

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Lexington County

Honorable Walton J. McLeod, IV, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MICHAEL SCOTT VALDARIO,

APPELLANT

APPELLATE CASE NO. 2024-001170

AMENDED RECORD ON APPEAL

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1 State of South Carolina) Court of General Sessions
2 County of Lexington) Eleventh Judicial Circuit

3

4 State of South Carolina,) Transcript of Record
5)
6 vs.) 2021-GS-32-06073
7) 2021-GS-32-06074
8 Michael Scott Valdario,) 2021-GS-32-06075
9) 2021-GS-32-06076
10 _____ Defendant. _____)

11

12 July 8th-10th, 2024
13 Lexington, South Carolina

14

15 B E F O R E:

16 The Honorable Walton J. McLeod, IV, Judge; and a Jury

17

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

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21 On behalf of the State of South Carolina

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23 Anna Williams Yonge, Esquire
24 Robert T. Williams, Senior, Esquire
25 On behalf of the Defendant

26

27

28 REPORTED BY:
29 Stacy S. Johnson, RPR
30 Circuit Court Reporter

31

32

33

34

1 of the State versus Michael Valdario. I have a few
2 remarks to give you about the trial process, but before
3 I do that I'll ask the Clerk of Court to swear you in at
4 this time.

5 THE CLERK: Please stand and raise your right hand.

6 (Whereupon, the jury was duly sworn by the Clerk of
7 Court.)

8 THE CLERK: Please respond by saying I do.

9 (Jury responds.)

10 THE CLERK: Was there anybody not able to take that
11 oath?

12 Thank you.

13 THE COURT: All right. Ladies and gentlemen, before
14 we begin the actual trial of the case, I thought it might
15 be helpful if I explained to you basically how a trial
16 proceed. First the State will make an opening statement.
17 An opening statement is not evidence. It's simply an
18 outline to help you understand what that party expects
19 the evidence will show. The defendant may, if he wishes,
20 present an opening statement, but does not have to for
21 reasons I will explain later.

22 Following the opening statements, you'll hear
23 testimony and evidence in the case. That will consist
24 of testimony from the State's witnesses, as well as any
25 physical exhibits, which will be introduced into evidence.

1 Following the completion of the testimony, the
2 attorneys will, again, have an opportunity to make what
3 is called closing argument or summation to you. This is
4 an opportunity for the attorneys to summarize the case
5 from their respective points of view. Now, again, these
6 arguments are not evidence.

7 Following closing arguments of the attorneys, I will
8 instruct you on the law of South Carolina as it pertains
9 to the issues that have risen in this case. When I
10 have completed my instructions to you, you will then be
11 permitted to begin your deliberations in order to reach a
12 verdict.

13 Now you are the jury in this case. Let me take a
14 moment to tell you about your duty as jurors. At the end
15 of the trial, I'll give you more detailed instructions
16 and instructions will control your deliberations. It will
17 be your duty to decide from the evidence what the facts
18 are. You and you alone are the judges of the facts. You
19 will hear the evidence, decide what the facts are and then
20 apply those facts to the law, which I will give to you.
21 This is how you will reach a verdict.

22 In doing so, you must follow the law whether you
23 agree with it or not. The evidence will consist of the
24 testimony of witnesses, documents and other things
25 received into evidence as exhibits, and any facts on

1 which the lawyers agree or which I instruct you to accept.
2 You should not take anything I may say or do during the
3 trial as indicating what I think of the evidence or what
4 your verdict should be.

5 Now this is a criminal case brought by the State of
6 South Carolina. The State charges the defendant with
7 sexual exploitation of a minor in the first degree and
8 sexual exploitation of a minor in the second degree.
9 The charges against the defendant are contained in the
10 indictments. The indictments are not evidence of
11 anything. It's simply the description of the charges
12 made by the State against the defendant.

13 The defendant has pled not guilty to the charges
14 and is presumed innocent unless and until proven guilty
15 beyond a reasonable doubt. Proof beyond a reasonable
16 doubt is proof that leaves you have firmly convinced of
17 the defendant's guilt. A defendant has the right not to
18 testify and never has to prove innocence or present any
19 evidence. The burden of proof is always upon the State
20 of South Carolina.

21 Now the following things are not evidence and you
22 must not consider them as evidence in deciding the facts
23 of this case. One, statements and arguments of the
24 attorneys; two, questions and objections of the attorneys;
25 three, any testimony that I instruct you to disregard;

1 four, allegations contained in the indictments; or five,
2 any questions or responses heard in the jury selection
3 process.

4 Evidence may be direct or circumstantial evidence.
5 Direct evidence is testimony by a witness about what that
6 witness personally saw, heard or did. Circumstantial
7 evidence is indirect evidence; that is, it is proof of
8 one or more facts from which one can find another fact.
9 You are to consider both direct and circumstantial
10 evidence. The law permits you to give equal weight.
11 It's up to you to decide how much weight to give any
12 evidence.

13 There are rules of evidence which control what be
14 received into evidence. When a lawyer asks a question
15 and offers an exhibit into evidence and a lawyer on the
16 other side thinks that it is not permitted by the rules
17 of evidence, that lawyer may object. If I overrule the
18 objection, the question may be answered or the exhibit
19 may be received. If I sustain the objection, the question
20 cannot be answered or the exhibit cannot be received.
21 Whenever I sustain an objection to a question or deny a
22 motion to admit an exhibit into evidence, you must ignore
23 the question or the existence of the exhibit and you must
24 not guess what the answer would have been or what the
25 exhibit would have shown.

1 Sometimes it may be necessary for me to request that
2 you leave the courtroom while I discuss the attorneys'
3 legal questions that come up during trial. If this
4 occurs, you should not speculate about our discussions or
5 the reason that you were asked to leave the room. This
6 is simply a procedure that the law requires when certain
7 legal issues arise. There also may be occasions where I
8 ask the attorneys to approach the bench so I can discuss
9 a legal issue with them in private. I will do this as
10 often as possible so that you will not be required to
11 leave the courtroom more than is absolutely necessary.
12 Again, if I ask the attorneys to step up to the bench or
13 I ask you to leave the courtroom, please don't think that
14 anybody is trying to hide anything from you or keep any
15 evidence from you. This is simply a procedure used by all
16 lawyers and by all courts to determine and decide legal
17 issues.

18 Now in deciding the facts of the case, you may have
19 to decide which witnesses to believe and which witnesses
20 not to believe. You may believe everything a witness
21 says or only part or none of it. In deciding what to
22 believe, you may consider a number of factors, including
23 the following. The witness's ability to see, hear or know
24 the things testified to, the quality of the witness's
25 memory, the witness's manner while testifying, whether

1 the witness has an interest in the outcome of the case
2 or any motive bias or prejudice, whether the witness was
3 contradicted by anything the witness said or wrote before
4 the trial or by other evidence or how reasonable was the
5 witness's testimony when considered in light of other
6 evidence you believe.

7 Now until I advise you to begin your deliberations,
8 you must not discuss this case with anyone, including
9 your fellow jurors, friends, family members or anyone
10 involved in this case. That includes face to face
11 conversations, e-mails, text messages, any other type
12 of media that you can imagine. It's important that you
13 not communicate with anyone about this case until you are
14 told to do so by me and that won't be until the close of
15 all the evidence and I've charged you on the law of the
16 case.

17 We'll certainly take breaks during the day. I
18 expect we'll take a midmorning break. If someone needs a
19 break, you've got to raise your hand and let me know if I
20 don't see you. We'll certainly accommodate that. We'll
21 certainly take lunch and we'll try to get you out of here
22 at the hours I discussed yesterday. We recognize your
23 time is valuable and we'll be as efficient as we can while
24 this case goes on.

25 It's important that while you're serving here you do

1 not do any independent research on your own about the
2 law or the parties involved or any of the people in the
3 courtroom. As I told you yesterday, everything you need
4 to do to do your job as jurors will come from the witness
5 stand. So please remember that now, when you're on breaks
6 and when you're home this evening. After the case is
7 submitted, you must discuss it only in the jury room with
8 your fellow jurors.

9 Now the attorneys and parties have been advised not
10 to talk to you if they see you in the hall. So if you
11 happen to see some lawyers or anyone involved in this
12 case and they don't speak to you, they're not trying to
13 be rude, we're just trying to make sure that we don't have
14 any improper communications with one another while this
15 case is ongoing.

16 It's important that you keep an open mind and not
17 decide any issue in this case until all the evidence has
18 been presented, the parties have made their closing
19 arguments and I have instructed you on the law of the
20 case. It is your solemn responsibility be to determine
21 the guilt or innocence of the defendant and your verdict
22 must be based solely on the evidence that is presented to
23 you in this trial and the law as I instruct you at the
24 close of the trial.

25 I don't see anyone with any notepads or anything to

1 write on out there. If you have it, put it down. I
2 don't want anybody taking notes. I want you to keep your
3 attention focussed on the witness stand and the dialog
4 between the attorneys and witnesses.

5 So without further adieu, I'd like you to give your
6 complete and undivided attention to the attorneys as they
7 make opening statements in this case.

8 All right. Ms. Miles.

9 MS. MILES: Thank you, Your Honor. May it please
10 the Court --

11 THE COURT: Yes, ma'am.

12 MS. MILES: -- defense counsel, members of the jury.

13 Daddy. It's a word we hear out in the world every
14 day. It refers to fathers, dads, poppas. We hear kids
15 yelling it in the streets, in stores, on playgrounds, but
16 for this defendant, Michael Valdario, "daddy" is a word
17 that he used when asking his minor niece to send him nude
18 images and videos of herself.

19 Send one like the last one, you moaning for daddy.
20 I'll save them next. I'm asking, baby girl. Please for
21 your daddy.

22 That's what this man twice her age asked his
23 16-year-old niece, a girl he's known since birth, his
24 brother's child, when encourages and induces her to make
25 images and videos of herself, ask her for these images

1 and videos, and then receives them to his phone.

2 My name is Bethanie Miles and along with Nicholas
3 Pauley we represent the State of South Carolina in the
4 case against Michael Valdario for two counts of sexual
5 exploitation of a minor first degree and two counts of
6 sexual exploitation of a minor second degree.

7 Now the judge will tell you later the law and he'll
8 read it out to you and everything and if he says, you
9 know, anything different than what I say, he's the ruler
10 of the law. He will tell you exactly, you know, how it
11 reads. So make you sure you definitely listen to that.

12 But an overview of what a first degree charge for
13 sexual exploitation is and how it differs from a second
14 degree. It's when a person uses, induces, coerces,
15 encourages a minor to engage in sexual activity or appear
16 in a state of sexual explicit nudity for the purpose of
17 producing material that then shows a visual representation
18 of that activity. So essentially when a person asks a
19 minor to take images or videos of them self nude or
20 engaging in a sexual activity, to include masturbation.

21 Sexual exploitation of minor second degree, that's
22 different. It's when a person distributes, receives,
23 solicits that same material of a minor engaged in sexual
24 activity or appearing in a state of sexually explicit
25 nudity. So when a person asks for, solicits, receives,

1 saves those images, that's what a second degree charge
2 is.

3 You'll hear from the victim in this case, the
4 defendant's niece. You'll hear about how she's known
5 her uncle her entire life. You'll hear how as she got
6 older, around fifteen and sixteen, he started appearing
7 in his life more when he came to live in the Midlands
8 for a while. You will hear how they became friends and
9 how the text messages, the phone calls, the FaceTimes,
10 the Snapchats increased, and how ultimately this man, her
11 uncle, twice her age, began asking her for nude images of
12 herself, began asking her for videos, began communicating
13 with her in a way that no uncle should.

14 You will see some screen shots that she saved of
15 those conversations when she felt like things were getting
16 out of hand, how she began documenting these messages,
17 putting them in folder called For Your Eyes Only where she
18 kept images and the conversations that she had screen shot
19 of these messages, in a secret folder that the defendant
20 helped her set up, that was password protected by the
21 defendant's birthday.

22 You will see text and Snapchats exchanges saying he
23 needed a video, that he asked her to send him something,
24 asking his niece "Do you want to please me anymore?"
25 "Then you know what you got to do, Baby Girl". Because

1 you see in most instances when a minor is referring to
2 "daddy", they are referring to their father figure, but
3 in this case the man asking to be the minor's daddy is
4 her uncle, someone that she cared for, that she trusted,
5 even loved. Someone that should have been helping to
6 raise her, to look after her, to guide her in life. But
7 instead was offending on her and exploiting her for his
8 own gain.

9 In this case "daddy" isn't a father, he's a person
10 exploiting his brother's child, and I'm confident that
11 after you see and you hear all the evidence in this case,
12 that you will decide that this "daddy" is an offender.
13 He's an offender against his niece when he exploited her
14 and committed the crimes of sexual exploitation of a minor
15 in the first degree and in the second degree.

16 Thank you. Sexual exploitation.

17 MS. YONGE: May it please the Court?

18 THE COURT: Yes, ma'am.

19 MS. YONGE: Good morning.

20 The State says that the evidence shows beyond a
21 reasonable doubt that Michael Valdario sexually exploited
22 his niece, MINOR . That's how the system is
23 supposed to work. The evidence is supposed to show
24 something beyond a reasonable doubt. The analogy that a
25 lot of lawyers use is that the evidence are like puzzle

1 pieces and you collect them and you put them together and
2 then you get a puzzle at the end of it, but what happens
3 if you take a piece of that puzzle and you change it and
4 then you take another piece and you change that and then
5 you start trying to mash them together. Well, what you
6 get is either a mess or an image of something that wasn't
7 the intent to begin with. It shows something, but that's
8 not the true picture. I will submit to you that that's
9 what happened in this case.

10 At this point I'm not gonna say any more on that
11 subject and that's because as the judge told you, you
12 don't have any evidence yet. Nothing that the State has
13 said is evidence, nothing that I say is evidence. So far
14 at this point there is no evidence in this case.

15 What I can do is tell you how to evaluate the
16 evidence or those puzzle pieces once you get them. The
17 State has to prove everything to you beyond a reasonable
18 doubt. So what is reasonable doubt? It's the kind of
19 doubt that causes you to hesitate between Story A and
20 Story B. The State has to push you beyond that to make a
21 decision or they have to present evidence that pushes you
22 beyond that to make a decision. I submit to you that they
23 cannot do that.

24 This case is an emotional one. There is no way that
25 it cannot be. The evidence will show that it involves a

1 very conflicted family. The witnesses in this case have
2 emotions and they're allowed to. You-all are allowed to
3 have emotions. What you can't do, what the law says you
4 can't do, is use those emotions in evaluating the evidence.
5 While listening to the testimony, please remember that
6 everyone involved in this case is connected, everyone's
7 human, they all have feelings, and whatever the State --
8 what the State may say is evidence that shows something
9 might actually show something else.

10 Thank you-all for being here. At this point in time
11 I'm going to sit down so that we can get started. At the
12 end of the case I'm going to ask that you find Michael not
13 guilty on all counts.

14 THE COURT: Ladies and gentlemen, we're gonna take a
15 very short recess. Head back to the jury room for a few
16 minutes and I'll get you right back out here. Actually if
17 you-all will refresh yourselves and when you're ready to
18 com back out, let me know.

19 (Whereupon, the jury retires to the jury room at
20 9:43 AM.)

21 THE COURT: Okay. You can get everyone sequestered.
22 Counsel.

23 (Proceedings held at the bench; not reported.)

24 (Court's Exhibit Number 2 was marked for
25 identification.)

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

3 THE COURT: Are you-all ready to proceed?

4 MS. MILES: I think so, Judge.

5 THE COURT: Are the documents marked?

6 MS. MILES: Yes.

7 (Pause in proceedings.)

8 THE COURT: All right. Are you-all ready to call
9 your first witness?

10 MS. MILES: I believe so, Your Honor.

11 THE COURT: Are you-all ready to proceed?

12 MS. YONGE: Yes, Your Honor.

13 THE COURT: All right. Let's get them back in here,
14 please.

15 (Whereupon, the jury return to the courtroom at
16 10:04 AM.)

17 THE COURT: All right. Ladies and gentlemen,
18 welcome back in.

19 Juror Number 89?

20 JUROR NUMBER 89: Yes.

21 THE COURT: I forgot to tell you first thing this
22 morning, but we lost a juror yesterday. Not permanently.
23 Just not serving on the jury anymore. So you are our
24 first alternate, you're now on the jury.

25 JUROR NUMBER 89: Okay.

1 THE COURT: I just wanted to tell you that.

2 All right. Is the State ready to call their first
3 witness?

4 MS. MILES: We are, Your Honor.

5 THE COURT: Proceed.

6 MS. MILES: The State calls MINOR .

7 THE COURT: Very well.

8 THE CLERK: Will you, please, raise your right hand
9 and place your left on the Bible.

10 (Whereupon, MINOR was duly sworn by the
11 Clerk of Court.)

12 THE CLERK: Would you please have a seat in the
13 witness box. State your full name and spell your last
14 for the record.

15 THE WITNESS: MINOR .

16 MINOR ,

17 having been duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MS. MILES:

20 Q. Good morning, MINOR . How are you?

21 A. Good. How are you?

22 Q. Good. MINOR , how old are you?

23 A. I'm twenty.

24 Q. Okay. When's your date of birth?

25 A. , 2004.

1 Q. Okay. Where do you currently work?

2 A. I'm the manager at Club Piliates.

3 Q. Okay. What all do you do there?

4 A. I'm just in charge of like everyday tasks, managing my
5 employees.

6 Q. Okay. Where are you currently living?

7 A. I live in Lexington.

8 Q. Okay. What do you like to do in your spare time when
9 you're not in a piliates studio?

10 A. I enjoy working out, spending time with my dog,
11 watching DVDs.

12 Q. Okay. What's your dog's name?

13 A. Archer.

14 MS. YONGE: Your Honor, I'm so sorry. We can't
15 hear.

16 THE COURT: Thank you.

17 Ms. MINOR, if you could just -- we can move that
18 microphone closer to you.

19 MS. MILES: Thank you.

20 Okay. I'm sorry.

21 BY MS. MILES:

22 Q. What's was your dog's name? Sorry.

23 A. Archer.

24 Q. Okay. Tell me about your family. Do you have
25 brothers, sisters?

1 A. I have an older sister.

2 Q. Okay. How old is she?

3 A. She's twenty-five.

4 Q. Okay. MINOR, I asked you about your family. Do you
5 have an Uncle Michael?

6 A. Yes.

7 Q. Okay. Is that MINOR ?

8 A. Yes.

9 Q. Am I saying that right?

10 A. Yes.

11 Q. Okay. Is he the defendant in this case?

12 A. Yes.

13 Q. Okay. How long have you known MINOR ?

14 A. Since I was born.

15 Q. Okay. Can you remember a period in your life where he
16 wasn't in your life?

17 A. He's always been around.

18 Q. Okay. At some point -- so when you were like a little
19 kid, how often would you see him?

20 A. Probably a few times a year.

21 Q. Okay. And did that change at some point in your life?

22 A. Yes.

23 Q. Okay. Tell me about that.

24 A. After his separation, he moved to Columbia for a while
25 and he started coming around a lot more since he was living

1 in the Midlands.

2 Q. Okay. And what would those times be like?

3 A. He would come over for dinner, smoke a cigar with my
4 dad, something like that.

5 Q. Okay. How often were you seeing him then?

6 A. Probably a few times a week.

7 Q. Okay. And what timeframe was that?

8 A. Early 2019.

9 Q. Okay. You mentioned that -- something about the
10 hospital. Tell me about that. You were in the hospital?

11 A. Yes, he -- I was having some GI issues at the time
12 that required frequent hospital stays and so Michael would
13 come visit me in the hospital a lot.

14 Q. Okay. And when were those hospital stays?

15 A. Early 2019.

16 Q. Okay. And did they continue throughout the year?

17 A. Yes.

18 Q. Okay. When did you guys begin communicating by text
19 message in general?

20 A. Around the same time of the hospital stays.

21 Q. Okay. And did that continue throughout your hospital
22 stays?

23 A. Yes.

24 Q. Okay. What about other contact? Would you guys
25 communicate in any other way beside text message?

1 A. It started off just with like text message, phone call
2 and then it moved to like FaceTime and Snapchat.

3 Q. Okay. And would he use the same phone number and
4 everything to call you and text you, all of that?

5 A. Yes.

6 Q. Okay. Was there a period of time where the contact,
7 the calls, the Snapchats, the text messages, changed, the
8 amount of contact?

9 A. Yes. I would say it got very frequent. Talking every
10 day all day long.

11 Q. Okay. And when around was that?

12 A. Probably mid to later 2019.

13 Q. Okay. And how long did that contact continue?

14 A. Until mid 2020.

15 Q. Okay. And you said it was all day every day?

16 A. Yes.

17 Q. Okay. Is that how often he was texting?

18 A. Yes.

19 Q. Okay. What about phone calls?

20 A. Periodically throughout the day.

21 Q. Okay. What about FaceTime's?

22 A. Not quite as frequent, but still periodically.

23 Q. Okay. When did you begin communicating by Snapchat?

24 A. Probably beginning of 2020.

25 Q. Okay. And do you recall whose idea that was?

1 A. It was Michael's.

2 Q. Okay. Tell me about that.

3 A. At that time my family, his brothers and sisters,
4 started getting a little concerned with how often that we
5 were speaking.

6 MS. YONGE: Objection, Your Honor. It's hearsay.

7 THE COURT: Okay. Please don't -- well, it wasn't
8 a statement, but --

9 MS. YONGE: More speculation. We're getting there.

10 THE COURT: Okay. I'd like you to ask a little more
11 foundational question and not ask her what anyone else told
12 her.

13 MS. MILES: Okay. And I don't --

14 THE COURT: I don't think you --

15 MS. MILES: I don't believe there was in that
16 instance. I believe I had asked why the defendant asks
17 -- begins communicating with her on Snapchat and I think
18 she -- her testimony was that the family became concerned
19 about their contact.

20 THE COURT: Yeah.

21 MS. YONGE: And, Your Honor, my objection would be
22 to the statement her family became concerned.

23 THE COURT: Okay. Let me ask you a quick...

24 (Proceedings held at the bench; not reported.)

25 THE COURT: All right. Counsel, rephrase the

1 question.

2 BY MS. MILES:

3 Q. All right. That was my -- okay. I'm gonna rephrase
4 that. What did the defendant tell you was the reasoning
5 why he wanted you to use Snapchat?

6 A. So that like my parents couldn't see that we were
7 still communicating a lot.

8 Q. Okay. And did he give you more insight as to why that
9 concerned him?

10 A. Just -- just that, I mean, the family -- can you
11 re-ask that?

12 Q. Yes. Sure. Did he tell you -- so you can't tell us
13 what anyone said except for what the defendant himself
14 said, so I think that's where the confusion is. You can't
15 tell us like what your family's feelings were, but what the
16 defendant would have told you about the reasonings behind
17 being able -- or like getting on Snapchat, whatever he told
18 you about that.

19 A. He said that the family was concerned so, you know, he
20 didn't want them to notice that we were still communicating
21 that much, so he knew that Snapchat, you know, erases
22 immediately, so we switched to that.

23 MS. YONGE: Objection to speculation, Your Honor.

24 THE COURT: You can take it up on cross. Overruled.

25 BY MS. MILES:

1 Q. Okay. And when you say Snapchat and they, you know,
2 would delete, tell me about that.

3 A. With Snapchat after you send a message it just erases
4 or disappears.

5 Q. Okay. How did you have Michael saved in your phone?

6 A. It started off as Michael and then moved to Peanut
7 because he didn't want if someone looked at my phone for it
8 to have his real name.

9 Q. Okay. And so at one point you had him saved as
10 Michael and then you -- he was saved as Peanut?

11 A. Uh-huh.

12 Q. Okay. MINOR, did you record in any way or any of
13 your text message, conversations or Snapchat conversations?

14 A. Yes, I took screen shots.

15 Q. Okay. And when you say you took screen shots, tell me
16 what that means.

17 A. I would screen shot the message on the iPhone.

18 Q. Okay. And is that for the Snapchats as well as the
19 texts?

20 A. Yes.

21 Q. Okay. And why did you start doing that?

22 A. I just knew that things were getting out of hand. I
23 knew it was gonna come out at some point and, you know, I
24 just wanted people to be able to see it.

25 Q. Okay. All right.

1 MS. MILES: Permission to approach, Your Honor?

2 THE COURT: Very well.

3 MS. MILES: Thank you.

4 BY MS. MILES:

5 Q. Okay. MINOR, I'm gonna show you some screen shots
6 and I'm gonna hand them to you in a bulk and just ask you
7 to look through these and see if you recognize them.

8 A. Yes, I do.

9 Q. Okay. And looking at the screen shots, who is
10 involved in those conversations?

11 A. Me and Michael.

12 Q. Okay. Who took those screen shots?

13 A. I did.

14 Q. Okay. Were those screen shots saved in any way?

15 A. Yes. I saved them on my phone.

16 Q. Okay. Since they were taken and saved, have these
17 been altered or changed in any way?

18 A. No.

19 Q. Okay. Are they a fair and accurate representation of
20 the conversations that you yourself documented --

21 A. Yes.

22 Q. -- involving you and the defendant?

23 A. Yes.

24 Q. Okay. Do these conversations include conversations
25 both by text and Snapchat?

1 A. Yes.

2 Q. Okay. All right. Okay. Let me go through this. I'm
3 gonna direct you to a page on here. On page 4 --

4 A. Uh-huh.

5 Q. -- I wanted to ask you --

6 MS. MILES: Anna, do you want to come up here so you
7 can see what I'm talking about, too?

8 MS. WILLIAMS: I can.

9 MS. MILES: Thank you.

10 BY MS. MILES:

11 Q. On page 4, there is an image at the top. Can you tell
12 me what that image is?

13 A. It's an image of a vagina.

14 Q. Okay. Whose vagina is that?

15 A. Mine.

16 Q. Okay. And what -- who took that picture?

17 A. I did.

18 Q. Okay. And who sent it?

19 A. I did.

20 Q. To who?

21 A. Michael.

22 Q. Okay. And is that what that picture there shows?

23 A. Yes.

24 Q. Okay. And that was on page 4.

25 Okay. This is on page 6. I'm gonna direct your

1 attention to the top. Can you tell me what this still shot
2 is?

3 A. It looks like a screen shot of a video.

4 Q. Okay. And what is in that video?

5 A. Masturbation.

6 Q. Okay. Who is included in that video?

7 A. Myself.

8 Q. Okay. And who was that sent to?

9 A. Michael.

10 Q. Okay. And who took the video?

11 A. I did.

12 Q. Okay. And so you are familiar with both this image
13 and this video?

14 A. Yes.

15 Q. And these were you at the time?

16 A. Yes.

17 Q. Okay. What's the timeframe when these conversations
18 are taking place?

19 A. Early 2020.

20 Q. Okay. And you said you-all kept talking through the
21 -- I think you-all kept talking until the summer of 2020 or
22 mid 2020?

23 A. Yes.

24 Q. Okay. Would those pictures and videos have been taken
25 at that time, during that timeframe?

1 A. Yes.

2 Q. Okay. And so you said your birthday was in [REDACTED].
3 Would you have been sixteen at the time?

4 A. Yes.

5 Q. Okay.

6 MS. MILES: Your Honor, we would ask to move these
7 into evidence subject to the stipulation that the defense
8 and I spoke about to take out the actual images to just
9 protect the prejudicial nature and the sensitive nature
10 and the impact to the jury of the two images of the minor.

11 MS. YONGE: If I may just briefly flip through?

12 THE COURT: That would be State's Exhibit 1?

13 MS. MILES: This is State's Exhibit 1. Yes, sir,
14 Your Honor. And so before publishing we would just redact
15 it pursuant to that stipulation.

16 THE COURT: Did you need a break, sir?

17 JUROR: No, sir.

18 THE COURT: Do you need to speak with me? Oh, you
19 couldn't hear?

20 JUROR: I couldn't hear what was said at the top of
21 page 4, and then the video, I didn't hear what it was.

22 THE COURT: Okay.

23 JUROR: And I don't want to --

24 MS. MILES: I can follow up with that.

25 THE COURT: We'll go through that again. Thank you.

1 I just didn't know what you were about to ask me.

2 MS. YONGE: No objection, Your Honor.

3 THE COURT: Very well. State's Exhibit 1 is
4 admitted into evidence. And we might have to do that
5 dialog again so every juror can hear it.

6 MS. MILES: Okay. Yes.

7 BY MS. MILES:

8 Q. And I'm just gonna re-ask you this just so everyone
9 heard. At the top of page 4, you identified that as?

10 A. A vagina.

11 Q. Okay. And whose was it?

12 A. Mine.

13 Q. And who took the picture?

14 A. I did.

15 Q. Okay. And who did it go to?

16 A. Michael.

17 Q. Okay. And that's the top of page 4.

18 Okay. And on the top of page 6, what is that?

19 A. A screen shot of a video.

20 Q. Okay. And what does the video include?

21 A. Masturbation.

22 Q. And who's in the video?

23 A. I am.

24 Q. Okay. And who took the video?

25 A. I did.

1 Q. Who received the video?

2 A. Michael.

3 Q. Okay.

4 MS. MILES: And, Your Honor, pursuant to the
5 stipulation that the State and the defense have agreed
6 to, the picture at the top of four and the still shot
7 of the video at the top of six, will just be redacted
8 before we publish it to the jury, to not share with the
9 jury what's child sexual abuse material.

10 THE COURT: All good?

11 JUROR: Yes, sir.

12 THE COURT: All right. And that's without objection,
13 State's Exhibit 1 is admitted into evidence.

14 MS. YONGE: Yes.

15 MS. MILES: And we will redact that before we publish
16 it to the jury in a little bit.

17 THE COURT: Very well.

18 MS. MILES: Thank you, your Honor.

19 (State's Exhibit Number 1, Chats/Redacted Photos,
20 was admitted into evidence.)

21 BY MS. MILES:

22 Q. So let's see here, MINOR. And you said that you were
23 fifteen and sixteen during these conversations?

24 A. Yes.

25 Q. When you-all were talking about these things and the

1 pictures and everything, did you-all talk about other
2 things as well?

3 A. Yes.

4 Q. Okay. Tell me about that.

5 A. He'd often talk about the divorce that he was going
6 through, his kids, job.

7 Q. Okay. Would you-all talk about those things on text
8 on the phone, FaceTime, Snapchat? What would --

9 A. All of the above.

10 Q. Okay. So in addition to the pictures and everything,
11 you-all had other dialog between?

12 A. Yes.

13 Q. Okay. Where were you physically when you were having
14 these conversations? Like what town, county, all of that.

15 A. Either at my house, like my parents' house, or my
16 grandparents' house in Lexington.

17 Q. Okay. And are both of those in Lexington County?

18 A. Yes.

19 Q. Okay. And you said this was the early part of 2020 --

20 A. Yes.

21 Q. -- to the mid part? Okay. Did the defendant talk to
22 you about keeping or not keeping these messages?

23 A. He'd often ask that I deleted them just so that nobody
24 would see them.

25 Q. Okay. And when you did screen shot the conversations,

1 you testified that you kept them in a folder?

2 A. Yes.

3 Q. Okay. Tell me about that folder.

4 A. It was like the private on photos -- under photos.

5 Q. Okay. And what was the called?

6 A. There was a hidden folder on photos in the iPhone and
7 then the My Eyes Only on Snapchat.

8 Q. Okay. Who helped you set up those folders, if anyone?

9 A. Michael helped with My Eyes Only.

10 Q. Okay. Was there a password for that?

11 A. Yes, his birthday.

12 Q. It was his birthday?

13 A. (Nods head.)

14 Q. Okay. What all else was in that for Your Eyes Only
15 folder?

16 A. Photos or videos and then the screen shots of the
17 messages.

18 Q. Okay.

19 MS. MILES: I beg the Court's indulgence.

20 BY MS. MILES:

21 Q. Okay. Just for clarification, you said that when
22 these conversations were taking place you would be at your
23 grandparents' house or at your parents' house and you said
24 both of those are in Lexington County. What towns are they
25 in?

1 A. My grandparents' is Columbia, I believe.

2 Q. Okay.

3 A. And my parents' house is Lexington.

4 Q. Okay. But both are in Lexington County?

5 A. Yes.

6 Q. Okay. And I talked to you about this when we were
7 putting in the screen shots, but -- and I asked you about
8 are they a fair and accurate representation of them. Did
9 you manipulate any of those screen shots in any way?

10 A. No.

11 Q. Okay. They look exactly as the day you took them?

12 A. Yes.

13 Q. And the day they were saved?

14 A. Yes.

15 MS. MILES: I thought there was one more thing.

16 Hold on.

17 BY MS. MILES:

18 Q. And you mentioned in the My Eyes Only that there were
19 nude photos in there. Of who?

20 A. Both mine and Michael.

21 Q. Okay. Were there videos as well?

22 A. Yes.

23 Q. Okay.

24 MS. MILES: I believe that's all the questions that
25 the State has. Please answer any questions the defense

1 may have, okay?

2 THE DEFENDANT: (Nods head.)

3 THE COURT: Cross-examination.

4 MS. YONGE: May it please the Court?

5 THE COURT: Yes, ma'am.

6 CROSS-EXAMINATION

7 BY MS. YONGE:

8 Q. Good morning, Ms. MINOR .

9 A. Hey.

10 Q. We've discussed a little bit about Snapchat images and
11 I wanted to ask you what's the difference between a display
12 name and a user name?

13 A. I'm not quite sure what you're asking.

14 Q. So can you change the display name -- when you're
15 looking at your phone and you're looking at a name, can you
16 change what that says in Snapchat?

17 A. Yes.

18 Q. Okay. And can you do that for everybody?

19 A. Yes.

20 Q. Okay. But is that tied to your account under a
21 different user name?

22 A. What you do you mean?

23 Q. Okay. So what's your -- what's your user name on
24 Snapchat?

25 A. I think just MINOR .

1 THE COURT: All right. Ms. MINOR, I just need
2 you to try to speak up a little bit more. I want to
3 make sure everybody can hear you, all right?

4 THE WITNESS: Uh-huh.

5 THE COURT: Thank you.

6 MS. YONGE: Let me -- all right. Your Honor, may I
7 approach the witness?

8 THE COURT: Yes, ma'am.

9 BY MS. YONGE:

10 Q. I'm gonna ask if you recognize something?

11 A. Okay.

12 Q. Do you recognize that image?

13 A. No.

14 Q. No? Okay. Do you happen to know if your Snapchat
15 records were subpoenaed?

16 A. I don't know.

17 Q. Okay. That was Defendant's 1 for ID.

18 (Defendant's Exhibit Number 1 was marked for
19 identification.)

20 BY MS. YONGE:

21 Q. Okay. So you acknowledge that you can change the
22 display name?

23 A. Yes.

24 Q. Okay. And is that something you know how to do?

25 A. Yes.

1 Q. Okay. The other -- the only other thing I wanted to
2 cover was you had mentioned that you took these images
3 because you thought that some day it might all come out and
4 you wanted to have them; is that right?

5 A. Yes.

6 Q. Did you take these messages at the very end of your
7 -- I mean, these images at the very end of your
8 correspondence?

9 A. No.

10 Q. You took them at the beginning?

11 A. Uh-huh.

12 Q. But you continued to correspond with him?

13 A. Yes.

14 Q. Okay. Will you tell me how this came to be reported
15 to law enforcement?

16 A. My cousin Keeley, I talked to her about what had been
17 going on and my parents took my phone and went through it
18 and found the messages.

19 Q. Do you remember when your parents took the phone?

20 A. Not a specific date, no.

21 Q. Do you remember if it was in August or September or
22 any idea around the month?

23 A. It was probably August or September.

24 Q. Either August or September of 2020?

25 A. Uh-huh.

1 Q. Did they return your phone to you?

2 A. No.

3 Q. Okay. Were you in Horry County on September 10, 2020?

4 A. Horry?

5 Q. Horry County. So Myrtle Beach area?

6 A. Yes.

7 Q. Okay. And did you call the police?

8 A. Yes.

9 Q. Okay. What did you tell the police when you called
10 them?

11 A. That I was about to go back into an abusive household.

12 Q. Okay. And were you referring to your father at the
13 time?

14 A. Yes.

15 Q. Okay. And did you then go to Richland County -- or
16 Richland -- PRISMA Richland Hospital?

17 A. Yes.

18 Q. Okay. Did you go directly on September 10th from
19 Horry County to Richland Hospital?

20 A. Oh, it wasn't Richland. It was Lexington.

21 Q. It was Lexington?

22 A. Uh-huh.

23 Q. Okay. So you went -- you went to a hospital, you went
24 to Lexington, from Horry County?

25 A. Uh-huh.

1 Q. After reporting to the police that you were about to
2 go back to an abusive household because of your father?

3 A. Uh-huh.

4 Q. And your father's name is John Valdario, Junior,
5 correct?

6 A. Uh-huh.

7 Q. Okay. So once you were at Lexington did you then go
8 to -- and I'm going to -- did you then go to Three Rivers
9 for a time?

10 A. Yes.

11 Q. Okay. And is Three Rivers a psychiatric facility?

12 A. Yes.

13 Q. Okay. And was that because of how low you were
14 feeling?

15 A. Yes.

16 Q. Okay. So on September 11th of 2020 you were at
17 Three Rivers? This would be the day after your report to
18 Horry.

19 A. Okay.

20 Q. Is that correct?

21 A. Yes.

22 Q. The day after you were entered at Three Rivers?

23 A. (Nods head.)

24 Q. How long were you -- was your stay at Three Rivers?

25 A. About a week.

1 Q. Okay. And to the best of your knowledge -- well, I
2 won't ask that. So you were released from Three Rivers
3 approximately seven days after September 10th; is that
4 correct?

5 A. Approximately.

6 Q. Okay. At any point in this period of time did you
7 have your phone?

8 A. No.

9 MS. YONGE: Okay. Thank you for answering my
10 questions, Ms. Valdario.

11 THE WITNESS: Uh-huh.

12 THE COURT: Redirect.

13 MS. MILES: Just briefly, Your Honor.

14 REDIRECT EXAMINATION

15 BY MS. MILES:

16 Q. Ms. Yonge asked about changing display names and stuff
17 in Snapchat and I believe you had testified on direct that
18 Michael actually asked you to do that at one point?

19 A. Yes.

20 Q. Okay. And what did he have you change his name to?

21 A. Peanut.

22 Q. Okay. So nobody would know it was him?

23 A. Yes.

24 Q. Okay. And I just wanted to make sure I got this
25 timeline right. Ms. Yonge asked you if all of this came

1 out around the September timeframe, correct?

2 A. Yes.

3 Q. Okay. And then she asked you about the incident in
4 Myrtle Beach where you talked about potentially having to
5 go back to an abusive household?

6 A. Yes.

7 Q. Okay. And so then that's when you had to go to Three
8 Rivers for a while?

9 A. Yes.

10 Q. And she asked you about you were feeling low?

11 A. Yes.

12 Q. Okay. Was there a lot going on in your life right
13 then?

14 A. To say the least, yes.

15 Q. Okay. And did everything that had been going on with
16 Michael play a role in that?

17 A. Absolutely.

18 Q. Okay.

19 MS. MILES: That's all the questions the State has.

20 MS. YONGE: No further questions, Your Honor.

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

22 Thank you.

23 (Witness excused.)

24 THE COURT: Next witness.

25 MS. MILES: Your Honor, the State would call Special

1 MS. MILES: With permission to recall if necessary
2 based on --

3 THE COURT: Subject to recall.

4 MS. MILES: Thank you.

5 THE COURT: You may step down subject to recall.

6 (Witness excused.)

7 THE COURT: Next witness.

8 MS. MILES: Your Honor, at this time the State would
9 rest.

10 THE COURT: Very well.

11 Ladies and gentlemen, the State has rested their
12 case. I've got some matters to take up with the
13 attorneys at this time. I'm gonna send you back to the
14 jury room and get you back here shortly.

15 Thank you.

16 (Whereupon, the jury out retires to the jury room at
17 11:45 AM.)

18 THE COURT: Motions.

19 MS. YONGE: Your Honor, at this time the defense
20 would move for a directed verdict with regard to all
21 four indictments. The State has not presented enough
22 evidence to raise beyond a mere suspicion that my client
23 has committed any of these crimes.

24 Furthermore, we move to dismiss due to lack of
25 jurisdiction.

1 THE COURT: All right. Ms. Miles.

2 MS. MILES: Thank you, Your Honor. May it please
3 the Court?

4 As Your Honor's aware, the victim has testified
5 she -- we have put screen shots in where there are
6 conversations between the defendant and the victim in
7 this case where she is a minor at the time he is
8 encouraging her to send -- to make sexually explicit
9 pictures, videos, send those sexually explicit videos
10 and pictures. The screen shots indicate he did receive
11 these sexually explicit photos and videos. She testified
12 that this took place while she was either at her parents'
13 house or in her grandparents' house, which both would
14 have been within the county of Lexington County. The
15 defendant was identified. We believe that there's
16 definitely sufficient evidence that, you know, would go
17 forth to the jury. We believe the State's burden has
18 been met and that there's enough evidence to go forward.

19 THE COURT: All right. Ms. Yonge.

20 MS. YONGE: Your Honor, we would just reiterate that
21 there has not been enough evidence -- enough beyond mere
22 suspicion to tie it to my client. This is someone named
23 Michael. It's not associated -- they haven't presented
24 any evidence of his cell phone records, his Snapchat
25 records, et cetera, to tie it to him, nor cell phone

1 records to support that she was, in fact, where she -- she
2 was located in Lexington County. It seems like when she
3 was testifying that she was merely guessing at where she
4 was.

5 THE COURT: Well, I heard testimony that talked
6 about Lexington County. I think -- I don't know if it
7 was on cross with you or direct, but I know the mention
8 of Columbia came in there.

9 MS. MILES: But, again -- and that is within
10 Lexington County. I freaked momentarily.

11 THE COURT: I'm fully aware that Columbia extends
12 into Lexington County.

13 MS. MILES: Yes, I certainly saw this and was like
14 wait a minute, but, yes, she did testify to that, Your
15 Honor. She also testified to the reasoning of why she
16 would know that this was her uncle. She testified to
17 the different types of conversations that they would
18 have regarding his divorce, regarding his kids, regarding
19 things that only he would know about, and she told us the
20 reasoning of, you know, when they got closer, when the
21 texts started, the fact that they would still FaceTime,
22 you know, talk on the phone, things of that nature, and
23 all the reasons of why she would know that it was her
24 uncle that was sending her all that.

25 THE COURT: All right. Give me one moment.

1 (Pause in proceedings.)

2 THE COURT: All right. At this stage I'm concerned
3 with the existence of evidence and not its weight and I
4 think there's evidence from which reasonably the jury
5 could find the defendant guilty or they may not. They
6 will judge the weight and credibility of the evidence,
7 but I think there's enough at least for the jury to
8 consider, and I'll deny the motion for directed verdict
9 and move on, okay?

10 MS. MILES: Okay. Thank you, Your Honor. I mean,
11 I don't think we have anything else until two, do we?

12 MS. YONGE: I do not.

13 THE COURT: I want to be back before two. I would
14 like to do --

15 MS. MILES: We're ready to go.

16 THE COURT: I would like to do -- that means we can't
17 start voir dire until 2:00, I guess.

18 MS. MILES: That gives us some time. She's giving
19 us a flash drive of some things to review, so that might
20 give --

21 THE COURT: I'm gonna ask you a question I know you
22 can't answer. Come on up.

23 (Proceedings held at the bench; not reported.)

24 THE COURT: All right.

25 All right. Let's bring them back in real quick.

1 MS. MILES: Thank you, Judge.

2 (Whereupon, the jury returns to the courtroom at
3 11:57 AM.)

4 THE COURT: All right. Ladies and gentlemen,
5 welcome back. So the State has rested. We're right at
6 the point now where's it's probably a good time to take
7 our lunch break anyway, so I'm actually gonna give you-all
8 until 1:45 to be in your jury room. Don't go too far,
9 but take until 1:45 and then we'll get started at 2:00 PM
10 this afternoon and we'll continue on from there.

11 While you're out at lunch, please don't discuss the
12 case with anyone or do any independent research on your
13 own of the case or the parties involved in it.

14 We'll see you at 1:45 in the jury room.

15 Thank you.

16 (Whereupon, the jury was excused for lunch at
17 11:58 AM.)

18 THE COURT: All right. We'll be in recess until
19 1:30. I'd like the attorneys back at --

20 MR. WILLIAMS: I'll pass the message, Your Honor.

21 THE COURT: All right. We'll be in recess until
22 1:30.

23 Thank you.

24 (Whereupon, a luncheon recess was taken at 11:58 AM.)

25 (Back on the record at 1:39 PM.)

1 THE COURT: Very well.

2 Madam Clerk, if you could please swear in the
3 witness.

4 (Whereupon, Jonathan Akerman was duly sworn by the
5 Clerk of Court.)

6 THE CLERK: Thank you.

7 JONATHAN AKERMAN,

8 having been duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MS. YONGE:

11 Q. Good afternoon, Mr. Akerman. Thank you for joining
12 us. Where are you joining us from?

13 A. Charleston, South Carolina.

14 Q. But originally where were you supposed to be today?

15 A. In California.

16 Q. Okay. So is that why you're appearing remotely?

17 A. Yes, and thank you very much to the Court for allowing
18 me to do this.

19 Q. So, Mr. Akerman, would you please tell the jury --
20 I'm going to try and -- I'm not sure if we'll be able to
21 fix it so you can see. There.

22 Will you please tell the jury where you work.

23 A. I work at a company called the Rosen Litigation
24 Technology Consulting in Charleston.

25 Q. Okay. And how long have you worked with Rosen?

1 A. Seventeen years. Since 2007.

2 Q. And what's your job there?

3 A. I'm a consultant. Primarily we do -- or specialize
4 in computer and mobile forensics. So we copy, analyze,
5 investigate cell phones, computers, related to lawsuits.

6 Q. And do you have specialized training that helps you
7 to do that?

8 A. I do.

9 Q. Okay. Do you have -- I guess some of your licenses,
10 would it be that you're a certified computer examiner?

11 A. Yes.

12 Q. An access data certified examiner?

13 A. Yes.

14 Q. An access data mobile examiner?

15 A. Yes.

16 Q. And relevantly to this case, a Cellebrite mobile
17 forensics, you've been -- I guess fundamentals, but you
18 are licensed to use Cellebrite; is that correct?

19 A. It's all voluntary certifications, but, yes, I've
20 achieved the certifications as -- over the years, yes.

21 Q. Okay. Have you I guess received specialized training
22 to help you understand Cellebrite?

23 A. Absolutely.

24 Q. Okay. Are you a member of any professional
25 organizations?

1 A. Yes. Several. So in 2007, I graduated from the
2 Charleston School of Law, so I'm a licensed lawyer in the
3 state of South Carolina. I'm a member of the International
4 Society of Forensic Computer Examiners, the ISFCE, and also
5 the International Association of Computer Investigative
6 Specialists.

7 Q. Okay. Have you testified in a courtroom setting
8 before?

9 A. Yes, I have.

10 Q. Okay. Approximately how many times?

11 A. Five or so. I don't know the exact number, but in
12 both state and Federal court.

13 Q. Okay. And have you testified in the capacity as an
14 expert on cell phone forensics?

15 A. Yes.

16 Q. Okay. Over the course of your training and --
17 approximately how many times have you examined a cell
18 phone?

19 A. Countless, thousands. Since 2007 when I started doing
20 it, I've done -- not only performed analysis on cell phones
21 for cases, but also test cell phones for learning and in
22 training courses we're given, you know, a box of cell
23 phones to go through and perform analysis on different cell
24 phones, so countless at this point.

25 Q. So I guess a follow-up question would be you mentioned

1 that you had testified five times in a trial. How many
2 times have you been retained with regard to pending
3 litigation?

4 A. Numerous. Sometimes we'll -- you know, a lot of times
5 we'll get involved with analyzing a cell phone or cell
6 phone data, reporting on it, writing an affidavit, writing
7 a report, talking with the attorneys, but it never gets to
8 trial, it either settles or pleas out or something happens
9 to where very few cases actually make it to trial and
10 require my testimony.

11 Q. All right. Thank you, sir.

12 MS. YONGE: At this time, Your Honor, defense would
13 like to offer Mr. Akerman as an expert in cell phone
14 forensics.

15 MS. MILES: No objection.

16 THE COURT: Without objection from the State.

17 Ladies and gentlemen, a person testifying cannot
18 give opinion testimony, but testify to what they
19 personally saw, heard, sensed by smell or something of
20 that nature; however, there's an exception when someone's
21 qualified because of knowledge, education or experience,
22 they're permitted to give their opinion in certain areas
23 if the Court qualifies them in that way.

24 This witness will be qualified in the area of cell
25 phone forensics and give opinion testimony in that area.

1 That does not mean you must except the opinion, but it is
2 evidence for you to use in any way you see fit.

3 MS. YONGE: Thank you, Your Honor.

4 BY MS. YONGE:

5 Q. Okay. I guess one question I forgot to ask,
6 Mr. Akerman, was did we, in fact, retain you for this case?

7 A. Yes.

8 Q. Okay. So when -- I guess let's start with a general
9 discussion of Snapchat and display names and usernames.
10 Are you able to articulate to the jury what the difference
11 is between a display name and a username?

12 A. Sure. Yeah, so Snapchat is an app that I'm sure
13 some of you are familiar with. You can use it to text or
14 send pictures or videos and communicate with friends and
15 contacts and just like in your own cell phone that you can
16 add or change the contact name of your friend or your wife
17 or whoever it is that you've got inputted into your phone,
18 you can change the name within Snapchat for your contacts
19 and friends and -- and people that you're chatting with.

20 Q. Okay. Are you able to change the username?

21 A. You -- you are able to change, you know, essentially
22 the contact name with -- with a person that you're chatting
23 with, yes.

24 Q. But not the internal username of the individual. That
25 should stay the same; is that correct?

1 A. That's right. Snapchat still has a unique identifier
2 to identify each person with.

3 Q. Okay. And so for the purpose of illustrating, this
4 did I ask you to prepare a short video?

5 A. Yes.

6 Q. Okay. I'm going to take what I have marked as --
7 well, Defendant's 4 for ID, and I'm going to share my
8 screen privately so you can tell me if you recognize it.

9 THE COURT: All right. It will get there.

10 MS. YONGE: Thank you-all for your indulgence.

11 THE COURT: Do you still have him on your screen?

12 MS. YONGE: He is still here. He is viewing
13 privately.

14 THE COURT: Okay. So it's working?

15 MS. YONGE: Yes.

16 THE COURT: Okay.

17 MS. YONGE: Your Honor, I apologize. I don't think
18 I'm sharing my screen. The video is one minute long. I
19 apologize.

20 BY MS. YONGE:

21 Q. Okay. Mr. Akerman, is that the video that I asked you
22 to make to illustrate how you can change the display name
23 back and forth?

24 A. Yes, it is.

25 Q. Okay.

1 A. Can you hear me?

2 Q. Yes, sir. It's just a little delayed. It's catching
3 up.

4 MS. YONGE: At this point, Your Honor, if I may play
5 Defendant's Number 4 for -- it's marked Number 4 for ID
6 purposes and I believe --

7 MS. MILES: No objection.

8 THE COURT: All right. Very well.

9 (Defendant's Exhibit Number 4 playing.)

10 BY MS. YONGE:

11 Q. All right. Mr. Akerman, are you able to describe just
12 -- I know the jury just saw it, but briefly what you just
13 did for the jury so that they can, I guess, understand who
14 Claire is?

15 A. Sure. It was just kind of a simple demolition of how
16 Snapchat works and -- and I took a picture of myself, sent
17 it and then went in and changed the name a couple of times
18 from Claire, my wife, to Bob just to kind of show that a
19 name -- a contact name can be changed. And above it, it
20 showed the -- the username that Snapchat uses, but it does
21 not show in the -- in the chat section. It just shows the
22 name that you've inputted for that contact.

23 Q. Thank you. So in this case in evidence there are some
24 screen shots that are -- displays Snapchat messages and so
25 I'm going to show you what -- the first page of what is

1 State's Exhibit 1.

2 Are you able to see this?

3 A. Yes.

4 Q. Okay. What are you able -- what, if anything, are you
5 able to tell me from this screen shot about who generated
6 this message and who received it?

7 A. Nothing about who generated it, although we did find
8 it on the phone and it's included as part of the --

9 Q. Okay. I'm gonna -- I'm gonna stop you right there.

10 A. Okay.

11 Q. Perhaps -- let's walk through real quick. You --
12 you viewing the phone, did you have an occasion to review

13 MINOR 's cell phone?

14 A. Yes.

15 Q. Okay. And was that at the Lexington County Sheriff's
16 Department?

17 A. Yes.

18 Q. And did you download and create your own separate
19 Cellebrite report?

20 A. Yes.

21 Q. And was that report specifically with regard to
22 deletions?

23 A. Yes.

24 Q. Okay. And have you reviewed that report earlier today
25 or a redacted version of it?

1 A. (Nods head.)

2 Q. And is it a true and accurate copy of what you were
3 able to generate after reviewing her phone?

4 A. Yes.

5 MS. YONGE: At this time, Your Honor, we would move
6 in the electronic versions of the deleted Cellebrite, as
7 well as the hard copy that we discussed that have the --
8 I guess specifically with regards to the deleted messages
9 from the phone.

10 MS. MILES: No objection to that.

11 THE COURT: All right. That will be Defense
12 Exhibit 2?

13 MS. YONGE: It will be the -- the electronic version
14 is Defense's Exhibit 2 and the hard copy version is
15 Defense's Exhibit 3.

16 THE COURT: So Defense Exhibits 2 and 3 --

17 MS. YONGE: Yes, Your Honor.

18 THE COURT: -- are admitted into evidence without
19 objection.

20 MS. YONGE: Yes, Your Honor.

21 (Defendant's Exhibit Number 2, a Cellebrite
22 Extraction, and Defendant's Exhibit, Number 3, a
23 Cellebrite Extraction Report, were admitted into
24 evidence.)

25 BY MS. YONGE:

1 Q. I apologize. I just wanted to establish that you had
2 had occasion to review the phone; is that correct?

3 A. Yes.

4 Q. Okay. And, again, what, if anything, can you tell me
5 about this image?

6 A. From this -- this screen shot you can see that it's a
7 Snapchat conversation between one person and another person
8 who that con -- that contact is named Michael.

9 Q. Okay. Are you able to tell me if this person's name
10 is really Michael?

11 A. No.

12 Q. Are you able to tell me if the person who sent this
13 message -- who is having this conversation, if her name is
14 Alice?

15 A. No.

16 Q. If her name is MINOR?

17 A. No.

18 Q. If her name is John?

19 A. No.

20 Q. Okay. So let's go back and discuss those messages
21 that were deleted. I'll put Defense Exhibit 2 up on the
22 screen share and leave your audio on so that you can tell
23 the jury what we're looking at, if that's okay with you,
24 Mr. Akerman?

25 A. Sure.

1 Q. All right. Are you able to see it John?

2 A. Yes.

3 Q. Okay. All right. So please tell the jury, I guess,
4 how is this -- how was this report generated?

5 A. So a forensic extraction or a copy of the cell phone
6 was made. We then processed in Cellebrite forensic
7 software so they could rebuild all the data and you can
8 analyze it. It does recover some deleted data and it shows
9 some background activity that you wouldn't be able to
10 access on your phone actually and this first page is a -- a
11 summary that shows who created the original extraction of
12 the phone, it shows details of the dates and times when
13 activity was performed, that kind of thing.

14 Q. Okay. And is this a limited report?

15 A. It is. You can export the entire report and for a
16 typical cell phone it's somewhere around fifty to a hundred
17 thousand pages, all the detail from a phone. This one is
18 seven pages, so it's -- it's just the detail that we're
19 looking at for this.

20 Q. So looking at this -- this section of the report, what
21 are you able to tell me as indicated here?

22 A. So from contents it shows different categories on
23 the left, chats, which are -- are text messages, and then
24 images are really the two most relevant here. It shows how
25 many of those data types are included in this report in the

1 middle column and then on the right column it's the total
2 that were discovered on the phone. So over twenty thousand
3 images on the phone initially, but only forty were included
4 in this report.

5 Q. Does that mean that there were only forty images that
6 have been deleted on this phone?

7 A. No.

8 Q. Okay. That is just what you were able to recover?

9 A. That's right.

10 Q. Okay. And so this indicates up here that at some
11 point in time there were fifty-seven messages that were
12 deleted, correct?

13 A. That's right. In red it shows deleted data that's
14 able to be recovered. Not everything that was deleted ever
15 on the phone, just what's able to be recovered at the time
16 of the forensic examination.

17 Q. Okay. Talk to me a little bit about whether or not
18 with -- with the messages that you did on this report were
19 you able to determine when they were deleted?

20 A. Some do show, I believe, but rarely does it show us
21 data when things are deleted.

22 Q. Okay. But in this case for some of the images, maybe
23 not the messages, but for some of the images were you able
24 to determine when they were deleted? And I am turning
25 now --

1 A. Yes.

2 Q. -- through the exhibit.

3 A. They don't always retain the deleted data. Really
4 everything that's -- that's discovered on the phone is --
5 is for the consumer, for the user of the phone's purposes
6 so it works better for you when you're using it. There
7 isn't a purpose to have everything stored forever in logs
8 of deleted data. Your phone would just fill up with every
9 picture you delete and every text message you deleted. The
10 point is for that to go away so that you have additional
11 space, but there is a purpose for some of it and so it does
12 retain the deleted data. Maybe these pictures were still
13 in the deleted folder and that's why they retained the
14 deleted date and why we're able to still recover them.

15 Q. Okay. So what date and time does it indicate that
16 images -- and I'm going to refer to the left-hand column to
17 number them, but images, let's see, here, 13, 14, 15, 16,
18 all the way through -- I guess tell me what date. I
19 apologize. You can't -- the times are different.

20 A. September 11, 2020.

21 Q. Is when?

22 A. Is the date that the pictures were taken.

23 Q. Is that also the date they were deleted?

24 A. It is.

25 Q. Okay. Does it show varying times for when they were

1 deleted?

2 A. It looks to be all the same or very close to the same
3 time they were deleted.

4 Q. And what time is that?

5 A. 3:54 PM.

6 Q. Okay. Were they all generated at different times or
7 created at different times? Let me use the correct
8 terminology.

9 A. Just to double-check. Pretty close to the same time.
10 Some -- some varying minutes, but all roughly the same
11 time, yes.

12 Q. Okay. So you were able to tell us that these images
13 which were recovered were created on September 11, 2020, at
14 -- I guess the first one that we have the deletion data
15 for, is at 3:33 PM, and then subsequently they were deleted
16 within a one-hour -- a one-hour timeframe it looks like
17 approximately?

18 A. Yes, I see that.

19 Q. Okay. Discussing what created means, I want to go
20 back up here. Let's look at image -- let's look at Image
21 Number 3. So on Image Number 3 it states that there is a
22 capture time of February 17, 2020, correct?

23 A. Right.

24 Q. But the created time is September 11, 2020. What in
25 your opinion is the reason that -- or any -- a couple of

1 reasons that that might have taken place?

2 A. Capture time refers to the picture itself, which comes
3 from something a little technical called *exif* data, it's --
4 it's metadata information that gets imbedded within the
5 photo that shows the date and time the picture was taken.
6 They can show extra things like a location, whether the
7 flash fired or things like that that get saved with the
8 picture. Once that picture is taken, the picture itself
9 is a file that gets save on a computer, saved on a phone,
10 saved in different places, and the file data is where the
11 created and modified come from.

12 So you can take a picture, send it to a friend a day
13 later, save it to your computer ten days later, text it to
14 another friend two years later, and the picture date it was
15 taken, that's the capture date, that gets imbedded with the
16 photo, but the created -- the file dates are when it was
17 created on your device. On a different device when you
18 sent it to them and they save that picture on their device,
19 it can create a different created date.

20 Q. Okay. So are you able -- so based on your
21 understanding of -- I guess based on your review of this
22 phone, this file, we'll say File Number 3, was created on
23 this phone on September 11, 2020, at 4:01 PM; is that
24 correct?

25 A. Yes.

1 Q. Okay. But the actual image was generated at some
2 other point in time?

3 A. That's right. February 17th.

4 Q. Okay. And is that true for several of these in this
5 report?

6 A. That they have different capture times and different
7 create dates, yes.

8 Q. Okay. If you will hold one moment, please.

9 Mr. Akerman, I really appreciate your patience --
10 oh, there is one thing I want to cover real quickly. There
11 are some in here that say redacted. Were these redacted by
12 the Lexington County Sheriff's Department?

13 A. Yes.

14 Q. Okay. Is that because they showed explicit material?

15 A. Yes. I --

16 Q. You don't know the reason, but they were redacted by
17 the Lexington County Sheriff's Department?

18 A. That's right.

19 Q. Okay. All right. I just wanted to make clear that
20 you were not the one who redacted them, correct?

21 A. That's right.

22 Q. Okay.

23 MS. YONGE: No further questions, Your Honor.

24 THE COURT: Cross-examination.

25 MS. YONGE: If you'll answer any questions that

1 Ms. Miles has and I might hover to help with the computer,
2 if that's okay?

3 MS. MILES: I would appreciate that. Thank you.

4 CROSS-EXAMINATION

5 BY MS. MILES:

6 Q. Hey, Mr. Akerman. Can you hear me okay?

7 A. I can. Hi there. How are you?

8 Q. Good. How are you doing?

9 A. Good.

10 Q. Good. Okay. So you said that you have evaluated
11 thousands of phones in your career?

12 A. I have not done a tally, but it's -- it's a lot.

13 Q. Okay. Approximately how many forensic exams do you do
14 on cell phones a year?

15 A. Actual exams that we -- cases is probably in the
16 neighborhood of about fifty a year.

17 Q. Okay. And how has the cell phone cases changed over
18 the last couple of years or few years?

19 A. One of the big parts of our business -- like I said,
20 we primarily do civil cases. One of the big parts of our
21 business is motor vehicle accidents, a car wreck, whether
22 someone was on their phone at the time of a wreck, so we're
23 analyzing the phone to see what the last activity was
24 around the time of an accident.

25 Q. Okay. So would you say -- criminal versus civil,

1 how much of your practice does one over the other
2 percentage-wise?

3 A. Primarily civil.

4 Q. Okay. Have you testified in criminal court before a
5 jury before?

6 A. No.

7 Q. Okay. But you've been qualified as an expert before?

8 A. Yes. Not -- I've been qualified in jury trials
9 before, I've testified in criminal hearings before, but
10 not in front of a jury criminal case before.

11 Q. Okay. And you said that you've been involved in the
12 field of cell phone forensics or forensics in general since
13 2007?

14 A. That's right.

15 Q. Okay. Now in looking at some of the things in this
16 case, I know that defense asked you about the Snapchat
17 names and how easily those would -- how easy those would be
18 to change and everything. So if someone asked a person to
19 change their name in Snapchat so that it wouldn't appear
20 that they were talking to that person, that would be easy
21 enough for a user to be able to do?

22 A. It should be. I would think so, yes.

23 Q. Okay. So if someone wanted a person to change name
24 their name from Michael to Peanut, they would be able to
25 change that on their own so it would appear that they

1 weren't talking to Michael, they were talking to Peanut?

2 A. Yes.

3 Q. Okay. In situations where people are able to change
4 their name, is it important for them to use other ways to
5 verify who they're talking to?

6 A. I don't know that I understood the question.

7 Q. Okay. There would be other ways to verify who they
8 were talking to even if the name were changed; is that
9 correct?

10 A. True.

11 Q. Okay. They would be able to use things that they know
12 from real life and ask them questions about themselves or
13 their families or just conversations or talk with them by
14 phone or other things of that nature to determine who they
15 are?

16 A. Of course. Yes.

17 Q. And that would stay the same regardless of what name
18 was in Snapchat, correct?

19 A. That's right.

20 Q. Okay. I think defense counsel asked you about --
21 let's see. That there were some chats that were deleted.
22 But there's no -- there's no indication those were chats
23 involved in this case, correct? Just that chats in general
24 had been deleted at some point?

25 A. That's right.

1 Q. Okay. And we don't know when those chats would have
2 been deleted. It could have been any time. It could have
3 been -- well, not yesterday, but it could have September or
4 March, whenever?

5 A. Right.

6 Q. So you were just showing that chats had some point had
7 been deleted for any purpose whatsoever?

8 A. Sure.

9 Q. Okay. Are there a lot of different reasons why people
10 delete chats, messages, things like that?

11 A. Of course. The standard number that you get when
12 you're logging into your bank or your DoorDash is here and
13 you don't need to keep it, you can delete those all the
14 time. Sure.

15 Q. Right. It's based on the phone that you use also
16 sometimes?

17 A. Sure.

18 Q. Okay. Let me ask you -- we talked about the screen
19 shot and everything and Ms. Yonge asked you, you know, is
20 there anything saying that this is really **MINOR** in the
21 screen shots or this is really Michael in the screen shots
22 and you can't tell that either way, correct?

23 A. You cannot.

24 Q. Okay. So there's nothing to indicate that it's not
25 Michael and it's not **MINOR** either, correct?

1 A. There's nothing to indicate for sure. I mean, no --
2 no independent validation one way or the other.

3 Q. Okay. If the Snapchat is on someone's phone and that
4 is the device being used to communicate, would you agree
5 that the "me" would be the person whose Snapchat it was?

6 A. Most likely, I mean, but anyone could log into
7 Snapchat or log out and log into a different account.

8 Q. Okay. But if looking -- say if we have -- say, you
9 know, you have a cell phone that belongs to Barbara and
10 you're looking at Barbara's cell phone and you go into the
11 Snapchat app on Barbara's cell phone and look, you know,
12 at conversations or screen shot those, the "me" that
13 you're looking at the Snapchat on Barbara's -- Snapchat on
14 Barbara's cell phone more than likely would be Barbara?

15 A. More than likely, yes.

16 Q. Okay. Let's see. There are -- okay. And other than
17 the fact that the names could be changed, there's no reason
18 forensically to suspect that those screen shots were not
19 taken by MINOR, correct?

20 A. I don't know of any reason one way or the other.

21 Q. Okay. We talked about -- well, defense counsel asked
22 you about deleted dates and things like that, what can
23 happen with changing dates and all of that. What can
24 change -- what else can cause changes to modify creation
25 dates on an image specifically?

1 A. Yeah, I mean, if it was a different phone that you
2 backed up and then recovered, you know, from iCloud or from
3 an iTunes backup to a new phone, if you texted that picture
4 to -- to someone and they saved it, that would create the
5 file date that that file is saved to the computer -- to the
6 phone or computer device.

7 Q. Okay. And so if you have a capture date of, say, in
8 February and you then, you know, delete that photo, if you
9 pull it out of the trash and save it again, would that
10 create a new creation date, but the original capture date
11 stayed the same?

12 A. Yes, the capture date would stay the same and the
13 creation date -- yeah, that's a good question. I don't
14 know that I'm certain of that answer.

15 Q. Okay.

16 A. But if you put it in trash, you know, most people's
17 -- like on an iPhone most people could set to delete after
18 thirty days.

19 Q. Right. Okay. And since you're familiar with cell
20 phones, there are constant updates that are coming out that
21 can change, you know, when things are deleted, all of that,
22 that sometimes there's recently deleted folders that now
23 you can go back and get things that you weren't always able
24 and get; is that correct?

25 A. Yes.

1 Q. Okay. And so you had testified that moving them
2 different places on the phone could change the modified or
3 creation date, correct?

4 A. Yes.

5 Q. Okay. So that could include if you sent a bunch of
6 stuff to the -- you know, the trash and said uh-oh, I don't
7 want to do that and you -- you undo recently deleted file
8 folders and the pictures go back?

9 A. It's -- it's a good question. I haven't looked at
10 that specifically, so I don't think I can answer it. I
11 don't know that that would change the file creation time.

12 Q. Okay. But you're not sure?

13 A. I'm just not sure.

14 Q. Okay. But that capture date would remain the same?

15 A. That's right.

16 Q. Okay. Now say you have a capture date of a screen
17 shot and we know that the capture date was in February. If
18 you took that and you made it a completely different file,
19 what happens then?

20 A. If you took a screen shot of that screen shot?

21 Q. Yes.

22 A. Then it's a whole new file, a whole new picture that
23 would have its own capture date from that date.

24 Q. Okay. So the capture date changes?

25 A. It would. It --

1 Q. I'm sorry. Go ahead.

2 A. It's a different -- a different picture altogether.
3 A picture of a picture is still just a different picture.

4 Q. Okay. In examining some of these photos that were
5 deleted, did you find any other copies of them that were
6 similar or looked that it could have been change from or
7 anything like that?

8 A. Well, I don't know if that I looked for that.

9 Q. Okay. Were you able to look at the file properties of
10 the images?

11 A. I -- I could have. Really what I did was just pulled
12 out the deleted files for purposes of this report.

13 Q. Okay. In looking at the deleted files, would you have
14 been able to see if there were any previous versions of
15 that file on the device?

16 A. If I went and looked for them, yes, I would have been
17 able to.

18 Q. Okay. Would you have been able to see -- did you see
19 whether or not there was any photo editing software on the
20 phone?

21 A. I did not look for that.

22 Q. Okay. Would you have been able to tell if you looked
23 at the properties whether or not the -- the images had been
24 changed by any type of photo editing software? Would that
25 have shown up in the data?

1 A. It's possible.

2 Q. Okay.

3 MS. MILES: I beg the Court's indulgence. Okay.

4 I beg the Court's indulgence. I put papers all over
5 the place.

6 I beg the Court's indulgence.

7 I think I probably asked you enough questions and
8 so I think that's all I have for you. Thank you so much.

9 THE WITNESS: Thank you.

10 THE COURT: Redirect.

11 MS. YONGE: Your Honor, I don't believe I have any
12 more questions for this witness.

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

14 MS. YONGE: Thank you very much for your time,
15 Mr. Akerman.

16 THE WITNESS: Thank you. Have a great day.

17 MS. YONGE: You, too.

18 (Witness excused.)

19 MS. YONGE: Your Honor, at this point in time the
20 defense rests.

21 THE COURT: Very well.

22 Ladies and gentlemen, the defense has rested their
23 case. I've got some matters to take up with the attorneys
24 at this time. I'm gonna send you back to the jury room.
25 It's time for a midafternoon break anyway. Refresh

1 yourselves and I'll get you back in here shortly.

2 Please don't discuss the case or anyone involved in
3 the case.

4 (Whereupon, the jury retires to the jury room at
5 2:50 PM.)

6 THE COURT: All right. Ms. Yonge, anything
7 you want to renew?

8 MS. YONGE: We would renew all motions and
9 objections at this time, Your Honor, to include the
10 motion for directed verdict.

11 THE COURT: All right. Ms. Miles, anything you want
12 to say in response to that?

13 MS. MILES: Your Honor, we would review all reasons
14 as to why we believe that we have met our burden. I
15 believe that all that still stands goes to the weight of
16 the evidence, not its admissibility. We believe that
17 we've met the burden to send it forward to the jury.

18 THE COURT: All right. Well, my previous rulings
19 stand. I deny your directed verdict motion, but they are
20 renewed. Let's take ten minutes and we'll come back and
21 talk about tomorrow, okay?

22 (Recess taken at 2:50 PM.)

23 (Back on the record at 2:59 PM.)

24 BAILIFF: Court's back in session. Remain seated.

25 THE COURT: All right. So we've -- obviously you'll

1 Thank you.

2 MS. YONGE: I apologize, Your Honor. May we briefly
3 approach?

4 THE COURT: Sure.

5 (Proceedings held at the bench; not reported.)

6 THE COURT: All right. Anything else before we bring
7 in the jury from the State?

8 MS. MILES: Nothing from the State, Your Honor.
9 Thank you.

10 THE COURT: And from the defense?

11 MS. YONGE: Nothing from the defense, Your Honor.

12 THE COURT: Bring them in, please.

13 I'm not worried about it, but I try to say it every
14 time. Let's keep our closing arguments confined to the
15 evidence that was presented at trial.

16 (Whereupon, the jury enter the courtroom at 9:15 AM.)

17 THE COURT: All right. Madam Forelady and ladies and
18 gentlemen of the jury, welcome back. I hope you-all had a
19 nice evening. I appreciate everyone being here on time
20 this morning.

21 So, ladies and gentlemen, the parties have presented
22 their evidence in this cast. It is now time for the
23 attorneys to make their closing arguments. Now the
24 arguments of the attorneys are not evidence. Their
25 statements and arguments are meant to help you understand

1 the evidence and apply the law to the evidence. You
2 should disregard any remark, statement or argument which
3 is not supported by the evidence presented during the
4 trial or the law that I'll explain to you after the
5 arguments, but at this time please give your complete
6 and undivided attention to the attorneys as they make
7 closing arguments.

8 MS. MILES: May it please the Court?

9 THE COURT: Yes, ma'am.

10 MS. MILES: Defense counsel, members of the jury,
11 good morning everyone.

12 A conflicted family. That's what the defense told
13 you in opening that was going on in this case, and they're
14 right. There was conflict going on in this family and
15 something that was adding to the conflict in this family
16 is that man, Michael Valdario, engaging in activity where
17 he was exploited his young niece. An uncle who **MINOR** had
18 known since she was a baby, had known as a kid growing up
19 going to school, had come visit her in the hospital when
20 she was sick, had come to family dinners at her house
21 because that's what he is, he's family.

22 But he didn't act as a family does. He didn't want
23 his niece to look to him for guidance or support or safety.
24 He wanted her to think of him sexually. He wanted her to
25 call him daddy. He wanted her to show him the stretch of

1 her vagina, make a video moaning for him.

2 That's not family. That's abuse. That's
3 exploitation. Instead of asking his minor niece what
4 she wanted for Christmas, he asked her to take pictures
5 of her nude vagina and video her masturbating and send
6 them to him.

7 You heard from MINOR up on this stand. You heard
8 how she's known her uncle her whole life. You heard how
9 around 2019 he moved to the Midlands when he was going
10 through a divorce and began coming over more. How he came
11 over to the house and had diner with her and her family,
12 how sometimes he'd sit out and smoke a cigar with her dad.
13 You heard how she would see him a few times a week at that
14 point in time.

15 You also heard how they would just do things that a
16 normal family would do at that time, but she also told you
17 about how a certain time -- period of time later things
18 began to change. How he began showing more attention to
19 her. How he started spending more time with her to the
20 point where people began noticing. He came to visit her
21 in the hospital while she was there having her GI issues
22 and he began taking a bigger interest in her than normal.

23 You heard how MINOR said they would FaceTime, call,
24 text, Snapchat pretty much every day. How in early 2020
25 is when he had suggested switching to Snapchat. Why did

1 he choose Snapchat? She testified that he said because
2 people had started paying attention to the fact they were
3 spending too much time together and that he didn't want
4 people to see the conversation.

5 And what did he have her do? He had her change his
6 name in the contacts from Michael to Peanut so if anybody
7 were to observe her having these communications they
8 wouldn't know who it is.

9 What did also MINOR say about that? That then
10 she began keeping screen shots. She began keeping
11 documentation of the conversations that were going on
12 because she realized it was getting out of hand. She
13 knew at some point all of this would come to light and
14 she wanted to have documentation on what was going up.

15 She sat up there on that witness stand and she told
16 you yes, these are the screen shots of the conversations
17 that I was having with my uncle, Michael Valdario. Yes,
18 these are the messages that he sent me asking for nude
19 pictures, asking for videos of me masturbating. Yes, this
20 is a picture of my nude vagina when I was sixteen years
21 old that my uncle received. Yes, that was a video of me
22 masturbating at sixteen along with messages from her uncle
23 telling her to moan daddy for me and adding begging me to
24 fuck you.

25 She had to sit up there and tell you all of that

1 because that's what's in those messages. That's what
2 happened. That's what that man asked for.

3 You don't have to see those pictures and videos.
4 After MINOR testified you-all heard that we did a
5 stipulation that those were images of the minor, that
6 those were MINOR appearing in a state of sexual explicit
7 nudity or appearing in sexual activity. So you don't have
8 to determine what those images are. Those they are the
9 images of sexual -- they are images of a minor engaged in
10 sexual activity or appearing in a state of sexual explicit
11 nudity.

12 You heard MINOR tell you about these images before
13 they were redacted. You also heard her say yes, this is
14 what those messages said at the time I took these pictures
15 and they have not changed, they've not been altered, they
16 are the same as she was looking at them yesterday as the
17 day that she screen shot them, they're the same as they
18 are today. They look the way that she looked at them on
19 her phone, she screen shot them and she saved them knowing
20 one day they would come to light.

21 You-all heard from an excerpt in cell phone
22 forensics, testifying for his first criminal jury trial.
23 The defense asked him about the fact that there were some
24 messages he was able to recover that had been deleted, but
25 you heard me ask if there were any messages there between

1 the victim and defendant that had been deleted. No. Were
2 there anything that was deleted regarding messages that
3 had anything to do with this case. No. He talked about
4 how there were created dates, modified dates that might
5 have lined up when MINOR was in the hospital when they
6 had her phone, but he also admitted that he doesn't know
7 exactly why those dates showed what they did. There could
8 be a multitude of reasons. He admitted that many things
9 can change -- can cause changes to modify a created date.

10 I asked if these images appeared to be modified or
11 changed or if any earlier version of the screen shot or
12 an edited version appeared on the phone extract, but he
13 didn't look for that.

14 I asked if he could tell by looking at the images
15 and right clicking on them as Special Investigator Creech
16 told us that you could do and in the properties if it
17 showed any other previous versions of that screen shot,
18 but he didn't check that so we don't know.

19 I asked if there was any evidence of any photo shop,
20 any type of photo changing, editing software, anything
21 that showed up in exit data of the files. He didn't check
22 for that.

23 I asked if it was possible if moving the photos to
24 the deleted folders and moving them back could change
25 those modified dates, but he wasn't sure.

1 So what did he know? Well, he knew that people on
2 Snapchat can go by different names. Well, we all knew
3 that. He admitted that it was -- that's why it would be
4 important when talking to someone to verify things out of
5 real life so you'd know who you were talking to. What
6 MINOR said that she and Michael did when they talked
7 about their real life. They talked about things that
8 were going on. They talked about the kids, they talked
9 about family.

10 He said that he knew the people in the conversations
11 said they were MINOR and Michael, but couldn't say for
12 sure that they were MINOR and Michael, but he also said
13 it's absolutely possible that they were MINOR and Michael.
14 There was nothing to prove that they weren't and there
15 was nothing to show anything forensically that MINOR
16 [REDACTED] was not the person who took those screen shots
17 and captured them on those dates. He also testified the
18 one thing that did not change at all was the capture date.

19 Something he did know that I mentioned was changing
20 your display name on Snapchat. Well, we'd already heard
21 about that from testimony, we'd heard about that from
22 MINOR when Michael Valdario asked her to change his
23 display name so that nobody would know who she was talking
24 to.

25 The hired expert also told us that people could use

1 other people's Snapchats on other people's phones or log
2 in from other devices. Sure, that's true, but he also
3 admitted that if a person has their phone, if we have
4 MINOR 's phone and there's a Snapchat on MINOR 's phone
5 and Special Investigator Creech is looking at that
6 Snapchat app on MINOR 's phone signed in as MINOR , that
7 it is highly likely that the "me" in those conversations
8 would be MINOR .

9 Now let's talk about those messages. We went
10 through those messages with MINOR . She verified that
11 she was the "me". She knew she was the "me". She knew
12 that the "Michael" was her uncle, the defendant. That's
13 the other person in the messages. She testified that
14 those had not changed. She told you why she knew they
15 were her uncle because they talked on the phone, they
16 discussed talking on the phone, they texted, they'd
17 Snapchat about other things, her health, their lives,
18 using those same numbers and same accounts.

19 You heard from Special Investigator Creech that he
20 was also familiar with those screen shots. He told you
21 he was able to see those screen shots on her phone. He
22 testified those screen shots today are the same as the
23 first day he saw them. He told you how you could click
24 on the screen shot and see that they were all captured
25 starting in early April going through June when MINOR

1 also testified that the Snapchat contact with her uncle
2 had increased.

3 So how do we know it's him and not someone pretending
4 to be him? Because MINOR knows. MINOR knows because
5 this is a man she has known her entire life. This is a
6 man she's communicated with her entire life. She knows
7 how he communicates. She knows how he talks. She talked
8 to him by Facebook -- I mean, FaceTime, phone, text, every
9 day. She knows who she's communicating with. Because
10 she also testified they were talking about all kinds of
11 things going on in their life. It wasn't just this type
12 of conversations.

13 You could also see in the text messages from the cell
14 phone he references Snap. "Why did you say in your Snap
15 story don't talk to people named Michael? What's that
16 about?".

17 We talked at the beginning of the trial about what
18 charges are in this case. Sexual exploitation of a minor
19 first degree and sexual exploitation of a minor second
20 degree. I thank you for your attention to that and your
21 attention throughout this entire trial. I ask for your
22 attention and patience just a little longer as myself and
23 defense counsel get through closings and especially for
24 when the judge charges you-all with the law in this case.

25 Let's look at some of the things involving the law

1 in this case. Our first degree sexual exploitation of a
2 minor is when a person uses, induces, coerces, encourages
3 a minor to engage in sexual activity or appear in a state
4 of sexually explicit nudity for the purpose of producing
5 material that contains a visual representation of that.
6 When a person encourages a minor child to produce sexually
7 exploited images or videos of them self. Do we have that
8 in this case?

9 "Do you want to please me? Or no? Is it not -- it's
10 okay if not". "I'll save them". "I'm asking, baby girl,
11 please for your daddy". "Damn, damn, damn". "Fuck, yes".
12 "I couldn't save them". "Send one like the last one you
13 moaning for daddy and begging me to fuck you". "I bet".
14 "Now since you've been a bad girl, I need a video with
15 something big and thick". "Then you know what you've got
16 to do, baby girl".

17 Is that inducing, encouraging, coercing a minor to
18 appear in a state of sexual explicit nudity or engage in
19 masturbation? I would submit that's exactly what those
20 messages are.

21 Let's talk about second exploitation of a minor
22 second degree. Second degree is when a person distributes,
23 receives, solicits material that contains that visual
24 representation of a minor engaged in sexual activity. So
25 when the person asks for, sends out, receives pictures or

1 videos of a minor engaged in sexual exploitation. So
2 let's look at these messages.

3 "I said nothing right now, you're mine, and I ask
4 you to send me something". "Do you not want to please me
5 anymore?". "You gonna send me the pics, baby?" "And I
6 do want it just for me, so please be honest. Like for
7 real". "It's totally okay if you send to other people or
8 plan to, but don't say it's just for me if you don't mean
9 it". "And where's my pics?". "I fucking love it, baby".
10 "Now send me my pics, please".

11 Are those messages soliciting material of a minor
12 engaged in sexual activity or appearing in a state of
13 sexually explicit nudity? I would submit that they are.

14 And what about receiving these images and videos
15 while knowing the character and content, not just
16 receiving something and have no idea? Oh, what is this
17 gonna be? Is it clear that he knew the type of material
18 he was sending?

19 "Damn, damn, damn". "Good job". "I'm so hard right
20 now". "Did you come?". "Fuck". "Fuck". "Oh, my F'ing
21 word". "I'm speechless". "Damn, damn, damn". "Fuck,
22 yeah". Heart emoji. "Fuck".

23 So that's exploitation of a minor. The first degree
24 charges, that's for actions against the victim. That's
25 for encouraging a minor to do the actions in the first

1 place. The second degree charge is where they're
2 requesting those items, those images, those videos that
3 he encouraged the minor to make. That's the difference.

4 Defense brings up oh, well, this could have been
5 changed or deleted or whatever, but you know what, while
6 we have these screen shots, and we have stipulated the
7 blacked out pictures are MINOR 's vagina, we don't have
8 to have those. They're not necessary for this crime.
9 The State submits that the crime of sexual exploitation
10 minor first degree occurs once the encouragement and
11 coercion of a minor has taken place. So at that point
12 where the defendant asks his minor niece to take a nude
13 photo or record herself masturbating, that exploitation
14 of a minor has already occurred. The crime has already
15 been committed.

16 Once the defendant then asked that minor to send
17 him that nude photograph or that recording, the crime of
18 second degree has already occurred with or without the
19 screen shots. We don't have to have the screen shots.
20 MINOR telling you about this activity would have been
21 enough, but we do have them and we've shared them with
22 you.

23 The defense will talk about reasonable doubt and
24 things not being what people say they are and they're
25 really something else, but you're all smart capable

1 people who can use your collective commonsense to see
2 what this is.

3 Think about what MINOR said on the stand, that
4 those screen shots have been the same since the day she
5 took them. Use that collective commonsense and think of
6 what motive she would have to make all of this up. In a
7 case where there's been no testimony, no evidence put out
8 there was any bad blood between her and her uncle. Use
9 that commonsense to think who has more reason to say that
10 those messages happened or that they didn't.

11 I submit that once you do all of that, you'll see
12 there's little reason for MINOR to have ever said that
13 this happened if it didn't, to continue saying it all of
14 those years, to sat on the stand and told you yes, these
15 are images of my vagina that I sent to my uncle. What
16 would the reason be if not for it happened?

17 Now the defense will talk about reasonable doubt and
18 how we have to prove our case beyond a reasonable doubt,
19 and that's absolutely true. We do have to do that and we
20 submit that we've done that. It's important to listen to
21 the judge in a few minutes during jury charge when he
22 talks about reasonable doubt because it's not beyond a
23 shadow of a doubt, it's not beyond any doubt, it's a doubt
24 that causes you hesitate to act. The evidence doesn't
25 need to eliminate all possible doubt. That's impossible.

1 Everything in life is open to some sort of possible or
2 imaginable doubt. You just need to be firmly convinced
3 of his guilt. That doesn't mean you-all have to agree
4 on the evidence. You just have to agree on what that
5 evidence means regarding the defendant's guilt. You
6 don't have to agree upon a reason. You don't have to
7 agree on how much weight you give to one particular
8 witness or one piece of evidence. You just have to agree
9 collectively that you're firmly convinced of his guilt.

10 The defense told you in opening that this is just
11 like a puzzle that doesn't fit, but take a look at it.
12 It seems to fit pretty perfectly. We have a 16-year-old
13 minor, MINOR, and all of these messages, and the final
14 piece of that puzzle is the person who sent them, and
15 that's the defendant, her uncle, Michael Valdario.

16 "Then you know what you've got to do, baby girl".
17 That's what Michael Valdario said to his 16-year-old niece
18 when he was asking her for videos of her masturbating.

19 Now you have heard and seen the evidence in this
20 case, now you know what you've got to do, and the State
21 is assured that that will be finding Michael Valdario
22 guilty of sexual exploitation of a minor first degree
23 and second degree in this case.

24 Thank you-all.

25 MS. YONGE: Your Honor, I have a matter of law to

1 take up outside the presence of the jury.

2 THE COURT: All right. Ladies and gentlemen, we're
3 gonna take a short break and get you back in here shortly.
4 Please don't discuss the case with anyone or amongst each
5 other, and we'll see you shortly.

6 (Whereupon, the jury retires to the jury room at
7 9:35 AM.)

8 THE COURT: Yes, ma'am.

9 MS. YONGE: Your Honor, we would ask for a
10 clarifying instruction from the Court regarding our
11 stipulation on the images. I believe the prosecution
12 stated in her closing that we stipulated that it was
13 MINOR's vagina. That is not what we stipulated. We
14 stipulated that it was a -- a vagina. We stipulated to
15 what it was, not who it belonged to, and so we would ask
16 that you clarify that to the jury.

17 MS. MILES: I thought the entire portion of the
18 stipulation was we had to have her say it was her vagina
19 before we were able to stipulate.

20 THE COURT: Well, she said she took --

21 MS. MILES: I mean, that's why we had her testify
22 first.

23 THE COURT: Fair enough. Fair enough.

24 Stacy, can we take a look?

25 That would be yesterday when MINOR was --

1 MS. YONGE: I believe we discussed the stipulation
2 on Monday.

3 THE COURT: Actually you-all went back and forth
4 twice while she was on the stand.

5 MS. MILES: Yeah, we did, and we put it on the
6 record.

7 THE COURT: Because remember of the juror couldn't
8 hear, so they went through it again.

9 MS. MILES: So we had to ask her specifically.

10 MS. YONGE: Right.

11 THE COURT: So your -- your issue is that -- just
12 clarification of --

13 MS. YONGE: Just that we're stipulating that it is
14 a -- that that is what the image shows, not necessarily
15 that it belongs to MINOR, and that we said -- my
16 understanding of what I said, and maybe I didn't say it
17 correctly, which would be on me, was that we were putting
18 the -- we would -- that it could go in as long as she
19 properly authenticated it, et cetera, et cetera, I think
20 is what I said when we were up there, is I said we will
21 stipulate to what it is so that we don't have to show the
22 jury --

23 THE COURT: Sex abuse material.

24 MS. YONGE: -- and she has to testify that it's
25 hers, but we're not stipulating that it's hers. We'll

1 stipulate to what it is, if she testifies.

2 THE COURT: I understand.

3 MS. YONGE: Okay.

4 THE COURT: Let's just walk out here and see if we
5 can't take a look. Because you-all -- I mean, I didn't
6 do a formal stipulation, frankly, because you-all did it
7 for me.

8 MS. YONGE: Whatever it says I'm good with it, Your
9 Honor.

10 (Recess taken at 9:37 AM.)

11 (Back on the record at 9:42 AM.)

12 BAILIFF: Court is back in session. Come to order.

13 THE COURT: All right. Please be seated.

14 All right. Are we ready to proceed?

15 MS. YONGE: Yes, Your Honor.

16 THE COURT: Technology's ready to go?

17 MS. YONGE: Yes, Your Honor.

18 THE COURT: And just to be clear, we talked about
19 the stipulation in chambers and we reviewed the record
20 and a rough transcript and, you know, I think you can
21 have as much leeway as you can subject to what's in the
22 transcript.

23 MS. YONGE: Yes, Your Honor.

24 THE COURT: All right. Is the State ready to
25 proceed?

1 MS. MILES: Yes, sir, Your Honor.

2 THE COURT: Defense ready?

3 MS. YONGE: Yes, sir.

4 THE COURT: Bring them in.

5 (Whereupon, the jury return to the courtroom at
6 9:55 AM.)

7 THE COURT: All right. Ladies and gentlemen,
8 welcome back. We will proceed on with closing arguments.

9 MS. YONGE: If it may please the Court, Your Honor?

10 THE COURT: Yes, ma'am.

11 MS. YONGE: Good morning.

12 The State is asking you to convict Michael Valdario
13 of these crimes based on evidence that was taken from a
14 cell phone that was tampered with. There's additional
15 evidence, and we'll get into that, but in the gist that's
16 what's going on here. A tampered cell phone.

17 This case has only been about a day, so there's not
18 a lot of evidence in it to review. From my point of view,
19 there are three major components. There are the screen
20 shots with Michael, there's MINOR 's testimony about those
21 screen shots, and in the background there's MINOR 's cell
22 phone.

23 Let's start with those screen shots. Where does
24 Michael Valdario come into the picture? Well, we don't
25 have any cell phone records. We don't have -- at least

1 not from Michael. There are some limited cell phone
2 records that we put in from MINOR, but we don't have cell
3 phone records from Michael. We don't have text messages
4 from Michael. We don't have Snapchat messages from
5 Michael. We don't have his Snapchat username. You heard
6 MINOR testify that she doesn't know what it was. And
7 Special Investigator Creech doesn't know what it was.
8 They were never subpoenaed. In fact, when Special
9 Investigator Creech subpoenaed MINOR's Snapchat records,
10 there was no corroborating evidence in there. It did not
11 match up to those screen shots. That's what he testified
12 to.

13 But at the same time as the prosecution said,
14 MINOR testified that they talked all the time, every day.
15 They had phone calls, they had FaceTime, they had text
16 messages. FaceTime wasn't as much as phone calls. They
17 said, you know, a little more, a couple of times a week
18 as opposed to every day. Where is all of that evidence
19 if it exists? Where is it? We know it doesn't exist in
20 Snapchat. Special Investigator Creech said it didn't.
21 There are hundreds of messages there and not one of them
22 corroborates one of these screen shots. Ask yourself why
23 that is.

24 So let's talk about what we do have. We have screen
25 shots. We have screen shots with Michael. Now it's been

1 said ad nauseam. Every witness yesterday testified --
2 literally every witness testified that you can change the
3 display name on Snapchat. I don't know if any of you have
4 Snapchat. I don't, but I'm sure some of you do, and you
5 can change the display name to be whatever you want it to
6 be. So as MINOR testified yesterday, she testified that
7 she changed it from Michael to Peanut -- or that Michael
8 changed it. I can't remember. Someone changed it from
9 Michael to Peanut. We had the expert show his little
10 video of him changing his wife's name Claire to Bob.
11 You-all get the picture. It can happen. You can change
12 the display name. It can be whatever you want it to be,
13 and so that's -- that's the evidence we're looking at is
14 a screen shot of a Snapchat with Michael.

15 And I was trying to think of a way to articulate it
16 last night and my husband looked at me, he's a lawyer,
17 too, and he said well, Anna, what if I sent you a screen
18 shot, I texted it to you and it was a message with Taylor
19 and it said -- and I accompanied that screen shot with
20 look, I got free tickets from Taylor Swift to go to her
21 concert. I don't know if any of you like Taylor Swift.
22 I do. So I wouldn't believe that. I'd say no, show me
23 your -- show me your phone, show me where you got this
24 message, right? And he hands me his phone and there's no
25 text to support that, there's no contact information for

1 this Taylor whoever that is, there's no Swift attached to
2 it. There's nothing but a screen shot of a message from
3 a Taylor saying you have won free tickets to my concert
4 tomorrow. As the prosecution said, you can use your
5 commonsense. That's the level of evidence we're looking
6 at here. Taylor Swift.

7 Now MINOR did get up on that stand and she
8 testified that she took those images, that she had those
9 conversations, that she sent them to Michael, that she
10 did these -- I believe the dates were in April and May,
11 and that she saved them. She took these screen shots
12 because she -- and I want to use the correct term, I
13 wrote it down, she knew things were getting out of hand
14 and she knew things would come out at some point. She
15 took these screen shots -- she testified that she took
16 these screen shots in April and May.

17 How did we come to be here today? Is it because
18 of something that happened in April and May? Or is it
19 because of something that happened in September of 2020?

20 Let's talk about that. Where was MINOR in
21 September of 2020 and where was MINOR's cell phone?
22 Well, presumably sometime -- she couldn't remember when,
23 but sometime in August or September of 2020 that cell
24 phone was with MINOR and then her parents took it. The
25 next time we know where the cell phone is it is on

1 September 12th of 2020 and then Major Deputy Ward is
2 picking up that cell phone from John Valdario that
3 evening.

4 So, again, why are we here? Well, zooming in,
5 September 10th MINOR is in Horry County, Myrtle Beach
6 area, and she reports her father for abuse. She doesn't
7 want to go home. She's transferred immediately to
8 Lexington Medical Center. From there she's put into a
9 psychiatric facility inpatient to get the help she needs
10 and she testified she was there about a week. That's where
11 MINOR is.

12 Where's MINOR's cell phone? We don't have evidence
13 that points directly to it, but the last thing we knew
14 her parents had her cell phone and then her cell phone is
15 collected from -- from her dad the next day or two days
16 later, September 12th. So we don't know who has it.
17 You-all can make inferences.

18 MINOR is in Three Rivers. September 11th her
19 parents go to Lexington County Sheriff's Department and
20 they report a crime, but the criminal isn't John Valdario,
21 it's Michael, and they have a cell phone and the rest is
22 history.

23 So you can use your commonsense here. You have a
24 16-year-old girl who is going through a horrible time in
25 her life. There are clearly awful things happening. She

1 makes a phone call for a crime, she's taken away from
2 her family, she goes into inpatient care. When she is
3 released from that inpatient care, law enforcement comes
4 to her about a crime, but it's not about the one she
5 reported. It's about something completely different.
6 Think about it.

7 So I'm gonna switch gears here and I'm gonna get
8 into the science that we've kind of gone through a little
9 bit, but I don't think we've gone through in detail.

10 What else is important about that date where this
11 crime is reported other than the obvious? It's
12 September 11, 2020. What's important about that date?
13 Where have we seen that date before?

14 Let's see if I can make this work. Looking at
15 Defense Exhibit -- it's Defense Exhibit 3, and you-all
16 will have this back there with you. You will recall that
17 this was the report that was generated by the expert
18 specifically with regards to anything that was deleted
19 off of MINOR's cell phone and he testified -- he admitted
20 you can't get everything with this, right, but you can get
21 some stuff. We got some stuff of interest.

22 Looking at Item Number 3, Image 12, it's a JPG, you
23 can't see it in great detail, but it appears to be someone
24 holding a phone and taking a picture of it. Let's see
25 if I can make that a little more clear. At least that's

1 what I see. What information do we have about that
2 image? Well, we have that it was captured on February 17,
3 2020. So that's what we talked about a lot yesterday.
4 Investigator Creech said that he right clicked on it and
5 found the capture date. That's when the image was
6 created.

7 Then we also heard from the expert well, if you
8 take a screen shot of a screen shot, you have a new
9 capture date. So we don't have a real -- there's no way
10 to definitively state when this image was taken because
11 it could theoretically be a screen shot of a screen shot,
12 but for the sake of argument to simplify things we'll
13 say it was taken on February 17, 2020. So we don't know
14 what it says, but we know that there's an image and that
15 we're taking a picture of it. It's an old image. It's
16 from February 17th, and look at that? It's created on
17 September 11, 2020, at 4:01 PM, and modified a little
18 bit later.

19 So that file was created on **MINOR**'s phone on this
20 date. We don't know who created it. We don't have any
21 evidence that tells us who did it. We just know it
22 wasn't **MINOR** because she was in Three Rivers and it
23 wasn't law enforcement because they didn't have the phone
24 yet. We have someone taking old images, moving them
25 around, modifying them, putting them on the phone.

1 So I am not going to go through all of these, but
2 you can see that there are several and if you can tell
3 they're holding a phone. This is a hand behind it.
4 Someone is taking a picture of someone holding a phone,
5 so there's several of these in here. We don't have the
6 deletion data for it. Again, the expert said you can't
7 always recover that because cell phone companies aren't
8 really interested in the user having the deletion data.

9 Let's see here. There we go. We have another. We
10 have another. This one is redacted by law enforcement.
11 That one. These are all old messages that are being
12 created on 9-11-2020. Someone is messing on the phone,
13 someone is creating files and is moving them around, and
14 we cannot definitively say who that is.

15 And then on the next page we have a couple, these
16 are kind of interesting, where we don't have the capture
17 date, we don't know if that means that they are older or
18 aren't or whatever, but it was created on 9-11 at, let's
19 say, 3:51. Sorry, guys. And these are messages with
20 someone. And, you know, I want to stop here and the
21 prosecution pointed out that the expert said well, no,
22 none of these deletions were with Michael. Well, of
23 course. There are no Snapchat records with Michael
24 either. Why is that? Why are there no deleted messages
25 with Michael? There are no Snapchat records with Michael

1 either. Or Michael Valdario. I need to be specific
2 here. I apologize. Michael Valdario. None of these have
3 to do with this case with regards to Michael Valdario.
4 I submit to you that they do have to do with this case.

5 And there's several of them and I'm sure that you-all
6 don't want to stare at all these in big script all day,
7 but you'll have this back there with you. Take a look.
8 We have screen shots -- we have screen shots of people
9 holding phones, we have screen shots of messages with
10 someone that we can't see who it is, and these were all
11 modified, created on 9-11-2020 in the afternoon before
12 Major Deputy Ward even submitted his report at -- we said
13 17:52 yesterday, which I think we all decided was 5:52 PM.

14 So what evidence does that leave you with? I'll
15 repeat what I said about MINOR . You have a
16 16-year-old vulnerable child and she is clearly going
17 through something, she reports a crime, she goes to a
18 psychiatric institute to get help for that and when
19 she's released, law enforcement comes to talk to her
20 about something completely different, something that was
21 reported on 9-11, something that the only records for,
22 the only thing that we have that the expert said there's
23 no independent verification for, those were his words,
24 no independent verification, we don't know who Michael
25 is or even if these are coming from MINOR 's Snapchat

1 account. She's released. Law enforcement comes to talk
2 to her about a crime that she didn't report, but that
3 someone else did.

4 Ladies and gentlemen, I submit to you that's
5 reasonable doubt. This is much more serious than my quip
6 about Taylor Swift tickets. That's reasonable doubt.

7 Thank you for your time.

8 MS. MILES: Okay. So defense counsel talked a lot
9 about a tampered cell phone that the expert showed that
10 there were things that had been deleted or modified or
11 something on a date where MINOR might not have had her
12 phone. They talked about, you know, things could have
13 been moved around and all of this and that -- you know,
14 their expert talked about that, but what their expert
15 also said was there's a lot of things that can cause
16 those manipulations, innocuous things, and in looking for
17 whether or not those files had been manipulated he didn't
18 look to see if there was any type of image software that
19 could be editing it, he didn't look to see if there were
20 previous versions of that, he didn't look to see if these
21 images that they were looking for to be manipulated had
22 been manipulated. They just looked to see if some things
23 had been modified and deleted and moved around and so he
24 didn't know what, in fact, could have caused that, that a
25 multitude of things could have caused that.

1 Now they talked about maybe this phone was tampered
2 with and everything, but who says that? What they do say
3 is that what we've looked at in this case, those screen
4 shots, were taken by MINOR, looked exactly the same at
5 the time they went to law enforcement and look the same
6 now. So if the phone was tampered with and things were
7 moved around, it's not things that changed those screen
8 shots. Those screen shots still look exactly the same.
9 So if other messages were pulled out of deleted files
10 or different things were deleted or whatever, it didn't
11 change those screen shots and those screen shots are what
12 tells the story of what happened here.

13 They talked about, you know, the Snapchat, they
14 didn't have his Snapchat, that none of his, you know,
15 Snapchats or phones had any of these messages about it.
16 Isn't it reasonable to believe that a man who was worried
17 about people finding these conversations enough to have
18 his niece change his name in her phone would be deleting
19 everything? Ask yourself is that not reasonable?

20 In regards to the report made in September where
21 MINOR doesn't, you know, want to go home, there's some
22 things going on at home and that she made a report to law
23 enforcement, she's goes into Three Rivers at some point,
24 she's going through a tough time. When asked on the stand
25 what contributed to that tough time she says Michael

1 Valdario, and what was going on with him, those messages,
2 that was contributing to her hard time. Because she was
3 vulnerable. She was going through a hard time and, you
4 know, who knew that? Her uncle, Michael Valdario. He
5 came to visit her in the hospital. He knew what she was
6 going through. He talked to her every day and instead of
7 being supportive about the other things he was going
8 through, he used it for his own gain.

9 No evidence has been put in regarding what all was
10 going on in the household because that's -- that's not a
11 trial in this case. That's nothing going on in this case.
12 But let's say there was, you know, abuse going on in the
13 household or something. How does that mean anything in
14 this case except for more compounding trauma for that
15 victim?

16 Because in the end how does that change these
17 snapshots or screen shots existing, that, you know, she
18 made a report to -- about her father and then law
19 enforcement came and talked to her about something
20 different, but when law enforcement came and talked to
21 her about it, maybe it wasn't about, you know, the abuse
22 claim, but when they came to talk to her about it she
23 didn't say oh, no, no, no, that didn't happen with my
24 uncle. She showed them the text messages on her phone.
25 The same text message you-all will see. She told them of

1 a different crime. She didn't know that's the crime they
2 were gonna be there to talk about, but that crime existed
3 and she talked to them about it.

4 You know my oldest child is one of those kids who
5 picks up things off the ground all the time and she is
6 forever picking up the dirtiness, nastiest looking pennies
7 off of the ground and I always think it's trash when she
8 picks up something, do not pick that up, but she knows
9 there's money under that trash and she wants that money.

10 In this case, that coin underneath everything, that's
11 what happened to MINOR. That coin is her uncle asking
12 her to masturbate and to take pictures of her vagina and
13 ask her then to send them to him.

14 And defense can talk about, you know, muddying it
15 up, sticking it up, putting gum on this coin, making it
16 messy with this might have been changed, this might have
17 been deleted, but that coin's still there. What happened
18 to MINOR what her uncle did to her, that's still there
19 underneath, and that is what he is guilty of.

20 So don't lose sight that just because something has
21 gummed up that coin that that coin doesn't exist and that
22 coin doesn't give you the evidence that you need to convict
23 Michael Valdario of sexual exploitation of a minor against
24 his niece, MINOR.

25 Thank you-all for your time.

1 THE COURT: All right. Members of the jury, I'm
2 ready to charge you on the law of this case. I want to
3 make sure, does anyone need a break before I start? I
4 think everybody's good.

5 All right. Members of the jury, it is now my --
6 my duty as the trial judge to instruct you on the law
7 applicable to this case. In that regard, it is your duty
8 as jurors to accept and apply the law as I now state it
9 to you. Furthermore, it is your exclusive duty to decide
10 all the issues of fact in this case and to determine the
11 effect, value, weight and truth of the evidence. All the
12 parties have the right to expect you will carefully
13 consider and evaluate the evidence and apply the law of
14 this case to it so that in the end all parties will receive
15 a fair and impartial trial.

16 During this trial you and I have separate duties to
17 perform. As the trial judge it is my responsibility to
18 preside over this trial and rule upon the admissibility
19 of evidence offered during the trial. You, as members of
20 the jury, are to consider only the evidence before you.
21 If you have any preconceived ideas as to what the law is
22 or what you think the law ought to be and it does not
23 agree with what I tell you the law is, you are obligated
24 under your oath to abandon those preconceptions because you
25 are sworn to accept the law as I now state it to you.

1 In this trial, you are the sole and exclusive judge of
2 the facts. Do not infer I have an opinion about the facts
3 in the case from anything I have said or done during the
4 course of this trial. The law simply does not permit me to
5 have an opinion about the facts. As jurors, it is duty and
6 your duty alone to determine the effect, the value, weight
7 and truth of the evidence presented during this trial.

8 Now the evidence from which you will decide the facts
9 of this case are, one, the sworn testimony of witnesses
10 both on direct and cross-examination; two, the exhibits
11 which have been admitted into evidence; and, three, any
12 facts to which all the attorneys have agreed and
13 stipulated.

14 The following things are not evidence and you must
15 not consider them as evidence in deciding the facts of
16 the case. One, statements and arguments of the attorneys;
17 two, questions and objections of the attorneys; three,
18 any testimony that I instruct you to disregard; four,
19 questions and answers given during the qualification and
20 selection of the jury; and, five, allegations set forth in
21 the indictments.

22 While the argument of counsel is a beneficial part
23 of every trial, you should remember that the statements
24 made by counsel are not evidence. In presenting arguments,
25 counsel often refer to evidence; however, you should base

1 your verdict on the evidence as you remember it; therefore,
2 if there are any conflicts between the recollection of
3 counsel about the evidence and your own recollection, you
4 should rely upon your own understanding of the evidence.

5 Furthermore, evidence may be direct evidence or
6 circumstantial. Direct evidence is testimony by a witness
7 about what the witness personally saw, heard or did.
8 Circumstantial evidence, on the other hand, is indirect
9 evidence. Stated differently, it is proof of one or more
10 facts from which one can find another fact. You may
11 consider both direct and circumstantial evidence equally
12 and crimes may be proven by circumstantial evidence. The
13 law makes no distinction between the weight or value to be
14 given to either direct or circumstantial evidence; however,
15 to the extent the State relies on circumstantial evidence
16 all the circumstances must be consistent with each other
17 and when taken together point conclusively to the guilt of
18 the accused beyond a reasonable doubt. If these
19 circumstances merely portray the defendant's behavior as
20 suspicious, the proof has failed. The State has the burden
21 of proving the defendant guilty beyond a reasonable doubt.
22 This burden rests with the State regardless of whether the
23 State relies on direct evidence, circumstantial evidence or
24 some combination thereof.

25 The fact that the defendant elected not to testify

1 is not a factor to be considered by you in any way in
2 your deliberations and in consideration on the question
3 of whether the defendant is guilty or not guilty. It must
4 not be considered in any manner whatsoever against him.
5 An accused has a constitutional right to remain silent
6 and the assertion of that right cannot be considered by
7 you in your deliberations on your oath you are to reach
8 no inference and draw no conclusion whatsoever from the
9 fact the defendant elected not to testify. His decision
10 should not even be discussed in the jury room. It should
11 not -- it is not to enter your minds in making your
12 decisions. The State has the entire burden of proof and
13 the accused has no burden to prove anything at all.

14 Furthermore, it is your job as jurors to determine
15 the credibility or believability of the witnesses who have
16 testified in this case. You must evaluate the evidence
17 and determine which evidence convinces you of its truth.
18 In determining the believability of witnesses who have
19 testified in this case, you may believe one witness over
20 many or many over one. You may believe a part of the
21 testimony of a witness and reject the remaining part. You
22 may believe the testimony of a witness in its entirety or
23 reject it in full. You may consider whether the witness
24 has an interest in the result of the trial, whether the
25 witness is prejudiced toward either party, the opportunity

1 for the witness to have seen the matters and things about
2 which the witness may testify and the way the witness acts
3 on the witness stand.

4 Now the rules of evidence ordinarily do not permit
5 witnesses to testify to opinions or conclusions. An
6 exception to this rule exists for witnesses we call expert
7 witnesses. A witness who by education and experience has
8 become an expert in some art, science, profession or
9 calling may state an opinion as to relevant and material
10 matter in which the witness claims to be an expert and
11 may also state the reasons for the opinion. You should
12 consider any expert opinion received into evidence in this
13 case like any other evidence. Give it the weight you
14 think it deserves. If you decide that the opinion of an
15 expert witness is not based on sufficient education and
16 experience or if you conclude that the reasons given in
17 support of the opinion are not sound or that the opinion
18 is outweighed by other evidence, you may disregard the
19 opinion entirely. An expert witness's testimony is to
20 be given no greater weight than that of other witnesses
21 simply because the witness is an expert. Further, you're
22 not required to accept an expert's opinion even though it
23 is not contradicted.

24 Now the defendant has pled guilty to these
25 indictments and that plea puts the burden on the State

1 to prove the defendant guilty. A person charged with
2 committing a criminal offense in South Carolina is never
3 required to prove his or her innocence. I charge you that
4 it is an important rule of the law that the defendant in
5 a criminal trial no matter what the seriousness of the
6 charge may be will always be presumed to be innocent of
7 the crime for which the indictment has issued unless guilt
8 has been proven by evidence satisfying you of that guilt
9 beyond a reasonable doubt.

10 Did I say guilty?

11 MS. YONGE: Yes, Your Honor.

12 THE COURT: All right, folks. I made a mistake.
13 I misspoke. Let me be very clear, the defendant has pled
14 not guilty to these indictments. I apologize for that.
15 I -- I guess the word blurred on me. My apologies to
16 everyone.

17 To be very clear, the defendant has pled not guilty
18 to these indictments and that plea puts the burden on the
19 State to prove the defendant guilty. A person charged
20 with committing a criminal offense in South Carolina is
21 never required to prove his or her innocence.

22 The presumption of innocence does not end when you
23 begin your deliberations, but it accompanies the defendant
24 throughout the trial unless you reach a verdict of guilt
25 based on evidence satisfying of you of that guilt beyond

1 a reasonable doubt. The presumption of innocence is like
2 a robe of righteousness placed about the shoulders of the
3 defendant which remains with the defendant unless it has
4 been stripped from the defendant by evidence satisfying
5 you of the defendant's guilt beyond a reasonable doubt.

6 The presumption of innocence is not mere legal
7 theory, it is not just a legal phrase. It's a substantial
8 right to which every defendant is entitled unless you, the
9 jury, are satisfied from the evidence of the defendant's
10 guilt beyond a reasonable doubt.

11 The State has the burden of proving the defendant
12 guilty beyond a reasonable doubt. Some of you may have
13 served as jurors in civil cases where you were told that
14 it was only necessary to prove that a fact is more likely
15 true than not true such as by the greater weight or
16 preponderance of the evidence. In criminal cases, the
17 State's proof must be more powerful than that. It must
18 be proved beyond a reasonable doubt as to each element of
19 each offense charged.

20 What is a reasonable doubt in the law? A reasonable
21 doubt is the kind of doubt that would cause a reasonable
22 person to hesitate to act. Proof beyond a reasonable
23 doubt is proof that leaves you firmly convinced of the
24 defendant's guilt. There are very few things in this
25 world that we know with absolute certainty and in criminal

1 cases the law does not require proof that overcomes every
2 possible doubt.

3 If, based on your consideration of the evidence, you
4 are firmly convinced the defendant is guilty of the crime
5 charged, you must find the defendant guilty. On the other
6 hand, if you think there is a real possibility that the
7 defendant is not guilty, you must give the defendant the
8 benefit of the doubt and find him not guilty.

9 Mere suspicion, however strong, is not enough to
10 sustain a conviction. Suspicion implies a belief or
11 opinion as to guilt based upon facts and circumstances
12 which do not amount to proof.

13 In order to establish criminal liability, criminal
14 intent is required. The dictionary defines intent as a
15 state of a person's mind that directs his actions toward
16 a specific object. Criminal intent must be proven by
17 the State beyond a reasonable doubt. Criminal intent is
18 always a matter that must be determined by the jury from
19 the circumstances surrounding the situation.

20 There is no way to prove intent to a mathematical
21 certainty. There is no medical science that can dissect
22 a person's brain and determine what the person had in mind,
23 so the law says that criminal intent may be inferred from
24 the circumstances shown to have existed. This is how
25 you make a -- determine whether or the element requiring

1 intent was present. Criminal intent is a mental state, a
2 conscious wrong doing. It is up to you to determine what
3 the defendant intended to do based on the circumstances
4 showing to have existed.

5 I'm now gonna explain to you the law that applies
6 to the charges against the defendant. The defendant is
7 charged with first degree exploitation of a minor. The
8 charge pending against the defendant is a statutory
9 charge. It is contained in the Code of Laws of this
10 state as passed by the General Assembly of South Carolina.

11 Section 16-15-395(A) of the South Carolina Code
12 sets forth the statutory provision of first degree sexual
13 exploitation of a minor as follows. An individual commits
14 the offense of first degree sexual exploitation of a minor
15 if, knowing the character or content of the material
16 or performance, he uses, employs, induces, coerces,
17 encourages or facilitates a minor to engage or -- to
18 engage in or assist others to engage in sexual activity
19 or appear in a state of sexually explicit nudity when
20 a reasonable person would infer the purpose is sexual
21 stimulation or a live performance or for the purpose of
22 producing material that contains a visual representation
23 depicting this activity or a state of sexually explicit
24 nudity when a reasonable person would infer the purpose is
25 sexual stimulation.

1 Minor means an individual who's less than eighteen
2 years old. Sexual activity is statutorily defined as
3 including any of the following acts or simulations
4 thereof. Masturbation, vaginal, anal, oral intercourse,
5 touching in an act of apparent sexual stimulation or
6 sexual abuse of the closed or unclosed -- or the clothed
7 or unclothed genitals, pubic area or buttocks of another
8 person or the clothed or unclothed breast of a human
9 female. Sexually explicit nudity is statutorily defined
10 as the showing of uncovered or less than opaquely covered
11 human genitals, pubic area or buttocks or the nipple or
12 any portion of the areola of a human female breast or
13 covered human male genitals in a discernibly turgid state.

14 In a prosecution pursuant to this section, you may
15 infer that a participant in a sexual activity or a state
16 of sexually explicit nudity depicted in material as a
17 minor through its title, text, visual representations or
18 otherwise as a minor.

19 Second exploitation of a minor second degree. The
20 defendant in this case is also charged with the offense
21 of second degree sexual exploitation of a minor. An
22 individual commits the offense of second degree sexual
23 exploitation of a minor if, knowing the character or
24 content of the material, he records, photographs,
25 films, develops, duplicates, produces or creates

1 digital electronic file material that contains a visual
2 representation of a minor engaged in sexual activity or
3 appearing in a state of sexually explicit nudity when
4 a reasonable person would infer the purpose is sexual
5 stimulation or distributes, transports, exhibits, receives,
6 sells, purchases, exchanges or solicits material that
7 contains a visual representation of a minor engaged in
8 sexual activity or appearing in a state of sexually
9 explicit nudity when a reasonable person would infer the
10 purpose is sexual stimulation.

11 The same statutory definitions apply here. In a
12 prosecution pursuant to this section, you may infer that
13 a participant in sexual activity or a state of sexually
14 explicit nudity depicted in material as a minor through
15 its title, text and visual or otherwise is a minor -- or,
16 excuse me, title, text, visual representation or otherwise
17 is a minor.

18 Now a verdict in this case cannot be based upon
19 sympathy, passion, prejudice or emotion or some other
20 consideration not found in the evidence. I charge you
21 that as jurors you must decide the issues involved in
22 this proceeding based solely upon the evidence which you
23 hear during the course of the trial. Your verdict must
24 be without bias and without prejudice to any party. You
25 cannot allow yourselves to be governed by sympathy, by

1 prejudice, by passion, by public opinion or some other
2 consideration not found in the evidence.

3 Now let me say something about your deliberations.
4 Deliberation is defined as careful consideration, weighing
5 up with a view to decision. The genius of our jury system
6 is it allows twelve good men and women from twelve
7 different backgrounds, life experiences and perspectives
8 to consider the evidence, talk about it and ultimately
9 reach a verdict. We call them deliberations for a reason.
10 You are to consider the evidence in this case carefully
11 and deliberately and discuss it in a calm, thorough,
12 courteous manner. Listen to the views of all your fellow
13 jurors, consider other people's points of view and talk
14 through and discuss the evidence. And, remember, if you're
15 doing something deliberately, you're not in a big hurry,
16 and you should not be in a big hurry here. This case is
17 very important to all the parties and this trial is their
18 only day in court.

19 When you retire to the jury room, you should discuss
20 the case with your fellow jurors to reach agreement, if
21 you can do so. Your verdict must be unanimous. Each of
22 you must decide the case for yourself, but you should do
23 so only after you've impartially considered all the
24 evidence, discussed it fully with the other jurors and
25 listened to the views of your fellow jurors. Do not be

1 afraid to change your opinion if the discussion persuades
2 you that you should, but do not come to a decision simply
3 because other jurors think it is right. It is important
4 that you attempt to reach a unanimous verdict, but, of
5 course, only if each of you can do so after having made
6 your own decision. Do not change an honest belief about
7 the weight of the evidence simply to reach a verdict. In
8 other words, do not change your opinion solely for the
9 sake of reaching a unanimous verdict.

10 Now I will give you a copy of these instructions in
11 written form. During the deliberations you may refer to
12 the instructions to guide your decisionmaking. You must
13 consider the instructions as a whole and not follow some
14 and ignore others. Please return the instructions to the
15 Court at the time your verdict is rendered.

16 There are two possible verdicts you may find in this
17 case. Guilty or not guilty. There is no significance
18 whatsoever the order in which I state these possible
19 verdicts. It's simply that one must be stated first.
20 Ladies and gentlemen, your verdict must be a unanimous
21 one.

22 Madam Forelady, when the jury agrees on the verdict,
23 you will write the verdict on the verdict form, then knock
24 on the jury room door and inform the bailiff that you've
25 reached a verdict. At that time we will receive you back

1 into the courtroom.

2 I ask that you now return to the jury room, but do
3 not begin your deliberations until you are told by the
4 clerk or the bailiff to do so. There are some matters
5 that must be discussed with the attorneys before you can
6 begin your deliberations.

7 So please return to the jury room. Thank you.

8 (Whereupon, the jury retire to the jury room at
9 10:36 AM.)

10 THE COURT: Ms. Yonge.

11 MS. YONGE: Your Honor, at this time defense
12 would move for a mistrial on the basis that the Court
13 erroneously stated the defendant has pled guilty. While
14 we fully understand that Your Honor did not intend to
15 say it that way, our concern is that the jury could infer
16 that -- inappropriately that Your Honor has an opinion on
17 the facts and that's why you said it.

18 THE COURT: Yeah, I -- first of all, I think it's a
19 good motion to make. I think you have a duty to do it.
20 I tried to correct it. As soon as I was made aware, I
21 did it. That was obviously unintentional. It doesn't
22 say that in the jury charge and they'll have a copy of
23 it.

24 In an abundance of caution, I'm gonna bring them
25 back in here and I'm gonna tell them again that that was

1 an unintentional mistake. I'll feel better if I do it.

2 I'm gonna deny the motion for a mistrial. I didn't
3 look at them because I was shocked -- too shocked to
4 look at them after I did it. Hopefully they knew it was
5 an honest mistake, so. But seriously I apologize for
6 that. I've read these charges many, many times and
7 sometimes you slip up, but that's not the place to slip
8 up.

9 Let's bring them back in real quick.

10 MS. YONGE: Thank you, Your Honor.

11 (Whereupon, the jury returns to the jury room at
12 10:41 AM.)

13 THE COURT: All right. Ladies and gentlemen, just
14 I need to speak with you one more time for myself. I
15 made an error in reading the charge on the law, the
16 presumption of innocence. You may have noticed it, but
17 I inadvertently said that the defendant had plead guilty
18 to the indictments. That is absolutely not true. He
19 pled not guilty. The charge on the law says he pled not
20 guilty. For whatever reason I missed a word, so my
21 apologies. I want to be very clear. I have no -- I have
22 zero opinion on the facts in this case, but I want you
23 to understand that the written law is right here, it's
24 correct, and I just misspoke when I was reading it. So
25 please disregard any confusion that may have caused from

1 you when I was charging you on the law of the case, okay?

2 All right. Head back to the jury room. Thanks.

3 Please don't discuss the case yet.

4 (Whereupon, the jury retire to the jury room at
5 10:43 AM.)

6 THE COURT: Okay.

7 MS. YONGE: Your Honor, I believe at this point
8 procedurally for issue preservation I have to object to
9 that additional instruction as not being sufficient to
10 cure the problem and renew my motion for a mistrial.

11 THE COURT: Okay. Procedurally speaking, understood.
12 Any response?

13 MS. MILES: I just believe that that would cure the
14 issue. I think it was a mis -- clearly misspeaking, your
15 cured it at the time and then brought them back in to
16 repeat it again.

17 THE COURT: I respect your motion, but I think I've
18 cured it as well as it could possibly be cured.

19 MS. YONGE: Thank you, Judge.

20 THE COURT: Do you wish to renew anything else?

21 MS. YONGE: At this point in time we would renew all
22 prior motions and objections stated throughout the case.

23 THE COURT: Okay. Those previous rulings stand.

24 Anything else before I bring in the alternate?

25 It's not much, but could you-all make sure all the

1 evidence is there.

2 (Court's Exhibit Number 3 was marked for
3 identification.)

4 THE COURT: Juror Number 229.

5 All right. First of all, I thank you for your
6 service this week. We're about to hand the case to
7 the jury. We did lose one juror, but not two, so we
8 won't need you to participate in deliberations, but we
9 appreciate your service. You're free to stay, but you're
10 free to go.

11 On behalf of all of us, thank you for serving on jury
12 duty, okay?

13 JUROR NUMBER 229: Thank you.

14 THE COURT: Thank you.

15 All right. Are you-all ready? Everything's ready
16 to go back?

17 MS. YONGE: Yes.

18 MS. MILES: Yes, sir.

19 THE COURT: You can take it all back.

20 (Whereupon, the evidence was submitted to the jury
21 at 10:48 AM.)

22 (Back on the record at 12:09 PM.)

23 BAILIFF: All rise. Court is now in session. The
24 Honorable Walton J. McLeod and Judge Rivers are presiding.

25 THE COURT: Close enough.

1 All right. Please be seated.

2 We have a -- I'm told we have a verdict.

3 Anything before we bring the jury back in?

4 MS. MILES: Nothing from the State, Your Honor.

5 THE COURT: Anything from the defense before we bring
6 the jury back?

7 MS. YONGE: Nothing from the defense, Your Honor.

8 THE COURT: All right. Let's bring them in.

9 (Whereupon, the jury return to the courtroom at
10 12:11 PM.)

11 THE COURT: All right. Ladies and gentlemen, welcome
12 back.

13 Madam Forelady, I understand you have a verdict; is
14 that correct?

15 FOREPERSON: Yes.

16 THE COURT: Is your verdict unanimous?

17 FOREPERSON: Yes.

18 THE COURT: Please hand it to the bailiff.

19 THE COURT: Madam Clerk, would you publish the
20 verdict, please.

21 THE CLERK: We, the jury, as to Indictment
22 2021-GS-32-06073, as to the charge of sexual exploitation
23 of a minor first degree unanimously find the defendant
24 guilty.

25 As to the charge of 2021-GS-32-06074, sexual

1 exploitation of a minor first degree, we, the jury,
2 unanimously find the defendant guilty.

3 2021-GS-32-06075, as to the charge of sexual
4 exploitation of a minor second degree, we, the jury,
5 unanimously find the defendant guilty.

6 And as to the charge of 2021-GS-32-0676, the charge
7 of sexual exploitation of a minor second degree, we, the
8 jury, unanimously find the defendant guilty.

9 Signed and dated by the foreperson.

10 Madam Forelady and ladies and gentlemen of the jury,
11 were those your verdicts and are they still your verdicts?

12 FOREPERSON: Yes.

13 THE CLERK: Thank you.

14 THE COURT: Any motions from the defense?

15 MS. YONGE: Your Honor, we would like to ask for
16 polling, please.

17 THE COURT: Very well.

18 THE CLERK: When I call your juror number, if you
19 would, please, just raise your hand. I'll ask you those
20 same questions. Were those your verdicts and are they
21 still your verdicts and if you'd just respond with yes or
22 no.

23 Juror Number 123. Were these your verdicts and are
24 they still your verdicts?

25 JUROR NUMBER 123: Yes.

1 THE CLERK: Juror Number 12. Were these your verdicts
2 and are they still your verdicts?

3 JUROR NUMBER 12: Yes.

4 THE CLERK: Juror Number 56. Were these your verdicts
5 and are they still your verdicts?

6 JUROR NUMBER 56: Yes.

7 THE CLERK: Juror Number 220. Were these your
8 verdicts and are they still your verdicts?

9 JUROR NUMBER 220: Yes.

10 THE CLERK: Juror Number 107. Were these your
11 verdicts and are they still your verdicts?

12 JUROR NUMBER 107: Yes.

13 THE CLERK: Juror Number 146. Were these your
14 verdicts and are they still your verdicts?

15 JUROR NUMBER 146: Yes.

16 THE CLERK: Juror Number 260. Were these your
17 verdicts and are they still your verdicts?

18 JUROR NUMBER 260: Yes.

19 THE CLERK: Juror Number 168. Were these your
20 verdicts and are they still your verdicts?

21 JUROR NUMBER 168: Yes.

22 THE CLERK: Juror Number 173. Were these your
23 verdicts and are they still your verdicts?

24 JUROR NUMBER 173: Yes.

25 THE CLERK: Juror Number 15. Were these your verdicts

1 and are they still your verdicts?

2 JUROR NUMBER 15: Yes.

3 THE CLERK: Juror Number 59. Were these your verdicts
4 and are they still your verdicts?

5 JUROR NUMBER 59: Yes.

6 THE CLERK: And Juror Number 89. Were these your
7 verdicts and are they still your verdicts?

8 JUROR NUMBER 89: Yes.

9 THE CLERK: Was there anybody's number I did not
10 call?

11 Thank you.

12 MS. YONGE: We don't have anything further for the
13 jury, Your Honor.

14 THE COURT: Very well.

15 Anything else from the State before the jury's
16 discharged?

17 MS. MILES: Nothing further, Your Honor. Thank you.

18 THE COURT: All right. Ladies and gentlemen, when
19 you come in on Monday morning you really don't know what's
20 ahead of you, so I want to thank you for your service this
21 week and thank you for your attentiveness for being
22 attentive to hearing all the evidence and being on time
23 every time you were asked to be here, but on behalf of all
24 of us thank you for your service. It is a public service
25 to serve on a jury and to hear these cases and make the

1 decisions and do the tough work that you do, so thank you
2 for your service.

3 You're free to go at this time.

4 (Whereupon, the jury was excused at 12:15 PM.)

5 THE COURT: Motions.

6 MS. YONGE: Your Honor, at this time we would renew
7 all motions and objections. In addition, we would move
8 to set aside the verdict because the evidence before the
9 jury as a matter of law cannot sustain the jury's verdict.

10 THE COURT: And you're renewing all your motions not
11 just this?

12 MS. YONGE: Yes, sir.

13 THE COURT: Okay.

14 All right. The record will reflect your motions have
15 been renewed and my previous rulings stand.

16 Any response from the State on the sufficiency of the
17 evidence?

18 MS. MILES: Your Honor, as we discussed in the
19 directed verdict motions, there was enough evidence to go
20 to the jury as far as deciding guilt or not guilty. They
21 came back with that verdict and we believe all the evidence
22 that was submitted to them supported that verdict.

23 THE COURT: I find that there was sufficient evidence
24 for the jury to weigh and I'll deny your motion to set
25 aside the verdict -- or grant a new trial. I think

1 that's --

2 MS. YONGE: Yes, I apologize. Your Honor knew what
3 I meant.

4 THE COURT: The motion for a new trial is denied. I
5 believe there's sufficient evidence for the jury to weigh
6 and they made the decision that they made, so.

7 How much time do you need to pivot into sentencing?

8 MS. MILES: I just need someone to be kind enough to
9 print the sentencing sheets for me.

10 THE COURT: Okay. Well, let's just take ten minutes.

11 MS. MILES: Sure. That will work, Your Honor.

12 MS. YONGE: Thank you, Your Honor.

13 (Recess taken at 12:17 PM.)

14 (Back on the record at 12:36 PM.)

15 BAILIFF: Court is back in session. Come to order.

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

17 MR. WILLIAMS: May approach, Your Honor?

18 THE COURT: Yes, sir.

19 THE COURT: All right. We have just finished the
20 trial of Mr. Michael Scott Valdario. The jury returned
21 guilty verdicts on two counts of first degree sexual
22 exploitation of a minor and guilty verdicts on two counts
23 of second degree sexual exploitation of a minor.

24 All motions were renewed and preserved.

25 At this time we'll hear from the State on any

1 sentencing presentation.

2 MS. MILES: Yes, sir.

3 I believe the victim, MINOR, would like to make a
4 statement --

5 THE COURT: All right.

6 MS. MILES: -- and she can come up here with me and
7 then the State will just have a few follow-up.

8 THE COURT: Very well.

9 MINOR : Hi.

10 THE COURT: Good afternoon.

11 MINOR : I just wanted to take an opportunity
12 to write an updated impact statement since it's been
13 almost four years since his initial arrest. I had
14 originally written one right after it happened, but upon
15 re-reading my previous statement in preparation for today,
16 it was abundantly clear that I was groomed, manipulated and
17 gas-lighted into believing that I was at fault for all of
18 the things that he put me through.

19 The child that wrote that statement truly never would
20 have believed that there would be light at the end of the
21 tunnel and that she could have made it this far. My mind
22 was overflowing with dark suicidal thoughts, guilt over
23 what would happen to Michael as a result of police getting
24 involved and fear of what he would do in retaliation.

25 Against all odds I am standing in front of you today

1 after working tirelessly and intentionally to heal. I am
2 standing here despite the trauma to let everyone know that
3 Michael did not win, but has ignited a fire within me.

4 In my original statement, I was obviously broken and
5 so under the influence and control of Michael and it has
6 taken me a long time to admit, but I am a victim of sexual
7 assault. At my current age, it is apparent that Michael
8 groomed me into a sexual relationship using his authority
9 and position of power over me to manipulate me, but at the
10 time I only believed what he was saying to me. He was
11 supposed to be my uncle and someone I could trust, but
12 instead he sexualized me, his 15-year-old niece. That's
13 what makes it even more heartbreaking.

14 I would also like to bring to the attention of the
15 Court the psychological effects that Michael had on me.
16 I could speak for hours on this, but I want to articulate
17 the extent to which he impacted my life. To begin, I
18 developed an irrational relationship with food. Michael
19 told me that no one would love me if I ever got fat. I
20 began to limit the amount of food I was allowed to eat,
21 feel guilty if I ate among other things. This became an
22 irrational fear of mine and it's something I still struggle
23 with today. I became fearful of retaliation after speaking
24 with police, ultimately feeling suicidal. I experienced
25 constant anxiety to the point where at one point I had

1 trouble leaving my house, fearful that he would show up. I
2 was scared at night when I heard noises and like unlike
3 other victims I did not have the security of ever knowing
4 that he was in jail.

5 I still have problems with physical trust as it
6 triggers all of these emotions once more. I was
7 continuously told that I was special, that what we had
8 was different and that the secrets that we had would stay
9 between us. Now I know this is simply a way that he just
10 used to keep me quiet.

11 That is what has made all of this so hard and what he
12 did so easy. I've gone through of hours of counseling.
13 Although it helps, Michael left me unspeakable trauma and
14 it makes me hurt little a more because I just want to give
15 her a hug and tell her that it will one day be okay.

16 In addition, our family is forever torn apart.
17 Although I know most of my family still stands behind and
18 supports me, it will never be the same. Multiple family
19 members knew what was happening before I even did. They
20 had come to both my parents and Michael with concerns about
21 our relationship trying to limit contact between us to
22 ensure my safety.

23 After this he said if I told anyone his kids and I
24 would be taken out of state before the police we knew
25 were missing using the skills is had learned as a police

1 officer to make sure that we were never found.

2 Michael also threatened to commit suicide trying to
3 keep me from coming forward. I was told I would be the one
4 responsible, which I now know is also a lie. This was not
5 an episode or a one-time thing. I believe this is
6 inherently him. He is a coward and will never take
7 responsibility for his actions.

8 I used to have an intense amount of guilt for not
9 lying for him, but I hope by coming forward that I can
10 prevent this in the future. He stole my innocence, my
11 youth and my girlhood. He took something from me that
12 I will never get back; however, that was a 15-year-old
13 child.

14 Today I'm an empowered woman that stands before you
15 despite the trauma to let you know that he no longer holds
16 that power over me. I used today as an opportunity to take
17 back my life. I appreciate your time and allowing me to
18 speak with you and hopefully you will consider imposing an
19 appropriate sentence that reflects the depths of the crimes
20 that he committed and the lasting impacts that it's had on
21 me.

22 Thank you.

23 THE COURT: Thank you.

24 MS. MILES: Your Honor, you've sat here the last
25 couple of days and just kind of seen what all happened in

1 the case, you know the relationships between the two
2 parties. You've heard to some extent of what the victim
3 had gone through or some of the mental health things she
4 was going through. She was going through some things
5 physically. She was already struggling in her life. And
6 the defense is right, she was in a vulnerable position and
7 her uncle took advantage of that. After he began coming to
8 see her in the hospital, he turned what should have been an
9 uncle and niece relationship into something a lot darker
10 and a lot more traumatizing for her. He took what should
11 have been just that family bond and turned it into
12 something that, you know, should have never been sexual,
13 should have never been exploited and he made it that and put
14 her in a position where she didn't know how to have those
15 normal relationships any more. It put her in very a
16 manipulative and exploitive position to try and determine
17 how to feel about this person that she's known her whole
18 life and cared about her entire life.

19 MINOR 's gone through a lot. I'm very proud of her
20 for being able to be here. We weren't sure we'd ever be
21 able to get to the point where she would be able to stand
22 up and do this, and I'm very proud of her, that she was
23 able to.

24 Your Honor, we just ask that you think about the
25 years that it took from MINOR in this and the years that

1 he knew her and the years that he took into account to
2 exploit her and the years that she'll continue to suffer
3 in imposing the correct sentence in this case.

4 THE COURT: Okay.

5 MS. MILES: Your Honor, if I may approach, MINOR
6 just wanted you to see the 15-year-old MINOR since she's
7 older now, but this is 15-year-old MINOR, so she just
8 wanted you to have an idea of 15-year-old MINOR.

9 THE COURT: Anything else from the State?

10 MS. MILES: No, sir, Your Honor. We thank you for
11 your time.

12 THE COURT: All right. Ms. Yonge.

13 MS. YONGE: I believe that Michael has something to
14 say, so I'm gonna let him speak first.

15 THE COURT: Very well.

16 THE DEFENDANT: Your Honor, I'm here today to take
17 full responsibility for my actions. I know what I did
18 was wrong and I'm deeply sorry for those actions. I've
19 lost precious time with my family and my relationship
20 with my two young kids and any other friends that I've
21 had along the way. I understand, although not fully, the
22 pain that I've caused to my family, as well as those on
23 the outside. I have learned through Dr. Martin's therapy
24 sessions I've been going to for -- since this whole thing
25 began, cognitive distortions that caused me to stray from

1 the right path. I have set boundaries and preventative
2 measures in place that nothing like this would ever happen
3 again. I've worked hard over the course of this four years
4 since this case began to continue to be a hard worker, to
5 get help through therapy, which EMDR therapy as well, as
6 well as group-style therapy through Dr. Martin here in
7 Columbia. These therapy methods have helped me institute
8 the same boundaries, standards and preventative measures
9 learned in those groups.

10 I want to be a productive member of society. And I
11 -- Your Honor, I apologize to the victim and her family,
12 as well as my mother and those that stuck by me through
13 this whole time.

14 THE COURT: Thank you.

15 MS. YONGE: Your Honor, if I may approach? I've
16 discussed with -- I have some records here. Michael
17 speaks the truth when he says he was -- he was seeking
18 help as soon as this happened. We are also sorry that
19 it took this for him to seek help. I don't -- you know,
20 that is not an excuse, that is at least the signs of
21 someone starting to show responsibility for their actions
22 albeit too late.

23 So he's been in therapy for every two weeks since
24 this began. He's been seen by Dr. Martin and Greenville
25 -- Stephanie -- there's a letter up there from her. The

1 records from Dr. Martin are only through February, but
2 that's just because we haven't received a more recent
3 update. He's been continuously seeking treatment so that
4 he doesn't hurt anybody and they see him as a low risk for
5 any sort of recidivism, Your Honor.

6 As he said, he does have two children. As a result of
7 this been he has strained from them and they live with his
8 former spouse. He pays child support consistently to keep
9 up with their maintenance.

10 He has -- since this time he started to a new grading
11 in business that he took -- as a fuel kind of to try and
12 get his life back on track in addition to seeking the
13 therapy. Again, I'm not saying that any of this can help
14 the girl that MINOR was. I know that they can't and I am
15 so sorry for that, but I think he is taking the right steps
16 to try and turn his life around -- truly turn his life
17 around and be the person that he knows he can be instead of
18 the person that he slipped into those years ago.

19 Your Honor, he has -- this case has been a long time
20 coming as you know and that entire -- that entire time he's
21 been on a monitor. We would ask that you give him credit
22 for that. We've calculated that he's been on the monitor
23 for 1,390 days.

24 In addition, of course, you know, he was incarcerated
25 for five days. There were two separate arrests associated

1 with this case and so we believe we have it calculated for
2 five days.

3 MS. MILES: Yes.

4 THE COURT: Five days credit in LCDC?

5 MS. YONGE: Yes, sir.

6 I think -- I think he is really sorry for what --
7 what happened and I've never had a case where someone
8 immediately took action so quickly to try and fix it. It
9 is terrible that he needed this warning sign of it waking
10 up and getting arrested to take action, it's awful that it
11 got to this point, but he did and we would ask that Your
12 Honor consider that and be as lenient as Your Honor feels
13 possible given the circumstances.

14 THE COURT: Ms. Yonge, was he on monitored house
15 arrest during this time?

16 MS. YONGE: It was just a monitor, Your Honor.

17 THE COURT: GPS monitor, but not official house
18 arrest.

19 MS. YONGE: Correct.

20 THE COURT: All right. Anything else from -- does
21 anybody else wish to be heard?

22 MR. WILLIAMS: Judge, I feel like I should say
23 something since he was originally under my care and I've
24 had more association, I guess, with his mother than
25 anybody, and when -- when everybody's talked about how

1 much damage it has done to this family, and I know the
2 family. I know -- I know John and -- and he -- he is the
3 father, he has suffered also because of all this, and I'm
4 sure it's caused a distraction and a problem for the entire
5 family.

6 I know John's father who is John Valdario, Senior, who
7 was an honored trooper. All these guys -- all these guys
8 were officers, were law enforcement-oriented, and they come
9 from a good family. You know, when you see somebody that
10 something happens in a family and it's a good family you
11 say oh, my gosh, what the heck's going on in this world,
12 but it did, it did. His mother -- and I'd ask his mother
13 to go ahead and talk about -- about her son, and it's --
14 and she has -- it's a family that has been basically
15 destroyed by all of this, and obviously I regret that it's
16 happened to the Valdarios also. I do. I do. And I think
17 John knows I mean that when I say that.

18 So, mom, if you want to stand up here and say
19 something for your son, please. I think they're gonna let
20 you stand -- I don't think you're gonna hurt anybody as
21 small as you are.

22 THE COURT: Yes, ma'am.

23 ANNETTE VALDARIO: Your Honor, I'm Annette Valdario
24 and I would plead for mercy on behalf of my son. He has
25 made poor decisions that affected so many lives, and that

1 hurts me deeply, but also know that we are all just as
2 capable of doing wrong. He began counseling in 2021 and
3 it has helped him tremendously toward becoming a better
4 man. He has two children that I last saw three years ago
5 because his wife, his ex-wife, because she was just angry
6 with him, cut off my relationship with them, and I think
7 it's time for us to move forward. And I know we can't undo
8 the past, we have to live with actions, but I -- I plead
9 for mercy that he be allowed to continue working and
10 providing for his children. I don't see what good it's
11 gonna do to have him behind bars. He is not a threat to
12 society. He has improved his communication with me and
13 many of our family members and truly I believe that he had
14 -- he needed the therapy all along. If he would have had
15 it, he would not be in this position.

16 The only winner in this is the enemy of our soul,
17 and that's Satan. And I'm a Christian and I believe that
18 he is the only one that's -- that's winning, but I wanted
19 to read something that -- I hope that it helps.

20 Psalms 51:1. Have mercy on me oh, God, according
21 to steadfast love; according to your abundant mercy blot
22 out my transgressions.

23 Psalms 119:77. Let your mercy come to me that I may
24 live, for your law is my delight.

25 Lamentations 3:22. The steadfast love of the Lord

1 never ceases, his mercies never come to an end.

2 And then lastly, Second Corinthians 1:3-4. God is
3 the father who is full of mercy and of comfort. He
4 comforts us every time we have trouble, so when others
5 have trouble we can comfort them with the same comfort
6 God gives us.

7 And we only have one life and hope that all of us
8 in this room will use it to help others.

9 Thank you, Your Honor.

10 THE COURT: Thank you, ma'am.

11 MR. WILLIAMS: Judge, I think we're -- we're good.
12 I mean, you can't end it on a better note than talking
13 about what she just finished with.

14 THE COURT: Okay. Well, let me -- I know I've
15 already taken one recess, but let me take another short
16 one. I've got -- I've got to fill some stuff out here,
17 number one. Obviously, you know, we're talking about
18 sentencing, but under these statutes there are some
19 sentencing requirements that are concrete and we are
20 bound to go by. So I'll fill all this out and I'll be
21 back with you momentarily.

22 MR. WILLIAMS: Thank you, Judge.

23 MS. YONGE: Thank you, Judge.

24 (Recess taken at 12:56 PM.)

25 (Back on the record at 1:03 PM.)

1 BAILIFF: Come to order. Court is back in session.

2 THE COURT: All right. Please be seated.

3 All right. I want to first thank the attorneys for,
4 frankly, working well throughout the trial, leading up to
5 trial, during the trial, and putting forth good cases for
6 your respective clients.

7 You know, it's -- you know, tragedy doesn't really
8 do it justice. I'm so sorry this happened to this family.
9 I've got a lot of cousins. I don't have any brothers, but
10 I've got a lot of first cousins, and I can't imagine having
11 a breakup of a family, which I suspect is what's happened
12 with you-all over the past few years, and I don't know -- I
13 don't know a sentence that we can do today that would cure
14 that. I hope in time you-all can work on coming back
15 together though. I mean, on your own schedule. However it
16 works best for you, but I hope in time you-all can come
17 back together.

18 MINOR, you know, no one can appreciate what
19 it's like to have to come testify in open court. I haven't
20 done it. I think most people in this courtroom haven't
21 done it, so I can't begin to imagine how tough that must be
22 for you, but you did it. So I hope regardless of the
23 sentence today that today is, you know, a day of moving
24 forward. Some level of closure. You know, you used the
25 word "victim", but you're also a survivor here, so just

1 keep on surviving, okay? I hope you, frankly, live a good
2 life, have a good life moving forward.

3 Mrs. Valdario, the mother, I mean, nobody can --
4 nobody can -- I know I can speak for Michael here. Nobody
5 wants to have their mother in the position you're in today.
6 Nobody. So we're -- we're sorry you're there. I know
7 you're hurting. I know he's hurting.

8 And I need to -- at the outset I need to be frank
9 on -- from sentencing, and the lawyers know this, but I
10 don't know if -- that these are mandatory minimum
11 sentences. This is not a case on which somebody's gonna
12 get probation. The exploitation statute's pretty clear.
13 There is some mandatory time here that simply can't be
14 negotiated around regardless the circumstances, regardless
15 of the mitigation.

16 You know, Mr. Valdario, I appreciate you, frankly,
17 taking responsibility here in front of us today. Make no
18 mistake, it's a -- I think you would agree, I know you've
19 been in treatment for it, so I think you would agree it's
20 a disturbing case. You know, you were in a position of
21 trust, frankly, somewhat of an authority being an uncle,
22 and it was a terrible, terrible lack of judgment on your
23 part. I know you believe that now as well. Frankly, it
24 hurts a little bit more because you're also -- were a
25 member of law enforcement and, I mean, when I was in the

1 Navy the biggest issues were when you pull into a port
2 and a United States sailor does something it affects the
3 company. I mean, it is visible. And when someone like
4 you in a position of trust you have in the community, it
5 hurts a little bit more for all of us because, I mean,
6 the community looks up to law enforcement, and I think
7 you know that and I'm sure you feel terrible for it.

8 I've tried to craft a sentence that gives you the
9 opportunity to continue some of the treatment you've had,
10 but I need to remind everyone I heard a trial this week
11 about exploitation, about text messages, communications.
12 We didn't hear any evidence on -- physical in nature,
13 okay, so I understand that there's a history here, but
14 that wasn't evidence in this trial and I can't sentence
15 somebody on evidence that I haven't heard in a case like
16 this.

17 So bear with me.

18 All right. So I'll start with just -- on the two
19 charges of sexual exploitation of a minor in the second
20 degree, with credit for five days, those are two years
21 concurrent in the Department of Corrections.

22 On the sexual exploitation of a minor first degree
23 -- the first indictment on the sexual exploitation of a
24 minor first degree, credit for five days. Four years in
25 the Department of Corrections. Second indictment, sexual

1 exploitation of a minor first degree, four years in the
2 Department of Corrections. Those are to run consecutive.

3 The total amount of time I've ordered you for the
4 Department of Correction is ten years in the Department
5 of Corrections. Those are no parole time for most of it.
6 This is not ten years on assault and battery first degree
7 where someone's out in three, okay? This is -- this is
8 ten years, so that's -- that's where we are today.

9 That's all. Court's in recess.

10 MS. MILES: Thank you, Your Honor.

11 (Whereupon, the proceedings were concluded for
12 July 10, 2024, at 1:09 PM.)

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WITNESSES

Anthony A. Creech – Lexington County Sheriff's

Office

ARREST WARRANT NUMBER

2020A3210202507

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: 9-21-21

VERDICT

GUILTY

Foreperson of Petit Jury

Date: 7/10/24

DOCKET NO. 2021-GS-32- 6073

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

September 2021 TERM

THE STATE

vs.

MICHAEL SCOTT VALDARIO

D.O.B. [REDACTED] /1989

Indictment for

**SEXUAL EXPLOITATION OF A MINOR
FIRST DEGREE**

S.C. CODE §16-15-395(A)

CDR Code: 0379

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF LEXINGTON)

INDICTMENT

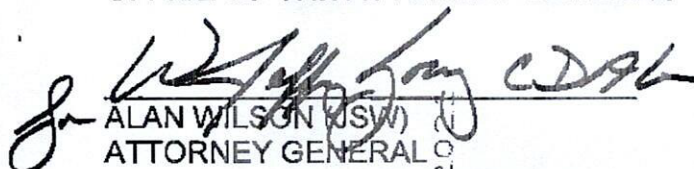
SEXUAL EXPLOITATION OF A MINOR,
 FIRST DEGREE

At a Court of General Sessions, convened on September, 2021,
 the Grand Jurors of Lexington County present upon their oath:

That Michael Scott Valdario, did in Lexington County, on or about April 16, 2020, commit the crime of Sexual Exploitation of a Minor, First Degree. To wit: Michael Scott Valdario, did knowingly use, employ, induce, coerce, encourage or facilitate a minor, MINOR DOB [REDACTED] (2004), to engage in or assist others to engage in sexual activity for the purpose of producing material that contains a visual representation depicting this activity or appear in a state of sexually explicit nudity, as defined by Section 16-15-375(5) and (6) of the South Carolina Code of Laws. This incident occurred within the County of Lexington, State of South Carolina, and is in direct violation of Section 16-15-395(A) of the South Carolina Code of Laws (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

OFFICE OF THE ATTORNEY GENERAL


 ALAN WILSON (WSW)
 ATTORNEY GENERAL

SCANNED 09072021

WITNESSES

Anthony A. Creech – Lexington County Sheriff's

Office

ARREST WARRANT NUMBER

2020A3210202508

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: 9-7-21

VERDICT

GUILTY

Foreperson of Petit Jury

Date: 7/10/24

DOCKET NO. 2021-GS-32- 6074

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

September 2021 TERM

THE STATE

vs.

MICHAEL SCOTT VALDARIO

D.O.B. [REDACTED] /1989

Indictment for

**SEXUAL EXPLOITATION OF A MINOR
FIRST DEGREE**

S.C. CODE §16-15-395(A)

CDR Code: 0379

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF LEXINGTON)

INDICTMENT

SEXUAL EXPLOITATION OF A MINOR,
 FIRST DEGREE

At a Court of General Sessions, convened on September, 2021,
 the Grand Jurors of Lexington County present upon their oath:

That Michael Scott Valdario, did in Lexington County, on or about May 30, 2020, commit the crime of Sexual Exploitation of a Minor, First Degree. To wit: Michael Scott Valdario, did knowingly use, employ, induce, coerce, encourage or facilitate a minor, MINOR, DOB [REDACTED] 2004), to engage in or assist others to engage in sexual activity for the purpose of producing material that contains a visual representation depicting this activity or appear in a state of sexually explicit nudity, as defined by Section 16-15-375(5) and (6) of the South Carolina Code of Laws. This incident occurred within the County of Lexington, State of South Carolina, and is in direct violation of Section 16-15-395(A) of the South Carolina Code of Laws (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

OFFICE OF THE ATTORNEY GENERAL

[Signature] *CDAL*
 ALAN WILSON (JUV)
 ATTORNEY GENERAL

SCANNED 09072021

WITNESSES

Anthony A. Creech – Lexington County Sheriff's

Office

ARREST WARRANT NUMBER

2020A3210202509

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: 9-22/16

VERDICT

GUILTY

Foreperson of Petit Jury
Date: 7/10/24

DOCKET NO. 2021-GS-32- 6075

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

September 2021 TERM

THE STATE

vs.

MICHAEL SCOTT VALDARIO

D.O.B. [REDACTED]/1989

Indictment for

**SEXUAL EXPLOITATION OF A MINOR,
SECOND DEGREE**

SC Code: 16-15-405(A)

CDR Code: 0380

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF LEXINGTON)

INDICTMENT

SEXUAL EXPLOITATION OF A MINOR,
 SECOND DEGREE

At a Court of General Sessions, convened on September, 2021, the
 Grand Jurors of Lexington County present upon their oath:

That Michael Scott Valdario, on or before April 15, 2020, did commit the crime of Sexual Exploitation of a Minor, Second degree, in Lexington County. To wit: Michael Scott Valdario, did knowingly distribute, transport, exhibit, receive, sell, purchase, exchange, and/or solicit material in the file titled "IMG_0360.JPG" that contains a visual representation of a minor engaged in sexual activity or sexually explicit nudity, as defined by Section 16-15-375(5) and 16-15-375(6) of the South Carolina Code of Laws. This incident occurred within the County of Lexington, State of South Carolina, and is in direct violation of Section 16-15-405(A) of the South Carolina Code of Laws (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

OFFICE OF THE ATTORNEY GENERAL

Alan Wilson
 ALAN WILSON (JW)
 ATTORNEY GENERAL

SCANNED 09072021

WITNESSES

Anthony A. Creech – Lexington County Sheriff's

Office

ARREST WARRANT NUMBER

2020A3210202510

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: 9-7-21

VERDICT

GUILTY

Foreperson of Petit Jury

Date: 7/10/24

DOCKET NO. 2021-GS-32- 6076

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

September 2021 TERM

THE STATE

vs.

MICHAEL SCOTT VALDARIO

D.O.B. [REDACTED] /1989

Indictment for

**SEXUAL EXPLOITATION OF A MINOR,
SECOND DEGREE**

SC Code: 16-15-405(A)

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After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

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Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF LEXINGTON)

INDICTMENT

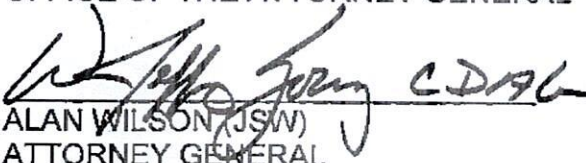
SEXUAL EXPLOITATION OF A MINOR,
 SECOND DEGREE

At a Court of General Sessions, convened on September, 2021, the
 Grand Jurors of Lexington County present upon their oath:

That Michael Scott Valdario, on or before April 15, 2020, did commit the crime of Sexual Exploitation of a Minor, Second degree, in Lexington County. To wit: Michael Scott Valdario, did knowingly distribute, transport, exhibit, receive, sell, purchase, exchange, and/or solicit material in the file titled "IMG_0372.JPG" that contains a visual representation of a minor engaged in sexual activity or sexually explicit nudity, as defined by Section 16-15-375(5) and 16-15-375(6) of the South Carolina Code of Laws. This incident occurred within the County of Lexington, State of South Carolina, and is in direct violation of Section 16-15-405(A) of the South Carolina Code of Laws (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

OFFICE OF THE ATTORNEY GENERAL

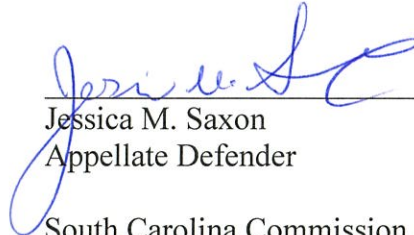
In  *CD 196*
 ALAN WILSON (JSW)
 ATTORNEY GENERAL

SCANNED 09072021

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Jessica M. Saxon
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 15th day of December, 2025.

RECEIVED

Dec 16 2025

SC Court of Appeals