

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Charleston County

Honorable Jennifer B. McCoy, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

EMERIC HAMILTON,

APPELLANT

APPELLATE CASE NO. 2023-001884

RECORD ON APPEAL

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
State’s Exhibit No. 7 (Recording of Interview)

STATE OF SOUTH CAROLINA) SOUTH CAROLINA CIRCUIT COURT 9
COUNTY OF CHARLESTON) DOCKET NO. 2023-A1-02-1000283

STATE OF SOUTH CAROLINA,)
Plaintiff,)
versus)
EMERIC HAMILTON,)
Defendant.)

H E A R I N G
BEFORE THE HONORABLE JENNIFER B. MCCOY

DATE: November 27-29, 2023
TIME:
LOCATION: South Carolina Circuit Court 9

TRANSCRIBED BY: Mary Ragsdale

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24 (THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH MATERIAL

25 IS REPRODUCED AS READ OR QUOTED BY THE SPEAKER.)

1 MS. FORD: I -- I just wanted to see if we can discuss
2 what we're going to do today, I guess.

3 THE COURT: Sure. That'd be great.

4 MS. FORD: Obviously, we're picking a jury. We were
5 handed the State's brief. We would ask if we could look over
6 that and everything lunch before doing our pretrial --

7 THE COURT: Yeah.

8 MS. FORD: -- motion this afternoon?

9 THE COURT: Yes.

10 MS. FORD: And would it be okay if we start tomorrow
11 with the testimony in the opening?

12 THE COURT: Yes.

13 MS. FORD: Okay.

14 THE COURT: Fine with me. Is that okay with you? You
15 think it was, I mean, sounded like that's what you were
16 anticipating anyway.

17 MS. FRIERSON: I'd like to look at handle any of the
18 pretrial matters, though, this afternoon.

19 MS. FORD: That's fine. I just wanted lunchtime to
20 review the pretrial brief.

21 THE COURT: Sure. What -- let's talk real quick while
22 the jury's coming up too, about pretrial motions. Like what
23 are the nature of the pretrial motions this afternoon,
24 generally?

25 MS. FRIERSON: So we have the competency of the victim

1 as a witness.

2 THE COURT: And she's able to testify this afternoon?

3 MS. FRIERSON: She is.

4 THE COURT: Are you going to proffer her at all or put
5 on the stand, or?

6 MS. FRIERSON: I -- I'm ---

7 THE COURT: I think that's probably ---

8 MS. FRIERSON: --- prepared to.

9 THE COURT: Yeah. That's course of action. I think I
10 have to make sort of a -- an evaluation of different -- her
11 ability and -- and obviously give Ms. Ford an opportunity to
12 -- to evaluate that as well, so.

13 MS. FRIERSON: Yes, we -- we can have her here. What
14 time would you like to start back?

15 THE COURT: Don't know yet. Get back with me after we
16 pick a jury.

17 MS. FRIERSON: Okay.

18 THE COURT: We'll see how long that takes. Okay.

19 MS. FRIERSON: And then we would have the admission of
20 her forensic interview.

21 THE COURT: Which is how long?

22 MS. FRIERSON: It's approximately 30 minutes.

23 THE COURT: Okay. All right.

24 MS. FRIERSON: And we can have Mattie Dodds available.
25 As I understand the statute, that's discretionary, whether or

1 not you want her here; she would be available via WebEx or
2 one of those, and Ms. Ford said that she was fine with that.

3 THE COURT: Okay.

4 MS. FRIERSON: We would have a rape shield motion.

5 THE COURT: Okay.

6 MS. FRIERSON: I don't think that would require any
7 testimony. The search warrant for the Defendant's buckle,
8 and we have Detective Pryor here for that.

9 THE COURT: All right.

10 MS. FRIERSON: There's a motion regarding the
11 Defendant's prior incarceration. And in short, it's just
12 that he told the victim he was just -- just a jail, and then
13 he talks about it in his jail call. And so we believe that
14 that -- just that statement should be admissible. So we have
15 some arguments on that under rest just I and 404(b).

16 THE COURT: Okay.

17 MS. FRIERSON: But I don't think that would require any
18 testimony. If a bad faith or spoliation argument because the
19 body cams were -- or no more. I don't think that would
20 require testimony.

21 THE COURT: Okay.

22 MS. FRIERSON: We have chain of custody, which is more
23 of a formality.

24 THE COURT: Okay.

25 MS. FRIERSON: You know, we've got one person from each

1 agency testifying, and it's more of just an oral motion under
2 State v Hatcher. We don't think we need to bring everybody
3 in because it's my understanding, unless something's changed,
4 the Defendant is not interested in stipulating to the chain.

5 MS. FORD: That is correct, Your Honor.

6 THE COURT: All right.

7 MS. FRIERSON: Briefly, we talk about the CODIS hit.
8 Again, just -- just testimony that we are only eliciting the
9 testimony that he was in a database. Nothing further. We
10 have a motion about the length of time between arrest and
11 trial.

12 THE COURT: Okay.

13 MS. FRIERSON: There's a *Jackson v Denno*. And I don't
14 honestly know if that's going to require testimony because it
15 was a statement they made -- that the Defendant made when
16 they walked up to the door to like, Hey, we're here because
17 this was reported. And so he's like, I don't know anything
18 about a sexual assault ---

19 THE COURT: Custodial interrogation involved?

20 MS. FRIERSON: There's -- no. So we would argue that
21 we don't -- whether it's a spontaneous utterance, whether
22 it's presence of depression, I don't think we need to have
23 someone here to testify about that pretrial ---

24 THE COURT: Okay.

25 MS. FRIERSON: --- unless Ms. Ford agrees. And then I

1 threw in *Neil v Biggers*. We don't plan to introduce the
2 lineups. The victim's mother approached the Defendant right
3 after it happened and confronted him before she called 911.
4 And so she can identify him as the man that she approached
5 and said, I don't know what you're talking about. Nope,
6 nothing happened here. She did subsequently ID him in a
7 lineup two years after. But we don't plan to introduce
8 those. It's just do you see the man that you confronted at
9 the door that night in the courtroom.

10 THE COURT: So the lineup is not even going to be
11 referenced?

12 MS. FRIERSON: We're not going to talk about the
13 lineups.

14 THE COURT: Okay.

15 MS. FRIERSON: Because I think her identification from
16 you walked up to the door and you see the man that you saw
17 that night here in the courtroom is more powerful than two
18 years later.

19 THE COURT: Okay.

20 MS. FRIERSON: So I don't plan on bringing it up. I
21 just put it in here out of an abundance of caution, Your
22 Honor.

23 THE COURT: All right. I don't know. Okay. Okay.
24 All right.

25 MS. FRIERSON: Those are the statements.

1 THE COURT: What's your understanding is -- okay. Any
2 additional, or -- Ms. Ford that you're -- I'm not holding you
3 to it, but that's your understanding of the issues will be
4 addressing this afternoon?

5 MS. FORD: Yes, Your Honor. There is a jail call the
6 State seeks to admit at some point. It's with his mother.
7 And so I don't know if that'd be better taken up when the
8 State seeks to admit it, depending on how the -- the county
9 -- the sheriff's deputy testifies about certain things. But
10 that is another possible issue in the trial, Your Honor.

11 THE COURT: Okay. Maybe if you all can just get me
12 that -- is it a lengthy call?

13 MS. FRIERSON: No, I have -- for you, Judge, I have the
14 Dee Norton interview, the jail call, and I am waiting on two
15 copies. I have transcribed a professional transcription of
16 both the Dee Norton interview and the jail call.

17 THE COURT: Oh, okay.

18 MS. FRIERSON: May I approach, Your Honor?

19 THE COURT: Sure, yeah. So I'll just review these over
20 the break. Okay.

21 All right. Panel outside? Jury panel outside? I
22 don't see the bailiff. Maybe not. I don't see any bailiff.
23 All right.

24 UNIDENTIFIED FEMALE: (Inaudible), Your Honor.

25 THE COURT: Sure. Yeah. And I mean, you know,

1 scheduling -- I don't, you know, we'll get through this jury
2 situation as quickly as possible, and efficiently as
3 possible. And then, we'll have to just see where we are in
4 terms of what time ---

5 THE BAILIFF: They're not out, yet.

6 THE COURT: --- about this afternoon.

7 Ms. Ford, do you have additional witnesses at this
8 time, outside of those --- from the State? Oh, I see one.

9 THE BAILIFF: They're just arriving, Your Honor.

10 MS. FORD: Tommy Walters.

11 THE COURT: That's if somebody will know Tommy Walters
12 (inaudible).

13 MR. FORD: He said you have to call him Tommy because
14 people don't recognize him by Thomas.

15 THE COURT: I know. Got you. Okay. All right, well,
16 the jury can come in. All jurors present?

17 THE BAILIFF: All present, Your Honor.

18 THE COURT: All right. Ladies, gentlemen, thank you
19 for your patience this morning. We've been shuffling a few
20 things around, but we are ready to get started. Generally
21 speaking, as a scheduling matter this next portion of the
22 actual jury selection for this case, we'll probably take
23 about 20 to 30 minutes. I know everybody is hungry and I
24 understand that.

25 After we select a jury for this case, those of you who

1 are not selected will be released for the rest of the day.
2 And even those of you who are selected for this case will be
3 asked to hang around a few more minutes, but then you will
4 also be released for the rest of the day. So just to kind of
5 give you an idea of what your day's going to be like;
6 hopefully, we'll get you out of here sooner rather than
7 later, either way.

8 Ladies and gentlemen, I'll remind you at this time that
9 you have already been sworn in downstairs to give truthful
10 and accurate responses to the questions that are posed to you
11 today. We expect you to -- to continue to give truthful and
12 accurate responses to the questions that I need to ask in
13 order to get through this next part of this process. Okay?
14 So understanding that we will begin.

15 Ladies and gentlemen of the jury panel we are about to
16 begin the trial of this case. This case is the State of
17 South Carolina vs. Emeric Tyrone Hamilton.

18 Mr. Hamilton has been charged through an indictment,
19 and this is just a piece of paper through which charges are
20 brought to the Court. It's not evidence in any way. He's
21 been charged with criminal sexual conduct with a minor in the
22 second degree. That in Charleston County, South Carolina,
23 on/or about April 19th of 2018, the defendant, Emeric Tyrone
24 Hamilton, did commit or attempt to commit a sexual battery to
25 wit vaginal intercourse upon a minor, Minor, who

1 was under 14 years of age but was at least 11 years of age in
2 violation of sections 16-3-655(b) (1) of South Carolina Code
3 of Laws.

4 In connection with this trial, ladies and gentlemen, as
5 I indicated earlier, I will go through several questions with
6 you all and we expect that you will tell the truth, the whole
7 truth, and nothing but the truth.

8 Anyone on the jury have ever been related by blood or
9 marriage to either Emeric Tyrone Hamilton or Minor [REDACTED]
10 [REDACTED]. If so, please stand. I find none.

11 Has anybody ever had a close personal or social
12 relationship with Emeric Hamilton or Minor [REDACTED]? If
13 so, please stand. I find none.

14 The following, ladies and gentlemen, is a list of
15 possible witnesses in this case. That does not mean --
16 necessarily mean that all of these people will testify, but
17 they may testify. Similarly, to the questions I just asked,
18 if you are related by blood or marriage to any of these
19 people or you have a close personal or social relationship
20 with these folks, I'm going to ask that you stand when I call
21 their name. And at the end I will go through and ask you
22 some more specific questions. Minor [REDACTED], Jacqueline
23 Harrison, Deputy Patrick Northwood, Sarah Fortier, Paul
24 McGee, Officer GRA with the North Charleston Police
25 Department, Sergeant Michael Cardaronella, Paul Schofield,

1 Christie Harley, formerly of MUSC, Kathy Fabrizio, Mattie
2 Dodds, Officer Lauren Santos, Sergeant Ledford of NCPD,
3 Verona Herrera with SLED, Officer Reed of North Charleston
4 Police Department, Detective Tiffany Crider, Crime Scene
5 Technician, Tiffany Wilcome, Maryanne Bow, Melissa High, and
6 Tommy Walters. Anybody on the jury panel related by blood or
7 marriage to any of those folks or have a social or otherwise
8 relationship with these people? Let me know. Yes, if you
9 will please stand and tell me your jury number.

10 JUROR NUMBER 175: 175.

11 THE COURT: Okay. Yeah, everybody stand and then we'll
12 go through you one at a time. Yes, sir. 175. Who do you
13 know?

14 JUROR NUMBER 175: I went to high school with Tommy
15 Walters?

16 THE COURT: All right. Will the fact that you went to
17 high school with Tommy Walters make it difficult for you to
18 be fair and partial to both sides during the trial of this
19 case, if he were to testify to the best of your knowledge
20 today?

21 JUROR NUMBER 175: No.

22 THE COURT: All right. 175 will remain.

23 Yes, ma'am?

24 JUROR NUMBER 136: 136.

25 THE COURT: Yes, ma'am?

1 JUROR NUMBER 136: Friends with Mattie Dodds.

2 THE COURT: You're friends with her?

3 JUROR NUMBER 136: Yes.

4 THE COURT: Okay. Do you see each other on a regular
5 basis?

6 JUROR NUMBER 136: No.

7 THE COURT: Okay. If she were to testify in this case,
8 would you have any problem being fair and impartial to both
9 sides?

10 JUROR NUMBER 136: No.

11 THE COURT: Okay. All right. At this time, 136 will
12 remain. Have a seat. Thank you very much. Anybody else?

13 All right. Ladies and gentlemen, I'm now going to ask
14 the attorneys in this case to stand and introduce themselves
15 and tell you who they work with or who they work for, as well
16 as introduce their client, if appropriate. Keep in mind if
17 you've ever been represented by these folks, so their offices
18 will be asking you that afterwards. We'll begin with the
19 State.

20 MS. FRIERSON: Good morning, ladies and gentlemen. My
21 name is Lauren Frierson. I work for the Ninth Circuit
22 Solicitor's Office here in the Charleston office for your
23 elected officials, Scarlet Wilson. Trying this case with me
24 will be co-counsel Nick Harris. We will also have our
25 investigator Jen Hall, formally with the Charleston Police

1 Department assisting as well. Thank you.

2 THE COURT: Anybody in the jury panel ever been
3 resented by these folks, have any reason to know these --
4 these folks or otherwise have any social or casual -- casual
5 relationship with them? If so, please stand. I find none.

6 All right. We'll switch over to the Defense.

7 MS. FORD: Hi, my name is Mary Ford. I'm an attorney
8 with the Charleston County Public Defender's Office. I work
9 for Cameron Fraser, who's the subject defender. I represent
10 Mary Hamilton right here. And joining us is Lindsay Inger,
11 who is another attorney in my office.

12 THE COURT: All right. Thank you so much. Anybody on
13 the jury panel related by blood or marriage or have any
14 social or casual relationships with these folks, or ever been
15 represented by their offices to the best of your knowledge?
16 If so, please stand. All right. I find none.

17 Okay, ladies, gentlemen, I'm going to go through some
18 questions now. Some of these, kind of, like I said,
19 downstairs might require some personal information. So I'll
20 -- we'll -- at the right -- at the appropriate time, I'll ask
21 you to come forward and disclose more specific information.
22 But at this time, you just need to stand if this applies to
23 you. Have you or a member of your immediate household family
24 been the victim of or witness to a sexual assault? If so,
25 please stand. All right. Ask that you come forward one at a

1 time. Attorneys may approach as well. Bailiffs will help me
2 in this process.

3 Okay. Thank you, ladies and gentlemen. We'll keep
4 going through these questions. Have any of -- you or a
5 member of your immediate household family been accused of or
6 been the victim of any violent crime? Doesn't have to be,
7 you know, according to statute, anything that you deem
8 violent in any way, shape, or form that you are a household
9 member, been accused of, or been the victim of any violent
10 crime and you have not previously come up and answered, then
11 we would ask that you stand at this time. All right. I find
12 none.

13 Any of you or a member of your household family ever
14 been incarcerated or previously incarcerated in a prison,
15 state, or federal? If so, please stand. All right. And
16 please come up one at a time.

17 Anybody on the jury panel previously sat on a jury in a
18 criminal court? If so, please stand. All right, that's
19 fine. You'll need to come up. Tell me your jury number,
20 ma'am.

21 JUROR NUMBER 231: 231.

22 THE COURT: 231. All right. About how long ago was
23 that?

24 JUROR NUMBER 231: I believe it was close to a decade.

25 THE COURT: Okay. And was it here in circuit court or

1 ---

2 JUROR NUMBER 231: Yes.

3 THE COURT: Okay. And what was the verdict?

4 JUROR NUMBER 231: It -- it was a -- a capital murder
5 trial and the Defendant made a -- a deal about half way
6 through the trial.

7 THE COURT: Okay. So did not -- did not go to verdict.
8 Okay. All right. Would your previously -- would your
9 previous experience -- experience make it difficult for you
10 to be fair, impartial to both sides in this case?

11 JUROR NUMBER 231: No.

12 THE COURT: All right. Have a seat. 231 will remain.
13 Yes, sir. Your number?

14 JUROR NUMBER 252: 252.

15 THE COURT: 252. Where -- where was your case trial
16 appearance?

17 JUROR NUMBER 252: It was a criminal trial in Portland,
18 Maine, 2018 -- October, 2018.

19 THE COURT: Okay. And did that reach a verdict?

20 JUROR NUMBER 252: There was a (inaudible) for one
21 charge and acquittal for another charge.

22 THE COURT: All right. And would your previous
23 experience doing that make it difficult for you to be fair to
24 both sides in this case?

25 JUROR NUMBER 252: No, it would not.

1 THE COURT: All right. Have a seat please. 252 will
2 remain. Anybody else?

3 All right. Ladies and gentlemen, has anybody ever been
4 a witness any or a civil or a criminal case? If so, please
5 stand. All right. I find none.

6 To the best of your knowledge, ladies and gentlemen,
7 have you or any member of your household family have criminal
8 charge adjudicated by or with the solicitor's office here in
9 Charleston? Or if so, please stand. You have not previously
10 answered questions. All right, I find none.

11 Have you or any member of your household family ever
12 been represented by the Public Defender's office here in the
13 Ninth Circuit? If so, please stand. I find none.

14 Would any member of the jury panel have any problem
15 following the law as the judge gives it to you, even if you
16 believe that it's inappropriate or unfair? If so, please
17 stand. I find none.

18 Anybody on the jury panel have a personal, political,
19 or religious beliefs, or convictions that would make it
20 difficult for you to sit on a jury? If so, please stand. I
21 find none.

22 Any member of the jury panel ever had a bad experience
23 with a law enforcement officer such that it would make it
24 difficult for you to consider any testimony from law
25 enforcement or make it difficult for be fair to both sides in

1 this case? If so, please stand. I find none.

2 Ladies and gentlemen, there maybe many forms of
3 evidence presented during the trial. Some may be scientific
4 and others may be through witness testimony. In recent
5 years, crime scene investigation TV shows provided
6 entertainment, however, these shows are for entertainment and
7 are not real court cases.

8 Would any of you be able to put your views and opinions
9 from TV shows -- would anybody not be able to put these
10 opinions aside and listen objectively to the evidence that's
11 presented in court? If so, please stand, if you would not be
12 able to put these views aside. All right. I find none.

13 Ladies and gentlemen, go through are a few more of
14 these. Let's see. Anybody on the jury panel currently a law
15 enforcement, employee, or are members of your immediate
16 household family employed by a law enforcement agency? If
17 so, please stand. I find none.

18 If any of you on the jury panel have -- currently have
19 a minor children or grandchildren that it -- the result of
20 which would affect your ability to be fair and impartial in
21 this case? Please stand. All right.

22 Yes, ma'am, your jury number?

23 JUROR NUMBER 17: 17.

24 THE COURT: 17. How many children or grandchildren do
25 you have that are minors?

1 JUROR NUMBER 17: I have four grandchildren.

2 THE COURT: Under the age of 18?

3 JUROR NUMBER 17: Yes.

4 THE COURT: Okay. All right. And you indicated you
5 believe it would affect your ability to be fair and impartial
6 in this case.

7 JUROR NUMBER 17: (Inaudible).

8 THE COURT: Okay. You'll be excused from this case.
9 Please have a seat and remain with us until you don't need to
10 answer any other questions. Okay? Anybody else? I find
11 none. Anybody on the jury panel have a household family
12 member with an intellectual disability? If so, please stand.
13 All right. I find none.

14 Anybody on the jury panel already think they know
15 anything about this case, or read anything about this case,
16 or formed any opinion whatsoever concerning the guilt or
17 innocence of Mr. Hamilton? If so, please stand. I find
18 none.

19 Anybody on the jury panel currently a member of, or --
20 or any of your household relatives a member of any victims'
21 rights or law enforcement organizations such as Citizens
22 Against Violent Crime, People Against Rape, Mothers Against
23 Drunk Driving, or Persons in Power to Save Teens or any other
24 community watch program? If so, please stand. I find none.

25 Anybody on the jury panel have an occupation that

1 requires you to work primarily with children, and the fact
2 that you do so would affect your ability to be fair in this
3 case? If so, please stand. All right. I'm going to ask
4 that you all come forward one at a time. Attorneys may
5 approach. All right.

6 Ladies and gentlemen, just a few more questions. If
7 your occupation requires you to work with folks with an
8 intellectual disability, I'd ask that you stand. And also if
9 you, you know, are familiar with or you sort of have somebody
10 in your life or you, you know, your family obviously, or your
11 life that has an intellectual disability I'd ask that you
12 stand. The reason being, we need to find out if your
13 familiarity with somebody with an intellectual disability
14 would make it difficult for you to be fair and impartial to
15 both sides in this particular case. If so, please stand. If
16 you've already been told you don't need to respond to any
17 questions, you can obviously remain seated, but otherwise,
18 please stand. Yes, ma'am, your number? Come on up.

19 All right. Couple more. Ladies and gentlemen, have
20 you or any member of your household family worked for, or had
21 any connection with the Dee Norton Lowcountry Children's
22 Center or children's center in another city who is similar?
23 I would say close household family members or any close
24 personal friends, and you have not previously stood up in
25 response to this question, please do so at this time. I find

1 none.

2 Have you or any member of your family or any close
3 personal friends had any connection with the organization
4 from Darkness to Light or any other similar organization
5 dedicated to child abuse? If so, please stand. All right.
6 One more time, your number?

7 JUROR NUMBER 231: 231.

8 THE COURT: 231. And what's the connection with that?

9 JUROR NUMBER 231: I -- well, I was a guardian ad litem
10 for Charleston County for five years, so I mean, I've ---

11 THE COURT: Been through the training?

12 JUROR NUMBER 231: Yes.

13 THE COURT: Okay.

14 JUROR NUMBER 231: I've been -- I'm familiar with both
15 Dee Norton and (inaudible).

16 THE COURT: Okay. And in that capacity that you've had
17 with them, your experience, would that make it difficult for
18 you to be fair to both sides in this case?

19 JUROR NUMBER 231: No.

20 THE COURT: Okay. 231 will remain. Have a seat.

21 Anybody on the jury panel aware of any reason
22 whatsoever why they could not be fair and impartial to Mr.
23 Emeric Hamilton and to the State in the trial of this case?
24 If so, please stand. All right. I find none.

25 I'm going to ask the attorneys to approach briefly.

1 Flip that switch back on one more time.

2 (BENCH CONFERENCE)

3 THE COURT: All right. Ladies and gentlemen, we have
4 gone through the voir dire process with the questioning
5 process. Any -- any additional voir dire from the State?

6 MS. FRIERSON: None from the State, Your Honor.

7 THE COURT: All right. Any additional from the
8 Defense?

9 MS. FORD: No, Your Honor.

10 THE COURT: All right. At this point in time, ladies
11 and gentlemen, we will take a brief 10-minute-break for you
12 all. The clerk's office is going to jumble up the numbers
13 and I'd ask that you be back in your seats at 1:10. Okay?
14 Thank you so much.

15 (Off the record.)

16 THE COURT: All right. We've gone through the voir
17 dire process. Obviously, quite a few jurors have been
18 excused; struck for cause for this -- from this case based on
19 their responses to the various voir dire questions. The bulk
20 of which were excused pursuant to State's proposed voir dire
21 number 1, which was asking whether, you know, you or a family
22 member been the victim of or witness to a sexual assault.
23 Nine people were excused on that basis alone. We had 42
24 folks in here from the outset -- from the panel. Those
25 excused based on that question, according to my notes were

1 jury -- juror number 51, 140, 39, 136, 29, 205, 196, 163 and
2 267.

3 Additionally, jurors were excused on the basis that
4 their occupation required them to work primarily with
5 children. Three jurors were excused based on their responses
6 to that question. Juror number 100, juror number 216, and
7 juror number 115. Finally, based on her most recent
8 response, juror 231 was excused based on the fact that her
9 niece -- 10-year-old niece had an intellectual disability and
10 she had prior experiences of guardian ad litem, which caused
11 her to equivocate on the answer of whether or not she could
12 be unbiased and fair to both sides.

13 That -- based on my calculation results in a grand
14 total of 13 folks being excused, which leaves us with 29
15 jurors left in the panel.

16 Madam Clerk, your calculations reflect mine as well? I
17 know it's hard for you to hear based on the white noise we
18 had.

19 THE CLERK: I had 13 as well, yes.

20 THE COURT: Oh, thank you. The grandchildren. Yes.
21 Excuse me. Thank you. Yes. I was only looking at the
22 State's voir dire. On the Defense voir dire, question number
23 5 did result in number 17 indicating she could not be fair
24 and impartial based on the fact that she had minor
25 grandchildren under the age of 18. So correct, that's

1 additional -- it's an additional one excused. That would be
2 14 excused, leaving 28 remaining viable jurors in the panel.

3 Obviously, this is a statutory violent crime in South
4 Carolina, so Defense is entitled to 10 strikes; State's
5 entitled to five. Court's intent at this point would be to
6 begin the jury selection process, and obviously if strikes
7 exhaust, then we'll have to stop, and we'll have to resume --
8 we'll have to pick a new jury from a new panel. Our options
9 would be to try to do it tomorrow morning, bring other jurors
10 back, a new panel, and try it again at that time. Based on
11 the information we would give them on the juror hotline
12 tonight.

13 But at this time, unless the attorneys have another
14 view or anything else they'd like to share, an objection to
15 my process, we'll begin.

16 MS. FRIERSON: No objection from the State.

17 THE COURT: No objection from the State.

18 MS. FORD: No objection, Your Honor.

19 THE COURT: Just wanted to mostly note on the record
20 all those that have been excused and the reasons they've been
21 excused before we got started. Okay. All right, so we'll --
22 we'll be at east for about five minutes and we'll bring the
23 juror panel back in and try to begin selecting at that time.

24 (Jury enters room)

25 THE COURT: All right. Thank you all so much. Have a

1 seat. Turn it over to the court's office.

2 Ladies and gentlemen, they're going to go through your
3 -- through these numbers. If you could just use the juror
4 number, Madam Clerk. Bring your belongings and follow her
5 instructions. Okay? Go ahead.

6 THE CLERK: Ladies and gentlemen, if I call your juror
7 number, just please grab all your belongings and stand in
8 front of this podium. Thank you.

9 Juror number 133. What say for the State?

10 MS. FRIERSON: Please present this juror.

11 THE CLERK: What say for the Defendant?

12 MS. FORD: Please seat the juror.

13 THE CLERK: Sir, you have been selected. You can have
14 a seat in the jury box.

15 Juror number 96. What say for the State?

16 MS. FRIERSON: Please present this juror.

17 THE CLERK: What say you for the Defendant?

18 MS. FORD: Please seat this juror.

19 THE CLERK: Sir, you have been selected. You can have
20 a seat in the jury box.

21 Juror number 264. What say for the State?

22 MS. FRIERSON: Please present this juror.

23 THE CLERK: What say you for the Defendant?

24 MS. FORD: Please excuse this juror.

25 THE CLERK: Ma'am, you have been excused. You have a

1 seat back (inaudible).

2 Juror number 14. What say for the State?

3 MS. FRIERSON: Please present this juror.

4 THE CLERK: What say for the Defendant?

5 MS. FORD: Please excuse this juror.

6 THE CLERK: Ma'am, you have any excused. You can have
7 a seat back in the (inaudible).

8 Juror number 248. What say for the State?

9 MS. FRIERSON: Please present this juror.

10 THE CLERK: What say for the Defendant?

11 MS. FORD: Please seat the juror.

12 THE CLERK: Sir, you have been selected for trial. You
13 have a seat in the jury box.

14 Juror number 286. What say for the State?

15 MS. FRIERSON: Please present this juror.

16 THE CLERK: What say for the Defendant?

17 MS. FORD: Please excuse this juror.

18 THE CLERK: Sir, you've been excused. You can have
19 seat back in the jury box.

20 Juror number 121. What say for the State?

21 MS. FRIERSON: Please present this juror.

22 THE CLERK: What say for the Defendant?

23 MS. FORD: Please excuse this juror.

24 THE CLERK: Ma'am, you have been excused. Have a seat
25 back in the (inaudible).

1 Juror number 87. What say for the State?

2 MS. FRIERSON: Please present this juror.

3 THE CLERK: What say for the Defendant?

4 MS. FORD: Please seat the juror.

5 THE CLERK: Sir, you have been selected in trial. Have
6 a seat back in the jury box.

7 Juror number 271. What say for the State?

8 MS. FRIERSON: Please present this juror.

9 THE CLERK: What say for the Defendant?

10 MS. FORD: Please excuse this juror.

11 THE CLERK: Sir, you have been excused. You could have
12 a seat back in the (inaudible).

13 Defendant has exhausted five strike.

14 Juror number 61. What say for the State?

15 MS. FRIERSON: Please present this juror.

16 THE CLERK: What say for the Defendant?

17 MS. FORD: Please seat the juror.

18 THE CLERK: Ma'am, you have been selected. You have a
19 seat in the jury box.

20 Juror number 174. What say for the State?

21 MS. FRIERSON: Please present this juror.

22 THE CLERK: What say for the Defendant?

23 MS. FORD: Please excuse this juror.

24 THE CLERK: You have been excused. You can have a seat
25 back in the (inaudible).

1 Juror number 55. What say for the State?

2 MS. FRIERSON: Please present this juror.

3 THE CLERK: What say for the Defendant?

4 MS. FORD: Please seat the juror.

5 THE CLERK: Sir, you have been selected. You can have
6 a seat in the jury box.

7 Juror number 252. What say for the State?

8 MS. FRIERSON: Please present this juror.

9 THE CLERK: What say for the Defendant?

10 MS. FORD: Please excuse this juror.

11 THE CLERK: Sir, you have been excused. You can have a
12 seat in the (inaudible).

13 Juror number 56. What say for the State?

14 MS. FRIERSON: Please present this juror.

15 THE CLERK: What say for the Defendant?

16 MS. FORD: Please excuse this juror.

17 THE CLERK: Sir, you have been excused. You can have a
18 seat back in the (inaudible).

19 Juror number 232. What say for the State?

20 MS. FRIERSON: Please present this juror.

21 THE CLERK: What say for the Defendant?

22 MS. FORD: Please seat the juror.

23 THE CLERK: Sir, you have been selected. You can have
24 a seat in the jury box.

25 Juror number 279. What say for the State?

1 MS. FRIERSON: Please present this juror.

2 THE CLERK: What say for the Defendant?

3 MS. FORD: Please seat the juror.

4 THE CLERK: Sir, you've been selected. You can have
5 seat in the jury box.

6 Juror number 236. What say you for the State?

7 MS. FRIERSON: Please present this juror.

8 THE CLERK: What say for the Defendant?

9 MS. FORD: Please seat the juror.

10 THE CLERK: Sir, you've been selected. You can have
11 seat in the jury box.

12 Juror number 228. What say for the State?

13 MS. FRIERSON: Please present this juror.

14 THE CLERK: What say for the Defendant?

15 MS. FORD: Please seat the juror.

16 THE CLERK: Sir, you've been selected. You can have
17 seat in the jury box.

18 Juror number 280.

19 MS. FORD: What number?

20 THE CLERK: 280. What say for the State?

21 MS. FRIERSON: Please present this juror.

22 THE CLERK: What say for the Defendant?

23 MS. FORD: Please seat the juror.

24 THE CLERK: Sir, you've been selected. You can have
25 seat in the jury box.

1 Juror number 175. What say for the State?

2 MS. FRIERSON: Court's indulgence?

3 THE COURT: Uh-uh.

4 MS. FRIERSON: Please excuse this juror.

5 THE CLERK: Sir, you have been excused. You can have a
6 seat back in the (inaudible).

7 Juror number 131. What say for the State?

8 MS. FRIERSON: Please present this juror.

9 THE CLERK: What say for the Defendant?

10 MS. FRIERSON: Please excuse this juror.

11 THE CLERK: Sir, you have been excused. You can have a
12 seat back in the (inaudible).

13 Juror number 94. What say for the State?

14 MS. FRIERSON: Please present this juror.

15 THE CLERK: What say for the Defendant?

16 MS. FORD: Please seat the juror.

17 THE CLERK: Sir, you've been selected. You can have a
18 seat in the jury box. Strike you for first alternate. Juror
19 number 208. What say for the State?

20 MS. FRIERSON: Please present this alternate.

21 THE CLERK: What say for the Defendant?

22 MS. FORD: Please excuse this juror.

23 THE CLERK: Ma'am, you have been excused. You can have
24 a seat back in the (inaudible).

25 Juror number 24. What say for the State?

1 MS. FRIERSON: Please present this juror.

2 THE CLERK: What say for the Defendant?

3 MS. FORD: Please excuse this juror.

4 THE CLERK: Ma'am, you have been excused. You can have
5 a seat back in the (inaudible).

6 Defendant has exhausted all strike.

7 Juror number 143. What say for the State?

8 MS. FRIERSON: Please present this alternate.

9 THE CLERK: Any challenges by Defendant?

10 MS. FORD: No -- no.

11 THE CLERK: Ma'am, you can have a seat in the jury box.

12 Juror number 134. What say for the State?

13 MS. FRIERSON: Please present this alternate.

14 THE CLERK: Any challenges by the Defendant?

15 MS. FORD: No.

16 THE CLERK: Ma'am, you can have a seat in the jury box.

17 THE COURT: Any objections or exceptions to the jury
18 selection process from the State?

19 MS. FRIERSON: None from the State, Your Honor.

20 THE COURT: Any from the Defense?

21 MS. FORD: No, Your Honor.

22 THE COURT: All right. All right, ladies and
23 gentlemen, those of you in the gallery who were not selected
24 for this jury, you all are free to leave for the day. We
25 just ask that you check back in with the jury hotline after

1 6:00. As I mentioned earlier this morning, there's some
2 civil trials, too, that are going this week. So just keep
3 checking back after 6:00 on that jury hotline. Make sure you
4 don't call until 6:00, so that you get the most accurate
5 information. We don't want you showing up for nothing when
6 you don't have to. And you're free to leave. Thank you very
7 much.

8 All right. Thank you so much. Okay, ladies and
9 gentlemen, you have been selected to serve as jurors in this
10 trial. There are several pretrial matters that I need to
11 take up with these attorneys this afternoon. So as I
12 indicated earlier, you will also be released for the
13 remainder of the day today. I'm going to release you to the
14 capable hands of our bailiffs. They'll be your ambassadors
15 this week to the Court and get you all the information you
16 need; logistics, and parking information and all that good
17 staff. Any work or school excuses, if you need that will be
18 handled as well.

19 I anticipate this trial lasting through the remainder
20 of the week. Just for your planning purposes, generally our
21 days are basically 9:00 to 5:00. Occasionally, we might
22 finish a little before 5:00 or a few minutes after. But we
23 -- we try to generally keep it to those hours. If anybody
24 needs a ride here or anything like that or transportation's
25 an issue, let the bailiffs know. We can have Sheriff's

1 deputy pick you up; give you a ride all week if necessary.

2 That's no problem either.

3 So with that, I'm going to ask that you return tomorrow
4 morning at 9:30 in the morning. We'll get started at that
5 time. And please, whatever you do, don't do any independent
6 research. Don't go look up any of these folks or these
7 topics that have been discussed here today in court. And I'm
8 going to ask that you do that each and every day during this
9 trial. Everything that you will need for this case will be
10 presented to you right here in this courtroom. And that's a
11 -- a request I'm going to make of you each and every day.
12 Okay?

13 So, with that, thank you so much. I'm going to release
14 you to the bailiffs and have a good rest of your afternoon.
15 We'll see you back in the morning at 9:30.

16 (Jury exits room)

17 THE COURT: All right. We made it. Okay. Everybody
18 please be seated. So lots of things through this afternoon.
19 It's 1:30 now. You all want to start back at 2:30? Is that
20 enough time for everybody to get a bite to eat, and we'll see
21 you back in about an hour; 2:35 or whenever, about an hour
22 from now. Okay. All right. Thanks.

23 MS. FORD: Thank you, Your Honor.

24 THE COURT: See you then.

25

1 THE COURT: All right. I am happy to entertain these
2 pretrial motions in whatever fashion attorneys deem most
3 appropriate.

4 MS. FRIERSON: Your Honor, I think what we'll do is
5 we'll start with the two regard that would require testimony
6 and get those knocked out. Those are probably the longest
7 two. And -- and then we can move on to whether or not we
8 need Mattie Dodds here for hers.

9 THE COURT: Okay. So, Ms. Moore -- Ms. Ford, these are
10 your motions; is that right?

11 MS. FORD: Well, I think if -- if it's the victim's
12 competency --

13 THE COURT: We'll start with that. Yeah.

14 MS. FORD: Yes. And just so Your -- Your Honor knows
15 the history. I think obviously the State covered some of it
16 in her trial brief. She has been diagnosed with intellectual
17 disability amongst other things. She had a family court case
18 primarily she would be charged with truancy and things like
19 that. She -- well, was well known in the family court
20 system, Your Honor.

21 And last year, I believe that's the last time she had
22 had a competency evaluation. She was found not competent.
23 They basically -- my understanding of reading the report
24 seems to indicate that while they felt she had a factual
25 understanding that because of her behavior, her issues are

1 more actually behavior rather than intelligence, even though
2 the intelligence contributes to the behavior.

3 THE COURT: Uh-huh.

4 MS. FORD: Or rather her not being able to control her
5 emotions and things like that, that's basically a part of her
6 disability. Often she would refuse to answer, refuse to
7 cooperate and things.

8 THE COURT: In the family court matters; is that right?

9 MS. FORD: In general. So there's a long history of
10 her being evaluated by school counselors, MUSC. But yes, in
11 the family court matter, the doctor doing that evaluation
12 found that they didn't think she could meaningfully cooperate
13 with her attorney, basically.

14 THE COURT: Uh-huh.

15 MS. FORD: And they were worried specifically about her
16 ability to control herself in court. And so that's why they
17 found her not competent. So my concern, and she has
18 testified in trial before, Your Honor, she seemed to handle
19 herself okay from my memory.

20 THE COURT: What was the nature of that trial?

21 MS. FORD: It was a criminal sexual conduct with the --
22 I -- I represented another person charged with a criminal
23 sexual conduct against her, Your Honor.

24 THE COURT: Okay.

25 MS. FORD: And that was --

1 THE COURT: She -- she was permitted to testify in that
2 trial?

3 MS. FORD: Yes, Your Honor. And that was early last
4 year in 2022. Or was it '21? I think it was '22. '22.

5 THE COURT: Uh-huh.

6 MS. FORD: And my concern, and just to bring in a
7 little with the LCC video, my concern is, for example, the
8 jury's going to possibly see the -- the Dee Norton Lowcountry
9 Children's Center interview, but she might get on the stand,
10 refuse to cooperate, refuse to give answers, say I don't
11 know, because she has a long documented history of not
12 cooperating with people who are doing examinations,
13 evaluations and things of that nature. So that's my concern.

14 And also her ability to understand consequences meaning
15 of telling the truth or appreciating that maybe she might
16 literally understand, but not really act accordingly or take
17 it seriously. She tends to -- from reviewing her records,
18 takes things -- does not take things seriously.

19 THE COURT: Okay.

20 MS. FORD: She -- you know, she is slightly older right
21 now, but that is my concern.

22 THE COURT: Okay.

23 MS. FORD: But yes, Your Honor.

24 THE COURT: Well, obviously those are things that I
25 have to -- I'm charged with sort of finding out on the

1 record.

2 MS. FORD: Yes, ma'am.

3 THE COURT: Making a finding of those types of things
4 right versus wrong does she understand there's a consequence
5 or penalty associated with not telling the truth? So I think
6 our case law sort of sets out, but those are some things that
7 I've got to make an -- an independent evaluation of
8 regardless of our history and our regardless of our past, you
9 know, findings of -- of competency or -- or not competent and
10 our past, you know, ability or -- or inability to testify or
11 cooperate. I think I've got to make an independent finding
12 today of whether or not in this case, I believe she'll be
13 able to -- to do that. So that's my understanding of our
14 jurisprudence on that topic.

15 Solicitor, any response?

16 MS. FRIERSON: Yes, Your Honor. I would prefer to
17 argue after I call **Minor** to stand if that's
18 all right.

19 THE COURT: Sure. And she's present; is that right?

20 MS. FRIERSON: Correct, Your Honor.

21 THE COURT: All right. You can call your first
22 witness.

23 MS. FRIERSON: All right. State calls **Minor**

24 **_____**.

25 THE CLERK: Please raise your right hand and place your

1 left and on the Bible.

2 THE COURT: Other way around. Put your left hand on
3 the Bible and raise your right. There you go. Go ahead.

4 [Minor] ,

5 being first duly sworn, testifies as follows:

6 THE CLERK: Please be seated. State your full name
7 spelling your last name and if you need to pull the
8 microphone up you can.

9 THE WITNESS: My name is [Minor] . That's how
10 you spell my name. [Minor]

11 MS. FRIERSON: (Inaudible). May I please the Court,
12 Your Honor?

13 THE COURT: Sure.

14 DIRECT EXAMINATION

15 BY MS. FRIERSON:

16 Q. [Minor] just make sure while we're here today, you
17 can speak about enough (inaudible) history, okay?

18 A. Okay.

19 Q. Could you tell the Court how old you are?

20 A. I'm 17 years old.

21 Q. And where do you live generally?

22 A. I live in North Charleston [redacted] .

23 Q. Make sure you talk slow enough so they can get you
24 down. Okay?

25 A. Uh-huh.

1 Q. And about how long have you lived there?

2 A. I don't remember.

3 Q. Okay. Who do you live there with?

4 A. My mom, my sister, and my brother.

5 Q. Does your -- do you have any other family that
6 lives in the area?

7 A. Yeah, my granny.

8 Q. Your granny. And do you know her address?

9 A. [REDACTED].

10 Q. Where -- do you go to school right now?

11 A. No.

12 Q. No. When was the last time you went to school?

13 A. Last year.

14 Q. And where were you in school?

15 A. Daniel Jenkins Academy.

16 Q. And was that the only school you've ever been to
17 or have you been to a couple different kinds of schools?

18 A. I've been in a couple different kinds of schools.

19 Q. And how come you go to different schools?

20 A. I do not know.

21 Q. Is it because --

22 A. My behavior.

23 Q. Pardon?

24 A. My behavior.

25 Q. Your behavior? Have you ever been in like special

1 classes to help you in school?

2 A. Yes.

3 Q. And do you -- do you know where we're at right
4 now?

5 A. Charleston County Courtroom.

6 Q. And do you know the difference between a truth and
7 a lie?

8 A. Yes.

9 Q. If I told you that my suit was pink, would that be
10 a truth or a lie?

11 A. That's a lie.

12 Q. And can you -- can you give me an example of
13 something that's true? A truth. Okay. What if I told you
14 that there's two flags up there. Is that a truth or a lie?

15 A. That's true.

16 Q. Okay. Does that seem kind of silly for me to ask
17 that?

18 A. Yes.

19 Q. Is it good or bad to lie?

20 A. Bad.

21 Q. And when you testify in this court, will you
22 promise to tell the truth?

23 A. Uh-huh.

24 THE COURT: You got to say yes or no if you can --

25 THE WITNESS: Yes -- yes or no.

1 THE COURT: All right. Good job. Thank you.

2 BY MS. FRIERSON:

3 Q. Do you understand that you can get in trouble if
4 you lie?

5 A. Yes.

6 Q. And have you -- have you ever gotten in -- in
7 trouble before?

8 A. No.

9 Q. Have you ever gotten frustrated with your mom and
10 run away?

11 A. Yes.

12 Q. And I kind of want to get into a little bit more
13 about, do you know why we're in court?

14 A. Yeah.

15 Q. And why is that?

16 A. I'm in here for sexual conduct.

17 Q. And did something happen to you?

18 A. Yes.

19 Q. How old were you when the sexual conduct happened?

20 A. I was 11 years old.

21 Q. Eleven years old?

22 A. Yes.

23 Q. So about six years ago?

24 A. Yes.

25 Q. Do you still remember what happened **Minor** ?

1 A. Some of them.

2 Q. Some of it. What -- what do you remember sexual
3 happening to you when you were 11?

4 A. All I know I run away from my mom. I was mad and
5 I run away from my mom and my mom was trying to get me and
6 all I know I was walking to my second granny house on the
7 Waylyn. That's when I saw the man. He was so drunk. I
8 don't -- I don't really -- I was a kid, so I was 11. So if a
9 man told you to come here, I don't know like what to do.
10 Like you a kid. So, like, all I know me and him went in the
11 house. The house was so dark. All I remember is like --
12 like a curtain was right there by like, in the hallway with
13 like a little shear or something.

14 The bedroom was on the right and the bathroom was like
15 across the hall or something. And all I know the room was so
16 dark and all I know we just had into sex and all I know when
17 the man stopped, his homeboy stopped beating on the window
18 and tell his home -- homeboy, get that young girl out that
19 house.

20 And he -- and then after that -- that's when the home
21 -- when the homeboy knock on the window, somebody went in the
22 house and knock on the door and on the room door. And that's
23 when he like get that young girl out of house. And that's
24 when we was finished and all. And I put back on my clothes
25 and I left my pink panties there. And the man told me to --

1 when I walked down, the man told me to tell my mama -- I want
2 to tell my mom. But he all -- I just finally told my mom
3 what happened.

4 Q. Well, thank you for sharing that, **Minor**. I'll
5 ask you a few questions about it because you went through it
6 pretty fast, but it sounds like you do remember back then.
7 You said you had run away from your mom and you were walking
8 when he called you?

9 A. Yes.

10 Q. And even though he was stranger, what made you
11 feel like?

12 A. I don't know you.

13 Q. Were you scared at first?

14 A. I was because I was a kid.

15 Q. Uh-huh. But if I understand, because he was an
16 adult (inaudible) to him?

17 A. Uh-huh.

18 Q. And at some point, did he take you into his house?

19 A. Yes.

20 Q. And that was the house you were describing?

21 A. Yes.

22 Q. And it was dark inside?

23 A. It was a -- it was dark and there was ass of a
24 beer can not -- excuse me, my language, it was a lot of beer
25 -- beer cans.

1 Q. Do you remember anybody else being in the house?

2 A. All I know when I went in the yard, I didn't see a
3 yellow. I saw a yellow cab, like, it was like a yellow cab
4 parked in the front of the yard. And I see him and then two
5 other guys.

6 Q. And do you -- do you see the man that called out
7 to you and took you at his house today?

8 A. Yes.

9 Q. Here in court?

10 A. Yes.

11 Q. Could you point him out?

12 MS. FRIERSON: Let the record reflect (inaudible) the
13 Defendant.

14 BY MS. FRIERSON:

15 Q. Did he say anything to you?

16 A. All he asked me do I smoke when I tell him no.

17 Q. And when you said he had sex with you, what --
18 because we're not allowed to guess. What does that -- what
19 does that mean to you? What part of his body touching what
20 part of your body?

21 A. His (inaudible) private part. His private part
22 inside mine.

23 Q. Inside your private part? Was that your vagina or
24 your bottom or something else?

25 A. My vagina.

1 Q. Did he touch any other part of your body with his
2 hands?

3 A. My chest, my bruise.

4 Q. Did he touch any part of your body with his mouth?

5 A. I can't remember.

6 Q. And you said afterwards you left something behind?

7 A. My panties, my pink panties.

8 Q. And then you ended up finding your mom?

9 A. Yeah.

10 Q. And did you immediately tell her everything?

11 A. I was scared and frozen. No. The man told me to
12 tell my mom and I said I -- I didn't want to tell her, but my
13 mama told me to tell her. So I ain't not telling her.

14 MS. FRIERSON: Court's indulgence, Your Honor?

15 BY MS. FRIERSON:

16 Q. After you met up with your mom, [Minor], did you
17 talk to the police?

18 A. Yes.

19 Q. And did EMS come out, but --

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

21 Q. Do you remember if you went to MUSC?

22 A. Yeah, I did.

23 Q. And when you were at MUSC, did you talk to a nurse
24 about what happened?

25 A. I can't remember.

1 Q. Did you have an examination at MUSC?

2 A. All I know they did a rape kit on me.

3 Q. Rape kit.

4 MS. FRIERSON: No further questions, Your Honor.

5 Please answer any questions that Ms. Ford has. Okay?

6 THE WITNESS: I (inaudible).

7 MS. FORD: And, Your Honor for the -- I do intend just
8 for the purpose obviously this is outside of the jury to ask
9 the questions about some other alleged sexual assault that
10 you around the same timeframe.

11 THE COURT: Uh-huh.

12 MS. FORD: To go to her ability memory, the Solicitor
13 specific raised (inaudible) several times given the -- there
14 may be confusion because of the number of (inaudible).

15 THE COURT: Okay. All right. We (inaudible) obviously
16 we're outside the presence of the jury. Go ahead.

17 MS. FORD: (Inaudible).

18 CROSS-EXAMINATION

19 BY MS. FORD:

20 Q. Hi, Minor .

21 A. How you doing, ma'am?

22 Q. I -- Minor you -- you've been in trouble a lot
23 --

24 A. Yeah. I know.

25 Q. -- in school, correct?

1 A. Yes, ma'am.

2 Q. Because of your behavior --

3 A. Yes.

4 Q. -- is that what you're saying?

5 A. Yes, ma'am.

6 Q. And a lot of times in school you just refused to
7 participate, correct?

8 A. Yeah.

9 Q. So you had just leave class and not answer
10 questions?

11 A. Uh-huh.

12 Q. Is that a yes?

13 A. Yes, ma'am.

14 Q. And you -- you've been in trouble with some truth
15 issues in the family, correct?

16 A. Yes.

17 Q. And as part of that, you've been evaluated by
18 doctors several times, correct?

19 A. Yes.

20 Q. And you did not -- at times you did not cooperate
21 with him; is that fair to say?

22 A. Yeah.

23 Q. So you don't always got to answer questions when
24 you're asked?

25 A. Yeah, I don't like to.

1 Q. Okay. Because you do what you want to do,
2 correct?

3 A. Yeah.

4 Q. And you don't care what other people want to do?

5 A. Yeah.

6 Q. Now, Minor [REDACTED], I know 2018 -- we're here for an
7 incident in April.

8 A. Uh-huh.

9 Q. Do you recall that date? Were you aware that
10 we're here for April incident?

11 A. Yes, ma'am.

12 Q. So there was also an incident at the end of April,
13 correct?

14 A. Uh-huh.

15 Q. And in that case, you told police that a man took
16 you off your granny's porch?

17 A. Uh-huh.

18 THE COURT: If you can just try to say yes or no.

19 THE WITNESS: Yes, because I getting mad, like, I
20 getting frustrated in my head and I'm not trying to flip.
21 That's why I'm saying uh-huh because --

22 THE COURT: Yeah. I understand.

23 THE WITNESS: Like, I don't -- I don't want to flip out
24 like --

25 THE COURT: I understand that's how we talk, but it --

1 it's easier for all of us.

2 THE WITNESS: Can you start the process? Yes, I did
3 tell -- yes, I did tell the police that.

4 BY MS. FORD:

5 Q. And that man, so you told police he took you to
6 his house as well and raped you, correct?

7 A. Yes.

8 Q. So we are -- it is very similar --

9 A. Yeah.

10 Q. -- to the allegations in this case?

11 A. Yeah.

12 Q. And you admitted that you would actually lie about
13 the circumstances of that case, correct?

14 A. Yes.

15 Q. So you admitted that the man did not take you off
16 of the bridge?

17 A. Yes.

18 Q. So when you made a statement to police, you admit
19 that you did lie?

20 A. Yeah.

21 Q. Because you were afraid of getting in trouble?

22 A. Yeah.

23 Q. Do you believe -- do you remember -- can you
24 distinguish that assault from this one?

25 A. Do I remember?

1 Q. Yes.

2 A. All I know I knock on the door. Because we used
3 to play with this lady little girl. She was, like -- I think
4 she was like three or four. And we used to play with her all
5 the time because she ain't have no friends. And all I know I
6 knock on the door that night and I didn't hear no answer.
7 And that's when I see the door back open and that's when he
8 like, oh, yeah, come here. I -- he -- I thought he said,
9 yeah, she's there all the time. I came -- I was -- I was
10 young so I came in the house. All I know I just saw one man
11 on the couch. All I know I went in the room and that's all I
12 know me and the man started having sex.

13 Q. Okay. But in both cases, you told police that a
14 man dragged you into the room, correct?

15 A. Uh-huh.

16 Q. But at least in that second case, you've admitted
17 that you lied?

18 A. Because I was young. When you young, like, you a
19 child, like, if you 11 years old, what you going to do? Like
20 you was a kid, you don't know nothing.

21 Q. You have lied to the police?

22 A. Yeah, I did.

23 Q. And you lied to your mom about the (inaudible)
24 things, correct?

25 A. So I don't lie to my mom all the time, but I lie

1 to my mom certain times.

2 Q. So you lie to your mom all the time?

3 A. I don't lie to my mom all the time. I lie to my
4 mom certain times.

5 Q. Okay. So you lie sometimes?

6 A. Yeah.

7 Q. When you don't want to get in trouble?

8 A. Yes, ma'am.

9 Q. Do -- you do admit you lie to the police
10 (inaudible)?

11 A. Yes, ma'am.

12 Q. Do you understand what it means to lie to the
13 police?

14 A. No, ma'am.

15 Q. Do you understand what could happen if you lied to
16 the police?

17 A. No, ma'am.

18 Q. How do we know you're not going to lie during this
19 trial?

20 A. I'm not going to lie. I'm going to tell the
21 truth. Like the way you just telling me nothing about the
22 truth. All about the truth. So I'm not going to lie, I'm
23 just tell what really happened.

24 Q. Uh-huh.

25 A. You can go home and think about it because I don't

1 know how far I was 11 now I'm 17. That's six -- that's six
2 years ago.

3 Q. Do you know what would happen to you if you swore
4 to tell the truth and people found out you lied?

5 A. No, ma'am.

6 Q. Have you -- how have you been told in -- in the
7 family court case about something called perjury?

8 A. Yeah.

9 Q. Do you know what that is?

10 A. No, ma'am.

11 Q. Do you remember being told what it is?

12 A. Can you explain it to me?

13 Q. Just if you lie --

14 A. Uh-huh.

15 Q. -- after swearing to tell the truth --

16 A. Uh-huh.

17 Q. -- that can be a crime in itself.

18 A. Uh-huh.

19 Q. And you can get in trouble.

20 A. Yes.

21 Q. With the law. Have you been told that before?

22 A. I think, but I don't remember.

23 Q. So you think so, but you don't remember?

24 A. Yeah.

25 Q. You told -- you testified earlier that there's a

1 lot you don't --

2 A. I don't.

3 Q. -- you don't remember everything?

4 A. I don't remember everything because I was 11. I
5 don't remember half of these stuff. I just know certain
6 parts when I told Mike.

7 Q. Well, if you didn't remember everything for a
8 certain detail, what would you say to the Court, to the jury?

9 A. I tell him I don't know.

10 Q. Would you fill in the gap? And --

11 A. I'll just I'll tell him. I'll get -- I'll tell
12 the jury I need a moment to think and see like a break or
13 something. Because I can remember, but it is like they got
14 some -- I got some my stuff on my head. Like I don't
15 remember when I -- like, I can go back home and start
16 thinking. And when I start thinking, then I remember
17 everything.

18 Q. Would you try to fill in a gap and make up
19 something that made sense that you think happened, but you
20 weren't sure?

21 A. Yeah.

22 Q. You would do that?

23 A. Yeah. Yes, ma'am.

24 Q. And in this case, you -- this case has been open
25 for a long time.

1 A. I know.

2 Q. Correct?

3 A. Oh, yeah, I know.

4 Q. And so you met with Ms. Frierson several times,
5 right?

6 A. Yeah.

7 Q. Have you all gone over what you're going to say?

8 A. Yes, ma'am.

9 Q. Is everything from your own memory?

10 A. Stuff I tell her.

11 Q. Okay. Did you watch a video or anything and
12 anything you may have said before?

13 A. Yeah, I watched a video.

14 Q. When was that?

15 A. I can't remember. The last time I come see my --
16 Ms. Frierson or something.

17 Q. Was it this year?

18 A. Yeah, it was this year, I think. I think it was
19 in October. So I think it was in October when I watched that
20 video.

21 Q. Okay. And was that the video of you speaking to
22 Ms. Dodds at the Children's Center?

23 A. Yes, ma'am.

24 Q. Did that help you remember anything?

25 A. Not really.

1 Q. Do you -- today -- so you believe you watched that
2 video a couple of months ago or last month I guess in October
3 was the last month, correct?

4 A. Yes, ma'am.

5 Q. But you don't remember everything you saw in that
6 video?

7 A. I don't remember. I just talking to the lady and
8 then she told me to write -- write who all live in my
9 household. That's all I remember in the video.

10 Q. Did you pay attention to the video?

11 A. I paid attention to all of -- all I know I was
12 just talking to her and she, like, all right I'm coming back.
13 And she went to go get a dry wrist marker or something for me
14 to write something how she was telling me how I feel and
15 stuff. And I'm, like, I feel all right.

16 Q. And earlier you told the Judge, Judge McCoy that
17 you were trying not to get mad. What happens when you get
18 mad?

19 A. When I get mad I -- when I get mad I just walk out
20 the courtroom. Like I just walk out the courtroom and I'm be
21 like, man, you know I don't want to do this no more. I
22 wouldn't do what you all got to do.

23 Q. Well, if you were to walk out the courtroom during
24 this trial, would you just do it or would you wait for
25 permission to walk out?

1 A. No, I would just ask to get nice step out for a
2 moment.

3 Q. Okay. Would you refuse to answer my questions if
4 you got mad?

5 A. No. If -- if you -- I don't -- certain questions
6 when you say then I get mad, like, certain questions I don't
7 understand, I get mad and frustrated and I be like, man, I
8 need a moment.

9 Q. Okay. Would you refuse to answer the question?

10 A. No, ma'am.

11 Q. Okay. Did you admit you've refused before to
12 answer questions, important questions regarding your -- your
13 family (inaudible), correct?

14 A. Uh-huh.

15 Q. But you're telling us you would not do that in
16 this trial?

17 A. No.

18 MS. FORD: Beg the Court's indulgence?

19 THE COURT: Okay.

20 MS. FORD: No further questions.

21 THE COURT: Any re-direct?

22 MS. FRIERSON: One -- one brief question.

23 RE-DIRECT EXAMINATION

24 BY MS. FRIERSON:

25 Q. Minor [REDACTED], did I -- did -- let me rephrase. While

1 the Defendant was talking to you that day, that night, did he
2 tell you anything about jail?

3 A. I don't -- I don't remember.

4 MS. FRIERSON: Okay. Thank you, Your Honor. No
5 further questions.

6 THE COURT: Okay. Anything else, Ms. Ford?

7 MS. FORD: No, Your Honor.

8 THE COURT: Okay. All right. You can step down and go
9 back and sit on the benches. Actually, I'm sorry,
10 **Minor**, we'll have a seat. I -- I didn't mean to tell
11 you. I need to ask you a few questions before we do that.
12 Okay? I got ahead of myself.

13 All right. Tell me how old again you are today?

14 THE WITNESS: I'm 17 years old.

15 THE COURT: Seventeen. Okay. And who are you living
16 with now?

17 THE WITNESS: My mom, my brother, and sister.

18 THE COURT: Okay. Do you ever help out around the
19 house at all?

20 THE WITNESS: Yeah.

21 THE COURT: Yeah. All right. What do you do to help
22 out around the house?

23 THE WITNESS: Sometimes my mom be telling me to wash
24 dishes, but I be refusing, but I still do it.

25 THE COURT: Sometimes you help wash dishes?

1 THE WITNESS: Yeah.

2 THE COURT: Okay. What do you like to do --

3 THE WITNESS: I --

4 THE COURT: -- for fun?

5 THE WITNESS: I like to be on my phone all day.

6 THE COURT: On your phone?

7 THE WITNESS: Uh-huh. All day.

8 THE COURT: What do you do? Just talk to friends on
9 there or what?

10 THE WITNESS: No. Watch TikTok.

11 THE COURT: Look at TikTok?

12 THE WITNESS: Uh-huh.

13 THE COURT: Okay. When you're in here, you know when
14 we started and that lady made you put your hand on the Bible.

15 THE WITNESS: Uh-huh.

16 THE COURT: To tell the truth. You remember that?

17 THE WITNESS: Yes, ma'am.

18 THE COURT: Okay.

19 THE WITNESS: Yes, ma'am.

20 THE COURT: All right. Will you do that in here when
21 people ask you questions?

22 THE WITNESS: Yes, ma'am.

23 THE COURT: Okay. If you don't, do you understand that
24 you can get in trouble?

25 THE WITNESS: Yeah.

1 THE COURT: Okay. And part of what that could be would
2 potentially put you in -- in jail. Do you understand that?

3 THE WITNESS: Yeah.

4 THE COURT: Okay. You understand that going to jail is
5 a bad thing?

6 THE WITNESS: I already been in there. Nothing.

7 THE COURT: Do you want to -- you understand that
8 that's not fine and it's considered a bad thing to be in jail
9 though?

10 THE WITNESS: Uh-huh.

11 THE COURT: Is that a yes?

12 THE WITNESS: Yeah.

13 THE COURT: Okay. Let's see. You understand that
14 lying is wrong?

15 THE WITNESS: Yeah.

16 THE COURT: Okay. All right. I don't have any other
17 questions for you at this time. Now, I'll let you go sit
18 back in the benches, okay?

19 THE WITNESS: All right. Thank you.

20 THE COURT: All right. Now I'll hear from I guess you
21 wanted to --

22 MS. FRIERSON: Yes, Your Honor.

23 THE COURT: You arguing after the testimony, Ms.
24 Frierson, would you like to tell me?

25 MS. FRIERSON: Yes, Your Honor. The -- well, Minor

1 does suffer from some behavioral issues and an intellectual
2 disability. The State feels she's absolutely competent to
3 testify, not just because she has before, but she clearly has
4 an awareness of what's going on. She can remember the
5 details and specifics from six years ago.

6 She can reference time and place and orient herself.
7 She can discern between this and subsequent sexual assaults.
8 She, you know, acknowledges lying to get out of trouble, but
9 for reasons you'll hear later in the trial, no wonder because
10 North Charleston completely dropped the ball after she
11 reported this immediately after it happened.

12 So no wonder she had no faith in, you know, being able
13 to say this is what happened for fear of getting in -- in
14 trouble. She acknowledged that she doesn't remember things
15 and says that she'll say that she doesn't remember.
16 Refreshing her recollection by watching a forensic interview,
17 quite frankly, is not leading her or anything.

18 We do that all the time with officers and other
19 witnesses when they're asked to review documents or other
20 recordings for -- for a trial. And in no way is that
21 suggestibility, it's just simply refreshing their
22 recollection.

23 The standard of -- standard, excuse me, to competently
24 testify in court is completely different from being able to
25 assist in her own defense and family court pursuant to

1 44-23-410.

2 So the fact that she was not competent to assist there,
3 arguably that's, you know, a -- a much higher standard than
4 simply standing up here and recalling details from a
5 gratuitous sexual assault.

6 Case law that's cited in my brief also suggests and
7 supports that the question of a competency of a witness. It
8 -- it's a pretty -- it's a pretty low bar. There's no fixed
9 age. There's been witnesses as young as six, but despite and
10 -- and one of the cases Green specifically says, "Despite
11 having difficulty answering at times, he was aware of what he
12 had observed and was sufficiently capable of expressing those
13 observations to the Court."

14 Her ability to perceive the event, her ability to
15 recall it and communicate -- communicate it, even if she's
16 upset about it or angry in no way makes her incompetent. And
17 for those reasons, Your Honor, we believe Minor
18 [REDACTED] is competent to testify in this case.

19 THE COURT: Go ahead. All right. Ms. Ford have hear
20 from you.

21 MS. FORD: Thank you, Your Honor. I continue with my
22 concerns I raised at the beginning before testimony. Again,
23 just last year a doctor had held and we could get you that
24 report if you need it, Your Honor, but found that just they
25 were concerned with not her ability to like even recall

1 things, but just to assist because of her demeanor, her
2 behavior. While she did not necessarily act out, she did
3 state, I'm getting really mad. I'm trying to -- basically,
4 she clearly even verbalized that she was getting to that
5 point.

6 She is -- I mean not indifferent, but doesn't seem -- I
7 don't know the right word exactly, but wasn't totally, I
8 guess indifferent would be she -- with what happened. She's
9 just like, yeah, I guess I, you know, that was sort of her
10 demeanor and I -- I am just concerned that she doesn't fully
11 appreciate. She has been through the competency process in
12 family court. She still doesn't recall perjury.

13 Actually part of the reason I brought up the being
14 shown the video just last month is because she didn't pay
15 attention to it it sounds like. It sounds like she just
16 remembered a few things and barely even paid attention to it.
17 So I just don't think she totally appreciates the importance
18 of telling the truth and the consequences of not telling the
19 truth both to herself and to others such as my client. Thank
20 you.

21 THE COURT: Okay. Well, over your objection, I'm going
22 to allow her to testify. I think that she -- you know, while
23 she may answer questions differently than you or I would, you
24 know, obviously given her age, given her education level, you
25 know, given the -- the circumstances surrounding these events

1 I think many of her responses certainly were appropriate.
2 She was able to timely give me responses.

3 She did indicate to you that if she didn't remember
4 something that she would tell the jury she didn't know. I
5 know on one of the more leading questions you asked about was
6 she fill in gaps, she sort of acquiesced to that. But I
7 think that overall she seems certainly, like I said, lucid
8 and -- and able to respond appropriately to questions in a
9 timely manner.

10 She indicated to me when asked that she knows the
11 difference between right and wrong and that there's a
12 punishment associated with lying in court under oath. And
13 she even went to far as to say she understands that jail is a
14 bad thing and she doesn't really want to go back.

15 So to me, I think she's met the threshold for being
16 able to testify in court, which is a very different threshold
17 than the ability to assist with your -- your defense. I
18 think it's a little bit different. So she doesn't
19 necessarily have to grasp all of the concepts necessary to
20 assist in her defense just by testifying in court.

21 Obviously, some of your concerns will be obviously
22 ultimate questions for the jury is to her believability or
23 not. Certainly that's going to be something for the jury to
24 decide and -- but I think that she's able to testify. So
25 that's my ruling on that motion. Let's go on to the next

1 one.

2 MS. FRIERSON: Thank you, Your Honor. The next one we
3 would require that will require testimony is the search
4 warrant for the Defendant's buccal swab. We have
5 Detective Crider here who obtained that buccal swab and
6 Mr. Harris is prepared to ask her some questions.

7 THE COURT: Okay. Ms. Ford, did you file a motion to
8 suppress that DNA evidence?

9 MS. FORD: No, Your Honor. I actually didn't. The
10 State raised this. I think they were just trying to be
11 proactive. To be quite honest, I mean, the search warrant is
12 pretty basic. I -- on the face of it, I do not have concerns
13 about it. I don't -- don't have any reason to believe that
14 Detective Crider --

15 THE COURT: She's not moved to suppressive (inaudible).

16 MS. FORD: -- made false --

17 THE COURT: Okay.

18 MS. FORD: -- statements. Essentially just it -- it
19 says that the -- that there was a sexual assault that my
20 client's house was pointed out. He lives there. A CODIS hit
21 -- came back to my client. And so that's the basis. I -- I
22 do believe that would be probable cause on the face of it,
23 Your Honor.

24 THE COURT: Okay. So sounds (crosstalk) like they
25 don't have --

1 MS. FRIERSON: I respond that've an abundance of
2 caution, but just for purposes of the record, we -- we agree
3 with that that it was based on -- he was located on scene
4 immediately after it was reported. His address is the same,
5 [REDACTED] and DMV and the subsequent CODIS hit in the --
6 in CODIS came about two years after he was arrested. And so
7 the search warrant is -- is based on all of that.

8 We also believe that there is more than enough probable
9 cause. I just -- out of an abundance of caution in
10 protecting the record, I'm always prepared for something in
11 case it's comes up at the last minute as an oral motion or
12 something as well. But no need to call Detective Crider. We
13 can move on to the next one if they're not objecting.

14 THE COURT: (Inaudible).

15 MS. FORD: No, Your Honor. If during
16 Detective Crider's testimony, if she talks about it in any
17 way and something comes up, I'll obviously raise it at no
18 time.

19 THE COURT: Okay.

20 MS. FORD: But I -- I do not believe there's a basis at
21 this point based on the face of the search warrant.

22 THE COURT: Okay. All right. So I'm just following
23 along with your pretrial pleas. So we've already taken care
24 of pretrial matter number one and four.

25 MS. FRIERSON: So the next one, and I don't know

1 whether or not, Your Honor, would require testimony from
2 Mattie Dodds the admission of the victim's forensic
3 interview. If you would like to, I can start arguing it
4 while they get in touch with her to log onto your Webex, if
5 you're going to require a testimony.

6 THE COURT: Well, we can have her available. I -- I
7 don't know if it's necessary, but we --

8 MS. FRIERSON: (Inaudible) she is the screens that
9 she'll meeting in --

10 THE COURT: Oh, okay. So Mattie's going to open it
11 right now.

12 MS. FRIERSON: That's fine. Yeah, I'll let her know.

13 THE COURT: And you can let her -- give us about 30
14 seconds.

15 MS. FRIERSON: Let me know when you're ready, Your
16 Honor.

17 THE COURT: All right. It's -- it's open.

18 MS. FRIERSON: Okay. So on April --

19 THE COURT: Do you want her to log on and listen to you
20 during this part? I mean, do you want her present for the
21 whole hearing other one?

22 MS. FRIERSON: That's, yeah, that's perfectly fine.

23 THE COURT: Okay. We'll give us one second. We'll
24 wait until she logs on.

25 MS. FRIERSON: Okay. She thinks kind of standing by,

1 but didn't see anything yet. So for (inaudible).

2 THE COURT: We're watching for right now. Really the
3 only factor that she would need to be present for is the one
4 that deals with whether her, you know, her training and
5 conducting these interviews. So you know that that's really
6 the only part that she -- we would need her for. She's on.

7 MS. FRIERSON: Okay.

8 THE COURT: So go ahead and hit start videos. And just
9 can you flip it around that one, make sure the video is
10 volume all the way up.

11 MS. FRIERSON: Beg the Court's indulgence, Your Honor.
12 Thank you, Your Honor.

13 THE COURT: Uh-huh.

14 MS. FRIERSON: May I please the Court? The State is
15 seeking to admit the victim's forensic interview in this
16 case.

17 THE COURT: Okay.

18 MS. FRIERSON: It -- the assault happened on
19 April 19 of 2018. And on April 27th shortly thereafter,
20 **Minor** had a forensic interview with the Dee Norton Child
21 Advocacy Center. It was conducted by Mattie Dodds. And
22 during the interview, **Minor** disclosed a rape by the
23 Defendant. She was 11 years of age at the time.

24 THE COURT: Uh-huh.

25 MS. FRIERSON: Pursuant to South Carolina 17-23-175, in

1 order for a forensic interview to be admissible at trial, the
2 child must be under 12 years age. And as I stated, Minor
3 was 11. And it must be the -- the person being interviewed
4 must either be the victim or a witness to a criminal act,
5 which upon conviction would require the individual to
6 register. And in this case, that's satisfied because second
7 criminal sexual conduct with a minor in the second degree.

8 Additionally, it -- the interview must be audio video
9 recorded, which I provided to, Your Honor, prior to the lunch
10 break. It must be investigative in nature. And it must --
11 and the victim must testify at the proceedings, Your Honor,
12 has just determined that Minor's competent to testify.
13 She's willing to come back tomorrow, she will be here, she
14 will be our first witness. And we understand that she'll
15 have to testify prior to this being admitted.

16 And finally, Your Honor, you must find in her totality
17 of circumstances that the circumstances surrounding the
18 statement her interview provide particular -- particularized
19 guarantees of trustworthiness.

20 And in order to do that courts typically look at the
21 use and the technique that the forensic interviewer does,
22 which would include not asking leading questions. Was Ms.
23 Dodd's trained in the -- in conducting interviews of children
24 and she was through Child First?

25 Does the statement represent a detailed account? And

1 she -- it does. And in it she says she was raped. She
2 talks, she describes the Defendant, she describes the house.
3 She just says that much like she said on the stand, her mama
4 found her, that somebody said something nasty happened to her
5 that she left her drawers at his house and they're pink, that
6 he told her he just got out of prison. So she has very
7 specific statements in there.

8 The statement also has internal coherence. It flows --
9 to say it makes sense is -- seems a bit absurd because this
10 kind of allegation does not make sense, but it flows and she
11 can provide a factual recitation in sequential order.

12 And then the -- the only other thing, Your Honor, is if
13 you would like to hear sworn testimony of Ms. Dodds. It is
14 -- it is optional. She was a licensed social worker at the
15 time. She uses Child First, which is a research-based
16 practice using open-ended questions to obtain information
17 through a child's free recall memory. So there were no
18 leading questions. And therefore the State believes that the
19 interview should be admitted.

20 THE COURT: Okay. All right. Ms. Dodds, can you hear
21 me okay? This is Judge McCoy.

22 MS. FRIERSON: I don't think she can --

23 MS. DODDS: I can hear, yes.

24 THE COURT: Oh, okay.

25 MS. DODDS: I hear you. I can hear you both.

1 THE COURT: Oh, thank you so much. Okay. All right.
2 I just wanted make sure you could hear -- you could hear what
3 was going on here in court. We appreciate you joining us
4 today by Webex.

5 MS. DODDS: I really appreciate (inaudible).
6 (Inaudible) was coming in and out a little bit, but I think
7 you're do very (inaudible).

8 THE COURT: Yeah. Okay. That's just because I'm
9 closer to the computer, but I'll try to make sure that we get
10 you a little close to the attorneys as well.

11 Okay. Ms. Ford, I'm happy to hear from you on this
12 issue.

13 MS. FORD: Thank you, Your Honor. I -- I would like
14 the opportunity to ask Ms. Dodds some questions.

15 THE COURT: Sure. So what we'll do is, Ms. Dodds, can
16 you still hear me okay?

17 MS. DODDS: Yes.

18 THE COURT: Okay. And, Ms. Ford, you can just approach
19 as needed, get in front of this computer that'd be fine.

20 And, Ms. Dodds, you might just have to kind of speak
21 up. You might even feel like you're yelling a little bit,
22 but that would really assist us. Okay?

23 MS. DODDS: Okay. Sounds good.

24 THE COURT: Okay. Can you do me a favor, Ms. Dodds,
25 and raise your right hand.

1 MATTIE DODDS,

2 being first duly sworn testifies as follows:

3 THE COURT: Okay. Ms. Ford has a few questions she's
4 going to ask of you at this time. Okay. Please answer
5 those.

6 DIRECT EXAMINATION

7 BY MS. FORD:

8 Q. Hi, we've been told you've been trained in an
9 interview protocol, I guess you could call it -- called Child
10 First; is that correct?

11 A. That's correct.

12 Q. And that is actually somewhat secretive where it's
13 not allowed, not that anybody can take the course on how to
14 use that protocol, correct?

15 A. I don't know about secretive it -- it, yes. No,
16 it's specifically designed for folks working (inaudible)
17 center required by the national children's rights for
18 gathering information (inaudible). So you would have to be
19 in this profession in order to receive the training or 40
20 hours of training requires qualify (inaudible) specific
21 profession (inaudible).

22 Q. When were you qualified?

23 A. One more time?

24 Q. When -- when were you qualified?

25 A. In 2016.

1 Q. Okay. So about two years before the current
2 interview?

3 A. That's -- that's correct.

4 Q. And what does it entail in general, how are you
5 supposed to interview kids?

6 A. So the Child First protocol is essentially a
7 developmentally sensitive appropriate method for gathering
8 information (inaudible) child or abuse or crime, either done
9 by an interviewer position, an investigation and essentially
10 is a structure that provides an opportunity to -- that
11 narrative of the narrative by asking not suggested questions
12 of the child and provides an opportunity to share about an
13 experience that they and then in that interview is -- is
14 recorded. So there's a document before I have that, and then
15 there's also a written (inaudible).

16 Q. And you mentioned not -- trying not to ask leading
17 questions. Why is that important?

18 A. Well, it's important in order to make sure that
19 the child is speaking to their (inaudible) experience. So we
20 don't want to ask questions that -- leading to a certain
21 answer or lead to a certain story. So we ask open-ended
22 questions that earlier about the statement to share freely
23 and use their own language, for example, rather than words in
24 their mouth, so to speak. So that -- that's accurate.
25 Telling parents responsibility.

1 Q. And so is it fair to say that if you ask leading
2 questions, then it may suggest a certain answer to a victim
3 or a witness being interviewed and that could affect what
4 they tell you?

5 A. (Inaudible).

6 Q. And there's -- there's a difference, correct? In
7 how you might question a younger child versus an older child;
8 is that fair?

9 A. Yes, that's fair. As I mentioned, you know, while
10 using Child First, certainly to their developmental stage
11 age.

12 Q. Now, **Minor** in this case was nearly -- almost
13 just shy of 12 years old; is that your understanding?

14 A. Yes.

15 Q. But she has been diagnosed with a variety of
16 different (inaudible), basically an intellectual disability.
17 Were you aware of that at the time of your interview?

18 A. I was aware of that, seventh grade was (inaudible)
19 profession (inaudible).

20 Q. Because of that would that impact the way you
21 question a child based on their history been intellectual
22 basically?

23 A. So I would be sensitive to the fact that her
24 developmental age differently than biological age. And so
25 using -- making sure (inaudible) language that she

1 understands and ensuring that she's comprehending my
2 questions through. Again, listening through narrative,
3 through -- and questioning and also allowing her, for
4 example, to correct the (inaudible) wrong, ensuring that
5 she's really understanding, you know, comprehending what --
6 what I'm asking.

7 Q. So in addition to not try or trying not to ask
8 leading questions is it fair to say that repeating questions
9 can also suggest that the answer that you might be looking
10 for a different answer, for example, or might be considered
11 (inaudible)?

12 A. Repeating the same question over and over I think
13 is fair to say (inaudible) repeating the question using
14 different language (inaudible) I understand better not
15 necessarily (inaudible).

16 Q. Now, in your work at the Dee Norton Lowcountry
17 Children Center you're no longer there, correct?

18 A. That's correct.

19 Q. What's your current job?

20 A. I have a program firm, a non-profit called
21 Coordination Providence.

22 Q. And as part of your work with Dee Norton
23 Lowcountry Children's Center you all quite often would
24 interview suspected victims; is that fair to say?

25 A. Yes. That -- yes, that's a function of the Child

1 First.

2 Q. And ideally, when a child comes to you for an
3 interview, they have not already been through repeated
4 interviews, correct?

5 A. Correct.

6 Q. And because if they've been through repeated
7 interviews, the people doing those interviews, they may not
8 be trained to ask questions in a certain way, correct?

9 A. Correct. They may not be.

10 Q. So they may ask leading questions, correct?

11 A. Potentially, yes.

12 Q. And they may be repeating questions?

13 A. Yes. Correct.

14 Q. So it is not desirable if they've been through,
15 for example, at least three different interviews about an
16 incident before they even come to you, correct?

17 A. Not ideal, so the questions we try to avoid
18 (inaudible).

19 THE COURT: Sorry, I couldn't hear you. Can you -- you
20 do try to what?

21 THE WITNESS: We do try to -- we would prefer that the
22 child is interviewed once in appropriate setting (inaudible)
23 try to avoid (inaudible).

24 BY MS. FORD:

25 Q. And one reason at Children's Center, such as

1 Dee Norton exist is for you all you workers there to do the
2 interviews instead of law enforcement, correct?

3 A. That -- that's the ideal. Yes. Correct.

4 Q. Because law enforcement officers may not and
5 typically are not trained, for example, in Child First yet
6 critical, correct?

7 A. Not typically. They sometimes are, but that's not
8 always the case.

9 MS. FORD: Beg the Court's indulgence?

10 THE COURT: Uh-huh.

11 MS. FORD: I have no further questions.

12 THE COURT: Okay. Ms. Frierson, do you have any
13 questions for her you'd like to ask?

14 MS. FRIERSON: No, Your Honor.

15 THE COURT: Okay. All right. I (inaudible) back on
16 the screens.

17 All right. Ms. Dodds, I don't think we have any other
18 questions for you at this time. Okay?

19 MS. DODDS: Okay. Thank you.

20 THE COURT: Okay. So you're free to -- to log off.
21 All right?

22 MS. DODDS: Sounds good. I appreciate it. Thank you.

23 THE COURT: All right. Thank you.

24 Okay. Any other witnesses or testimony needed for this
25 particular motion at this time?

1 MS. FRIERSON: None from the State, Your Honor.

2 THE COURT: Any from the Defense, Ms. Ford?

3 MS. FORD: No witnesses, Your Honor.

4 THE COURT: Okay. All right. Well, I'm happy to hear
5 from you all. I can hear from the State first, I guess if
6 you're seeking to admit it. Anything else you want to tell
7 me following that up?

8 MS. FRIERSON: Nothing in addition to the argument I
9 made previously. I think we have --

10 THE COURT: Okay.

11 MS. FRIERSON: -- fulfilled all of the elements of the
12 statute and I -- I believe under our totality of the
13 circumstance there are the particularized guarantees of
14 trustworthiness in that interview. And it'll be shown after
15 she's testified.

16 THE COURT: Okay. All right. Ms. Ford, anything else
17 from you?

18 MS. FORD: Thank you, Your Honor. Well, I do not think
19 that in general the questions tend to be leading. There are
20 points where things are repeated to **Minor** in trying to, I
21 guess, transition. You could say. She'll repeat what she
22 had said.

23 THE COURT: Uh-huh.

24 MS. FORD: The concern with that, and the reason for my
25 questions and what will be testified to in court is that in

1 this case, instead of being the first or even second person
2 that interviewed [Minor], she was interviewed by numerous
3 people on scene.

4 THE COURT: Uh-huh.

5 MS. FORD: There were, I believe at least two officers,
6 Norwood and Fortier who interviewed her. The EMS worker
7 interviewed her. She did, you know -- of course they had to
8 ask certain questions at the SANE examination. So she was
9 interviewed by I believe at least four or five people. There
10 were two EMS workers, but that -- you know, that would've
11 been in one setting. But she was interviewed by numerous
12 people before this interview. And those interviews, as you
13 may have been able to tell from the State's brief they
14 weren't recorded because the police lost the footage.

15 THE COURT: Uh-huh.

16 MS. FORD: No, we're not ultimately going to argue that
17 they did anything with bad intent to deliberately delete it,
18 but the truth of the matter is that they did. And so we do
19 not have, and certainly professionals like Ms. Dodds do not
20 have the recordings to look at -- at these officers, EMS
21 workers, et cetera.

22 THE COURT: Uh-huh.

23 MS. FORD: If they asked her questions in a leading
24 way, how much they repeated. And so I bring all that up
25 because by the time we do have a recording of [Minor's]

1 statement, it's been, I would argue tainted, you could say.

2 THE COURT: Uh-huh.

3 MS. FORD: And so we would argue that it should be
4 suppressed based on that.

5 THE COURT: Right.

6 MS. FORD: Because Ms. Dodds testified and there's been
7 a -- you know, it's actually in the statute, the questions
8 are not supposed to be leading. So the courts, the
9 legislature, they recognize and of course, professionals like
10 Ms. Dodds, they recognize that asking lead -- leading
11 questions can be damaging in getting statements from a
12 witness or a victim. And in this case because of the
13 numerous interviews which Ms. Dodds testified to, is not
14 ideal by any means. And they're not recorded. So no one can
15 go back and check.

16 THE COURT: Uh-huh

17 MS.FORD: We have concerns and would ask that it not be
18 admitted under that purpose, Your Honor.

19 THE COURT: Okay. I think my determination's got to be
20 based on the questions in this interview, you know, certainly
21 it's going to be up sure for argument as to why any other
22 interviews we don't have recordings of those and whether or
23 not leading questions were asked during those that -- that
24 could obtain at this. But I did take the opportunity to
25 review the entire forensic interview over the course of the

1 break. And I did not find her techniques to be leading.

2 I think in some cases she would sort of repeat the
3 prior answer in an attempt to sort of keep the interviewee on
4 track and sort of, you know, move from one stage to the next
5 -- to the next. But I don't recall or have any specific
6 findings that she asked leading questions or that she made
7 any sort of suggestive questioning to **Minor** at all during
8 the course of the interview.

9 Obviously she's testified she was qualified under this
10 Child's First which is generally a recognized training that's
11 used in -- in conducting these interviews. The child was
12 able to give details, you know, pretty -- pretty poignant
13 details at times as to what her recollection was at that
14 time.

15 Several statements made about how dark it was and, you
16 know, the beer cans and all sorts of different things caught
17 at least this Court's attention is sort of details that I
18 don't believe were -- were brought out by way of suggested
19 questioning.

20 So all that to say, I think under the totality of the
21 circumstances, I think it does provide trustworthiness that
22 would lend itself helpful to a jury. And of course you'll --
23 you'll be able to question the interviewer similarly to the
24 way you just did in front of the jury as well regarding, you
25 know, potential obtaining of any other interviews that we

1 don't have recordings of. And that'll be ultimately a -- a
2 question for the jury to determine, you know, whether or not,
3 you know, they believe **Minor's** testimony, but in terms of
4 this forensic interview it will be admitted.

5 All right. What's the next?

6 MS. FRIERSON: On that note, Your Honor. Thank you
7 very much. We do -- we provided you with an unredacted copy.
8 As we always do in a trial where it is admitted, we do redact
9 the truth promise, so there is no bolstering of the trial
10 witness, but I don't know if now you want to jump ahead to
11 the -- the jail comment because we also have a -- we would
12 need to redact that depending on your ruling.

13 THE COURT: The jail tape.

14 MS. FRIERSON: The -- so in her forensic interview --

15 THE COURT: Oh, the comment about --

16 MS. FRIERSON: -- she makes a comment about jail.

17 THE COURT: Yeah, he got out of jail (inaudible),
18 yeah.

19 MS. FRIERSON: Uh-huh. And so I don't know if you want
20 to take that up out order here so that we can --

21 THE COURT: We can.

22 MS. FRIERSON: Okay.

23 THE COURT: All right. So, Ms. Ford, are you moving to
24 suppress that portion of the interview?

25 MS. FORD: Yes, Your Honor. There is an additional

1 part of the interview where she does say that -- she talks
2 about her mama was told by a man that someone did something
3 nasty to her. And so I would argue that that should be
4 removed as hearsay. I didn't pick up on anything else that
5 was necessarily -- that I thought was hearsay that needed to
6 be objected to, but we think the mom is the more appropriate
7 person for that to try to come out of. And so it would be
8 basically bolstering the mom statement and hearsay, Your
9 Honor. So that -- that's just another part of it. I was
10 going to object to that coming in, Your Honor.

11 THE COURT: Okay.

12 MS. FORD: But yes, in general, this goes to the other,
13 the State's -- they want to -- **Minor** does say in the video
14 from her testimony, it sounds like she didn't remember
15 actually him saying this on her own. So it would just be
16 from the video, it would not be from her own memory. At
17 least if she continues with that line of thinking and her
18 testimony in front of the jury. But she says that the man
19 mentioned getting out of prison.

20 My client, he had been not in prison, but in jail. So
21 I -- whatever that's worth, Your Honor, he had been in jail
22 and had been released the day before for a bench warrant for
23 some -- I believe a drug charge, Your Honor, he'd been there
24 a little over a month, maybe a month and a half. And the
25 bench warrant was rescinded.

1 So that is according to his record, according to the
2 jail website, which I believe to be true. That's what that
3 indicates, Your Honor. So there supposedly would be some
4 testimony, I believe, through Detective Crider that he had
5 just gotten out of jail not prison, but jail.

6 THE COURT: Right.

7 MS. FORD: We believe it is highly prejudicial. The
8 jury's mind is going to go wild. Wondering what it is,
9 wondering if it's anything similar. We just believe it's
10 more prejudicial than probative. This is the area
11 unfortunate so poor area. I believe many people probably
12 have been a jail in that area. So it's not uncommon is what
13 I would argue. **Minor** never says, he says, I got out last
14 night necessarily, or anything like that. So he didn't
15 specify. So that's -- we would argue that it should not be
16 allowed.

17 THE COURT: Okay. What was the -- I -- I have the
18 transcript in front of that. Can somebody point to me where
19 that was mentioned?

20 MS. FRIERSON: Which transcript? The jail --

21 THE COURT: The interview.

22 MS. FRIERSON: It is on page 21, Your Honor. Line
23 eight. "He just got out of jail. Tell me about that. I
24 don't know that man. He just -- he said he just got out of
25 jail." So it's very brief.

1 THE COURT: Uh-huh.

2 MS. FRIERSON: And --

3 THE COURT: Are you -- why do you want that in?
4 Because it is highly prejudicial.

5 MS. FRIERSON: Well, a couple reasons.

6 THE COURT: I mean, is it -- where does it go to?

7 MS. FRIERSON: Well, I believe that it comes in under
8 arrest just because it is so intimately connected with and
9 explanatory of the crime and the setting where this happened.
10 It's -- it's not one in -- in terms of the forensic interview
11 video, it's not hearsay. We're not offering it for the
12 truth. She was present. It's contextual. It's her telling
13 the story about how her disclosure came to be.

14 THE COURT: Uh-huh.

15 MS. FRIERSON: As you heard her testify, she was
16 scared. This man said somebody did -- that man did something
17 nastier daughter. And that is what gave the impetus for her
18 to disclose under arrest just when evidence furnishes part
19 of the context of a crime --

20 THE COURT: Uh-huh.

21 MS. FRIERSON: -- or it's necessary to a full
22 presentation of the case, or so much a part of the setting of
23 the case. It completes the story. The Defense is inevitably
24 going to call **Minor's** credibility into question. And this
25 is a stranger rape which as, Your Honor knows, is very out of

1 the ordinary. And she would have no clue that he was in fact
2 in jail.

3 THE COURT: Uh-huh.

4 MS. FRIERSON: Or have been able to come up with that
5 statement. It's not something that she could have been asked
6 a leading question about or any of the other things that have
7 come up today. She would have no way to know that intimate
8 information unless he told her himself. So it's
9 corroborative evidence.

10 And again, it's not cumulative because it's -- it
11 overcomes their undermining of her credibility or if they
12 undermine the reliability of the DNA. So it -- it
13 corroborates the victim's statement. Because she
14 consistently says that, she says that -- that night. She
15 says it during her forensic interview and it would
16 fragmentalize a story to leave out something like that.

17 Fortunately, it's not -- it -- it could be something
18 different. Ms. Ford and I tried to figure out a way if there
19 -- if there was a way to sanitize it that it wasn't jail.

20 THE COURT: Uh-huh.

21 MS. FRIERSON: Like did -- did the Defendant tell you
22 something about his personal life so intimate that no -- and
23 -- and we feel like that type of sanitation is -- is almost
24 more confusing, you know, unfortunately for the Defendant, he
25 was in jail and not a concert. So that just is what it is.

1 It's -- it's what he said.

2 We think it also would be admissible under 404(b) to
3 prove identity. There could have maybe been a -- a --
4 several more black males his age that live in the Waylyn that
5 were arrested for or had just gotten out of jail. None of
6 them were on the scene of the crime immediately thereafter.
7 None of them, you know, match the description. None of their
8 DNA is in the victim CSC kit.

9 So whether it comes in as identity of the Defendant,
10 whether it comes in under arrest justi, it absolutely comes
11 in and we will not -- the State has no intention of asking
12 anything in as much as how long he was there. What was --
13 what were you in there for? Was it for a conviction? We are
14 only seeking to offer that he told her that, which Detective
15 Crider will say she was able to corroborate. That's it. No
16 more.

17 And I lost switch train of thought. Other than the
18 fact that it's probative of her reliability, her motive to
19 tell the truth. We also don't think, or we do think that it
20 passes a 403 test because it's -- the -- the unfair prejudice
21 is -- is anything 404(b) is going to have unfair prejudice.

22 THE COURT: Uh-huh

23 MS. FRIERSON: That's just the -- the nature of the
24 (b)s. But we aren't attempting to appeal to a motion. We
25 are confident that the prejudicial effect is limited and very

1 minimized, if not abandoned in favor of the probative value
2 and the fact that we aren't going into any of the details.

3 THE COURT: Okay. All right.

4 Ms. Ford?

5 MS. FORD: Thank you, Your Honor. One concern I have
6 is my inability basically to cross-examine the victim on this
7 matter because as she's already testified to, she has no
8 recollection of the man or any man telling her that. So all
9 we have is just that she casually mentioned that the man said
10 something about being in jail, but there was never any --
11 there aren't any details given about, well, when did he say
12 it? In what context? Why did he seem to say it? How did it
13 come up? There's no information on any of that. It's just
14 the throwaway line. She's like, oh yeah, he said he just got
15 out of jail and I can't cross-examine her on it.

16 So I do have a concern there, but ultimately we also do
17 believe it's more prejudicial than probative. Your Honor,
18 and that's -- what we would argue for this. Thank you.

19 THE COURT: Okay. All right. I'll have to think about
20 that one. Okay. What else? What's next?

21 MS. FRIERSON: The next one, Your Honor, would be the
22 rape shield.

23 THE COURT: Okay.

24 MS. FRIERSON: Unfortunately, Minor has been a victim
25 of multiple sexual assaults. And Ms. Ford is aware of them

1 because she's had the other Defendants.

2 THE COURT: Uh-huh.

3 MS. FRIERSON: So in -- in terms of -- of discovery, I
4 mean, it's a very -- we're both well -- well versed in them,
5 unfortunately. However, these sexual assaults occurred after
6 this.

7 THE COURT: Right.

8 MS. FRIERSON: And none of them should be admissible,
9 discussed. They're not relevant to this case. The State
10 would object to the admission of any reference to any of
11 them. Because it's highly prejudicial as you heard **Minor**
12 say herself --

13 THE COURT: Uh-huh.

14 MS. FRIERSON: -- you know it makes her angry. And I
15 don't -- I don't believe that Ms. Ford is doing it in an
16 attempt to shut her down and take the case. But it -- it
17 clearly upsets her. They don't have anything to do with this
18 case. It's not like it's a Gravenstein admission where
19 you're doing it to say, oh, because she was sexually
20 assaulted previously, she knew about this at 11. So it --
21 it's inappropriate and it shouldn't come in. And we would
22 object to any questioning or inferences regarding those
23 subsequent sexual assaults.

24 THE COURT: You -- are you going to seek to admit them
25 or any reference to them?

1 MS. FORD: Your Honor, I would argue, I mean, quite
2 honestly, it's not that I want -- it is not that I want the
3 jury for this young lady to be portrayed as someone who's
4 constantly sexually abused.

5 THE COURT: Uh-huh.

6 MS. FORD: I honestly, I'm not frank in this, I don't,
7 you know, I -- I don't want to create more sympathy for her,
8 but there are some of the incidents that are of concern when
9 I asked about in my questioning of her earlier. And it was
10 after this incident, but it was within the same year. So it
11 was close in time. And my point was that she admits that she
12 lied to police about the circumstances.

13 THE COURT: Uh-huh.

14 MS. FORD: No. I wouldn't say in that case, just for
15 reference he -- there was DNA as well. He was -- he was
16 actually not (inaudible). So that case was -- he was
17 probated. So it was never prosecuted because of his lack of
18 competency. But she does admit it was in some of the
19 paperwork and she admitted almost honestly, I wasn't quite
20 sure what she's going to say. But she does admit that she
21 did lie to police about --

22 THE COURT: The dragging; is that right?

23 MS. FORD: Right. That she lied about the
24 circumstances. In addition, there is -- and I've gone over
25 again, I talked to Ms. Frierson briefly about it last week.

1 Because I thought -- I honestly, in this case, I -- I
2 discovery from multiple cases. So I'm like printing
3 discovery from those cases to look at -- have a full picture
4 of **Minor's** mental health records, you know, (inaudible)
5 records and school records and things of that nature.

6 THE COURT: Uh-huh.

7 MS. FORD: But in 2017, there is note that some teenage
8 boys think they were 13 and 14, had like maybe dragged her
9 off and touched her vagina.

10 THE COURT: Uh-huh.

11 MS. FORD: She -- there's no more detail than that in
12 reports that I have. But -- and I don't believe, I guess
13 because I don't know if they couldn't be names, but maybe
14 because of their age, I don't think they were prosecuted.

15 THE COURT: Uh-huh.

16 MS. FORD: But there is mention that she was dragged
17 off and the mom actually -- this -- this would probably be
18 too complicated to get into, but the mom there -- all the
19 kids were giving different stories. Because she had been
20 with a female friend as well before she was dragged away.

21 My concern and -- and there -- I -- I am concerned
22 because of her age. She's 11, she's almost 12. A jury might
23 be wondering if we had her as she is now a 17, a jury
24 would've question how she might have sexual knowledge. They
25 would just, you know, they -- or they probably, they wouldn't

1 say a 17-year-old could no way have sexual knowledge. They
2 probably wouldn't say that.

3 THE COURT: Uh-huh.

4 MS. FORD: But an 11-year-old, they might have
5 questions. That's a concern. And then also the concern with
6 her admitting to lying about the allegations, the
7 circumstances around the sexual assault.

8 THE COURT: Okay. Anything else?

9 MS. FRIERSON: I -- I -- the -- the lying about the
10 subsequent sexual assault, which one she explained, she
11 wasn't actually lying about the sexual assault which, you
12 know, case law does say if there is a -- if you -- if you
13 falsify like a police report, you falsify a sexual assault
14 that can come in. She could certainly ask her if she's ever
15 told a lie.

16 So I think that that's fine, but her explanation of not
17 wanting to get in trouble for that sexual assault isn't lying
18 about the sexual assault. She can ask -- ask if you have
19 lied about, you know, something, have you ever lied to law
20 enforcement or whatnot?

21 THE COURT: Uh-huh.

22 MS. FRIERSON: But I don't think it needs to go into
23 the sexual assault. And as far as the -- the previous two
24 potential sexual assaults, I just -- I don't have -- that is
25 not -- touching a vagina is not the same as forced sexual

1 intercourse. So I mean, I think you could ask a six year old
2 about a vagina versus -- and they don't need to have been
3 sexually assaulted. That's just an exterior touching. They
4 teach private parts and body safety in a lot of schools and
5 parents do at home.

6 THE COURT: Yeah.

7 MS. FRIERSON: So I don't think that that rises to the
8 level of a sexual assault that gives her the basis of
9 knowledge under Gravenstein.

10 THE COURT: Okay. I -- I don't believe that the
11 subsequent sexual assault should be referenced. Now, if you
12 want to ask her if she's lied to law enforcement before, I
13 think that's fair game. But I don't think you can make that
14 connect. I don't think you can. Once you ring that bell,
15 there's another sex assault with the jury and that violates
16 the whole purpose of direction statute.

17 Certainly, you know, you don't want to put any idea in
18 the jury's head that this is some, you know, some Jezebel
19 who's made herself victim multiple times this type of, you
20 know, allegation and all this (inaudible). So I think that,
21 I think what you want to do can be done without bringing up
22 any other sexual assault allegations. Okay?

23 MS. FORD: Yes, ma'am.

24 THE COURT: And then we'll just have to -- to go from
25 there in terms of what she remembers. I mean, in any case,

1 you're stuck with what people remember or what they don't
2 remember and the State stuck with it too. So, you know, it
3 is what it is. But I don't think I wouldn't -- I -- I would
4 ask you not to reference any other sexual assault prosecution
5 where she was the victim specifically. Okay?

6 MS. FORD: Yes, Your Honor.

7 THE COURT: All right. Defendant's prior
8 incarceration. Did we touch on this?

9 MS. FORD: We -- yes, that was --

10 THE COURT: Yes, we talked about it.

11 MS. FORD: -- the one you said you're going to take up
12 --

13 THE COURT: I'm going to take that under advisement.
14 All right.

15 MS. FORD: And then just --

16 THE COURT: We've got what jail call left?

17 MS. FRIERSON: That and the, like, bad faith and
18 spoliation of evidence.

19 THE COURT: And she sort of said earlier she doesn't
20 think it was a -- a willful spoliation. What do you tell me
21 about that, Ms. Ford?

22 MS. FORD: Yes, Your Honor. I mean, I do intend to
23 bring up that they did have everything recorded and lost it.
24 I -- I think that's important. Partially what I argued in my
25 -- you know, in the motion about the Children's Center

1 interview.

2 THE COURT: Uh-huh.

3 MS. FORD: To show that they didn't record it. And so
4 we have all these people asking --

5 THE COURT: Okay.

6 MS. FORD: -- this girl questions and we have no idea
7 what they may have said or what they may have led her to say
8 -- to say.

9 THE COURT: Yeah.

10 MS. FORD: And I -- I do think it's important and the
11 jury should know that it existed, but it's gone.

12 THE COURT: Yeah.

13 MS. FORD: And there's a reason that they're supposed
14 to have it, but I -- I'm not going to suggest that they
15 deliberately --

16 THE COURT: Okay. Well, so I mean the -- the cure for
17 a deliberate, you know, exfoliation is exfoliation charge,
18 but she's just stating she's not going to -- she doesn't
19 believe it was deliberate or willful. So it sounds like this
20 isn't an issue. Now if she wants to, of course. What
21 happened to it? Oh no, we lost it. I mean, we're all stuck
22 with that. That happens very frequently, but I'm not sure,
23 is that what we're talking about?

24 MS. FRIERSON: Absolutely. I mean, I think it's --
25 it's completely fair game to say it was recorded and it

1 wasn't. Or -- or that it was not, it -- it ended up not
2 being preserved. But I -- and I provided some more back
3 story in my written brief.

4 THE COURT: Uh-huh.

5 MS. FRIERSON: There was also a server malfunction. So
6 we don't actually know that it was destroyed pursuant to the
7 routine purging or whether it was completely --

8 THE COURT: Okay.

9 MS. FRIERSON: -- an accident. And I just don't want
10 -- I don't want any inferences on any misconduct or like, you
11 should have saved this and you didn't.

12 THE COURT: Okay.

13 MS. FRIERSON: Because when -- when we asked them, did
14 you have your body cam on? And they said, yeah, well where
15 is it? You know, I wouldn't have written it down if I didn't
16 record it, because obviously that -- that's not helpful to
17 them to say it's there when it's not there.

18 So all of them believe that it was on, which is why
19 they indicated in their report. We met with Sergeant Rank
20 who was in charge of the computer stuff like that. And I
21 mean, they don't -- they just truly don't know because of
22 that server malfunction, whether it was due to that or
23 whether it was previously recorded. And so we just, again,
24 trying to get ahead of the game, we wanted to make sure --

25 THE COURT: Uh-huh.

1 MS. FRIERSON: -- that there were no inferences that
2 this had been destroyed. Because he -- it can't pass the
3 two-pronged tests of them proving bad faith or exculpatory.

4 THE COURT: Uh-huh.

5 MS. FRIERSON: Quite honestly, what's on there is
6 inculpatory. It's the Defendants saying he doesn't know the
7 victim. She's not -- she hadn't been at his house and he
8 doesn't know anything about a sexual assault when ultimately
9 his DNA is inside of her. So it's not exculpatory.

10 THE COURT: Well, it doesn't sound like it's really --
11 it's going to be an issue again. Obviously she's going to be
12 okay. I get you, I understand that you're getting ahead of
13 it, but she's just she's just indicated she doesn't find,
14 she's not going to argue that this is sort of a bad faith,
15 you know, purposeful or willful destruction of this. I don't
16 think it's going to become an issue. If we feel we are
17 approaching in that territory during the course of the trial.
18 Just make an objection or saying you have something we need
19 to take up outside the presence of the jury. We'll take it
20 at that time. Okay.

21 MS. FORD: Yes, ma'am.

22 THE COURT: But right now it doesn't sound like it's
23 going to be an issue as anticipated.

24 All right. What's next?

25 MS. FRIERSON: Next would just be calling your

1 attention to the -- the CODIS hit. We just wanted to be
2 clear that we are not seeking any -- seem to admit any other
3 testimony other than the -- the samples --

4 THE COURT: Uh-huh.

5 MS. FRIERSON: -- from her CSC kit were sent or run
6 through a database.

7 THE COURT: Uh-huh.

8 MS. FRIERSON: And the analyst will say that there was
9 a hit in the database.

10 THE COURT: Uh-huh.

11 MS. FRIERSON: And Crider will say that that was part
12 of the basis for her warrant, but we do not -- we are not
13 seeking to elicit any additional testimony about what
14 database or anything else.

15 THE COURT: Okay. That sounds good and reasonable to
16 me.

17 MS. FORD: And I -- I would object, Your Honor, based
18 on, I believe it is hearsay and it's bolstering. And in this
19 case I don't think it's necessary because this is not a case
20 where they had no clue, they had no suspect and a CODIS hit
21 came back and that's why they got a DNA swab from the
22 Defendant. In that case, it might be necessary to explain,
23 well how in the world --

24 THE COURT: Uh-huh.

25 MS. FORD: -- did this person come up? But in this

1 case, my client lives at the incident location, police talked
2 to him that evening. So it is to me, if the detective said
3 which she came on the case, just so you know, Detective
4 Crider came on the case late 2019, not for a while after the
5 incident.

6 THE COURT: Okay.

7 MS. FORD: And she was looking over it and she could
8 testify based on everything I decided to get a search warrant
9 for his DNA.

10 THE COURT: Uh-huh.

11 MS. FORD: And that would be the end of it. And then
12 the experts who understand DNA or were trained, and I can
13 testify to that, but just in this particular case, since they
14 can already explain how they have my client as a suspect, I
15 just think the -- the hearsay and the bolstering is -- it is
16 not justified in this case.

17 THE COURT: All right. So you're saying it sort of
18 prejudices him and they don't really need anyway because they
19 ended up getting the buccal swab?

20 MS. FORD: Yes, Your Honor. Because they can explain
21 that he was assessed --

22 THE COURT: You don't want that it popped up in a
23 database. You just don't want that out there basically.

24 MS. FORD: Right. And it also has -- I think it's
25 bolstering because when the jury hears there was a DNA CODIS

1 hit, then they're going -- it's going to basically confirm --
2 it's going to bolster when the DNA expert testifies that his
3 DNA matched.

4 THE COURT: Uh-huh.

5 MS. FORD: It's just -- that's how they're probably
6 going to view it. It is like, oh yeah. Like they probably
7 wouldn't even need to hear from the DNA expert. Some people
8 they might be like, oh yeah, his DNA came back. It was a
9 match. Some people don't need a sign, you know, even though
10 of course report we do, but just common sense people are
11 going to be like, oh yeah, it was a match.

12 THE COURT: Uh-huh.

13 MS. FORD: And so I think it is going into expert type
14 of testimony and bolstering, it's just not necessary.

15 MS. FRIERSON: May I respond, Your Honor?

16 THE COURT: Go ahead. What's that --

17 MS. FRIERSON: The only two things I'd like to add is
18 this happened in 2018 and the CODIS hit wasn't until 2020 and
19 then his arrest was subsequent. So I do think it helps
20 explain the timing. And this kind of goes into my next issue
21 as far as the length of time between his arrest and trial.

22 THE COURT: Uh-huh.

23 MS. FRIERSON: But I don't like -- I -- you know, there
24 -- there initially was really no investigation done. And I
25 think it helps to explain it. I also think that and -- and

1 maybe this is a non-issue, but if -- if the Defense wants to
2 undermine the reliability of the DNA, I don't know if they
3 plan on attacking that with the DNA expert, then the fact
4 that this -- there was a hit and then a subsequent separate
5 confirmation corroborates that -- that witness's testimony as
6 far as the DNA and I don't think that it's bolstering as much
7 as it's corroborative.

8 THE COURT: Okay.

9 MS. FORD: And, Your Honor, saying it's corroborative
10 it again, that's going to the fact that they're basically
11 trying to get in scientific evidence that needs an expert by
12 just saying there was a CODIS hit. But I -- I would like to
13 say as far as the delay in time, the reason that it took so
14 long is because the former detective never submitted it or
15 asked for it. That doesn't change.

16 So I -- I think it's misleading to try to suggest, oh,
17 the reason there was such a long time between him being
18 arrested and the incident is because it just took all that
19 time for the DNA to be done, because that's not true.

20 THE COURT: Oh, I don't -- I don't -- I didn't blame
21 that from -- I don't think necessarily going to try to say,
22 is it -- I think it's going to be, yeah. Sort of stagnant
23 and all of a sudden there was a -- a match, I mean, indicated
24 there was an indication from a database that there was a
25 match and then that led to the buccal swab and the

1 confirmation and the testing and all that, right?

2 MS. FORD: So in this case in particular, I believe,
3 unless I'm confusing it with another case, when
4 Detective Crider got on the case and there was staffing,
5 because again, there have been multiple incidents with other
6 people and they were asking about this case at that point
7 they wanted to see if they could send it off to SLED and they
8 realized he had a criminal record and would be in the DNA
9 database.

10 So at that point, they sent it off to see if there was
11 a CODIS hit to him. So I think they used that as a way to
12 get a search warrant to get his DNA I -- I believe. But my
13 understanding is that it's not like they just sent it off and
14 low and behold, there was a CODIS hit. I think there was a
15 -- a before it was sent off, there was discussion. Oh, yeah.
16 He's been in jail, so we know he's in the system. So let's
17 see if a CODIS hit comes up and then we'll get a search
18 warrant for his actual DNA.

19 MS. FRIERSON: As far as the timing, Your Honor, this
20 happened April 20th was when the slain -- I'm sorry, the
21 stain kit was collected April 20 of 2018.

22 THE COURT: Okay.

23 MS. FRIERSON: And on June 28th of that same year so,
24 you know, just two months later.

25 THE COURT: Yeah.

1 MS. FRIERSON: They were doing a SLED submission slip
2 to send up the kit. So the kit was sent up two months after.
3 Which is -- which is pretty typical because they only do so
4 many SLED runs.

5 THE COURT: Right.

6 MS. FORD: And I believe, just so it's clear, they sent
7 it off, it came back as yes, there's a male's DNA found, but
8 then they just left it stagnant and didn't do anything. And
9 then they looked for the CODIS hit after Detective Crider
10 came on board. That's my understanding. But it was sent off
11 initially and then North Charleston just didn't do anything
12 when it came back as positive for male's DNA on **Minor**.

13 THE COURT: Okay. We might have to just -- I might
14 have to kind of rule on those, the time up too. I mean, I
15 honestly, like, I'm inclined to let it end. I mean, I think,
16 you know, I think that the issues, whether it are really more
17 for argument sake the evidence. I mean, I think that it --
18 it's a fact that it happened and I think it can come in and
19 say that a database match hit, you know, if you want to
20 attack the -- the chronology of it, I think you're obviously
21 more than free to. It sounds like there's a problem here
22 with this investigation. I think that's probably going to be
23 pretty central to the case.

24 But I think the fact that there was a match from a
25 database can come in. So, you know, absent anything else,

1 you know, coming in during the course of testimony that's my
2 ruling. Which takes us to what next?

3 MS. FRIERSON: The length of time between the arrest
4 and trial. Again, I don't know if this is going to be an
5 issue, but I do anticipate them attacking me investigation
6 and -- and lack thereof. I would like to request that there
7 be, I mean, other than learning the date of the offense and,
8 you know, there was this report you completed and such and
9 such date prohibited from referencing any delay on -- from
10 the State or North Charleston in bringing this to trial.
11 Because sometimes the inference is that the Defendant's been
12 sitting in jail. It was not. So this happened in 2018. It
13 was not until January of 2020 that there was a CODIS hit.

14 THE COURT: Right.

15 MS. FRIERSON: And two months later, the world shut
16 down from COVID. So and then in 2021 when we resumed trials
17 in August this -- he's out of jail. He's been out of jail.
18 He -- you are very well aware of the backlog.

19 THE COURT: Uh-huh.

20 MS. FRIERSON: As serious as this charge was, it really
21 wasn't getting priority because he was an out of jail
22 Defendant. He was incarcerated for less than a month. So I
23 certainly don't want the jury believing that he's been
24 sitting waiting for his day in court.

25 THE COURT: Well, I mean, listen, I think that she can

1 talk about. This is -- you know, this is a long time ago and
2 all this, I mean, that's not uncommon. Obviously don't make
3 any reference that like the solicitor's office just sat on
4 this case and that's different. That's putting them on trial
5 (crosstalk). I don't think you going to do that anyway, but
6 let's all get that out in the open or, you know, any
7 reference to like why it hadn't been tried till today. I
8 don't think that's appropriate either. I think that --

9 MS. FRIERSON: Exactly there's been no speedy trial
10 motions.

11 THE COURT: But in terms of it just being old then, I
12 mean, I think she can talk about that all you wants
13 (inaudible).

14 MS. FRIERSON: Absolutely. But just that it's not --

15 THE COURT: (Crosstalk) it's recollection and
16 reliability of their memory.

17 MS. FRIERSON: Correct.

18 THE COURT: Okay. I think we're clear on that. Okay.

19 MS. FRIERSON: All right. The next would be
20 Jackson v. Denno, which I believe you already said what you
21 don't think is an issue. Based on what we discussed
22 previously, we don't need to have that hearing. He was not
23 in custody. The State seeks to admit his statements. When
24 officers came up to the door to say, hey, we're here to
25 investigate this, he denied knowing the victim. He denied

1 that she was in his house and he denied knowing anything
2 about a sexual assault.

3 And we believe that they would come in either as
4 spontaneous utterances present since impression. And then
5 Ms. Ford is obviously, you know, able to cross-examine them
6 on -- on the body cam or whatnot and why it wasn't -- why we
7 don't have that to show, but it's certainly -- it -- he was
8 not in custody, nor was he being interrogated. They were
9 merely, their testimony is they show up and like, hey man,
10 we're here for this. And that's what he spouts out.

11 THE COURT: Okay. Yeah. I didn't feel like it was
12 custodial interrogation so, but I'm happy to hear from you on
13 it.

14 MS. FORD: From the information I have provided to me.
15 I -- I would agree there's -- I -- doesn't seem like he was
16 in custody. Again, if the officers had, if he had body cam,
17 then maybe we could have a better picture. The officer did
18 not go into detail in explaining the circumstances. I am
19 pretty certain that there were a lot of police officers
20 around, but from the information I have, I have no basis to
21 argue that he was in custody.

22 THE COURT: Okay. If something comes up, you know,
23 during the course of testimony or something we need to have
24 again, like we need to have some sort of a hearing, all of a
25 sudden things change. We'll take it up then, but right now

1 that seems to be an issue.

2 MS. FRIERSON: All right. The next, Your Honor, is
3 Neil v. Biggers. Again, I -- this is one I don't believe we
4 need to have. I wanted to just put it on the record. Ms.
5 Harrison planned it can identify the Defendant as the man
6 that when she walked up to the door that night.

7 THE COURT: Uh-huh.

8 MS. FRIERSON: Right after **Minor** told her about the
9 sexual assault, she knocked on the door at and
10 the Defendant answered the door and also denied to her
11 knowing anything about her daughter. Obviously she wasn't
12 present for the sexual assault, so we're not bringing that
13 in. We're not bringing in the lineups. Subsequently, when
14 Detective Crider did them with her.

15 THE COURT: Uh-huh.

16 MS. FRIERSON: She has personal knowledge of who she
17 saw that night at the door. She's not identifying him as the
18 person who raped her daughter. She's identifying him as the
19 person who answered the door.

20 THE COURT: Okay. But you're not going to introduce
21 any lineups?

22 MS. FRIERSON: No, Your Honor.

23 THE COURT: Okay. Not going to introduce lineups.

24 MS. FORD: Your Honor.

25 MS. FRIERSON: (Inaudible) things here.

1 MS. FORD: I just -- any motion I make would just be
2 based on how she testifies how things --

3 THE COURT: Sure.

4 MS. FORD: -- come up.

5 THE COURT: We'll just reserve ruling on that as it
6 becomes necessary during trial. Okay. All right.

7 MS. FRIERSON: Your Honor, the -- I handed both you and
8 Ms. Ford, professional transcriptions of the forensic
9 interview as well as the jail call.

10 THE COURT: Uh-huh.

11 MS. FRIERSON: I would request to use those as an aid,
12 not put them into evidence.

13 THE COURT: Uh-huh.

14 MS. FRIERSON: Have a copy for each juror. I believe
15 under State v. Hess. They -- they're -- they're to be able
16 to use as an aid as you know the acoustics in here are not so
17 great.

18 THE COURT: Yeah.

19 MS. FRIERSON: And before we've also brought in what's
20 the word, earphones, excuse me, for jurors and been told that
21 that's not as helpful either. Both of those are very
22 critical pieces. They can be coupled with a limiting
23 instruction and I -- I do have a copy of one of those in my
24 office that was used here in this court not too long ago, but
25 they're merely an aid then they're taken from the jury after

1 they listen to it and they are not sent back as evidence.

2 THE COURT: Okay. All right. So let me hear from
3 Ms. Ford.

4 MS. FORD: Thank you, Your Honor. I would object to
5 that. I don't believe in this issue there are necessarily
6 issues of being able to hear. I will note too, always on
7 time my office uses them as well.

8 THE COURT: Uh-huh.

9 MS. FORD: I don't think I saw what I -- when we get
10 things done, there's usually sort of a disclaimer that they
11 do because when they're not in court themselves, when they're
12 doing it based on a recording, there's always a disclaimer
13 saying, we're not sure --

14 THE COURT: Yeah.

15 MS. FORD: -- if this is correct.

16 THE COURT: Uh-huh.

17 MS. FORD: And so I -- I have concerns about that being
18 used. Because I -- you know, I got this this morning, Your
19 Honor, I have not had a chance myself to go back and look at
20 the, you know, go word by word to see if I think that
21 anything is wrong. I know when I've had transcripts done,
22 which are more for aids for myself in preparation, you know,
23 I've noticed incorrect things.

24 So I mean, I'd probably have to double check that in
25 order to say that's the case here. But they generally do

1 include a disclaimer. Honestly, I'd have to go double check
2 the case law whenever thing with being able to use it. I
3 know there's certain case law.

4 THE COURT: Yeah, let's -- let me think about that too.
5 I mean, I -- you know, I'm not opposed necessarily. I do
6 think that this language's probably appropriate and I know
7 you're talking about I seeing that little blurb usually on
8 cover sheet or maybe you can add a page or something like
9 that. Usually they have that part there.

10 MS. FRIERSON: I would be fine with that, Your Honor,
11 and you know.

12 THE COURT: I know there's a couple things (inaudible)
13 I follow along, you know, and I don't know if I'm just better
14 the court reporter interpreting some of these things, but I
15 mean, not much. I -- very accurate. There were a couple
16 things, like on page two of the jail phone call where it
17 says, yeah, a girl got an L to me it sounds like you -- like
18 it said, I couldn't tell not that no (inaudible).

19 And then like on page three where it says, inerrable I
20 hear somebody say, ain't no bond yet. That I -- yeah.
21 Again, I saw transcriptions are always subject to
22 interpretation. I think there's a -- a short blurb I can
23 also give in conjunction with showing the -- the jurors
24 these.

25 And I'll -- I'll be looking into that as well. I know

1 had some colleagues do that in the past. So I think maybe if
2 we can work on a disclaimer, give Ms. Ford the night to kind
3 of look at the make a comparison with the -- the transcript
4 on that. The calls we can kind of read up on this maybe
5 first thing in the morning.

6 MS. FORD: Yes, ma'am

7 THE COURT: How does that sound? Okay. I mean,
8 probably -- probably let them use it with -- with the
9 disclaimer language on the thing and with me giving them
10 obviously an instruction. But listen, there are no
11 guarantees. This is a verbatim, but this is simply a tool to
12 assist you as you listen to these. And we're going to be
13 taking them up as soon as recording's over something along
14 those lines. It's most likely how I'll handle it. Okay?

15 MS. FRIERSON: Thank you, Your Honor.

16 THE COURT: What else?

17 MS. FRIERSON: And the last thing is -- from the State
18 is just when we break for the day, the State would -- given
19 the significance of this charge, the Defendant's facing up to
20 20 years, he has an extensive criminal history. If he were
21 to be convicted, the State would be asking for every bit of
22 the 20 years, he was on probation at the time of the assault.

23 His record includes at least six fail to appears. I
24 under -- and probation violations. His record goes back to
25 '93. I am unaware that he has had any issues since he's been

1 out since his arrest. However, I think that the severity of
2 the charges.

3 THE COURT: I can tell I -- I revoked during trials
4 just as general practice, so.

5 MS. FRIERSON: Thank you, Your Honor.

6 THE COURT: All things that's not personal, it's just
7 about best practices in my opinion protects not only the
8 Defendants, but witnesses and everybody else.

9 MS. FRIERSON: And I didn't know if you wanted the
10 information regarding the offer and the date of the rejection
11 put on the record.

12 THE COURT: If you do, you then -- I would like this
13 entitled day in court. But if you want to put that -- that's
14 fine.

15 MS. FRIERSON: He was arrested May 18, 2020.

16 THE COURT: Uh-huh.

17 MS. FRIERSON: Charged with the one count of criminal
18 sexual conduct and the second degree. He rejected the
19 State's offer to plead to the crime as charged. And we were
20 willing to negotiate a cap of 10 years.

21 THE COURT: Uh-huh.

22 MS. FRIERSON: He pled or excuse me, he rejected that
23 offer on March 9th of 2023 and requested a jury trial.

24 THE COURT: Okay. All right. Anything else this
25 afternoon, Ms. Ford, in additional pretrial matters you want

1 to address?

2 MS. FORD: Yes, Your Honor. In the jail call, like I
3 mentioned earlier, I plan to let possibly have an objection
4 based on how the deputy testifies. But I did notice, and I
5 -- I do think part of it needs to be redacted because I
6 believe it's burden shifting. There's a whole discussion in
7 there about you need to call Ms. Ford and tell her to get her
8 Investigator Amber to talk to these people. And I believe
9 that's burden shifting. Because then it looks -- it is --
10 people are wondering, well.

11 THE COURT: Uh-huh.

12 MS. FORD: Is State going to present -- or the Defense
13 going to present those witnesses? So I would ask --

14 THE COURT: She just says, talk to the lady named Amber
15 for my witnesses. I see -- I see what you mean. Okay. I
16 have three. Okay. Sorry, this is on page four, the
17 transcript. Okay. I didn't mean to interrupt you. So you
18 would like that part redacted?

19 MS. FORD: Yes, ma'am.

20 THE COURT: Okay. Because it's discussing potential
21 witnesses, I guess so.

22 MS. FORD: It -- it's talking about what he wants me to
23 do.

24 THE COURT: Uh-huh.

25 MS. FORD: Talking to people. And so I think that's

1 it's going to shift the burden to me. The jury is going to
2 be wondering like, oh, I guess they're putting up those
3 people that he's talking about.

4 THE COURT: Obviously.

5 MS. FORD: And one of them is actually even deceased.

6 THE COURT: But I'm not sure that gets the State
7 anywhere. Do you have any objection to redacting that part
8 where he says --

9 MS. FRIERSON: Nine.

10 THE COURT: -- and I need you to call the public
11 defender's office and talk to the lady.

12 MS. FRIERSON: So on page four, it would be one through
13 --

14 THE COURT: Through nine.

15 MS. FRIERSON: -- 10.

16 THE COURT: Or one through 10. Excuse me. Yeah, one
17 through 10.

18 MS. FRIERSON: I -- I don't have a problem with that,
19 Your Honor.

20 THE COURT: Okay. Why don't we just mute out that
21 part. It's probably only about five or 10 seconds. Can we
22 do that?

23 MS. FRIERSON: We can, but, Your Honor, my investigator
24 will need to know. It takes quite a while to redact and so
25 no -- we know that. But when we'll need your ruling on the

1 comments about jail and he did something nasty for the
2 forensic interview.

3 THE COURT: Uh-huh.

4 MS. FRIERSON: And the reference to the jail -- in the
5 jail call in enough -- with enough time that she can do all
6 those redactions.

7 THE COURT: Yeah. Okay. I guess I was contemplating
8 just to hit mute. That time slot, but okay. I -- I know
9 what you mean. We got to actually redact it of the jury.
10 Okay.

11 Well, Ms. Ford, what else?

12 MS. FORD: It -- that's all I can think of at the
13 moment, Your Honor.

14 THE COURT: Well, you know, he did reference this prior
15 jail visit in this jail phone call.

16 MS. FRIERSON: Yes, Your Honor. That's one of the ones
17 we --

18 THE COURT: That's where?

19 MS. FRIERSON: It's on page six, line one and two, "Why
20 would I want to rape somebody when I just got out of jail?"
21 I mean, the State -- the State would argue, Your Honor, I
22 mean, he's -- knows he's being recorded. It says it pretty
23 -- pretty darn clear at the --

24 THE COURT: Yeah.

25 MS. FRIERSON: -- the beginning of there.

1 THE COURT: Yeah. I don't -- I don't think that I
2 don't know she had asked to have that. I don't -- I don't
3 see how that comes out, I mean.

4 MS. FORD: About the jail him previously to jail, Your
5 Honor?

6 THE COURT: So -- so, "Why would I want to rape
7 somebody when I just got out jail?" You see what I'm saying?

8 MS. FORD: Yes, Your Honor. And I believe that I -- I
9 had considered that sort of going hand in hand.

10 THE COURT: Okay.

11 MS. FORD: With the victim --

12 THE COURT: (Inaudible) argument?

13 MS. FORD: Yes, Your Honor. That's why I didn't raise
14 that separately, because I just considered that as sort of
15 part of the same, you know --

16 THE COURT: Uh-huh.

17 MS. FORD: -- objection.

18 THE COURT: Okay. We'll tell you what I'll -- okay.
19 Look into that soon, this afternoon and we'll email you all.
20 I'll send to roll the record tomorrow so that -- you know, as
21 soon as possible.

22 MS. FORD: Thank you, Your Honor.

23 THE COURT: How's that? Is that the only thing I need
24 to look at today (inaudible)?

25 MS. FRIERSON: Your Honor, I think we skipped over

1 chain of custody briefly. I think we talked about it briefly
2 this morning. I just, I'll have a representative from MUSC,
3 Charleston Police Depart -- or North Charleston Police
4 Department and SLED.

5 THE COURT: Uh-huh.

6 MS. FRIERSON: Yes. That's it. One person from each
7 agency testifying, they can identify the person who they
8 received it from and who they gave it to. But we are not
9 calling all -- I think it would've been an extra like 10
10 chain witnesses.

11 THE COURT: Okay.

12 MS. FRIERSON: So we -- we do have it limited, I think
13 under State v. Hatcher.

14 THE COURT: Okay.

15 MS. FRIERSON: We can establish enough of a chain.

16 THE COURT: All right. Well, we'll go from there. I
17 mean obviously I'm aware of the -- the case law and the
18 requirements, so we will just go from there.

19 MS. FORD: I'm sorry, my -- Your Honor, my client was
20 talking to me.

21 THE COURT: No, it's fine. I just -- I mean, I didn't
22 rule necessary. I just said I'm familiar with the case law
23 of -- of Hatcher and -- and the requirements obviously not
24 every single person that touches it has -- has to be present
25 to testify, but it's on the State to -- to make that -- to

1 meet that burden. So --

2 MS. FORD: Yes, Your Honor.

3 THE COURT: -- see who they call.

4 MS. FORD: I agree. We have -- I think that needs to
5 be handled as it --

6 THE COURT: Yeah. As it comes in.

7 MS. FORD: -- in testimony. Yeah.

8 THE COURT: Okay. What else? Is that it?

9 MS. FRIERSON: Nothing further from the State, Your
10 Honor.

11 MS. FORD: Nothing further from the Defense.

12 THE COURT: All right. Well, obviously I ask the jury
13 to be here at 9:30 so, you know, I'll -- I'll be in here
14 about that time too. If you all have anything else, you
15 know, we'll -- we'll put this last ruling kind of officially
16 on the record at that time. We'll have a few minutes while
17 they're getting coffee and refreshments to discuss anything
18 you might need the morning. Okay? But any -- any updates
19 on, I mean we got witnesses lined up ready to go as far as
20 you know. Okay?

21 MS. FRIERSON: Yes, Your Honor. The one out of state
22 witness is flying in tonight and out tomorrow evening. She's
23 our SANE nurse.

24 THE COURT: Right.

25 MS. FRIERSON: But I think we should, you know, if we

1 are getting started right at 9:30, if we can't reach her
2 before lunch, she probably would be right after lunch.

3 THE COURT: Great. Let's see, Ms. Ford, anything else
4 I can do for you?

5 MS. FORD: No, Your Honor.

6 THE COURT: Okay. All right. We'll see you all about
7 9:30 in the morning then.

8 MS. FORD: Thank you, Your Honor.

9 THE COURT: We'll take the Defendant in custody until
10 then. Thank you very much.

11 (THERE BEING NOTHING FURTHER, THIS HEARING CONCLUDED AT
12 4:21 P.M.)

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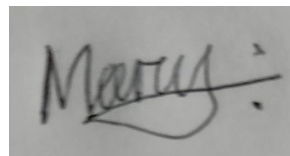
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CERTIFICATE OF TRANSCRIBER

I, MARY RAGSDALE, a court-approved transcriber, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the South Carolina Circuit Court 9 of Charleston County, South Carolina, on the 27th Day of November, 2023.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

October 18, 2024

A handwritten signature in dark ink, appearing to read "Mary Ragsdale", is written over a light gray rectangular background.

Mary Ragsdale

Transcriber

1 CONTINUATION OF PROCEEDINGS - NOVEMBER 28, 2023

2 (Off the record)

3 THE COURT: So I was made aware a few minutes ago that
4 juror number 61 is at Trident Hospital right now. Her
5 father, unfortunately, has had stroke. So she is there with
6 him. You know, I think we called her; she called right back
7 and, of course, gave his name and all of that in case we
8 needed to verify. But I have no reason to think she's not
9 telling us the truth. So my thoughts are be with her. And
10 what we'll do, is I will now -- just a moment here, I'll have
11 my law clerk draw a piece of paper. I'll put both of the
12 alternates numbers on this piece of paper, and I'll put them
13 in a cup that I'll have my clerk draw one out for the
14 alternate to be moved over. So that will be our alternates;
15 are numbers 143 and 134.

16 134 will be moved over to the body of the jury. So Mr.
17 Bailiff, we can just make sure number 134 will be sitting
18 with the body of the jury now.

19 THE BAILIFF: Yes, Your Honor.

20 THE COURT: And number 61 will be excused from service
21 the rest of this week due to her medical -- her family's
22 medical situation. Okay?

23 THE BAILIFF: Yes, Your Honor.

24 THE COURT: All right. I sent an email to the
25 attorneys last night after our pretrial motions. I had

1 indicated to you all I would do some research and just double
2 check on a ruling regarding two references to the
3 Defendant's, really, whereabouts. It's -- it was two
4 references to being in -- in jail sort of, immediately prior
5 to the arrest on discharge. One was during the course of the
6 forensic interview, and then the other was during the course
7 of his own jail phone call with his mother.

8 My research, you know, interesting issue is come up
9 before we talked a lot about 40 -- 404 (b), prior bad acts,
10 and those corporal arrest. Just, I -- those are sort of the
11 arguments the State was relying on. It's really a geography
12 situation more than anything. I mean, he could have said,
13 you know, I just got out of college or something, you know,
14 and we wouldn't really -- wouldn't be the issue. It's the
15 fact that it's jail, is the geography that sort of puts it at
16 issues and sort of morphs it into this prior bad act
17 potentially situation.

18 I do think it goes to identification, 100 percent.
19 Also think it -- it goes to rest jute of -- of the case of
20 the State's case. I do think if they were forced to sort of
21 you know, remove that or redact that fact out of evidence
22 that it would be fragmentizing the State's case, I think
23 under our case law. I think it can come in for those
24 reasons.

25 And then finally, obviously, you know, understand that

1 the fact that it's jail is prejudicial. But I think that the
2 probative value of that information significantly outweighs
3 any prejudicial effect. So for that reason over the
4 objection of the Defense, I'm going to let it in. So I
5 wanted to indicate that to you all last night. So you would
6 have plenty of time to plan. And then, of course, we'll put
7 in the record again this morning my ruling -- the basis for
8 that ruling.

9 Finally, I think it was brought to my attention, there
10 was a -- we just want to make sure certain witnesses are
11 sequestered. I want to make sure, Ms. Ford, I know you --
12 you wish for the victim's mother to be sequestered during her
13 testimony, is that right?

14 MS. FORD: Yes, Your Honor. Out of the defendant of
15 caution, I would ask that just in general, all of the
16 witnesses be sequestered other than, of course, Detective
17 Krider, is the case agent, and my investigator, Tommy. It --
18 it just in case ---

19 THE COURT: Yeah.

20 MS. FORD: --- Your Honor.

21 THE COURT: Okay. Any objection to that from the
22 State?

23 MS. FRIERSON: State does not have any objections.

24 THE COURT: All right. That motion to sequester will
25 be granted. Okay. Anything else before we begin?

1 MS. FRIERSON: Yes, Your Honor.

2 THE COURT: Okay.

3 MS. FRIERSON: We we're waiting on a ruling so we could
4 finish up the redactions on Ms. Ford's motion to redact the
5 part of the forensic interview where Minor is relaying her
6 disclosure and says, when her mom found her, this man came up
7 and said, Hey, somebody was doing something nasty to your
8 daughter, but I'll let her tell you. And the State's
9 position was, it's not being offered for the truth of the
10 matter asserted. It's merely her explaining her disclosure
11 process. And it's in the forensic interview, which is --
12 which is coming in. And it goes to just, you know, when --
13 when Ms. Harrison takes the stand, our intent is merely to
14 ask her, you know, after you found Minor, did you talk to
15 someone? Yes. Without saying what he said, was that what
16 prompted you to notify law enforcement again?

17 And then, so it's -- they're -- they're going to have
18 already likely heard that from Ms. Harrison. And her
19 relaying her disclosure, again, it's not offered for the
20 truth of the matter asserted. It's just her explaining what
21 got the ball rolling to get the law -- to get law enforcement
22 involved, and then ultimately into that forensic interview.

23 THE COURT: Okay. Ms. Ford, what do you want to tell
24 me about that?

25 MS. FORD: Thank you, Your Honor. My understanding is

1 that initially [Minor] did not make a disclosure. I think
2 even after the man, this man who nobody knows who he is, made
3 a comment to her mom. The police were called, of course,
4 they were already there to help look for her. So obviously,
5 they had to be notified that she was found. They were
6 actually leaving, and then [Minor] revealed to her mom that
7 she had been raped. So [Minor's] mom basically flagged them,
8 like, you know, basically drove after them to flag them down,
9 to get them to come back.

10 My -- my main concern is that I -- I'm unclear of if
11 [Minor] actually heard this comment, or if her mom told her
12 this comment. And so I think the problem with hearsay is
13 even exacerbated by the fact that, I -- I don't even know if
14 she heard it or she's just saying what her mom told her. And
15 I do think even though the State is saying they're not moving
16 to put it in for the truth of the matter, basically, I think
17 it is. Because basically the jury's going to -- to hear
18 about this new other party, this random person that I cannot
19 confront, that I cannot question obviously, or cross-examine
20 that he witnessed something nasty.

21 And that's why I believe it's inappropriate, because I
22 do think it goes to support a -- a rape, Your Honor, which is
23 obviously why we're here. It goes to proving what we're here
24 for. And so that's my position, Your Honor. I just -- I --
25 partially, I'm not sure if [Minor] heard it herself, or

1 because partially she is saying, my mom told me this; my mom
2 told me that in her interview.

3 THE COURT: Uh-Uh. I am just looking, where is page 18
4 of the transcript, going back over, again? Page 18 and 19.
5 It's unclear, obviously, during the conversation, the basis
6 of her knowledge of this discussion with the man and her
7 mother. So look, starting on page -- I mean, so line 8 of 18
8 -- this is not an official transcript, but on this transcript
9 that we have -- "That's it. My mom, they're trying to get in
10 touch with my mom. And my mom ran back on the street and she
11 found me with the other man." "Tell me about the other man."
12 "He tell my mom, something nasty happened to your daughter.
13 I got to tell you." "How come he told her that?" "Because
14 he's been outside. He'd been the man been outside. That's
15 all. That's when my mom called the police."

16 And then she asked more about that. "She Said the man
17 told your mom something nasty happened to your daughter?"
18 "Uh-uh." And she's, you know, she's asked how he knew that.
19 And she basically says, I'm -- Shrugs She doesn't know.

20 I mean, is this somebody that we're -- obviously, is he
21 not a witness? So we don't know who he is. Unknown man is
22 -- is -- what's -- tell me about that.

23 MS. FRIERSON: So, Your Honor, the initial
24 investigation, or lack thereof, produce no results. We try
25 to figure that out. And when I say we, Detective Krider,

1 based on the -- the information, it's our understanding that
2 one of the potential witnesses and possibly him is deceased,
3 which Ms. Ford referenced yesterday.

4 THE COURT: Oh, okay.

5 MS. FRIERSON: But we don't know if this was him or one
6 of the other, as Minor testified yesterday, there were some
7 men banging on the door saying let her out.

8 THE COURT: Right.

9 MS. FRIERSON: And so whether he was outside, meaning
10 outside the bedroom or outside the house, because it is kind
11 of a local hangout house where people hang. So we don't,
12 unfortunately, know and we do not have him.

13 THE COURT: Okay. Well, you know, I think it's not
14 offered for the truth. I think it can come in, but
15 obviously, you know, in terms of Minor having any
16 recollection as to who he is, where he was, I mean, it seems
17 like she didn't at the time of the interview, days after.
18 I'm not sure it's going to be much better now. So I, you
19 know, I think that's a fact the State's going to have to live
20 with. So I'm going to let it in over your objection.

21 Okay. Before I forget, too, speaking of transcripts,
22 let's talk about that. Now that everybody's had an
23 opportunity to review them, I know Ms. Ford, you wanted an
24 opportunity to -- to look at them, again, kind of verify
25 their accuracy and discuss how they would be used. Is there

1 a disclaimer we can put on these or maybe just write
2 unofficial transcript on the cover page before they're passed
3 out to the jurors or something like that, or ---

4 MS. FRIERSON: I am -- I am fine with unofficial
5 transcript. I'm also fine, I had sent some verbiage to Ms.
6 Ford this morning. I'm not sure if she had a time. I mean,
7 just basically it's like a one sentence. And then we -- I
8 also forwarded her redacted -- based on your rulings this --
9 or up until this morning, redacted transcripts from the one
10 that we provided yesterday, taking out ---

11 THE COURT: Well, what was redacted? Just the part
12 where they talk about Mary Ford?

13 MS. FRIERSON: The part about Mary Ford, the part about
14 the "Truth Promise," and the forensic interview so that when
15 the jury gets the transcripts of Your Honor is inclined to
16 allow them to have them. They -- that -- that obviously
17 won't have that wording in front of them.

18 THE COURT: Right. Right -- right -- right.

19 MS. FORD: And, Your Honor, just for the record I spoke
20 to Ms. Frierson yesterday and she agreed there was another
21 portion where he's talking about bond and how he was denied
22 bond initially. And I raised that to Ms. Frierson's
23 attention and she agreed that she could take that part out.

24 THE COURT: Okay.

25 MS. FORD: So that was also updated.

1 THE COURT: Okay, good. All right, well, I -- I, you
2 know, I think it, you know, obviously I'll give an
3 instruction at the time that they're passed out, that these
4 are not official transcripts, that there was actually, you
5 know, no court reporter present during the time of these
6 conversations. This is just for, basically, a -- an aid in
7 -- in their listening, but they should rely on their own
8 listening of the conversation over the transcript, is what
9 I'll tell them. You know, essentially this is just more of
10 an aid and that we'll be taking it up immediately after
11 they're -- they're listening to the audio.

12 And then if we -- sometimes there's a -- a stamp or we
13 can just have a law clerk with somebody write unofficial copy
14 or something on the top of every single one of them, that
15 would be fine. Okay?

16 MS. FRIERSON: Thank you, Your Honor.

17 THE COURT: Sure. All right, anything else before we
18 bring them in. I'll do the opening, you know, finish
19 (inaudible) obviously and tell them who everybody is in the
20 courtroom. Talk to them a little bit about the burden proof,
21 of course, and then turn it over for opening statements. And
22 then the State's ready to call the first witness after that?

23 MS. FRIERSON: Yes, Your Honor.

24 THE COURT: Okay. If you need a break -- do you want a
25 break right now?

1 MS. FRIERSON: I'm good, Your Honor.

2 THE COURT: You good?

3 MS. FRIERSON: Thank you.

4 THE COURT: Just let me know and I'll have my law clerk
5 and I'll be trying to scan every now and then. I'm not
6 always the best. I sometimes, you know, get lost in when I'm
7 reading, but feel free to let me know, pass a note or
8 whatever you need to do. Okay?

9 MS. FRIERSON: Thank you.

10 THE COURT: Sure. All right. We can bring the jury
11 in. Thank you.

12 THE BAILIFF: Yes, Your Honor.

13 (Jury enters room)

14 THE COURT: All right. Good morning.

15 THE BAILIFF: All jurors present, Your Honor.

16 THE COURT: Thank you so much. Everybody be seated,
17 please.

18 Okay. Ladies and gentlemen, thank you all for being
19 prompt this morning and being on time. We certainly
20 appreciate that and appreciate your participation. One of
21 your fellow jurors unfortunately had a family emergency, so
22 she will not be with us the rest of the time, but that's why
23 we have alternates. So we have moved over number 134 to the
24 main body of the jury this morning.

25 So once again, I just want to thank everybody.

1 Briefly, we talked about this yesterday a little bit. I'll
2 be instructing you from time to time not to do your own
3 research, not to do any independent reading or looking up on
4 internet about anything about this case.

5 But I want to tell you a little bit about who's in the
6 courtroom and who's here today. Just to give you a little
7 bit of lay and land. Told you yesterday my name is Jennifer
8 McCoy. I'll be the judge presiding over this case. To my
9 immediate left is my law clerk, Ms. Fletcher. She is a
10 recent graduate of law school. Our law clerks typically on
11 our one-year rotation. So she is doing her one-year rotation
12 with me this year. I'm happy to have her.

13 Over there, also to my left, is a member of the clerk
14 of court's office. She works here, clerk of court, Julie
15 Armstrong. She's your elected Charleston County Clerk of
16 Court. Her office is responsible for retaining documents and
17 evidence in the courthouse and, generally, just keeping the
18 courthouse neat, and tidy, and organized, and getting you
19 all, of course, here and all your notices out and all that
20 good stuff.

21 To my right, these two folks are court reporters. One
22 is a court reporter in training, and the other one is
23 training that court reporter. But they will be taking down
24 every word that is said during the course of this trial.
25 They are absolutely the most important people in this

1 courtroom today, and all week.

2 We've got, of course, our bailiff. You've got to meet
3 some of them already. They're your ambassadors to the court
4 and to me. If you need anything, like I said yesterday, you
5 got any questions or anything comes up, that's who you need
6 to talk to, they'll -- they'll know to get the message to me
7 or to whoever needs to get it and get your situation taken
8 care of. Okay?

9 Of course you met the attorneys yesterday. That's who
10 seated at the table, as well as the Defendant. And in the
11 gallery, this is a public courthouse. Folks, we've got
12 people you can come in and out any time you want as a -- as a
13 citizen, member of the public. And it is not unusual to have
14 folks come in and out during the course of the trial; come
15 see what's going on. They may or may not have an interest in
16 the trial, but they are free to -- to come and watch and come
17 and go as they please. Okay?

18 We also have several members of the Charleston County
19 Sheriff's Office. They're not in uniforms, but they're in
20 coat and tie. They are here just to maintain peace and keep
21 order in the Court and assist me from time to time as well.
22 So that's who is here. We appreciate everybody's presence
23 and as you can see, it takes a small village to get a trial
24 gone. So we once again appreciate your promptness this
25 morning. That helps us to be efficient.

1 Before we begin this trial, I'm going to go ahead and
2 appoint the foreperson. Sir, you're in the lucky seat. Tell
3 me your jury number, please.

4 JUROR NUMBER 55: 55.

5 THE COURT: 55. You will be the foreman of the jury.
6 You don't have any greater weight than anybody else of a
7 vote, so to speak at the end. Okay? It's just that you'll
8 be the person to sign the verdict form at the end of the
9 trial, okay? And you're the only person that needs to sort
10 of keep that seat. Everybody else can sit wherever they
11 want, except for, of course, the alternates sit.

12 Okay. Before we begin, I am going to ask the Court --
13 Court to swear you all in and she'll ask you to rise for that
14 purpose.

15 THE CLERK: Please stand and raise your right hand to
16 be sworn.

17 THE CLERK: If you have accepted this oath, please be
18 seated. If you have not accepted this oath, please remain
19 standing. Let the record reflect all juror have seated.

20 THE COURT: Thank you so much. All right, ladies and
21 gentlemen, before we begin this trial, I'm going to tell you
22 that this trial is probably going to be a little different
23 than what you might expect. Most people don't have the
24 chance to attend actual court sessions as you're doing now.
25 They might think from watching TV or movies or reading John

1 Grisham novels that trials are always full of drama and
2 intense and riveting circumstances. And that can be true at
3 times. But ladies and gentlemen, I'm here to remind you this
4 trial is not for your entertainment.

5 This is a fundamental part of our justice system. It's
6 an effort to make sure that justice is done between parties
7 before the Court and making sure that justice is done is
8 often a very slow, deliberate and repetitive process. It's
9 probably the opposite of what you've seen on TV or movies.
10 Okay? This courtroom, ladies and gentlemen, is a place of
11 honor. It's dedicated to the protection and the preservation
12 of all of our rights through what many have called the
13 greatest justice system created.

14 The attorneys appearing before you are advocates for
15 the parties they represent. But first and foremost, they're
16 officers of the court. They took an oath when they became
17 lawyers to uphold the integrity of our -- of our judicial
18 system. And you can expect them to do that during the course
19 of this trial.

20 You should expect them to be professional, competent,
21 and ethical in the representation of their client's
22 interests. But remember that you have also just taken an
23 oath in this case and we also expect you all to be
24 professional, reasonable, and ethical.

25 We appreciate you accepting this responsibility of jury

1 service and once again for your contribution to our justice
2 system today. Now, what I'm going to say next is intended to
3 serve as an introduction to the trial of this case. These
4 remarks are not a charge on the law that will come at the end
5 of the trial.

6 I will instruct you on the law that applies at the very
7 end before you retire to consider your verdict. What I'm
8 going to say now is just an explanation of the procedure that
9 we're going to follow during the course of this trial so you
10 have a better understanding of what's going on.

11 I will allow you to take notes during this process if
12 you wish. There are notebooks and pens right there
13 available. And after I speak to you momentarily, we'll go
14 ahead and pass those out. Okay. You don't have to take
15 notes. Some people are note takers and some people aren't.
16 But it's fair if you want it. If you do take notes, just try
17 not to let it take your attention away from the folks who are
18 testifying on the witness stand during the course of the
19 trial, okay?

20 Ladies and gentlemen, the Defendant is charged by an
21 indictment, as I mentioned yesterday, that is filed in this
22 court. The indictment charges him with the crime of criminal
23 sexual conduct with a minor in the second degree. The
24 elements of that charge will be explained to you later. And
25 as I said yesterday, this indictment is just a piece of

1 paper. Ladies and gentlemen, it's just the way that a charge
2 is brought to court. It is not in any sense evidence of any
3 of the allegations it contains.

4 The State, ladies and gentlemen, has the burden of
5 proving each element of this indictment beyond a reasonable
6 doubt. It will be your duty to decide whether or not the
7 State has met that burden at the end of the trial.

8 Your purpose as jurors is to find and determine the
9 facts. You are the sole judge of the facts. You are to
10 determine the facts from the testimony you hear from that
11 witness stand right there and any other evidence that is
12 produced during the course of this trial. It's up to you to
13 determine the inferences that you feel may be properly drawn
14 from that evidence.

15 Now, on the other hand, and with equal emphasis, the
16 same law that makes you the judge of the facts, makes me the
17 judge of the law. The law as given to you by me. The Court
18 is the only law that you can consider. You must accept it
19 and follow it even if you disagree with it. I cannot tell
20 you what the facts are and you can't disagree with me about
21 what the law is or what you think it should be.

22 Your job will be to take the law as I give it to you at
23 the end of the case and apply it to the facts as you find
24 them during the trial, from the testimony of the witnesses
25 and any other evidence. And after doing that, you will

1 render a verdict under the solemn oath that you just took.

2 Until I advise you to begin your deliberations at the
3 end, you must not discuss this case with anyone, including
4 each other, including your friends, your family members, or
5 anybody else involved in the case. This would be
6 face-to-face discussions, by telephone, email, text message,
7 or any other form of communication. You may not use a
8 computer or a cell phone or any other electronic device while
9 in this courtroom or during deliberations.

10 Of course, during breaks and during lunch we'll give
11 you your cell phones back. But we would ask obviously that
12 you not be doing any research or communicating about this
13 case in any way, shape, or form during that time. Okay? At
14 any time you cannot use these devices to get any information
15 about this case. And this would include case information
16 about the parties, the witnesses, the lawyers myself, any
17 news accounts about the case or anything else you think would
18 have any bearing on this case.

19 I'm also going to ask that you not read or listen to,
20 or watch any news reports about this case. I'm not aware of
21 any news outlets being present during the course of this
22 trial or anything. But nonetheless, don't -- again, don't do
23 any independent research, okay? After this case is submitted
24 to you, you must discuss it only in the jury room with all of
25 your fellow jurors. The attorneys and the parties in this

1 case have been advised that they are not to talk to you at
2 all during the course of this trial. So if you see them out
3 on the street during the trial or you see them in the
4 hallways and they sort of look away or turn away, they're not
5 being rude. They're just following my instructions that
6 they're not to talk to you all. Okay?

7 It's important that you keep an open mind and don't
8 decide any issue in the case until all of the evidence has
9 been presented and the parties have made their closing
10 arguments, and I've instructed you on the law. It is your
11 solemn responsibility to determine the guilt or innocence of
12 this defendant. And your verdict must be based solely on the
13 evidence as it is presented during the trial and on the law,
14 as I will instruct you at the close.

15 In just a moment, the solicitor will make what's called
16 an opening statement, in which the solicitor will explain to
17 you the issues in the case, or at least what the solicitor
18 thinks the issues are in the case. The attorney for the
19 Defendant may also make an opening statement, although she's
20 not required to. What the attorneys tell you during their
21 opening statements is not evidence in the case. It's only
22 their contention as to what the issues are. The evidence in
23 this case will be presented to you by testimony from that
24 witness stand and any exhibits that might be introduced
25 during the course of the trial.

1 Now, from time to time, you might hear one of these
2 lawyers tell me, you know, Your Honor, we got a matter of law
3 to take up outside the jury's presence or they might have an
4 objection, and it might become necessary to excuse you from
5 the courtroom. That's just so you don't hear me talking to
6 these lawyers about issues in the case because I don't want
7 you to think I have any opinion whatsoever about the facts,
8 because I can assure you I do not.

9 Also, don't want you to hold it against these attorneys
10 when they need to make an objection. Just like in sports,
11 you know I'm sort of like the referee and from time to time
12 they might need to bring a possible foul to my attention and
13 I just have to make a ruling and we move on. But by no means
14 should you hold that against these attorneys or their
15 clients. Okay?

16 All right. Now, in evaluating the evidence in this
17 case, you're going to have to decide whether or not the
18 testimony of the witnesses is believable. It's going to be
19 my responsibility to rule as to whether or not certain
20 testimony comes in or not. But once it's in, whether or not
21 you believe it, is totally up to you to decide. In deciding
22 whether you want to believe a witness, you have the right to
23 consider the interest of that witness, the bias of the
24 witness. Are they prejudiced or do they have an opportunity
25 to see and hear the things about what they're testifying.

1 And you can judge the way they act on the witness stand if
2 you wish. You have a right to consider anything in the
3 record that will help you evaluate the testimony of these
4 witnesses.

5 That means it's going to be your duty to pay close
6 attention to them, observe them, listen to them, pay close
7 attention to these attorneys and to the Court. After the
8 arguments of counsel and the charge on the law, at the very
9 end, you will then be in a position to determine what the
10 facts are, to apply the law to those facts, and to render a
11 verdict.

12 Mr. Foreman, as I indicated earlier, it's going to be
13 your added duty to preside in the jury room and be the jury's
14 spokesperson in court. And it will also be your duty to
15 write the verdict and sign your name on the form. But I'll
16 give you more instructions about that at the end. Okay? In
17 order to preserve everyone's rights, I'll give the parties an
18 opportunity to object to anything I've said. Are there any
19 exceptions or objections to the opening charge from the
20 Court, from the State?

21 MS. FRIERSON: None from the State, Your Honor.

22 THE COURT: Any from the Defense?

23 MS. FORD: No, Your Honor.

24 THE COURT: All right. Thank you very much.

25 All right. Ladies and gentlemen, at this time we'll

1 pass out the notebooks and the pens. And while we're doing
2 that, I'll give the -- solicitor may make an opening
3 statement.

4 MR. HARRIS: May I please the Court?

5 THE COURT: Yes, sir. Mr. Harris, go ahead.

6 MR. HARRIS: Good morning.

7 MULTIPLE SPEAKERS: Good morning.

8 MR. HARRIS: I'd like to introduce you guys to the
9 victim in this case, **Minor**. That lady
10 standing up right there. **Minor** you see in court today,
11 she's 17 years old. But the time of this incident, she was
12 just 11. **Minor** from North Charleston, South Carolina. She
13 was born and raised there. Where she calls home. And
14 unfortunately that place will never be the same for her
15 because the same place this incident took place.

16 On April 19, 2018, young, 11-year-old **Minor** ran away
17 from home. Why? Because like most children, **Minor** wasn't
18 happy with what her mom was saying. She didn't want to
19 follow the rules to the house, so she ran away. When she ran
20 away, she was walking down the street of the Waylyn
21 neighborhood in North Charleston when she was approached by
22 an older adult male. This older male, smell of alcohol, had
23 short conversation with her and let her inside his house.

24 You might be thinking, why did **Minor** go inside a
25 stranger's house? Remember, she was just 11 years old. She

1 was just a kid. Adults supposed to be people you can trust
2 as -- as a child. Now this stranger led Minor inside his
3 house. It was dark; it was messy; junk all over the place.
4 Once inside the house, he led her into his bedroom. Once in
5 the bedroom, took off her clothes and he raped her.

6 Now, after this assault took place, Minor was stuck
7 in a little bit of fear, contemplating what just happened to
8 her. Eventually, she took an opportunity and escaped that
9 room, and eventually escaped the house. When she escaped,
10 she continued to walk down the street until her mom found.
11 Now, this whole time, while Minor was missing, her mom was
12 frankly looking for her. She called 911. Reported her as a
13 runaway and she was also, herself, in the car, driving around
14 the way of the neighborhood looking for her daughter. And
15 eventually she found her.

16 Now, when Minor and her mom found each other, they
17 called the police to let her know we found Minor. She was
18 back with her mom. Police responded to meet with them. At
19 that time, Minor, understandingly so, was not ready to tell
20 anybody what had just happened to her. She didn't tell
21 anybody that she was just raped. So the police have a short
22 conversation with Minor and her mom, Ms. Jackie Harrison,
23 and they left.

24 A few moments later, Ms. Jackie Harrison calls police
25 again. They come back out. They meet with Minor and

1 Jackie. At this time, Minor's ready to tell her story.
2 She told them how some stranger approached her, let him --
3 let her into his house and raped her. Now, after speaking
4 with the police, Minor was sent to MUSC, the local hospital
5 where she got a SANE exam done.

6 A SANE exam is a sexual assault nurse examination.
7 That's, the purpose of that examination is, one, to make sure
8 Jaynaia is safe after an assault like this. And two, to
9 collect and preserve any evidence such as DNA left behind
10 after an assault witness.

11 Now, while Minor and her mom were at MUSC, the police
12 responded to the residence that Minor pointed out where
13 this assault took place. When police responded there, they
14 met with someone who identified himself as Emeric Hamilton,
15 the defendant. After speaking with Mr. Hamilton, say they
16 didn't know anything about her. Didn't know anything about
17 any assault. At that time, the case was called for a while
18 until experts from SLED, the South Carolina Law Enforcement
19 Division, were able to examine that sexual assault kit that
20 Minor took that night of the incident.

21 They examined that and they determined that the
22 Defendant's DNA was inside the victim tying him to this case.
23 After this discovery of the DNA, the Defendant was arrested
24 and charged of criminal sexual conduct with a minor in second
25 degree. In South Carolina, criminal sexual conduct with a

1 minor in second degree occurs when and after the defendant
2 engages in the sexual battery with a victim that's 14 years
3 of age or less, but at least 11 years old. And remember, at
4 this time, [Minor's] not the 17-year-old You see in court
5 today. She's a mere child. She's 11 years old.

6 And all criminal cases, the State, we have the burden
7 to prove the Defendant's guilt beyond a reasonable doubt.
8 Beyond a reasonable doubt simply means that you are firmly
9 convinced of the Defendant's guilt. Ladies and gentlemen, at
10 the end of this trial, after you hear all the testimony from
11 that stand right there, you see all the evidence, you will be
12 firmly convinced that the defendant, Emeric Hamilton, is
13 guilty of criminal sexual conduct in the second degree when
14 on April 19, 2018, he led a young child, [Minor],
15 into his house, into his bedroom and raped her. Thank you.

16 THE COURT: All right. Ms. Ford, (inaudible).

17 MS. FORD: Okay.

18 [Minor] has not had an easy life. Some things
19 are outside of her control. She has an intellectual
20 disability, so that's made life harder in a lot of different
21 ways. But she's also had many, many behavior issues. And
22 these behavior issues started long before 2018. Her mom was
23 often called to school because [Minor] was acting out. She
24 was disrespectful. She wouldn't listen to her teachers and
25 she would often just walk out. [Minor's] mom also had issues

1 with [Minor] at home. Same thing. Disrespectful, wouldn't
2 listen, and she would often walk out of the home. Sometimes
3 she would sneak out at night when her mom was sleeping, but
4 sometimes she would just leave when she was mad.

5 That's what happened this evening, back in April of
6 2015. [Minor] was really mad at her mom because her mom was
7 trying to tell her that she needed to follow rules and she
8 couldn't just do whatever she wanted. So [Minor] left. So
9 her mom, understandably, she just didn't leave her daughter
10 -- or let her daughter leave and do nothing about it. She
11 went after her. She begged her. Get in the car, [Minor], we
12 need to go home. But [Minor] said, no. She was adamant.
13 She was stubborn. She was on a mission.

14 So [Minor] had her mom -- she had to call the police.
15 Now, this was not the first time that [Minor's] mom,
16 Jacqueline called the police for help. They would come to
17 help calm [Minor] down. They would come to look for her. So
18 they did. That's what they did this evening. The police
19 came and they helped Jacqueline look for her daughter. So
20 they were looking for about half an hour. And after half an
21 hour, Jacqueline found her daughter. Understandably, she
22 wanted to know what was going on. She demanded answers. She
23 called the police back.

24 Now, [Minor] initially doesn't disclose any kind of
25 assault at this point. The police leave. And then [Minor's]

1 mom is still wanting answers, and Minor reveals that she
2 had been assaulted.

3 So the police come back, Minor points out a house on
4 . The police go to the house. And you'll hear
5 that there were numerous men there. And one of those men was
6 Emeric Hamilton. Now, Emeric Hamilton is the only one they
7 even really noted his name. The others, they didn't even
8 bother to write down their names or anything like that. But
9 what the police did note is that no one in that house,
10 including Emeric, had matched the description given by
11 Minor of the person who had assaulted her.

12 So Minor was talked to by numerous officers that
13 evening and EMS came; she talked to EMS. And she also went
14 to a nurse, a specialist nurse who did the same examination
15 that the solicitor mentioned, the sexual assault examination.
16 And that nurse didn't note any kind of injuries to Minor's
17 body, including her and a genital area. And the nurse, one
18 thing she specialized in is trying to collect possible DNA.
19 And she does that, especially in cases where an assault may
20 be occurred recently, but also in cases where it's noted that
21 a condom was not used. Minor very clearly told multiple
22 people that the man had not used a condom.

23 The -- this kit that the nurse did, now that was sent
24 off to SLED. The SLED is what the solicitor mentioned. They
25 do the testing ultimately. But after that, nothing was done

1 for a good while and nothing was followed up on. And
2 eventually a new detective came into the -- came onto the
3 case, Detective Pryor. She wasn't involved initially, but
4 she became a case agent later in 2019. Now, she, as a case
5 agent, part of her job was to review all of the evidence, the
6 reports and things like that.

7 Now, she went back to the night of -- the night of that
8 everything was reported. And she noted that the other police
9 officers that they had listed Emeric Hamilton. Again, he was
10 basically, even though there were numerous other men present,
11 he was the one that they wrote. And so he obviously was a
12 suspect. And after that, then that's when the DNA was sent
13 off. But nothing else was looked into. No one else from
14 that house was talked to or anything like that. And
15 ultimately they do arrest Emeric Hamilton.

16 Now, it's not going to be easy to hear much of the
17 testimony in this case. Many of your fellow jurors that were
18 initially here yesterday, they asked -- they had to be
19 excused because they did not believe they could be fair and
20 impartial just because of the nature of the case, not
21 actually there -- any details. It's never easy to hear a
22 case like this one that involves sexual assault in general,
23 but also one that involves a child. Those aren't easy things
24 to listen to.

25 But the State ultimately is going to have to prove to

1 you, all of you, beyond a reasonable doubt that Emeric
2 Hamilton is guilty. Now, beyond a reasonable doubt is an
3 extraordinarily high burden. In this case, what you will
4 ultimately hear is that while there is some for forensic DNA
5 evidence, that ultimately the evidence does not corroborate
6 what was reported on that evening.

7 And then when you have that combined with the serious
8 credibility issues of [Minor], and in fact that she did not
9 want to get in trouble. Now, one thing, the night that she
10 was found by her mom back in April,

11 When she did it -- before she had revealed an assault,
12 she had told her mom she was -- she didn't want to go to
13 jail. Her mom was very upset. Again, things in the house
14 had been really bad. [Minor] had been hospitalized numerous
15 times for her issues. There was talk of foster care and
16 [Minor] had expressed before revealing the assault that she
17 didn't want to go to jail.

18 So when you have this fear and you have the credibility
19 issues, and you have the inconsistency of the forensic
20 evidence that you'll hear about in this trial, we ultimately
21 have reasonable doubt. So we would ask you to consider all
22 of that. And at the end of this trial find Emeric Hamilton
23 not guilty.

24 THE COURT: All right. Thank you so much. The State
25 may call its first witness.

1 MS. FRIERSON: Thank you, Your Honor. The state calls
2 Minor .

3 THE CLERK: Please raise your right hand and place the
4 left hand on the Bible.

5 Minor ,
6 being first duly sworn testifies as follows:

7 THE CLERK: Please be seated. Please state your full
8 name, spelling your last name directly in the microphone.

9 THE WITNESS: My name is Minor . My name?
10 How you -- how you spell my name? Minor
11 .

12 MS. FRIERSON: Thank you, Your Honor.
13 May I please the Court?

14 THE COURT: Yes, ma'am.

15 DIRECT EXAMINATION

16 BY MS. FRIERSON:

17 Q. Good morning, Minor .

18 A. Good morning, Ms. Lauren.

19 Q. Please do me a favor and make sure to talk right
20 into that clearly, because they need to hear what you have to
21 say. Okay? And the court reporter needs to be able to
22 understand and take it down.

23 A. Okay.

24 Q. Mr. Harris started off with this, but could you
25 tell us again how old you are?

1 A. I'm 17 years old.

2 Q. And just generally where you live, you don't need
3 the specific address?

4 A. I live in North Charleston.

5 Q. And who do you live with?

6 A. I live with my mom, my brother.

7 Q. You have any other family in the area?

8 A. My granny.

9 Q. And just generally, where does she live?

10 A. My granny lives on (inaudible).

11 Q. Are you currently in school?

12 A. Not right now.

13 Q. How far did you go in school? What grade?

14 A. 10th grade.

15 Q. And where were you in 10th grade?

16 A. I was at -- I was in school home.

17 Q. What was the name of the school?

18 A. Daniel Jenkins Academy.

19 Q. Had you gone to several different schools over the
20 years?

21 A. Yes.

22 Q. Have you been in special classes to help with your
23 learning disability?

24 A. Yes, ma'am.

25 Q. And you know, we're here in this -- this courtroom

1 as a formal setting. I want to make sure I -- I ask you if
2 you know the difference between a truth and a lie.

3 A. Yes.

4 Q. It -- is it good or bad ---

5 MS. FORD: Objection.

6 THE COURT: Sustained. I think, establish what we need
7 to already.

8 MS. FRIERSON: Okay.

9 THE COURT: Okay.

10 MS. FRIERSON: Thank you, Your Honor.

11 BY MS. FRIERSON:

12 Q. So let's talk a little bit about why you're here
13 in this courtroom today. Do you know why?

14 A. Yes.

15 Q. Back in 2018, how old would you have been?

16 A. I was 11 years old.

17 Q. Did something sexual happen to you back in 2018?

18 A. Yes.

19 Q. Can you tell the jury a little bit about what was
20 going on before we get into what was sexual that happened?

21 A. How you mean?

22 Q. So before the sexual act happened, what were you
23 doing?

24 A. I got mad at my mom and I run away from her.

25 Q. And did you get mad at your mom a lot?

1 A. Yes.

2 Q. Did she have rules that you didn't like?

3 A. Yes.

4 Q. And so when you would get mad, where would you go?

5 A. I would just run away.

6 Q. Did you ever go to your granny's house?

7 A. Sometimes.

8 Q. And when you were walking around that night, did
9 anyone call out or come talk to you?

10 A. Yes. A man.

11 Q. I'm sorry, what was that?

12 A. Yes, a man.

13 Q. Do you see that man in the courtroom today?

14 A. Yes, ma'am.

15 Q. Could you please point him out, Minor .

16 MS. FRIERSON: Your Honor, please let the record
17 reflect that the victim pointed out the Defendant in the
18 courtroom.

19 THE COURT: Okay. Can she tell me I'm -- wearing,
20 who's sitting by? Just to make it look clear.

21 BY MS. FRIERSON:

22 Q. Could you tell us what he's wearing, Your Honor --
23 or Minor ?

24 A. He's wearing a black suit and a white collared
25 shirt.

1 MS. FRIERSON: Thank you.

2 THE COURT: Thank you. The record will so reflect.

3 BY MS. FRIERSON:

4 Q. Was -- was the Defendant by himself?

5 A. And he was by himself in the house. By outside,
6 he was with other people.

7 Q. There was some other people hanging around?

8 A. There was two guys outside.

9 Q. Did you know him?

10 A. No, I don't know this man. A canopy.

11 Q. So was he a stranger to you?

12 A. Yes.

13 MS. FRIERSON: Court's indulgence, Your Honor.

14 THE COURT: Uh-uh.

15 MS. FRIERSON: Your Honor, may I approach this witness?

16 BY MS. FRIERSON:

17 Q. Minor, I'd like to show you what's been
18 pre-marked as State's Exhibit number 3. Can you take a look
19 at that and tell me if you know what that is?

20 A. Just the front of the victim -- I mean, the person
21 house.

22 Q. The Defendant's house?

23 A. The Defendant house, yeah.

24 Q. Okay. And is that what it looked like back in
25 April of 2018?

1 A. Yes, ma'am.

2 MS. FRIERSON: Thank you, Your Honor. Permission to
3 publish this to the jury? State's Exhibit number 3.

4 THE COURT: Any objection to State's 3?

5 MS. FORD: No, Your Honor.

6 THE COURT: Okay. Without objection it will be
7 published and admitted.

8 (State's Exhibit number 3 was admitted into evidence.)

9 BY MS. FRIERSON:

10 Q. Minor [REDACTED], there's a screen in front of you ---

11 A. Yes.

12 Q. --- and I'm going to ask a couple questions. You
13 can draw on that or point to things to explain, okay?

14 A. Yes, ma'am.

15 Q. Now you -- were you walking on the road in front
16 of this house?

17 A. Yes, ma'am.

18 Q. Do you know by chance what name -- what the name
19 of the street is?

20 A. I think [REDACTED].

21 Q. And after he came up to you, what -- do you recall
22 what he said to you?

23 A. All -- all I remember is, I was walking and I
24 smelled, honestly, a man just coming up to me, and smelled
25 alcohol. I don't remember what he was saying, but that's how

1 it is.

2 Q. Were you a little confused?

3 A. I was confused at first.

4 Q. Were you scared at first?

5 A. Yes.

6 Q. Were you a little overwhelmed?

7 A. Yes, ma'am.

8 MS. FORD: Objection. Leading.

9 THE COURT: Sustained.

10 BY MS. FRIERSON:

11 Q. Okay. Where -- what happened next after he
12 started talking to you?

13 A. When he started talking to me, me and him just
14 start walking in the house and all I know, I see everything
15 dark and nothing but a bunch of beer cans and that was just
16 very junkie.

17 Q. Now, if he was a stranger, can you tell the jury
18 why you walked with him?

19 A. I didn't know. I was a kid. I was 11.

20 Q. And when you got inside the house, do you recall
21 anybody else being inside?

22 A. No, ma'am. I didn't see nobody.

23 Q. Where in the house did you go?

24 A. It's his room right here.

25 Q. And what happened in that room, [Minor]?

1 A. Everything was so black. So, all I know I just
2 feel something just start taking off my clothes. Like the
3 room was so pinched black, I couldn't see. And all I
4 remember I left my panties there.

5 Q. And you said taking off your clothes. Was anyone
6 else in the room besides you and the Defendant?

7 A. No, I -- only me and him been in there.

8 Q. And after he took off your clothes, **Minor**, what
9 happened?

10 A. We had sex.

11 Q. And when you say -- I know this may seem like a
12 silly question to a 17-year-old -- but we aren't allowed to
13 guess, when you say he had sex, what do you mean by that?

14 A. His private part inside mine.

15 Q. His private part inside yours?

16 A. Yes, ma'am.

17 A. And he suck on my boobs.

18 Q. I'm sorry, I ---

19 A. Suck on my boobs, like my breast.

20 Q. And did you tell him to stop?

21 A. Yes.

22 Q. Did he stop when you asked?

23 A. That's when the man knocked -- when he went, after
24 his friend, that's when one of the homeboys, whatever, who
25 was knock on -- they was banging on the window at first and

1 he wasn't paying no attention because he was so drunk.

2 That's when the other man came in the house and like, get
3 that young girl out this house. And that's when he stopped.

4 Q. You want to walk through that? You said something
5 about banging on a window?

6 A. Yeah. So this dump -- so this -- this was a table
7 -- this was the table right here. I'm going to circle it.
8 All -- they was sitting -- they was standing right there.
9 And that's when he walked from right here and came to me.
10 From right here, that's the gate. And I was walking down the
11 street and that's when he came, and that's when we end up
12 going in this area right here. And that's when they was in
13 -- they was -- they -- him and his homeboys was sitting
14 outside for a little while, and that's when they stopped
15 bamming on the window. And that's when he wasn't listening,
16 and that's when his homeboy came in the house and started
17 banging the door. And that's when he opened the door and
18 like, all right man.

19 Q. Is that what made him stop, **Minor**?

20 A. Yes, ma'am, because his homeboy.

21 Q. After he stopped, did you put your clothes back
22 on?

23 A. Yes, ma'am. I left my -- I put my clothes back
24 on. I left my panties.

25 Q. How come?

1 A. Because I was scared.

2 Q. And then what happened?

3 A. And that's when I saw my mama. And that's when
4 the man told -- told me to tell my mama. He told my mama,
5 your daughter got something to tell you. And I was scared.
6 And then I ended up telling my mama.

7 Q. So did you immediately tell your mom anything?

8 A. I immediately, but I was scared at first. Come
9 like, tell me, tell me, tell me now, tell me now. And I was
10 shocked because I was young. I was 11. Then I ended up
11 telling my mom what happened. And that's when my mom went to
12 -- my mom called the -- the police down. And then my mom
13 went to the -- this man house and he saw my mama and I was in
14 the car when my mama told him, did you touch my daughter?
15 And he told my mama, no. And that's when my mom called the
16 police and that's when he ran back in the house and started
17 looking out windows because he was scared.

18 Q. I kind of want to go through a little bit of that
19 thing, **Minor**, for sharing it. So if I understand
20 correctly, you did tell your mom that night?

21 A. Yeah, I told my mom that night.

22 Q. And did you point out this house to her?

23 A. Yes ,ma'am.

24 Q. And did you see her go up and knock on the door?

25 A. Yeah, she knocked -- she knocked on the door at

1 first, but nobody answered. That's when he came back
2 outside. And that's when my mama car was parked right there,
3 where that truck parked at my mama. My mama car was parked
4 right here. And that's when my momma asked, did you touch my
5 daughter? And he told my mama, no, I don't even know who
6 your daughter is. And that's when my mama said I'm about to
7 call the police, and that's when he run back in the house.
8 And all I know he was looking out the window.

9 Q. And did your mom ultimately call the police?

10 A. Yes, ma'am.

11 Q. When the police got there did you talk to every
12 single one of them?

13 A. Yes, ma'am.

14 Q. To tell them your name or did you have to tell
15 each one of them what -- what happened?

16 A. I told them my name and what happened.

17 Q. And do you -- did you go to MUSC?

18 A. Yes, ma'am, I did. I went to MUSC after that.
19 They did a red kit on me.

20 Q. After that night, do you remember going to Dee
21 Norton to meet with Mattie Dodds?

22 A. You mean that morning?

23 Q. After MUSC, after all this had happened, not like
24 right after you left MUSC.

25 A. Oh, yes, ma'am. I did.

1 Q. But was it shortly after this incident?

2 A. After this accident, like a couple weeks later,
3 that's when my mama called -- Ms. Dodds called my mom and
4 said, I need you tonight to come in and talk to Dee Norton.

5 Q. Okay. And do you recall telling Ms. Dodds more or
6 less what she told us here today about what happened?

7 A. Yes, ma'am.

8 Q. Was -- was that the first time that you were
9 formally interviewed in this case?

10 A. Can you say that again?

11 Q. Was -- was your interview at Dee Norton the first
12 time that you had like a formal interview that was recorded?

13 A. Yes, ma'am.

14 Q. Do you think your memory of what happened was
15 better then or is better now?

16 A. It was better now.

17 Q. And do you -- did you tell Ms. Dodds anything the
18 Defendant said to you?

19 A. Yeah, he told me he just got out of jail.

20 Q. And you said (inaudible) a stranger?

21 A. He was a stranger ---

22 MS. FORD: Objection, Your Honor, based on the prior.

23 THE COURT: All right. Overruled. Go ahead.

24 BY MS. FRIERSON:

25 Q. He was a stranger to you?

1 A. Yes, ma'am.

2 Q. Would you have had any other way to know that
3 information?

4 A. No, ma'am.

5 Q. Do you want to be here today, Minor ?

6 A. Not really. It was too early in the morning for
7 us.

8 Q. Did you want to be raped in 2018?

9 A. No. I don't want to see nobody ---

10 MS. FORD: Objection.

11 THE COURT: Sustained.

12 THE WITNESS: I don't want to see nobody kids raped.
13 That's what I am feeling.

14 MS. FRIERSON: Court's indulgence, Your Honor?

15 THE COURT: Uh-uh.

16 MS. FRIERSON: Minor , I don't have any further
17 questions at this time. Please answer any that Ms. Ford may
18 have, okay?

19 THE WITNESS: Okay. Thank you.

20 CROSS-EXAMINATION

21 BY MS. FORD:

22 Q. (Inaudible), Minor .

23 A. How you doing? Good morning.

24 Q. So Minor , you are not supposed to be out walking
25 around that evening, correct?

1 A. Yes, ma'am.

2 Q. And you left your mom because you were mad?

3 A. Yes, ma'am.

4 Q. And you had actually left the house or snuck out
5 of the house many times before that evening as well?

6 A. Yes, ma'am.

7 Q. And obviously you were never supposed to leave
8 without your mom or an adult's permission, correct?

9 A. Yes, ma'am.

10 Q. And you would get in trouble for sneaking out?

11 A. Yes, ma'am.

12 Q. Sometimes the police were called?

13 A. Yes, ma'am.

14 Q. You and your mom would fight about it?

15 A. Yes, ma'am.

16 Q. And other adults in your life, they would talk to
17 you about it as well, right? Like your grandma?

18 A. Yes, ma'am.

19 Q. Your uncle?

20 A. Yes, ma'am.

21 Q. Your school counselor?

22 A. Yes, ma'am.

23 Q. And they told you about, you know, all of the bad
24 things that could happen from you sneaking out, correct?

25 A. Yes.

1 Q. Your mom also would have to call the police for
2 other things as well, right?

3 A. Yes.

4 Q. Because -- it's fair to say you had a lot of
5 behavior issues?

6 A. Yes.

7 Q. And you would get aggressive and things like that?

8 A. Yes, because I got anger issues.

9 Q. And so because of that a few times over the years
10 you have been hospitalized?

11 A. Yes, ma'am.

12 Q. And back in 2018, I know this was a long time ago,
13 but all of this was happening before this incident, correct?

14 A. Yes, ma'am.

15 Q. It was happening since about 2015 or so?

16 A. Yes, ma'am.

17 Q. Just at this time you told us you were 11?

18 A. Yes.

19 Q. What's your birthday?

20 A. My birthday. [REDACTED].

21 Q. Okay. So you were about to turn 12 then the next
22 month after this incident?

23 A. Yes.

24 Q. Now, one of the times I want to go back that you
25 were in the hospital. You did tell a doctor that sometimes

1 you would hear voices?

2 A. Yes.

3 Q. And the voices would tell you the bad things to
4 do?

5 A. Yes.

6 Q. Now, your mom, she actually (inaudible) the
7 discussion of maybe you having to go to a group home?

8 A. Yes.

9 Q. And you knew that was a possibility, correct?

10 A. Yeah.

11 Q. And you also knew since you were getting older
12 that you know there might be more consequences for you
13 (inaudible), correct?

14 A. Yes, ma'am.

15 Q. Ultimately, after -- after this incident, later
16 that year, you actually did have to go into a home?

17 A. Talk about -- like what -- what year?

18 Q. This is 2018.

19 A. Yeah, I did went to -- yes, ma'am, I did went to
20 the group home. I went to -- I think -- I don't ---

21 Q. That's because your mom couldn't control you,
22 correct?

23 A. Yes, ma'am.

24 Q. Now, when you -- this evening, you left your mom,
25 correct?

1 A. Yes, ma'am.

2 Q. And you were gone for about half an hour?

3 A. Yes, ma'am.

4 Q. So your mom is the person who found you, right?

5 A. Yes, ma'am, because she was riding down and she
6 saw me, and that's when the man told my mama, your daughter
7 has something to tell you. And my mama told me to tell her
8 and I didn't want to tell her at first and then I end up
9 telling her.

10 Q. Okay. But at first you denied or you didn't say
11 anything else?

12 A. Because I was scared. I don't know how my mama
13 reaction would act towards me.

14 Q. Okay. But you did tell your mom that you were
15 worried that you would go to jail, right?

16 A. Yeah.

17 Q. So initially she called the police then, right?

18 A. Yes, ma'am. No, she saw the police and then she
19 flagged them down.

20 Q. Okay. But they came to you before she flagged
21 them down?

22 A. Yeah -- no.

23 Q. So at first you talked to an officer?

24 A. Yes, ma'am.

25 Q. And he asked if anything had happened and you --

1 correct?

2 A. Yes.

3 Q. And you told -- you didn't tell him that you had
4 been assaulted, correct?

5 A. I did tell the officer that.

6 Q. I'm talking about initially.

7 A. Initially ---

8 Q. Before your mom (inaudible) in the van.

9 A. Oh no, I didn't tell him nothing because I was
10 scared.

11 Q. Okay. So after the officer left, your mom kept
12 questioning you?

13 A. Yeah. And then I end up telling her and that's
14 when my mom called the police. And my mom went to the -- the
15 man house and asked the man, did you touch my daughter? And
16 he told my mom he don't know me and he didn't touch my
17 daughter. So my mom like actually threatened to call the
18 police. So my mom called the police.

19 Q. Okay.

20 A. And that's when he ran back in the house and
21 looked all through the windows and stuff, because he was
22 annoyed.

23 Q. So your mom, though, she kept telling you or
24 asking you -- just testified a few minutes back Ms. Frierson
25 -- tell me, tell me, tell me, tell me, tell me, right?

1 A. Yeah.

2 Q. So your mom was demanding to know an answer?

3 A. Yes, ma'am. Yes, ma'am.

4 Q. So you -- when you told your mom what happened,
5 you told her you were raped?

6 A. Yes, ma'am.

7 Q. And that's the word you used, correct?

8 A. Yes, ma'am.

9 Q. So you were aware of what being raped was,
10 correct?

11 A. Not really, but yeah.

12 Q. You used that word?

13 A. Yeah.

14 Q. And in school you learned it all, things like
15 that?

16 A. Yes, ma'am.

17 Q. So the police and other people, they had questions
18 about what happened, right?

19 A. Yes, ma'am.

20 Q. And one thing they wanted to know was what the man
21 looked like.

22 A. I told them, all I remember is he was black. He
23 had on a white T-shirt. And I don't remember the, like what
24 man -- the pants, color pants he had on. All I know he had
25 on all-white T-shirt and a bald head.

1 Q. Okay. So yeah, you told the police that he was
2 bald?

3 A. Uh-uh.

4 Q. And you told them that he was in his thirties?

5 A. Yes, ma'am.

6 Q. So then you told EMS that the man was wearing a
7 white T-shirt and black jeans. Does that sound familiar?

8 A. Yeah.

9 Q. Now, today you're saying that the man kind of just
10 walked up to you?

11 A. Yeah.

12 Q. And then the two of you walked to his house?

13 A. Yes, ma'am.

14 Q. So he didn't grab you or anything like that?

15 A. No, ma'am. I was afraid, I just said it. Because
16 I was afraid I was 11, so.

17 Q. Okay. So I guess jumping ahead a little bit, but
18 you admit that initially when you told police that you told
19 them that this man just grabbed you and dragged you into his
20 home?

21 A. Yes. Yes, ma'am.

22 Q. Okay. So you admit that you had told a lie to
23 police, correct?

24 A. Yes, ma'am.

25 Q. And at one point you even told the officer before

1 you said there was an assault that -- that he approached you
2 in a car. So before the -- before your mom flagged down the
3 officer.

4 A. The man -- this -- it was his homeboy. He was
5 driving like a -- it was like a yellow cab -- cab taxi thing.
6 And that's when he, like, basically he -- when I was walking,
7 I feel like he was following me. I can't remember all of it,
8 but I think he was following me and that's when my mom saw
9 me, and that's when he stopped his car and told my mom
10 straight up, your daughter got something to tell you. And my
11 mom was been looking at the man, seen my mom in all -- the
12 man, just see your daughter got something to tell. That's
13 when he ride off. And then my mom -- I got in my mom car.
14 And that's when I -- my mama said, tell me, tell me, tell me.
15 And I didn't want to tell her because I was scared. I feel I
16 was going to go to jail. Mama said, you're not going to go
17 to jail, just tell me. So I end up telling my mom.

18 Q. Okay. Well, I -- I appreciate that. But what I
19 -- what I was trying to ask, though, is that you told us you
20 -- you gave a different story to police about saying the man
21 grabbed you, correct?

22 A. Yes, ma'am.

23 Q. But you also at one point told them that the man
24 approached you in a car?

25 A. I can't remember what I said. I was 11.

1 Q. Okay. Now, the man, when this man had sex with
2 you, he did not have a condom, correct?

3 A. Yes, he did not have a condom on.

4 Q. Okay. And you told people that at the time?

5 A. Yes, ma'am. I told the officer and the people I
6 am arrested.

7 Q. Okay.

8 A. And my mom.

9 Q. And they asked you -- they basically asked you if
10 it hurt, correct?

11 A. I can't remember.

12 Q. You told them it hurt?

13 A. I think I did.

14 Q. And you actually -- again, I know you've spoken to
15 a lot of people then you said to Ms. Frierson a few times
16 about these incident, right?

17 A. You talking about Ms. Lauren?

18 Q. Yes. Ms. Frierson.

19 A. Oh, yes, ma'am, I did.

20 Q. And you had actually told her that it hurt so much
21 you blacked out at one point?

22 A. When he had put it in if -- I don't remember.

23 Q. Okay. Did you -- you don't remember if he blacked
24 out or you don't remember telling Ms. Frierson?

25 A. I don't remember telling -- I think I remember,

1 but I don't remember because it's so much stuff in my head
2 right now.

3 Q. Okay. But in 2021 -- well, you told us earlier
4 that you think your memory gets better.

5 A. It -- it is getting better, but I don't remember
6 what I said to Ms. Frierson. It was so long when I was
7 talking to Ms. Frierson.

8 Q. Okay. Did you admit you could have told her that
9 you blacked out sometime during the rape because it hurt?

10 A. I think I did.

11 Q. In 2021?

12 A. I think I did.

13 Q. You never -- when the police first talked to you
14 that evening, though, you never said that, correct?

15 A. I don't remember.

16 Q. You never told that to the nurse that saw you at
17 MUSC?

18 A. I think I did.

19 Q. So you think you did tell the nurse?

20 A. This is like -- you don't understand. This stuff
21 happened a long time ago. So like, I'm 17. This stuff
22 happened when I was 11. People can't remember half of these
23 stuff.

24 Q. Okay. So you think perhaps memory gets worse?

25 A. Yes. Like I got a lot of stuff on my mind that --

1 that -- kid's been off my head. I don't think about stuff
2 like that no more.

3 Q. Okay. Now, I -- I want to go over a little what
4 you told Ms. Frierson about what happened, okay?

5 A. Okay.

6 Q. So you testified today, in trial, that the reason
7 it stopped is because the homeboy was knocking on the banging
8 on the door?

9 A. The reason why he stopped, because his homeboy bam
10 on the window. At first he wasn't listening, and then that's
11 when the homeboy came in the house and knock on the door,
12 like bam on the door two, three times. And then he got out
13 and he -- and I -- I forgot he was talking to him, but I
14 forgot what he was saying because I couldn't ---

15 Q. Okay. What -- did he leave at that point? Is
16 that what you're saying?

17 A. Yeah, I left -- I left -- I put back all my
18 clothes and I left. And I left my pink panties over there,
19 my drawers.

20 Q. So that was after he was talking to his homeboy?

21 A. Yeah.

22 Q. Well, when you talked to police, okay, let's get
23 when you talked -- you remember talking to police when you
24 were in the EMS, the ambulance?

25 A. Yes, ma'am.

1 Q. Okay. You told them that he actually raped you
2 two times that evening?

3 A. I never said that. I said one time.

4 Q. Okay. So you're denying you told EMS ---

5 A. I told EMS I only got raped one time. I never
6 said two times; I said one. Never said, I only see this man
7 one time.

8 Q. You also told them that the man fell asleep and
9 that's when you snuck out, correct?

10 A. Yes. That was a lie.

11 Q. Okay. So you -- you lied to police about that as
12 well. And then you told Ms. Dodds -- we -- we heard briefly
13 about how you went to the Dee Norton Lowcountry Children's
14 Center?

15 A. Yes, ma'am.

16 Q. You spoke to a Ms. Dodds?

17 A. Yes, ma'am.

18 Q. You told her that after it was done he asked you
19 to stay and offered -- or that he actually offered to get you
20 a cab?

21 A. I never said that.

22 Q. You never said that?

23 A. No.

24 Q. Now, today, just a little while ago, Ms. Frierson
25 asked you if the man told you anything. And you told us that

1 he mentioned he had been in jail recently?

2 A. Yeah, that's what he said.

3 Q. Okay. So you're saying today you remember that?

4 A. Because when you was saying that at first to me, I
5 didn't understand what you was saying. So now that's what he
6 said.

7 Q. Okay. Well, just because you previously testified
8 that you didn't remember him saying that. You have no memory
9 of that, correct?

10 A. That he told me. I was trying to tell you the
11 whole story. I didn't know the whole -- like all I know I
12 was walking, and when I was walk -- when I left my mom, I
13 walked on the wheeling. I was going to my second granny
14 house on my -- on my daddy's side. I walk on that street
15 right there to cut to get to my granny house. And that's
16 when he saw me. I saw two men -- I saw three men in the
17 yard, him and one with the -- he had one, like, he had dreads
18 and he would look at a little paint shop thing and the other
19 one had on all black shirt with a yellow cab. And that's
20 when the man approached me. I don't remember what he was
21 saying.

22 That's when me and him started walking in the house.
23 Because I was scared, I didn't know what to do. And that's
24 when all I know I walked in the house. All I remember is a
25 bunch of beer cans everywhere in the living room and like a

1 little sheet hanging down on the little by the -- on the
2 hallway thing, like a little sheet. And the room was on this
3 side. When you come in the house, you go straight ahead the
4 hallway and turn his room right there.

5 And when he opened the door -- all I know, all I know
6 it was -- everything was black. I didn't see -- I can't see.
7 It was so pinched black. All I know, I just feel -- while he
8 tell me, all I know is, there was a bed right there. It was
9 like a -- then that's when me end up having sex and that's
10 when this homeboy stopped bamming on the window and be like,
11 get that young girl out your house, man. Get that young girl
12 out of this house. And he ain't listening at first. So the
13 homeboy came in the house and bam on the window and say, get
14 that young girl out your house right now. And that's when he
15 got out and that's when I put my clothes back on, walk
16 straight out the house.

17 Q. Okay. Well, I -- I appreciate that, but that's
18 not the question I was asking, **Minor**, okay? So what I was
19 asking is that, just yesterday, that you just gave a little
20 testimony yesterday, correct?

21 A. Yes, ma'am.

22 Q. And I specifically asked -- or -- or you
23 specifically went over -- you said you had no recollection of
24 him saying that he had just gotten out of jail?

25 A. I did, but I didn't understand what you were

1 saying.

2 Q. Okay. But you agree yesterday you gave an answer
3 that would make people believe that you didn't remember that.
4 Does that sound fair?

5 A. Yeah.

6 Q. Okay. So that was yesterday, but now you know
7 what you're supposed to say, correct?

8 A. Yes, ma'am.

9 Q. So you knew you were supposed to say that?

10 A. Yeah.

11 Q. Briefly, I want to ask you about the house. You
12 told us about a bedroom. You saw other areas of the house as
13 well?

14 A. Yes, ma'am.

15 Q. And you also noted a bathroom?

16 A. Yes, ma'am.

17 Q. And that was, you know, this is a pretty small
18 house, right?

19 A. Yes, ma'am.

20 Q. But you identified the bathroom when you were in
21 the house?

22 A. I identified everything.

23 Q. Okay. **Minor**, in addition to having issues with
24 your behavior, you also had some other issues with stealing,
25 for example?

1 A. You say stealing?

2 Q. Yes.

3 A. How do you mean stealing?

4 Q. Like stealing a teacher's phone.

5 A. I never stole a teacher phone and I told them
6 that. That's why they kicked me out that school, when I told
7 them I never stole a teacher phone.

8 Q. Okay. They had video though?

9 A. They didn't have no video. All I know I was
10 coming. When I came in that school, we went to my second
11 period, we went to Spanish class and I -- and I ain't steal
12 her phone. The whole time her phone was in the bathroom the
13 whole time. I did not touch her phone. I was telling that
14 lady and I keep telling that lady and she made me mad, so I
15 ended punching her.

16 Q. Well, you -- you told us today that you do admit
17 that you did tell some lies to police the night that they
18 were called out, correct?

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

20 Q. But you've also lied to police about other things
21 in the past?

22 A. See, you tell me the other things I lied about.

23 Q. So do you recall yesterday?

24 A. What you say?

25 Q. So police have been called out numerous times for

1 a lot of different stuff.

2 A. Police been called off of all my behaviors, what I
3 do.

4 Q. Right. But you've also lied to them about what
5 other people have done or not, correct?

6 A. Not really. Sometimes I tell the truth.

7 Q. Sometimes you tell the truth?

8 A. Yeah.

9 Q. But sometimes you lie?

10 A. Yes, ma'am. Because I don't want to get in
11 trouble for it.

12 MS. FORD: Okay. Beg the Court's indulgence?

13 THE COURT: Uh-uh.

14 MS. FORD: I have no further questions, Your Honor.

15 THE COURT: Okay. Any redirect from the State?

16 MS. FRIERSON: Just one question, Your Honor.

17 RE-DIRECT EXAMINATION

18 BY MS. FRIERSON:

19 Q. Did you lie about being raped by this defendant?

20 A. No, ma'am. I know what happened. I know I'm not
21 lying. I know what happened. I know this man touching me.
22 Why I have to lie?

23 MS. FRIERSON: Thank you.

24 THE COURT: All right. Anything else?

25 MS. FORD: No, Your Honor.

1 THE COURT: Okay. All right.

2 THE WITNESS: I just want to ask a question. I just
3 want to say something. Why would I lie on all ---

4 THE COURT: Wait a minute, I -- I -- I'm -- I'm sure
5 are lots of things you want say, but you just have to do it
6 question and answer. But we're finish now so you can have a
7 seat back ---

8 THE WITNESS: Thank you.

9 THE COURT: All right. State get your next witness
10 ready. Do you need a break at all? Anybody need a break at
11 this time? Good to go. Okay. Anybody in the jury need a
12 break before we call the next witness? Okay. We can go
13 ahead and bring them in then.

14 MR. HARRIS: State calls Deputy Patrick Norwood.

15 THE COURT: Okay.

16 THE COURT: And ladies and gentlemen, if at any time
17 anybody needs a break and if we have -- happen to take one
18 we'll probably take one like after this witness, but just
19 feel free to raise a hand. We'll stop what we're doing.
20 It's no big deal. Okay?

21 DEPUTY PATRICK NORWOOD,
22 being first duly sworn testifies as follows:

23 THE CLERK: Please be seated.

24 Please state your full name, spelling your last name
25 directly in the microphone.

1 THE WITNESS: Patrick. Middle name is
2 William-Lawrence. Last name Norwood, N-O-R-W-O-O-D.

3 DIRECT EXAMINATION

4 BY MR. HARRIS:

5 Q. Good morning, Deputy, how are you doing?

6 A. Good morning, sir. How are you? I'm doing well.

7 Q. Where are you currently employed?

8 A. Currently at Berkeley County Sheriff's Office.

9 Q. And what are your duties and responsibilities with
10 Berkeley County?

11 A. Right now I currently work in court security, so
12 we just monitor the courts.

13 Q. And how long have you been with Berkeley County?

14 A. I'll be coming up on three years this December.

15 Q. Where were you employed before?

16 A. North Charleston Police Department

17 Q. In April, 2018 were you with North Charleston
18 Police Department?

19 A. I was, yes, sir.

20 Q. And what was your role with North Charleston in
21 April, 2018?

22 A. I worked on patrol. Was on a patrol team, so I
23 handled emergency calls for service and just patrol different
24 neighborhoods and -- those are our main function.

25 Q. And how long were you with North Charleston?

1 A. Since 2008.

2 Q. Were you involved in this case, the State vs.
3 Emeric Hamilton?

4 A. Yes, sir.

5 Q. How did you become involved in this case?

6 A. I first took the call due to the mother reporting
7 that her daughter was -- had run away from home.

8 MR. HARRIS: Your Honor, may I approach witness?

9 THE COURT: Sure.

10 BY MR. HARRIS:

11 Q. I'm showing you what has been marked as State
12 Exhibit 2 for identification purposes.

13 A. Okay.

14 Q. What is that?

15 A. This is -- it shows the location of Dorchester
16 Road, and then up to I-26 and also the -- the area where the
17 call was taken up.

18 Q. And is -- is it an accurate depiction of the area
19 you respond to in this case?

20 A. Yes, sir.

21 MR. HARRIS: Your Honor, the State offers Exhibit 2
22 into evidence.

23 THE COURT: All right. Any objection to State's 2?

24 MS. FORD: No, Your Honor.

25 THE COURT: All right. Without objection it will be

1 admitted. Yep. And you can publish it if you'd like.

2 BY MR. HARRIS:

3 Q. Deputy that's a touch screen right in front of you
4 so you can use that as needed.

5 A. Okay.

6 Q. Could you please point the jury to where you met
7 the victim and her mother in this case?

8 A. It would've been at Williams (inaudible), which is
9 -- it's right at the corner of the area, Dorchester and
10 Ranger, in that area.

11 Q. And who did you speak with at that location?

12 A. I've met with the mother first when I got
13 responded to the call, Ms. Harrison.

14 Q. And then at some point later, after you guys spoke
15 that first time, did you respond back at that location?

16 A. Yes.

17 Q. And what was this call to, in reference to?

18 A. The report of the sexual assault.

19 Q. At that time, did you meet with the victim?

20 A. Yes, sir.

21 Q. Did the victim talk to you about the sexual
22 assault?

23 A. She spoke with a -- a female officer that
24 responded with us to the scene.

25 Q. Did you write a report in this incident -- for

1 this incident?

2 A. Yes, sir.

3 Q. And was some of that information provided in your
4 report required from other officers?

5 A. Yes, sir.

6 Q. And was one of those officers, the person who
7 spoke with the victim in this case?

8 A. That's correct.

9 Q. And after you spoke with [Minor], or your other
10 officer spoke with [Minor] in this case, did she indicate
11 where this assault took place?

12 A. She did.

13 Q. Do you know the address of where she indicated the
14 assault took place?

15 A. It was [REDACTED].

16 Q. Is that in Charleston County?

17 A. Yes, sir.

18 MR. HARRIS: Your Honor, may I approach the witness?

19 THE COURT: Yeah.

20 BY MR. HARRIS:

21 Q. I'm showing what has been marked as State's
22 Exhibit 1 for identification purposes.

23 A. Okay.

24 Q. What is that?

25 A. That's the [REDACTED] there where the -- the

1 residence was at.

2 Q. Is that a fair and accurate depiction of the area
3 you responded to in this case?

4 A. That's right. It is.

5 MR. HARRIS: Your Honor, State moves State's Exhibit 2
6 into evidence.

7 THE COURT: Or 1? Was it 1?

8 MR. HARRIS: Oh, sorry, yes.

9 THE COURT: Okay. Any objection to 1?

10 MS. FORD: No, Your Honor.

11 THE COURT: All right. Without objection it will be
12 admitted.

13 (State's Exhibit number 1 was admitted into evidence.)

14 MR. HARRIS: May I approach?

15 THE COURT: Yes.

16 BY MR. HARRIS:

17 Q. You should be able to hit the corner of that
18 clear.

19 A. Okay.

20 Q. Previous marks.

21 THE COURT: If you hit that green arrow on the top
22 right.

23 THE WITNESS: Oh, okay.

24 THE COURT: And then should give you -- just hit that
25 clear button.

1 THE WITNESS: Clear.

2 THE COURT: There you go. All right.

3 THE WITNESS: Thank you.

4 BY MR. HARRIS:

5 Q. Can you please show the jury where this residence
6 is on that?

7 A. I can't tell you which just from -- not memory of
8 which -- which residence it was.

9 Q. You show which street ---

10 A. Yeah.

11 Q. --- went to.

12 A. I do know. So [REDACTED] here. Is the -- is the
13 street. Yes, sir.

14 Q. And you respond to this residence that she stated
15 the assault occurred at?

16 A. Yes, sir.

17 Q. Was anyone present at the residence?

18 A. There was a -- a gentleman there that the officer
19 described to me was -- identified himself as Emeric Hamilton,
20 the defendant.

21 Q. And did you have any further involvement in this
22 case?

23 A. I didn't, other than just gathering the facts from
24 the report that was -- was given to me about the incident.

25 MR. HARRIS: I beg the Court's indulgence?

1 THE COURT: Uh-uh.

2 BY MR. HARRIS:

3 Q. And you say this address was in Charleston County,
4 correct?

5 A. That's correct.

6 Q. And did you conduct a formal interview with
7 Minor ?

8 A. I didn't. The female, Officer Fortier, that
9 responded, spoke with her.

10 Q. Okay. And you've been a -- in law enforcement for
11 10 years? Over 10 years?

12 A. Yes, sir.

13 Q. In your personal experience as a police officer,
14 is it common or a female victim of a sexual assault to not
15 want to speak with a male officer?

16 A. It is. It happens. Sometimes we're -- they're
17 more comfortable speaking with a female officer.

18 MR. HARRIS: I have no further questions. Please
19 answer questions Defense has for you.

20 CROSS-EXAMINATION

21 BY MS. FORD:

22 Q. Deputy Norwood, you first became involved with
23 this case based on a runaway call?

24 A. Yes, ma'am.

25 Q. And so you met the mom initially without Minor ?

1 A. Correct.

2 Q. And that was to get information so that you could
3 go look for her?

4 A. That's correct.

5 Q. And this was at about 8:00 -- close to 8:30.

6 A. Yes.

7 Q. When you met with Minor ?

8 A. Yes, ma'am.

9 Q. And so you did go out and search for her, correct?

10 A. I did.

11 Q. And later, you did not know her, right?

12 A. I didn't. Her mother located her.

13 Q. So her mom ended up contacting you, correct?

14 A. She did.

15 Q. Her mom ended up finding her at about 9:00 p.m.?

16 A. That's correct.

17 Q. So there was about a half an hour window, correct?

18 A. That's correct.

19 Q. You initially did talk to Minor and you -- after
20 her mom failed for her, correct?

21 A. I did.

22 Q. And at that point, she did not reveal that she had
23 been assaulted?

24 A. She didn't.

25 Q. And then you were called back by the mom?

1 A. That's correct.

2 Q. Actually, she flagged you down, or ---

3 A. I don't know if she -- I can't remember if she
4 flagged me down or if she had called to have me respond back.
5 I'm not sure whether she notified dispatch or if she flagged
6 me back over there. I can't remember.

7 Q. I mean, you did go back to the incident location.

8 A. I did.

9 Q. And there were a lot of other officers that ended
10 up coming?

11 A. That's correct.

12 Q. And EMS came as well?

13 A. That's correct.

14 Q. So one thing police do in their work is they try
15 to gather descriptions of people, correct?

16 A. Correct.

17 Q. So they can identify a possible suspect?

18 A. Correct.

19 Q. So **Minor** was asked what the man looks like, and
20 she did indicate that the man was bald?

21 A. That's correct.

22 Q. And had a muscular build?

23 A. That's right.

24 Q. Had dark skin. Had a white shirt?

25 A. Yes.

1 Q. And khaki pants.

2 A. Yes.

3 Q. So you told us that she was able to point out a
4 house, correct?

5 A. Correct.

6 Q. So you went to that house to look into to see what
7 you could find, correct?

8 A. Yes.

9 Q. And you made contact, there were actually multiple
10 men inside?

11 A. I just remember being in the front that there was
12 -- I know there was one at the door. I can't remember who
13 that was. I just remember Officer Fortier saying they'd
14 identified himself as the Defendant. And I think in my
15 report there's another name that was mentioned.

16 Q. So when you observed Mr. Hamilton and other
17 possible people, no one matched the description that Minor
18 correct?

19 A. I don't remember that. I just remember the
20 information that was given to me at the time. And I don't --
21 I don't even remember seeing -- I remember what the
22 individual at the door had looked like. The information that
23 was provided to me that's how I got the description for the
24 -- the report.

25 Q. So do you have a copy of your report?

1 A. I do.

2 Q. In your report you specifically note, "There was
3 another male inside" -- "male at the residence with Hamilton,
4 but neither person matched the description of the suspect or
5 anyone that the victim or mother described."

6 A. Okay.

7 Q. Correct? Is that correct statement of what you
8 read in your report?

9 A. That's correct.

10 Q. And police at times, you can do things like get a
11 search warrant, correct?

12 A. That's correct.

13 Q. And because normally you can't just help yourself
14 in someone's home, correct?

15 A. Correct.

16 Q. Unless there's another reason you typically need a
17 search warrant?

18 A. That's -- that's correct.

19 Q. And police can get search warrants signed by
20 judges?

21 A. Correct.

22 Q. And it is common when you know where a crime scene
23 supposedly is, you might execute a search warrant to look for
24 any possible evidence, correct?

25 A. That's correct.

1 Q. To your knowledge, the search warrant was never
2 done for this case to look into the house?

3 A. There wasn't.

4 Q. You were also -- we talked a little about your
5 report. One reason police officers write reports is to help
6 them remember things later on, correct?

7 A. That's correct.

8 Q. Because sometimes a case may go to trial five and
9 a half years later, right?

10 A. Right.

11 Q. And another way that police help remember what
12 happened is by using -- wearing body camera, body-worn camera
13 footage or body-worn camera, correct?

14 A. That's correct.

15 Q. And that is something as an officer in North
16 Charleston, you were doing in 2018?

17 A. Yes.

18 Q. And in this case, you did have a body-worn camera
19 on?

20 A. I did.

21 Q. And did you submit that or did you -- do
22 everything you needed to do to make sure that was saved for
23 the case?

24 A. I did. I know I indicated that my body-worn
25 camera was activated and usually it -- we dock it to where it

1 loads and I remember doing that.

2 Q. Okay. But there, it -- it doesn't exist at this
3 point, correct?

4 A. That's what I was told.

5 Q. Okay. But still one reason body camera footage is
6 important, so that everybody can see exactly what people say,
7 correct?

8 A. That's right.

9 Q. Because when you write a report, you do your best
10 to document everything, but you're just human, correct?

11 A. Yes.

12 Q. So you may not have everything word -- word by
13 word, correct?

14 A. Correct.

15 Q. And a lot of times you may even do -- be doing the
16 report a little bit later, not as an event is happening?

17 A. Yes, that's correct.

18 Q. So, body-worn camera, that -- that can be a very
19 important tool for the court system, correct?

20 A. That's right.

21 MS. FORD: Beg the Court's indulgence?

22 THE COURT: Uh-uh.

23 MS. FORD: I have no further questions.

24 THE COURT: Okay. Any redirect to this witness?

25 MR. HARRIS: Yes, Your Honor.

1 RE-DIRECT EXAMINATION

2 BY MR. HARRIS:

3 Q. Okay. Deputy, in your report you refer to the
4 Defendant by a nickname. Do you remember that nickname?

5 A. I think it was, I put also known as Easy.

6 Q. And would that nickname have been provided to you?

7 A. Yes.

8 Q. And did you delete your body-worn camera in this
9 case?

10 A. No.

11 MR. HARRIS: Okay. Beg the Court's indulgence?

12 BY MR. HARRIS:

13 Q. Also, in your report, it indicates that Defendant
14 had a roommate, correct?

15 A. Yes.

16 Q. But that roommate was not at the house?

17 A. He was not.

18 MR. HARRIS: I have no other questions (inaudible)
19 witness.

20 THE COURT: Anything else?

21 MS. FORD: No, Your Honor.

22 THE COURT: Okay. All right. You can step down from
23 the witness stand. Thank you so much.

24 THE WITNESS: Thank you.

25 THE COURT: All right. Ladies and gentlemen, at this

1 time we'll take a morning break. We'll be at ease for about
2 10 minutes, and once again, please don't discuss the case.

3 (Off the record)

4 THE COURT: Okay. So Court's 1 is a note from Juror
5 143, who has indicated that they requested to leave at 3:30
6 tomorrow, Wednesday. Teaches Spanish for educators and can't
7 find a substitute. So I will inform that juror that they --
8 we can't make that accommodation necessarily, and that they
9 will need to either cancel the class -- they can't find a
10 substitute between now and then they'll have to cancel the
11 class. So if there's anything else or any objections to how
12 I would handle that, I'm happy to hear from you all. Does
13 anybody -- anybody want to question the juror as to these --
14 as to the note?

15 MS. FRIERSON: No, Your Honor.

16 THE COURT: I mean, maybe it'll work out, but we just
17 don't know. And I, you know, I -- I would be inclined to
18 just tell them that unfortunately, we -- we probably cannot
19 make that accommodation, that -- that was something that was
20 at, you know, an emergency that would've needed to be
21 disclosed yesterday before we went to the whole process to
22 get a jury and all that, so.

23 MS. FRIERSON: Yeah, I would just like that extra part
24 added into that. It's ---

25 THE COURT: Clear

1 MS. FRIERSON: They understand that there is a time for
2 that to ---

3 THE COURT: Right, yeah. It's not -- yeah, right.

4 MS. FORD: That one is a trial.

5 THE COURT: Yeah. I mean, you know, it'll be obviously
6 on me obviously, too. I'll force on -- force on myself, not
7 on you all. Okay. So, yeah, I think what I'll do is, you
8 got the next witness ready, I guess.

9 MS. FRIERSON: Yes, Your Honor. Just for planning
10 purposes.

11 THE COURT: Yeah.

12 MS. FRIERSON: I had talked with Ms. Ford during the
13 break. We have three relatively short witnesses.

14 THE COURT: Yeah.

15 MS. FRIERSON: And I was hoping to get them in prior to
16 the lunch break.

17 THE COURT: Okay.

18 MS. FRIERSON: Do you have an approximate time about,
19 like how long you would want to take lunch? We just have one
20 of our SLED witnesses that would be our last witness today.
21 And she's -- well, she's formally with SLED, the Serologist,
22 and I don't want to have her travel here and then not get to
23 her. So I didn't know what time you would anticipate
24 starting back.

25 THE COURT: What -- so we're make 3:00. We'll take a

1 lunch before we start back. I don't know. It depends on how
2 long your witnesses are. I mean, usually lunch breaks about
3 an hour, 15.

4 MS. FRIERSON: Okay. That's -- that's good.

5 THE COURT: That's just the 15 to kind of get them, you
6 know, to process to get them back in the room and release
7 them again. So I try allot for that. About an hour, 15.
8 Does that help? I don't know.

9 MS. FRIERSON: Yes, Your Honor.

10 THE COURT: We'll certainly try to reach your ---

11 MS. FRIERSON: No, I understand.

12 THE COURT: --- your witness. Are they on the way now
13 or you need to tell them to come, or?

14 MS. FRIERSON: I can -- I mean by lunch break ---

15 THE COURT: Yes.

16 MS. FRIERSON: --- I can advise her one way or the
17 other. She needs to come down at whatever time or just wait
18 till the morning.

19 THE COURT: Okay. (Cross talk) of course, I really try
20 not to go too far past 5:00, too.

21 MS. FRIERSON: Understand. Can I just have a minute to
22 talk to -- to her about this?

23 THE COURT: Yeah.

24 MS. FRIERSON: Thank you, Your Honor.

25 THE COURT: Sure. All right. You all can bring him

1 back in and if you will, when you get them out to this point,
2 just scoot 143 in first.

3 THE BAILIFF: Yes, Your Honor.

4 THE COURT: And then we'll bring the rest in as a
5 group. Okay? Yep.

6 THE COURT: Oh, hey. Hey, how are you? You all can be
7 seated. I got to note, I -- unfortunately, I might not be
8 able to accommodate that. Kind of the time for bringing all
9 that to our attention was yesterday morning. So I can tell
10 you that it might work out, but I can't promise it. And I
11 know that doesn't help you very much. And I'm sorry.

12 JUROR NUMBER 143: And of course I didn't say
13 (inaudible) yesterday because I said, oh, I gave subs. I
14 took -- I taught subs for every class.

15 THE COURT: Yeah.

16 JUROR NUMBER 143: -- for that one. And you know, I
17 teach teachers.

18 THE COURT: I know.

19 JUROR NUMBER 143: Everybody wants to teach teachers.

20 THE COURT: I know.

21 JUROR NUMBER 143: (Inaudible) thing, you know.

22 THE COURT: I know it. I'm sorry. So I -- I can't
23 promise you that we can make -- accommodate that.

24 JUROR NUMBER 143: Okay.

25 THE COURT: So I would say maybe keep trying to get

1 one, I mean, worst case have to cancel class, I guess, but,
2 hopefully not -- but I just can't, you know, we might have a
3 better idea like midday tomorrow what schedule will be like
4 in the afternoon, but that probably doesn't help.

5 JUROR NUMBER 143: Okay. But I will let them know
6 tonight ---

7 THE COURT: Maybe continue to try to get one and, yeah,
8 let them know tonight that there's a possibility it might
9 have to be canceled.

10 JUROR NUMBER 143: Okay.

11 THE COURT: Sorry.

12 JUROR NUMBER 143: Well, thank you, again.

13 THE COURT: Sure. I don't blame you for asking. Okay.
14 All right. All right. You can -- you can bring them back --
15 all back in, too.

16 THE BAILIFF: Yeah, Your Honor.

17 THE COURT: Thank you. Any objections to how I handled
18 that, by the way?

19 MS. FORD: No, Your Honor.

20 THE COURT: Okay. Mr. Frierson; Mr. Harris, anything?

21 MS. FRIERSON: No, Your Honor. Thank you.

22 THE COURT: Thanks. All right. Thank you all.

23 (Jury enters room)

24 THE COURT: Thank you all. Please be seated. And you
25 all can come in and sit. These attorneys all stand up on a

1 deference to you all, so you all certainly don't have to do
2 that. You can come in and sit down and make yourselves
3 comfortable.

4 All right. State ready to call it's next witness.

5 MS. FRIERSON: Yes, Your Honor. State calls Officer
6 Magrane.

7 THE CLERK: Please raise -- thank you.

8 OFFICER JOSEPH MAGRANE,
9 being first duly sworn testifies as follows:

10 THE CLERK: Please be seated. Please state your full
11 name, spelling your last name directly in the microphone.

12 THE WITNESS: Joseph Magrane, last name M-A-G-R-A-N-E.

13 MS. FRIERSON: Your Honor, (inaudible) the Court?

14 THE COURT: Yes, ma'am.

15 DIRECT EXAMINATION

16 BY MS. FRIERSON:

17 Q. Officer Magrane, where are you currently employed?

18 A. The North Charleston Police Department.

19 Q. And how long have you been with them?

20 A. About eight years now.

21 Q. Do you have any specialized training dealing with
22 children or victim cases?

23 A. I wouldn't say specialized now.

24 Q. And where are your current -- what is your current
25 position?

1 A. I'm a detective with the narcotics unit.

2 Q. And in April, 2018, what would've been your
3 position?

4 A. Patrolman working the south -- south evenings team
5 two, so south (inaudible).

6 Q. And did you receive a call in reference to this
7 case on April 18, 2018?

8 A. If I -- if I recall, it was more of like a flag
9 down. I don't think I was dispatched to it. I was just
10 patrolling and the complainant flagged me down.

11 Q. And do you recall responding to an address on
12 [REDACTED]?

13 A. Very vaguely, yes, ma'am.

14 Q. Did you -- can you tell the jury a little bit
15 about like what happens if -- when you respond to a call?

16 A. Like this call? While I was -- this call, I
17 believe I was patrolling the area and I was just like, I
18 believe the complainant drove behind me in her SUV and
19 started honking the horn trying to get my attention. So I
20 pulled over. At that point she explained to me the, I guess,
21 the situation. And based on what she told me about the
22 alleged assault, I made the decision to call EMS at that
23 point, and my supervisor.

24 Q. And I want to make sure I understand, you said you
25 called EMS?

1 A. Yes, ma'am.

2 Q. And your supervisor?

3 A. Yes, ma'am.

4 Q. Who was that?

5 A. The time, it was Sergeant Cardaronella.

6 Q. Did you meet with the victim?

7 A. I -- I don't recall speaking to the victim
8 directly, no, ma'am.

9 Q. Do you -- did you conduct a formal interview with
10 her?

11 A. No.

12 Q. Would you have done that?

13 A. On scene? No.

14 Q. With the child victim?

15 A. Not, not a formal one. No, ma'am.

16 Q. Did you go up to the house on [REDACTED], the
17 incident location?

18 A. At some point, I believe, yes, I was at the house.

19 Q. Did you speak to the Defendant there?

20 A. I don't recall.

21 Q. Do you -- who else from North Charleston -- what
22 other officers -- I know you mentioned your Sergeant
23 Cardaronella, but who else was there that you recall?

24 A. I don't recall for sure. I believe Officer
25 Fortier was there with me at the time too, but I do -- I do

1 not recall for sure.

2 Q. Do you recall if the Defendant was arrested that
3 night?

4 A. I do not.

5 Q. Now, did your report indicate that you were
6 wearing body camera?

7 A. Yes, ma'am.

8 Q. And back in 2018, how did that body camera get
9 saved? What did you do with your body camera to save it?

10 A. So at the end of every shift we have to what we
11 call dock our body camera, which means there's like a port
12 that you put the body camera on at the end of the shift. At
13 that point, it'll automatically upload every video from that
14 body camera to the server. At that point, we can go on the
15 server ourselves if we need to, and we can indicate that we
16 don't want this video purged or like automatically deleted
17 out the system or something like that.

18 Q. If you wouldn't mind just speaking into the
19 microphone ---

20 A. I'm sorry.

21 Q. --- a little bit more. You said -- you mentioned
22 the word purged. Is that -- purging, is that something
23 that's like a standardized time that North Charleston sets or
24 that -- that you do?

25 A. It's a standardized time that North Charleston

1 sets.

2 Q. And I know you're -- you're not the IT guy, but
3 you're -- is -- why is it purged? What's your general
4 understanding of why that would keep absolutely every body
5 camera?

6 A. It's my understanding that there's just the
7 storage for all that data would be just too immense for
8 anything.

9 Q. So again, going back to 2018, if I understand your
10 testimony correctly, you would either dock it, which would
11 upload it?

12 A. Correct.

13 Q. Or if you were in a certain position like close
14 enough up to the Wi-Fi or something, it would upload?

15 A. My vehicle might -- based on where you parked the
16 vehicle, might upload like the -- the dash cam footage. But
17 my camera, I had -- I had to dock it if I ---

18 Q. Okay. And what happens -- could your body camera
19 get -- get full per se?

20 A. Yes, ma'am. Yeah.

21 Q. And would you get notified about that?

22 A. I think the -- I can't recall if the L3 camera
23 told you. Our -- our current cameras will tell you if the
24 storage is full. I don't recall if the L3 one's there or
25 not. I usually just dock it at the end of every ---

1 Q. You have to be closer to the mic (crosstalk).

2 A. Sorry. I usually just docked at the end of every
3 shift, so I can't recall if the L3 cameras that we had at the
4 time told you if the storage is full, but they can get full.

5 Q. And are you aware of -- of -- do you still have
6 that same system at North Charleston?

7 A. No.

8 Q. Do you know why?

9 A. I do not. No.

10 Q. But is it safe to say that your body cam would --
11 would be uploaded in order for you to be able to report more?

12 A. Yes. Yes, ma'am.

13 Q. Did you search the residence that night?

14 A. I do not recall, no.

15 Q. And you -- did you personally arrest the Defendant
16 that night?

17 A. No, ma'am.

18 Q. Did you have any further involvement in this case?

19 A. No, ma'am.

20 MS. FRIERSON: Court's indulgence, Your Honor?

21 THE COURT: Uh-uh.

22 MS. FRIERSON: I have no further questions. Please
23 answer any Defense has for you.

24 MS. FORD: I do not have any questions for this
25 witness, Your Honor.

1 THE COURT: Okay. All right. Officer, you can step
2 down. You are free to leave. Thank you, sir.

3 THE WITNESS: Thank you, ma'am.

4 THE COURT: State may call it's next witness.

5 MR. HARRIS: Thank you, Your Honor. State calls
6 Michael Cardaronella.

7 THE CLERK: Please raise your right hand and place your
8 left hand on the Bible.

9 MICHAEL CARDARONELLA,
10 being first duly sworn testifies as follows:

11 THE CLERK: Please be seated. Please state your full
12 name, spelling your last name directly in the microphone.

13 THE WITNESS: Michael Ann Cardaronella. Last name,
14 C-A-R-D-A-R-O-N-E-L-L-A.

15 DIRECT EXAMINATION

16 BY MR. HARRIS:

17 Q. Good morning.

18 A. Morning.

19 Q. Where are you currently employed?

20 A. Charleston County Consolidated 911.

21 Q. And what are your duties and responsibilities?

22 A. I am the peer support coordinator there, so I am
23 there for any employee that has a traumatic incident, is in
24 personal crisis. I provide all the beginning steps of mental
25 health and resources.

1 Q. And how long have you been there?

2 A. Since March of 2022.

3 Q. And where were you employed before being with
4 Dispatch?

5 A. North Charleston Police Department.

6 Q. How long were you with North Charleston?

7 A. Just under 10 years.

8 Q. And what different roles did you have with North
9 Charleston?

10 A. I was a patrol officer. I worked in the training
11 division. I ended up being a sergeant in the training
12 division. Went back to patrol. Was over warrants. Was over
13 forensics.

14 Q. And in April, 2018, were you employed by North
15 Charleston?

16 A. I was.

17 Q. And what was your role in April, 2018?

18 A. I was a patrol sergeant for an evening night shift
19 or evening shift.

20 Q. Were you involved in this case, State vs. Emeric
21 Hamilton?

22 A. I was.

23 Q. And how did you become involved in this case?

24 A. The officers got a call and they asked me to
25 respond because of the type of incident.

1 Q. And what was the incident?

2 A. A juvenile sexual assault.

3 Q. And were you the supervising officer on scene? Y.

4 A. Yes.

5 Q. What are the duties as a supervising officer on
6 scene?

7 A. I'm there to kind of give guidance to the officers
8 answer any questions that they have, make any phone calls to
9 detectives, notifications that might need to be there.

10 Q. Did you respond to the incident location in this
11 case?

12 A. Yes.

13 Q. Do you remember what the address was?

14 A. It was on [REDACTED]. I couldn't tell you the
15 numbers exactly.

16 Q. And what did you do once you got to the incident
17 location?

18 A. We spoke with two gentlemen that were outside of
19 the residence. One identified as Mr. Hamilton and I don't
20 know off the top of my head who the other gentleman was.
21 Asked about any type of incident that occurred there and they
22 said they didn't know anything.

23 Q. Okay. Did you go inside the residence?

24 A. No.

25 Q. And did you call any detectives to follow up on

1 this case?

2 A. I would've called a detective that night. I do
3 not know exactly who I spoke to, but that was to get
4 clarification on what my next steps were and who to contact
5 down at MUSC when we sent the juvenile down there.

6 Q. And did you have any further involvement in this
7 case?

8 A. No, sir.

9 MR. HARRIS: Okay. Beg the Court's indulgence, Your
10 Honor.

11 THE COURT: Okay.

12 BY MR. HARRIS:

13 Q. And did you interview the victim or her mother?

14 A. I do not recall actually speaking with them, but I
15 was there with the officers when they were talking to her. I
16 don't recall exactly what she said because I don't think she
17 was specifically talking to me.

18 MR. HARRIS: I have no further questions for you.
19 Please answer any questions the Defense has for you.

20 THE WITNESS: Okay.

21 CROSS-EXAMINATION

22 BY MS. FORD:

23 Q. (Inaudible) a question?

24 A. Yes, ma'am.

25 Q. And you actually, you never did a police report

1 for this incident?

2 A. No.

3 Q. And typically if officers are involved in the
4 case, they do -- do a police report to document what they
5 heard and saw, correct?

6 A. Most of the time, but I was just the supervisor on
7 duty, so I would've -- once the officers did the reports that
8 actually were doing the work, I would've read those reports,
9 signed off on them, and sent them through the system.

10 Q. But when you go to training for law enforcement,
11 you're -- you're taught there's all sorts of reasons for
12 doing a police report, correct?

13 A. Yes, ma'am.

14 Q. And one is to help with memory because it could be
15 quite some time before cases are (inaudible)?

16 A. Yes, ma'am.

17 Q. And obviously as a police officer you deal with
18 many, many, many people every day, correct?

19 A. Yes, ma'am.

20 Q. But you did not have a police report to refer to
21 in this particular case, correct?

22 A. Correct.

23 Q. And you are aware of what the incident location
24 was supposed to be?

25 A. The juvenile pointed it out to us, so we would've

1 driven her through that area to have her point out the house,
2 and then we would've taken her back to where her mother was,
3 and made contact with the subjects at the residence.

4 Q. At no point did you seek to get a search warrant
5 to look in the house for any evidence?

6 A. No, ma'am.

7 MS. FORD: No further questions.

8 THE COURT: Okay. Any redirect for this witness?

9 MR. HARRIS: No, Your Honor.

10 THE COURT: Okay. You can step down. You are free to
11 leave. Thank you, ma'am.

12 THE WITNESS: Thank you.

13 THE COURT: State may call it's next witness.

14 THE COURT: State calls Sarah Fortier.

15 THE CLERK: Please raise your right hand.

16 SARAH FORTIER,
17 being first duly sworn testifies as follows:

18 THE CLERK: Please be seated. Please state your full
19 name, spelling your last name directly into the microphone.

20 THE WITNESS: It is Sarah Fortier. My last name is
21 F-O-R-T-I-E-R.

22 THE COURT: Go ahead.

23 MS. FRIERSON: Thank you, Your Honor. May I please the
24 Court?

25 Ms. Fortier, make sure you speak right into this. It's

1 really hard to hear sometimes with the (inaudible).

2 THE WITNESS: Yes, ma'am.

3 THE COURT: --- to move it, you're welcome to do that,
4 too. Whatever's easier.

5 THE WITNESS: Is that better?

6 THE COURT: Yes.

7 MS. FRIERSON: Yes, thank you.

8 THE WITNESS: Okay. You're welcome.

9 DIRECT EXAMINATION

10 BY MS. FRIERSON:

11 Q. Ms. Fortier, are you currently employed?

12 A. No. I'm -- I'm under disability retirement.

13 Q. And have you ever been employed in law
14 enforcement?

15 A. Yes, I was.

16 Q. Could you tell the jury when and where you were
17 employed?

18 A. I was employed from 2008 to 2021. I was at the
19 city of Charleston, first, and then I went over to North
20 Charleston in 2014.

21 Q. And in April, 2018, which agency were you with?

22 A. North Charleston.

23 Q. And what would've been your position in 2018 With
24 them?

25 A. I was a field training officer. I worked patrol

1 on evening shift.

2 Q. Did you receive a call in reference to this case
3 on April 18th of 2018?

4 A. Yes, ma'am.

5 Q. And what did you do?

6 A. I responded to speak to the victim.

7 Q. And why -- why did you talk to her as opposed to
8 another officer on scene?

9 A. They believed that a female officer speaking to
10 her, she would feel a little bit more comfortable speaking
11 with us.

12 Q. And when you speak with a minor victim at that
13 point, are you doing an in-depth interview?

14 A. No, ma'am.

15 Q. Why -- why would you do an in-depth interview on
16 scene?

17 A. There are counselors and -- and people that have
18 years of experience to talk to children. And our job is just
19 to get the basic information just so we know if a crime was
20 committed and what kind of crime it was. We leave that to
21 the -- to the counselors.

22 Q. And did **Minor** tell you, yes or no, that she had
23 been sexually assaulted?

24 A. Yes.

25 Q. Did she tell you when it had happened?

1 A. I believe it was an hour or two before we got the
2 call.

3 Q. And did she tell you where if it happened?

4 A. On [REDACTED].

5 Q. Was that a residence?

6 A. A residence.

7 Q. Who was there with the victim when you got there?

8 A. I believe it was Charleston County EMS and her
9 mother.

10 Q. During the course of the investigation that night,
11 did you ever meet or speak with the Defendant?

12 A. Yes, we responded to [REDACTED].

13 Q. And tell the jury a little bit about how -- how
14 the investigation goes. You respond to a residence after
15 allegations like this. If you could just walk up and
16 introduce yourself.

17 A. We will introduce ourselves, identify ourselves,
18 give them the basis of why we're there, and then speak to him
19 about it.

20 Q. And you just said you give him the basis of why
21 you were there. That's what you said to the Defendant?

22 A. We just told -- we were -- we just told him that
23 -- that someone was reporting that a sexual assault had
24 occurred there.

25 Q. And did he have a response to hearing that

1 information?

2 A. Yes, he denied knowing anything about it, about
3 any crime occurring at his residence.

4 Q. And did you do a report to document your
5 involvement in this case?

6 A. I did.

7 Q. And did that include that you were wearing a
8 body-worn camera?

9 A. Yes, ma'am.

10 Q. And did you ever personally delete the video in
11 this case?

12 A. No, ma'am.

13 Q. Did you have any further involvement in this case?

14 A. No, ma'am.

15 Q. Would it have been your job as a patrol officer to
16 follow up and do any investigation?

17 A. No, ma'am. It wouldn't have.

18 MS. FRIERSON: Court's indulgence, Your Honor?

19 THE COURT: Uh-uh.

20 MS. FRIERSON: I have no further questions at this
21 time. Please answer any (inaudible).

22 THE WITNESS: Yes, ma'am.

23 MS. FORD: Thank you. Court's indulgence?

24 THE COURT: Yeah.

25 CROSS-EXAMINATION

1 BY MS. FORD:

2 Q. Ms. Fortier, you were able to talk to Minor the
3 night that this was on, correct?

4 A. Yes, ma'am.

5 Q. And you were with her when she was in the
6 ambulance?

7 A. Yes, ma'am.

8 Q. And you documented what you had learned, correct?

9 A. Yes, ma'am.

10 Q. Because we -- the solicitor asked you a few
11 questions about body-worn camera?

12 A. Yes, ma'am.

13 Q. One reason that's done is to make sure
14 everything's documented correctly?

15 A. Yes, ma'am.

16 Q. So people can see specifically what they said or
17 didn't say?

18 A. Yes, ma'am.

19 Q. Because you, when you're writing a report, you are
20 not writing a report word for word necessarily of what people
21 said. Is that fair to say?

22 A. Correct.

23 Q. Because typically it's difficult unless you're a
24 court reporter documenting every single word?

25 A. Yes, ma'am.

1 Q. But if there's surveillance from your body cam
2 footage, then you would be able to see exactly what someone
3 said?

4 A. Yes, ma'am.

5 Q. Now, in this case, the solicitor asked you a few
6 questions about talking to **Minor**, and you told us a little
7 bit that usually kids are sent to other people to be
8 interviewed?

9 A. Yes, ma'am.

10 Q. And it is ideal for police officers not to
11 interview kids who are possible victims or witnesses. Is
12 that fair to say?

13 A. It depends. You still need to be able to identify
14 whether a crime has occurred or not. So you do need to ask
15 questions. You're not going to ask the type of questions
16 that a counselor would ask, but you still need to determine
17 if there was a crime, what kind of crime it was, what statute
18 it falls under, things like that. So that you do have to ask
19 them questions, but you're not going to do an in-depth
20 detailed interview that a counselor would do.

21 Q. In this case, you did get detailed about what
22 **Minor** was saying happened, correct?

23 A. I don't recall. I -- I just have what I have in
24 my report.

25 Q. Do you have your report?

1 A. I do.

2 Q. Okay. Well, in the report you documented what she
3 said, correct?

4 A. To determine the type of crime, yes, ma'am.

5 Q. What -- just that she did give a few details about
6 what ---

7 A. Yes, ma'am.

8 Q. --- supposedly happened. She actually
9 specifically said that she was raped two times by the man?

10 A. Yes, ma'am.

11 Q. In this case you were, you know, she did give a
12 description of the house as well?

13 A. Yes, ma'am.

14 Q. And as law enforcement officer, you have the
15 ability to try to obtain a search warrant about a residence
16 if there's reasonably evidences inside?

17 A. Yes, ma'am.

18 Q. Or it could just be partially to document what the
19 place looks like inside?

20 A. Yes, ma'am.

21 Q. And in this case, there was never an effort to get
22 a search warrant, correct?

23 A. I don't recall.

24 Q. Okay. Well, you never participated (inaudible)?

25 A. I did not, no.

1 MS. FORD: Beg the Court's indulgence?

2 THE COURT: Uh-uh.

3 MS. FORD: No further questions.

4 THE COURT: Okay. Any redirect for this witness?

5 MS. FRIERSON: Court's indulgence, Your Honor?

6 THE COURT: Uh-uh.

7 REDIRECT EXAMINATION

8 BY MS. FRIERSON:

9 Q. Just -- just briefly. You mentioned that you --
10 you have to at least get enough information to determine if
11 the crime has occurred?

12 A. Yes, ma'am.

13 Q. And in your experience as a police officer you
14 indicated that you wouldn't do a formal interview?

15 A. No, ma'am.

16 Q. But if a -- a juvenile is just talking, are you
17 going to just let them get it out?

18 A. Yes, ma'am. We're just going to let them talk
19 because they're providing us information for a report and you
20 don't want to just shut them up.

21 Q. And is it your understanding that it would then be
22 passed on her follow up to a detective?

23 A. Yes, ma'am.

24 Q. And so asking -- would you have asked her what she
25 meant by two times? Or you would -- would you have just

1 indicated that in the report?

2 A. I would've indicated in the report.

3 MS. FRIERSON: Okay. No further questions, Your Honor.

4 THE COURT: Okay. (Inaudible).

5 MS. FORD: Yes. Yep.

6 RECROSS EXAMINATION

7 BY MS. FORD:

8 Q. So, just to be clear, you were specifically asking
9 the victim questions, correct?

10 A. I - I don't recall the questions I've asked her.

11 Q. Well, in your report, you specifically note I
12 asked the victim to, for example, to describe the interior,
13 correct?

14 A. I believe I asked her that so we could determine a
15 crime scene, because around that area, it could be North
16 Charleston's jurisdiction, it could be Charleston's --
17 Charleston County's jurisdiction. There's loopholes within
18 that area. So to determine where the crime occurred would
19 determine whether North Charleston would handle it, or we
20 would have to call in Charleston County. So if I could get a
21 description of the house or something, I could determine
22 whether or not it was to be handled by us or if I need to
23 immediately call in the jurisdiction in which the crime had
24 occurred.

25 Q. Well, and my point is just you did specifically

1 asked Minor questions?

2 A. I -- I had to, to determine whether a crime
3 occurred or not.

4 Q. And when you detailed in your report what she said
5 happened, nowhere in your report do you mention that this was
6 not in response to me asking questions? She just started
7 talking.

8 A. It -- it's just a summary of what was reported.

9 Q. Correct. But you didn't note in your report that
10 you received the summary from you asking questions or her
11 just voluntarily saying that, correct?

12 A. It just would've been written as a summary to what
13 had occurred in the back of the ambulance.

14 Q. Okay. So you don't actually recall ---

15 A. I don't recall.

16 Q. --- if her answers were in response to your
17 questions?

18 A. I don't recall.

19 Q. And again, we don't have the body camera footage
20 to show specifically how things came out?

21 A. I believe not.

22 MS. FORD: Thank you. No further questions.

23 THE COURT: Okay. All right. You can step down now.
24 You are free to leave.

25 THE WITNESS: Oh, thank you -- thank you, Your Honor.

1 THE COURT: I think with the scheduling we had
2 discussed taking a lunch break now, is that what we're
3 planning for?

4 MS. FRIERSON: Yes, Your Honor. Our next witness is
5 the SANE nurse that'll take a little bit of time.

6 THE COURT: Okay. All right. Well, ladies and
7 gentlemen, we will take our lunch break now. It's about 10
8 after 12:00. I tell you, we'll start back at 1:30. You're
9 free to leave. Go back to your day. Obviously, we'll get
10 your phones back during this longer break and we'll see you
11 back at 1:30. Okay? Thank you so much. All right. Thank
12 you. We'll be at ease.

13 (Off the record.)

14 (Jury enters courtroom.)

15 THE BAILIFF: All jury present, Your Honor.

16 THE COURT: Thank you so much. All right. Please be
17 seated. State can call the next witness.

18 MS. FRIERSON: Thank you, Your Honor. State calls
19 Christie Harley.

20 THE CLERK: Please raise your right hand and place your
21 left hand on the Bible.

22 CHRISTIE HARLEY,

23 being first duly sworn testifies as follows:

24 THE CLERK: Please be seated. Please state your full
25 name, spelling your last name in the microphone.

1 THE WITNESS: Christie Harley, H-A-R-L-E-Y.

2 THE COURT: I'm sorry. You don't ever have to wait on
3 me. Go right ahead.

4 MS. FRIERSON: Thank you, Your Honor. May I please the
5 Court?

6 THE COURT: Uh-huh.

7 DIRECT EXAMINATION

8 BY MS. FRIERSON:

9 Q. Ms. Harley, could you please tell the jury where
10 you're currently employed?

11 A. I work as a travel nurse with AHS NurseStat Travel
12 Company.

13 Q. And how long have you been working there?

14 A. I work with AHS for two years.

15 Q. Could you please tell the jury a little bit about
16 your professional and educational background?

17 A. Yep. I have an associate's degree in nursing.
18 I've been a nurse for 28 years. I have worked in Med-surg,
19 PACU, Pre-op. I was a SANE nurse and pediatric psych nurse.

20 Q. You mentioned SANE nurse. Did you previously work
21 here at the Medical University of South Carolina?

22 A. I did.

23 Q. And while you were there, did you work as a SANE
24 nurse?

25 A. I did.

1 Q. Can you explain to the jury what a SANE nurse is?

2 A. A SANE nurse is a -- an experienced nurse who's
3 trained in caring for sexual assault patients.

4 Q. And was that -- while you were a SANE nurse, what
5 -- what does SANE do?

6 A. A sexual assault nurse examiner.

7 Q. And is that in addition to your regular duties as
8 a nurse?

9 A. Yes.

10 Q. Do you get called out for that?

11 A. I did.

12 Q. And tell the jury what the duties of a SANE nurse
13 is?

14 A. So SANE nursing is treating and caring for sexual
15 assault patients by collecting a history of the events, doing
16 a head to toe assessment, collecting evidence, taking
17 photographs, treating medically with medications, collecting
18 labs, following up, making sure they have care.

19 Q. And are -- is there any specialized training that
20 is required to become a SANE nurse?

21 A. Yes. So I had 40 hours classroom training. I
22 also had to complete a clinical training where we did --
23 there was demonstrations and hands-on performing of vaginal
24 examinations. And then I spent quite a while precepting a
25 trained SANE nurse where I observed. And then under

1 supervision completed -- completed exams.

2 Q. Is there any continuous education or peer reviews?

3 A. Yeah, so we met once a month and discussed all of
4 the cases that we had completed for the month. Went over,
5 critiqued our technique, and went over, you know, better ways
6 to do things and had education continuously for any new
7 procedures and protocols.

8 Q. You mentioned the term preceptorship. What --
9 what exactly is that?

10 A. So it's following a trained SANE nurse who has
11 already been working as a SANE and trained in that area who
12 has a lot of experience who can show the techniques and
13 protocols for collecting evidence appropriately. They show
14 you how to take photographs using the camera that they
15 provide and how to appropriately maintain the chain of
16 custody for the kit that we collect.

17 Q. Is a -- a preceptorship similar to like an
18 apprenticeship?

19 A. Absolutely, yes.

20 Q. How long were you a SANE nurse at MUSC?

21 A. I -- I was SANE nurse for two years.

22 Q. Could you please tell the jury a little bit about
23 the -- when -- when someone comes in for a sexual assault
24 exam to see a SANE nurse, what is -- what is the purpose of
25 that exam?

1 A. It's to assess them first and foremost to make
2 sure they're medically safe and you're assessing for any
3 injuries that may need medical attention. Also collecting
4 evidence and then (inaudible) them appropriately.

5 Q. So when someone comes in for a SANE exam, is it
6 done in the ER?

7 A. It is done in the ER.

8 Q. And is -- approximately how long does something
9 like that take?

10 A. Usually at least three to four hours.

11 Q. Did you perform the SANE exam on **Minor**?

12 A. I did.

13 Q. When was that?

14 A. April the 20th of 2018.

15 Q. Do you recall her demeanor when she presented to
16 you?

17 A. Yeah, she wasn't overly disheveled. She was
18 quiet, but cooperative.

19 Q. And did you take a history -- without telling us
20 what it is, did you take a history of the assault in this
21 case?

22 A. I did.

23 Q. And what is the -- what is your medical reason for
24 getting a history of the assault?

25 A. So that I know what -- where to look for any

1 possible injuries. Where do I -- where I know to focus in on
2 collection of evidence.

3 Q. Do you need to know what parts of the body touched
4 another?

5 A. I do.

6 Q. Do you need to know if there was an exchange of
7 bodily fluids?

8 A. I do.

9 Q. And is that information considered medically
10 pertinent?

11 A. Yes.

12 Q. After listening to the history of assault from
13 **Minor**, did she tell you any medically pertinent
14 information?

15 A. Yes, she did.

16 Q. And what was that?

17 A. That there was a penis that penetrated the vagina
18 and butt cheeks were kissed.

19 Q. And why is that information medically pertinent to
20 you?

21 A. Because per our protocol, we need to then treat
22 for sexually transmitted diseases and for prevention of
23 pregnancy.

24 Q. And do you need to look for any injuries or
25 saliva?

1 A. I do also look for injuries and any body fluids
2 that may have been left on the body.

3 Q. And you said, I think sexually transmitted
4 diseases?

5 A. Yes.

6 Q. You treat for those during an exam?

7 A. Yes.

8 Q. Did you conduct a head to toe exam of **Minor**?

9 A. I did.

10 Q. And did you also conduct a genital exam?

11 A. I did.

12 Q. And when you do a genital exam, what does -- what
13 does that consist of?

14 A. Genital exam just consist of looking around the
15 genitalia, looking for any kind of injuries, any
16 abnormalities and noting them, collecting swabs and
17 photographs.

18 Q. And you said swabs. What -- what is a swab?

19 A. A swab is just a tool that we use to -- it's like
20 a Q-tip like instrument that we use to collect DNA.

21 MS. FRIERSON: So, Your Honor, may I approach the
22 witness?

23 THE COURT: Uh-huh. Yep.

24 BY MS. FRIERSON:

25 Q. Oh, actually stating my head anywhere on your

1 body, can you show the jury, for example, how you conduct an
2 oral swab?

3 A. So an oral swab is just going to go like across
4 the teeth, underneath the lips, kind of around the whole
5 mouth area.

6 Q. And it's a Q-tip you said?

7 A. Yeah.

8 Q. And where else do you swab?

9 A. So the genitalia is also swabbed outer and inner.
10 So you just go from top to bottom and then inside top to
11 bottom. And then around the hymen area.

12 Q. Do you swab the rectum?

13 A. Yes, we do swab the rectum as well. And that's
14 just outside of the rectal area. And then quick inside the
15 rectal area.

16 Q. You said it was rare outside?

17 A. Quick in -- inside the rectal area.

18 Q. In and outside?

19 A. Uh-huh.

20 Q. Earlier you mentioned collecting saliva swabs?

21 A. Yes.

22 Q. Where on the victim did you collect saliva swabs?

23 A. On the butt cheeks.

24 Q. And what do you do when you collect this?

25 A. Once the evidence is collected, the swabs are

1 placed in a lock to dryer so that they can dry and then they
2 are labeled and placed in an envelope and sealed.

3 MS. FRIERSON: Your Honor, may I approach?

4 THE COURT: Yes.

5 BY MS. FRIERSON:

6 Q. I'd like to show you what's been pre-marked as
7 State's Exhibit 4, 5, and 6. If you could take a look at
8 those and let me know. Do you recognize them?

9 A. I do.

10 Q. What are they?

11 A. The -- these are the swabs that were collected
12 from the buccal area, the rectal area, and the buttocks where
13 there was suspected saliva.

14 Q. And they were collected from who?

15 A. From Minor.

16 Q. Was that during your SANE exam?

17 A. Yes.

18 Q. How do you know that?

19 A. My initials are on there and it's my writing.

20 Q. And were those the bubbles that were being swabbed
21 -- excuse me, that you just testified you took and sealed?

22 A. Yes.

23 Q. And after you sealed these items, what did you do
24 with them?

25 A. Once the items are sealed, then they're placed

1 into the box that is the actual kit and then that is also
2 sealed. And I signed, dated, and timed the back of the kit
3 and called MUSC public safety.

4 Q. And when you called MUSC public safety, what do
5 they do?

6 A. They send an officer to collect the kit who then
7 signs with me that they're receiving.

8 Q. And are these standardized kits?

9 A. They're standardized kits.

10 Q. Do you know where they're from?

11 A. I don't.

12 Q. And -- but are they the kit that every SANE nurse
13 --

14 A. Yes.

15 Q. And they -- do they contain these envelopes?

16 A. Yes.

17 Q. So depending on the investigation you fill out
18 with what you do medically pertinent with (inaudible)?

19 A. Yeah.

20 Q. Okay. Do you know who you gave these to with MUSC
21 public safety?

22 A. I believe it was Lauren Santos.

23 Q. Did you give Minor any medication?

24 A. Yes, she was treated with antibiotics, plan B, and
25 some Zofran in case any of the medications cause nausea.

1 MS. FRIERSON: Court's indulgence. I don't have any
2 further questions at this time.

3 THE WITNESS: Okay.

4 MS. FRIERSON: Please answer any questions the Defense
5 may have.

6 CROSS-EXAMINATION

7 BY MS. FORD:

8 Q. When **Minor** came in to be cleaned by you it was
9 revealed to you that the alleged assault had occurred about
10 two hours prior; is that correct?

11 A. I'm not sure of the timing.

12 Q. Okay. Well, you saw her, she came in at 10:51?

13 A. Yes.

14 Q. Okay. And you noted in your report that the
15 assault occurred at about 9:00 p.m.?

16 A. Okay.

17 Q. So a little less than two hours?

18 A. Yes.

19 Q. And part of your job you told us is to look for a
20 possible DNA?

21 A. Yes.

22 Q. Correct? And DNA could come in a form, it doesn't
23 have to be from an actual fluid, correct?

24 A. Right.

25 Q. So even if you don't see fluid, you still take the

1 swabs to look for possible DNA?

2 A. Yes.

3 Q. So later a DNA analyst could look, correct?

4 A. Yes.

5 Q. And you told us how you asked questions to try to
6 direct you to what you should be looking for?

7 A. Correct.

8 Q. But you also asked questions to look into whether
9 DNA would likely still exist or not.

10 A. Yes.

11 Q. Correct? One thing you ask or you -- you tend to
12 ask or you actually part is on your report. So you always
13 ask if they used the bathroom (inaudible)?

14 A. Yeah.

15 Q. So in this case, you did ask Minor, she had gone
16 in the bathroom?

17 A. Yes.

18 Q. And she indicated no, correct?

19 A. Yes.

20 Q. You asked her if she had specifically you asked if
21 she had defecated?

22 A. Yes.

23 Q. Correct. And she said no?

24 A. Yes.

25 Q. You asked if she had wiped herself?

1 A. Yes.

2 Q. And she said no.

3 A. Yes.

4 Q. You asked if she had removed a tampon?

5 A. Yes.

6 Q. And she had said no.

7 A. Yes.

8 Q. And the reason you asked those questions is
9 because doing things like that could possibly take away DNA,
10 correct?

11 A. Correct.

12 Q. Because if someone wipes themselves, then they could
13 potentially be wiping off the DNA?

14 A. Correct.

15 Q. But in this case, when you asked Minor this
16 question, she specifically said she had not done any of those
17 things.

18 A. Right.

19 Q. She also mentioned that a condom was not used by
20 the (inaudible), correct?

21 A. Correct.

22 Q. And you asked that question because again, that
23 could affect what kind of DNA, maybe a (inaudible)?

24 A. Right.

25 Q. She did indicate vaginal penetration, correct?

1 A. Correct.

2 Q. By the penis?

3 A. Yes.

4 Q. But she did not indicate anal penetration,
5 correct?

6 A. Correct.

7 Q. So you specifically asked if the -- if (inaudible)
8 penis penetrated her anus?

9 A. Yes.

10 Q. And you asked if a finger penetrated her anus?

11 A. Yes.

12 Q. So there was no indication of that?

13 A. Right.

14 Q. You also -- you told us a little about part of
15 your job is to look for possible injury, correct?

16 A. Correct.

17 Q. So you did do that in [Minor's] case?

18 A. Yes.

19 Q. And you looked at her anal genital area, correct?

20 A. Correct.

21 Q. And you found no injury to that area?

22 A. Correct.

23 Q. You -- there was no bleeding?

24 A. No bleeding.

25 Q. No discharge?

1 A. No.

2 Q. The anal holes were normal?

3 A. They appeared to be normal.

4 Q. You did not see any bruising in the area?

5 A. I didn't see any bruising.

6 Q. And during your questions about any injuries she
7 didn't mention passing out from the pain or anything like
8 that?

9 A. I don't recall.

10 Q. And she didn't mention that it happened two times,
11 correct?

12 A. I don't recall that either.

13 Q. When someone comes in to see you they're sent to
14 you because they've made an allegation, correct?

15 A. Correct.

16 Q. And the -- you exist -- partially be said to look
17 for any evidence, correct?

18 A. Yes.

19 MS. FORD: Beg the Court's indulgence?

20 THE COURT: Uh-huh.

21 MS. FORD: I have no further questions.

22 THE COURT: Okay. Any re-direct?

23 MS. FRIERSON: No, Your Honor.

24 THE COURT: Okay. All right, ma'am. Thank you very
25 much. You're free to leave.

1 State can call the next witness.

2 MS. FRIERSON: State calls Kathy Fabrizio. Court's
3 indulgence, Your Honor.

4 THE CLERK: Please raise your hand and place your left
5 on the Bible.

6 CATHERINE FABRIZIO,
7 being first duly sworn testifies as follows:

8 THE CLERK: Please be seated. Please state your full
9 name, spelling your last name directly in the microphone.

10 THE WITNESS: Catherine Fabrizio. Last name is F as in
11 Frank, A-B b as in boy, R-I-Z as in zebra, I-O.

12 DIRECT EXAMINATION

13 BY MS. FRIERSON:

14 Q. Ms. Fabrizio where are you employed?

15 A. MUSC.

16 Q. And how long have you been with MUSC?

17 A. I have been full-time since 2010. I started
18 part-time in 2008.

19 Q. And what is your current position?

20 A. I'm a nurse practitioner.

21 Q. Could you tell a jury a little bit about what a
22 nurse practitioner is?

23 A. I'm a nurse practitioner and the position that I
24 have right now, I do physical exams on -- on children. I see
25 children from ages zero to 18 years. They cut off at the

1 18th birthday. And I do -- I do physical exams on them. I
2 test -- I do testing, I -- I do recommendations.

3 Q. Could you tell us a little about -- about your
4 educational and professional experience?

5 A. So I went to the University of North Carolina at
6 Chapel Hill for my bachelor of nursing degree. And then I
7 came here to the Medical University of South Carolina and got
8 a master's in nursing. And then later I went to Emory
9 University and got a postmaster's certification as a family
10 nurse practitioner, which is the certification that I work
11 under now in the position that I'm in.

12 Q. Do you have any areas of expertise?

13 A. The areas that I've been working in since 2008,
14 since I started with MUSC is in child abuse pediatrics.

15 Q. All right. Could you tell us a little bit about
16 any specialized training that you have in that area?

17 A. When I started in this position, I went to a
18 training academy that gave sort of a background in child
19 abuse and how to forensic nursing. And then I went to some
20 additional specialized training to treat acute sexual assault
21 and forensic exams on adolescents and then forensic exams and
22 acute sexual assaults on pediatric patients that are like the
23 pre-pubertal. So all ages up to the 18th birthday.

24 Q. And is there a difference between an RN, a
25 registered nurse and a nurse practitioner, an MD?

1 A. Yes, there is. As a nurse, you carry out the
2 directions of the physician that you're working under. As a
3 nurse practitioner, you actually develop some of the
4 recommendations yourself, and then you can diagnose as a
5 nurse practitioner whereas as a RN you don't diagnose as like
6 medical diagnoses.

7 Q. So a nurse practitioner is a higher level than --

8 A. Uh-huh.

9 Q. -- nurse?

10 A. Yeah, it has more responsibility.

11 Q. And it requires additional schooling?

12 A. It -- it requires additional schooling, which is
13 what I did at MUSC. And then at Emory University.

14 Q. Have you ever served as a pediatric sexual assault
15 nurse examiner?

16 A. That is the training that I received when I first
17 started in 2008, that additional training to train you to be
18 a sexual assault nurse examiner.

19 Q. And are you -- is there a special acronym for a
20 pediatric?

21 A. Yeah, it's called PSANE, Pediatric Sexual Assault
22 Nurse Examiner.

23 Q. And are you still at PSANE?

24 A. Yes.

25 Q. Is the -- outside of the age difference, we just

1 heard from a SANE nurse.

2 A. Uh-huh.

3 Q. Is there a -- a program -- a preceptorship similar
4 to that, that you must go through?

5 A. Yes. So when I first started in 2008, when I was
6 working part-time, I worked in the exact same role as the
7 person that you just -- that just testified Christie Harley,
8 I worked exclusively as just a PSANE and I only did acute
9 sexual assault. And what was your question? I'm sorry.

10 Q. I was just wondering if there is a training
11 similar --

12 A. Yes. So what you do, you go to the training that
13 I was telling you about that training academy and then the
14 specialty training in pediatric pre-pubertal and adolescent
15 acute sexual assault. You -- you go to that training and
16 then you are mentored by already trained PSANE and I was
17 under Carlene Tool and Dr. Anne Abel at that time.

18 And so you had to see like so many patients, you had to
19 do so many acute exams. And so that took a period of time
20 before you could be independent and do the exams yourself.

21 Q. You -- you keep mentioning this term acute sexual
22 exam. What -- what is that? Can you explain that to the
23 jury?

24 A. Well, acute means that it's happened within for
25 pre-pubertal that been within 36 hours. And for pubertal,

1 which is adolescent it's happened within 96 hours. So that
2 period of time is what we consider the acute phase of the
3 sexual assault.

4 Q. And what is the importance of determining an acute
5 phase of a sexual assault versus a non-acute phase?

6 A. Well, in the acute phase, that's when you're
7 eligible to collect DNA evidence. So that's the main reason
8 that you -- well, it's -- it's one of the main reasons that
9 you see the patient in the acute phase is so you can collect
10 evidence for SLED.

11 Q. And I understand you've been doing it since 2008
12 or in 2023, or I'm not going to ask you for math on that per
13 se, but how many exams, SANE exams, PSANE exams, just overall
14 would you approximate have done?

15 A. Over a thousand. I -- I don't count anymore, but
16 it's been a lot.

17 Q. And what areas are you licensed (inaudible)?

18 A. Well, I work under a -- under the -- the Board of
19 Nursing, South Carolina Board of Nursing, and I have my
20 advanced practice RN license with them. And then I practice
21 under the certification for my family nurse practitioner
22 license. And that credentialing agency is the American
23 Nurses Credentialing Center.

24 Q. Is your work ever peer reviewed?

25 A. It's constantly peer reviewed. Every patient that

1 I see is -- I write a report and that report is sent to my
2 supervising physician and then that physician checks off on
3 the report. And that's the same for the sexual assault,
4 which would've been in this case. I didn't see her for the
5 acute phase. I saw her for the two week follow up, but that
6 report was, I believe, it was reviewed by Dr. Melville.

7 Q. And have you been qualified as an expert in court
8 in child sexual abuse examinations?

9 A. Yes.

10 Q. Do you know approximately how many times?

11 A. I can't remember, I'm sorry.

12 MS. FRIERSON: Your Honor, at this time the State seek
13 to admit -- admit Kathy Fabrizio as an expert in child sexual
14 abuse examinations.

15 MS. FORD: No objection, Your Honor.

16 THE COURT: Okay. Ladies and gentlemen, normally folks
17 on the witness stand are not allowed to give opinions as part
18 of their testimony. Normally they can only tell you what
19 they see or what they -- what they've heard or things of that
20 nature. An exception is made for those witnesses who are
21 deemed to be an opinion -- excuse me, an expert in some field
22 or science. And they are allowed to give opinions in that
23 area in which they are deemed to be an expert.

24 She will be deemed an expert in the area of child acute
25 sexual abuse examinations and she'll be allowed to give

1 opinions in that area. Now, you don't have to accept her
2 opinions, it's just information for you to use in any way
3 that you see fit. Please proceed.

4 MS. FRIERSON: Thank you, Your Honor. May I please the
5 Court?

6 BY MS. FRIERSON:

7 Q. Ms. Fabrizio, did you see Minor [REDACTED] in May
8 of 2018?

9 A. Yes, I did.

10 Q. What was the purpose of that appointment?

11 A. She had been sexually assaulted on the 19th of
12 April, I believe it was. And she was seen in the emergency
13 room. And our protocol is that two weeks after their seen in
14 the emergency room, they're seen for a two week follow up.
15 And so I was seeing her as an outpatient for her two week
16 follow up.

17 Q. And what -- what is the reasoning behind the two
18 week follow up?

19 A. The two week follow up is to see how they're
20 doing, you know, it's traumatic when you're sexually
21 assaulted, so you -- just emotionally you're checking in with
22 them. Physically you're checking in with them. There's some
23 things that can show up within the first two weeks, like
24 herpes or HPV. You can have breakouts of lesions. And so
25 you do the full exam, you check their genital area, make sure

1 physically they're in -- they're okay, no new developments,
2 and then you check with them emotionally, psychologically.

3 Q. And were you able to see the SANE results from her
4 initial SANE exam?

5 A. Uh-huh. Yeah, I have reviewed those photos and
6 her report.

7 Q. And would that be part of your kind of prepping
8 for the two weeks follow up?

9 A. That's definitely you -- you look back and you see
10 part of the prep for seeing a child at two weeks is that you
11 do the full review of what was done and what the results were
12 and all that.

13 Q. And do you know who performed the initial SANE
14 exam?

15 A. Christie Harley.

16 Q. Are those records that you were just saying you
17 reviewed, are those kept a normal course of business at MUSC?

18 A. Yes.

19 Q. And do you recall **Minor's** demeanor when she came
20 in for that two week follow up?

21 A. She -- she told me that she was in good spirit.

22 MS. FORD: Objection. Relevance.

23 THE WITNESS: I'm sorry.

24 THE COURT: Can you all approach real quick?

25 (Bench conference.)

1 THE COURT: All right. So sustain the part. Okay.

2 BY MS. FRIERSON:

3 Q. Let me rephrase my question. How old was she when
4 you saw her?

5 A. She seemed good to me.

6 Q. How old?

7 A. Old. She was 11 at the time that I saw her. I
8 can't recall.

9 Q. And did you have any problems communicating with
10 her?

11 A. No.

12 Q. Now, you mentioned earlier you went through the
13 purpose of a two weeks follow up. At that follow up, do you
14 go into any in-depth questioning about sexual assault?

15 A. No.

16 Q. And did you perform a physical exam?

17 A. I did.

18 Q. And did you perform a genital exam?

19 A. I did.

20 Q. And what were the results of her genital exam?

21 A. She had a normal genital exam.

22 Q. What does -- what does normal mean in this -- this
23 context?

24 A. Normal. She had no acute injuries. She had no
25 redness, no tears, no -- no acute, no findings that would be

1 concerning for like acute trauma or scarring or anything like
2 that.

3 Q. All right. Can you please explain to the jury how
4 (inaudible) an 11-year-old can come in and have a normal exam
5 after a sexual assault?

6 A. There's a lot of research that has been done and
7 children, that area of the body does not injure very easily
8 and it stretches. That area of the body is designed to
9 stretch. Like if you see little children and they have big
10 poopies, it's like, how did that come out of a little child?
11 And it does come out and without any type of injury as a
12 rule.

13 And so that's because that area of the body doesn't
14 injure very easily. It's very elastic and if it does injure
15 it -- it tends to heal very quickly and it heals -- that
16 tissue tends not to scar. But she didn't have an injury in
17 the beginning, so I wasn't really looking for whether she had
18 healed from a previous injury. I was just making sure she
19 didn't have any new developments.

20 Q. Correct. Now, does her age or the level of
21 puberty affect an exam like that -- or no I shouldn't say
22 exam. Can -- does her age and level of puberty affect those
23 kind of results?

24 A. Yes. She is considered estrogenized.
25 Pre-pubertal children have more thin tissue whereas an -- a

1 teenager, well, she wasn't a teenager, but she was sexually
2 mature and that she had estrogenized, which means that
3 estrogen has gone into the tissue and made it more fluffy is
4 what it looks like and made it more elastic.

5 Q. And does -- does estrogenized have anything to do
6 with when a female gets her -- her period?

7 A. Yes.

8 Q. And so is -- is there any -- any truth to the --
9 the old myth about hymens and them being damaged?

10 A. That is a myth. So it's very rare. A lot of
11 people think that there's a covering over the opening to the
12 vagina and that the first time that something enters a
13 vagina, like the first time you might have sex is that that
14 tissue is ruptured in some way.

15 And you've heard pop the cherry or you know, that sort
16 of a phrase that I heard as a child, but that actually
17 doesn't happen. Everybody that's normally developed has a
18 natural opening to the vagina even when you're first born.
19 And -- and that's -- and there's no covering and there's no
20 -- as a rule, there's no injury to that area even when
21 there's penetration.

22 Q. Now, in your experience in the -- you said over a
23 thousand exams that you have done, have you ever had a --
24 particularly in the initial phase, have you ever experienced
25 a victim saying that there was a painful sensation or that it

1 hurt, but did not find any injuries?

2 A. Yes. Yes. And sometimes the exam can be
3 uncomfortable and they'll say that hurts, and then you
4 reposition them or reposition your hands and then that
5 usually resolves the issue.

6 Q. And without giving a diagnosis, just in general,
7 does a normal exam rule out a sexual assault?

8 A. A normal exam does not rule out a sexual assault.

9 Q. And again, all the exams you've done, how -- how
10 many times or if there's a percentage, how often is it when
11 you're doing the acute exams --

12 A. Uh-huh.

13 Q. -- that you are seeing physical injuries in
14 children and adolescents?

15 A. So I've been doing these since 2008 and I've maybe
16 had a couple of handfuls, maybe 10 at the most of injuries,
17 it's very rare that you see injuries.

18 Q. And in those handful of cases, did you have the
19 opportunity to do both the initial acute exam and then the
20 subsequent two week follow up?

21 A. I've had two experiences with that. One is that
22 sometimes you see that patient yourself and you asked before,
23 like, do we do peer review? And we do peer review where --
24 where we'll meet and go over the cases that have been seen
25 that month and we see the patient. So even if I didn't see

1 that patient personally, they'll show the pictures of that
2 patient when they came back for the two week follow up. And
3 in all those instances, I would say almost all of those
4 instances the injuries have been healed.

5 Q. And when you say healed, meaning I want to make
6 sure I understand that. If you didn't review that acute exam
7 --

8 A. Uh-huh.

9 Q. -- and you would've only done the two week exam.

10 A. Uh-huh.

11 Q. Would you have known that there were ever any
12 injuries?

13 A. No.

14 Q. Other than your personal experience and all the
15 exams you've done, is there any research that supports what
16 you've testified to here today?

17 A. There's a lot of research that's been done over
18 the years, and two experts that I -- that sort of are leading
19 in this area are Joyce Adams and Nancy Kellogg. And they
20 have articles that have shown research where they -- and for
21 Nancy Kellogg in particular, she said, normal doesn't mean
22 nothing happened. And she took 236 girls and evaluated them
23 and only 14 percent had evidence of any type of penetration.
24 So 86 percent had no definitive evidence of penetration.

25 In the other article there were pregnant teenagers and

1 there were 36 of these and they -- they evaluated them for
2 penetration and only two of the 36 had any type of definitive
3 penetration type injury. So you can have penetration without
4 having injury.

5 Q. And you said the 30, that last one it was 36
6 pregnant teens.

7 A. Pregnant teens.

8 Q. Clearly --

9 A. So clearly there had been penetration.

10 Q. And only two of the 36 showed any injury?

11 A. That's correct.

12 MS. FRIERSON: Court's indulgence, Your Honor?

13 THE COURT: Uh-huh.

14 BY MS. FRIERSON:

15 Q. Last question. Were there any follow up labs done
16 for **Minor** that day?

17 A. I just checked a pregnancy test.

18 Q. And do you recall results?

19 A. It was negative.

20 MS. FRIERSON: Thank you. I don't have any further
21 questions this time --

22 THE WITNESS: Okay. Thank you.

23 MS. FRIERSON: -- that Ms. Ford has.

24 THE WITNESS: All right.

25 CROSS-EXAMINATION

1 BY MS. FORD:

2 Q. You -- we've talked a lot or told us about acute
3 examinations.

4 A. Uh-huh.

5 Q. Versus other types of examinations?

6 A. Uh-huh.

7 Q. And acute, you said typically within 36 hours?

8 A. Acute for -- for this case would've been 96 hours.

9 Q. Of range?

10 A. Well, I'm sorry, you know, this brings me back to
11 the question. She is pubertal and so she would've been in
12 the 96 hour range, but our usual cutoff is 11 and under is
13 considered the 36 to 72 hour range. And then 12 and older is
14 usually considered the 96 hour range. And those ranges have
15 actually changed over time since I started working with this,
16 but those are the current ranges of time.

17 Q. And you told us that one reason there's a
18 difference between the examinations because in acute
19 examinations you're looking for possible DNA, correct?

20 A. Yes. And injuries, you -- you look --

21 Q. And injuries?

22 A. Yeah. And injuries.

23 Q. Because your -- there is a possibility of finding
24 injuries if they're examined shortly after the alleged
25 (inaudible), correct?

1 A. Yes. It's more likely that you would see an
2 injury immediately after because that area of the body heals
3 very quickly. And so those injuries even if they're present
4 they heal very quickly.

5 Q. And with reference to children that you've been
6 talking about, the majority of children who report the sexual
7 assault are seen they're not able to get into the acute
8 window, correct?

9 A. Could you repeat that question?

10 Q. Sure. You -- well, I mean you do -- you have done
11 acute exams, correct?

12 A. Yes.

13 Q. But you also do the follow up exam?

14 A. Yes.

15 Q. And if an assault is alleged to have happened in
16 the past.

17 A. Uh-huh.

18 Q. Like months ago or years ago.

19 A. Uh-huh.

20 Q. You still would examine that child, correct?

21 A. That -- every child that comes with a history of
22 sexual abuse, we see no matter how long it's been since that
23 child was abused.

24 Q. So most kids who come to be examined actually
25 don't make the acute timeframe, they just have to have the

1 other exam, correct?

2 A. Correct. Correct.

3 Q. So most of the exams done are on kids who have
4 possibly been abused in the past?

5 A. Yes. Yes.

6 Q. Now, in this case, you were able to examine the
7 initial report and saw that there were no injuries, correct?

8 A. Correct. I reviewed that report.

9 Q. But you decided to basically make sure to see if
10 there was anything new (inaudible), correct?

11 A. At the two week?

12 Q. Yes.

13 A. That is our protocol that you always see an acute
14 at a two week -- at a two week point.

15 Q. But you when examining Minor [REDACTED], you actually
16 specifically used high definition imaging?

17 A. Yes. Yeah, we used cam photographer. Yeah. We
18 used cameras.

19 Q. And that was to look to make sure there wasn't any
20 injury, correct?

21 A. Correct. Or any additional findings like herpes
22 or HPV or any additional findings.

23 Q. And you noted in your report that you did that due
24 to concern for possible genital trauma?

25 A. Yeah.

1 Q. So because you recognize that if it's close in
2 time that there can be trauma from a sexual assault, correct?

3 A. Yes.

4 Q. You saw no sign of acute injury?

5 A. Uh-uh, no.

6 Q. And no sign of chronic injury?

7 A. Correct.

8 Q. Because sometimes you are able to pick up on
9 scarring and things like that, correct?

10 A. I have seen a scar before, yes.

11 Q. So everything looked totally normal?

12 A. Correct.

13 Q. You told us about a study with pregnant teens?

14 A. Yes.

15 Q. So if the study were done on pregnant teens, then
16 those -- by the time they were discovered to be pregnant,
17 that would've been not in the acute timeframe, correct?

18 A. You know what, I should probably know the answer
19 to this, but I don't know exactly how long after. But do --
20 to know that you're pregnant, it would have to be a few weeks
21 later, so yes, that would be -- that's true. That's true.

22 Q. So by the time the pregnant teens would've
23 discovered that they were pregnant.

24 A. Yes.

25 Q. It would no longer have been in that acute

1 timeframe?

2 A. Days. Yes.

3 Q. So there would've been time for any injury to have
4 healed?

5 A. Yes.

6 Q. Because you told us that injuries can heal --

7 A. Quickly.

8 Q. -- while the -- it can exist, they can heal,
9 correct?

10 A. Yes.

11 MS. FORD: Beg the Court's indulgence?

12 THE COURT: Uh-huh.

13 MS. FORD: And no further questions.

14 THE COURT: Okay. Any re-direct for this witness?

15 MS. FRIERSON: Just briefly, Your Honor.

16 THE COURT: Uh-huh.

17 RE-DIRECT EXAMINATION

18 BY MS. FRIERSON:

19 Q. Referring to that study, the Kellogg study about
20 pregnant teen. And I don't know if you have a copy of there
21 with you.

22 A. I do not.

23 Q. Okay. Well, let me ask you this, and if I need
24 to, you know, refresh your recollection, we can get there.
25 Do you remember whether the study tested any teens that had

1 had either a miscarriage with a DNC or abortion prior to
2 their exam?

3 A. I do not remember that.

4 MS. FRIERSON: Your Honor, may -- may I approach to
5 refresh your collection of the article?

6 THE COURT: Sure. Okay.

7 MS. FORD: And, Your Honor, I do not have a copy.

8 MS. FRIERSON: I have an extra copy of this.

9 THE COURT: Okay. Well, let her -- just when she's
10 finished, I'm looking at my roll up before there, before you
11 ask any questions.

12 MS. FRIERSON: Sure.

13 THE COURT: And then you can (inaudible).

14 MS. FRIERSON: (Inaudible).

15 THE COURT: Yes.

16 BY MS. FRIERSON:

17 Q. Ms. Fabrizio, out of those 36 girls that were
18 studied, that pregnant teens, earlier you testified only two
19 had signs of injury?

20 A. Yes.

21 Q. Thirty-four didn't. Did one of those 34 had she
22 just had miscarried with the DNC?

23 A. Yes. That's what you just showed me. Yes.

24 Q. And did another one of the subjects have an
25 abortion prior to DNC?

1 A. Yes. Uh-huh.

2 Q. And neither of those showed any signs of injury?

3 A. Of injury.

4 MS. FRIERSON: Thank you. I have no further questions.

5 THE COURT: Any re-cross?

6 MS. FORD: Beg the Court's indulgence?

7 THE COURT: Yeah, take your time.

8 RE-CROSS EXAMINATION

9 BY MS. FORD:

10 Q. Well, looking at what the -- Ms. Frierson just
11 pointed out to you, these girls they still were not examined.
12 They were examined weeks after, correct?

13 A. It was not during the acute phase.

14 Q. Right. So, for example, one girl had had a
15 miscarriage two weeks before the examination?

16 A. Uh-huh.

17 Q. So not in the acute phase --

18 A. Correct.

19 Q. -- phase, correct? And the other -- the abortion
20 had been two months prior?

21 A. Correct.

22 Q. Okay. So not within the acute phase?

23 A. Correct.

24 MS. FORD: Thank you. No further question.

25 THE COURT: Okay. All right. Ma'am, you're free to

1 step down.

2 THE WITNESS: Okay.

3 THE COURT: Or leave if you wish. Thank you.

4 State can call next witness.

5 MR. HARRIS: The State calls Lauren Santos.

6 THE CLERK: Please raise your right hand and place your
7 left hand on the Bible.

8 LAUREN SANTOS,

9 being first duly sworn testifies as follows:

10 THE CLERK: Please be seated. Please state your full
11 name, spelling your last name in the microphone.

12 THE WITNESS: Lauren Santos, S-A-N-T-O-S.

13 DIRECT EXAMINATION

14 BY MR. HARRIS:

15 Q. Good afternoon, Ms. Santos. How you doing?

16 A. I'm doing good, thank you.

17 Q. Where are you currently employed?

18 A. Berkeley County Sheriff's Office.

19 Q. And where were you employed before that?

20 A. MUSC public Safety.

21 Q. How long were you with MUSC?

22 A. Approximately eight, nine months.

23 Q. And what were your duties with MUSC?

24 A. I was a public safety officer.

25 Q. And what does that consist of?

1 A. Consists of patrolling and in any law enforcement
2 action required on campus and at the hospital.

3 Q. And were you working for MUSC on April 20, 2018?

4 A. Yes.

5 Q. On April 20, 2018, did you receive any evidence
6 regarding this case?

7 A. Yes.

8 Q. Do you recall what the evidence was?

9 A. Yes.

10 Q. What was the evidence?

11 A. It was a sexual assault evidence kit and clothes.

12 MR. HARRIS: Your Honor, may I approach the witness?

13 THE COURT: Uh-huh.

14 BY MR. HARRIS:

15 Q. Showing what's been marked as State's Exhibit 10,
16 11 for identification purposes only. Do you recognize that?

17 A. Yes.

18 Q. What is it?

19 A. It's the sexual assault evidence collection kit I
20 collected that --

21 Q. And who gave you this evidence?

22 A. The SANE nurse.

23 Q. Do you remember her name?

24 A. SANE nurse is Christie Harley.

25 Q. When you received this evidence, was it sealed?

1 A. Yes.

2 Q. Did you ever open it?

3 A. No.

4 Q. What did you do with the evidence after you
5 received it?

6 A. I took it to evidence to be placed and logged.

7 Q. And was it placed in the secure room?

8 A. Yes.

9 Q. And you logged it, where did you log it?

10 A. Logged it with our evidence forms into the
11 evidence refrigerator for the sexual assault evidence kit and
12 the evidence locker for the bag of clothing.

13 Q. And do you document that somewhere?

14 A. Yes.

15 Q. Where do you document that?

16 A. We document it on our forms that go along with the
17 kits as well as on our report.

18 Q. Do you know who received this evidence after you
19 put in there -- there were secure rooms?

20 A. Yes. The evidence custodian, Sergeant Van Horn.

21 MR. HARRIS: Beg the Court's indulgence?

22 THE COURT: Uh-huh.

23 MR. HARRIS: I have no further questions for you at
24 this time. Please answer any questions Defense ask.

25 MS. FORD: I have no questions for this witness, Your

1 Honor.

2 THE COURT: All right. You can step down. Thank you
3 very much. You're free to leave.

4 MS. FRIERSON: Your Honor, can we approach?

5 THE COURT: Yes, sure.

6 (Bench conference.)

7 THE COURT: All right. And ladies and gentlemen, I
8 know it gets kind of snoozy in the afternoons after lunch.
9 If you find yourself -- you know, if you need a bottle of
10 water or something like that, I would have to stay awake.
11 Just let us know and we'll try to get that to you. Not get a
12 little tedious and quiet, no windows in this courtroom too.

13 All right. State can call the next witness.

14 MR. HARRIS: State called Sergeant Ledford

15 THE COURT: Ledford. Okay.

16 JEREMY MICHAEL LEDFORD,

17 being first duly sworn testifies as follows:

18 THE CLERK: Please be seated. Please state your full
19 name, spelling your last name in the microphone.

20 THE WITNESS: Jeremy Michael Ledford. That's
21 L-E-D-F-O-R-D.

22 DIRECT EXAMINATION

23 BY MR. HARRIS:

24 Q. Good afternoon.

25 A. Afternoon, sir.

1 Q. Where do you currently work?

2 A. City of North Charleston. North Charleston Police
3 Department.

4 Q. And how long have you been working there?

5 A. Just under 18 years now.

6 Q. Were you working there on July 5, 2018?

7 A. Yes, sir. I was.

8 Q. On July 5, 2018, what was your role with North
9 Charleston Police Department?

10 A. During that time I was the supervisor for the
11 Property and Evidence Unit.

12 Q. And on July 5, 2018, did you receive any evidence
13 regarding this case?

14 A. Yes, sir, I did.

15 Q. What was the evidence?

16 A. July 5th I retrieved a CSC kit and transported
17 that to the state law enforcement division in Columbia.

18 Q. And who gave you the evidence in this kit?

19 A. This -- in July 5th, it was checked out from our
20 evidence unit, so I would have retrieved it straight out of
21 our refrigerator.

22 Q. And can you tell who placed those items into
23 evidence?

24 A. Yes, sir. It was -- it was transferred over from
25 our forensics investigator, Investigator Ong. And it was

1 secured in the evidence unit by evidence technician
2 Heather Wellington or Hannah Wellington. I'm sorry.

3 Q. And how do you know this?

4 A. It's stated on our chain of custody that we
5 utilize to itemize and keep track of all items that are moved
6 within and externally through the Property and Evidence Unit.

7 Q. And was this evidence sealed when you received it?

8 A. Yes, sir, it was.

9 Q. Did you ever open it?

10 A. No, sir.

11 Q. And was it tampered with or altered in any way?

12 A. No, sir. If there was any type of tampering we'd
13 have annotated it on the chain of custody as well as within
14 any notes.

15 Q. And you mentioned that you transport to SLED,
16 correct?

17 A. Correct.

18 Q. Where is it -- where do you secure this evidence
19 when you transport to SLED?

20 A. When I take it out the refrigerator, we
21 immediately place it -- anything that's for biological
22 evidence, we turn around and place it within a cooler inside
23 the evidence unit. And then I take it straight to the
24 vehicle and keep it within -- within my eyesight with, you
25 know, next to me in the vehicle as we transport that to

1 Columbia.

2 Q. And what do you do with this evidence once you
3 arrive at SLED?

4 A. Once you get to SLED, there's kind of a check-in
5 process. Once you go into the main evidence control area,
6 they have a locker system that's in the -- the back of the
7 area. We take our paperwork for any type of evidence that
8 we're securing to SLED. We will annotate time, date, and
9 stamp the paperwork if it's going into a locker or a
10 refrigerator, those are all numbered. And once we scan it
11 through, like kind of the old time card stamps, we'll do
12 that. We'll put our initials and put a number next to our
13 initials and that would annotate what locker or refrigerator
14 that would be secured in. And that's what we did when we
15 transported there.

16 Q. And are those lockers and refrigerators secure?

17 A. Yes, sir. They're kept open and once an item of
18 evidence is placed within inside, we turn around and lock it
19 completely. And the only individuals that have keys to that
20 would be an -- an analyst or someone with the evidence
21 control.

22 MR. HARRIS: Beg the Court's indulgence?

23 I have no further questions for you at this time.

24 Please answer any questions Defense may have.

25 THE WITNESS: Thank you, sir.

1 CROSS-EXAMINATION

2 BY MS. FORD:

3 Q. So you basically, you took the evidence from North
4 Charleston to SLED, correct?

5 A. Correct, yes, ma'am.

6 Q. And you referenced a sheet that other people had
7 signed indicating what they had done?

8 A. I believe I was referencing what we call the --
9 the I-lab of the prelog.

10 Q. Okay. But you didn't actually witness those
11 people handle the evidence directly, correct?

12 A. No, ma'am.

13 Q. They just signed off in a certain place that they
14 had done?

15 A. Where they would sign off. It's probably the
16 internal chain of custody, like I said, we secured in the
17 evidence locker or the evidence refrigerator and we -- they -
18 we wouldn't actually be in contact with any of the evidence
19 control members from SLED that would retrieve it out of those
20 lockers.

21 Q. One thing about North Charleston, you mentioned
22 North Charleston, there were a few people you named?

23 A. Yes, ma'am.

24 Q. But they, you got their names from this log sheet,
25 correct?

1 A. Yes, ma'am. From the chain of custody.

2 Q. Okay. So you weren't actually present when they
3 did anything with you?

4 A. No, ma'am.

5 MS. FORD: No further questions.

6 THE COURT: Okay. Any follow ups for this gentleman
7 before he leaves? From the State?

8 MR. HARRIS: Yes, ma'am.

9 THE COURT: Okay.

10 MR. HARRIS: Briefly.

11 RE-DIRECT EXAMINATION

12 BY MR. HARRIS:

13 Q. Sergeant Ledford, evidence if is tampered, would
14 it be documented somewhere on the chain of custody?

15 A. Yes, sir. It had been documented in the purpose
16 section on the right hand side of the chain of custody that
17 something would've been tampered, a seal would've been
18 broken. Also, we would've gone back into our police report
19 system, our RMS system, and we would've annotated any type of
20 tampering or seals being broken or tampered with. We've
21 noted that in the report itself. And then we would've
22 resealed it with our own tape if we'd turned around and
23 initialed it ourselves and date it.

24 Q. Did that happen in this case?

25 A. No, sir.

1 MR. HARRIS: Thank you. I have no further questions.

2 MS. FORD: Briefly, Your Honor.

3 RE-CROSS EXAMINATION

4 BY MS. FORD:

5 Q. So it would only be documented if someone who
6 tampered with it or messed up somehow if they chose to
7 document, correct?

8 A. It was a standard procedure. So obviously
9 depending on the evidence it would come in sealed.

10 Q. Well, people are supposed to document it, correct?

11 A. Yes, ma'am.

12 Q. But people don't always document everything that
13 they're supposed to?

14 A. I can't confirm what other people do, but within
15 my unit it was standard procedure that we would document
16 anything that would be tampered with.

17 MS. FORD: Thank you. No further questions.

18 THE WITNESS: Yes, ma'am.

19 THE COURT: Okay. You are free to leave. Step down.
20 Thank you very much.

21 SERGEANT LEDFORD: Thank you, Your Honor.

22 THE COURT: Okay. Next witness.

23 MS. FRIERSON: Your Honor, it might be a time for a
24 good recess for --

25 THE COURT: Sure.

1 MS. FRIERSON: -- the next witness is a little bit long
2 to give --

3 THE COURT: Okay. We'll do that. Sounds good.

4 All right ladies and gentlemen, you'll take about a 10
5 or 15 minute break. We'll see you back in a few minutes.

6 (Jury exits room.)

7 THE COURT: Thank you. All right. Who's -- who do we
8 anticipate calling today?

9 MS. FRIERSON: Verona Herrera name as Serologist and
10 depending on timing maybe Detective Crider.

11 THE COURT: Okay. All right. Okay. Thank you alls,
12 see you back in a few minutes.

13 MS. FRIERSON: Thank you.

14 (Off the record.)

15 THE COURT: All right. And so it says, "Do not think I
16 will be able to continue with the rest of the trial. I have
17 a four month old in the hospital. He have trouble breathing
18 and bad coughs. I've been sleeping at MUSC since Sunday,
19 haven't really been getting much of sleep for the past couple
20 of days." Signed number 96.

21 I'm not sure if that's the gentleman who the attorney's
22 approach noticing he was drifting off. Potentially. Not
23 sure. But at any rate again, something that probably should
24 have been brought to my attention Monday morning if they had
25 a baby in the hospital in MUSC. So happy to entertain

1 thoughts or suggestions from the attorneys.

2 Anything from the State?

3 MS. FRIERSON: Your Honor, I mean obviously that brings
4 us down to our last alternate, but I don't think that if my
5 four month old son was in the hospital, I'd make much of a
6 good juror for either side.

7 THE COURT: Yeah.

8 MS. FRIERSON: So I -- I don't know that we have --

9 THE COURT: Okay.

10 MS. FRIERSON: -- much of a choice because it's not
11 like we could finish and deliberate today.

12 THE COURT: Right. Okay. Ms. Ford, do you have any
13 thoughts or?

14 MS. FORD: I -- I mean I agree, I don't -- I think he
15 should have brought it up Monday. I'm sure Your Honor
16 would've excused him under their circumstances, but I think
17 we're just -- it is what it is and I agree. Clearly not
18 going to be invested in the case.

19 THE COURT: Right. Yeah. Yeah, I would've thought
20 that, you know, when I asked the -- the specific question if
21 anybody has any, you know, I think it says anybody's going
22 through an extreme hardship right now. Come to me with
23 anything or any reason this is a particularly bad week for
24 you to be on a jury. I would've thought he would've
25 responded surely to that sort of catchall if nothing else.

1 But nonetheless everybody has a different interpretation of
2 -- of jury duty and -- and all the things that come with it.
3 I've learned that over the years. So here we are.

4 Okay. Well, if you could please bring number 96 in?

5 THE BAILIFF: Yes.

6 THE COURT: Thank you, sir.

7 Well, I don't know what's going on with the common
8 pleas.

9 THE CLERK: (Inaudible).

10 THE COURT: So I don't -- do you all anticipate calling
11 any other trials this week? Do you all know what's behind
12 you?

13 MS. FRIERSON: I'm sorry, what'd you say, Judge?

14 THE COURT: Any -- I'm sorry. Any other trials suite?

15 MS. FRIERSON: I don't know that we have any short
16 enough to go, I mean. Pardon?

17 THE COURT: I envision this going until Thursday.

18 MS. FRIERSON: I -- so tomorrow, I mean we -- we still
19 have one two, three, four, I think five witnesses
20 potentially. Some are going to be real quick like a chain,
21 but I think that we may have to come back for some more
22 testimony after lunch, which would put us --

23 THE COURT: Probably Thursday. I was thinking that.
24 So but none of the other cases are like a day or half day
25 trial.

1 MS. FRIERSON: Charlie Patrick says he has one, but I
2 think you'd have to pick -- I foresee us closing and charging
3 on Thursday morning.

4 THE COURT: I do too.

5 MS. FRIERSON: And so I think you'd have to pick a jury
6 probably tomorrow, come back later on if you were willing to
7 start the case on Thursday while they were out deliberating.

8 THE COURT: Okay. Let's --

9 MS. FRIERSON: (Inaudible).

10 THE COURT: I don't know, I think I'm just (crosstalk)
11 already common plea, you know, anything about -- is it your
12 case?

13 MS. FORD: No, Your Honor, but it's -- I was just going
14 to add it's a pro se case for whatever that's worth.

15 THE COURT: Okay. I -- I don't think we'll reach
16 another GS, but I would defer to common pleas because they're
17 more likely to need a jury back than we are.

18 MS. FORD: Okay.

19 THE COURT: So just let them know to ask whoever that
20 judge is.

21 Hey, I'm sorry to keep you waiting. Number 96, how's
22 it going? I got your note.

23 JUROR NUMBER 96: (Inaudible).

24 THE COURT: First of all, I'm really sorry. Obviously
25 you -- if you could -- you should told me this Monday

1 morning. I would've kept you from --

2 JUROR NUMBER 96: He was supposed to be out today, but

3 --

4 THE COURT: Not --

5 JUROR NUMBER 96: -- I got on break. They -- they

6 called me with other news, so.

7 THE COURT: Okay. I'm really sorry. Obviously, I

8 would -- we wouldn't have had you serving if we'd known all

9 that was going on. So I'll -- I'll excuse you. I have slept

10 at MUSC with the child, so I know that it's difficult. You

11 don't get really any sleep to come in and take vitals like

12 every hour and turn the lights on and the whole deal, so,

13 yeah.

14 All right. Well, listen, I'm going to excuse you.

15 Obviously the -- the bailiffs will -- will get you things for

16 you and you won't be interacting anymore with the rest of the

17 jury. And we -- we obviously wish you and your family all

18 the best. Okay?

19 JUROR NUMBER 96: Thank you.

20 THE COURT: All right. Yes, sir. Take care.

21 All right. So we will move the other alternate over to

22 the body of the jury. We will proceed from there.

23 All right. You all ready to call your next witness?

24 MS. FRIERSON: I'm sorry, Your Honor.

25 THE COURT: You're fine.

1 MS. FRIERSON: Did you say something to --

2 THE COURT: Ready to call your next witness. That's
3 all.

4 MS. FRIERSON: Yes, Your Honor.

5 THE COURT: Sounds good. You can bring the rest of the
6 jury in. So for the record that would be number 143 will now
7 be moved over to the body.

8 (Jury enters courtroom.)

9 THE BAILIFF: All jury present.

10 THE COURT: All right. Thank you so much. You all can
11 have a seat. One other juror, ladies and gentlemen, have
12 been excused for family emergency purposes. So here we are.
13 That's why we select alternates. So you will now be moved
14 over to the main body of the jury.

15 On that note ladies and gentlemen, and we just for
16 scheduling purposes, we anticipate wrapping this up Thursday
17 just for your own sort of mindset. Try to pass on
18 information as soon as I have it to you all. We all have
19 lives outside of court. I know so that is the -- what we
20 currently anticipate, just so you know. All right. And with
21 that, I believe the State's ready to call their next witness;
22 is that right?

23 MS. FRIERSON: Yes, Your Honor.

24 THE COURT: Okay.

25 MS. FRIERSON: State calls Verona Herrera.

1 THE COURT: All right.

2 VERONA HERRERA,

3 being first duly sworn testifies as follows:

4 THE CLERK: Please be seated. Please state your full
5 name, spelling your last name in the microphone.

6 THE WITNESS: Verona Herrera, H-E-R-R-E-R-A.

7 MS. FRIERSON: Thank you, Your Honor. May I please the
8 Court?

9 THE COURT: Yes, ma'am.

10 DIRECT EXAMINATION

11 BY MS. FRIERSON:

12 Q. Ms. Herrera, could you please tell the jury where
13 you're currently employed?

14 A. I work in the South Carolina -- South Carolina
15 Department of Health and Environmental Control.

16 Q. And how long have you been there?

17 A. Approximately four years.

18 Q. Could you tell the jury a little bit about your
19 educational background?

20 A. I have an associate's of science degree from
21 Tri-County Technical College and a associates of public works
22 with their certificate in forensics from Greenville Technical
23 College and a Bachelor's of Science in Criminal Justice
24 Forensics from Liberty University.

25 Q. Have you ever been employed at the South Carolina

1 Law Enforcement Division, commonly known as SLED?

2 A. I have. I was employed there for approximately 12
3 and a half years.

4 Q. And what were your jobs while you were there?

5 A. I was in the evidence processing and serology
6 department for the DNA section.

7 Q. Could you tell the jury what a serologist does?

8 A. So -- so evidence processing is a part of serology
9 as it evolved. So evidence processing is taking larger
10 pieces of evidence from a crime scene looking for body fluids
11 or what's considered touch DNA or -- or contact DNA. And
12 then serology is identifying those body fluids if a test in
13 the lab exists to -- to identify that body fluid.

14 Q. Is -- is there a thing called forensic serology?

15 A. Forensic serology is just serology in a forensic
16 setting to do with criminal justice.

17 Q. And what body fluids contain DNA?

18 A. Most body fluids contain DNA, even if it is the
19 skin cells that would be shed from the skin that lines the
20 ducts or lines your mouth or whatever.

21 Q. Have you previously testified as an expert in
22 serology?

23 A. I have, yes.

24 Q. Approximately how many times?

25 A. I think it's more than 20 I know.

1 Q. And in multiple courts?

2 A. Yes, ma'am.

3 MS. FRIERSON: Your Honor, at this time the State would
4 offer Ms. Herrera as an expert in forensic serology.

5 THE COURT: Any objection?

6 MS. FORD: No, Your Honor.

7 THE COURT: All right. Without objection. Should be
8 admitted as an expert in that area. Ladies and gentlemen,
9 once again as I stated earlier normally folks can't give
10 opinions from the witness stand that an exception is made
11 when they're deemed an expert in some field or science.

12 Ms. Herrera will be deemed an expert in the field of
13 forensic serology. She'll be able to give you opinions in
14 that area and you don't have to accept her opinions, it's
15 just information for you to use in any way that you see fit.

16 Go ahead.

17 MS. FRIERSON: Thank you, Your Honor.

18 BY MS. FRIERSON:

19 Q. As it relates to this case, did you receive any
20 items of evidence in this case?

21 A. I did, yes, ma'am.

22 Q. When did you receive it?

23 A. I don't have the chain of custody with me. Do you
24 have a copy of that? I'm sorry.

25 MS. FRIERSON: All right. Court's indulgence, Your

1 Honor?

2 THE COURT: Uh-huh.

3 MS. FRIERSON: Court's indulgence, Your Honor?

4 THE COURT: Sure.

5 MS. FRIERSON: I know (inaudible) copy on my desk. May
6 I approach the witness?

7 THE COURT: Of course, yeah.

8 THE WITNESS: Thank you, ma'am.

9 BY MS. FRIERSON:

10 Q. Ms. Herrera, could -- could you look at that and
11 tell me if you know what that is?

12 A. Yes, ma'am. This is what is referred to as a
13 certified chain of custody. It's a record of every piece of
14 evidence that came into the laboratory who had it at what
15 time and when they turned it back into the next either
16 department or storage location.

17 Q. And if you take a minute to review that and see if
18 it refreshes your recollection on when and who you received
19 evidence in this case (inaudible)?

20 A. So yes, ma'am. On July 17th of 2018, I received
21 the sexual assault collection kit from Charlotte Pitts, one
22 of the evidence or evidence collection technicians.

23 Q. Okay. And what is -- what is -- an evidence
24 collection technician is what?

25 A. When the evidence is brought to the laboratory

1 from the agencies around the state, it is the best of my
2 knowledge at this time. It was put into lockers and then
3 that evidence is collected out of that recorded into the
4 system as a final piece of evidence and then put -- placed
5 barcodes and stickers on those so that they can be tracked
6 through the laboratory.

7 Q. And do forensic evidence tests handle the evidence
8 as far as any kind of analysis or testing?

9 A. They do not, no.

10 Q. Is it fair to -- to kind of describe them more as
11 like a holder or a courier?

12 A. That is correct, yes.

13 Q. Now, when you receive a CSC kit, is it sealed?

14 A. When it comes into the laboratory the -- a sexual
15 assault collection kit, it's the -- the envelopes inside of
16 it are sealed inside of a box. Those evidence technicians
17 would've opened that box. They're sealed envelopes on the
18 inside, those envelopes in any other collection -- or
19 collected evidence is placed into a heat so pouch and then
20 that box is destroyed. So that's would -- it would be in a
21 sealed condition, but not the box that I received.

22 Q. Is the -- is the box a mechanism for transport?

23 A. It is only a mechanism for transport and
24 containment.

25 Q. But if I understand correctly, anything it was in

1 the box is separately an individual?

2 A. That is correct, yes.

3 Q. And if -- if a box is broken down and you get
4 assigned to do an analysis and you receive those -- those
5 other mini pieces of evidence and they are not sealed, what
6 do you do?

7 A. I would've stopped testing. We -- I would've
8 contacted my supervisor. We would've contacted the agency
9 that submitted the evidence and I would've made notes of all
10 those conversations in my documentation.

11 Q. And was the CSC kit that you received the -- the
12 interior contents, was it sealed?

13 A. It was, yes.

14 Q. So were you the first one to open the individual
15 elements was inside that?

16 A. I was, yes.

17 Q. And once you -- you open -- once you've received
18 those, do you begin by doing anything particular in terms of
19 identifying the -- the individual pieces?

20 A. First we read what's called the sexual assault
21 collection kit report. So it basically is the nurse's notes
22 on what they did, what evidence was collected, what the --
23 the report from the victim was of what occurred. Because
24 that informs the type of testing that will need to be done on
25 each type of swabs or cuttings or whatever else is contained

1 within that kit. That way we can make decisions on the best
2 testing for that evidence. And that's how we proceed to go
3 forward.

4 MS. FRIERSON: Your Honor, may I approach?

5 THE COURT: Uh-huh.

6 BY MS. FRIERSON:

7 Q. I'd like to show you what has been pre-marked and
8 identified as the State's Exhibit 4, 5, and 6. If you could
9 take a look at those and tell me if you recognize them.

10 A. Yes, ma'am, I do.

11 Q. And what are they?

12 A. These are envelopes that were contained within the
13 kit. This was the seal that I broke that the -- the sexual
14 assault collection nurse placed on them. It has initials on
15 that as well. My initials and the date that I opened it are
16 here. And this is the unique identifier that's assigned to
17 each piece of evidence within the kit.

18 So item 1.1, item 1 was the CSC kit, 0.1 was the fourth
19 -- fourth piece of evidence in that kit 0.5 and then 0.6
20 followed. And these are State's Exhibit 6 is a suspected
21 saliva swab. State's Exhibit 4 is the known DNA standard
22 from the victim, and 1.3 State's Exhibit 5 is the rectal
23 swabs.

24 MS. FRIERSON: May I approach the witness?

25 THE COURT: Yes.

1 MS. FRIERSON: At this time, the State would seek to
2 admit 4, 5, and 6.

3 THE COURT: Any objection to 4, 5, and 6?

4 MS. FORD: Yes, Your Honor. I object based on chain.

5 THE COURT: Okay. We -- the (inaudible) on the jury,
6 I'm going to have to excuse you for one minute. There's a
7 couple things we got to discuss with these attorneys outside
8 of your presence. This will be a shorter break, but
9 nonetheless a break so that we can discuss something
10 momentarily. We'll bring you back soon.

11 (Jury exits courtroom.)

12 THE COURT: Okay. All right. Ms. Ford, I'm happy to
13 hear you more in full on your objection.

14 MS. FORD: Thank you, Your Honor. Well, we understand
15 not every single person needs to testify. We do feel like
16 the person who received the evidence at North Charleston SLED
17 should have testified. So we just wanted to raise that as a
18 chain of objection, Your Honor.

19 THE COURT: Okay. All right. And Ms. Frierson or Mr.
20 Harris do you want to respond?

21 MS. FRIERSON: Yes, Your Honor. We have identified
22 everyone in the chain so far, beginning with Christie Harley
23 -- Harley collecting it, giving it to Lauren Santos, who then
24 sealed it and put it into evidence. Van Horn -- excuse.
25 Yeah. To Van Horn, which she identified who gave it to

1 Officer Ong. Officer Ong only did a SLED submission slip.
2 She had actually like opened the evidence.

3 THE COURT: Uh-huh.

4 MS. FRIERSON: Hannah Wellington also has been
5 identified as the one who gave it to Sergeant Ledford.
6 Sergeant Ledford testified that the North Charleston evidence
7 is secure. Both Ms. Santos and Sergeant Ledford testified
8 that when they received it, it was in substantially the same
9 or I should say a sealed --

10 THE COURT: Uh-huh.

11 MS. FRIERSON: -- condition such that they were willing
12 to transport it and accept it into evidence and would've
13 noted elsewhere if in fact it had been tampered with.
14 Sergeant Ledford explained the procedure of going to SLED,
15 putting it into the locker with where he -- where Ms. Herrera
16 has now testified that they were put in lockers and Charlotte
17 Pitts had retrieved it or accepted into evidence and also
18 testified that they do not open it.

19 She also testified that it was sealed when it got to
20 her, and if it wasn't she would not have done any testing.
21 Under State v. Hatcher, we believe that, you know, we don't
22 have to call every single person that handles the evidence.
23 We have certainly identified them all and no one has said
24 that there has been any issue with tampering and therefore we
25 believe it should be admissible State's 4 through 6.

1 THE COURT: Okay. Pursuant to the Hatcher case and all
2 the evidence and the testimony has been presented, again
3 allow it over the objection from the Defense, which is noted
4 to the record. I -- I think that they called a substantial
5 amount of folks involved in the chain. Obviously, Ledford's
6 testimony established the practice and the procedures
7 followed by North Charleston in terms of the -- the tampering
8 and -- and the sealing and all of that. So respectfully your
9 objection is overruled.

10 MS. FRIERSON: Thank you, Your Honor.

11 THE COURT: Sure. You can bring it back in now
12 whenever they're ready.

13 (Jury enters room.)

14 THE COURT: All right. Thank you all so much. All
15 right. Have a seat. State can proceed. State's 4, 5, and 6
16 will be admitted.

17 (State's Exhibits number 4, 5, 6 were admitted into
18 evidence.)

19 MS. FRIERSON: Thank you, Your Honor. May I please the
20 Court?

21 BY MS. FRIERSON:

22 Q. Ms. Herrera, as we were discussing, you provide or
23 you put labels in your initials on each piece of the evidence
24 that you open from the CSC kit?

25 A. That is correct.

1 Q. And then what is your next step?

2 A. I would test the different swabs collected based
3 on the incident report or the SANE notes for whatever body
4 fluid the nurse thought was present and the story makes the
5 most sense.

6 Q. And if I understand you correctly, that's done by
7 referring to the -- the report?

8 A. That is correct.

9 Q. Understanding that you're a scientist, how would
10 you in simplest terms explain how you actually test the
11 swabs?

12 A. So a small portion of the swab is cut and placed
13 into a small tube. It looks like a little plastic test tube,
14 basically with a lid. Different chemicals are placed on that
15 little cutting of the swab based on which body fluid we're
16 looking for. If it's semen, it's one set of chemicals. If
17 it's saliva, it's another set of chemicals. Those are
18 allowed to soak for a specific amount of time. Then they're
19 centrifuged which just spins down some of the cells.

20 And then we would test those on card test. So it's
21 read similar to a pregnancy test. The number of lines that
22 show up are a positive or a negative, kind of like a COVID
23 test today. If on the -- so the component of semen, that
24 component we're testing for if three lines show up, that is a
25 positive test for the -- for the presence of the chemical

1 P30. If it's saliva, there would be two lines that would
2 show up. If it's a positive test, if only one shot line
3 showed up, it would be a negative test.

4 For semen, we would also take a small portion of the
5 cellular level or layer of that sperm down sample, and that
6 would be placed on a slide stained and visually scanned under
7 a microscope to see if there were any of the sperm cells,
8 which is the cellular portion of semen to determine whether
9 that was present or not.

10 Q. So again, for us non-scientists, sperm and semen
11 are different?

12 A. Correct. So well, sperm is contained within
13 semen. Semen has two different parts. It has a liquid part
14 and it has a cellular part. The cellular part is the
15 spermatozoa or the sperm cells, the liquid part in high doses
16 there's a -- a protein in there called P30. And that is --
17 it's -- at the levels we test for would only be in the liquid
18 portion of semen, the blood of men with prostate cancer and
19 breast fluid -- or breast milk, excuse me. So that's what
20 the reason that we test for that chemical within the liquid
21 portion.

22 Q. And so kind of breaking this down, up top would be
23 semen. The two parts if I understand correctly are the
24 cellular and is that the liquid?

25 A. The component the -- the chemical that we test for

1 that's in the component, the liquid component, yes.

2 Q. The liquid has the P30?

3 A. Yes. Yes.

4 Q. And the cellular has the sperm?

5 A. It is the sperm cell, yes.

6 Q. Now, if there is no P30, does that rule out
7 further testing?

8 A. It depends on the situation. In saliva samples
9 there may also be saliva present that we would go ahead and
10 -- and send that sample forward, but we wouldn't test --
11 double test. We wouldn't want to consume the sample by doing
12 too much testing.

13 Also in children, those are automatically forwarded for
14 further testing because there could be skin cells or other
15 types of DNA that's there in an area they should not be in a
16 child.

17 Q. And so your testing determines whether or not
18 there is the presence of the fluid?

19 A. That's correct.

20 Q. But it -- does your analysis tell who or when the
21 fluid was left?

22 A. It does not, no.

23 Q. So when you get your results, are they immediately
24 forwarded to DNA? What's the next step?

25 A. They are forwarded to DNA. They're not always

1 immediately worked. Sometimes it could take weeks or months
2 for that case to come up for the DNA analyst. Their back --
3 backlog was much larger than ours was, but it's stored in a
4 dry condition in the storage locker for all the evidence for
5 the agency.

6 Q. So during the time that it's waiting to be tested
7 by DNA, it's not just like sitting on a desk?

8 A. It is not, no, it is in a sealed condition. Each
9 individual tube that we would place new cuttings from the
10 swabs that were being forwarded for further testing would be
11 labelled, and those would be sealed in a little heat, like a
12 little plastic envelope that's heat sealed then that would be
13 placed in with the original swabs. And then that envelope
14 again is heat sealed. So it's doubled. Those samples that
15 they would test are double sealed. They're initialed and
16 dated every time they're sealed.

17 Q. And you said they're not on your desk. Do they
18 actually go back and get logged into evidence?

19 A. They do, yes. They are -- they are tracked just
20 like every other piece of evidence in the -- in the -- any
21 case in SLED.

22 Q. Does -- you talked a little bit about a -- you
23 don't want to consume the sample.

24 A. That is correct.

25 Q. Can you explain to the jury what you mean by that?

1 A. If -- if my test intake up so much of a -- a basic
2 cotton swab, there would be nothing left over to test for the
3 DNA profile. It's more important in most cases to know that
4 that -- what DNA is there than to actually identify multiple
5 samples of saliva and blood or saliva and semen or whatever.
6 So rather than consume too much of that sample so there's
7 none left for further testing and the testing that needs to
8 be done then we would opt to just send it to DNA if that was
9 the case.

10 Q. And does your preparation, the -- the cutting of
11 these Q-tip swabs does that mess with or affect the ability
12 outside of the consumption of it using it all up? Does that
13 affect the ability or, like, does that mess with the DNA
14 change, the DNA if in fact there is a DNA there?

15 A. No, it does not. Basically, it's just cutting the
16 fibers of the cotton swab, putting that in a tube, and then
17 sealing it up. So it in no way inhibits the DNA that's
18 there.

19 Q. And after your analysis, do you complete a report?

20 A. I do, yes.

21 Q. And do you have that report with you today?

22 A. I do, yes, ma'am.

23 Q. So I'd like to go through the -- the items that
24 you tested.

25 A. Yes, ma'am.

1 Q. Starting with the -- the first one you said you
2 give them all identifying numbers?

3 A. Correct. Yes, ma'am.

4 Q. So what was the first one?

5 A. The first one is item 1.1, which is the vaginal
6 swab. Do you want me to just go through the items or?

7 Q. Well, let's -- we can go, I think it makes more
8 sense to say what the results.

9 A. Okay.

10 Q. For that one are.

11 A. Okay. The examinations for components of semen
12 P30 and spermatozoa were negative. No semen was identified
13 and the item was forwarded to the DNA section.

14 Q. So again, in this case we have a negative semens
15 spermatozoa why would it be forwarded to DNA?

16 A. Because in this case, the child -- the -- the
17 victim was underage. So we forwarded all of those -- those
18 samples.

19 Q. What was the next piece of evidence you tested?

20 A. That is item 1.1, which is the oral swab. The
21 examination for components so semen P30 and spermatozoa were
22 negative, no semen was identified and the item was forwarded
23 to the DNA section.

24 Q. And I -- I think you said 1.1. Was that an error?
25 Is that 1.1 or 1.2?

1 A. I'm sorry. The oral swab is 1.2, I apologize.

2 Q. And also you had negative results there, but it
3 was forwarded to DNA?

4 A. Yes, ma'am.

5 Q. And because why?

6 A. Because of the age of the victim.

7 Q. All right. Is there a 1.3?

8 A. 1.3 is the rectal swabs. The examination for
9 components of semen three -- P30 and spermatozoa were
10 positive. Semen was identified and the item was forwarded to
11 the DNA section.

12 Q. And unlike the others, we have positive result
13 here. Is -- is that why it was forwarded to DNA?

14 A. Yes, ma'am.

15 Q. Is there a 1.4?

16 A. 1.4 is a suspected saliva swabs, bilateral
17 buttocks, presumptive testing for saliva was positive and the
18 item was forwarded to the DNA section.

19 Q. Is that because it was a positive result?

20 A. Yes. And it would've been -- would have been
21 forwarded either way.

22 Q. And is there 1.5?

23 A. 1.5 is the victim buccal swab, and that was just
24 cut and then sent to the DNA for section -- for testing.

25 Q. What would they need the victim's swab for?

1 A. If there are two people on a swab, they need the
2 ability to be able to tell what is the victim's DNA to
3 subtract out what may be suspect DNA. You expect to find
4 victim DNA on any swab that comes off the victim. So you
5 need that profile developed to be able to tell what is for --
6 to her DNA profile.

7 Q. Thank you. Now, at any time in your career at
8 SLED while or while testing these, did you ever have the
9 Defendant's buccal swab?

10 A. Not to my knowledge. In this case, I did not. If
11 I had it at some other time in SLED, I'm not aware of it.

12 Q. And how do you -- are there any -- is there any
13 protocol that's led for cross-contamination?

14 A. There is. Gloves are changed between each sample
15 that are cut. The tables and instruments we use are -- are
16 cleaned with bleach and a disinfected cleaner between each
17 sample. Victim like a CSC kit would be totally processed.
18 The testing would be done. We would go back and we would cut
19 what needs to go to DNA. All that would be sealed back up,
20 cleaned before the -- the suspect buccal swab was ever
21 opened.

22 S It would not be opened at the same time any type of
23 victim DNA or victim swabs were ever open. It would also be
24 done as the very last item. So if we were -- because we work
25 in batches. So if I were doing five CSC kits, I would cut

1 all of those CSC kits to -- to send a DNA, then I would go
2 back and then cut all of the suspects standards so they would
3 never be open at the same time. There would be likely cases
4 in between them. So it would be multiple cleanings between
5 each buccal swab that went with whatever case.

6 Q. And when did you perform your analysis?

7 A. The testing was performed on 7/18 of 2018 to like
8 July 18.

9 Q. July 2018. Now, after your work was done what did
10 you do with the -- the new heat sealed swabs that you talked
11 about that were the -- the cuttings that you made tubes?

12 A. Those were sealed in the tubes into a small heat
13 seal pouch. It is placed in with the CSC kit envelopes and
14 then all sealed together again. And then that is forwarded
15 for the further testing.

16 MS. FRIERSON: Court's indulgence?

17 THE COURT: Uh-huh.

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

19 THE COURT: Sure.

20 BY MS. FRIERSON:

21 Q. I would like to show you what has been pre-marked
22 as State's Exhibit 12 for identification. And can you tell
23 me what that is?

24 A. These are the microscope slides that were prepared
25 from the cellular portion of soaking the swabs and extracting

1 what cells may be there. The -- this is what we looked at
2 under the microscope to try to visualize the spermatozoa
3 should it be present.

4 Q. And would that have been forwarded to DNA?

5 A. It was in that package, yes. It's considered a
6 product of our testing, so we don't actually give it a unique
7 item number. It's just like the little test tubes we used in
8 the beginning. But since this could yield DNA evidence later
9 on they're saved just in case they're needed in the future.

10 Q. Thank you.

11 A. Sure.

12 Q. And did you have any further involvement in this
13 case after your report was generated?

14 A. No, ma'am, I did not.

15 MS. FRIERSON: Thank you. Please answer any questions
16 Ms. Ford may have.

17 MS. FORD: Beg the Court's indulgence?

18 THE COURT: Uh-huh.

19 MS. FORD: Just briefly.

20 THE COURT: Uh-huh.

21 CROSS-EXAMINATION

22 BY MS. FORD:

23 Q. You were able to take the evidence you had, you
24 were able to put it under a microscope to confirm?

25 A. So the small cutting we take from the samples is

1 placed into a liquid to help remove the -- the cells from
2 that material that it's been swabbed up onto. Once that
3 finished is soaking, it is centrifuge down. So that -- it's
4 kind of like when you centrifuge down blood, you get that --
5 that the red cell layer, the white cell layer and then the
6 liquid. So we take a pipette down into that cellular level
7 at the bottom layer at the bottom, remove some of those that
8 cellular label and put layer -- excuse me, layer and put it
9 on a slide then stain that and -- and look at it to see if we
10 see any spermatozoa.

11 Q. Okay. In this case you did?

12 A. In that one swab, yes.

13 Q. Okay. And there was -- you've identified seeing
14 that there was basically just like one sperm located?

15 A. I took a picture of one sperm. I don't remember
16 how many were there. I do have that it was positive and it
17 was rare. So I -- I probably -- was more than one, but I
18 don't take pic -- didn't take pictures of multiples. We just
19 had to take one picture to -- to confirm that we actually saw
20 a spermatozoa.

21 Q. Okay. And the Solicitor, I believe she already
22 asked this, but your examination, it doesn't tell you who
23 left -- may have left their DNA on someone, correct?

24 A. No. That is the job of the DNA analyst.

25 Q. And you have from your work, no idea of the

1 circumstances half of what may have happened around DNA,
2 correct?

3 A. Only the -- the SANE report, which gives us the --
4 the victim's account of what happened. And there's usually
5 an incident report with the case. Those aren't always read,
6 but they're available should we need them.

7 MS. FORD: Beg the Court's indulgence?

8 THE COURT: Uh-huh.

9 MS. FORD: No further questions.

10 THE COURT: Any follow up re-direct for this witness?

11 MS. FRIERSON: Nothing further from the State, Your
12 Honor.

13 THE COURT: Okay. You are free to go. Thank you,
14 ma'am. You can step down.

15 State can call the next witness.

16 MR. HARRIS: State calls Detective Tiffany Crider.

17 DETECTIVE TIFFANY LADONNA CRIDER,
18 being first duly sworn testifies as follows:

19 THE CLERK: Please be seated. Please state your full
20 name, spelling your last name in the microphone.

21 THE WITNESS: Tiffany LaDonna Crider, C-R-I-D-E-R.

22 DIRECT EXAMINATION

23 BY MR. HARRIS:

24 Q. Afternoon, Detective. Where are you currently
25 employed?

1 A. North Charleston Police Department.

2 Q. And how long have you been with North Charleston?

3 A. Going on 13 years.

4 Q. And what did you do prior to becoming a police
5 officer?

6 A. After I graduated college, I was a teacher for
7 seven years. When I left teaching I drove a forklift and ran
8 a laminating press for like cabinets and counters. Then when
9 I left there, worked for Department of Juvenile Justice,
10 doing probation and parole for juveniles. When I left there,
11 I went to the jail, worked in corrections for a year and a
12 half, and then went to North Charleston.

13 Q. And what made you want to become a police officer?

14 A. Well, growing up --

15 MS. FORD: Objection, relevance.

16 THE COURT: I'll allow it. Go ahead.

17 THE WITNESS: All right. I either wanted to be a
18 teacher or police officer. One of the things with being a
19 police officer is I'd always wanted to be a school resource
20 officer, kind of shifting from the teaching to still being
21 able to work in the schools and then also work in special
22 victims.

23 BY MR. HARRIS:

24 Q. And did you have any college or secondary
25 education?

1 A. I do. I have a bachelor's degree in physical
2 education with a minor in English.

3 Q. What roles have you had during your time at
4 North Charleston?

5 A. I worked in patrol for almost two years, and then
6 I shifted from patrol to being a school resource officer. I
7 did that for four years. And then I've been in detective
8 since about 2016, 2017.

9 Q. And do you have any specialized training? Do you
10 have any children or victim cases?

11 A. I do. I have a -- a lot of training, you know,
12 they put us through training; sexual assault training, child
13 death investigations, dealing with homicides, dealing with --
14 I mean, I can read them all off to you, but give me one
15 second. Building successful sexual assault cases through
16 trauma informed investigations, internet crimes against
17 children, investigative techniques, child sexual assault
18 investigations and prosecution, juvenile specifics, exploring
19 the sexual offender and physical abuser, understanding the
20 offender's personality, behavior, and typology.

21 I've done a number of sex trafficking, human
22 trafficking courses. I'm also on the negotiations team, so
23 I've done several of those classes. I've also done the erase
24 human trafficking, the read interviewing technique, the
25 subconscious communication for interview and interrogations.

1 I mean, I can keep going if you want me to.

2 Q. (Inaudible).

3 A. All right.

4 Q. What's your current position?

5 A. I am a special victim's unit detective and then I
6 also do the internet crimes against children.

7 Q. And what are the duties that go on these
8 positions?

9 A. Well, the internet crimes against children, those
10 cases usually come to us through NCMEC, which is the National
11 Center for Missing and Exploited Children or from the
12 investigations that maybe the Attorney General's doing.

13 As an SVU detective for North Charleston, we usually
14 get daily reports that patrol officers take or maybe we get
15 walk-ins. We investigate anything from child abuse, sexual
16 assaults, it could be physical abuse, it could be abusive of
17 a vulnerable adult, missing children, runaways, those kinds
18 of things.

19 Q. And as a detective in the SVU unit, are you
20 familiar with the age of consent (inaudible)?

21 A. I am.

22 Q. And what exactly does that mean?

23 MS. FORD: Objection, it's a legal definition.

24 THE COURT: Sustained. No. Yeah. Sustained. Go on
25 to the next question.

1 BY MR. HARRIS:

2 Q. When did you get involved in this case State
3 versus Emeric Hamilton?

4 A. I believe I became involved in October of 2019.

5 Q. And what was the status of the case at that time?

6 A. When I got it, it was closed due to a suspect not
7 being known.

8 Q. And from time to time, do you look back at old
9 cases to review things or see if there can be -- or if there
10 needs to be any follow up?

11 A. Yes, sir. We have several cases that maybe
12 they've been administratively closed or exceptionally closed
13 because either we don't have suspects or we're waiting for
14 evidence to come back. So occasionally we will have to
15 review old cases and it may necessarily not be our case. It
16 may be a case that a detective has already moved on from our
17 department.

18 Q. Is that how you got involved in this case?

19 A. Yes, sir.

20 Q. Is it fair to say that not much was done initially
21 in the investigation of this case?

22 A. I can't necessarily speak for what happened before
23 I got the case. What I can say is once I got the case, I
24 began the investigation and worked it just like I would any
25 other case.

1 Q. So did you speak with the victim and her mother
2 once you got the case?

3 A. I did.

4 Q. And were they able to provide any information that
5 was helpful to you?

6 A. Yes, sir. One of the things that the victim had
7 stated --

8 MS. FORD: Objection. Hearsay.

9 THE COURT: I don't know that it's a question called
10 for hearsay, but you can't say what other people told you.

11 THE WITNESS: Okay. Well --

12 THE COURT: Refrain from doing that.

13 THE WITNESS: Okay.

14 THE COURT: He needs to rephrase the question somehow
15 he can.

16 THE WITNESS: What was noted in the initial incident
17 report and in notes was that one of the things the victim
18 had, I guess told officer was that he had -- the Defendant
19 had recently been released from jail.

20 MS. FORD: Objection. Based on my prior objection,
21 Your Honor.

22 THE COURT: Okay. Overruled. Based on the prior
23 ruling for me go ahead she can answer. Continue.

24 THE WITNESS: All right. So that was one of the things
25 that I used to begin looking into things.

1 BY MR. HARRIS:

2 Q. Just so ensure the jury was able to understand
3 what you're saying. You were able to confirm that the
4 Defendant was released from jail?

5 A. Yes.

6 MS. FORD: Objection. Your Honor, calls for hearsay
7 and information outside of her personal knowledge.

8 THE COURT: Okay. Overruled. For the same basis we
9 made earlier. Go ahead. Just try not to lead. Okay?

10 MR. HARRIS: Yes, ma'am.

11 BY MR. HARRIS:

12 Q. Were there any other suspects prior to your
13 involvement in this case?

14 A. No. No, sir.

15 Q. And is that in your experience as a police officer
16 for 13 plus years, is that common?

17 A. Yes, sir. It is common.

18 Q. So how did the Defendant Emeric Hamilton become
19 suspect of this case?

20 A. Once I began my investigation, not only was he
21 mentioned in the initial report, but the address where the
22 alleged incident occurred is the Defendant's registered
23 address.

24 Q. Did you received any more information as to the
25 Defendant during the course of your investigation?

1 A. I did. One of the things I got was notification
2 that there had been a hit on --

3 MS. FORD: Objection based on my prior objection to
4 hearsay and bolstering. Or -- yes, bolstering the --

5 THE COURT: Okay.

6 MS. FORD: -- calling for information outside of the
7 expert.

8 THE COURT: Correct. Okay. Timely renewed and
9 overruled based on my prior ruling. Go ahead.

10 THE WITNESS: That there was a hit in the database for
11 the Defendant's DNA.

12 BY MR. HARRIS:

13 Q. So what did you do next after getting that alert?

14 A. After getting that, I secured a search warrant for
15 a buccal swab for the Defendant.

16 Q. And can you please explain that process to the
17 jury of getting a sample of the Defendant's DNA?

18 A. Yeah, so basically once we get a search warrant,
19 it gets signed by a judge. Once we're able to -- whether
20 it's an arrest warrant, whether it's -- we go find the
21 Defendant, we would let them know that we have a search
22 warrant for their DNA. We will take basically two cotton
23 swabs a little cardboard box and then we get an envelope, we
24 put like gloves on. We inform the Defendant that we're going
25 to take samples of his DNA, I would ask him to open his

1 mouth. I usually do approximately 10 swabs on his left and
2 then take a -- put that Q-tip in the box, take the separate
3 Q-tip, and then do 10 swabs on the right side of his mouth,
4 put that into the box, seal it up, put it in the envelope,
5 seal it, and then log it into evidence.

6 Q. And did you follow that procedure in this case?

7 A. I did.

8 Q. And did you personally perform the buccal swab on
9 the Defendant?

10 A. I did.

11 Q. When did you collect the buccal swab in this case?

12 A. I believe it was May of 2020. I was notified that
13 the Defendant had been taken into custody on arrest warrants
14 that I had done in this case. He was brought to
15 North Charleston City Hall, the annex which we have a small
16 holding facility down in the bottom of City Hall.

17 So I went down there with basically a buccal swab kit,
18 which is the swabs, the little cardboard box and the envelope
19 and some gloves. I went down there, I informed Mr. --
20 Mr. Hamilton, that I had a search warrant for his DNA I
21 showed him the search warrant, also gave him a copy of it and
22 then collected the DNA from him.

23 MR. HARRIS: Your Honor, may I approach the witness?

24 THE COURT: Yes.

25 BY MR. HARRIS:

1 Q. And you -- what's been marked as State's Exhibit
2 8.

3 A. Okay.

4 Q. For identification purposes. What is that? Or do
5 you recognize that, excuse me?

6 A. I do. These are the swabs that I obtained from
7 Mr. Hamilton.

8 Q. And how do you know?

9 A. Well, it's got my name on it for the evidence
10 label and then also it has my initials back here on the back.

11 Q. And nothing been changed or altered in anyway?

12 A. No, sir.

13 MR. HARRIS: May I approach the witness?

14 THE COURT: Yes.

15 BY MR. HARRIS:

16 Q. What did you do with the buccal swabs after you
17 collected the sample?

18 A. I would have went up to our evidence unit. It's a
19 separate room. We go in, we log it into our records
20 management system, which is RMS. I would've filled out a
21 chain of custody and then logged it into evidence.

22 Q. And is that a -- evidence is held in the secure
23 room?

24 A. Yes, sir. You have to have a proximity card to
25 get in there.

1 Q. So not just anybody who accessing the evidence
2 room?

3 A. No, sir.

4 Q. Did you follow all these procedures in -- or did
5 you follow all these procedures in this case?

6 A. I did.

7 Q. And who handled the evidence after you submitted
8 it -- this to evidence?

9 A. From what I remember it was evidence tech because
10 like when you walk into the evidence room, there's like a
11 room where there's bags, computers where refrigerators,
12 lockers where we can put our evidence and then there's a
13 separate room where the evidence sets go. It was evidence
14 tech Holberg that got the log the evidence for me.

15 Q. And are you able to see who took the sample to
16 SLED?

17 A. Yeah, I have that. Well, I have what was for the
18 CSC kit, I don't necessarily have what was taken with the
19 buccal swab. I don't know if you have a copy of that I can
20 look at.

21 MR. HARRIS: May I approach?

22 THE COURT: (Inaudible).

23 THE WITNESS: Sorry about that. All right. So it has
24 my name where I logged it on May 18th to Holberg and then
25 Middleton got it. And she's no longer with us, but crime

1 scene tech Wilcome took it to SLED.

2 BY MR. HARRIS:

3 Q. Did you eventually make an arrest in this case?

4 A. I did.

5 Q. And who did you arrest?

6 A. Mr. Emeric Hamilton.

7 Q. Was that the end of your involvement in this case?

8 A. Yes, sir.

9 MR. HARRIS: Beg the Court's indulgence?

10 THE COURT: Of course. (Inaudible) permission.

11 MR. HARRIS: Thank you.

12 I have no further questions for you at this time.

13 Please answer any questions Defense has for you. Thank you.

14 MS. FORD: Sorry for the delay.

15 THE COURT: No, it's okay.

16 CROSS-EXAMINATION

17 BY MS. FORD:

18 Q. Detective Crider, you were not involved initially
19 in this case of course, correct?

20 A. Yes, ma'am.

21 Q. So you were not on [REDACTED] back in April of
22 2018 when [REDACTED] mom called the police, correct?

23 A. You -- yes, ma'am. I'm not -- I was detective,
24 I'm not patrol.

25 Q. But you were able to review everything that the

1 other police officers had done?

2 A. Yes, ma'am. What I had available, yes, ma'am.

3 Q. And Emeric Hamilton he was the only one -- the
4 only person who was named other than of course,
5 Minor [REDACTED], correct?

6 A. Yes, ma'am.

7 Q. But there -- there were other people on scene that
8 the police did not document their names?

9 A. Yes, ma'am.

10 Q. And as a case agent, you know that there was body
11 camera footage that could have shed light on some things, but
12 it has inadvertently been lost?

13 A. Yes, ma'am.

14 Q. Because the other officers didn't make the names
15 of anyone else, you weren't able to go back to try to talk to
16 those people, correct?

17 A. Yes, ma'am. I mean, I don't know who those people
18 are or, yes, ma'am.

19 Q. And you never went back to -- and I know you got
20 involved in the case the following year, but you never went
21 back to [REDACTED] to see if you could locate any
22 (inaudible), correct?

23 A. Right. Yes, ma'am.

24 MS. FORD: Beg the Court's indulgence?

25 THE COURT: Uh-huh.

1 BY MS. FORD:

2 Q. Just briefly about -- you talked about the
3 evidence log and other people who did other things.

4 A. Uh-huh.

5 Q. But you weren't present when they did those
6 things, correct?

7 A. No, ma'am. I -- the only thing I can tell you is,
8 you know, we have a protocol in place for when evidence is
9 placed and, you know, the protocol is supposed to be followed
10 and it appeared to be followed in this case.

11 Q. Okay. May you -- just sort of sign their name
12 that they did something?

13 A. Yes, ma'am. I mean, whenever, like either we hand
14 it to a person or if we put it in a drop box and then we have
15 a log that we have to fill out. And then whoever picks it
16 up, they have to fill out the next -- like, the next place on
17 the chain are the next place in the book on the log.

18 Q. It -- the only thing you know for a certain is
19 that their names, they sign their names, correct?

20 A. Yes, ma'am.

21 Q. But you don't know in fact what they may examine
22 or not?

23 A. Yes, ma'am.

24 MS. FORD: No further questions.

25 THE COURT: Re-direct?

1 MR. HARRIS: No re-direct.

2 THE COURT: Okay. All right. You can step down.

3 Thank you.

4 All right. My understanding is the next witness is a
5 little more lengthy; is that right?

6 MS. FRIERSON: Correct, Your Honor.

7 THE COURT: We're all set for today argument. All
8 right. Ladies and gentlemen, we're moving right along. And
9 going to get you out to hear a little early today. Next
10 witness is a little longer. So rather than starting today
11 and having to kind of break up that testimony, we'll just
12 start fresh tomorrow morning at 9:30. We'll see you all back
13 then. All right. Have a safe trip home.

14 (Jury exits courtroom.)

15 THE COURT: I'm sorry. I should have told you to leave
16 those on your seat. That's my fault. Sorry about that.
17 I'll remember tomorrow.

18 All right. We'll be at ease until 9:30 tomorrow.

19 Thank you all.

20 MS. FRIERSON: Thank you.

21 MS. FORD: Thank you.

22 (THERE BEING NOTHING FURTHER, THIS HEARING CONCLUDED AT
23 4:06 P.M.)

24

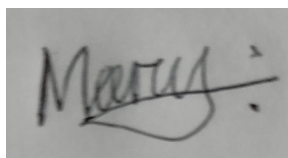
25

CERTIFICATE OF TRANSCRIBER

I, MARY RAGSDALE, a court-approved transcriber, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the South Carolina Circuit Court 9 of Charleston County, South Carolina, on the 28th Day of November, 2023.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

October 18, 2024

A handwritten signature in dark ink, appearing to read "Mary Ragsdale", is written over a light gray rectangular background.

Mary Ragsdale

Transcriber

1 CONTINUATION OF PROCEEDINGS - NOVEMBER 29, 2023

2 THE COURT: So the note says, "Dear Judge, so as not to
3 delay the trial, I asked my supervisor if I could cancel the
4 class and she agreed to it. Thanks for your assistance."

5 143. So I guess it was just in response to that question she
6 had about her Spanish class.

7 MS. FRIERSON: Thank you.

8 THE COURT: So that's good. I'll give that back to the
9 court. And but they are all present and ready to go.

10 Is the State ready with its next witness? She --

11 MS. FRIERSON: Both of our witnesses are stuck in
12 traffic, but I wanted to -- we've had a little bit of a
13 change. I wanted to let the Court know --

14 THE COURT: Okay.

15 MS. FRIERSON: -- for planning purposes, we intend to
16 call the victim's mother, Ms. Harrison first.

17 THE COURT: Okay.

18 MS. FRIERSON: She was coming down Meeting Street Rose.
19 So, I mean, she shouldn't be too long.

20 THE COURT: Yeah.

21 MS. FRIERSON: After that we planned to call the
22 forensic interviewer. And --

23 THE COURT: Who was that? Was that --

24 MS. HALL: Mattie Dodds.

25 THE COURT: Dodds. Yeah.

1 MS. FRIERSON: And just for clarification, before we
2 print transcripts as a aid for the jury for this, I wanted to
3 make sure I understood your ruling. I have sent the
4 transcripts to Ms. Ford. She let me know this morning that
5 she approves of the one that we sent with the redactions.

6 THE COURT: Okay.

7 MS. FRIERSON: And so I wanted to make sure I
8 understood your ruling, that I would be able to provide it.
9 We'll make sure we have copies for them.

10 THE COURT: Copies and just write or stamp on the front
11 unofficial copy somewhere on the front of it.

12 MS. FRIERSON: So this is the one we sent the
13 disclaimer, or if you have a disclaimer, that's fine.

14 THE COURT: Okay.

15 MS. FORD: Yes, but I would, I guess appreciate, Your
16 Honor, adding something --

17 THE COURT: Okay.

18 MS. FORD: -- that you are the best, basically you are
19 the best interpreters of --

20 THE COURT: Yes, I'm going to tell them, you know, rely
21 on their own listening to the audio. This is just a tool to
22 help them. But by all means, you know, they're -- they are
23 to listen to it themselves and that this is an unofficial
24 transcript.

25 MS. FRIERSON: And for purposes of the record, Your

1 Honor, the disclaimer reads, "Although we strive to have
2 accurate transcriptions for every case due to accents, audio
3 levels and other reasons, we cannot guarantee the accuracy of
4 this transcription."

5 THE COURT: Okay. That's fine.

6 MS. FRIERSON: So with --

7 THE COURT: With that, then I'll just advise them that
8 it's an unofficial copy.

9 MS. FRIERSON: Okay.

10 THE COURT: You don't need to --

11 MS. HALL: Mattie just gone Meeting. It's a bad
12 traffic on 26 so she (inaudible) the 15 here.

13 THE COURT: Okay.

14 MS. FRIERSON: So we will make those copies and have
15 those for the forensic interviewer.

16 THE COURT: Okay.

17 MS. FRIERSON: We have our SLED DNA witness who will be
18 here via helicopter at 11:15. If all goes well and there's
19 no issues with air traffic control or anything like that.

20 THE COURT: Is that Boehm Maryanne?

21 MS. FRIERSON: That is Maryanne Boehm.

22 THE COURT: Okay.

23 MS. FRIERSON: The reason she's coming via helicopter,
24 Your Honor, is because we did subpoena her first back in
25 July, but Aiken needed her this week as well. So SLED is

1 accommodating them and making sure she can get two and a half
2 hours away quickly. So if at all possible, we would really
3 like to get her on before lunch so she can get back on the
4 helicopter to get to Aiken in time.

5 THE COURT: Okay.

6 MS. FRIERSON: And then at this -- we have made a
7 strategic decision to not use the Defendant's jail call.

8 THE COURT: Okay.

9 MS. FRIERSON: So we will not be calling Melissa High,
10 and so we will likely rest barring anything else prior to the
11 lunch break after Ms. Boehm.

12 THE COURT: Okay.

13 MS. FRIERSON: Rather than after lunch.

14 THE COURT: Okay. All right. Well, we'll see. I
15 guess kind of depends on how folks arrive this morning get
16 here this morning.

17 MS. FRIERSON: Yes.

18 THE COURT: Just, so we're sort of at a -- an impasse
19 right now; is that right? We're just waiting on folks to
20 show up.

21 MS. HALL: I think she's in a similar situation.
22 You're talking about --

23 THE COURT: Harrison. I guess we're waiting on?

24 MS. HALL: She -- she's on -- she's last on
25 (inaudible).

1 THE COURT: That's still over (inaudible)? Yeah.

2 Are you not calling McKicher (ph) from EMS?

3 MS. FRIERSON: No, Your Honor.

4 THE COURT: This time and or Reed or Wilcome?

5 MS. FRIERSON: Oh, I'm sorry. I did forget Wilcome.

6 She's coming on right before SLED. I apologize. She's a

7 very --

8 THE COURT: So we got another one too. So -- okay.

9 MS. FRIERSON: She's a very brief --

10 THE COURT: Yeah.

11 MS. FRIERSON: -- chain witness.

12 THE COURT: Okay. Thank you. All right. So we're in
13 a holding pattern right now; is that right?

14 MS. FRIERSON: I apologize, Your Honor.

15 THE COURT: That's okay. What's the -- I thought I
16 heard somebody say we haven't heard from Harrison the last
17 time?

18 MS. HALL: The last time just trying to figure out
19 exactly what time where she's at on Meeting Street, so.

20 THE COURT: Oh, okay.

21 MS. HALL: I'm texting her again.

22 THE COURT: All right. Sounds good. Well, let's see.

23 Have you all sent me your proposed charges or do you have
24 any, if so, maybe you can take the time to do that.

25 MS. FRIERSON: I haven't sent any specifically, but I

1 can, I mean, talk a little bit about what I would be
2 requesting.

3 THE COURT: Okay. Let's do that. Be good to use the
4 time.

5 MS. FRIERSON: So I would -- the statements of the
6 Defendant. I would request the new Miller charge.

7 THE COURT: Miller, what you said?

8 MS. FRIERSON: Yes, Your Honor.

9 THE COURT: Uh-huh.

10 MS. FRIERSON: And I do have that, I think I got that
11 site here. I have the appellate case site 2021 000985.
12 Obviously a charge on experts.

13 THE COURT: Uh-huh.

14 MS. FRIERSON: The -- the age of consent in
15 South Carolina.

16 THE COURT: What's that statute (inaudible) do you
17 know? You don't -- we got it.

18 MS. FRIERSON: Nick is looking that up. I would also
19 request, and I tried to -- to find it last night, the one
20 about state of age not being a Defense.

21 THE COURT: About mistake of -- uh-huh.

22 MS. FRIERSON: Of age not being a Defense.

23 THE COURT: Is that from a -- from case law?

24 MS. FRIERSON: It is. And I was trying to find it. I
25 have a file of jury charges and --

1 THE COURT: Yeah. Okay.

2 MS. FRIERSON: I will look for that again during the --
3 the lunch.

4 THE COURT: And you can always email us these or
5 Mr. Harris Canner or whoever, you know, as we're in trial or
6 on breaks or whatever, feel free to, you know, email them to
7 Ms. Ford and my clerk.

8 MS. FRIERSON: And I would request, I -- I don't -- I
9 guess I'll see if she requests either there's two I -- I
10 didn't want, I don't know if they'll be requested.

11 THE COURT: Well, that (inaudible) can now.

12 MS. FRIERSON: I -- I just, I would argue against mere
13 presence. There's DNA, I mean he's not merely present. And
14 there's testimony that there was penetration and the
15 fondling. So that evidence does not lead to mere presence.
16 And that there's no defense for voluntary intoxication.

17 THE COURT: Okay. And this won't necessarily be the
18 exclusive time we talk about this, but if you know anything
19 offhand, I can just be getting prepared or looking into,
20 happy to hear from you.

21 MS. FORD: Well, I mean, I would not be requesting an
22 involuntary intoxication defense, Your Honor.

23 THE COURT: I wouldn't.

24 MS. FORD: I would request a mere presence charge
25 because I think there's testimony the officers, he was on

1 scene but he didn't match the description. Some information
2 may be elicited from the DNA experts, so I would and may --
3 so maybe you can consider it at the end, but I would request
4 that.

5 THE COURT: Uh-huh.

6 MS. FORD: I'd request an identification charge.

7 THE COURT: Uh-huh.

8 MS. FORD: Credibility of witnesses. I think that's
9 probably standard.

10 THE COURT: Yeah.

11 MS. FORD: But that's what I would request there, Your
12 Honor.

13 THE COURT: Sure.

14 MS. FORD: As far as the age of consent, I think that's
15 just part of the statute.

16 THE COURT: I think it is too. That's why like is it a
17 separate statute? I think it kind of falls under each of the
18 -- I don't know, you can tell me.

19 MS. FORD: I have -- I've heard it before. Where it --
20 the way that it's worded and I don't know if it was just a
21 particular judge's wording where within -- while they're
22 reading the statute, they say that consent of the victim does
23 not matter because.

24 THE COURT: Uh-huh.

25 MS. FORD: In 16 you or in South Carolina, you cannot

1 consent under the age of 16.

2 THE COURT: I think it's in part of what I have.

3 MS. FORD: Okay.

4 THE COURT: But I'll re-look at it and if I have a
5 question, I'll -- or we're going to go over, I'll -- I'll
6 send you a copy of the charge before we do it too.

7 MS. FORD: Okay. Thank you, Your Honor.

8 THE COURT: Just so we can all be on the same page.

9 (Off the record.)

10 MS. FRIERSON: Your Honor, five minutes ago
11 Ms. Harrison said she was about two minutes away.

12 THE COURT: Okay.

13 MS. FRIERSON: So --

14 THE COURT: Sounds good.

15 MS. FRIERSON: -- shouldn't be too much longer.

16 (Off the record.)

17 THE COURT: An older charge from earlier this year. I
18 used on the same type of case. The last part of the CSC with
19 the minor second specific, you know, the elements that in the
20 end it says, "Consent, willingness indifference, or ignorance
21 on the part of the minor, if any as to what was taking place.
22 Does not in any way affect the charge of criminal sexual
23 conduct with a minor because an unmarried woman under the age
24 of 14 cannot legally consent to sexual intercourse." That's
25 how that reads. It's that weird part about an unmarried --

1 it's the law. So it's just sort of at the end of the -- of
2 the definition of what CSC second with a minor is. Okay.

3 MS. FRIERSON: Okay. Thank you, Your Honor.

4 THE COURT: Yeah.

5 (Off the record.)

6 MS. FRIERSON: (Inaudible) Harrison is here.

7 THE COURT: Okay. All right. We can bring the jury
8 in. Thank you so much.

9 (Jury enters courtroom.)

10 THE BAILIFF: All jury present, Your Honor.

11 THE COURT: Thank you so much. Please be seated
12 everybody.

13 All right. Thank you all for your patience this
14 morning. We have a few things you had to discuss outside
15 your presence. And so now that we wrap that up.

16 State can call next witness.

17 MR. HARRIS: Thank you, Your Honor. State calls
18 Jacqueline Harrison.

19 THE COURT: All right. Please bring Ms. Harrison in.

20 THE CLERK: Can you raise your right hand and place
21 your left hand on the Bible?

22 JACQUELINE HARRISON,

23 being first duly sworn, testifies as follows:

24 THE CLERK: Please be seated. Please state your full
25 name spelling your last name in the microphone.

1 THE WITNESS: Jacqueline Harrison, H-A-R-R-I-S-O-N.

2 MR. HARRIS: May I please the Court?

3 THE COURT: Yes, sir.

4 DIRECT EXAMINATION

5 BY MR. HARRIS:

6 Q. Good morning, Ms. Harrison.

7 A. Good morning.

8 Q. How do you know the victim in this case?

9 A. It's my daughter, Minor [REDACTED].

10 Q. And do you have any other children?

11 A. Yes.

12 Q. How many?

13 A. Two more. That's three altogether.

14 Q. And where are you currently employed?

15 A. Domino's Pizza in North Charleston.

16 Q. And how long have you been working there?

17 A. Five years.

18 Q. And April of 2018, where were you living?

19 A. [REDACTED], North Charleston.

20 Q. And did Minor [REDACTED] live with you?

21 A. Yes.

22 Q. Does Minor [REDACTED] go to school?

23 A. Yes.

24 Q. And has she been in multiple schools over the
25 years?

1 A. Yes.

2 Q. What kind of student would you -- would you say
3 she was?

4 A. She's a good -- she's -- she's a good student.
5 She's at attorney school.

6 Q. And has she struggled with behavioral issues while
7 she's been in school?

8 A. Somewhat.

9 Q. Has she struggled with learning disabilities?

10 A. Yes.

11 Q. And has she been placed in any special classes due
12 to these learning disabilities?

13 A. Yes. She's in special ED. She have a 504 plan.

14 Q. And as her parent what is your understanding of
15 that 504 plan?

16 A. She -- she basically is a -- she -- she had ADHD.
17 She -- she had -- she has a learning disability. She have
18 learning disability. She have a 504 plan and IEP.

19 Q. And would it be fair to say that you've had
20 problems with her at home as well?

21 A. Yes.

22 Q. And have you had concurrent with her acting now?

23 A. Somewhat, yes.

24 Q. Has Minor ever been hospitalized before?

25 A. Yes. Multiple times.

1 Q. Where?

2 A. MUSC, the psychiatric ward.

3 Q. How many times would you say?

4 A. Kind of my head, like nine, 10 times probably
5 more.

6 Q. And for what?

7 A. Because of her ADHD.

8 Q. And was she put on medication --

9 A. Yes.

10 Q. -- during any of these visits?

11 A. Yes. She been on multiple medication.

12 Q. And as her mother, are you aware of her -- her
13 learning disability diagnosis?

14 A. Yes.

15 Q. And what is that diagnosis?

16 A. It's a -- it's ADHD. It's a disorder. It's
17 affected disorder.

18 Q. ADHD?

19 A. Yes.

20 Q. Okay. Let's go back to April 19, 2018, date of
21 this incident. Was Minor with you that night?

22 A. No, she wasn't with me that night. Well, the --
23 the night -- yeah, the same night, but afterwards -- the
24 after it happened that night. Yeah.

25 Q. Who was she with earlier the night before?

1 A. She -- she was with the victim. I mean, yeah, the
2 suspect.

3 Q. Before the incident before she ran away
4 (inaudible)?

5 A. Oh, before she ran away. She was with my mother.

6 Q. Okay. And where were you that night?

7 A. I was home. I was home. I got the phone call.
8 She was with my mother. She -- she left my mother house. I
9 called North Charleston, me and my -- me and North Charleston
10 we searched the area for her. When we searched the area for
11 her, I went on -- on the Waylyn -- Waylyn division. I saw a
12 guy, he asked me if I was looking for someone. I told him,
13 yeah, I was looking for my daughter. As I was talking to
14 him, **Minor** came up and he told me either you could tell --

15 MS. FORD: Objection. Hearsay.

16 THE WITNESS: -- my mama.

17 THE COURT: Sustained. Just try not to say what people
18 told you. Okay. Directly about direct quotes or anything.
19 Okay.

20 Mr. Harris, I'll give you some latitude and questioning
21 her since she doesn't do that. All right?

22 MR. HARRIS: Yes, ma'am.

23 B MR. HARRIS:

24 Q. Going back, where did you find **Minor** after she
25 had ran away?

1 A. On [REDACTED].

2 Q. And was she alone?

3 A. Yeah. Busy. Yeah, she was walking out.

4 Q. And how did you find her?

5 A. Driving on the street looking for her.

6 Q. And after you found her did you call 911 again?

7 A. Yes.

8 Q. And why?

9 A. Because she told me a guy sexually assaulted her.

10 Q. Did she tell you when that sexual assault
11 happened?

12 A. Yes.

13 Q. When did she say it happened?

14 A. That same night when she walked up to me. Just it
15 happened.

16 Q. Did she tell you where the sexual assault
17 happened?

18 A. Yes.

19 Q. And where did she say that happened?

20 A. On [REDACTED]. She came me to his house.

21 Q. And did she point out who did this to her?

22 A. Yes. When I knocked on the door, she did and I
23 confronted him and he told me he didn't touch my child. He
24 don't know my child. He haven't touched my child. He never
25 seen my child. That was his exact word.

1 Q. And do you see that person that you confronted in
2 the courtroom today?

3 A. Yes, sir.

4 Q. And can you point him out by describing what he's
5 wearing and where he is?

6 A. He had on a black suit with the white golden
7 thing.

8 MR. HARRIS: Let the record reflect the witness pointed
9 out the Defendant.

10 THE COURT: Okay. Shall so reflect.

11 BY MR. HARRIS:

12 Q. And what'd you do after you confronted the
13 Defendant?

14 A. I called the officer who -- I called the officer.
15 He gave me a call. I called the officer who was helping me
16 with the search. Me and him meet out right there by the Al
17 Food Store. We call the EMS. He and his team, he calls him
18 back up. He and his team went over to his house and me and
19 **Minor** went to the hospital

20 MR. HARRIS: Beg for Court's indulgence?

21 THE COURT: Uh-huh.

22 MR. HARRIS: I have no further questions for you right
23 now please answer any questions Defense has.

24 THE WITNESS: Okay.

25 MR. HARRIS: Thank you.

1 THE COURT: Uh-huh.

2 CROSS-EXAMINATION

3 BY MS. FORD:

4 Q. (Inaudible).

5 A. Hey.

6 Q. At this evening back in 2018 --

7 A. Uh-huh.

8 Q. -- Minor [REDACTED] had been at your -- your mom's house?

9 A. Uh-huh. She left my house and went to my mom
10 house and she left again.

11 Q. And I'm sorry.

12 A. She left my house and went to my mom house and she
13 left my mom house again. And that's my mom told me she left.
14 That's why I called North Charleston Police department. And
15 that's when me and the officer went for the search.

16 Q. Well, you initially, before you called the police,
17 you were able to make contact with her, correct?

18 A. Yeah, before I called the police. Yeah. No --
19 no, I called. No -- no, I did. No, I was not able to make
20 contact with, before I call the police, the police already
21 been in the search.

22 Q. Okay.

23 A. Meaning the police already been searching way
24 before I get contact with her.

25 Q. So back in 2018.

1 A. Uh-huh.

2 Q. Okay.

3 A. I going to switch my story out, man.

4 Q. (Inaudible).

5 A. Yeah.

6 Q. Back in 2018, you -- you talked to police and you
7 told them what happened?

8 A. Yes.

9 Q. Correct. And you actually told them that you were
10 at your mom's house when she left?

11 A. No, I didn't told them that. That report wrong.
12 I wasn't at my mom house. I was home. I get the phone call
13 from my mom stated that [Minor] left. When [Minor] leave my
14 house, [Minor] went to my mom house. When [Minor] went to my
15 mom house, [Minor] left my mom house and I get the phone call
16 from my mom stating that [Minor] left. That's when they
17 called North Charleston and that's when we went on the search
18 for her.

19 Q. Okay. Well you -- not only did you talk to
20 police, but you also, you ended up taking [Minor] to the
21 Dee Norton Lowcountry Children's Center?

22 A. Yes, I did.

23 Q. And you gave them some information, some general
24 background information about the situation?

25 A. Uh-huh.

1 Q. And --

2 THE COURT: Try to -- I'm sorry, if you mind trying to
3 say yes or no --

4 THE WITNESS: Okay. Yes, ma'am.

5 THE COURT: -- difficult. Uh-huh. Thank you.

6 THE WITNESS: Uh-huh.

7 THE COURT: Go ahead, Ms. Ford.

8 BY MS. FORD:

9 Q. And you told them that when you told **Minor** it
10 was time to leave your mom's, she became upset left home and
11 refused to come back, correct?

12 A. Yes. You said I told them what?

13 Q. Okay. You told them that when -- when you told
14 **Minor** it was time to leave your mom's, she became upset
15 left home and refused to come back?

16 A. Yes. That was way before the accident. Way
17 before everything.

18 Q. So you told them that you followed her for a while
19 in the car, but she refused to get in?

20 A. Yes.

21 Q. Okay. So then you called the police.

22 A. Yes.

23 Q. So you were out with **Minor** trying to get her to
24 come home?

25 A. Yes.

1 Q. Before you called the police?

2 A. Yes. But she went to my mom house.

3 Q. Okay.

4 A. She went to my mom's house.

5 Q. She made it to your mom's house?

6 A. Yeah.

7 Q. Okay. So you called the police and you and the
8 police searched for about half an hour before you found

9 Minor [REDACTED] ?

10 A. Yes.

11 Q. And you found her, she was outside with another
12 gentleman?

13 A. Well, she was walking up, I was talking to the
14 gentleman and she was walking out as I was talking to him, he
15 -- she was walking up.

16 Q. She was walking up or?

17 A. She was walking up walking up towards like my car.
18 And me and the guys was talking. I was in my car. The guard
19 was out there talking to me. Because I was certain around
20 the block looking for her.

21 Q. So you are saying this was not -- the man was not
22 by Minor [REDACTED] when you counted it?

23 A. The man who I was talking to?

24 Q. Correct.

25 A. Yeah.

1 Q. He was or was not by Minor ?

2 A. No, he was on the street. He been right there on
3 the street by the house.

4 Q. Okay. But Minor was not there?

5 A. No. Minor was walking up from the -- I guess
6 walking up from the house. Yeah.

7 Q. You told Ms. Dodds at the Children's Center that
8 you found Minor with an adult (inaudible)?

9 A. No, she was walking up towards.

10 Q. Okay. When you found Minor, you asked her about
11 anything that may have happened, correct?

12 A. Well, the guy said, well, you tell your mama what
13 happened.

14 Q. That's --

15 A. Well that's the truth.

16 Q. (Inaudible) Minor .

17 A. I'm -- I'm going to tell the truth. I'm going to
18 tell the truth.

19 THE COURT: Okay. Just try to answer her question
20 again.

21 THE WITNESS: Yes. Tell the truth.

22 THE COURT: Uh-huh. Okay.

23 BY MS. FORD:

24 Q. Minor initially, she did not disclose sexual
25 assault, correct?

1 A. No, not at that time, no.

2 Q. So you called the police --

3 A. Uh-huh.

4 Q. -- to let them know that she had been found,
5 correct?

6 A. Yes.

7 Q. And initially she denied anything. She didn't say
8 anything had happened when initially talking to the police,
9 correct?

10 A. Yeah, she did say what happened when we were
11 talking to the cops.

12 Q. I'm talking about right at first.

13 A. No.

14 Q. Because then you later flagged down an officer
15 after she revealed something happened, correct?

16 A. Yeah.

17 Q. Okay.

18 A. No. I didn't -- hold up, I didn't flag down the
19 officer. I called the officer who gave me the card. Well
20 the search we was on, he gave me his card and I give him a
21 card to let him know that I had located her.

22 Q. Okay.

23 A. And see -- we meet right there by the A1 Food
24 Store. When we meet up by the A1 Food Store, I carried

25 **Minor** to the hospital and he and his team went over to the

1 -- the guy house.

2 Q. Okay.

3 A. Uh-huh.

4 Q. When you -- before [Minor] revealed that something
5 happened, she actually expressed concern that she would go to
6 jail, correct?

7 A. Yeah, but she was scared. She was 11 years old
8 lady.

9 Q. Okay. Well, I'm just asking.

10 A. She been a baby lady.

11 Q. She expressed that she was concerned that she
12 would go to jail?

13 A. She was scared.

14 Q. Okay. Well, I'm not asking how she may have felt,
15 but just if she said -- indicated that that was a fear at
16 first?

17 A. Yeah.

18 Q. And she ultimately told you that she was raped?

19 A. Yes.

20 Q. And she used that word, correct?

21 A. Yes.

22 THE COURT: Is that a yes?

23 THE WITNESS: Yes. Uh-huh.

24 BY MS. FORD:

25 Q. And I want to talk, the Solicitor asked you a bit

1 about [Minor's] behavior issues.

2 A. Uh-huh.

3 Q. You told us a few minutes back that she gave you
4 that there were somewhat a behavior issues, correct?

5 A. Yes.

6 Q. Now, you were also asked about [Minor's]
7 hospitalizations?

8 A. Yes.

9 Q. And that is at the Institute of Psychiatry?

10 A. Yes.

11 Q. And that's happened more than 10 times you
12 believe?

13 A. Yes.

14 Q. Now, just to be clear, hospitalization that's more
15 than Monday, correct?

16 A. Yes.

17 Q. So it would be probably about a week --

18 A. A week.

19 Q. -- or two?

20 A. Yes.

21 Q. Okay. And back in -- obviously now [Minor] is 17,
22 correct?

23 A. Yes.

24 Q. So she's probably matured a bit over the years?

25 A. Yes.

1 Q. So things are easier now?

2 A. Yes.

3 Q. So back in 2018, April of 2018, Minor was going
4 to be 12 in May, following month, correct?

5 A. Yes.

6 Q. That year things were actually really bad with
7 Minor's behavior issues?

8 A. Somewhat.

9 Q. Somewhat?

10 A. Yes. Somewhat.

11 Q. Well, there had been discussion of her maybe
12 having to go into like a home?

13 A. Yes.

14 Q. And ultimately that year she did have to go into
15 -- she went to actually Palmetto, correct?

16 A. Yes.

17 Q. But that was for several months?

18 A. Yes.

19 Q. And Palmetto is a for behavior it is sort of like
20 an inpatient --

21 A. Yes.

22 Q. -- place.

23 A. Uh-huh.

24 Q. And she got kicked out because she ran away?

25 A. Yes.

1 Q. At some point though, that your things were so bad
2 that you temporarily relinquished your rights as her mother?

3 A. Yes. But it ain't got nothing to do with this
4 case, ma'am.

5 Q. Right. But just things were that bad with being
6 able to control Minor , correct?

7 A. Yes. You were asking me something that don't have
8 nothing to do with this case, ma'am.

9 THE COURT: Ma'am, just -- I -- I'll determine what
10 questions she can ask and all that. Just do your best to
11 answer them, okay?

12 THE WITNESS: Yes, ma'am.

13 THE COURT: Thank you.

14 BY MS. FORD:

15 Q. But so basically she had to go into foster care in
16 (inaudible) parents for a while, correct?

17 A. Yes.

18 Q. And a lot of people were trying to help you
19 though?

20 A. Yeah.

21 Q. Back to try to control Minor ?

22 A. Yes.

23 Q. She had a school counselor she regularly went to?

24 A. Yes.

25 Q. And you would actually often have to call the

1 police for help?

2 A. Somewhat.

3 Q. Okay. Sometimes you would call to help them
4 locate her, correct?

5 A. Somewhat.

6 Q. Because she -- leaving the house was actually
7 pretty common for her?

8 A. Somewhat.

9 Q. Sometimes she would sneak out when you were
10 sleeping?

11 A. Somewhat. Uh-huh.

12 Q. And sometimes she would just be mad and walk out?

13 A. Somewhat.

14 Q. So that's what happened this night?

15 A. Yes, ma'am.

16 Q. Okay. So this is not the first time the police
17 had to get involved with Minor, correct?

18 A. Correct.

19 MS. FORD: Beg the Court's indulgence?

20 THE COURT: Sure.

21 MS. FORD: No further questions.

22 THE COURT: All right. Any re-direct to this witness?

23 MR. HARRIS: Beg the Court's indulgence?

24 THE COURT: Sure.

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

1 THE COURT: All right. Ma'am, you can step down and
2 have a seat back in the gallery.

3 State's next witness here?

4 MS. FRIERSON: Yes, Your Honor.

5 THE COURT: Okay. Are you ready?

6 MS. FRIERSON: State called Mattie Dodds.

7 THE CLERK: Please raise your right hand and place your
8 left hand on the Bible.

9 MATTIE CRITCHFIELD DODDS,

10 being first duly sworn, testifies as follows:

11 THE CLERK: Please be seated. Please state your full
12 name, spelling your last name for the record.

13 THE WITNESS: Mattie Critchfield Dodds. Critchfield is
14 C-R-I-T-C-H-F-I-E-L-D. Dodds is D-O-D-D-S.

15 MS. FRIERSON: Thank you. May please the Court, Your
16 Honor?

17 DIRECT EXAMINATION

18 BY MS. FRIERSON:

19 Q. Ms. Dodds, good morning.

20 A. Morning.

21 Q. Could you please tell the Court where you are
22 currently employed?

23 A. Sure. I'm currently employed at the Formation
24 Project.

25 Q. And what -- what is the Formation Project?

1 A. It is a nonprofit, sorry, this chair is rolling.
2 It's a nonprofit, local nonprofit serving human trafficking
3 survivors in the Tri-County Area. I'm the program director
4 there.

5 Q. And where were you previously employed?

6 A. I was previously employed at
7 Dee Norton Child Advocacy Center as a therapist and forensic
8 interviewer.

9 Q. And while you were there at Dee Norton, what kind
10 of services did you provide?

11 A. So in my role as a therapist, therapy services to
12 youth and adolescents and their families. And then in my
13 role as a forensic interviewer, I -- I conducted forensic
14 interviews at least three a week, three to six every week
15 during my employment there.

16 Q. Could you tell the jury a little bit about your
17 educational background?

18 A. Sure. My undergraduate degree is from College of
19 Charleston. I have a bachelor's in psychology. And then I
20 got my master's degree at Fordham University in New York. A
21 clinical social work degree with a specialization in trauma
22 treatment for youth and adolescents.

23 Q. And you mentioned previously that you had
24 conducted forensic interviews. Ms. Dodds, does -- does this
25 require any specific treatment?

1 A. Yes, it does. So the training I received was
2 Child First protocol for interviewing children the South
3 Carolina protocol, which is required by the
4 National Children's Alliance for forensic interviewers who
5 are conducting interviews in child advocacy centers like
6 Dee Norton.

7 Q. Have you taken any courses or seminars or been a
8 part of any other training outside of the Child First on
9 certification when -- when it comes to forensic interviews?

10 A. Yes. So -- so the initial training is 40 hours.

11 MS. FORD: Your Honor. Sorry. May we approach?

12 THE COURT: Sure.

13 (Bench conference.)

14 THE COURT: All right. Please proceed. Thank you so
15 much.

16 MS. FRIERSON: Thank you.

17 BY MS. FRIERSON:

18 Q. How many years did you conduct forensic interviews
19 at Dee Norton?

20 A. Five years.

21 Q. And I heard you correctly remember it was about
22 three to six per week, correct?

23 A. At least. Yes.

24 Q. Please tell the jury in just general terms what --
25 what is a forensic interview?

1 A. Sure. So a forensic interview is a protocol for
2 interviewing children when there's been a concern for abuse
3 or some type of crime. It's conducted in a developmentally
4 sensitive and appropriate way by a neutral party in the
5 investigation. So -- and it is designed to be conducted by
6 asking questions that are very open-ended, so not leading or
7 suggestive, really providing an opportunity for a child to
8 share about an experience that they may or may not have had.

9 So asking questions like -- like I mentioned, very --
10 very open-ended, not yes, no questions. And then there is a
11 recording made of that interview and then a written report
12 after the interview is completed as well.

13 Q. And I -- you kind of touched on this, but the
14 guidelines or that are used for this, is that the non-leading
15 questions?

16 A. Yes. Non-leading questions and also, you know,
17 allowing the child to correct me if I -- if I'm
18 misunderstanding them. So really giving them the opportunity
19 to ensure that I'm understanding what they're sharing.
20 Really encouraging them to use their own language and yeah.
21 Yes.

22 Q. And is the interview -- where is the interview
23 conducted?

24 A. At the Child Advocacy Center.

25 Q. Is -- who is in the -- is it a room that's

1 conducted?

2 A. Yes. So it's a room, very plain room, but, you
3 know, child -- not child friendly in the sense that there are
4 toys, but there's, you know, soft chairs to sit in. It's not
5 like a police station. It's -- it's a different setting.
6 And then it's just the forensic interviewer and the child in
7 the room. No one else is in the room.

8 Q. And is anyone allowed to observe the interview?

9 A. If there is an investigator present who's
10 investigating the specific case that the child is there for,
11 they -- they can view in a separate room live of the
12 interview.

13 Q. Are the child's parents -- parents or guardians
14 allowed to observe the interview?

15 A. No, they are not.

16 Q. All right. Do you have some checks and balances
17 without going into them and in place to ensure competency in
18 an interview?

19 A. Sure. So I mentioned earlier letting --

20 MS. FORD: Objection. That goes into something that's
21 been redacted.

22 THE COURT: Okay.

23 MS. FRIERSON: I wasn't going into that, just whether
24 or not there are checks and bounds to ensure.

25 THE COURT: Okay.

1 MS. FORD: Vouching.

2 THE COURT: I'll allow it as long as we stay within the
3 bounds of our previous discussions on the record.

4 MS. FORD: Your Honor, I also believe it's vouching.

5 THE COURT: Okay. What was the question saying again?

6 MS. FRIERSON: Are there -- without going into them.

7 THE COURT: Uh-huh.

8 MS. FRIERSON: Are there checks and balances in place
9 to ensure competency?

10 THE COURT: I'll allow. Overruled. Okay.

11 BY MS. FRIERSON:

12 Q. And do you obtain a family or social history when
13 you -- prior to doing this interview?

14 A. Yes.

15 Q. And believe you already discussed the type of
16 questioning that was used?

17 A. In the interview, yes. Open-ended questions.

18 Q. And when you assess for any type of abuse, how do
19 you determine a child's knowledge of his or her anatomy?

20 A. Sure. So we present a picture of a -- a drawing
21 of a male anatomy on a -- a child male anatomy and a child
22 female anatomy. And again, using those open-ended questions
23 allow the child to label that anatomy with their own
24 language. So whatever the child refers to those body parts
25 as, then I would reflect back that language back to them.

1 Q. Did you conduct a forensic interview on a minor
2 child, Minor [REDACTED] ?

3 A. Yes.

4 Q. When did you conduct that forensic interview?

5 A. April of 2018 -- '18.

6 Q. I'm sorry, go ahead.

7 A. 2018, I think I said '19.

8 Q. And who referred this child to you for the
9 interview?

10 A. It was the North Charleston Police Department.

11 Q. How old was Minor [REDACTED] when interviewed her?

12 A. She was 11.

13 Q. And you're limited to -- to that -- to a yes or
14 no, but did she make a disclosure to -- disclosure to you?

15 A. She did, yes.

16 Q. And did she provide this disclosure on video?

17 A. She did, yes.

18 Q. All right. Were you able to understand what she
19 was saying?

20 A. I was.

21 Q. Okay. And did you document this disclosure in
22 form?

23 A. I did. In a written report.

24 Q. And how -- how was it reported?

25 A. It -- video recording.

1 MS. FRIERSON: Your Honor, may I approach?

2 THE COURT: Yes.

3 BY MS. FRIERSON:

4 Q. Ms. Dodds, I'm showing you what has been
5 pre-marked as State 7. Do you know what this is?

6 A. It's a recording of the forensic interview.

7 Q. And how do you know that?

8 A. Because it -- it says it on there and I signed it
9 confirming that.

10 Q. And have you had a chance to review this prior to
11 today?

12 A. Yes.

13 Q. And is it substantially the same interview that
14 you provided -- that you conducted back with **Minor** in
15 April of 2018?

16 A. It is, yes.

17 MS. FRIERSON: Your Honor, at this time, the State
18 would seek to offer State's Exhibit number 7 into evidence
19 and publish it. We would also like to provide demonstrative
20 aid to the jury for purposes of case publishing.

21 THE COURT: Okay. State 7, any objection to that?

22 MS. FORD: Yes, Your Honor. Based on bolstering in my
23 prior objection, both for the recording and the several
24 statements --

25 THE COURT: Okay.

1 MS. FORD: -- that were discussed.

2 THE COURT: All right. Over the objection, I renewed
3 timely by Defense counsel, I'll admit State 7 subject to our
4 previous discussions on the record. And then as to the
5 unofficial transcripts your objection is also renewed timely
6 on those. We have had discussions about those as well. So
7 I'll give a -- if you have those ready to pass out.

8 (State's Exhibit number 7 was admitted into evidence.)

9 MS. FRIERSON: There's more on the way. If you could
10 just take a two minutes recess.

11 THE COURT: Okay.

12 MS. FRIERSON: Thank you, Your Honor.

13 THE COURT: All right. While that's coming, ladies and
14 gentlemen there is a video I believe that you will -- I'll be
15 shown shortly here. And in conjunction with that the State
16 has prepared some unofficial transcripts for you to use. If
17 you want. You don't have to -- to aid in your viewing of the
18 video.

19 The transcript would just be one person's typing of --
20 of the video, audio portion of it. You don't have to use it.
21 And certainly I would instruct you to rely on what you hear
22 first and foremost over what the transcript says. Okay.
23 Because the person that made the transcript wasn't present in
24 the room where the video took place. Okay? But the
25 transcript's just an aid we need to use if you want to use

1 it. And we'll have hopefully have some copies of those on
2 the way here shortly.

3 MS. FRIERSON: And all those, Your Honor --

4 THE COURT: That's all right.

5 MS. FRIERSON: -- up the technology that --

6 THE COURT: That's okay. These things happen. You
7 think it's going to be a few minutes?

8 MS. FRIERSON: I guess. There was a jam in the
9 printer.

10 THE COURT: Okay. And I'll just excuse you all for a
11 quick restroom break anyway, ladies and gentlemen none need
12 us all sit in here look at each other. So while you can
13 relax a little bit, we'll bring you back in a few minutes.

14 (Jury exits courtroom.)

15 THE COURT: We'll be at ease as well for a few minutes.

16 MS. FRIERSON: Thank you, Your Honor. I apologize. I
17 apologize.

18 THE COURT: No -- no, it's fine. All right. We can
19 jury back in. Thank you, sir.

20 MS. FRIERSON: I did place two copies up there for you
21 and your clerk.

22 THE COURT: Great. And the others are --

23 MS. FORD: Your Honor.

24 THE COURT: -- over there for the (inaudible).

25 Yes, ma'am.

1 MS. FORD: Oh, we're just waiting on the client.

2 THE COURT: Oh, yeah. We won't bring them over.

3 They're like way down the hall. There's no reason

4 (inaudible). It'll take a few minutes to get them in here.

5 One of these two will be marked as the next Court's exhibit.

6 Okay.

7 MS. FRIERSON: Yes, Your Honor.

8 THE COURT: So that'll be Court's 4 and no just keep

9 that one I got actually.

10 MS. FRIERSON: Do you need another one, Your Honor?

11 THE COURT: No, we can share. Thank you, ma'am.

12 (Jury enters courtroom.)

13 THE BAILIFF: All rise. All jurors present, Your

14 Honor.

15 THE COURT: Perfect. Thank you all. Please be seated

16 and I think you're ready to proceed. Ladies and gentlemen,

17 before we broke, we were discussing these unofficial

18 transcripts that are provided to you all. I'll have the

19 bailiff pass those out while we queue up State 7.

20 And, Ms. Frierson, you can continue with your

21 presentation -- questioning.

22 MS. FRIERSON: Your Honor, we -- State just per request

23 permission to publish State 7.

24 THE COURT: Okay. Granted.

25 (Video starts.)

1 BY MS. DODDS:

2 Q. Hi, can you please write your name and your age on
3 your set board? (Inaudible). So my job is to listen and to
4 talk about safety (inaudible). And so today that's what
5 we're going to do. We're going to talk (inaudible).

6 (Video ends.)

7 MS. FORD: Your Honor, can we approach. Can we
8 approach?

9 THE COURT: Sure.

10 (Bench conference.)

11 THE COURT: Okay. Ladies and gentlemen, due to the --
12 there's a slight delay he couldn't tell between the audio and
13 the video. So due to that, to avoid any confusion, the
14 State's just going to play the audio. So you're not kind of
15 trying to reconcile in your own head during the -- the
16 playing of it the delay. So for that reason, we'll continue
17 it where we left off, we'll just do audio only.

18 (Audio starts.)

19 BY MS. DODDS:

20 Q. Well, Minor [REDACTED], did you go to school yesterday?

21 A. Yes.

22 Q. Tell me about school yesterday. Walk me through
23 step by step starting with when you arrived to school
24 (inaudible).

25 A. (Inaudible).

1 Q. Okay. Tell me about what you guys did yesterday.

2 A. (Inaudible).

3 Q. Tell me about your math class yesterday

4 (inaudible).

5 A. (Inaudible).

6 Q. Well, tell me about -- I want to know about your
7 day so far. So that's the first thing that happened about
8 this morning?

9 A. Go to school.

10 Q. Uh-huh.

11 A. And then --

12 Q. You want to go to school this morning?

13 A. I did.

14 Q. You did?

15 A. (Inaudible).

16 Q. So what's the first thing you did when you woke
17 up?

18 A. I (inaudible) school.

19 Q. Okay.

20 A. She said no (inaudible). I get mad.

21 Q. And tell me what you know about (inaudible). Talk
22 to you about anything. Okay. What did she say?

23 A. She said (inaudible).

24 Q. Let's see. Well, tell me who you live with?

25 A. Mom, brother.

1 Q. Tell me their names.

2 A. Michael. Oh (inaudible) and she (inaudible).

3 Q. Okay. Who takes care of you?

4 A. Mom.

5 Q. Does she do good take care of you?

6 A. Maybe and stuff.

7 Q. Who (inaudible) food?

8 A. Mom.

9 Q. Or clean your clothes?

10 A. Mom.

11 Q. Okay. Who are the -- what are the rules at your

12 house?

13 A. No. No rules.

14 Q. No rules? Are there things that you're supposed

15 to do or not supposed to do at your house? Tell me about

16 that.

17 A. (Inaudible).

18 Q. Hmm.

19 A. (Inaudible)

20 Q. No, tell me about that.

21 A. (Inaudible).

22 Q. Oh, okay. Well tell me about at Granny's house.

23 A. I can't go (inaudible).

24 Q. Okay. What happens **Minor** when you get in

25 trouble, what usually happens when you get in trouble?

1 A. (Inaudible).

2 Q. Okay. Tell me all about that.

3 A. I get punishment for a week.

4 Q. What is punishment?

5 A. I don't know.

6 Q. Okay. You said you did punishment for a week. So
7 what happens for a week? Okay. Tell me about the last time
8 you got you got in trouble.

9 A. Nothing.

10 Q. Okay. Sometimes kids talk to me about getting --
11 when they get in trouble (inaudible) or hit or whooping. Has
12 there ever been a time you got in the notes? Has there ever
13 been a time **Minor** where your (inaudible)?

14 Well, I'm going to ask you more questions about your
15 body and your body (inaudible), okay? What do you call the
16 private places on your body? What does the doctor call it?

17 A. Private part.

18 Q. Private part. Okay. On your body to your private
19 part. So I make sure I'm understanding. Okay? Has there
20 ever been times someone's done something to your private
21 part?

22 A. Yeah.

23 Q. Tell me about that.

24 A. He grabbed me.

25 Q. Tell me about it.

1 A. And then he -- he picked me up and grabbed me and
2 bring me home and he took off my clothes and had sex with me.

3 Q. Okay. You said he picked you up and grabbed you
4 and brought in his house and took off your clothes and had
5 sex with you?

6 A. Yes.

7 Q. Okay. So Minor I want to make sure I understand
8 everything that happened. Okay? So like I was asking you to
9 walk me through things step by step, just like I want to talk
10 about this. So you said he picked you up. Tell me
11 everything that happened right before everything together.

12 A. I was walking.

13 Q. Okay.

14 A. And he just grabbed me. He picked me up and
15 kicked me in his house and put -- put me on his bed and cut
16 my clothes and he (inaudible), and the house was so dark when
17 he locked. His grandma was trying to get in, but he locked
18 the door.

19 Q. So I ask you more about all that, but I want to
20 start at the beginning. So you said you were walking. Tell
21 me about where you were walking?

22 A. To my grandma.

23 Q. You were walking to your grandma house?

24 A. Yes.

25 Q. Okay. So you said you were walking into your

1 grandma's. The most (inaudible) thing that happened.

2 A. He just grabbed me.

3 Q. He grabbed you. Tell me about him.

4 A. I don't know.

5 Q. Okay. Tell me everything about him. Did he say
6 anything when he grabbed you? Okay. What'd he say?

7 A. He said do you smoke, I said no.

8 Q. He said, do you smoke? Talk about what it looks
9 like?

10 A. (Inaudible) clear and (inaudible) because the
11 house was so dark.

12 Q. (Inaudible). Okay. Okay. So you said you were
13 walking to your grandma's and he said, do you smoke drugs or
14 do you smoke?

15 A. It was (inaudible).

16 Q. And you said that wasn't there.

17 A. He was drinking alcohol.

18 Q. He was drinking alcohol? Tell me how you know he
19 was drinking alcohol.

20 A. Because I saw the beer.

21 Q. You saw the beer. Tell me what you saw?

22 A. I saw -- and he kiss me.

23 Q. And he kiss you. Okay. Where did he kiss you?

24 A. He kissed me on my lips, he kissed me on my butt.

25 Q. Okay. Okay. So you said that you were walking to

1 your grandmother's and he came up and asked you if you
2 smoked. And you said you saw -- you saw beer and he smells.

3 A. He smell alcohol.

4 Q. He smell alcohol. And then he kissed you on your
5 lips. And what's during that scene that happened?

6 A. (Inaudible). He take me to (inaudible).

7 Q. Say that again.

8 A. He went to the bathroom (inaudible).

9 Q. Okay. So tell me about how you got from walking
10 to in the house. How did that happen?

11 A. He picked me.

12 Q. He picked you? Okay. Was he saying anything when
13 he did that? Okay. So he picked you up in what?

14 A. Both (inaudible).

15 Q. Okay.

16 A. She called (inaudible) and she called (inaudible).

17 Q. Okay. Tell me about house.

18 A. The color?

19 Q. And tell me everything you saw on in the house.

20 A. (Inaudible) it was so junkie to me.

21 Q. It was junkie. Okay.

22 A. Lot of clothes.

23 Q. Lot of clothes.

24 A. (Inaudible).

25 Q. Okay. And tell me about where you were at the

1 house?

2 A. In his room.

3 Q. How do you know it's his room?

4 A. She -- he picked me up and walk in.

5 Q. Okay. Did he say anything when you took -- when
6 he walked you in his room? Tell me about what he said.

7 A. (Inaudible).

8 Q. Okay. Did he ask about (inaudible)?

9 A. No. (Inaudible).

10 Q. So he asked you do you smoke. What'd you say?

11 A. No.

12 Q. Okay. What happened?

13 A. He just took off his clothes and took off my
14 clothes, but my drawers are still in his house.

15 Q. Your drawers are still in his house? Tell me
16 about that.

17 A. I (inaudible) pink.

18 Q. Your pink? How do you know they're still in his
19 house?

20 A. Because I left it.

21 Q. So you said he took off his clothes and took off
22 your clothes. What's the next thing that happened?

23 A. He had sex with me.

24 Q. Okay. I want to make sure I understand. So tell
25 me everything that happened when he had sex with you.

1 A. He didn't use protection.

2 Q. He didn't use protection. Okay.

3 A. He (inaudible).

4 Q. Tell me about the sex. Tell me about that.

5 A. Those (inaudible).

6 Q. (Inaudible). Okay. Tell me about, you said that
7 he took his clothes off and he took your clothes off.

8 A. The house was dark. I -- I can't see.

9 Q. Okay. How was your body? Okay. Tell me
10 everything you could see.

11 A. You could see nothing. The door was closed.

12 Q. The door was closed. Okay. So it was the very
13 next thing that happened after he took your clothes off.

14 A. He had sex with me.

15 Q. Okay. So you said that he had sex with you. Tell
16 me what that means. Anything. Okay. So what was your body
17 doing (inaudible) his body?

18 A. I wasn't (inaudible).

19 Q. (Inaudible). Tell me about what his body was
20 doing.

21 A. (Inaudible).

22 Q. Was he saying anything when that was happening?
23 Were you saying anything when that was happening?

24 A. (Inaudible).

25 Q. Okay. Where are your body parts that get

1 (inaudible) with you?

2 A. My private part.

3 Q. Your private part? Okay. What did that feel
4 like?

5 A. Hurt.

6 Q. It hurt. Okay. Did your private part look
7 different after that?

8 A. (Inaudible).

9 Q. Okay. So you said that his homeboys were laying
10 on the door. Tell me more about that. On the door?

11 A. On the door (inaudible).

12 Q. Tell me about, were they saying anything when they
13 were (inaudible) tell me about that.

14 A. Just (inaudible) little girl.

15 Q. Okay. Did he say anything when (inaudible)?

16 A. He -- he ignored (inaudible).

17 Q. He did that. What was the next?

18 A. He opened the door. He opened the door
19 (inaudible).

20 Q. The who opened the door?

21 A. No, I can (inaudible).

22 Q. You brought up. Okay. And you (inaudible)
23 outside (inaudible) how you eat.

24 A. (Inaudible).

25 Q. Okay.

1 A. Almost probably (inaudible).

2 Q. Did he say anything when (inaudible)?

3 A. Uh-uh.

4 Q. So you said you got out, you almost fell in the
5 house and you went through the front door?

6 A. Uh-huh.

7 Q. Okay. What happened?

8 A. Touching. (Inaudible) she followed me
9 (inaudible).

10 Q. Tell me about other (inaudible).

11 A. He told my mom (inaudible).

12 Q. He told her that?

13 A. He said the man outside.

14 Q. Man went outside. Okay.

15 A. I found it. I (inaudible) more comfortable
16 (inaudible).

17 Q. So tell me more about the -- you said the man told
18 your mom something else. He happened to your daughter. How
19 did the man know that? How did the man know something else
20 you had? Okay. What -- where did the man come from?

21 A. Outside.

22 Q. Outside where?

23 A. He -- he was outside.

24 Q. Okay. So he said you walked out the front door.
25 The next that happened when you walked out the front door.

1 What did you see when you walked out that door?

2 A. People.

3 Q. People. Okay. Tell me about that.

4 A. They were chatting. And oh, and then he said
5 (inaudible) and he said, (inaudible) well he (inaudible).

6 Q. And he told you to give you money?

7 A. (Inaudible).

8 Q. Is that what he said? Okay.

9 A. He (inaudible) and he said he (inaudible).

10 Q. Okay.

11 A. So I don't really know about (inaudible).

12 Q. Uh-huh.

13 A. Other (inaudible).

14 Q. Okay. So did that happen before you walked out
15 the house or after you walked out to the house or something
16 else?

17 A. Both four of them.

18 Q. Okay. So before you so you told me that he raped
19 you and then he said his friends were knocking on the window
20 and you -- when did he tell you about -- tell you he gave you
21 money?

22 A. (Inaudible).

23 Q. Okay. Tell me everything he said.

24 A. (Inaudible).

25 Q. So he said I give you money (inaudible) and you

1 said no. You said something about a man and people outside.

2 Who were the people?

3 A. His home boys.

4 Q. His home boys.

5 A. He (inaudible).

6 Q. Okay. Tell me about that.

7 A. (Inaudible).

8 Q. Okay. You said he just got out of jail. Who told
9 you that?

10 A. He did.

11 Q. He told you that he just got out jail?

12 A. Uh-huh.

13 Q. You said his homeboys were outside? And you said
14 something about a man telling your mom something else. He
15 have them. Was that man out of his homeboys or somebody
16 else?

17 A. Homeboy. He drove Ken (inaudible).

18 Q. Okay. Then what happened?

19 A. (Inaudible).

20 Q. You're hungry? Okay. Just have a few more safety
21 questions. Okay. You told me about the house, his -- it was
22 junkie -- it was junkie. You saw clothes and beer cans.
23 Tell me everything that you saw in the house?

24 A. I saw (inaudible) just come (inaudible).

25 Q. Okay. And you said that the man that you saw was

1 a little bit weird? Okay.

2 A. (Inaudible) he got a tattoo on (inaudible).

3 Q. Okay. Do you know his name?

4 A. Emeric.

5 Q. Okay. All right. Well, I'm going to ask you a
6 few more questions. Okay? Safety questions and we're all
7 done. Okay. These are different kinds of questions besides
8 that one. What you just told me about (inaudible) has there
9 ever been times when you said something to your private body
10 parts?

11 A. Uh-huh.

12 Q. Okay. Or have to see your private body parts or
13 shown you their private body parts? And -- and you talked
14 about how his homeboys were telling him get her out the house
15 that little girl. Okay. Okay. Have ever been (inaudible)
16 about taking pictures or videos of you with no clothes on or
17 showing videos (inaudible) on?

18 A. (Inaudible).

19 Q. Police officer (inaudible) to your house?

20 A. (Inaudible).

21 Q. (Inaudible). Okay. I am going to take a little
22 break each time. Would you like to go on the board?

23 A. Okay.

24 Q. I'll be right back.

25 (Audio ends.)

1 THE COURT: Is that the end or does it come back on?

2 MR. HARRIS: It's still -- it's still running, Your
3 Honor.

4 THE COURT: Oh, it is. Oh.

5 MS. FRIERSON: Your Honor, we just agreed we're going
6 to fast forward it until she comes back in the room in an
7 effort to conserve time.

8 THE COURT: Okay.

9 MS. FRIERSON: Ms. Dodds is out of the room on the
10 interview.

11 THE COURT: Oh, okay.

12 MS. FRIERSON: I apologize, Your Honor. It seems like
13 that delay now took -- take -- took away the audio.

14 THE COURT: Okay. Do you have another disc handy that
15 has it all -- hold the full?

16 MS. FRIERSON: Not another disc initialed by the
17 witness. I mean we have other discs.

18 THE COURT: Okay. Well --

19 MS. FRIERSON: It will be --

20 THE COURT: I don't know how much is left, but we'll
21 have to take a quick break then and see if you can put that
22 together and have her review it. So I don't know how long do
23 you think that'll take?

24 MS. FRIERSON: By my estimation there is probably less
25 than five minutes left.

1 THE COURT: Okay. All right. We'll just take a break,
2 ladies and gentlemen (inaudible) part of the phone. It's
3 okay. We'll take a break and excuse you back in your jury
4 room and hopefully bring you back in here as soon as
5 possible. Thank you very much. Please don't discuss the
6 case.

7 (Jury exits courtroom.)

8 THE COURT: They left their transcript, right? They
9 didn't take them with them or anything? Okay. Okay. All
10 right. We'll take a quick break.

11 (Off the record.)

12 (Jury enters courtroom.)

13 THE BAILIFF: All jurors are present, Your Honor.

14 THE COURT: Thank you so much. I think we're ready to
15 proceed. We can resume the audio.

16 (Audio starts.)

17 BY MS. DODDS:

18 Q. (Inaudible) right now. Okay? Thank you.
19 (Inaudible).

20 A. (Inaudible).

21 Q. Okay. You were telling me about your mom does see
22 (inaudible) what does your mom call him?

23 A. My (inaudible).

24 Q. Okay. What does she call him?

25 A. I don't know.

1 Q. How do you know your (inaudible).

2 A. Because (inaudible).

3 Q. Describe picture (inaudible).

4 A. Age of my mom.

5 Q. Age of your mom? Okay.

6 A. (Inaudible).

7 Q. Did somebody tell you anything? Oh, okay.

8 All right. I'll ask you a couple different questions
9 and then we're all done. What do you know about drugs and
10 alcohol? Tell me what you know about drugs. Has there ever
11 been a time someone was taking care of you and they smoked
12 something that made them active (inaudible) or they -- on
13 your (inaudible) to make them back (inaudible) or took a pill
14 or ever a time (inaudible) something (inaudible). Tell me
15 about that. Okay. Tell -- tell me is that a yes? Did that
16 happen before? Okay. Tell me everything that happened.

17 A. (Inaudible).

18 Q. All right. Now, is there anything you were
19 worried about today?

20 A. No. I want to go home.

21 Q. Okay. Anything you're scared about?

22 A. No.

23 Q. Okay.

24 A. I got anger with him.

25 Q. You got anger about him?

1 A. Uh-huh.

2 Q. Tell me about that.

3 A. (Inaudible).

4 Q. Okay. (Inaudible).

5 A. (Inaudible).

6 Q. (Inaudible) please raise your side (inaudible).

7 A. I (inaudible).

8 Q. Uh-huh. Do you (inaudible)?

9 A. (Inaudible).

10 (Audio ends.)

11 MS. FRIERSON: Ms. Dodds, the State has no further
12 questions at this time. Please answer any Ms. Ford may have.

13 CROSS-EXAMINATION

14 BY MS. FORD:

15 Q. Hello. I just want to follow up on a few
16 questions about what your job entailed at (inaudible).

17 A. Okay.

18 Q. When you told us that you were trained not to ask
19 leading questions, correct?

20 A. Correct.

21 Q. And that's because asking a child leading
22 questions could basically lead them into certain answers?

23 A. It could, yes.

24 Q. And it could suggest to them something that an
25 adult is looking for to say, correct?

1 A. Correct.

2 Q. And it could put words into their mouth.

3 A. Yes.

4 Q. Now, when they come to you the purpose of coming
5 to you is basically to try to talk to you all instead of to
6 law enforcement, correct?

7 A. Yes. That's one of the purposes. Yes.

8 Q. And because many law enforcement officers are not
9 trained in the same way you are to talk to kids.

10 A. Correct.

11 Q. So ideally, by the time they come to you, there
12 would've been little talk between the child you're seeing and
13 other people about what they're there for, correct?

14 A. Yes.

15 Q. And if they talked to numerous people before,
16 those people may have used leading questions, correct?

17 A. I -- I don't know that for sure, but they could
18 have.

19 Q. And would something like a video of their
20 questioning help turn that?

21 A. Could you restate that?

22 Q. Sure. Well, the reason -- one reason you record
23 you interview is that so other people can see the whole
24 picture and see that you're not asking leading questions,
25 correct?

1 A. Sure. Yes.

2 Q. So if there's not a video, then someone could --
3 maybe, there could be doubt about whether you asked leading
4 questions or not.

5 A. There could be.

6 Q. So when other people have questioned a Child First
7 and there's no video, you don't know how they may have asked
8 their questions?

9 A. No, I wouldn't -- I wouldn't be able to.

10 Q. And a video also would help everybody know the
11 exact words that were used?

12 A. Correct.

13 Q. Because sometimes you write reports yourself.

14 A. Yes.

15 Q. You mentioned. But sometimes I'm writing a
16 report. If you don't have a video to refer to, you're going
17 from memory, correct?

18 A. Correct.

19 Q. So like the every little word may not be correct;
20 is that fair to say?

21 A. That's fair.

22 Q. Now, in this case before you talked to **Minor**,
23 you did gather a little background information from her mom?

24 A. Yes.

25 Q. And she gave you the rundown in what she knew

1 about the case, correct? About the situation?

2 A. Yes.

3 Q. And she did specifically say that when Minor
4 left, she -- she came upset and left the home. She refused
5 to come back, and then she followed her in the car that
6 Minor refused to get in the car, correct?

7 A. Yes.

8 MS. FORD: Beg the Court's indulgence?

9 THE COURT: Uh-huh.

10 MS. FORD: I have no further questions.

11 THE COURT: Right. Any re-direct for this witness?

12 MS. FRIERSON: No, Your Honor.

13 THE COURT: Okay. You can step down and free to go.
14 Thank you very much.

15 MS. DODDS: Thank you.

16 THE COURT: State calls next witness.

17 MR. HARRIS: Thank you, Your Honor. The State calls
18 Tiffany Wilcome.

19 THE COURT: And those transcripts if you all could pass
20 those back over to the bailiff we'll collect those as well.
21 Thank you. Okay.

22 THE CLERK: Please raise your right hand.

23 TIFFANY WILCOME,

24 being first duly sworn, testifies as follows:

25 THE CLERK: Please be seated. Please state your full

1 name, spelling your last name in the microphone.

2 THE WITNESS: Tiffany Wilcome, W-I-L-C-O-M-E.

3 DIRECT EXAMINATION

4 BY MR. HARRIS:

5 Q. Good morning, Ms. Wilcome.

6 A. Hello.

7 Q. Were you working for

8 North Charleston Police Department on May 22, 2020?

9 A. I was.

10 Q. And what was your role with North Charleston

11 Police Depart -- Department on that day?

12 A. I was a police officer assigned to the crime scene
13 unit.

14 Q. And what are the duties of a police officer --
15 officer assigned to the crime scene unit?

16 A. So we process different crime scenes, doing
17 photographs, collecting evidence, and we would take evidence
18 up to SLED.

19 Q. And were you involved in this case in receiving
20 evidence and transporting it?

21 A. Yes.

22 Q. And do you recall what the evidence was?

23 A. A buccal swab.

24 Q. And who gave you the evidence in this case?

25 A. I received it from evidence tech Middleton.

1 Q. And can you tell me who placed that these items
2 into evidence?

3 A. Detective Crider did.

4 Q. And how do you know it was?

5 A. According to the chain of custody.

6 Q. And when you received this evidence, was it
7 sealed?

8 A. Yes.

9 Q. Did you ever open it?

10 A. No.

11 Q. And had it been altered or tampered with in any
12 way?

13 A. No.

14 Q. And if it had been, you noted it?

15 A. Yes.

16 Q. And what did you do with the evidence after you
17 received it?

18 A. It was placed into my vehicle and I drove it up to
19 the SLED lab in Columbia.

20 Q. And where did you place it in your vehicle?

21 A. In the, like, back passenger seat.

22 Q. Is it secure?

23 A. Yes.

24 Q. And what did you do with that evidence once you
25 arrived by the SLED?

1 A. SLED has lockers and so I let them know that I'm
2 there. They let me into the building, all the evidence goes
3 into the locker, in which time I secure it from our side.
4 And then it's not opened again until SLED gets it.

5 MR. HARRIS: Beg the Court's indulgence?

6 THE COURT: Uh-huh.

7 MR. HARRIS: I have no questions for you. Please
8 answer any questions the Defense has.

9 THE WITNESS: Okay.

10 MR. HARRIS: Thank you.

11 MS. FORD: Just briefly.

12 CROSS-EXAMINATION

13 BY MS. FORD:

14 Q. Does she -- you approached your -- you have a
15 chain of custody?

16 A. Yes.

17 Q. That the sheet. So you're just going by what
18 other people noted, correct?

19 A. Well, it's got my name and my signature, so I know
20 that I collected it from Middleton.

21 Q. Right. Well, you know what it -- you did, but you
22 don't know what the other people on that sheet actually did,
23 correct?

24 A. I just know what's on the sheet.

25 MS. FORD: Okay. I think I have no further questions.

1 THE WITNESS: Okay.

2 THE COURT: Okay. Any re-direct of this witness?

3 MR. HARRIS: No, Your Honor.

4 THE COURT: Okay. You can step down.

5 MS. WILCOME: Thank you.

6 THE COURT: You're free to go.

7 State can call next witness.

8 MS. FRIERSON: State calls Maryanne Boehm.

9 MARYANNE ELIZABETH BOEHM,

10 being first duly sworn, testifies as follows:

11 THE CLERK: Please be seated. Please state your full
12 name, spelling your last name in the mic.

13 THE WITNESS: My name is Marianne Elizabeth Boehm,
14 B-O-E-H-M.

15 MS. FRIERSON: Thank you. May I please the Court?

16 THE COURT: Yes.

17 DIRECT EXAMINATION

18 BY MS. FRIERSON:

19 Q. Ms. Boehm, would you please tell the jury where
20 you're employed?

21 A. I am employed at the South Carolina Law
22 Enforcement Division, commonly known as SLED.

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

24 A. Since December 2005. About 18 years.

25 Q. And could you describe what your current position

1 is and what responsibilities you have?

2 A. Yes. I am a senior DNA analyst. I am assigned to
3 the DNA case work department where I receive evidence from
4 local law enforcement agencies, develop DNA profiles from the
5 evidence and any known standards submitted in the case and
6 write a report based on my finding.

7 Q. And what kind of educational background do you
8 have in?

9 A. I have a bachelor of science from
10 James Madison University. It's in Harrisonburg, Virginia and
11 my degree is called integrated science and technology, and I
12 have a concentration in biotechnology.

13 Q. Have you received any additional specialized
14 training in the area of forensics or DNA?

15 A. Yes, upon employment at SLED, I went through their
16 training program, which was about a year. I learned the
17 proper techniques and procedures. I had to take a series of
18 tests before being able to touch any kind of case work.

19 Q. And how much of your time is devoted strictly to
20 the study and examination of DNA?

21 A. The majority of my time at SLED while I'm working
22 is to the DNA analysis. I'm also the training coordinator
23 for the department. So I'm training new hires on the proper
24 procedures of DNA analysis.

25 Q. And do you complete continuing education in this

1 field?

2 A. Yes, I'm required to complete at least eight hours
3 of continuing education each year.

4 Q. Have you been qualified as an expert in the field
5 of forensic, serology, and/or DNA analysis previously?

6 A. I have.

7 Q. Do you know about how many times?

8 A. Approximately 90 times.

9 MS. FRIERSON: Your Honor, at this time the State would
10 offer Ms. Maryanne Boehm as an expert in the field of
11 forensic DNA analysis and serology.

12 THE COURT: Any opposition to that?

13 MS. FORD: No, Your Honor.

14 THE COURT: All right. Ladies and gentlemen, once
15 again, as I've told you before, normally folks on the witness
16 stand can't give you their opinions, but we can make an
17 exception when they're deemed to be an expert in some field
18 or science. Ms. Boehm will be allowed to give you opinion
19 testimony in the area of forensic DNA analysis. Once again,
20 you don't have to accept her opinions, it's just information
21 for you to use in any way that you see fit. Please proceed.

22 MS. FRIERSON: Thank you, Your Honor.

23 BY MS. FRIERSON:

24 Q. Ms. Boehm, I want to go through what is DNA and
25 ask some really specific questions to break it down for those

1 of us who are not scientists.

2 A. Yes.

3 Q. What do the -- the letters DNA actually stand for?

4 A. Yes. DNA is an abbreviation for deoxy ribonucleic
5 acid.

6 Q. And where is it found in the body?

7 A. It is found in the majority of the cells in our
8 body. Every cell that has a nucleus was -- so it's basically
9 the exception of red blood cells, has DNA. And it's the same
10 throughout your body.

11 Q. And is it fair to say our DNA is kind of like a
12 genetic blueprint?

13 A. It is. It gives us it tells our body what to
14 make. It gives us our hair color, eye color, two arms, two
15 legs, things like that.

16 Q. And where do we get our DNA from?

17 A. We get our -- half our DNA from our biological
18 mother and the other half from our biological father.

19 Q. And what do you look for in forensic DNA, like to
20 differentiate between individuals?

21 A. So 99 percent of our DNA is similar between
22 individuals. However, there's less than 1 percent of DNA
23 that differs. So in forensic science, we're interested in
24 the portions of DNA that differ between individuals. We test
25 23 different locations that differ between individuals and

1 that makes up a DNA profile.

2 Q. And I -- I just want you to repeat that last part
3 again. You test 23, what was that?

4 A. Different locations within the DNA strand that
5 vary between individuals.

6 Q. And what do they make up? You said the 23
7 locations make up a --

8 A. DNA profile.

9 Q. Now, with -- do any two people have these same
10 identical DNA?

11 A. Yes. Identical twins would have the same DNA,
12 however, but anyone other than that would have different DNA.

13 Q. Is there any dispute in the scientific community
14 regarding what you just testified to as far as what DNA is?

15 A. No, ma'am. It's a widely accepted process.

16 Q. Now, again, keeping in mind we don't have your
17 training. Could you break it down how SLED and yourself
18 personally, what is the procedure when DNA comes in as far as
19 testing it?

20 A. So a short synopsis of what I do is we receive
21 evidence and known standard submit it in a case. I'll first
22 look at that item of evidence and make sure that it's
23 properly collected and sealed no tampering with. Then I will
24 look at the request made by the law enforcement agency,
25 whether requesting body fluid or whatever kind of DNA

1 requests they're doing.

2 Based on that request, I will perform DNA analysis. I
3 cut a portion using sterile techniques into a tube. And then
4 I follow a set -- kind of like a recipe, a set procedure to
5 extract that DNA, so open the DNA out of the cells and then
6 quantitate it to determine how much DNA I have for each
7 sample. And then we amplify it. This is where we start
8 testing the different portions of DNA that differ between
9 individuals. And then our final machine helps us see it. We
10 run it through an instrument and the data is on a computer
11 screen so we can actually see the DNA that way.

12 Q. And do you come up with a statistical result?

13 A. So after I create the DNA profile, I will look to
14 see if it's suitable for comparison. And if it is suitable
15 for comparison and I have known standards to compare it to, I
16 will perform statistics on that item.

17 Q. And let's back up. What -- what is suitable for
18 comparison mean?

19 A. So the DNA profile has to qualify. We have to
20 have enough information, enough a quality amount of -- of
21 information. DNA can be from one person or it can be from a
22 lot of people. So if it's a mixture of five people or more,
23 we can't make comparisons is too complex for us. If it's too
24 low level there's not enough information there. It's also
25 not suitable for comparison. So based on our protocol and

1 our studies, we set that value to help us determine what's
2 suitable for comparison or not.

3 Q. So you do have limits as to the quantity that you
4 need or the quality, both quantity and quantity in order to
5 be able to test as well as if it exceeds. Is that what I
6 understand that there's too many mixtures?

7 A. Yeah, there's too many people contributing to the
8 profile.

9 Q. Okay. And tell -- tell us a little bit about the
10 statistical result, how that is calculated?

11 A. So currently we use a program called Starmix. It
12 calculates a likelihood ratio. So basically a likelihood
13 ratio is comparing one scenario against the opposite
14 scenario. So does this DNA profile exist because this person
15 of interest contributed to the profile or was it some other
16 random unidentified individual and the likelihood will give
17 more writ weight to what scenario is more likely.

18 Q. And is that statistical result completely separate
19 and apart from the initial process of where you're -- where
20 you described the extraction and purification and
21 amplification?

22 A. Yes, ma'am. That part is done in the lab. The
23 statistics is done at my desk.

24 Q. And what safeguards do you use to ensure the --
25 the integrity of the -- the samples and -- and within your

1 lab?

2 A. Okay. So SLED has a numerous amount of safeguards
3 to ensure the integrity of the evidence. First would be the
4 chain of custody. The chain of custody -- custody starts
5 when the local law enforcement brings the item to SLED. It
6 is then logged in and given a unique lab number it for the
7 case. And then each item number gets a unique item number.
8 And then this starts in our internal chain of custody, which
9 will track who has the evidence when they had it and where it
10 was stored.

11 We also store all evidence in a secure location where
12 there's limited access to that evidence any time that the
13 item is transferred, it is scanned to the person or the
14 location. And we will add a new line of chain of custody
15 saying it was transferred to whoever on whatever day at what
16 time.

17 We also have tamper evidence -- evidence bags. So it's
18 a heat seal pouch where if you open it, you can't reclose it
19 without someone noticing. You have to be able to heat seal it
20 to secure evidence again.

21 We also have many controls in the laboratory to -- we
22 make sure that our chemicals are working correctly before we
23 use them on casework. We have a positive and negative
24 control throughout the process of creating a DNA profile.
25 Positive means that the DNA work as expected negative means

1 that there is no signs of contamination or extra DNA.

2 We also have a staff database to make sure that our DNA
3 is not getting into the samples. We also have a review
4 process. So once I perform all the DNA analysis and write my
5 report, it goes through two sets of reviews by two qualified
6 DNA analysts. They have to agree to my interpretation and
7 results. We're also proficiency tested every year. It's a
8 test to make sure that we are doing the lab work and report
9 writing correctly.

10 Q. Thank you. Now, this chain of custody referenced,
11 is it digital or is it handwritten?

12 A. It's electronic.

13 Q. And how -- how do you -- do -- what inputs the
14 person's name? Is there a system or a barcode?

15 A. Yes, ma'am. So we all have barcodes. Each person
16 and location has barcodes. And when you make that transfer,
17 you have to put your password in for it to like take.

18 Q. Now, did you receive evidence in this case?

19 A. I did.

20 Q. Could you please tell the jury what you received?

21 A. I received a couple known standards for
22 comparison. The victim buccal swab from **Minor** and
23 item two, which was buccal swabs from Emeric Hamilton. I
24 also received items found within the sexual assault evidence
25 collection kit. It'd be item 1.1, which was our vaginal

1 swabs. 1.2, which were oral swabs. 1.3, were rectal swabs
2 and 1.4, which were suspected saliva swabs bilateral
3 buttocks.

4 Q. I want to break something down because I think
5 sometimes the terminology can get confusing. What -- what is
6 a known standard?

7 A. A known standard is a DNA collected off of an
8 individual. We know that source of DNA. So typically it's
9 either blood from the individual or a buccal swab. A buccal
10 swab is basically a sterile cotton swab we swabbed inside of
11 your cheek. Those are called buccal cells. And we know the
12 DNA that I collected on that swab or on that blood is from
13 that person I collected it from.

14 Q. And so what were the known standards in this case?

15 A. So the items -- the known standards that I
16 received were the victim buccal swabs from Minor
17 and the buccal swabs from Emeric Hamilton.

18 Q. And you referenced, I believe it was four others
19 vaginal, oral, rectal as suspected of saliva swabs?

20 A. Yes.

21 Q. Are -- are those known?

22 A. Those are unknowns.

23 Q. And why is that?

24 A. So they are collected off of the body, but we are
25 looking for any DNA foreign to the individual as taken off

1 of. So those are considered evidence swabs because we're
2 looking for that foreign DNA.

3 Q. And as part of your testing, would you compare
4 those four unknowns with the -- the victim Minor's known to
5 determine if her DNA is there?

6 A. That's correct. I'll compare every standard to
7 those items.

8 Q. Would you expect to find her DNA?

9 A. I would. So if I am swabbing areas off of an
10 individual's body, we call those intimate samples where you
11 expect their DNA to be there.

12 Q. The items you said you received, did you receive
13 all of those on the same day?

14 A. I did not.

15 Q. How much -- was there significant amount of time
16 between when you received the victim's and the Defendant's?

17 A. Yes, I received the victim's buccal swab that was
18 part of the sexual assault evidence collection kit. I
19 received that in 2018, and I believe I can refer to the chain
20 if I need to. I received the buccal swabs from Emeric
21 Hamilton in 2020.

22 Q. Given your testimony on safeguards and controls as
23 well as that time period is there any possibility of
24 cross-contamination in this case?

25 A. Not between those two samples.

1 Q. Can you tell who you received these from?

2 A. I can. If I refer to the chain of custody that I
3 mentioned.

4 MS. FRIERSON: Your Honor, may I approach?

5 THE COURT: Uh-huh.

6 BY MS. FRIERSON:

7 Q. You can take a moment and review that.

8 A. This is a copy of the chain of custody for this
9 case.

10 Q. And so can you tell who you received those items
11 from?

12 A. I can.

13 Q. And who is that?

14 A. I received the sexual assault kit and the contents
15 of that from Bethany Davidson, a forensic technician in our
16 evidence control department. And then this chain of custody
17 that you provided to me does not have item two on it, but I
18 do have it in my case file if I can reference that instead.

19 Q. Absolutely.

20 A. Okay. So item two, which is buccal swabs from
21 Hamilton. I received those from forensic technician
22 Julie Begeman on May 28, 2020.

23 Q. Thank you. Now, when you received these items,
24 I'll take that back. Have they undergone any prior testing?

25 A. Some of the items have.

1 Q. Could you please tell us a little bit about that
2 started with the CSC kit?

3 A. Yes, ma'am. So the sexual assault kit first went
4 to our serology unit within the DNA casework department.
5 Verona Herrera was the serologist assigned to this case. She
6 would've opened the CSC kit and inventoried it, giving each
7 swab or envelope in the kit a unique number. And then she
8 would perform the necessary serology in this case. And then
9 she'd also prepare those samples for DNA.

10 Q. And what about the Defendant's buccal swabs?

11 A. No one else opened the Defendant's buccal swabs
12 besides me. I was the first one to cut into that item and I
13 prepared it for DNA analysis

14 MS. FRIERSON: Court's indulgence?

15 Can I approach the witness, Your Honor?

16 THE COURT: Uh-huh.

17 BY MS. FRIERSON:

18 Q. So I would like to show you what has -- this book
19 is just (inaudible) things in what has been pre-marked
20 State's Exhibit 8. If you could take a look at that and tell
21 me if you record recognize it.

22 A. Yes, I do recognize this.

23 Q. And what is this?

24 A. This -- these are the buccal swabs from
25 Emeric Hamilton.

1 Q. And how do you recognize it?

2 A. I can -- it's hard as I kind of see, but up here,
3 this is the SLED lab number and item number, and on the side
4 is where I opened it and then sealed it back up. My initials
5 and date are on that seal when I closed it.

6 Q. And I don't want to get into your -- get into your
7 results yet, but also contained in that bag would have you --
8 would your results have been in there?

9 A. Just the swabs.

10 Q. The swabs. Okay. Thank you.

11 MS. FRIERSON: At this time, Your Honor, the State
12 would seek to move State's Exhibit number 8 into evidence.

13 THE COURT: Any objection?

14 MS. FORD: Yes, Your Honor. Based on chain.

15 THE COURT: Okay.

16 MS. FORD: There's also an issue with the initial rape
17 kit, but I guess the chain between, I know that's been
18 admitted, but I think there's a question between the two
19 people on SLED.

20 THE COURT: Okay. Overruled. Based on previous
21 rulings in the Court's reliance on my prior ruling I'll admit
22 it over your objection. Okay.

23 MS. FORD: Yes.

24 THE COURT: Go ahead.

25 MS. FRIERSON: Thank you, Your Honor.

1 BY MS. FRIERSON:

2 Q. Just briefly, you know, we heard from Ms. Herrera
3 yesterday, but what is -- what is your understanding of the
4 purpose sending evidence to serology first?

5 A. So serology is the key step to determine whether a
6 body fluid is on a swab. So the serology department will
7 test for any body fluid of interest. And depending on those
8 results will affect how I perform DNA analysis on each
9 sample.

10 Q. Does their testing alter the sample that you end
11 up receiving?

12 A. It does not. By altering does not change what's
13 on the swab, you know, a portion of the swab or item is used
14 for that test, but it does not alter what is on that swab.

15 Q. Can you clarify on that. Do you -- do you ever --
16 let me rephrase that. Do -- you received items in this case
17 and were they sealed?

18 A. They were all sealed.

19 Q. And were they sealed from Ms. Herrera?

20 A. For the CSE kit items. Yes, ma'am.

21 Q. And I -- you talked about assigning the numbers
22 and the barcodes. You've gone through your analysis now,
23 after your analysis. Do you create a report?

24 A. I do.

25 Q. And I'd like to kind of go through your report and

1 discuss your results. So I'd like to start with the testing
2 you did initially on the -- the items from the victim.

3 A. May I ask which report you're referring to?

4 Q. Your report on August 13 --

5 A. Okay.

6 Q. -- of 2020.

7 A. Thank you.

8 Q. Yes. And to -- to make it easier, we can go
9 through one by one. I believe you had testified that you
10 received the date of this vaginal swabs.

11 A. I did. And since there was no indication of semen
12 on this item, I performed a -- what we call a normal
13 extraction. And the results were that the DNA profile
14 developed as consistent with the DNA profile of Minor
15 . Meaning I did not find any foreign DNA on the
16 swab.

17 Q. And would you expect that?

18 A. Yes, I would.

19 Q. What about item 1.2, the victim's oral swab?

20 A. 1.2 had the same results. The DNA profile
21 developed is consistent with the DNA profile of
22 Minor .

23 Q. Item 1.3 was the victim's rectal swabs. Could you
24 tell us about your results on that?

25 A. Yes. So the item 1.3, the rectal swabs indicated

1 that there was semen present. So the DNA analysis is a
2 little bit different. It's two different fractions. We have
3 a fraction one and a fraction two to kind of isolate this
4 spermatozoa in the fraction if we can. So my results are
5 that a DNA profile suitable for comparison was developed from
6 the sperm fraction. So from that second fraction. And then
7 since it was suitable for comparison, I was able to compare
8 the known standard submitted in the case to this fraction.

9 So first I compared the victim and the results for that
10 comparison was that the DNA profile is approximately 110,000
11 times more likely if **Minor** and an unidentified
12 unrelated individual contributed to the mixture then if two
13 unidentified unrelated individuals contributed to the
14 mixture.

15 Q. And those are some large numbers. Is there a
16 verbal scale that corresponds to the statistical results?

17 A. We do. So we do at the end of our report, in our
18 notes section, provide a verbal scale kind of to help, well
19 what does that number mean. And the whole scale of
20 everything. And for -- excuse, sorry, 110,000, it would fall
21 into the 10,000 to 999,999 verbal warning. And that is
22 strong support.

23 Q. And was there the rectal swabs if I understood you
24 correctly, it was a mixture of two individuals?

25 A. That is correct.

1 Q. And using that, you come up with a -- a
2 proposition of the hypotheticals?

3 A. I did. Those are my two scenarios. So is this
4 DNA profile exist because is it more likely that person of
5 interest and somebody because it's a mixture of two,
6 contribute it to the mixture or is it two other people.

7 Q. And using -- making sure I understand, using this
8 case as an example, you have one proposition, or let me -- it
9 is one proposition, it's the victim and Defendant versus
10 another one that it's the victim and someone else.

11 A. So that would be, you're explaining my second
12 proposition set in this sample. So the first one I did was
13 victim and somebody else versus two other people to make sure
14 that it is the victim's DNA in that profile. And there was
15 strong support that the victim was in that -- that evidence
16 sample. So then I can make -- I can -- we call it
17 conditioning. We can assume it's her body that she's there.
18 So we do victim and person of interest versus victim and
19 somebody else.

20 Q. And did you reach a statistical result regarding
21 this Defendant with the victim's rectal swabs?

22 A. Yes, I did.

23 Q. And what was that?

24 A. So the DNA profile is approximately 2.6 octillion
25 times more likely if Minor and Emeric Hamilton

1 contributed to the mixture than if Minor [REDACTED] and an
2 unidentified unrelated individual contributed to the mixture.

3 Q. And using your verbal or the verbal scale that you
4 talked about earlier, where does 2.6 octillion fall?

5 A. So any likelihood ratio over a million is very
6 strong support.

7 Q. Do you know how many zeroes are in a million?

8 A. Six.

9 Q. Do you know how many zeroes are in an octillion?

10 A. Twenty-seven.

11 Q. Now the suspected saliva swabs, bilateral buttocks
12 they were item 1.4?

13 A. Yes, ma'am.

14 Q. Could you tell us about your results there and
15 whether or not there was a mixture?

16 A. Yes, I did develop a DNA profile suitable for
17 comparison, and I determined it was a mixture originating
18 from three individuals.

19 Q. And because it was three individuals, were you
20 able to do further analysis?

21 A. Yes, I could, since it was suitable for comparison
22 and it was a mixture of three and not five or more, I could
23 compare the known standards in the case to this sample.

24 Q. And again, making sure I understand, you come up
25 with these hypothesis or propositions?

1 A. Uh-huh.

2 Q. And determining likelihood ratio statistical
3 result for the probability that the Defendant's DNA could be
4 included?

5 A. So yeah, so the likelihood ratio is we come up
6 with two scenarios, comparison standard and whoever
7 contributed or wasn't comparison standard, it was somebody
8 else. And the likelihood will be how likely one scenario is
9 more likely than the other scenario for that evidence.

10 Q. And did you reach a -- or did you determine a
11 physical result regarding the buccal of the Defendant on the
12 -- what compared with the suspected saliva swabs of the
13 bilateral buttocks?

14 A. I did.

15 Q. And what was best?

16 A. The -- a profile is approximately 1.2 octillion
17 times more likely if Minor [REDACTED], Emeric Hamilton, and
18 an unidentified unrelated individual contributed to the
19 mixture than if Minor [REDACTED] and two unidentified
20 unrelated individual contributed to the mixture.

21 Q. And 1.2 octillion where does that fall on the
22 verbal scale?

23 A. Very strong support.

24 Q. Now, you mentioned that this was a mixture of
25 three. Does the fact that there is a third person

1 contributing to this mixture, does that statistically
2 minimize or negate the results that you got from this
3 Defendant?

4 A. No, ma'am.

5 Q. All right. When you receive samples -- before I
6 get to that --

7 MS. FRIERSON: May I approach, Your Honor?

8 THE COURT: Yes.

9 BY MS. FRIERSON:

10 Q. I'd like to show you what's been pre-marked
11 State's Exhibit 13. If you could take a look at that and let
12 me know if you know what those are.

13 A. I do know what these are. These are my extraction
14 tubes that I use for DNA analysis. What we do at the end of
15 our analysis is we dry down the samples and return it with
16 the evidence. And I can -- I know -- know that these are
17 mine based on the information written on each tube. It has
18 the case number and item number as well as my initials and
19 date at the seal.

20 MS. FRIERSON: At this time, Your Honor, State seek to
21 admit State's Exhibit 13.

22 THE COURT: Any objection to 13?

23 MS. FORD: Just to the effect that there basically a
24 breed of the other chain issue.

25 THE COURT: Okay.

1 MS. FORD: If that makes sense.

2 THE COURT: Yes, it does. So over your objection
3 previously made and renewed, I'll admit it State 13.

4 (State's Exhibit number 13 was admitted into evidence.)

5 BY MS. FRIERSON:

6 Q. Ms. Boehm, just a few more questions. When you
7 receive evidence to examine and analyze, how much do you know
8 about the underlying allegations in the case?

9 A. We don't need to know much to perform DNA
10 analysis. Most of the time we do have an incident report.
11 Sometimes we don't. We do need to know what kind of requests
12 and DNA analysis we need to perform on the items, but we
13 don't need to know much of the underlying process.

14 Q. And in your -- I believe you said 18 years of
15 SLED, have you -- would you be able to explain based on your
16 training and experience and background, if it is possible for
17 DNA to -- for lack of a better word, travel on someone's
18 body?

19 A. So any liquid can travel, right? If it's not in a
20 container, so if DNA is contained in body fluids, like
21 saliva, blood, semen, so if it's gravity could help make it
22 travel from one location to another.

23 Q. What about if an individual is laying down?

24 A. Again, if it --

25 MS. FORD: Objection. Calling for speculation, Your

1 Honor.

2 THE COURT: I'll allow it. But, you know, she can
3 answer that if she has a basis for her opinion.

4 THE WITNESS: So, yeah. So if laying down and liquid
5 from one part is traveling based -- because of gravity to
6 another part, it can travel down the body.

7 BY MS. FRIERSON:

8 Q. And the swabs that you received, the victim's
9 rectal swabs, do you have any personal knowledge of whether
10 they were interior of her or exterior?

11 A. I do not.

12 MS. FRIERSON: Beg the Court indulgence, Your Honor?

13 THE COURT: Uh-huh.

14 MS. FRIERSON: I don't have any further questions at
15 this time, Ms. Boehm, please answer any for Ms. Ford.

16 THE WITNESS: Thank you.

17 CROSS-EXAMINATION

18 BY MS. FORD:

19 Q. So you had several pieces or several swabs to wood
20 that for comparison, correct?

21 A. There were several swabs submitted in the CSC kit.
22 Yes, ma'am.

23 Q. And you looked at the vaginal swabs?

24 A. I did.

25 Q. And there was no semen detected in the vagina from

1 what you do?

2 A. Based on Verona's report that I have to review
3 before I -- before my analysis that would be correct.

4 Q. And you did find Minor's -- Minor's
5 DNA, correct?

6 A. That is correct.

7 Q. And the Solicitor -- the Prosecutor had asked you,
8 is that what you would expect? And you said yes, correct?

9 A. Yes. Because it's off of her body. I would
10 expect to see her DNA there.

11 Q. So your answer, and that is what you would expect
12 was in reference to, you would expect to find Minor's DNA
13 in the vaginal swab?

14 A. Yes, ma'am. Yes, ma'am.

15 Q. Now the saliva that you tested that also had
16 Minor's DNA detected in that, correct?

17 A. That is correct.

18 Q. And that's because the swab was taken from her in
19 her body?

20 A. I don't -- I can't tell you if it was a mixture of
21 her body cells and saliva or if it was a mixture of saliva.
22 I just know saliva was present on the swab as well as it was
23 a mixture of three individuals. I can't tell you if it came
24 from -- what cells it came from.

25 Q. Okay. So from the three individuals, you can't

1 tell who may have contributed to saliva versus their skin
2 cells?

3 A. Right. I -- right. Someone that -- at least one
4 person contributed saliva. Because there's an indication of
5 that. However, I can't tell you if it was one of them, two
6 of them or all three.

7 Q. DNA doesn't have to come from a fluid, correct?

8 A. That's correct.

9 Q. And basically our skin can sort of shed in
10 (inaudible) and leave behind DNA; is that fair to say?

11 A. Yes, ma'am. So we call that touch DNA, anything
12 you touch your skin cells are shedding multiple times a day.
13 You're going to have that possibility of leaving DNA behind.

14 Q. So if I am -- I'm at this podium and I'm touching
15 it a lot, and if somebody were to come after me and swab it,
16 then there's a chance they would find my DNA from swabbing
17 this podium.

18 A. Yes. There's a chance they would find yours and
19 anyone else who had touched that item.

20 Q. And in someone's home, is it fair to say that
21 likely just like someone's DNA on their own body, it's likely
22 their DNA would be in their own home?

23 A. Most likely. It also would depend on how you --
24 how often you clean surfaces and stuff like that. But it's
25 pretty common to find your own DNA in your house.

1 Q. That could come from hair in a -- a brush, for
2 example?

3 A. Well, with hair it's a little bit unique. We only
4 can get DNA from the root material of hair. So like the
5 shaft part, which is most of your hair does not have nuclear
6 DNA. It only comes from a root. A root has to be pretty
7 much pulled out of your head. So most of the time when
8 you're brushing your hair, it's those naturally shedding
9 hairs. So it probably would not have DNA on those items.

10 Q. But you can get DNA from people like drool. Some
11 people drool when they sleep and say, you might find DNA on
12 their pillowcase for example?

13 A. Yes. That's -- that's true.

14 Q. Or in their bathroom, if it's not cleaned from
15 brushing their teeth, you could find DNA from the toothbrush
16 or the sink?

17 A. That'd be correct.

18 Q. And at times people who have sexual intercourse,
19 they leave behind (inaudible), correct?

20 A. That's correct.

21 Q. And they may not clean right away.

22 A. That's correct.

23 Q. And men might leave ejaculate in their home?

24 A. It is possible.

25 Q. Now, SLED puts a lot of effort into making sure

1 nothing is contaminated, correct?

2 A. That's correct.

3 Q. So you gave us a lot of things that SLED does to
4 make sure everything is in the best condition.

5 A. Yeah, I listed a few of them, but there's numerous
6 more.

7 Q. But sometimes contamination still happens?

8 A. It -- it's possible. It's rare, but it's
9 possible.

10 Q. Sometimes a someone working in SLED, their DNA
11 might show up?

12 A. Well, that's why we have the agency database. So
13 anyone who works in the forensic department or who comes
14 through our lab has to submit a buccal swab, a known
15 standard. And we basically have a database it's Excel sheet
16 and we have to look at every unknown we develop in a case
17 against those to make sure it's no one that has been into the
18 lab.

19 Q. And at times, law enforcement officers outside of
20 SLED, their DNA (inaudible)?

21 A. Sometimes we do request law enforcement,
22 especially who are collecting evidence, their standards too.
23 Now, we don't have all of them in the state, but it is
24 possible.

25 Q. So when someone's collecting evidence, they may

1 unintentionally transfer their DNA to a sample?

2 A. It's possible.

3 Q. If they're not taking correct precautions?

4 A. It's possible.

5 Q. Now, you talked a little about transfer DNA being
6 transferred.

7 A. Yes.

8 Q. Okay. So I want to give an example. If I were to
9 spit on this podium for whatever reason, and then place my
10 phone down on the podium where the spit is, there's a
11 likelihood my DNA would be on my phone from that spit my
12 saliva?

13 A. Yes. But your DNA would also be on your phone
14 from you talking on it though as well.

15 Q. But if I were to then take that phone and hand it
16 to my co-counsel and she were touching it, then my DNA could
17 be on her from the transfer?

18 A. It's possible.

19 Q. So there can often be multiple transfers on one
20 item or other one item?

21 A. Can you say that question one more time for me?

22 Q. Just DNA can be transferred to multiple items or
23 people. It -- it is not just a one-time thing.

24 A. It is possible, yes. Especially if it's a liquid
25 and it's not -- it's still wet. It's easy -- transfer's

1 easier than a dried sample.

2 Q. And part of your job you are a scientist, correct?

3 A. Yes, ma'am.

4 Q. And as a scientist, when doing your job, you are
5 supposed to be neutral?

6 A. That's correct.

7 Q. And you may know some basic information, but you
8 do not know what actually made it happened, correct?

9 A. That is correct. That's not my job.

10 Q. So you can't say for sure how DNA may have gotten
11 to a particular location?

12 A. No. I can only tell you what the DNA results are.
13 I can't tell you how or when it got there.

14 MS. FORD: Beg the Court's indulgence?

15 THE COURT: Uh-huh.

16 MS. FORD: No further questions.

17 MS. FRIERSON: Briefly, Your Honor.

18 THE COURT: Uh-huh.

19 RE-DIRECT EXAMINATION

20 BY MS. FRIERSON:

21 Q. Ms. Boehm, I believe Ms. Ford just asked about
22 transfer. And you said it could be transferred multiple
23 times?

24 A. That's correct.

25 Q. Is that -- would you say that's -- is that

1 possible not probable?

2 A. I don't really know. It is possible. I don't
3 know how often that would happen. I think it would be more
4 probable if it's liquid like blood. If I transfer, if I'm
5 bleeding and I transfer it to a bottle and you grab the
6 bottle and touch my blood, then we'd go into your hands. But
7 I couldn't tell you how probable a dried state would be or
8 anything like that.

9 Q. So using Ms. Ford's example of male potentially
10 leaving behind ejaculate or smoke saliva in the house, would
11 it be more probable for to transfer if that was still wet
12 versus dry?

13 A. I would believe so.

14 MS. FRIERSON: Thank you. No further questions, Your
15 Honor.

16 THE COURT: Anything else, Ms. Ford?

17 MS. FORD: No.

18 THE COURT: All right. Thank you very much ma'am,
19 you're free to leave.

20 MS. BOEHM: Thank you.

21 THE COURT: Any other witnesses from the State?

22 MS. FRIERSON: No, Your Honor. At this time the State
23 rests.

24 THE COURT: Okay. All right. Ladies and gentlemen,
25 given the hour I have a few matters I need to take up with

1 these attorneys. I'm going to release you for your lunch
2 break. It's a little after 12:30. I'm going to ask that you
3 be back I'll say 2:00 because I understand, tell you a little
4 earlier than I -- than I tell you to be back. So given all
5 of that given that I've got to talk to these lawyers about
6 some things, I'll ask that you return at 2:00. Thank you
7 very much.

8 (Jury exits courtroom.)

9 THE COURT: All right. I'm happy to entertain any
10 motions at this time from either the State or Defense.

11 MS. FORD: At this time, Your Honor, I would renew all
12 of my prior motions including chain not limited to, but the
13 chain for the buccal of my client and of the rape kit, Your
14 Honor. I would also renew the -- my argument on the LCC
15 video. And everything else, Your Honor.

16 THE COURT: Okay. All of your objections are timely
17 renewed just to flesh out my ruling on the chain of custody
18 issue a little bit more, obviously pursuant to
19 State v. Hatcher, Courts many years ago loosened the
20 requirements that every single person in the chain be present
21 to testify. And charged with considering, the factors and
22 circumstances surrounding the preservation and custody of the
23 evidence that's presented at trial and the likelihood of
24 anyone inter meddling or tampering with it.

25 And given all of the -- the factors that I've

1 considered of the testimony that's been presented during the
2 course of this trial I'm satisfied that there is a reasonable
3 probability that these articles have not been changed in any
4 important respect.

5 So therefore, over your objection, I have admitted
6 those items into evidence thus far, but all of your previous
7 objections are timely renewed. Anything else?

8 MS. FORD: At this time, I'm moved for directed
9 verdict, Your Honor. My client's charged with criminal
10 sexual conduct regarding vaginal sets between his penis and
11 **Minor's** vagina. As the DNA expert testified to my
12 client's DNA, even though **Minor** was quite clear, a condom
13 was not used, is not found in her vagina. So we would ask
14 for directive verdict based on that.

15 THE COURT: Any response?

16 MS. FRIERSON: Thank you, Your Honor. May I please the
17 Court? As you're well aware at this time the Court can only
18 consider the existence or non-existence of evidence, not its
19 weight. There has been direct and substantial circumstantial
20 evidence presented when taken in a light most favorable to
21 the State. More than reasonably, we believe tends to prove
22 the Defendant's guilt. We have testimony from the victim
23 that the Defendant did vaginally penetrate her in his
24 residence.

25 She testified that he also licked her or kissed her

1 butt. We have testimony from officers that the Defendant was
2 on the scene immediately thereafter her reporting in a short
3 time period of him just coincidentally having been there.

4 In addition, we have expert testimony regarding the
5 victim's sexual assault exam, the swabs that were taken and
6 the forensic serologist and DNA analyst, which arguably point
7 to the Defendant's guilt and more than near presence at the
8 scene. Specifically, Ms. Boehm just testified that DNA can,
9 again, for lack of a better word, travel whether it be
10 through gravity or because it's a liquid, it's just what it
11 does.

12 So we believe that there is a question for the jury.
13 It exists that they -- and they should be able to determine
14 whether they believe the testimony of the witnesses. It's a
15 factual determination, Your Honor, appropriately put in front
16 of them. And we believe that a directed verdict is not
17 appropriate, Your Honor.

18 THE COURT: Okay. Well, you're correct that the
19 existence of any of it at this stage survives directed
20 verdict. Obviously there is at a minimum testimony from the
21 victim contrary to what the Defense asserts. So for that
22 reason I will respectfully deny your motion at this time.
23 Scheduling wise obviously you all get a lunch break as well.
24 I'll just ask that you all be back 2:00.

25 I don't know at this point if the Defense is going to

1 call any witnesses, but depending on that then we may very
2 well close and charge this afternoon. So be prepared to do
3 so.

4 All right. On that level, I've got -- we've got the
5 charge of progress so we'll send over during the lunch. I'll
6 email you both that. Okay?

7 MS. FORD: Thank you.

8 THE COURT: We can discuss it a little more prior to
9 the actual closure.

10 All right. Thank you very much.

11 MS. FRIERSON: Thank you, Your Honor.

12 MS. FORD: Thank you.

13 (Off the record.)

14 THE COURT: All right. So I have emailed the attorneys
15 the draft of the Court's proposed charge. I think I've
16 included most of what we've discussed earlier. I have
17 included mere presence, and I'll go over why that is, and
18 went back and forth on that one. Interesting. So South
19 Carolina Court of Appeals case of 2010, *State v James*;
20 citation is 386 South Carolina 650, deals with mere presence.
21 Kind of goes into a pretty good discussion about when it
22 should be charged. A drug case, which is typically the kind
23 of case that you have a, mere presence charge. Unlike
24 today's case.

25 However, the Court's analysis goes into sort of the two

1 instances where you generally use a mere presence charge.
2 First is an instances where there's some doubt over whether a
3 person is guilty of a crime by virtue of an -- of
4 accomplished liability. And the second is typically when
5 there's an issue arising out of a defendant's possession of
6 drugs or some other contraband because they're just present
7 at the scenes (inaudible) being present in the house, you
8 know, where search warrants conducted, that type of thing.
9 So clearly this doesn't fall into the cite category. And
10 while the State certainly isn't presenting a case of
11 accomplice liability, the Court goes into further discussion
12 about mere presence. In that, in this case, by the way, the
13 Court did not charge mere presence, and they were affirmed on
14 that. But specifically in its analysis, the Court says this.
15 Second, we find James's position that he was merely present
16 at the scene of a crime, but did not commit the crime
17 untenable, considering the fact that the Defense counsel
18 conceded, there is no evidence that anyone other than James
19 was present at the scene. Therefore, because there is no
20 evidence of accomplice liability, a charge of mere presence
21 on that basis wasn't necessary. It cite State v Stokes,
22 which says, "Holding where State's view of evidence was
23 defendant was the only" -- "only person present and committed
24 the crime alone. A charge of mere presence on the basis of
25 accomplish liability is unnecessary."

1 So in this case, not only do we have the victim
2 testifying, there were other males around. While she
3 testified there was no other male in the room, I understand
4 that there is still testimony that there were other males
5 around at the scene, at the house, not only outside the
6 window, but they actually came inside the house at some
7 point, according to her. And we're knocking on the veteran
8 door, A. B there's also this new to me revelation of now
9 there's this third source of DNA found on the victim. So I
10 think for those two reasons combined, and the fact that it's,
11 of course, reversible error to not charge a requested charge
12 from the Defense, I'm going to err on the side of caution and
13 charge. So those are my reasons for that. So I wanted to
14 kind of go over that clearly on the record because it is a
15 little bit unusual in this case.

16 The only other one I had a question about, Ms.
17 Frierson, you mentioned the *State v Miller*, you wanted
18 something charged from that. I went back over that case,
19 dealt with a -- a juvenile. I think you would dealt with a
20 sort of a license component of that, and then sort of prior
21 statements or something like that. I don't know what part of
22 that you wanted charge or what was applicable, or if it still
23 applies without the jail call being put in anymore. But just
24 let me know.

25 MS. FRIERSON: Yes, just a second, Your Honor.

1 THE COURT: Yeah. Yeah, I might have been looking at
2 the wrong case, so.

3 MS. FRIERSON: Your Honor, it goes to -- so I
4 understand that there's not a written statement or the jail
5 statement in evidence, but from testimony of others, there's
6 -- there has been testimony presented that the Defendant made
7 statements that he wasn't -- he didn't know her, she wasn't
8 in the house and things like that. And if you, and I haven't
9 gotten through everything you just sent, I don't know if you
10 have anything in there about the statement of the Defendant,
11 because in previous jury instructions, just ---

12 THE COURT: Yeah.

13 MS. FRIERSON: --- in general, you know, it'll say a
14 statement is alleged to have been made by the Defendant in
15 this case. And what Miller does, is it takes out the portion
16 about deciding and determining whether it was made Defendant
17 -- made through the Defendant's voluntary and free will,
18 because they decided that that was a decision by law and not
19 a fact decision. And so I have a copy of the old statement
20 against Defendant and what arguably would need to be taken
21 out as a result of Miller. I just don't think, and again, I
22 don't know if you're including statement of the Defendant,
23 but I do believe ---

24 THE COURT: It was -- it's not in there because I
25 didn't find that he really gave a -- I think those cases --

1 well, I don't know. I think they contemplate sort of a ---

2 MS. FRIERSON: An actual piece ----

3 THE COURT: --- confession or -- yeah, something along
4 those lines or, you know.

5 MS. FRIERSON: I agree. I just, and if you're not
6 going ---

7 THE COURT: --- interrogation responses, you know.

8 MS. FRIERSON: If you're not going to include it, I --
9 it's a non-issue, but just because there is that testimony
10 about his statements, I didn't want it to be left up to the
11 jury to decide that they got to determine if it was voluntary
12 or of his own free will.

13 THE COURT: Okay. Yeah, I don't have it in there, but
14 Ms. Ford, if you have a position, I'm that happy to hear from
15 you.

16 MS. FORD: Well, I think I need to see the exact
17 wording.

18 THE COURT: Of mine or of her proposed ---

19 MS. FORD: Or that -- yes, that would be provided to
20 the jury.

21 THE COURT: Do you think it's appropriate to put an
22 instruction in there regarding a prior statement of the
23 Defendant based on the evidence that's been presented? I
24 guess that's my question, do you?

25 MS. FORD: No, Your Honor.

1 THE COURT: I don't either. I don't think that's
2 really a -- I don't think that's what our case law is
3 contemplating when I say prior statements. I mean, I -- but
4 I could be wrong. I mean, I'm -- I'm happy to entertain --
5 again, if you, if you want to correct me or ---

6 MS. FRIERSON: No, I -- I understand your ruling, Your
7 Honor. I just, I didn't know whether that was going to be in
8 prior to ---

9 THE COURT: Yeah.

10 MS. FRIERSON: --- receiving these.

11 THE COURT: Do you -- do you think it's appropriate for
12 me to put an -- an instruction in there about a prior
13 statement based on the evidence presented?

14 MS. FRIERSON: Are you asking me, Your Honor?

15 THE COURT: Uh-uh.

16 MS. FRIERSON: I mean, I do, because we've had multiple
17 witnesses testify consistently that he has made these
18 statements that would, you know, if -- if their argument is
19 mere -- mere presence and he's not there and she's not there,
20 it -- it becomes an issue of fact and who they believe.

21 But I don't know that you would be putting the same
22 type of charge in that you normally do when we have like a
23 confession. I think it would -- what -- what you had just
24 set up at the bench with something along the lines of, you
25 know, a prior statement by the Defendant's alleged had be

1 made -- made. And you get to determine how to -- to deal
2 that. Not whether it's voluntary, but what weight to give
3 that.

4 THE COURT: All right. Ms. Ford, I -- I'll have to
5 look at that real quick. All right. I don't -- I don't
6 believe I'm going to put anything in the charge because I
7 don't -- I don't think that's where our case law contemplates
8 when they charge regarding statements of the Defendant. I
9 mean, we have charges, you know, case law involving
10 inconsistent statements, consistent statements, different
11 scenarios where that sort of arises. But I don't think sort
12 of these -- these statements that came in through testimony
13 of other witnesses are really what our -- our law
14 contemplates in these other instructions that we're talking
15 about regarding, you know, whether or not he needed to be
16 Mirandized prior to and the voluntariness and all that stuff.
17 I'll look at it a little bit more closely in the next couple
18 minutes. Have you had an opportunity to talk to your client
19 about whether or not he wishes to testify?

20 MS. FORD: Yes, Your Honor. I do have one thing about
21 the -- the instructions.

22 THE COURT: Okay. Okay. Well, yeah, go ahead.

23 MS. FORD: Just with regard to the -- the criminal
24 sexual conduct with a minor.

25 THE COURT: Yes.

1 MS. FORD: Well, in this case, my client was
2 specifically indicted for vaginal intercourse, penal vaginal
3 intercourse. And on the indictment, and because the law,
4 like the whole law is given, I think it is misleading and
5 confusing to the jury or confusing to list all of the other
6 things.

7 THE COURT: All right. All right. So I'm reviewing
8 the indictment now. The initial indictment was replaced, is
9 that right, Ms. Frierson? It looks like.

10 MS. FRIERSON: Is a new clocked copy.

11 THE COURT: Okay. Same verbiage any way. It says,
12 "Sexual battery to whit vaginal intercourse upon a minor,
13 Minor . Think it was 14 years of age or less, but
14 at least 11." So what's your take on Ms. Ford's argument?

15 MS. FRIERSON: I -- I don't mind you removing --
16 there's been no testimony about Connell Lingus, no testimony
17 about the (inaudible), the anal intercourse. Ms. Ford is
18 repeatedly brought up the fact that Minor said two times and
19 she wasn't able to clarify that, meaning like Minor . So
20 whether two times is two different types of assaults or two
21 different, like batteries at the same time. But based on
22 what we have in DNA, I would request that sexual intercourse,
23 anal intercourse, and in any intrusion however slight of any
24 part of a person's body or of any object into the genital or
25 anal openings be continue to be included. She's also had --

1 we've had testimony about her saying it was painful and it
2 hurt. Can't think of the case right now, but there is what
3 part of what this is from, but that any intrusion and
4 testimony from a victim that there was pressure or pain is
5 enough to satisfy penetration. But if Connell Lingus and
6 (inaudible) are removed, I -- I'm fine with that.

7 MS. FORD: And Your Honor, few things. First of all,
8 the indictment clearly says vaginal sex. The solicitor,
9 nothing about anal sex has been raised other than possibly
10 just the talk. Of course, the semen is found somewhere along
11 the anal cavity, inside or outside, but Minor has never at
12 any time said anal sex. When she mentioned it hurt at no
13 time did she say my butt hurt. Her butt was never mentioned.
14 When she said two times, at no time did she say one was anal.
15 She just said, he raped me twice. And she denies even saying
16 that. She doesn't even recall saying that. She just said it
17 to the initial officer, but by the time she made it to the
18 SANE nurse and to the Lowcountry Children's Center, she never
19 mentioned anal sex.

20 We are not under notice that he is being, basically, up
21 for anal rape, Your Honor, because that -- the indictment
22 clearly says vaginal sex, and Minor has always only said
23 vaginal sex. So we do not think it'd be appropriate because
24 we were not given notice. And we do not think Minor has in
25 any way currently or in the past indicated anal sex.

1 THE COURT: All right. Go on -- go over with me. I
2 know State vs. Ellison is one case that talks about this.
3 It's 356 South Carolina 33. "An Indictment is sufficient if
4 the offense is stated with sufficient certainty in
5 particularity to enable the court to know what judgment to
6 pronounce and the Defendant to know what he is called upon to
7 answer." I don't know why they were put such a specific
8 thing in this indictment or begin with, but that's not ---

9 MS. FRIERSON: I can tell you, Your Honor, because
10 typically what happens is we indict for every type of sexual
11 battery because a jury could choose to believe one over
12 another. So if you have, you know, anal, oral and digital,
13 you're going to have three counts, because they may believe
14 one over the other.

15 THE COURT: Right.

16 MS. FRIERSON: Here, I mean, she indicated that it
17 said, as far back in the EMS report, that she had said two
18 times whether it was because **Minor** did not understand the
19 question because of her cognitive limitations, whether it was
20 because of the following trauma that we didn't go into. But
21 she, you know, she had said it back then and -- and was
22 consistent that it was two. I -- I don't, I don't know if
23 she was able to articulate, again, whether it was, I mean,
24 she's never said it's a chronic thing. It was a one-time
25 thing, but whether her two times meant, like he talked about

1 kissing -- he kissed her pinky cheek, meaning her butt
2 buttocks in her forensic interview.

3 And so I don't know if that's what she's saying, like
4 the -- the licking and sucking of chest and butt is -- is an
5 assault and so is the vaginal penetration. But because it
6 has been, I think, raised in front of the jury that this
7 can't possibly be the case because there's no DNA and we have
8 evidence that it could have the liquid of -- could have gone
9 between the vaginal -- vagina and rectum. I think that based
10 on the victim's limitations, it -- it could be understood
11 that she -- she didn't know maybe where it was going, and --
12 but she knows that there was pain and she knows that there
13 was penetration.

14 And I have told Ms. Ford several times as we've tried
15 these cases with Minor through, you know, no fault of her
16 own, sometimes I don't know what's going to come out on the
17 stand because I -- I don't know that she's always able to
18 articulate things like -- like some of us might be able to.

19 MS. FORD: And Your Honor, I think that's quite frankly
20 irrelevant. In trial the -- the jury heard, first of all,
21 like she has ADHD, you know, we are aware we had a competency
22 here and she has some other issues. But just because she has
23 some issues doesn't mean that she doesn't know the difference
24 between her butt and her vagina. And actually, when we
25 brought up the competency issue, she was found not competent,

1 not because she didn't understand facts and things like that,
2 it was because of her behavior.

3 As the Court has heard, **Minor**, she has been
4 the victim of multiple cases, but the evidence -- all of the
5 documents I have on her, not the evidence, she's quite
6 promiscuous. She's very familiar. She was back then. And
7 she's very familiar with sense. I -- I don't think it is
8 reasonable for the State to try to argue that she didn't know
9 the difference between her butt and her vagina. If a child,
10 if some -- if a man put his penis in her vagina, she would
11 know that she'd say, my butt hurt. She never ever indicated
12 her butt. She said two times at one point, but she never
13 said her butt. And she said that to the police and never
14 again. She didn't say it to the SANE nurse. She said never
15 again, but she never said her butt. And -- and we are not on
16 notice, Your Honor, the indictment specifically says
17 "vaginal".

18 MS. FRIERSON: And Your Honor, we don't plan on arguing
19 that it was-- that there was anal penetration. I'm saying
20 this for purposes of the argument like here as to why I think
21 it can be included based on the testimony. But I did not
22 plan on arguing that she was anally penetrated. And I think
23 the comments about her promiscuity when this was the first
24 sexual assault are extremely inappropriate. Perhaps this is
25 what sent her over the edge.

1 MS. FORD: And, Your Honor, there is indication that
2 she was promiscuous. I don't know how far, but her mom was
3 having to take away her phone because she was sending videos
4 and things of that videos or pictures. But I'm talking about
5 ---

6 THE COURT: I listen to you, but I don't know that that
7 really would make any bearing on -- on my decision either way
8 on this.

9 MS. FORD: My only point in that, I only raise it
10 because the solicitor's saying that we should just assume
11 that **Minor** doesn't understand the difference between a man
12 having sex with her in her butt versus her vagina. And she's
13 testified on the stand. I do think if this is the first
14 time, especially she would remember if a man put his penis in
15 her vagina. And there is, again, she has literally never
16 said that in any way out of the mini statement she has given.
17 And we are not on notice. Thank you.

18 THE COURT: All right. Well the Bailey vs. State case
19 also discusses a Supreme Court case 392 S.C. 422. That
20 particular case discusses error found in a trial. Judge's
21 jury instructions permitting the jury to convict the
22 Defendant of an act not alleged in the indictment, so.

23 MS. FRIERSON: And if -- so, if you're going to -- if
24 you take out the anal, I would still include request that you
25 include any intrusion however slight.

1 THE COURT: Oh, I think that's absolutely appropriate.
2 I mean, that's the law.

3 MS. FRIERSON: Thank you, Your Honor.

4 THE COURT: Yeah, yeah.

5 MS. FORD: Thank you, Your Honor

6 THE COURT: So do you have it? Do you have it as ---
7 so can you close it? We all learn something new every day,
8 don't we? Okay, here we go. So down to -- all right. So
9 I'm looking at the charge with you all under second degree
10 criminal sexual conduct with a minor, "The Defendant is
11 charged with criminal section" -- excuse me -- "second degree
12 criminal sexual conduct with a minor. The State must prove
13 beyond a reasonable doubt Defendant engagement in sexual
14 battery with the victim." We're all good so far on that.
15 Sexual battery is sexual intercourse and we all agree I can
16 take out Connell Lingus (inaudible).

17 Here, we're -- based on the law, decided I'm also going
18 to remove anal intercourse. So it's going to say sexual
19 intercourse or any intrusion however slight of any part of a
20 person's body or of any object into the genital or anal
21 opening of another person's body. So where do you ask me to
22 take out -- or anal opening near, Ms. Ford? Because I think
23 that's just kind of part of the definition of what sexual
24 battery is in South Carolina.

25 MS. FRIERSON: Am I asking you to take out where it

1 says anal openings? Oh, Ms. Ford.

2 THE COURT: Ms. Ford.

3 MS. FRIERSON: I'm sorry.

4 THE COURT: You don't want anything out. She's the one
5 asking me to take it out.

6 MS. FORD: Are you talking ---

7 THE COURT: Sit down (inaudible).

8 MS. FORD: --- any intrusion however slight of any part
9 of a person's body or any object to the genital?

10 THE COURT: I mean oral openings of another person's
11 body. And that's just the definition of what sexual battery
12 is in South Carolina.

13 MS. FORD: Yes. But I feel -- I believe that ---

14 THE COURT: Feel that's suggestive of ---

15 MS. FORD: Yeah, I believe that it's misleading because
16 it suggests that, oh -- if the jury hears that they can
17 think, oh, if it's anal, then that counts.

18 THE COURT: Okay. So we'll take out for anal openings,
19 or just, or anal. All right. So into the general openings
20 of another person's body except when the intrusion is
21 accomplished for medically recognized treatment or diagnostic
22 purposes.

23 MS. FRIERSON: And I think that part can be removed
24 because there's been no testimony regarding that. And I just
25 think sometimes jury charges go on ---

1 THE COURT: Take out the medically recognized
2 treatment.

3 MS. FRIERSON: I don't think that's in ---

4 THE COURT: -- Diagnostic purposes?

5 MS. FRIERSON: Yes. I (inaudible).

6 THE COURT: (Inaudible) for making it easier to
7 understand. All right, so. All right, then we go on to the
8 "State must then prove beyond a reasonable doubt that, one,
9 the victim was at least 11, but not more than 14," and/or
10 that -- and then we got subsection II. Subsection II gets
11 confusing, too. So if we're -- we're not confusing the jury,
12 let's take that out. Any opposition to that?

13 MS. FRIERSON: None from the State, Your Honor.

14 MS. FORD: None from Defense.

15 THE COURT: With 14 to 16 year olds and all that, which
16 is not an issue. So take that out.

17 All right. And then it goes into "Consent,
18 willingness, indifference, or ignorance on part of the minor,
19 if any, as to what was taking place does not in any way
20 affect the charge of criminal sexual conduct with a minor.
21 Because an unmarried woman under the age of 14 cannot legally
22 consent to sexual intercourse. Mere presence goes into
23 that." All right. So that's the change we've made. Whether
24 or not we have the Defendant testimony portion would depend
25 on what happens momentarily. But I'll throw it in there just

1 in case.

2 MS. FORD: Yes, Your Honor.

3 THE COURT: It's easier to take it out than
4 a(inaudible).

5 THE COURT: Okay. Anything else on the charge at this
6 point?

7 MS. FORD: No, ma'am.

8 THE COURT: Anything else from the State on the charge?

9 MS. FRIERSON: Court's indulgence, Your Honor?

10 THE COURT: Sure.

11 MS. FRIERSON: None from the State, Your Honor.

12 THE COURT: Okay. All right. Yeah, I don't think any
13 -- any charge as to statements from the Defendant are -- are
14 appropriate in this case, based on the testimony presented.
15 So I'm not going to put anything at all about that in the
16 charge. And at this time then I need to direct my attention
17 to Mr. Hamilton and Ms. Ford. Ms. Ford, have you had enough
18 time to talk to him about his decision to testify or not?

19 MS. FORD: Yes, Your Honor. I have and he has
20 indicated he does not want to testify.

21 THE COURT: Okay. Well, nonetheless, of course, as I'm
22 sure you've told him, Mr. Hamilton, I've got to go over some
23 rights with you at this time, okay, sir?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: All right. At this time I'm going to

1 explain to you certain rights that you have. If you don't
2 understand anything -- anything that I say, I want you to let
3 me know, okay?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: If -- or if you want me to explain anything
6 in more detail, I also want you to let me know that, okay?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: All right. We have now reached the stage
9 of the trial where you may present your defense. You have
10 the right to claim the protections given to you by the Fifth
11 Amendment of the Constitution of the United States, which
12 States in part that no person shall be compelled in any
13 criminal case to be a witness against himself. This means
14 that you cannot be required to testify in this case. You
15 have the right to testify if you wish. However, nobody can
16 make you testify in your own trial. This is a personal right
17 and nobody can give it up except for you. As I'm sure you've
18 discussed with your attorney, if you decide to testify, you
19 would be subject to the same rules that have governed every
20 other witness, and you would be examined and cross examined
21 on any relevant issue in this case.

22 In addition, if you have any convictions involving
23 dishonesty on your record or false statement, or for crimes
24 that were punishable by imprisonment for more than a year,
25 and I determine that the probative value of admitting that

1 would outweigh any prejudicial effect, the solicitor would be
2 able to introduce your prior record to attack your
3 credibility.

4 If you decided to testify that decision on your part
5 must be freely, voluntarily, and intelligently made with the
6 knowledge of these protections given to you both Fifth
7 Amendment.

8 If you decide not to testify, I will instruct the jury
9 that they cannot give the fact that you did not testify any
10 consideration whatsoever, and that there is to be no
11 prejudice to you because you don't testify. It is left
12 entirely up to you whether or not you do decide to testify.
13 I'll give you a little bit more time to talk to Ms. Ford or
14 any family members or friends you have. But ultimately the
15 final decision is up to you. Do you understand everything
16 I've explained to you?

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: All right. Do you have any questions about
19 what I just told you?

20 THE DEFENDANT: No, ma'am.

21 THE COURT: All right. Have you had enough time to
22 talk to Ms. Ford about whether or not you should testify?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: And what is your ultimate decision at this
25 time?

1 THE DEFENDANT: No, ma'am.

2 THE COURT: Okay. Thank you so much. You can have a
3 seat. All right.

4 We will bring the jury back in and then at that time
5 I'll ask Ms. Ford if she has any other witnesses or any
6 witnesses and we'll go from there. Okay.

7 MS. FORD: I do not, Your Honor, just for the ---

8 THE COURT: Okay. Well, if you want, we can skip the
9 ring roll then coming back and forth, or we can -- we'll just
10 go -- we'll bring them on in if you don't mind. Okay?
11 Thanks. I'll do that in civil, but I won't do it. Or we can
12 skip that stuff. All right, so, perfect. This is excellent.
13 Let's see.

14 (Jury enters room)

15 THE BAILIFF: All jurors are present, Your Honor.

16 THE COURT: All right. Thank you all. Please be
17 seated.

18 Ladies and gentlemen, have you all had a good lunch
19 break? We had some things going on in here, so I'm sorry for
20 the delay this afternoon, but we are ready to proceed.
21 Before we took recess for lunch, the State rested. So now
22 we'll turn to Ms. Ford. Ms. Ford, does the Defense have any
23 witnesses that would like to call at this time?

24 MS. FORD: No, Your Honor. At this point, the Defense
25 rest.

1 THE COURT: Okay. All right. Well ladies and
2 gentlemen, as silly as it seems, I need to excuse you one
3 more time outta the courtroom now. It's -- will be a brief
4 recess this time and then we will bring you back in
5 momentarily. I will also inform you that given the stage of
6 the trial likely we will finish today. So, just so you have
7 that awareness for your own edification. Okay? All right.
8 We'll excuse you just for a very brief moment and bring you
9 back in shortly. Okay?

10 (Jury exits room)

11 THE COURT: Okay. (Inaudible) now I take this
12 opportunity to hear any new motions or renew any prior
13 motions from either side. Any from the State at this time?

14 MS. FRIERSON: No motions from the State.

15 THE COURT: All right. And next, Ms. Ford.

16 MS. FORD: Just to renew my prior motions, Your Honor,
17 but no new motions.

18 THE COURT: Okay, all new motions and -- excuse -- all
19 prior motions and objections are renewed timely. For the
20 record, our previous ruling stand and we will bring the jury
21 back in here and go straight --are you all prepared to go
22 ahead and start? You need a break? Then we take a little
23 longer after lunch than we might have anticipated. Anybody
24 want a restroom break before we go in? All set?

25 MS. FORD: I'm -- I'm fine.

1 THE COURT: You good?

2 MS. FRIERSON: I'm fine.

3 THE COURT: Good. Okay. All right. We can bring them
4 back in then. Thank you so much.

5 (Jury enters room)

6 THE COURT: Excellent. Thank you so much. Everybody
7 can be seated.

8 Now, ladies and gentlemen the Courts have presented
9 their evidence in this case and it's now time for the
10 attorneys to make their closing arguments to you. The
11 arguments of the attorneys, ladies and gentlemen, are not
12 evidence in this case. Their statements and arguments are
13 meant to help you understand the evidence and apply the law
14 to that evidence. But I want you to disregard any remark or
15 statement or argument they make, which is not supported by
16 the evidence which has been produced during the course of
17 this trial. Afterwards, I will then charge you on the law.
18 All right.

19 MS. FRIERSON: Thank you, Your Honor. May I please the
20 Court?

21 THE COURT: Yes, ma'am.

22 MS. FRIERSON: Good afternoon, ladies and gentlemen.
23 Would like to thank you for being so attentive this week. As
24 Judge McCoy told you on Monday, a trial is slow and
25 deliberate process. And if you didn't believe that before,

1 you probably are convinced now. You know, with technical
2 difficulties. She informed you of the State, my burden, and
3 at times certain questions or witnesses may have seemed long
4 or even a bit redundant. We are not here to waste your time,
5 but I have a high burden and I wanted to ensure that I
6 fulfill my responsibilities.

7 Now, it's important to discuss the law so that you can
8 apply that law to the evidence. However, if anything I say
9 differs from what Judge McCoy tells you, you must heard from
10 her, because as she told you, she's the judge of the law and
11 you are the judge of the facts. I'd also like to remind you
12 of the oath that you took when you came into this trial.
13 That you would take the law as she charged abandoning what
14 you thought you knew or you might have known or believed to
15 be fair, and only use the law that she gives you as you apply
16 it to only the evidence that has been presented in this case.

17 Now -- excuse me -- you'll see -- you'll receive a
18 variety of charges -- well, jury charges. One of them will
19 be on this, beyond a reasonable doubt, is high burden that I
20 have. And as I understand it, it is not a mathematical
21 equation. Not a percentage-based thing. It is something
22 that would leave you firmly convinced of this defendant's
23 guilt. And as a typical lawyer to use more words to explain
24 other definitions, so it can be confusing. Firmly convinced,
25 let me give you what I think is a good example.

1 For the past -- what day is it? Wednesday. Two and a
2 half days we've been in this courtroom. There no windows.
3 We don't know what's going on outside. We don't know if it's
4 raining. You haven't had your phone at times, but if someone
5 came in to sit down and you saw them with a, you know,
6 windbreaker or even just a coat on, they were kind of dusting
7 some drops off of their sleeves, you might think that it
8 could rain. But if you had another person come in and shake
9 off an umbrella, I would submit that you would be firmly
10 convinced that even though you didn't see the rain, that it
11 had -- it is raining or had just rained.

12 You'll also get a jury instruction on direct and
13 circumstantial evidence. Any of you have probably heard of
14 that in movies and law and order. Direct evidence is from
15 the stand. It's what Minor told you; it's what the other
16 witnesses told you. And circumstantial evidence is a chain
17 of circumstances that leads you to a conclusion. And that
18 can include forensic evidence.

19 You will also get a charge on the credibility of
20 witnesses. Consider their demeanor on the stand, the bias
21 they may have had, any potential limitations they may have
22 had, and consider if their statements; their testimony was
23 corroborated by other witnesses or even other evidence.

24 Being a juror is a difficult job and it goes without
25 staying -- saying that standing in judgment of others can put

1 people in a difficult position. But your diligence in
2 reaching this decision is without a doubt very important to
3 everyone in this world.

4 The Defendant is charged with criminal sexual conduct
5 with a minor second degree. And as I understand the elements
6 of this crime, it means that I must prove what we have here.
7 That a person is guilty of criminal sexual conduct with a
8 minor in the second degree if the defendant -- defendant
9 commits a sexual battery where there is factual penetration;
10 in this case, which is what is alleged. And the victim is
11 between 11 and 14 years old, and Minor [REDACTED] was 11 years old.

12 Now sexual battery, again, what does that mean? The
13 law defines it in this case as sexual intercourse or any
14 intrusion however slight of any part of a person's body or of
15 any object into the genital opening of another person's body.
16 Want you to listen clearly when you hear the judge's
17 instruction on this law, because I believe that you will also
18 hear that consent or willingness, indifference, ignorance on
19 a part of a minor in any way does not affect this charge
20 because an unmarried woman in this State cannot consent to
21 sexual relations when she's under the age of 14 years old.
22 So that is more or less my understanding of the law and what
23 I must prove to you. So I'd like to review the evidence
24 here.

25 You heard from Minor [REDACTED]. She was 11 years old at the

1 time. I submit that the 17-year-old, you know, woman you saw
2 take the stand, she was half that size and almost half that
3 age when this occurred. The Defendant back then was 47 years
4 old. She came in here, took the stand, told you what
5 happened. You had the opportunity to listen to her forensic
6 interview when you heard. Listen to her childlike voice from
7 that. She liked riding scooters, playing football with her
8 brother.

9 But on April 19, 2018, you then heard and listened as
10 her voice changes, the Defendant took off her clothes, kiss
11 me on my pinky cheeks -- because at 11 that's what she
12 referred to her butt as. And forced vaginal sexual
13 intercourse on her. When he, quote, "Put me on his bed,"
14 laying her down. You heard the smell of alcohol. There were
15 beer cans everywhere in the house. She described a very
16 disheveled place.

17 And as disturbing as it may be to think about with pits
18 in the stomach, specific witness lobbying a sexual assault.
19 She testified there was no condom use. I submit don't need
20 to be a doctor to know where the vagina is located in
21 connection with where the anus is located. And after he
22 forcefully penetrated her vagina, you heard from the DNA
23 analyst that particularly liquid DNA can travel, for lack of
24 a better word, from one -- one hole, one opening to another,
25 particularly if gravity's involved or somebody's laying down.

1 No one's here to say that [Minor] hasn't had her fair
2 share of struggles, behavior problems. Didn't bring it up
3 really myself, because as you can see, it's not an element of
4 the crime. There's not a law that you're going to be given
5 that says, well, if you're wayward kid and you've made some
6 bad decisions or maybe you have some disabilities that you
7 don't deserve the same protections.

8 [Minor] told you she lied and she told you why. She
9 was 11 and she was scared. These inconsistencies that Ms.
10 Frierson has brought up one or two times, does it -- does it
11 really matter? Again, I submit to you, listen to the law one
12 time is enough. It doesn't need to be two times. It doesn't
13 need to be chronic abuse. One sexual assault, when he is 47
14 and she's 11 is enough. Did you tell Officer Norwood right
15 away that night? No. And he certainly seems like a nice
16 guy, but I'm not sure how many 11-year-old girls want to talk
17 to him about anything. I mean, people are who they are.

18 And you heard testimony that sometimes female victims
19 don't feel comfortable talking to a male officer. And that's
20 not his fault, that's not a fault thing. It's just a level
21 of comfort. And I -- I don't -- I don't understand or know
22 if this is exactly where Ms. Ford is going, but there's been
23 a lot of questions and -- and -- regarding these officers
24 that may have talked to her, and her mom talking to her
25 before she got to Ms. Dodds at Dee Norton. And I don't know

1 if that's to imply that she was fed things or if she was
2 suggested things.

3 But as I listened to that, I thought you -- you would
4 have to find it reasonable that an 11-year-old, with a
5 learning disability, determines that she's liked to frame a
6 random stranger and managed to coordinate getting into his
7 house where she somehow transfers some fresh wet ejaculate
8 and saliva that he's left there to her body, and then make
9 sure she knows where those fluids are so that the SANE nurse
10 can get it swabbed there, learned that he just got released
11 from jail that she wouldn't have otherwise known. Get in
12 touch with North Charleston Police Department, make sure they
13 arrive at his address right after she says this occurred.
14 That's they're not like too busy that they talk to him, so he
15 can deny it and that this all happens within two hours. And
16 -- and then, if that's reasonable to you, that is within your
17 discretion, ladies and gentlemen.

18 You heard of the DNA evidence. We talked about
19 numbers. She talked about statistics. It is undoubtedly
20 confusing information and not as exciting as it is maybe
21 outside of this courtroom. But her statistics and
22 probabilities lend strong support to the inclusion of this
23 defendant's DNA in those samples to the octillion. And I
24 asked her, how many is in an octillion; 27. Ladies and
25 gentlemen, that is 27 zeros. That's strong support.

1 You heard from several other witnesses. None of those
2 other witnesses said that they had an in depth formal
3 interview with the victim feeding her suggestions of what to
4 say. You heard from the Defendant -- or excuse me -- the
5 victim's mother and those officers that when they talked,
6 sent him that night, he didn't know her. She'd never been to
7 the house, didn't know anything about a sexual assault.

8 You heard from those chain witnesses, which like I
9 said, that's part of our burden making sure that the evidence
10 that you see that we admitted was handled in a correct
11 manner. You heard from the SANE nurse; corroborated
12 **Minor's** testimony that when she came in there right after
13 the assault, she did, in fact, found release. Because she
14 had left them when she rushed out of his house. You heard
15 from Ms. Fabrizio, the nurse, as hard as it may be to
16 believe, the bottom line is normal exams are normal; acute
17 exams are more likely to be unremarkable and not show
18 injuries. She's conducted, I think she said over a thousand
19 exams and on only two hands, but she count a number of times
20 in those initial acute ones that she has seen injuries.

21 I think Ms. Ford and I can agree that Ms. Boehm, who is
22 one of the most intelligent people in this room with her
23 scientific background, I will let you refer to her testimony
24 because it is in depth, but I take you back to the numbers
25 and the strong support that it gives as corroborative

1 evidence to what Minor has said.

2 So as we conclude here, I recognize that we wouldn't be
3 here today and Minor not run away, but she does not need to
4 be punished for making a poor decision at 11 years old. The
5 Defendant needs to be held responsible for his predatory
6 behavior when he raped her in his house sloppily when she was
7 11. The box is not a jury place for sympathy, it's a place
8 for common sense, which is exactly what I want you to use.
9 You evaluate this case.

10 At the end of your deliberations, I believe you'll be
11 firmly convinced of this defendant's guilt. Thank you,
12 ladies and gentlemen.

13 THE COURT: All right. Thank you very much. Ms. Ford,
14 happy to hear from you.

15 MS. FORD: Thank you, Your Honor. Witness credibility
16 is critical in many cases at trial. And in this case in
17 particular, there's no witness to any kind of alleged
18 assault. Instead we're left with the word Minor.
19 So the question is, can you trust the word of Minor
20 .

21 Minor is sadly very troubled young lady and she's
22 matured, of course, at the age of 17, like you saw her on the
23 stand this week. But her problems started well before 2018,
24 well before any possible incident. Things were really bad.
25 And not only was she uncontrollable -- and by the way that's

1 a term she agreed to. I asked her if she was uncontrollable,
2 and she said, yes. But she also would lie. She admitted to
3 lying. She would lie in general; she would lie on people. I
4 specifically asked that question and she said, yes, I lied on
5 people. She admitted to lying to the police by (inaudible).
6 In this case, specifically, she admitted to all of us that
7 she lied about this case. Many things in this case she said.

8 She told us, initially, that she told police and
9 everyone else -- and you heard on the video -- that she said
10 she was dragged, but she's changed her story. At one point
11 she mentioned I was raped two times, but did she quickly left
12 that behind and never said that again. In 2021, even though
13 she could barely remember it, she did acknowledge she
14 believed that she had told the solicitor that, oh, it hurt so
15 much I passed out.

16 And the point of all of that, it's not because of any
17 of that happened or didn't happen or something's the truth
18 and something (inaudible) not. The point is that she changes
19 her story all the time because she doesn't think lying is a
20 big deal if it suits her purposes.

21 Her stories varied even back in April of 2018 on the
22 same night between talking to the police and talking to the
23 SANE nurse. And it continued to vary throughout the years,
24 2021 when she spoke to the solicitor and even this week on
25 the stand. Now, she was constantly in trouble and she told

1 you this, as did her mom. And basically as she insisted on
2 doing what she wanted when she wanted. And that's why she
3 left the house that night. Her mom went after her,
4 understandably, and tried to get her to get in the car, but
5 she refused. So her mom was left with no other option than
6 to call the police.

7 Now, this is not the first time the police were called.
8 Minor's mom told you, yes, we had to call the police. They
9 would come to help, whether it was to control Minor or to
10 help find her, that it is not something rare in their
11 (inaudible). Minor's also been hospitalized. You heard
12 more than 10 times at the Institute of Psychiatry. And by
13 hospitalized it doesn't mean just that she went in for them
14 to check on her. It means overnight, for possibly weeks, she
15 was hospitalized.

16 Things were so bad that Minor's mom was thinking
17 about putting her in a home and Minor knew that. She knew
18 that she didn't have, you know, a lot -- much -- a lot of
19 sympathy left. She had been working as Minor's mom told
20 you, Jackie, that she had been working with school counselors
21 with a variety of people to try to help her. But again,
22 Minor was uncontrollable.

23 And shortly after this, Minor's mom had to put her in
24 a home and actually relinquished her rights as a mother
25 temporarily because Minor's behavior -- behavior issues

1 were so extreme. Now, this night in April of 2019, Minor's
2 mom called the police. The police came and they were helping
3 her. So Minor was only gone for about half an hour. Now,
4 when Minor's mom found her, she insisted on knowing if
5 anything had happened. So Minor didn't just deny something
6 to the police, she wouldn't -- she didn't tell her mom that
7 anything happened.

8 But you heard from Minor on the stand and her mom
9 kept asking, you heard Minor say and repeat, tell me, tell
10 me, tell me. Her mom insisted on getting some type of a
11 story of what Minor had been up to. And Minor, as she,
12 her mom told you, and as she told you, she was worried that
13 actually she would be sent to jail. And so Minor does
14 reveal at this point that she had been assaulted.

15 And you heard from Ms. Dodds the importance of asking
16 kids non-leading questions. Because as she told you, the
17 reason why she exists basically at -- at the Children's
18 Center exists, is so that instead of cops talking to kids,
19 they can talk to kids to make sure that nobody's putting
20 words in their mouth. So Minor, she spoke to many people
21 before she spoke to Ms. Dodds. She of course spoke to her
22 mom. She spoke to, at a minimum, officer Norwood who you
23 heard from and Officer Frontier. There was mention of her
24 talking to an EMS worker.

25 She talked, of course, she went to the hospital that

1 night and talked to the SANE nurse. So she had already
2 talked many times before she went to the interview that you
3 heard just recently. And one reason they record the
4 interviews, as you heard from Ms. Dodds, is that so all of us
5 can see, so we're not just relying on her word that she
6 didn't ask leading questions or anything like that. It's so
7 that we can see that for ourselves and we can hear that for
8 ourselves.

9 Now, in this case, the police, unfortunately, they lost
10 the body cam footage and so nobody's able to see how they
11 questioned her or what demeanor people had or what demeanor
12 her mom had when they were all talking to one another.

13 So we don't know how much these people may have tried
14 to or what they may have said to Minor [REDACTED]. Because again,
15 kids can be influenced and they -- things can be suggested to
16 them and they can just adopt it. It's not necessarily even
17 intentional, it just happens. And unfortunately we don't
18 have that body-cam footage, but that's a possibility of
19 something that may have happened that evening.

20 Now, Minor [REDACTED], she ends up reporting an assault that
21 evening, so they take her to the hospital that night. So you
22 heard Ms. Dodds or the SANE nurse, she told us that she,
23 Minor [REDACTED], was seen at about 10:50. So this all happened
24 really quickly. So within two hours she was at the hospital.

25 And we heard about this acute timeframe. Well, the

1 reason that acute timeframe is so critical is because that is
2 when DNA is most likely to be recovered and when any injuries
3 can be observed. So you heard that from the experts. And in
4 this case, **Minor** made it into that window. The nurse the
5 night of, she observed absolutely no injuries of any kind.
6 So there were no injuries to any area on her body, including
7 her genital area. There was no bruising, no bleeding,
8 nothing at all, nothing.

9 Now, you heard from Ms. Fabrizio who testified and
10 tried to minimize that. And she tried to say, well no, there
11 often aren't injuries. However, what I tried to get out from
12 her is that most kids that they see, they don't report
13 something right away. They wait weeks or months or even
14 years. So as she said, they'll always examine them no matter
15 when they report it, they're always examined. So the vast
16 majority of the cases that she sees are people who were
17 allegedly or abused months, if not years before.

18 So when she said that she had done thousands of cases,
19 the vast majority were not acute. That is much more rare.
20 And she specifically, what I pointed out and what I thought
21 was important, is that when she went and saw **Minor** two
22 weeks later, she decided to use high definition imaging. And
23 what she admitted it was in her report that she used it
24 because of concern or possible genital trauma. So she
25 thought -- from what she had seen of the allegations -- she

1 thought that two weeks later that there could be a real
2 possibility of genital trauma seen still. So she used,
3 again, a high definition imaging and there was nothing.
4 Nothing at all, nothing acute and nothing chronic.

5 What we know is that since she used that, apparently
6 she had some questions. There's something -- there was
7 something she wanted to look at. And it's something
8 important for all of you to consider when you're making your
9 deliberations, that there was not a single sign of anything,
10 no bruising, no blood, nothing on this girl who was seen
11 quite quickly after a supposed assault.

12 Now, you've heard about the DNA. I told you in my
13 opening statement that you would hear about some DNA of
14 Emeric Hamilton connected to this case. So I was open with
15 you in the beginning and we told you that. But the DNA
16 evidence you have heard is not consistent with what **Minor**
17 **██████████** has claimed. The State has to prove to you beyond a
18 reasonable doubt that Emeric Hamilton had sex with -- with
19 **Minor** **██████████**. That there was some type of vaginal penetration.

20 Now, the SANE nurse, Ms. Harley, when she testified,
21 she told us that she specifically trained in how to try to
22 recover evidence, primarily DNA evidence. And so she does
23 what she can to get that. But there are certain ways that
24 DNA may disappear. And I asked her about things that could
25 make that happen. And one is going to the bathroom, whether

1 it's urinating or defecating, could be wiping oneself, a
2 female taking out a tampon. And that's why all of those
3 questions are routinely asked of someone who is (inaudible).
4 And to all of those questions, each and every one, Minor
5 answered, no.

6 She had not used the bathroom. She had not wiped
7 herself, she had not taken out a tampon. Not only all of
8 that, but the nurse also asked if the man had used a condom.
9 And Minor said, no. And you've heard that throughout the
10 trial that Minor said, no, there was no condom used. And
11 why that's important, is because when there's no condom and
12 when there's no wiping or using the restroom, that means that
13 the DNA evidence, there's a much higher chance that there's
14 going to be DNA evidence found. But what did we hear about
15 the DNA evidence?

16 So you have heard that DNA evidence, Emeric's DNA was
17 found in Minor. But you've also heard that his DNA was not
18 in her vagina. There was no semen in her vagina. But in
19 addition to that, there was no other DNA. Because you heard
20 the expert testified that DNA can come in the form of
21 non-fluids. So there's the touch DNA, they mentioned. Our
22 skin cells basically can swap off. People can transfer their
23 DNA. You heard the -- the -- Ms. Boehm told us how
24 occasionally, even though the officers, police officers and
25 SLED agents, people who work at SLED, even though they're

1 trained how to deal with evidence, sometimes their DNA ends
2 up in a sample and there's a hit back to them, because that's
3 just how easily DNA can be transferred.

4 If a man has sex with a woman without a condom, even if
5 he doesn't ejaculate or any theory, he pulls out, that
6 doesn't mean there's no hint of his DNA in her vagina. In
7 this case, Emeric's DNA was nowhere in **Minor's** vagina even
8 though that is what she was claiming.

9 So now there is some other DNA. You've heard about
10 saliva. However, Ms. Boehm, she told us that it's possible
11 it wasn't Emeric's DNA or -- or saliva. That his DNA was
12 found, but there's no way to tell that if that saliva
13 belonged to **Minor**, to Emeric, or there's a third person.
14 Now, the fact that there is a third person's DNA that can
15 either show that there could have been another party present
16 or it just helps demonstrate how easily DNA can be
17 transferred and left behind that somehow a third person's DNA
18 was on her. DNA is just transferred extraordinarily easily.

19 Now, Ms. Frierson asked about DNA trickling or flowing
20 down or turning, whatever you want to say. But the thing is,
21 what we all know is that that fluid moves, it leaves a trail,
22 okay? It doesn't just jump completely 100 percent to another
23 part of the body. It's going to be remaining in that initial
24 part.

25 So I use an example in trial with my spit on the

1 podium. For whatever reason, I spit on the bedroom and I
2 place my phone down. I picked my phone up and I give it to
3 Ms. Inger. So my DNA is going to be on that phone and it's
4 likely going to be transferred to Ms. Inger. But that
5 doesn't mean my DNA isn't still on this podium. Just because
6 my phone was -- I sat the phone down on the saliva, it
7 doesn't mean that all the saliva was picked up when I picked
8 up my phone. That's not how it works.

9 Again, I go back to the point that DNA is easily left
10 behind and transferrable, and that's why police officer's DNA
11 shows up in samples at times. So DNA is just -- it doesn't
12 -- it doesn't just, it's not all sucked up and disappears.
13 If there had been a trick trickling, it would've remained in
14 the vagina still if the -- if the penis had been in the
15 vagina.

16 Now, we also, and this goes, you know, furthering my
17 argument on the transfer, we've heard how easily DNA can be
18 transferred. So someone could be in a bathroom or
19 something of that nature, they could pick up other people's
20 DNA. We're talking about a house that we've heard was quite
21 dirty. Men live in this house. It just likely, it doesn't
22 sound like it was a very clean place. We've all probably
23 seen on TV or whatever where they go, maybe journalists go
24 into a hotel with a black light and there's semen everywhere.
25 Semen is not an unusual fluid to -- to find in a person's own

1 house.

2 To prove criminal sexual conduct with the minor second
3 grade -- second degree, the State has to prove, first of all,
4 **Minor's** age, which of course she was underage. But they
5 also have to prove penetration, in this case, of the vagina.
6 Here, there's no evidence of that. Now, you may be left with
7 certainly suspicions concerns. You might be left even
8 thinking, well, I think something must have happened. That
9 doesn't make sense. How was DNA got on her body?

10 But in court, your duty beyond a reasonable doubt is to
11 find that there was penetration into **Minor's** vagina.
12 That's the question. It's not, we think something may have
13 happened or we think maybe this happened instead of a sexual,
14 so we'll just go ahead and find him guilty of this. That's
15 not it. That's not what you're here for. The judge will
16 instruct you on the law, on your duty what beyond a
17 reasonable doubt is. But the specific question in this case
18 is, was there penetration into **Minor's** vagina?

19 Now here in this case, there's reasonable doubt.
20 Ultimately the charge, like I mentioned, is vaginal sex. And
21 finding of Emeric's DNA on **Minor**, that only proves that she
22 was in his house. You've heard that there were other people
23 present, other men present at a variety of times. If you go
24 into somebody's house and you visit them, your life is, you
25 know, real possibility that you're going to pick up some form

1 of DNA at some point while you're in their house. So the
2 evidence that shows that she was in his house, but it does
3 not show that he actually had sex with her.

4 And again, even if you think something suspicious
5 happened beyond a reasonable doubt, you have to find that
6 there is vaginal intercourse. And between the issues with
7 the DNA not being in the vagina and the issues with the
8 medical exam showing zero injury or sign or bruising of any
9 kind, and then you combine that with **Minor's** serious
10 credibility issues, and then you further combine that with
11 the fact that she was in serious trouble and it was
12 escalating that year and she knew it was only a matter of
13 time before she was going to be sent away. And you have her
14 mother saying, tell me, tell me, tell me, there is a
15 reasonable doubt and we would ask you to consider all of that
16 and to find Emeric Hamilton not guilty. Thank you.

17 THE COURT: All right, ladies and gentlemen, during
18 this trial you and I had certain duties to perform. As the
19 trial judge, it's been my responsibility to preside over the
20 trial of the case and I've also had the duty to rule on the
21 admissibility of certain evidence which has been offered
22 during the trial.

23 You are to consider only the evidence before you. If
24 there was any testimony or stricken from the record or you
25 must disregard that. You are also to consider only the

1 testimony which has been presented from the witness stand and
2 any exhibits which have been made part of the record in this
3 case. I have the additional duty to now charge you on the
4 law that applies to the case. As the presiding judge, I'm
5 the sole judge of the law in this case and it's your duty as
6 jurors to accept it and apply it as I now stated to you. If
7 you think you already have an idea as to what the law is or
8 what it should be and it doesn't agree with what I'm about to
9 tell you, you must abandon that idea because you have taken
10 an oath to accept it and apply it exactly as I now stated to
11 you.

12 You'll notice I'm reading this portion that is so that
13 I don't adlib the law in any way. I want to give this to you
14 as accurately as possible.

15 In every case, trial in this court before a jury, the
16 jury becomes the sole and exclusive judge of the facts in a
17 case. A trial judge cannot comment on or make any statement
18 to a jury about the facts in a case. Since you, the jury are
19 the sole judge of the facts, do not think from anything I
20 have said during the progress of this trial that I have any
21 opinion about the facts whatsoever. I can assure you, I do
22 not. This is a matter solely for you, the jury to determine.
23 As jurors, it is your duty to determine the effect value, the
24 weight, and the truth of the evidence presented during the
25 trial.

1 When I use the word defendant, I refer to Mr. Emeric
2 Hamilton. The Defendant here has been accused of what we
3 call an indictment. Once again, that's just a piece of paper
4 on which an accusation against the Defendant is placed.
5 Indictments are not evidence in the case. And to this
6 indictment, the Defendant has rendered a plea of not guilty,
7 which then places upon the State the burden of proving beyond
8 a reasonable doubt that the Defendant is guilty. In this
9 state and in this country, a person who is accused of a
10 criminal offense is never required to come in and prove
11 himself or herself innocent. This principle of law is called
12 the presumption of innocence. Each of you is required under
13 our law and by your oath to actively presume that the
14 defendant is not guilty.

15 The presumption of innocence is maintained at all times
16 throughout the trial of this case and is only removed when
17 and if the state brings in enough evidence to persuade you
18 beyond a reasonable doubt that the defendant is guilty.

19 So what is reasonable doubt? A reasonable doubt is a
20 doubt that makes an honest, sincere, conscientious juror
21 hesitate to act. Proof beyond a reasonable doubt is proof
22 that leaves you firmly convinced of the defendant's guilt.
23 There are very few things in this world that we know with
24 absolute certainty and in criminal cases the law does not
25 require proof that overcomes every possible doubt. If based

1 on your consideration of the evidence you are firmly
2 convinced that the Defendant is guilty of the crime charge,
3 you must find him guilty. If on the other hand you think
4 there is a real possibility that he is not guilty, you must
5 give him the benefit of the doubt and find him not guilty.

6 As the sole fact finders, you should have listened
7 closely to the evidence presented. Weighing the evidence is
8 entirely a mental process. You must weigh it using your good
9 judgment and your common sense. Ladies and gentlemen, cases
10 can be presented or evidence can be presented in one in one
11 of two ways. Direct evidence and indirect evidence, which is
12 also called circumstantial evidence.

13 Direct evidence is when someone comes in and testifies
14 to the commission of a crime that they perceived through
15 their own senses. For example, if a witness saw someone
16 commit a crime. Indirect evidence or circumstantial is when
17 someone testifies as to different events that occur. And
18 when you link all of them together, they point to the
19 commission of a crime. Now one are both methods can be used
20 to present a case. Crimes may be proven by circumstantial
21 evidence. The law makes absolutely no distinction between
22 the weight or value to be given to either direct or
23 circumstantial evidence, nor is a greater degree of certainty
24 required circumstantial evidence than a direct evidence.

25 However, to the extent the state relies on

1 circumstantial evidence, all of the circumstances must be
2 consistent with each other and when taken together point
3 conclusively to the guilt of the accused beyond a reasonable
4 doubt. If the circumstances merely portray the Defendant's
5 behavior is suspicious, then the proof has failed.

6 The State has the burden of proving the Defendant
7 guilty beyond a reasonable doubt. This burden rests with the
8 State regardless of whether the State relies on direct
9 evidence, circumstantial evidence, or some combination of the
10 two. The evidence you are to consider consist of the
11 testimony of the witnesses and the exhibits that have been
12 offered and received during the trial.

13 Objections and rulings and matters that may have been
14 excluded from the record are not to be considered by you in
15 any fashion. If it appears to you that I have commented at
16 any point during this trial or during the given -- giving of
17 these instructions, you must disregard any comment entirely.
18 Also, the remarks of the attorneys are not evidence. Their
19 statements and their arguments are intended to help you
20 understand the evidence and apply the law. But you should
21 disregard any remarks or statement or argument from these
22 attorneys, which is not supported by the evidence or the law
23 as given to you by the Court.

24 So how do you decide the facts of a case? You do it
25 through the exercise of your good judgment, the application

1 of your common sense, your sense of logic and reasoning and
2 your everyday experiences in life. Every day in your lives
3 you judge credibility. You make decisions every day with
4 regard to whether people are believable, persuasive,
5 convincing or not. You do the same thing as a juror. In
6 deciding believability, you might consider what was the
7 manner and the appearance of the witness who testified. Is
8 he or she straightforward or hesitant at answering? Was the
9 testimony of a witness consistent or inconsistent? How did
10 the witness come to know the facts that he or she testified
11 to or what was his -- his or her ability to know these facts?
12 Is there some reason a witness would want to give testimony
13 which would help or hurt one side or the other? In other
14 words, was the witness biased or prejudiced.

15 In determining the question of credit -- credibility or
16 believability of a witness, you might believe one witness
17 over several, or several witnesses against one. You might
18 believe part of the testimony of a witness and reject the
19 remaining part of the testimony of that same witness. You
20 might believe the testimony of a witness in its entirety or
21 reject the testimony of a witness in its entirety. You were
22 to consider all the evidence in the case and determine what
23 you believe to be the facts of this dispute.

24 An issue in this case is the identification of the
25 defendant as the person who committed the crime charged.

1 Now, the State has the burden of proving identity beyond a
2 reasonable doubt. You must be satisfied beyond a reasonable
3 doubt of the accuracy of the identification of the defendant
4 before you may convict him.

5 Identification testimony is an expression or belief --
6 or a belief or an impression by a witness. You must
7 determine the accuracy of the identification of the
8 Defendant. You must consider the believability of each
9 identification witness in the same way as you would any other
10 witness. You may consider whether the witness had an
11 adequate opportunity to observe the offender at the time of
12 the offense. This will be affected by things like how long
13 or short a time was available, how far or close the witness
14 was, the lighting conditions, and whether the witness had a
15 chance to see or know the person in the past.

16 Once again, I instruct you the burden of proof on the
17 State extends to every element of the crime charged and this
18 specifically includes the burden of proving beyond a
19 reasonable doubt the identity of the defendant as the person
20 who committed the crime. If after examining the testimony
21 you have a reasonable doubt as to the accuracy of the
22 identification, you must find the defendant not guilty.

23 As I stated during the trial, the rules of evidence
24 ordinarily do not permit witnesses to testify to opinions.
25 An exception to this rule exists for witnesses we call expert

1 witnesses. These are witnesses who by some education or
2 experience have become an expert in some art or science and
3 they may state an opinion as to the relevant and material
4 matter in which the witness claims to be an expert, and they
5 may also state the reasons for that opinion. You should
6 consider any expert opinion received in the evidence, unlike
7 any other evidence, give it the weight you think it deserves.
8 If you decide that the opinion of an expert witness is not
9 based on sufficient education or experience, or if you
10 conclude that the reasons given in support of this opinion
11 are not sound or that the opinion is outweighed by other
12 evidence, you may disregard the opinion entirely.

13 An expert witness's testimony is to be given no greater
14 weight than that of any other witness simply because that
15 witness is an expert. Furthermore, you are not required to
16 accept an expert's opinion, even if it's un-contradicted.

17 I now have the duty to charge you on the law that
18 applies to this case. As the presiding judge, once again,
19 I'm the sole judge of the law and it's your duty to accept it
20 and apply it. As I now stated to you, as I've already told
21 you, again, you are to determine the facts as we call them in
22 the case. But when it comes to the law, you must accept the
23 following legal principles. You obviously can't change the
24 law. You take it as I give, I give it to you. You find the
25 facts as you see them and you apply the law to those facts

1 and that's the way you reach a verdict.

2 The Defendant is charged with second degree criminal
3 sexual conduct with a minor. The State must prove beyond a
4 reasonable doubt that the Defendant engaged in a sexual
5 battery with the victim. A sexual battery is sexual
6 intercourse or any intrusion, however slight of any part of a
7 person's body or of any object into the general openings of
8 another person's body. The State must then prove beyond a
9 reasonable doubt that the victim was at least 11 years old
10 but not more than 14 years old at the time of the sexual
11 battery. Consent, willingness, indifference, or ignorance on
12 the part of the minor, if any, as to what was taking place,
13 does not in any way affect the charge of criminal sexual
14 conduct with a minor, because an unmarried woman under the
15 age of 14 cannot legally consent to sexual intercourse.

16 Mere presence of the scene is not sufficient to prove
17 someone guilty of a crime. A defendant's presence where a
18 crime is being committed or mere association with a person
19 who commits a crime does not make a defendant an accomplice
20 or an aid or a better of the person committing the crime.
21 The burden is on the state to prove every element of the
22 crime charge. If you find after reviewing all the evidence
23 that the State has proved that the Defendant was only present
24 at the scene of a crime and that they have not proved beyond
25 a reasonable doubt any other participation in the crime, then

1 you must find the Defendant not guilty. The law is that
2 proof of a person at the scene of a crime is not alone
3 sufficient to find someone guilty.

4 I instruct you and emphasize that the fact that the
5 defendant did not testify is not a factor to be considered by
6 you in any way in your deliberations and in your
7 consideration on the question of the guilt or innocence of
8 the Defendant. It must not be considered by you in any
9 manner whatsoever. A defendant has the constitutional right
10 to remain silent and the assertion of this right must not be
11 considered by you in your deliberations.

12 I repeat under your -- your oath, you are to draw no
13 conclusion whatsoever from the fact that the Defendant in
14 this case did not testify. The fact that this defendant did
15 not testify should not even be discussed in the jury room.
16 The burden of proof, as I have stated to you is on the State.
17 The Defendant is not required to prove his innocence. The
18 burden of proof remains on the State to prove guilt beyond a
19 reasonable doubt.

20 Ladies and gentlemen, you are not supporters or
21 promoters for the state of South Carolina or this Defendant.
22 You do not serve as jurors to reward friends or punish
23 enemies. You have been selected by both the State and this
24 Defendant as fair and impartial jurors. It is your duty then
25 to determine the facts in this case giving to this defendant

1 the benefit of every reasonable doubt. Then to the facts
2 which you determine, you take and apply the law which has
3 been given to you and you thus arrive at a verdict. And then
4 when you have accomplished this and written your verdict, you
5 will have satisfied your oath as jurors and you will have
6 discharged your duty to the State, to Mr. Hamilton, and to
7 the court. Your verdict must be unanimous, meaning all 12 of
8 you must agree.

9 Mr. Foreman, when the jury agrees on the verdict, you
10 will indicate by checking the line next to the verdict and
11 signing your name as foreperson. You will then knock on the
12 jury room door and inform the bailiff that you have reached a
13 verdict. At that time, we will receive you back into the
14 courtroom. I will now ask that you return to your jury room
15 but do not yet begin deliberations until you are told to
16 do so by a clerk or a bailiff. There are some additional
17 matters which must be discussed with these attorneys before
18 you begin. Thank you very much.

19 (Jury exits room)

20 THE COURT: Thank you. Any exceptions or objections --
21 additional exceptions or objections or renewed objections to
22 the charges read from the State?

23 MS. FRIERSON: None other than the ones previously
24 submitted.

25 THE COURT: Okay. Renewed. All right. And Ms. Ford?

1 MS. FORD: No other objections, Your Honor.

2 THE COURT: Okay. All right. Here's the verdict form.
3 I'm going to ask that the attorneys review it and the
4 evidence that was admitted before it sent back to the jury.

5 THE COURT: All right. All set? Okay. Who's going to
6 take the evidence and the verdict form back to the jury?
7 Will you do it, sir?

8 THE BAILIFF: Yes, ma'am.

9 THE COURT: Excellent. That's it. (Inaudible) form
10 and we can let the motion begin.

11 THE BAILIFF: Thank you, ma'am.

12 THE COURT: Thank you. All right, and attorneys as
13 long as, you know, we have some way to reach you, cell number
14 or whatever, Madeline, then you're free to go about your day.

15 (OFF THE RECORD)

16 THE COURT: It's been marked Court's 5 and it reads,
17 "Can we receive confirmation on whether the rectal swabs were
18 in and around or just one end and" -- "one end and one
19 around, the surrounding anal area." State Exhibit 5.

20 So I can replay the -- all the testimony from the SANE
21 nurse. I think that's the exhibit was introduced, though,
22 from my recollection?

23 MS. FRIERSON: Correct. The SANE nurse, Christie
24 Harley, and I believe the testimony, I would just say to
25 replay it said that they were -- they were both in and out.

1 THE COURT: Yeah, I mean, I'll just -- I can't really
2 answer, but yeah, I mean, I'll have to just offer to replay
3 the portion of the -- or not the -- the testimony from that
4 witness in its entirety that discussed. State Exhibit 5,
5 since that's what they wrote on their note. Of course the
6 direct and the cross, and any other following direct and
7 cross? Any objection to that?

8 MS. FORD: No, Your Honor.

9 THE COURT: Okay.

10 MS. FRIERSON: None from the State.

11 THE COURT: So, just bring them in if you will.

12 THE BAILIFF: Yes, Your Honor.

13 THE COURT: And we'll be getting that queued up.

14 (Jury enters room)

15 THE COURT: Welcome back. We got your notes asking
16 about swabs. You all can have a seat. And referencing
17 State's Exhibit 5, what I can do is, play back the testimony
18 of the witness that referenced the subject matter of your
19 question. I'll play back the entirety. The first testimony
20 we can do that. It's about 15 minutes, so we'll prepare to
21 do that. And so we'll do that at this time. The witness was
22 Christie Harley, registered nurse. I believe she was the
23 SANE nurse. So we'll have our court reporter staff do that.

24 (Video plays)

25 CHRISTIE HARLEY,

1 being first duly sworn testifies as follows:

2 THE CLERK: Please be seated.

3 Please state your full name, spelling your last name
4 last name on the mic.

5 THE WITNESS: Christie Harley, H-A-R-L-E-Y.

6 DIRECT EXAMINATION

7 BY MS. FRIERSON:

8 Q. Ms. Harley, could you please tell the jury where
9 you're currently employed?

10 A. I work as a travel nurse with AHS NurseStat Travel
11 Company.

12 Q. And how long have you been working there?

13 A. I've worked with AHS for two years.

14 Q. Do you -- please tell the jury a little bit about
15 your professional education background?

16 A. Yeah. I have an associate's degree in nursing.
17 I've been a nurse for 28 years. I have worked in Med-surg,
18 PACU, Pre-op (ph). I was a SANE nurse and pediatrics psych
19 nurse.

20 A. You mentioned SANE nurse, did you previously work
21 here at (inaudible) South Carolina?

22 A. I did.

23 Q. And while you were here (inaudible)?

24 A. I did.

25 Q. Can you explain to the jury what a SANE nurse is.

1 A. A SANE nurse is an experienced nurse who's trained
2 in parenting for sexual assault patients.

3 Q. And was that -- while you were a SANE nurse
4 (inaudible)?

5 A. A sexual assault or DUI.

6 Q. And is that in addition to your regular
7 (inaudible) exam?

8 A. Yes.

9 Q. (Inaudible).

10 A. I did.

11 Q. And tell the jury what the duties of a SANE nurse
12 is.

13 A. So SANE nursing is treating a hearing for sexual
14 assault patients by collecting a history of the events, doing
15 a (inaudible) assessment, collecting evidence, taking
16 photographs, treating medically with medications, collecting
17 labs, following up, making sure they have care.

18 Q. And is there any specialized training that is
19 required to become a SANE nurse?

20 A. Yes, so I had 40 hours of classroom training. I
21 also had to complete a clinical training where we did --
22 there was demonstrations and Hands-on performing of vaginal
23 examinations. And then I spent quite a while precepting a
24 trained SANE nurse where I (inaudible) and then under
25 supervision completed -- completed exams.

1 Q. Is there any (inaudible) or peer review?

2 A. Yes, we met once a month and discussed all the
3 cases that we had completed for the month, whatever,
4 critiqued our technique and whatever, even better ways to do
5 things and had education continuously for any new procedures
6 and protocols.

7 Q. You mentioned the term (inaudible). Explain
8 exactly what you mean by that.

9 A. So it is following a trained SANE nurse who has
10 already been working as a SANE and trained in that area, who
11 has a lot of experience, who can show the techniques and
12 protocols for collecting evidence appropriately. They show
13 you how to take photographs using the camera that they
14 provide, and how to appropriately maintain the chain of
15 custody for the kit that we collect.

16 Q. Preceptor should (inaudible)?

17 A. Absolutely.

18 Q. How long were you a SANE nurse?

19 A. I was SANE nurse for two years.

20 Q. Could you please tell the jury a little bit about
21 the -- someone who is in for sexual assault exam, (inaudible)
22 SANE nurse, what is -- what is the purpose of that?

23 A. It is to assess them first and foremost to make
24 sure they're medically safe, and you're assessing for any
25 injuries that may need medical attention. Also collecting

1 evidence and then (inaudible) treating them appropriately.

2 Q. Tell me from begin for a SANE exam, is it done in
3 the ER?

4 A. It is done in the ER.

5 Q. And approximately how long (inaudible) that.

6 A. Usually at least three to four hours.

7 Q. Did you perform any SANE exam on Minor [REDACTED]?

8 A. I did.

9 Q. When was that?

10 A. April the 20th of 2018.

11 Q. Do you recall her demeanor when she presented to
12 you?

13 A. Yeah, she wasn't overly disheveled. She was quiet
14 but cooperative.

15 Q. And did you take a history -- without telling us
16 what it is -- did you take a history of the assault in this
17 case?

18 A. I did.

19 Q. And what is the -- what is your medical
20 (inaudible) history of the assault?

21 A. So that I know what -- where to look for any
22 possible injuries where I -- where I know to focus in on
23 collection of evidence.

24 Q. Do you need to know what parts of the body touched
25 another?

1 A. I do.

2 Q. Do you need to know if there was an exchange of
3 bodily fluids?

4 A. I do.

5 Q. And is that information (inaudible)?

6 A. Yes.

7 Q. After those things, the history of assault of
8 **Minor**, did she tell you that she had (inaudible)?

9 A. Yes, she did.

10 Q. And what was that?

11 A. That there was a penis that penetrated her vagina
12 and blood sheets were kissed.

13 Q. And why is that information (inaudible) person to
14 you?

15 A. Because for our protocol we need to then treat for
16 sexual transmitted disease. And for prevention of pregnancy.

17 Q. Do you need to look for any injuries (inaudible)?

18 A. I do also look for injuries and any body fluid
19 that may have been left on the body.

20 Q. And you said (inaudible)?

21 A. Yes.

22 Q. (Inaudible) during exam?

23 A. Yes.

24 Q. And did you go -- conduct any (inaudible) exam?

25 A. I did.

1 Q. And did you also conduct a genital exam?

2 A. I did.

3 Q. And when you do a genital exam, what is your
4 (inaudible)?

5 A. Genital exam just consist of looking around the
6 genitalia, looking for any kind of injuries, any of
7 (inaudible) abnormalities, and noting them, collecting swabs
8 and photographs.

9 Q. (Inaudible) swabs. What was a swab?

10 A. A swab is just a tool that we use to, like a Q-tip
11 like instrument that we use to collect DNA.

12 Q. Actually (inaudible). Can you show the jury
13 (inaudible) swab.

14 A. So (inaudible) swab going to go like across teeth,
15 underneath the lips, kind of around the whole mouth area.

16 Q. And -- the Q-tip you said?

17 A. Yeah.

18 Q. And where else do you swab?

19 A. So the genitalia, is also swabs outer and inner.
20 So you just go from top to bottom, and then inside top to
21 bottom, and then around the behind area.

22 Q. So you just swab rectum?

23 A. Yes, we do swab the rectum as well. And that's
24 just outside of the rectal area ,and then like inside the
25 rectal area -- in -- inside the rectal area?

1 Q. (Inaudible).

2 A. Uh-uh.

3 Q. Earlier you mentioned collecting saliva swab.

4 A. Yes.

5 Q. Where on the victim did you collect saliva swabs?

6 A. On the butt cheeks.

7 Q. And what do you do when collect (inaudible)?

8 A. Once the evidence is collected, the swabs are
9 placed in a log to dryer so that they can dry, and then they
10 are labeled and placed in an envelope and sealed.

11 Q. I'd like to show you what has been premarked as
12 State's Exhibit 4, 5 and 6. If you could take a look at this
13 and let them know -- do you recognize them?

14 A. I do.

15 Q. What are they?

16 A. These -- these are the swabs that were collected
17 from the buccal area, the rectal area, and the buttocks where
18 there was suspected saliva?

19 Q. And they were (inaudible)?

20 A. From **Minor** ?

21 Q. (Inaudible).

22 A. Yes.

23 Q. How did you know that?

24 A. My initials are on there. Is my writing.

25 Q. And are those same swab (inaudible)?

1 A. Yes.

2 Q. And after you sealed these items what did you do?

3 A. Once items are sealed and they're placed into the
4 box, that is the actual kit and then that is also sealed; and
5 I signed, dated and time the back of the kit and called and
6 (inaudible) safety.

7 Q. And when you called to see code safety, what do
8 they do?

9 A. They send an officer to collect a kit who then
10 signs with me that they're receiving.

11 Q. And are these standardized kit?

12 A. They're standardized kits.

13 Q. (Inaudible).

14 A. We don't.

15 Q. And are they the kit that had the same
16 (inaudible)?

17 A. Yes.

18 Q. And they -- did they (inaudible)?

19 A. Yes.

20 Q. So depending on the investigation you (inaudible)?

21 A. Yeah.

22 Q. Do you know who you gave these to (inaudible)?

23 A. It was Lauren Santos.

24 Q. Did you give Minor any medication?

25 A. Yes, she was treated with antibiotics, plan B, and

1 some Zofran, in case any of the medications caused
2 (inaudible).

3 MS. FRIERSON: Okay. I don't have any further
4 questions. Please answer any the Defense has.

5 CROSS-EXAMINATION

6 BY MS. FORD:

7 Q. When Minor (inaudible) reveal to you that the
8 alleged assault that occurred two hours prior, is that
9 correct?

10 A. I'm not sure of the timing.

11 Q. (Inaudible) came in at 2:51?

12 A. Yes.

13 Q. And are you (inaudible).

14 A. Okay.

15 Q. That less than two hours?

16 A. Yes.

17 Q. And part of the (inaudible) a possible DNA?

18 A. Yes.

19 Q. And DNA form doesn't have to be (inaudible),
20 Correct?

21 A. Right.

22 Q. Because even if you don't see (inaudible), you
23 still take the swab to look for possible (inaudible)?

24 A. Yes.

25 Q. So later the DNA (inaudible)?

1 A. Yes.

2 Q. And you told us (inaudible) question to try to
3 direct you to what she working?

4 Q. Correct.

5 A. One last question to look into whether DNA likely
6 to (inaudible), correct?

7 A. Yes.

8 Q. One thing you asked -- or you tend to ask
9 (inaudible) you actually partnered on your report, so you
10 always asked (inaudible)?

11 A. Yes.

12 Q. So in this case you did ask Minor to
13 (inaudible)?

14 A. Yes.

15 Q. And she indicated, no, correct?

16 A. Yes.

17 Q. You asked her if she had -- specifically you asked
18 if she is medicated?

19 A. Yes.

20 Q. Right? And she said, no?

21 A. Yes.

22 Q. You asked if she wiped herself?

23 A. Yes.

24 Q. And she said, no?

25 A. Yes.

1 Q. You asked if she had (inaudible) tampons?

2 A. Yes.

3 Q. And she said, no?

4 A. Yes.

5 Q. And the reason you ask this question is because
6 doing things like that could possibly take away, correct?

7 A. Correct.

8 Q. Because if someone breaks themselves then they
9 could potentially be breaking up (inaudible)?

10 A. Correct.

11 Q. In this case you asked **Minor** this question, she
12 said that she (inaudible)?

13 A. Right.

14 Q. She also mentioned that the (inaudible), correct?

15 A. Correct.

16 Q. And you asked that question because (inaudible),
17 right?

18 Q. She did indicate vaginal penetration, correct?

19 A. Correct.

20 Q. By the penis?

21 A. Yes.

22 Q. Which she do not indicate (inaudible), correct?

23 A. Correct.

24 Q. You specifically asked -- penis penetrated her
25 anus?

1 A. Yes.

2 Q. And you asked if the (inaudible) penetrated her
3 anus?

4 A. Yes.

5 Q. So there was never (inaudible)?

6 A. Right.

7 Q. You also -- you told us a little about the part of
8 your job is you look for possible (inaudible), correct?

9 A. Correct.

10 Q. But you did do that in **Minor** (inaudible)?

11 A. Yes.

12 Q. And you looked at (inaudible), correct?

13 A. Correct.

14 Q. And you found no injuries from (inaudible)?

15 A. Correct.

16 Q. No bleeding?

17 A. No bleeding.

18 Q. No discharge?

19 A. No.

20 Q. (inaudible) were normal?

21 A. Appeared to be normal.

22 Q. Did not see any bruising in the area?

23 A. I didn't see any bruising.

24 Q. And during your questions about the injury, she
25 didn't mention passing out (inaudible)?

1 A. I don't recall.

2 Q. And she didn't mention that it happened two times,
3 correct?

4 A. I don't recall that either.

5 Q. When someone comes in to see you, they are sent to
6 you because they made allegations, correct?

7 A. Correct.

8 Q. And you had been (inaudible), correct?

9 A. Yes.

10 MS. FORD: Beg the Court's indulgence?

11 THE COURT: Uh-uh.

12 MS. FORD: Okay. I have no further question.

13 THE COURT: Okay. Any redirect?

14 MS. FRIERSON: No, Your Honor.

15 THE COURT: Okay. All right. Ma'am, thank you very
16 much. You are free to leave.

17 (Video stops)

18 THE COURT: All right. Ladies and gentlemen, thank you
19 very much. We've replayed that and we'll release you back
20 into your jury room where you can resume your deliberations.

21 (Jury exits room).

22 THE COURT: Any objections to the way the Court handled
23 the note from the State?

24 MS. FRIERSON: None from the State, Your Honor.

25 THE COURT: Any from the Defense?

1 MS. FORD: No, Your Honor.

2 THE COURT: All right. Well, we'll be at easy, again,
3 and call you back (inaudible) we need you. Thank you.

4 THE COURT: And it's been marked as Court's Exhibit 6.
5 It says, "We would like to review DNA analyst SLED, Marianne
6 Bowen." Obviously, a spelling mistake, (inaudible) Boehm, I
7 guess, "and Veronica Herrera with SLED." So I guess they
8 want to replay all of that as well. So we'll be queuing that
9 up. And there was a request from one juror to be allowed to
10 call home real quick, obviously to make some arrangements.
11 So I said that would be fine if they want to do that real
12 quick before they come back in because that -- this obviously
13 may be time consuming, so it might be enough.

14 THE BAILIFF: Have another note.

15 THE COURT: All right. Yeah, I think that's what we're
16 doing anyway, so. All right. This will be marked Court's 7.
17 This group would like to have a 10-minute break before the
18 rehearing of testimony to call family and smoke break. So
19 you can tell them to take 10-minute break (inaudible). We'll
20 mark that as Court's 7. All right. So we'll just all be at
21 ease for 10 minutes if they want (inaudible).

22 (Off the record)

23 THE COURT: Okay. You can bring them in. Thank you.

24 (Jury enters room)

25 THE BAILIFF: All jurors present, Your Honor.

1 THE COURT: Okay, thanks. You all can have a seat. We
2 got your note that says, "We would like to review DNA analyst
3 SLED Marianne Boehm and Verona Herrera of SLED." So we've
4 queued up those testimony parts as well and we'll replay
5 them. Approximate length will be about an hour, 10 to an
6 hour, 11 minutes. All right. Okay. Here we go.

7 (Video plays)

8 THE COURT: All right. Okay. Here we go.

9 MS. FRIERSON: Yes, Your Honor. Okay. State calls for
10 Verona Herrera.

11 VERONA HERRERA,

12 being first duly sworn testifies as follows:

13 THE COURT: All right.

14 THE CLERK: Please be seated. Please state your full
15 name, spelling your last name into the microphone.

16 THE WITNESS: Verona Herrera, H-E-R-R-E-A.

17 DIRECT EXAMINATION

18 BY MS. FRIERSON:

19 Q. Mr. Herrera, can you please tell the jury you're
20 currently employed?

21 A. I work in South -- South Carolina Department of
22 Health and Environmental Control.

23 Q. And how long have you been there?

24 A. Approximately four years.

25 Q. Could you tell the jury a little bit about your

1 educational background?

2 A. I have an Associate's of science degree from Tri
3 County Technical College and Associates of Public Works,
4 certificate in forensics from (inaudible) Technical College,
5 and a Bachelor's of Science in Criminal Justice Forensics
6 from Liberty University.

7 Q. Have you ever been employed at South Carolina Law
8 Enforcement commonly known as SLED?

9 Q. I have. I was employed there for approximately 12
10 and a half years.

11 A. And what were your jobs while you were there?

12 Q. I was in the evidence processing and serology
13 department for the DNA section.

14 A. Could you tell the jury what a serology does?

15 Q. So -- so evidence processing is a part of serology
16 as it evolved. So evidence processing is taking larger
17 pieces of evidence from a crime scene, looking for body
18 fluids or, quotes, "considered touch DNA" or -- or contact
19 DNA. And then serology is identifying the body fluid to the
20 test in the lab (inaudible) to -- to identify that body
21 fluid.

22 Q. Is -- is there a thing called forensic serology?

23 A. Forensic serology is just serology in a forensic
24 setting to do with criminal justice.

25 Q. And what body fluids contain DNA?

1 A. Most body fluids contain DNA, even if it is the
2 skin cells that would be shed from the skin that lines the
3 ducks or lines your mouth or glare.

4 Q. Have you previously testified as an expert
5 serology?

6 A. I have, yes.

7 Q. Approximately how many times?

8 A. I think it is more than 20.

9 Q. And in multiple courts?

10 A. Yes, ma'am.

11 MS. FRIERSON: Your Honor, at this time the State will
12 offer Mr. Herrera as expert in forensic serology.

13 THE COURT: Any objection?

14 MS. FORD: No, Your Honor.

15 THE COURT: All right. Without objection, (inaudible)
16 expert. (inaudible) stated earlier, (inaudible) folks can't
17 give opinion from the witness stand and an exception is made
18 when they are deemed an expert in some field of science. Ms.
19 Herrera is deemed an expert in the field of forensic serology
20 should be able to give you opinion in that area and you don't
21 have to accept her opinions, it's just information for you to
22 use in way you see fit. Go ahead.

23 MS. FRIERSON: Thank you, Your Honor.

24 Q. As it relates to this case, did you receive any
25 items of evidence in this case?

1 A. I did, yes ma'am.

2 Q. When did you receive them?

3 A. I don't have the chain of custody with me to have
4 a copy of that. I'm sorry.

5 MS. FRIERSON: Court's indulgence, Your Honor.

6 THE COURT: Uh-uh.

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

8 THE COURT: Of course. Yes.

9 BY MS. FRIERSON:

10 Q. Mr. Herrera, could you go back and tell me if you
11 know what that is?

12 A. Yes, ma'am.

13 Q. This is what is referred to us as certified chain
14 of custody. It is a record of every piece of evidence that
15 came into the laboratory who had it at what time and when
16 they turned it back into the next either department or
17 storage location.

18 Q. And if you take a minute to review that, and see
19 if it refresh your recollection on when and who you received
20 evidence in this case.

21 A. So, yes, ma'am. On July 17, 2018, I received the
22 sexual assault collection kit from Charlotte Pit (ph), one of
23 the evidence (inaudible) or evidence collection technicians.

24 Q. Okay. What is -- what is an evidence collection
25 technician collect?

1 A. When the evidence is brought to the laboratory
2 from the agencies around the state, it is -- the best of my
3 knowledge at this time, it was put into lockers and then that
4 evidence is collected out of that reported into the system as
5 a final piece of evidence and then put -- placed on barcodes
6 and stickers on those so that they can be traffic laboratory.

7 Q. And you (inaudible) evidence facts handle the
8 evidence as far as any kind of analysis or testing?

9 A. They do not, no.

10 Q. Is it fair to -- to kind of describe it more as a
11 holder or a courier?

12 A. That is correct, yes.

13 Q. Now, did you receive CMC, is it sealed?

14 A. When it comes into the laboratory, the sexual
15 assault collection case, the -- the envelopes inside of it
16 are sealed inside of the box. Those evidence technicians
17 would've opened that box. They're sealed envelopes on the
18 inside; those envelopes in any other collection or collected
19 evidence is placed into a cell pouch and then that box is
20 destroyed. So that's would -- it would be in sealed
21 condition, but not the box that I received.

22 A. It a -- it is a box mechanism for transport.

23 Q. It is only a mechanism for transport and
24 containment.

25 A. But if I understand it correctly, if anything, it

1 was in the box was separately admitted?

2 A. That is correct, yes.

3 Q. And if -- if a box is broken down and you get
4 assigned to do an analysis and you receive those -- those
5 other minis, (inaudible) evidence and they are not sealed,
6 what do you do?

7 A. I would've stopped testing. We -- I would've
8 contacted my supervisor. We would've contacted the agency
9 that submitted the evidence and I would've made notes to all
10 those conversations in my documentation.

11 Q. And was the (inaudible) that you received the --
12 the interior (inaudible) was it sealed?

13 A. It was, yes.

14 Q. So were you the first one to open the individual
15 element that was inside?

16 A. I was, yes.

17 Q. And once you -- you open -- once you received
18 those, do you begin by doing anything in particular in
19 purpose of identifying that -- the individual pieces?

20 A. First we read what's called the sexual assault
21 collection kit report. So it basically is the nurse's notes
22 on what they do, what evidence was collected, what the -- the
23 report from the victim was what occurred. Because that
24 informs the type of testing that will need to be done on each
25 type of swabs or cuttings or whatever else is contained

1 within that kit. That way we can make decisions on the best
2 testing for that evidence and that's how we can proceed to
3 get forward.

4 MS. FRIERSON: Your Honor, May I approach?

5 THE COURT: Uh-uh.

6 Q. I'd like to show you what has been premarked
7 (inaudible) the State's Exhibit 4, 5 and 6. If you could
8 take a look at those and tell me if you recognize them.

9 A. Yes ma'am, I do.

10 Q. What are they?

11 A. These are envelopes that were contained within the
12 kit. This was the seal that I broke with the -- the sexual
13 assault collection nurse placed on them. It has initials on
14 that as well. My initials and the date that I opened it are
15 here and this is the unique identifier assigned to each piece
16 of evidence within the kit. So item 1.1, item 1 was the CSC
17 kit. Point one was the four piece -- four piece of evidence
18 in that kit. Point five and 0.6 far right. And these are --
19 State's Exhibit 6 is a suspected saliva swab. State's
20 Exhibit 4 is the known DNA standard from the victim and 1.3,
21 State's Exhibit 5 is the rifle swabs

22 MS. FRIERSON: At this time the State seek to enter
23 State's 4, 5 and 6.

24 THE COURT: Any objection to 4, 5, 6?

25 MS. FORD: Yes, Your Honor. I object based on chain.

1 THE COURT: Okay. Ladies and gentlemen of the jury,
2 I'm going to excuse for one minute. A couple things that I
3 need to discuss with the attorneys outside of your presence.

4 THE COURT: All right, thank you all so much. All
5 right, have a seat. State proceed. State 4, 5 and 6 will be
6 admitted.

7 BY MS. FRIERSON:

8 Q. Mr. Herrera, (inaudible) you provide -- or you put
9 labels on each piece of evidence and (inaudible)?

10 A. That is correct.

11 Q. And then what is your next step?

12 A. I would test the different swabs collected based
13 on the incident report or the SANE notes for whatever the
14 body fluid the nurse thought was present and the story made
15 for the most sense.

16 Q. And the -- if I understanding you correctly,
17 that's done by referring to --

18 A. That is correct.

19 Q. Understanding that you're a scientist, how would
20 you, in simplest terms, explain how you actually test the
21 swabs?

22 A. So a small portion of the swab is cut and placed
23 into a small tube. It looks like a little plastic test tube.
24 Basically with (inaudible). Different chemicals are placed
25 on that roll cutting of the swab based on which blood glue

1 we're looking for. If it's even -- it's one set of
2 chemicals. If it is slotted, it's another set of chemicals.
3 Those are allowed to soak for a specific amount of time.
4 Then they're centrifuge, which just spins down some of the
5 cells. And then we would test those on card tests. So it is
6 read similar to a pregnancy test. The number of lines that
7 show up are a positive or kind of like a Covid test today.

8 If on this -- so the component of semen, that component
9 for testing for. If three lines show up as a positive test
10 for the -- for the presence of the chemical P30. If it is
11 saliva, there would be two lines that would show up if it is
12 a positive test. The only one shot line showed up, it would
13 be a negative test.

14 For semen, we would also take a small portion of the
15 cellular level of a layer of that slow down sample, and that
16 would be placed on a slide stained and visually scanned under
17 a microscope to see if there were any of the sperm cells,
18 which is the cellular portion of semen to determine whether
19 that was present or not.

20 Q. So again, (inaudible) non-scientist, sperm and
21 semen are different?

22 A. Correct. So, well, sperm is contained semen.
23 Semen has two different parts. It has a liquid part and it's
24 a cellular part. The cellular part is the sperm (inaudible)
25 sperm cells. The liquid part, in high doses, there's a -- a

1 protein in there called P30. And that is, it is -- at the
2 level we test for would only be in the portionment semen, the
3 blood of man with prostate cancer and breast milk -- breast
4 milk, excuse me. So guys want the reason that we test for
5 that chemical, but then the liquid portion.

6 Q. And so kind of breaking us down, up top would be
7 semen. The two parts, my understanding (inaudible) cellular
8 and liquid?

9 A. The dope component, the -- the chemical that we
10 test for, that's in the component, the liquid component, yes.

11 Q. The liquid has P30?

12 A. Yes. Yes.

13 Q. And the cellular has a sperm.

14 A. It is the sperm cell, yes.

15 Q. Now if there is no P30 (inaudible) allow further
16 testing?

17 A. It depends on the situation. In some samples
18 there may also be a lot present that we would go ahead and --
19 and send that sample forward. But we wouldn't test -- double
20 test. We would want to consume the sample, but there's too
21 much testing. Also in children, those are automatically
22 forwarded for further testing because there could be skin
23 cells or other types of DNA is there in an area that should
24 not be in a child.

25 Q. And so your testing determines whether or not

1 there is the presence of liquid?

2 A. That's correct.

3 Q. But does your analysis tell who or when
4 (inaudible) that?

5 A. It does not, no.

6 Q. So when you get your results are they immediately
7 forwarded to DNA? What's the next step?

8 A. They are forwarded to DNA. They're not always
9 immediately worked. Sometimes it can take weeks or months
10 for that case to come up to the DNA analyst. Their back --
11 backlog was much larger than ours was. But it is stored in a
12 dry condition in the storage locker for all the evidence for
13 the agency.

14 Q. So during the time waiting to be tested by DNA,
15 it's not just a sitting on desk?

16 A. It is not, no. It is in a seal condition. Each
17 individual tube that we would place new cuttings from the
18 swabs that were being forwarded for early testing, would be
19 labeled and those would be sealed in a little heat, like a
20 little plastic envelope that's heat sealed. Then that would
21 be placed in with the original swabs. And then that
22 envelope, again, is heat sealed. So it is doubled -- those
23 samples that they would test are double sealed, their initial
24 and dated every time they're sealed.

25 Q. And -- you said they're not on your desk. Do they

1 actually go back and get involved in the evidence?

2 A. They do, yes, they are -- they are tracked just
3 like every other piece of evidence in the -- in the -- any
4 case in SLED.

5 Q. Does -- you talked a little bit about -- so do --
6 you don't want to assume (inaudible)?

7 A. That is correct.

8 Q. Can you explain the jury what you mean by that?

9 A. If -- if (inaudible) takes up so much of a -- a
10 basic cotton swab, there would be nothing left over to test
11 for the DNA profile. It is more important in most cases to
12 know that what DNA is there than to actually identify
13 multiple samples of saliva and blood, or saliva and semen or
14 whatever. So rather than consume too much of that sample so
15 that there's none left for further testing and the testing
16 that needs to be done, then we would opt to just send it to
17 DNA if that was the case.

18 Q. And does your preparation of cutting of these
19 Q-tip swab, did that mess with or affects the ability outside
20 of consumption of the (inaudible) does that affect the
21 ability or like does that mess with the DNA, change the DNA
22 if in fact there is DNA there?

23 A. No, it does not. Basically it is just cutting the
24 fibers of the cotton swab, putting that in a tube and then
25 sealing it up. So it in no way inhibit the DNA is there.

1 Q. And after your analysis, do you complete a report?

2 A. I do, yes.

3 Q. And do you have a report with you?

4 A. I do, yes, ma'am.

5 Q. So I'd like to go through the -- the items that
6 you tested.

7 A. Yes, ma'am.

8 Q. Starting with the first one. So (inaudible)
9 identifying numbers?

10 A. Correct, yes ma'am.

11 Q. So what was your first number?

12 A. The first one is item 1.1, which is vaginal swab.
13 Do you want me to just go to the items or?

14 Q. Well, let's -- we can go, I mean, makes more sense
15 to say what the results from that are.

16 A. Okay. The examinations for components of semen
17 P30 and spermatozoa were negative. No semen was identified
18 and the item was forwarded to the DNA section.

19 Q. So then in this case we have the negative semen
20 spermatozoa. Why would (inaudible) forward it to DNA?

21 A. Because in this case the trial -- the victim was
22 underage. So we forward all of these new samples.

23 Q. What was the next evidence?

24 A. That is item 1.1, which the oral swab. The
25 examination for components of semen P30 and spermatozoa were

1 negative. No semen was identified and the item was forwarded
2 to the DNA section.

3 Q. And -- you said 1.1, (inaudible).

4 A. I'm sorry. The oral swab was 1.1.2, I apologize.

5 Q. And also you (inaudible) the DNA?

6 A. Yes ma'am.

7 Q. And -- because why?

8 A. Because of the age of the victim.

9 Q. All right, item 1.3?

10 A. 1.3 is the rectal swabs. The examination for
11 components of semen 3 -- P30 and spermatozoa were positive.
12 Semen was identified and the item was forwarded DNA to
13 section.

14 Q. And unlike the others (inaudible) here, is -- is
15 that why it was forwarded DNA?

16 A. Yes, ma'am.

17 Q. (Inaudible) 1.4?

18 A. 1.4 is suspected saliva swabs of bilateral
19 buttocks. Presumptive testing for saliva was positive and
20 the items forwarded to DNA section.

21 Q. (Inaudible).

22 A. Yes. And it would've been forwarded -- had been
23 forwarded to either way.

24 Q. And item 1.5?

25 S. 1.5 is the victim buccal swab and that was just

1 cut and sent the DA section for testing.

2 Q. What would they need the victim's swab for?

3 A. If there are two people on the swab, they need the
4 ability to be able to tell what is the victim's DNA to
5 subtract how what may be suspect DNA. You expect to find a
6 victim's DNA on any swab that comes off the victim. So you
7 need that profile developed to be able to tell (inaudible) to
8 her DNA profile.

9 Q. Thank you. Now, at any time in your career with
10 SLED while testing, did you ever have the Defendant's buccal
11 swab?

12 Q. Not to my knowledge. In this case I did not. If
13 I had it at some other times at SLED, I'm not aware of it.

14 Q. And how do you -- are there any (inaudible) there
15 in your involve SLED for cross-examination?

16 A. There is. Gloves are changed between each sample
17 that are cut. The tables and instruments we use are -- are
18 clean with bleach and a disinfectant cleaner between each
19 sample. Victim, like a CSC kit would be totally processed.
20 The testing would be done. We would go back and we'd cut
21 what needs to go to DNA. All that would be sealed back up,
22 cleaned before the other suspect buccal swab was ever opened.
23 It would not be opened at the same time any type of victim
24 DNA or victim swabs were ever opened. It would also be done
25 as the very last item. So if we were -- because we work in

1 batches, so if I were doing five CSC kits, I would cut all of
2 those CSC kits to -- to send the DNA, then I would give back,
3 and then cut all of the suspects standards. So there would
4 never be evident at the same time. There would be likely
5 cases in between them. So it would be multiple claims
6 between each buccal swab that went with whatever case.

7 Q. And when did you perform your analysis?

8 A. The testing was performed on 7, 18 of 2018. So
9 July 18.

10 Q. July, 2018. Now after your work was done, what
11 did you do with the -- the new heat seal swabs that you
12 talked about that were -- the cutting that needed to?

13 Q. They were sealed in the tubes into a small
14 (inaudible) seal pouch. It is placed in with the CSC kit
15 envelopes and then all sealed together again. And then that
16 is forwarded for further testing.

17 MS. FRIERSON: Court's indulgence?

18 THE COURT: Uh-uh.

19 MS. FRIERSON: Your Honor, may I approach the witness.

20 THE COURT: Sure.

21 BY MS. FRIERSON:

22 Q. I would like to show you what has been pre-marked
23 as State's Exhibit 12 for identification. Can you tell me
24 what that is?

25 A. These are the microscope slides that were prepared

1 from the cellular portion of soaking the swab and extracting
2 what cells may be there. This is what we looked at under the
3 microscope, try to visualize. This is where spermatozoa
4 should be present.

5 Q. And would that been (inaudible)?

6 A. It was in that package, yes. It is considered a
7 product of our testing, so we don't actually give it a unique
8 item number. It's just like the little test tubes we used in
9 the beginning. But since this could yield DNA evidence later
10 on, they're saved just in case they're needed in the future.

11 Q. Thank you.

12 A. Sure.

13 Q. Do you have any further involvement in this case
14 after your report was generated?

15 Q. No ma'am, I did not.

16 MS. FRIERSON: Thank you. Please answer any questions
17 Defense has for you.

18 CROSS-EXAMINATION

19 BY MS. FORD:

20 Q. You were able to take the evidence (inaudible) to
21 confirm?

22 A. So the small cutting we take from the samples is
23 placed into a liquid to help remove the set of the cells from
24 that material that's been spotted up onto. Once that
25 finished is soaking, it is centrifuge down. So that, it is

1 kind of like when you centrifuge down blood, you get that --
2 that -- the red cell layer, the white cell layer, and then
3 the liquid. So we take a pipette down into that cellular
4 level at the bottom layer at the bottom, remove some of
5 those, that cellular label and put layer -- excuse me --
6 layer and put it on a slide, then stain that and -- and look
7 at it to see if we see any spermatozoa.

8 Q. Okay. And in this case you did?

9 A. In that one swab, yes.

10 Q. Okay. And if there was -- (inaudible) basically
11 just like one sperm.

12 A. I took a picture of one sperm, I don't remember
13 how many were there. I do have that, it was positive and it
14 was rare. So I -- I probably was more than one, but I would
15 take pictures -- didn't take pictures of multiples. We just
16 had to take one picture to -- to confirm that we actually saw
17 spermatozoa.

18 Q. Okay. And the solicitor, I believe she already
19 has this (inaudible) examination, does it tell you who slept
20 -- may have left the DA on someone, correct?

21 A. No, that is the job of the DNA analyst.

22 Q. And you have no -- no idea of the circumstances
23 happened when happened around DNA, correct?

24 A. Only the -- the SANE report which gives us the --
25 the victim's account of what happened. And there's usually

1 an incident report with the case. Those aren't always read,
2 but they're available should we need them.

3 MS. FORD: Thank you. Beg the Court's indulgence?

4 THE COURT: Uh-uh.

5 MS. FORD: No further questions.

6 THE COURT: Any follow up on redirect for this witness?

7 MS. FRIERSON: Nothing further from the State, Your
8 Honor.

9 THE COURT: Okay. You're freed.

10 MS. FRIERSON: So now we'll queue up the next witness.

11 THE COURT: State can call the next witness.

12 MS. FRIERSON: State calls Marianne Boehm.

13 MARIANNE BOEHM,

14 being first duly sworn testifies as follows:

15 THE CLERK: Please be seated. Please state your full
16 name, spelling your last name into the mic.

17 THE WITNESS: My name is Marianne Elizabeth Boehm,
18 B-O-E-H-M.

19 MS. FRIERSON: Thank you. May I please the Court?

20 DIRECT EXAMINATION

21 BY MS. FRIERSON:

22 Q. Ms. Boehm, could you please tell the jury where
23 you are employed?

24 A. I am employed at the South Carolina Law
25 Enforcement Division, commonly known as SLED.

1 Q. And how long have you been in SLED?

2 A. Since December, 2005. About 18 years.

3 Q. And would you describe what your position is and
4 what responsibilities you have?

5 A. Yes. I am a senior DNA analyst. I am assigned to
6 the DNA case work department where I receive evidence from
7 local law enforcement agencies, develop DNA profile from the
8 evidence and any known standards submitted in the case and
9 write a report based on my finding.

10 Q. And what kind of education background do you have?

11 A. I had a bachelor of science from James Madison
12 University. It is in Harrisonburg, Virginia. And my degree
13 is called Integrated Science and Technology and I have a
14 concentration in biotechnology.

15 Q. Have you received any additional specialized
16 screening in the area of forensic and genetics?

17 A. Yes. Upon employment at SLED I went through their
18 training program, which is about a year. I learned the
19 proper techniques and procedures. I had to take a series of
20 tests before being able to touch any kind of case work.

21 Q. And how much of your time is devoted strictly to
22 the study examination (inaudible)?

23 A. The majority of my time at SLED while I'm working
24 is to the DNA analysis. I'm also the training coordinator
25 for the department. So I'm training new hires on the power

1 procedures of DNA analysis.

2 Q. And do you believe continuing education in this
3 field?

4 A. Yes, I'm required to complete at least eight hours
5 of continuing education each year.

6 Q. Okay. Are you qualified as an expert in the field
7 of forensic serology and/or DNA analysis?

8 A. I have.

9 Q. Do you know approximately how many times?

10 A. Approximately 90 times.

11 MS. FRIERSON: Your Honor, at this time, the State will
12 offer Ms. Boehm as an expert in the field of forensic DNA
13 analysis in serology?

14 THE COURT: Any opposition, Your Honor?

15 MS. FORD: No, Your Honor.

16 THE COURT: All right, Ladies and gentlemen, once
17 again, as I told you before, normally those on the witness
18 stand can't give their opinions, but we can make exception,
19 where deemed to be an expert in some field of science. Ms.
20 Boehm will be allowed to give the opinion testimony in the
21 area of forensic DNA analysis. Once again, you don't have to
22 accept her opinion, it's just information for you to use in
23 any way that you see fit.

24 MS. FRIERSON: Thank Your Honor.

25 BY MS. FRIERSON:

1 Q. Ms. Boehm, I want to go through what the DNA
2 analysis really specific questions to write it down
3 (inaudible). What do the -- the letters DNA actually stand
4 for?

5 A. Yes. DNA is an abbreviation for Deoxyribonucleic
6 acid.

7 Q. And where is it found in the body?

8 A. It is found in the majority of the cells in our
9 body. Every cell that has a nucleus, which -- so basically
10 the exception of red blood cells has DNA and it's the same
11 throughout your body.

12 Q. And is it fair to say our DNA is kind of like a
13 genetic blueprint?

14 A. It is. It gives us a (inaudible) body what to
15 make, because dark hair color, art color, two arms, two legs,
16 things like that.

17 Q. And where do we get our DNA from?

18 A. We get our half our DNA from our biological mother
19 and the other half from our biological.

20 Q. And what do you look for in forensic DNA to
21 differentiate between individuals?

22 A. So 99 percent of our DNA is similar between
23 individuals. However, there's that less than 1 percent of
24 DNA that differs. The forensic science, we're interested in
25 the portions of DNA that differ between individuals. We test

1 23 different locations that differ between individuals and
2 that makes up a DNA profile.

3 Q. (Inaudible), I just want you to repeat that last
4 part you test 23, what was that?

5 A. Different locations within the DNA strand that
6 vary between individuals.

7 Q. And what do they make up, you said the 23
8 locations make up ---

9 A. A DNA profile.

10 Q. Now, with -- do any two people have these same
11 identical DNA?

12 A. Yes. Identical twins would have the same DNA, but
13 anyone other than that would've different DNA.

14 Q. Is there any dispute in the scientific community
15 regarding what you just testified to as far as what DNA?

16 A. No, ma'am. It's a widely accepted process.

17 Q. Now, again, you did not -- you don't have your
18 training. Could you bring it down how SLED and yourself
19 personally, what did the procedure of a DNA comes in as far
20 as testing?

21 Q. So short synopsis of what I do, we receive
22 evidence, unknown standards submitted in a case. I'll first
23 look at that item of evidence, make sure that it's properly
24 collected and sealed no tampering with. Then I will look at
25 the requests made by the law enforcement agency, whether

1 requesting body fluid or whatever kind of DNA requests
2 they're doing. Based on that request, I will perform DNA
3 analysis I kind of portion using sterile techniques into a
4 tube. And then I follow a test, kind of like a recipe, a set
5 procedure to extract that DNA, so open the DNA out of the
6 itself and then quantitative to determine how much DNA I have
7 for each sample. And then we amplify it. This is where we
8 start testing the different portions of DNA that differ
9 between individuals. And then our final machine helps us see
10 it. We run through instruments and the data on computer
11 screens so we can actually see the DNA that way.

12 Q. And do you come up with a statistical result?

13 A. So after I create the DNA profile, I will look to
14 see if it's suitable for comparison; and if it is suitable
15 for comparison and I have no standards to compare to, I will
16 perform statistics on that item.

17 Q. And what -- what is suitable for comparison?

18 A. So the DNA profile has to qualify. We have to
19 have enough information and enough quality, amount of -- of
20 information. DNA can be from one person or it can be from a
21 lot of people. So it's a mixture of five people or more we
22 can't make comparison. It's too complex for us. If it is
23 too low level, there's not enough information there. It's
24 also not suitable for comparison. But based on our protocol
25 in our study, we set that value to help us determine what's

1 suitable for comparison or not.

2 Q. So you do have limits as to the quantity that you
3 need or quality for the quantity (inaudible) in order to be
4 able to test as well as if it exceeds. Is that what I
5 understand? If there's too many mixtures?

6 A. Yeah, there's too many people contributing to the
7 profile.

8 Q. And tell -- tell us a little bit about the
9 statistical results, how that is calculated.

10 A. So currently we use a program called STRmix. It
11 calculates a likelihood ratio. So basically a likelihood
12 ratio is comparing one scenario against the opposite
13 scenario. So does this DNA profile exist because this person
14 interest contributed to the profile or is it some other
15 random unidentified individual and the likelihood will give
16 more weight to what scenario is more likely?

17 Q. And is that statistical result completely separate
18 and apart from the additional process of (inaudible)
19 extraction purification and implications?

20 A. Yes ma'am. That part is done in the lab. The
21 specific is done by us.

22 Q. And what safeguards do you use to ensure the
23 integrity of the samples within -- within your (inaudible)?

24 A. Okay, so SLED has a numerous amount safeguards to
25 ensure the integrity of the evidence. First would be the

1 chain of custody. Chain of custody -- custody starts when
2 the local law enforcement brings the item to SLED. It is
3 then logged in and given a unique lab number for the case.
4 And then each item number gets a unique item number. And
5 then this starts our internal chain of custody, which will
6 track who has the evidence when they had it and where it was
7 stored. We'll also store all evidence in a sure location
8 where there's limited access to that evidence.

9 Any time that the item is transferred, it is scanned to
10 the person or the location and we will add a new line of
11 chain of custody saying it was transferred to whatever on
12 whatever day at the time. We also have tamper evidence,
13 evidence bag. So it is like he to couch where if you open
14 it, you can't reclose it without someone noticing. You have
15 to feel it to -- to turn evidence, again. We also have many
16 controls in the laboratory to -- we make sure that our
17 chemicals are working correctly before we use them on
18 casework. We have a positive and negative control throughout
19 the process of creating a DNA profile. Positive means that
20 the DNA works as affected. Negative means that there is no
21 times of contamination or extra DNA.

22 We also have a staff database to make sure that our DNA
23 is not getting into the sample. We also have a review
24 process. So once I perform all the DNA analysis and write my
25 report, if there two sets of review, our two qualified