the age of 14 which he is and
3 he willfully or lewdly commits or attempts to commit a
4 lewd or lascivious act upon or with the body or its parts
5 of a child under the age of 16 which we know that **Minor** is
6 with the intent of arousing, appealing to or gratifying
7 the lust or passions or sexual desires of a person or of
8 a child. Well, even in his own twisted testimony today
9 he has committed this offense. He states that he has
10 given this child a vibrator and encouraged her to use it
11 in a sexual, for sexual purposes. But is that all there
12 is? No. Absolutely not. **Minor** described that he has
13 touched her vaginally on more than one occasion and that
14 the touching of her body didn't just occur with his
15 private part going in her mouth but that it also occurred
16 with his hand. We also know that he placed his mouth on
17 her vagina although he states he then became nauseated
18 and decided not to do it because he realized how
19 disgusting it would be to do that to his seven year old
20 daughter and he says that in the same statement where
21 he's admitting but he did make that seven year old
22 daughter repeatedly perform oral sex on him. Again,
23 there's no way we can ever rationalize or understand his
24 way of thinking but that's why it's a crime. That's why
25 he's a criminal.

1 So there's a lot of language here about willfulness
2 and lewdly and lascivious but in the end it's any type of
3 touching or attempted touching with a child which is of a
4 sexual nature and here we know with proof beyond a
5 reasonable doubt, proof that leaves us firmly convinced
6 that that occurred.

7 Finally I want to discuss all the different aspects
8 of corroboration that we have here and by that I mean
9 proof. Proof. Corroboration is proof as to what the
10 State alleges. We know that he made an admission to his
11 wife. Leslie testified to that. He admits that in
12 numerous letter after letter after letter. Keep in mind
13 these letters were written long after his arrest. He
14 knew exactly what he was being arrested for because he
15 said during his testimony he had motions of discovery.
16 He knew what the allegations were. He's not just sitting
17 there charged with criminal sexual conduct with a minor
18 two counts and has no idea what it's about. He knows
19 exactly what the allegations are. And at that point in
20 time his only thoughts were that Leslie forgive him and
21 Minor forgive him. That's what he wanted and he said time
22 after time again that he admitted making these statements
23 to Leslie and then today he takes the stand and tries to
24 say, well, I did tell her everything was true but I
25 really had no idea what she was talking about.

1 In one of those letters that is in evidence and has
2 been submitted through various testimony in this case, in
3 one of those letters he says I know I was wrong for what
4 Minor and I did. That's why I confessed. And that's it.
5 That's it in a nutshell. And even then as he's writing
6 those letters he's still trying to say this is somehow
7 consensual with that seven year old for what Minor and I
8 did. That's why I confessed. I was adult enough to tell
9 you the truth. I didn't want to hurt you but I will
10 never lie to you. So he's owning up to that confession.
11 He's owning up to that admission that he made to Leslie
12 and in those jail house letters. Now, for the first time
13 he's trying to back up on that.

14 We know from Thomas Havird when he said did you
15 molest my granddaughter, he said yes and hung his head in
16 shame and Thomas Havird prayed for him. We know the
17 details of that written confession to law enforcement.
18 We know throughout those letters he makes numerous
19 admissions. We know that there are details of those
20 assaults that only he would know and that's what's key
21 here. Those things that Minor described, the oral sex and
22 sometimes he ejaculated on the floor, the fact that
23 sometimes he ejaculated in her mouth as she testified on
24 the stand, all those things he put in that disgusting
25 confession to law enforcement. He's the only one that

1 would know those details because he was there and because
2 he did it. The only one that would know. Him and **Minor** .

3 And finally the evidence that we have from his phone
4 as his wife leaves that house and he's begging for help,
5 she walks out that door, her daddy picks her up and takes
6 her inside and she makes that 911 call at 3:56 p.m. and
7 one minute later he's across the way in a different house
8 at 3:57 doing a Google search for addiction and he
9 continues those searches right up until the point he gets
10 into that vehicle voluntarily with Sergeant Rawl and then
11 voluntarily gives a statement in which he again attempts
12 to blame the child and talk his way out of it. And that
13 last search, beat sex addiction. That's what we're
14 dealing with here. Plain and simple.

15 This is a sex offender and there's no other way
16 around it. Let this be the last time that he hurts a
17 child in this way. Let this be the last time he steals
18 the innocence --

19 MR. MAULDIN: Objection, Your Honor.

20 MS. MAYES: -- of a child.

21 MR. MAULDIN: Appealing to passion and prejudice.

22 THE COURT: All right. Of course, ladies and
23 gentlemen, your verdict will not be based on passion and
24 prejudice, biased or any other motive not in evidence or
25 emotion not in evidence in the case. It must be based on

1 the facts and the reasonable inferences therefrom. Thank
2 you, Mr. Mauldin. Thank you, Solicitor. You may
3 continue.

4 MS. MAYES: Yes, sir, Your Honor.

5 I submit to you this must be the last time. The
6 correct verdict in this case --

7 MR. MAULDIN: Objection, Your Honor.

8 THE COURT: Again, ladies and gentlemen, your
9 verdict must be based on the evidence, the reasonable
10 inferences drawn therefrom and the law as I tell you the
11 law is.

12 MS. MAYES: As the Judge charges you on the law one
13 of the things that you will hear is if the State meets
14 its burden of proof, proof beyond a reasonable doubt, you
15 must return a verdict that speaks the truth. You must
16 return a verdict of guilty. In this case that correct
17 verdict is a verdict of guilty of csc, what we call
18 criminal sexual conduct with a minor in the first degree
19 and criminal sexual conduct with a minor in the third
20 degree. Thank you.

21 THE COURT: Thank you, Solicitor. Mr. Mauldin.

22 MR. MAULDIN: Thank you, Your Honor.

23 What is a reasonable doubt? It's defined as a doubt
24 that causes a person to hesitate to act. We hesitate
25 many times in our everyday lives. Crossing an

1 intersection, making a turn in your car. It's a doubt
2 that causes you to hesitate. It's a real possibility
3 that Mr. Ellis is not guilty. Now, how do you determine
4 whether or not there's a reasonable doubt? You determine
5 it through the testimony of the witnesses and the
6 evidence presented and when you evaluate the testimony of
7 the witnesses, you look at the bias, the prejudice that
8 the witnesses have. And in this case I think it's
9 undisputed that before this day [Minor], Leslie, the
10 Havirds, they didn't like Bryan. [Minor] described what she
11 called slapping and abuse and Bryan admitted that he was
12 the disciplinarian and the Havirds said that he was very
13 strict and controlling with the children. Leslie said
14 that the relationship was not that good and that she
15 wanted to have counseling. They had plenty of reasons to
16 want him out of that house and out of their lives.

17 When you evaluate [Minor's] testimony, you should take
18 what she said up on the stand versus what is in that
19 video, the inconsistencies and the inconsistencies within
20 the video. They go through some preliminary things about
21 who lives in her house and how her school day goes. And
22 then the interviewer goes, well, do you know why you are
23 here? And she says, mommy says do what I say. That
24 would cause you to hesitate to act. She has to repeat it
25 three times because the interviewer isn't sure or doesn't

1 believe what she is saying. Mommy said do what I say.

2 And you can go throughout the interview. He didn't
3 touch with his hands anywhere on her body where as on the
4 stand she said he did. They go through the whole thing
5 and before she leaves the room one time she says, is
6 there anything else that Bryan did to your body that you
7 didn't tell me about? Nothing else. She went over the
8 rules. She comes back in and says something about
9 another interviewer talked with J. [REDACTED] and there's
10 something about licking his pee-pee. J. [REDACTED] didn't
11 testify. But when she hears that, she immediately says
12 he's lying. J. [REDACTED] is a liar. He lies sometimes. And the
13 lady goes, well, you know it's okay if you tell me that
14 he licked your pee-pee, don't you? You know it's okay.
15 Do you know it's okay? Yes. Well, did he lick your
16 pee-pee? Yes. He did. She switched within the matter
17 of a minute from calling somebody a liar about it to
18 saying it happened.

19 Leslie didn't have a good relationship with Bryan.
20 She wanted some kind of counseling. She got all the
21 property in the divorce. She started dating another
22 fellow according to her a few months after this arrest
23 but Detective Miller had some questions about the fact
24 that she was dating and he expressed them to Sergeant
25 Rawl. Gee, she's dating somebody else already. Is that

1 an engagement ring? Detective Miller didn't testify but
2 he had those questions and you should have those
3 questions, too.

4 The Havirds. Neither one of them said they liked
5 Bryan. They said they tried to do the best they could
6 within their faith and they talked a lot about their
7 faith, putting up with him the best they can. He's not a
8 loving father. He's not a loving husband. And they talk
9 about some kind of property. It took a while to get it
10 straight. They might have given it to them and Bryan
11 might have had a stake in it.

12 It's also weird that on that night **Minor** told her at
13 9:00 at night about this but she sat on it. They sat on
14 it. Leslie worked at Walmart until about 10:00 at night
15 an hour later. Well, we didn't want to interrupt her
16 work. What about after she got off work? Well, we
17 didn't want to interrupt that either. Everybody had to
18 go to sleep. They went to church the next day, one maybe
19 two services and they're back at their house and they
20 wait until Leslie comes over supposedly before this is
21 told. And Ms. Havird says that she did that because she
22 did not want Leslie to think that she had put her up to
23 it. That they had put thoughts in her head. Why would
24 she have that rationale? Why didn't they call the police
25 right away? That should cause you to hesitate.

1 We have Detective Rawl who conducted the interview
2 with the defendant. He's been promoted since this
3 happened. Now how do you get a promotion in the police
4 department? You make cases.

5 MS. MAYES: Objection, Your Honor. There's no
6 evidence in the record to support this.

7 THE COURT: Again, ladies and gentlemen, the facts
8 and the evidence are up to you to determine as the judges
9 of the facts and as you remember them to be. Thank you,
10 Solicitor. You may continue, Mr. Mauldin.

11 MR. MAULDIN: Detective Rawl made this case. And
12 how do you make cases? You get confessions. And how do
13 you get confessions? By whatever means possible. It is
14 rare that an interview with a defendant is recorded in
15 any way in Lexington County by audio or video. Doesn't
16 that seem funny? Doesn't that seem strange that in our
17 day and age with the availability of all the recording
18 devices that are available in your phone, camera, that
19 they don't do that? What is the purpose of not doing
20 that? It would seem to help them now if what they are
21 saying is true.

22 There is no other officer there. He was in the car
23 with him for three hours. Three hours. His testimony
24 today went about 9:30 to 11:00. That was only an hour
25 and a half. But all of that took three hours, about 45

1 minutes of verbal conversation and then close to or under
2 an hour and a half of this written statement going back
3 and forth. If it just happened question/answer,
4 question/answer, it wouldn't take that long.

5 Bryan was under stress that day. He got the call
6 from his wife, the call or text from his wife and instead
7 of running away he came home. He came home and sat there
8 and she said [Minor] said, and he said it's true because he
9 figured that [Minor] had said what he said they had done
10 about the masturbation and the use of the vibrating
11 device. And then she said something about white stuff
12 and then got upset and left and he's upset. Did he get
13 up and run away? No. He stayed in that house. He told
14 Tommy and Danny Havird. He gave them his keys. He
15 didn't put up any kind of fight and he stayed in that
16 house.

17 There was kind of a veiled threat from Tommy about
18 Danny being there to protect him. He started feeling a
19 little bit threatened. Then Deputy Smith comes in and he
20 feels like he has to ask permission to go to the
21 bathroom, to get a cup of water, to do this, to do that.
22 He's in the military in the past. He's been taught to
23 obey authority, to obey officers. And that continued
24 into his interview with Detective Rawl where he testified
25 that he tried to say he didn't want to say anything. He

1 didn't want to do it and eventually because of Detective
2 Rawl's behavior and his fear that he capitulated.

3 The State has introduced a number of letters here
4 today. I invite you to read them. Read all of them.
5 Nowhere in those letters does he admit to touching [Minor],
6 having oral sex with [Minor]. In one of those letters
7 there's very much detail about giving her the shaky
8 thing. It's a paragraph and a half in a letter to
9 Barbara Havird about what he did and why he did it. It
10 said it wasn't the best decision in the world but he's
11 not guilty of this crime. And you go through these
12 letters particularly State's exhibit 19 and he's talking
13 about attitude of Leslie's divorce. About how dismissive
14 it was. Well, his family dismissed him and the Sheriff's
15 Department dismissed him.

16 You should take your time and evaluate the evidence
17 and find him not guilty.

18 THE COURT: Thank you, Mr. Mauldin. Solicitor.

19 MS. MAYES: Yes, sir, Your Honor. In response
20 pursuant to Beatty.

21 Do what I say? Well, I submit what seven year old
22 is ever gonna want to go into a room at a place she's
23 never been before, the Dickerson Center and talk to a
24 stranger about what happened? She's confided in her mom
25 and in her nana and that ought to be enough. What seven

1 year old wants to have to keep talking about this, wants
2 to have to go talk to a stranger and then come in this
3 courtroom and get on that stand? And I submit to you
4 there's no child on the planet who wants to partake in
5 any of that. But you know what? They have to. As
6 Sergeant Rawl explained this is protocol in a child
7 sexual assault investigation and parents are required,
8 mandated to cooperate and have their kids participate in
9 that forensic interview.

10 The question was, do you know why you are here
11 today? She shrugged and said, mom said do what I say.
12 Yep. Because mom made her go to that interview, an
13 interview she never would have wanted or asked to
14 participate in if she had not been required to. And that
15 brings us to where we really are, yet again in response
16 to Mr. Mauldin's argument trying to twist the words of a
17 child. That child was able to say exactly what happened
18 from the view point and eyes only of someone who would
19 have experienced it.

20 Then Mr. Mauldin says to you, well, I didn't hear
21 her talk about him touching her private part. How much
22 does she really have to say over and over again? Do we
23 think that child even could if she had to recount every
24 single time he violated her? I submit that would be
25 impossible. Because it's been going on a long time. And

1 those were the words mom said when she told her. How
2 long has it been going on? A long time. There is no way
3 that a seven year old is going to be able to sit in that
4 interview and recount every single time he touched her
5 vagina. Every single time she had to touch him. Every
6 single time he put his private part in her mouth. Every
7 single time he tried to put his private part on her. She
8 couldn't even if she had to and that's not the
9 requirement under the law.

10 But the State is required to prove one time. One
11 time he put his private part in her mouth. One time he
12 touches that child or attempts to touch that child in a
13 sexual way or have that child touch him. One time. We
14 do not have to prove every time. Then in response to him
15 saying that this confession in his own writing with
16 details that only he would know were just an attempt to
17 satisfy the officer because somehow now in 2017 he's
18 decided that he must have been afraid of that officer.
19 That same officer that he went and got into the car with.
20 That same officer that he initialed every single one of
21 these rights knowing that he had the right not to talk.
22 Knowing that he had the right to terminate the interview
23 at any time it suited him. Or to not even talk at all.
24 But yet he takes that stand and tells yet another
25 untruth. I didn't even know I had rights. I didn't even

1 know I had rights. I thought I had to talk to the
2 officer. Ridiculous. Absolutely ridiculous. There was
3 no threats. No coercions. Just the attempts of a
4 manipulative sex offender trying to talk his way out of
5 it with Sergeant Rawl the same way he took that stand and
6 tried to talk his way out of it to everyone in this
7 courtroom.

8 One time. That's all the State is required to prove
9 and as the Judge will charge you on reasonable doubt the
10 legal standard is not the equivalent of stopping at an
11 intersection and hesitating to turn right. That's not
12 the law. If that were the law, no criminal would ever be
13 convicted of any crime. That's not reasonable doubt.
14 Nor are we required to prove any crime beyond all doubt.
15 He will charge you on exactly what reasonable doubt is.
16 But the legal standard is proof that leaves you firmly
17 convinced and I submit there's no other explanation in
18 this case. He's guilty beyond a reasonable doubt. Thank
19 you.

20 THE COURT: Thank you. Thank you, Solicitor.
21 Ladies and gentlemen, if you would please give me your
22 complete and undivided attention. I'm now going to
23 instruct you on the law that you will apply to the facts
24 of the case that you find them to be. It will take your
25 complete and undivided attention. The way I instruct the

1 jury is I instruct the general criminal law that applies
2 to all criminal cases in South Carolina first.

3 Thereafter followed by the specific charges in the
4 indictments and finally the form of the verdict. When I
5 change from one subject matter to the next, I will
6 generally give you a paragraph heading, an outline as to
7 the specific area I'm fixing to cover.

8 Charge, arrest, indictment not evidence. The
9 indictments charge the defendant with criminal sexual
10 conduct of a minor in the first degree and criminal
11 sexual conduct with a minor in the third degree. I
12 remind you the fact that the defendant was arrested,
13 charged, indicted in this case is not evidence in the
14 case and cannot be considered by you as evidence of guilt
15 in the case nor do they create any presumption or
16 inference of guilt. These documents, these indictments
17 are simply the formal written instruments which contain
18 the charges made against the defendant. They are the
19 formal documents by which the case is brought before the
20 court.

21 Multiple charges. The indictments in this case
22 allege different offenses. The first indictment,
23 criminal sexual conduct with a minor in the first degree,
24 the next indictment, criminal sexual conduct with a minor
25 in the second degree. Each indictment charges a separate

1 and distinct offense. You must decide each indictment
2 separately on the evidence and the law applicable to it
3 uninfluenced by your decision as to any other indictment.
4 The defendant may be convicted or acquitted on any or all
5 of the offenses charged. You will be asked to write a
6 separate verdict of guilty or not guilty as to each
7 indictment.

8 Presumption of innocence. The defendant has pled
9 not guilty to these indictments and that plea puts the
10 burden on the State to prove the defendant guilty. A
11 person charged with committing a criminal offense in
12 South Carolina is never required to prove himself
13 innocent. I charge you that it is an important rule of
14 the law that a defendant in a criminal trial no matter
15 what the seriousness of the charge may be will always be
16 presumed to be innocent of the crime for which the
17 defendant was charged unless - for which the indictment
18 was issued unless guilt has been proven by evidence
19 satisfying you of that guilt beyond a reasonable doubt.
20 This presumption of innocence does not end when you begin
21 your deliberations but it accompanies the defendant
22 throughout the trial until you reach a verdict of guilt
23 based on evidence satisfying you of that guilt beyond a
24 reasonable doubt.

25 Presumption of innocence has been said to be like a

1 rob of righteousness placed about the shoulders of a
2 defendant which remains with the defendant until it has
3 been stripped from the defendant by evidence satisfying
4 you of the defendant's guilt beyond a reasonable doubt.
5 The presumption of innocence is not a mere legal theory.
6 It is not just a legal phrase. It is a substantial right
7 to which every defendant is entitled unless you the jury
8 are satisfied from the evidence of the defendant's guilt
9 beyond a reasonable doubt.

10 What is a reasonable doubt in the law? A reasonable
11 doubt is the kind of doubt that would cause a reasonable
12 person to hesitate to act. The State has the burden of
13 proving the defendant guilty beyond a reasonable doubt.
14 Some of you in the past may have served as jurors in
15 civil cases where you were told that it is only necessary
16 to prove that a fact is more likely true than not true
17 such as by the greater weight or the preponderance of the
18 evidence. In criminal cases the State's proof must be
19 more powerful than that. It must be beyond a reasonable
20 doubt. Proof beyond a reasonable doubt is proof that
21 leaves you firmly convinced of the defendant's guilt.

22 There are very few things in this world that we know
23 with absolute certainty and in criminal cases the law
24 does not require proof that overcomes ever possible
25 doubt. If based on your consideration of the evidence

1 you are firmly convinced that the defendant is guilty of
2 the crime or crimes charged, you must find the defendant
3 guilty. If on the other hand you think there is a real
4 possibility that the defendant is not guilty, you must
5 give the defendant the benefit of that doubt and find him
6 not guilty.

7 Duty of trial jury and trial Judge. I remind you
8 that during this trial you and I have certain distinct
9 duties to perform. As the trial Judge it is my
10 responsibility to preside over the trial of the case and
11 I also have the duty to rule on the admissibility of
12 evidence offered during the trial. You are to consider
13 only the competent evidence before you. If there was any
14 testimony ordered stricken from the record in this case
15 during the trial, you must disregard that testimony. You
16 are to consider only the testimony which has been
17 presented from the witness stand and any exhibits which
18 have been made part of the record in this case. I have
19 the additional duty to instruct you the law applicable to
20 this case.

21 As the presiding Judge I am the sole Judge of the
22 law of this case and it is your duty as jurors to accept
23 and apply the law as I now state it to you. If you
24 already have any idea as to what the law is or what the
25 law ought to be and it does not agree with what I now

1 tell you, you must abandon your idea because you are
2 sworn to accept the law and apply the law exactly as I
3 state it to you.

4 In every case tried in this court before a jury the
5 jury becomes the sole and exclusive judge of the facts in
6 a case. A trial Judge cannot intimate, state, comment on
7 or make any statement to a trial jury about the facts in
8 a case. Since you the jury are the sole judge of the
9 facts in this case you are not to infer from what I have
10 said during the progress of this trial in ruling upon the
11 admissibility of evidence or otherwise or anything that I
12 say now during the course of this instruction to you that
13 I have any opinion about the facts in this case. The law
14 does not allow me to have an opinion about the facts in
15 this case. That is a matter solely for you the jury to
16 determine. As jurors it is your duty to determine the
17 effect, the value, the weight and the truth of the
18 evidence presented during the trial.

19 Direct and circumstantial evidence. There are two
20 types of evidence which are generally presented during a
21 trial, direct evidence, circumstantial evidence. Direct
22 evidence is the testimony of a person who claims to have
23 actual knowledge of a fact, such as an eyewitness or an
24 ear witness. It is evidence which immediately
25 establishes the main fact to be proved.

1 Circumstantial evidence is proof of a chain of facts
2 and circumstances indicating the existence of a fact. It
3 is evidence which immediately establishes collateral
4 facts from which the main fact may be inferred.
5 Circumstantial evidence is based on inference and not on
6 personal knowledge or observation. The law, our law
7 makes absolutely no distinction between the weight or the
8 value to be given to either direct evidence or
9 circumstantial evidence, nor is there a greater degree of
10 certainty required of circumstantial evidence than of
11 direct evidence. You should weigh all of the evidence in
12 the case. After weighing all of the evidence if you are
13 not convinced of the guilt of the defendant beyond a
14 reasonable doubt, you must find the defendant not guilty.
15 If on the other hand after weighing all of the evidence
16 you are convinced of the guilt of the defendant beyond a
17 reasonable doubt, you must find the defendant guilty.

18 Credibility of witnesses. Necessarily you must
19 determine the credibility of witnesses who have testified
20 in this case. As you all know credibility simply means
21 believability. It becomes your duty as jurors to analyze
22 and evaluate the evidence and determine which evidence
23 convinces you of its truth. In using your good judgment
24 and your common sense individually and collectively in
25 determining the believability of the witnesses who have

1 testified in this case you may believe one witness over
2 several or several witnesses over one. You may believe
3 a part of the testimony of a witness and reject the
4 remaining part of the testimony of that same witness.
5 You may believe the testimony of a witness in its
6 entirety or reject the testimony of a witness in its
7 entirety. You may consider whether any witness has
8 exhibited to you any interest, bias, prejudice or other
9 motive in this case. You may consider whether a witness'
10 testimony has been corroborated by another, made stronger
11 by another witness' testimony or weakened or lessened by
12 the testimony. You may consider the appearance, the
13 demeanor, the manner, the forthrightness of a witness
14 while on the witness stand. You may use all that common
15 sense, all that good judgment in making your
16 determination of the believability of the witnesses who
17 have testified before you in this case from this witness
18 stand.

19 And you have heard this next charge several times,
20 twice, I think, throughout the course of the trial.
21 Expert witnesses. Again, ladies and gentlemen, the rules
22 of evidence ordinarily do not permit witnesses to testify
23 to opinions or conclusions. An exception to this rule
24 exists for witnesses we call expert witnesses. A witness
25 who by education or experience has become expert in some

1 art, science, profession, craft or calling may state an
2 opinion as to relevant and material matter in which the
3 witness claims to be an expert and may also state the
4 reasons for the opinion. You should consider any expert
5 opinion received in evidence in this case and like any
6 other evidence give it the weight you think it deserves.
7 If you decide that the opinion of an expert witness is
8 not based on sufficient experience or education or if you
9 conclude that the reasons given in support of the opinion
10 are not sound or that the opinion is outweighed by other
11 evidence, you may disregard the opinion in its entirety.
12 An expert witness' testimony is to be given no greater
13 weight than that of other witnesses simply because the
14 witness is an expert. Further, you are not required to
15 accept an expert's opinion even though it is not
16 contradicted.

17 Again, I remind you, ladies and gentlemen, that I
18 have allowed certain items into evidence that have been
19 redacted. I have determined certain portions of those
20 documents or video are not proper evidence. Being so I
21 have removed or redacted the improper portions from the
22 exhibit. The fact that I have redacted portions of such
23 exhibit should not be considered by you for any purpose
24 whatsoever during your deliberations and your
25 consideration of the evidence in this case.

1 Statement of defendant. A statement alleged to have
2 been made by the defendant has been admitted into
3 evidence in this case. While the Court has determined
4 that the statement is admissible, I instruct you that you
5 make the ultimate decision of whether or not the
6 defendant made the statement. If the defendant did make
7 the statement, you must determine whether the statement
8 was made by the defendant voluntarily and of his own free
9 will. This means that the statement was not caused by
10 pressure, force, fear, threat, coercion or intimidation
11 or by hope or a promise of leniency or a reward of any
12 kind. In determining whether the statement was voluntary
13 you should consider both the characteristics of the
14 defendant and the details of the question. Some of the
15 factors that you must consider are the age of the
16 defendant, the defendant's education or lack thereof, the
17 defendant's mental ability or capacity, the defendant's
18 intelligence or IQ, the defendant's background and
19 environment, the place and length of detention, the
20 nature of the question, and the advice or a lack thereof
21 to the defendant of his constitutional rights including
22 but not limited to the right to remain silent, that any
23 statement could be used against him in a court of law,
24 the right to have a lawyer present, that if he could not
25 afford a lawyer, a lawyer would be appointed to represent

1 him without any cost, and that he could stop making the
2 statement at any time. You must carefully consider all
3 of the surrounding circumstances before you give any
4 weight to any alleged statement.

5 The state has the burden of proving beyond a
6 reasonable doubt that the alleged statement was
7 voluntary. If you determine it was, you may give the
8 statement any further consideration that you deem proper.
9 You must decide what weight, if any, should be given to
10 any alleged statements. If you determine the alleged
11 statement was not a free and voluntary statement of the
12 defendant, you should not consider the statement at all.

13 Intent. In order to establish criminal liability
14 criminal intent is required. For example, the mental
15 state required to be proven by the State for a particular
16 crime might be purpose, intent, knowledge, recklessness
17 or criminal negligence. Criminal intent must be proven
18 by the State beyond a reasonable doubt. Criminal intent
19 is always a matter that must be determined by the jury
20 from the circumstances surrounding the situation. There
21 is no way to prove intent to a mathematical certainty.
22 There is no way medical science can dissect a person's
23 brain and determine what the person had in mind so the
24 law says that criminal intent may be inferred from the
25 circumstances shown to have existed. This is how you

1 make your determination of whether or not the element
2 requiring intent was present. It is not necessary to
3 establish intent by direct and positive evidence but
4 intent may be established by inference in the same way as
5 any other fact, by taking into consideration the acts of
6 the parties and all of the facts and circumstances of the
7 case.

8 Criminal intent is a mental state, a conscious
9 wrongdoing. It is up to you to determine what the
10 defendant intended to do based on the circumstances shown
11 to have existed. Criminal intent can arise from action
12 or a failure to act. It may arise from negligence,
13 recklessness or an indifference to duty or to
14 consequences that is considered by the law to be the
15 equivalent of criminal intent.

16 That is the general criminal law in South Carolina
17 as to all cases before this court.

18 As to the charges in the indictment, the first
19 indictment criminal sexual conduct with a minor in the
20 first degree. The defendant is charged with first degree
21 criminal sexual conduct with a minor. The State must
22 prove beyond a reasonable doubt that the defendant
23 engaged in a sexual battery with the victim. Sexual
24 battery is defined by our code, our law also. A sexual
25 battery is defined as sexual intercourse, cunnilingus,

1 fellatio, anal intercourse or any intrusion however
2 slight of any part of a person's body or of any object
3 into the genital or anal opening of another person's body
4 except when the intrusion is accomplished for a medically
5 recognized treatment for diagnosis purposes.

6 Finally, the State must then prove beyond a reasonable
7 doubt that the victim was less than 11 years old at the
8 time of the sexual battery. So again, the State must
9 prove beyond a reasonable doubt that the defendant
10 engaged in a sexual battery with the victim who was less
11 than 11 years old at the time of the sexual battery.
12 Consent, willingness, indifference or ignorance on the
13 part of the minor, if any, as to what was taking place
14 does not in any way affect the charge of criminal sexual
15 conduct with a minor.

16 That is the charge in the indictment of criminal
17 sexual conduct with a minor in the first degree.

18 The next indictment, criminal sexual conduct with a
19 minor third degree. The State must prove that the
20 defendant being a person over the age of 14 did willfully
21 and lewdly commit or attempt to commit a lewd or
22 lascivious act upon or with the body or its part of a
23 child under the age of 16 with the intent of arousing,
24 appealing to or gratifying the lust, passions or sexual
25 desires of the defendant or of the child. Definitionally

1 willfully means voluntarily and intentionally with the
2 specific intent to do something the law forbids. Lewd
3 means obscene, lustful, indecent or lecherous.
4 Lasciviously means tending to incite lust, lewdness,
5 indecent, obscene or tending to deprave the morals in
6 respect to sexual relations.

7 That is the charge on criminal sexual conduct with a
8 minor in the third degree.

9 Finally, ladies and gentlemen, the form of the
10 verdicts. And you will have this form with you in your
11 jury room, Mr. Foreman and ladies and gentlemen of the
12 jury. There are two possible verdicts you can reach as
13 to each indictment in this case, guilty or not guilty.
14 There is no significance whatsoever in the order in which
15 I stated those possible verdicts. It's simply that one
16 must be first. You may find the defendant guilty as to
17 both charges, not guilty as to both charges, or guilty of
18 one charge and not guilty of another. As I stated, you
19 decide, you determine separately and independently on the
20 evidence that you, the facts as you find them as to each
21 indictment.

22 As to criminal sexual conduct with a minor in the
23 first degree, after your deliberations and your
24 determination as to the facts and the inferences to be
25 drawn from the facts in the case in applying those facts

1 as you find them to be to the law as I have told you the
2 law is, if you find that the State has proven its case as
3 to criminal sexual conduct in the first degree with a
4 minor beyond a reasonable doubt and your verdict is a
5 unanimous verdict, you will have this form in there and
6 it will have those choices, guilty or not guilty and a
7 mark to the left of it, I would ask you to check the mark
8 of guilty, if that's your finding, and then circle the
9 word guilty. If you find that the State has failed to
10 prove its case beyond a reasonable doubt, there will be
11 the two words not guilty. If your finding is unanimous
12 not guilty, I would ask you to check the two words to the
13 left not guilty and then circle the two words not guilty.
14 It would be the same as to criminal sexual conduct with a
15 minor in the third degree.

16 Ladies and gentlemen, your verdicts must be
17 unanimous. All 12 of you must agree. Your verdict may
18 not be based on passion, prejudice, sympathy, bias or any
19 emotion not in evidence or in the record in this case.
20 Once you have reached those two unanimous verdicts, the
21 jury has, Mr. Foreman, if you would sign as the presiding
22 juror, date, knock on the jury room door and inform the
23 bailiff and we will receive you back into the courtroom.
24 I'm going to ask you if you would momentarily go to your
25 jury room with your bailiff. Do not begin your

1 deliberations until you are directed to do so by the
2 Court. The law requires me to meet one final time
3 outside of your presence with the attorneys in case I
4 have to bring you back for any further instructions,
5 anything of that nature. If I do not, the parties will
6 marshal the exhibits and make sure they are all present
7 and accounted for, they will be delivered to you, the
8 alternates will come out, the evidence will be delivered
9 to you and you will then be notified to begin your
10 deliberations. Also, if during the course of your
11 deliberations, Mr. Foreman, you have any questions
12 whatsoever, if you would just write me out a note, knock
13 on the jury room door and the bailiff will present it to
14 me. All right. Again, if you would go to your jury room
15 now. Do not begin your deliberations until instructed to
16 do so.

17 (Whereupon, the jury entered the jury room at 3:55
18 p.m.)

19 THE COURT: All right. Solicitor?

20 MS. MAYES: No objections from the State, Your
21 Honor.

22 THE COURT: Mr. Mauldin?

23 MR. MAULDIN: None from the defense.

24 THE COURT: All right. If y'all would check the
25 exhibits and I have got the formal verdict printed out.

1 I'll show it to you.

2 MS. MAYES: And, Your Honor, I think there was a
3 question about the way one of these exhibits was stapled.

4 THE COURT: It was corrected.

5 MS. MAYES: Okay.

6 (Whereupon, the verdict form and exhibits sent into
7 the jury room and deliberations started at 4:01 p.m.)

8 THE COURT: All right. We will be at ease.

9 (Short break.)

10 THE COURT: We have a jury question so let's bring
11 our jury in.

12 (Whereupon, Court's Exhibit #4 marked for
13 identification.)

14 (Whereupon, the jury entered the courtroom at 4:37
15 p.m.)

16 THE COURT: You changed seats. Number 1, number 2.
17 I apologize for the delay. I had a case floating around
18 in my mind that I had to research. When a jury requests
19 a charge, I have certain options that I can take. One
20 option is just reread that part of the charge. That's
21 one of the options. I'm going to do that. If that is
22 not sufficient, you write me another note, okay? And as
23 I understand your note you want instruction on as you
24 have it conduct first, conduct third, just those two
25 charges.

1 MR. FOREMAN: Just to be clear on what exactly the
2 difference in those are.

3 THE COURT: Yes, sir. First degree criminal sexual
4 conduct with a minor. The defendant is charged with
5 first degree criminal sexual conduct with a minor. The
6 State must prove beyond a reasonable doubt that the
7 defendant engaged in a sexual battery with the victim.
8 Sexual battery is defined as sexual intercourse,
9 cunnilingus, fellatio, anal intercourse or any intrusion
10 however slight of any part of a person's body or of any
11 object into the genital or anal opening of another
12 person's body except when the intrusion is accomplished
13 for medically recognized treatment or diagnostic
14 purposes. The State must then prove beyond a reasonable
15 doubt that the victim was less than 11 years old at the
16 time of the sexual battery. Consent, willingness,
17 indifference or ignorance on the part of the minor, if
18 any, as to what was taking place does not in any way
19 affect the charge of criminal sexual conduct with a
20 minor.

21 So the State must prove beyond a reasonable doubt
22 the defendant engaged in sexual battery as defined and
23 that the victim was less than 11 years old at the time of
24 the sexual battery.

25 Third degree as far as that statute, the defendant

1 is charged with criminal sexual conduct with a minor
2 third degree. A minor is a person under the age of 16
3 for purposes of criminal sexual conduct third degree.
4 The State must prove beyond a reasonable doubt that the
5 defendant was over the age of 14. Next the State must
6 prove the defendant willfully and lewdly committed or
7 attempted a lewd or lasciviously act on or with the body
8 or any parts thereof of a child under the age of 16 with
9 the intent to arouse, appeal to, or gratify the lust,
10 passions or sexual desires of the defendant or the child.
11 Willfulness means voluntary and intentionally with the
12 specific intent to do something which the law forbids.
13 Lewd means obscene, lustful, indecent or lecherous.
14 Lasciviously means tending to incite lust, lewd,
15 indecent, obscene or intending to deprave the morals in
16 respect to sexual relations.

17 First degree must be a sexual battery. Must be a
18 victim under the age of 11. Sexual battery, victim under
19 the age of 11. Consent is not an issue.

20 Third degree, a minor as defined for third degree is
21 a person under the age of 16. A defendant must be 14,
22 over the age of 14 and the State must prove lewd,
23 willfully committed a lewd or lasciviously act which is
24 not defined by statute, only defined by the words in the
25 plain and ordinary meaning of what willfulness means,

1 what lewd means, what lasciviously means.

2 If that doesn't respond or answer your question,
3 just write me another note and I'll respond. Thank you.
4 Thank you very much. You may return to your jury room
5 and restart your deliberations.

6 (Whereupon, the jury entered the jury room to
7 continue deliberations at 4:43 p.m.)

8 THE COURT: Any exceptions, Solicitor?

9 MS. MAYES: None from the State, Your Honor.

10 THE COURT: Mr. Mauldin?

11 MR. MAULDIN: No, Your Honor.

12 THE COURT: Thank you. Thank you very much. We
13 will be awaiting our jury verdict. Thank you, Mr. Court
14 Reporter.

15 (Short break.)

16 (Verdict at 4:45 p.m.)

17 BAILIFF: All rise.

18 THE COURT: Thank you. Please be seated. Thank
19 you. All right. Anything from the State before we bring
20 in our jury, Solicitor?

21 MS. MAYES: Nothing from the State, Your Honor.

22 THE COURT: Mr. Mauldin?

23 MR. MAULDIN: No, Your Honor.

24 THE COURT: I understand the jury has a verdict. I
25 do expect and I enforce complete decorum and respect in

1 the courtroom. If you do not think you can maintain
2 that, I would ask you to please leave.

3 (Whereupon, the jury entered the courtroom at 4:50
4 p.m.)

5 THE COURT: All right. Madam Clerk.

6 THE CLERK: Mr. Foreman, have you reached your
7 verdicts?

8 MR. FOREMAN: Yes, ma'am.

9 THE CLERK: Please pass them up by the bailiff.

10 MR. FOREMAN: (Complies.)

11 THE COURT: All right. Madam Clerk, will you
12 publish the jury's verdicts please.

13 THE CLERK: Yes, sir. Indictments 2017-GS-32-02303
14 and 2017-GS-32-02305A, State versus Bryan Jeffrey Ellis.
15 As to indictment 2017-GS-32-02303 as to criminal sexual
16 conduct with a minor in the first degree we the jury
17 unanimously find the defendant guilty. Indictment number
18 2017-GS-32-02305A as to criminal sexual conduct with a
19 minor in the third degree we the jury unanimously find
20 the defendant guilty and it is so signed by the
21 foreperson July 12th, 2017. Mr. Foreman, ladies and
22 gentlemen of the jury, if these are your verdicts, please
23 indicate each of you by raising your right hand. All
24 hands raised, Your Honor.

25 THE COURT: Thank you. Thank you, Madam Clerk.

1 Anything further for the jury from the State, Solicitor?

2 MS. MAYES: Not at this time, Your Honor.

3 THE COURT: From the defense, Mr. Mauldin?

4 MR. MAULDIN: No, Your Honor.

5 THE COURT: Thank you. Thank you very much.

6 Momentarily, ladies and gentlemen of the jury panel, I'm
7 gonna release you from your jury service for the
8 remainder of the day and the remainder of the week. You
9 do not have to call back. You do not have to come back.
10 Thank you. Thank you very much for your service. I know
11 how it disrupts your personal and professional lives. I
12 along with others thank you for being here or we could
13 not be about the very important business of administering
14 your and our criminal and civil justice system. I just
15 very briefly was going to say, of course, last week was
16 the week of the 4th and I was in Richland County trying a
17 murder case during that week and, of course, the jurors
18 it double disrupted their lives because of the holiday
19 but, of course, I told them what a great week to be on a
20 jury and be an American, although it was a tragic, tragic
21 situation, of course, but it really makes us think about
22 our rights and our responsibilities as American citizens.

23 It's been my pleasure and privilege to be a circuit
24 court judge for a number of years now. Although you see
25 so many tragedies in a courtroom, you get to work with

1 such wonderful people, with court staff, members of the
2 bar and the like but quite frankly it's getting to work
3 with the citizens of South Carolina. Throughout I think
4 I have sat in 41 of the 46 counties now so it's just
5 thrilling and many times when I'm not down so I decide to
6 read the newspaper, it gets me down sometimes, I realize
7 how divisive our county can be but I never see it on a
8 jury. Never see it on a jury. I trust the American
9 people and I love being with them. Thank you all for
10 being with us. It's been my pleasure and privilege and
11 you are now excused. Mr. Foreman, would you meet Madam
12 Clerk outside. Thank you. Thank you.

13 (Whereupon, the jury was released from further jury
14 service at 4:55 p.m.)

15 THE COURT: All right. Mr. Mauldin, motions?

16 MR. MAULDIN: Thank you, Your Honor. At this time
17 we would move for a new trial for Mr. Ellis based on all
18 prior motions and objections, Your Honor.

19 THE COURT: All right. I would respectfully deny
20 the motion for a new trial. I note all prior and
21 previous objections and renew all my previous rulings
22 both in camera and evidentiary during trial. Any reason
23 sentencing cannot be imposed at this time?

24 MR. MAULDIN: No, Your Honor.

25 THE COURT: All right. If you would please have Mr.

1 Ellis come around. Solicitor, anything further?

2 MS. MAYES: Yes, sir, Your Honor. Your Honor, I
3 want to begin by saying that when we first met **Minor**, she
4 had fear in her eyes from the date that I first met her
5 and that Ms. Stringfellow first met her and that's an
6 emotion that we should never see in the eyes of a child.
7 Your Honor, with his age, he is 30 years old. That's one
8 reason that this case was a trial. This charge carries
9 25 to life and I believe that we have a responsibility to
10 make sure that the public is safe. I know that is my
11 duty, my sworn duty as a prosecutor and knowing that at
12 his age even with a sentence of 25 years he would have a
13 whole new generation of victims ahead for us all if he
14 weren't stopped. Because of that, Your Honor, there was
15 no plea offer and all of those factors led to where we
16 are today. But being that as it may, Your Honor,
17 although there is therapy and sex offender treatment
18 available in the Department of Corrections, it is my
19 belief and I submit to the Court that based on everything
20 that we have heard from his own mouth not just on the
21 witness stand today but from his own words in that
22 confession, Your Honor, it is my belief that this
23 behavior, this way of thinking where he's concerned
24 cannot be rehabilitated or cannot be cured, Your Honor.
25 I believe that he will always be a threat to children and

1 for that reason, Your Honor, I ask that he receive a
2 sentence to ensure that the community remains safe and
3 that he no longer be a threat to children. Your Honor, I
4 know that Sergeant Rawl also wishes to address the Court
5 on behalf of the Sheriff's Department and I want to say
6 that I have spoken with the family, [Minor's] mom, [Minor's]
7 grandfather. Your Honor, they are asking for the maximum
8 sentence.

9 THE COURT: Thank you. Thank you, Solicitor.
10 Sergeant Rawl.

11 MILES RAWL: Yes, sir, Your Honor. Thank you. As
12 an employee with the Lexington County Sheriff's Office
13 and as the lead investigating officer in this case I
14 would recommend life in prison for the defendant Bryan
15 Jeffrey Ellis committing the offense of criminal sexual
16 conduct first degree and criminal sexual conduct third
17 degree with his seven year old daughter [Minor] [REDACTED] who she
18 trusted and loved as her father when she called him
19 daddy. Bryan Ellis unlawfully took the trust and
20 innocence of his seven year old daughter by means of
21 sexual battery for his own gratification and his own
22 sexual desire.

23 Bryan states, "[Minor] seemed like she wanted to
24 perform actions. I had trust. I had a twisted idea that
25 I could teach her to enjoy herself. We reciprocated on

1 what felt good or what did not."

2 Bryan Ellis will always be a danger to children and
3 we cannot allow this sex offender, this predator to hurt
4 another child again. Thank you.

5 THE COURT: Thank you, Detective Rawl.

6 MS. MAYES: Thank you, Your Honor.

7 THE COURT: Mr. Mauldin.

8 MR. MAULDIN: Thank you, Your Honor. Mr. Ellis has
9 been in custody since the date of his arrest on January
10 24th, 2016. He is 30 years old now. He was born in
11 Charleston. He moved up to Maine as a small child
12 shortly after he was born until about 1991 or '92 and
13 then moved back to South Carolina. His father was in the
14 Navy but there was a divorce and his mother passed away
15 in recent years, Your Honor, and he hasn't had much touch
16 with his father since then. He graduated from White
17 Knoll High School in 2005. As he said he has taken some
18 college classes. When he was in high school he worked at
19 Subway and Walmart. In 2011 he enlisted in the Army
20 Reserves and then the individual ready reserves in 2014.
21 He received an honorable discharge in 2015 at the rank of
22 E4 and he worked with Motor Transport. While he was in
23 the reserves he worked at Bose Manufacturing and
24 Packaging plant. He worked at Walmart for a period of
25 time and then Panera Bread Company and then he got

1 married sometime in 2009. After that he worked for a
2 courier service District Link driving blood around for
3 blood banks. He had a grounds keeping job at the zoo for
4 a period of two or three years and he worked at DISH
5 Network for three or so years before his arrest, Your
6 Honor. He has no prior record, Your Honor. He has
7 served our country in the reserves. We understand that
8 the penalty of this crime is 25 to life. 25 years is a
9 significant portion of time. Obviously it's 85 percent
10 time. We would hope that Your Honor would consider a
11 sentence towards the minimum and not a life sentence.

12 THE COURT: Thank you, Mr. Mauldin. Anything you
13 would like to say, Mr. Ellis?

14 MR. ELLIS: No, Your Honor.

15 THE COURT: All right. What does criminal sexual
16 conduct with a minor third degree carry, Solicitor?

17 MS. MAYES: Zero to 15, your Honor.

18 THE COURT: Thank you. Just a number of comments
19 before I impose sentencing. Having lived life for a
20 number of years now and observed life for a number of
21 years both on the streets and from the vision I now have
22 I have come to the conclusion that there are many
23 children in America but not enough childhood. I
24 personally think the worst crime anyone can commit is
25 stealing. Is being a thief. And by that I mean when

1 someone breaks into your home and takes your property,
2 they steal those things that either assist you in your
3 life or that are meaningful to you. And when someone
4 kills another person, they steal that person's life.
5 They steal other people's loved one whether it be a
6 brother, a sister, a mother, a father, a child, and in
7 the case of sexual abuse of children they steal not only
8 their innocence and not only their spirit and perhaps if
9 not all parts of their soul, they steal their future.
10 They steal their adolescence, their young adulthood,
11 their relationship not only with members of their own sex
12 but the opposite sex, they greatly diminish the
13 probabilities of having adequate, enriching, enduring
14 relationships throughout their lives particularly in any
15 type of marital relationship. So it doesn't only ruin
16 that person's life, in many instances it's very negative
17 towards the people they love because they don't know how
18 to love them. It's been stolen from them.

19 I'm a firm believer in counseling and treatment and
20 this is not in any way to diminish the potential
21 resilience of children or **Minor** in any way, but at the
22 same time I have lived long enough to realize some wounds
23 never heal and they still get ripped off every now and
24 then. I know I have read it's a cycle that many times
25 those who abuse have been abused. I understand that. I

1 realize that. And I realize it from those individuals
2 that study it, treat it as such and it's a cycle that's
3 so repetitive. So repetitive.

4 But I believe you were grooming **Minor** and then I
5 believe you revictimized her in this courtroom by saying
6 she was retaliating because you wouldn't take what is
7 clearly a relationship that should never exist, conduct
8 that should never exist nor be condoned because she
9 wouldn't do or you wouldn't do what she wanted to do.
10 That's just absurd. A seven year old. You know what a
11 seven year old wants you to do is to be a daddy. Not a
12 pedophile. A daddy. I'll probably cringe the next time
13 one of my children calls me daddy until I can get this
14 some more compartmentalized in my mind. And as far as
15 crying on the stand, that's pure and simple to this
16 Court. That's just crocodile tears. Just crocodile
17 tears. Crying for yourself. A crocodile cries when they
18 devour their prey. That's only because they close their
19 eyes and their eyes stay dry and they're not crying
20 because their eating unless it's happy tears. It's not.
21 It has nothing to do with it and **Minor** is your prey.
22 You're a predator.

23 There are several forms of reason for punishment.
24 One is just pure punishment. Behavior has consequences.
25 Another is deterrence, however you say it because those

1 who may have this bent about them would be deterred
2 because of a sentence that is imposed on another that
3 engages in the same type of conduct. And the third is
4 rehabilitation. I hope, I hope you can be rehabilitated.
5 I have been told again over the course of my career
6 talking to psychiatrists, psychologists about individuals
7 that were masochists, that were sadists, that were
8 pedophiles, you can't cure it no more than you can cure
9 someone that's heterosexual. You can't cure it.

10 All I can do in my mind is to protect as many
11 victims, potential victims as long as I can.

12 2017-GS-32-02303 Bryan Jeffrey Ellis, criminal
13 sexual conduct with a minor, victim under the age of 11
14 first degree, the defendant is committed to the State
15 Department of Corrections for an indeterminate term of
16 life. 2017-GS-32-02305A, Bryan Jeffery Ellis, criminal
17 sexual conduct with a minor third degree, the defendant
18 is committed to the State Department of Corrections for
19 an indeterminate term of 15 years. Those are
20 consecutive. Good luck to you, Mr. Ellis.

21 MR. ELLIS: Thank you, sir.

22 MS. MAYES: Thank you, Your Honor.

23 THE COURT: Thank you, Solicitor. Good luck to you,
24 Ms. Pierson and to **Minor**.

25 WHEREUPON, THE PROCEEDINGS WERE CONCLUDED.

1 CERTIFICATE OF REPORTER

2 (STATE OF SOUTH CAROLINA)

3 (COUNTY OF LEXINGTON)

4
5 I, THE UNDERSIGNED, Steven E. LeBlanc, Sr., R.P.R.,
6 and Official Circuit Court Reporter for the Eleventh Judicial
7 Circuit in and for the State of South Carolina, do hereby
8 certify that I reported the proceedings in the before
9 captioned case in the Court of General Sessions in and for the
10 State of South Carolina on the 10th day of July through the
11 12th day of July, 2017.

12 I FURTHER CERTIFY that the forgoing 485 pages
13 constitute a true and accurate record of said proceedings.

14 I FURTHER CERTIFY that I am neither related, counsel
15 to, nor of interest to any party hereto.

16 IN WITNESS WHEREOF, I have hereunto set my hand at
17 Lexington County, this 4th day of November, 2017.

18
19
20 
21 Steven E. LeBlanc, Sr., R.P.R.
22 Eleventh Circuit Court Reporter
23 State of South Carolina.

24 RECEIVED

NOV 13 2017

APPELLATE DEFENSE

25
Steven E. LeBlanc, R.P.R., Circuit Court Reporter
P.O. Box 184, Lexington, South Carolina 29071

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

County of Lexington)Bryan Jeffrey Ellis, 373122)

Full name and prison number (if any) of Applicant)

2020CP3202225

v.)

APPLICATION FOR

State of South Carolina)

POST-CONVICTION RELIEF

FILED

2020 JUN 25 AM 9:53

ISA M. COMER
CLERK OF COURT
LEXINGTON SCINSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention 4460 Broad River Road, Murray 218, Columbia,
South Carolina 29210
2. Name and location of Court which imposed sentence State of South Carolina,
County of Lexington, General Sessions (Court of) - Lexington, SC
3. Name(s) of co-defendant(s) (if any) N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2017-GS-32-02303
 - (b) 2017-GS-32-02305(A)

488 (c) N/A

5. The date upon which sentence was imposed and the terms of the sentence:

- (a) July 12, 2017 - "Indeterminate" (tr. 485) Life (consecutive)
(b) July 12, 2017 - "Indeterminate" (tr. 485) 15 years (consecutive)
(c) N/A

6. Check whether a finding of guilty was made:

- (a) after a plea of guilty N/A
(b) ☒ after a plea of not guilty NOT Guilty of Indictments/convictions ✓
(c) after a plea of nolo contendere N/A

7. Did you appeal from the judgment of conviction or the imposition of sentence?

Yes, judgement.

8. If you answered "yes" to (7), list:

- (a) the name of each Court to which you appealed:
i. State of South Carolina Court of Appeals
ii. State of South Carolina Court of Appeals (rehearing)
iii. N/A
(b) the result in each such Court to which you appealed:
i. Affirmed
ii. Affirmed
iii. N/A
(c) the date of each such result:
i. May 8, 2019
ii. June 26, 2019
iii. N/A
(d) if known, citations of any written opinion or orders entered pursuant to such results:
i. Unknown
ii. Unknown
iii. Unknown

9. If you answered "no" to (7), state your reasons for not so appealing:

- (a) N/A
(b) N/A

- (c) N/A
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) See Attached 16 pages
- (b) N/A
- (c) N/A
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) See Attached 16 pages
- (b) N/A
- (c) N/A
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? Yes
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No
- (d) any other petitions, motions or applications in this or any other Court? Yes
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. Appellate Court - Petition for Rehearing of Primary direct appeal
- ii. Trial Court - Motion to Suppress; Motion to sequester
- iii. N/A
- iv. N/A
- (b) the name and location of the Court in which each was filed:
- i. South Carolina Court of Appeals - South Carolina
- ii. South Carolina, County of Lexington General Sessions, Lexington, South Carolina
- iii. N/A
- iv. N/A

(c) the disposition thereof:

- i. Granted and Affirmed
- ii. Denied; Denied
- iii. N/A
- iv. N/A

(d) the date of each such disposition:

- i. June 26, 2019
- ii. July 10, 2017; July 11, 2017
- iii. N/A
- iv. N/A

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. Unknown
- ii. Unknown
- iii. N/A
- iv. N/A

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

No

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

- i. N/A
- ii. N/A
- iii. N/A

(b) the proceedings in which each ground was raised:

- i. N/A
- ii. N/A
- iii. N/A

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) I did not want a petition/motion to be misconstrued as first PCR.
 (b) N/A
 (c) N/A

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? Yes
 (b) your trial, if any? Yes
 (c) your sentencing? Yes
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Yes
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?
No

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

i. David M. Mauldin, Public Defender
407 West Main Street, Lexington, South Carolina 29072
 ii. Joanna K. Delany, Appellate Defender
1330 Lady Street, suite 401, Columbia, South Carolina 29201-3332
 iii. N/A

(b) the proceedings at which each such attorney represented you:

i. Initial jury Trial
 ii. Direct Appeal and petition for Rehearing of Direct Appeal
 iii. N/A

19. State clearly the relief you seek in filing this application:

Convictions and sentences to be overturned/acquitted of with prejudice,
Monetary Sanctions and relief to be decided at a later hearing for illegal prosecution
and detainment; at the very least reverse and remand entire case

20. Are you now under sentence from any other court that you have not challenged?

No.

STATE OF SOUTH CAROLINA)

County of Lexington)

VERIFICATION

I, Bryan Jeffrey Ellis, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

S. Ellis ~~11/13/2019~~ 03 June 2020

SWORN to and subscribed before me this 18th
 day of June, 2020.

[Signature] (L.S.)
 Notary Public

My Commission Expires: 7-27-2024

FILED

2020 JUN 25 AM 9:53

LISA M. COMER
 CLERK OF COURT
 LEXINGTON SC

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

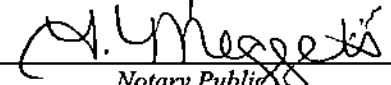
I, Bryan Jeffrey Ellis, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.


Applicant  03 June 2020

SWORN or affirmed to and subscribed before me this

18 day of June, 2020.


Notary Public

My Commission Expires 7-27-2026

FILED

2020 JUN 25 AM 9:53

LISA M. COMER
CLERK OF COURT
LEXINGTON SC

2020CP3202225 FILED

A. Ineffective Assistance of Trial Counsel

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2020 JUN 25 AM 9:53

- (1) Introducing prejudicial character evidence of "prior bad acts" of discipline. Tr 188.15

LISA M. COMER
CLERK OF COURT
LEXINGTON SC

- (2) Failed to raise impeachment of alleged victim when she stated a Scientific improbability that she and her brothers were hanged by their shirts from a hook on the door.

- (3) Failed to raise impeachment of alleged victim when forensic video shows interviewing expert witness leading questions and inconsistent statements during interview.

- (4) Failed to use pre-trial actions such as: Motion to Dismiss, Motion for Summary Judgment, Motion for Speedy trial, Motion(s) for Depositions and/or Interrogatories, Motion to Reduce Bond, and (initially, until defendant request to relieve Counsel) Motion to Suppress Illegally Obtained Evidence. Violating Procedural Due Process.

- (5) Failed to obtain expert witnesses to rebut prosecution's expert witnesses

- (6) Failed to object to having forensic interviewer be authenticated as an expert witness in violation of S.C. case law: State v Kromah, 401 SC 340, 737 SE2d 490 (2013)

A. Ineffective Assistance of Trial Counsel

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- (7) Failed to object to illegally obtained mobile phone data outside of Search warrant criteria; to include being too broad, introduced information too prejudicial compared to probative value, and expiration of warrant when executed.
- (8) Failed to educate defendant of various pleas, such as nolo contendere, Not Guilty Due To Mental Illness, or even appearing to obtain a plea — despite Counsel's immediate Superior boasting Counsel's credentials and enforcing that defendant would remain unheard.
- (9) Failed to educate defendant on meaning of "25 to Life", "Life", "parole", "sexual battery", et cetera. Even so far as stating "You understand, you just don't like it" during one of the less-than-eight attorney visits in a high value case during defendant's 18-month illegal detainment.
- (10) Showed bias, stating to defendant: "I'm tired of talking about pee-pees and vaginas", and "[He] gets paid the same whether [he] wins or loses" during visits to defendant in jail.
- (11) Failed to educate defendant about a 'bench trial'.

A. Ineffective Assistance of Trial Counsel

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- (12) Failed to submit psycho-sexual psychiatrist, Dr. Tom Martin as an expert witness during trial, at sentencing, or even to the court for a pre-sentencing report.
- (13) Failed to verify defendant's competency to stand trial and/or mental state for lack of criminal intent.
- (14) Failed to request trial judge recuse himself ~~fact~~ (the judge) for bias, apparent in verbal tone, physical ~~mannerisms~~ mannerisms, and one-sided interpretations of law.
- (15) Failed to object to solicitor's allegation that there was "no way" government witnesses could have known about defendant's involuntary statement, though the lead investigator all ready took the stand stating he talked to them directly after defendant's arrest; and the D.S.S. report states they received the statement prior to the forensic interviews.
- (16) Failed to impeach forensic interviewer for her prior inconsistent statements in forensic video and on-stand, to include her disregard towards leading questions and suggestions, that she states she did not commit.

A. Ineffective Assistance of Trial Counsel

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(17) Failed to object to faulty indictments at trial for not having a valid witness.

(18) Failed to object to indictment for CSC 3rd Degree being faulty due to time paradox of grand jury convening and signing indictment the day of trial, where invalid witness seems to be in two places at once, even.

(19) Failed to have forensic interviews transcribed so that defendant could review them as allowed by due process for discovery.

(20) Failed to have mobile phone data available to defendant in hard-copy format to review as allowed by due process for discovery.

(21) Failed to request to exclude expert testimony for unreliability under S.C.R.E. 702 and Jameson v Morris, 385 S.C.215, 228, 684 S.E.2d 168, 175 (2009).

(22) Failed to attack ruling of involuntary confession under F.R.E. 103(a)(1)(A) and S.C.R.E. 103(a)(1). When the Courts parameters met after officer Rawl stated he coached defendant to edit statement and initial.

(U.S. v Bolick, 917 F.2d 135, 149 (4th Cir. 1990))

A. Ineffective Assistance of Trial Counsel

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(23) Failed to request charge for spoliation of non-preserved first interrogation.

(24) Failed to request charge for spoliation of non-preservation of video of interrogations.

(25) Failed to introduce Best Efforts Rule in presenting search warrant of home to home-owner prior, or even after, its completion, though home-owner-defendant was passed by the officer, in his yard, being interrogated.

(26) Failed by allowing immaterial, prejudicial evidence of non-prosecuted allegations, therefore against the res gestae, by introducing an external vibrator to enhance the prosecution's case by inferring other criminal acts or to confuse the issues to the jury.

(27) Failed to request a limiting instruction against the introduction of an external vibrator — an act not prosecuted before or at trial. (*State v Timmons*, 327SC48, 54-55, 488SE2d323, 326-27(1997)); (*Webb v CSX Transp. Inc.*, 364SC639, 655, 625SE2d440, 449(2005)).

(28) Failed by attempting to make generalization of objections contemporaneous as "previous objections". (*State v Simpson*, 325SC37, 479SC7257 (14a/1))

A. Ineffective Assistance of Trial Counsel

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(29) Failed to secure a jury of defendants' peers: Age, Gender, Education, Military. (Nearly all-female jury.)

(30) only decided to do a very limited defense when defendant requested Counsel dismissal due to: Counsels' malpractice; bias; refusal to form defense involving defendant in the process; not trying to obtain a plea offer; instructing that if Counsel dismissed, defendant would not get new appointed Counsel.

(31) Failed to allege double jeopardy, as even prosecution admits elements of CSC 1st constitutes criteria for CSC 3rd. Tr 378

B. Malicious Prosecution

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(1) Introduction of suicidal mental health issue by action similar to a "talking objection" by questioning character evidence with no foundation.

(2) Introduction of irrelevant, non-material evidence, being procedurally illegal due to search warrant expiration, and being too broad, for defendant's mobile phone data.

(3) Unjustly and unfairly opined in opening and closing arguments multiple times, dehumanizing defendant and inciting the jury's passions by continually calling defendant "sex offender", "predator"; suggesting multiple victims; bolstering and vouching, by religious oath, the alleged victim while demeaning defendant; and out-right instructing the jury to "find the defendant guilty"—twice in the same instance and the court instructions cannot remove this taint of flagrant misconduct.

→ Berger v. US, 295 US 78, 88 (1935), US v. Kennedy 372 F3d 686 (4th Cir. 2004)

(4) Continually introduction of misstatement of facts throughout. Id

(5) Enforcing that jury act as conscious for community.

(6) Failed to request a retrial because of denial of defendant's right to due process and a fair trial.

US v. Davis, 514 F3d 591 (6th Cir. 2008)

Boyd v. French, 147 F3d 379, 328-29 (4th Cir. 1998)