

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

Certiorari to Sumter County

Honorable Kristi F. Curtis, Circuit Court Judge

LARRY DURANT,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2025-001799

APPENDIX

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VOLUME I OF III

PAGES 1-500

INDEX

INDEX	i
TRIAL TRANSCRIPT DATED MAY 23-26, 2016	1
POST-TRIAL MOTIONS HEARING TRANSCRIPT DATED JUNE 18, 2016	788
FINAL BRIEF OF APPELLANT	819
FINAL BRIEF OF RESPONDENT	867
FINAL REPLY BRIEF OF APPELLANT.....	914
ORDER CERTIFYING CASE FOR REVIEW BY THE SUPREME COURT	928
PETITION TO ARGUE AGAINST PRECEDENT.....	929
ORDER GRANTING PETITION TO ARGUE AGAINST PRECEDENT	932
<i>STATE V. DURANT</i> , OPINION NO. 27964 (Heard May 9, 2019 – Filed May 6, 2020).....	933
PETITION FOR REHEARING.....	945
ORDER DENYING REHEARING.....	998
REMITTITUR	999
PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF SOUTH CAROLINA.....	1001
ORDER DENYING CERTIORARI.....	1023
APPLICATION FOR POST-CONVICTION RELIEF	1024
RETURN.....	1032
AMENDED APPLICATION FOR POST-CONVICTION RELIEF	1046
ORDER FOR CONTINUANCE FILED FEBRUARY 1, 2022.....	1055
ORDER FOR CONTINUANCE FILED MARCH 13, 2023	1057
PCR HEARING TRANSCRIPT DATED NOVEMBER 22, 2024.....	1059

ORDER OF DISMISSAL.....	1155
RULE 59(e) MOTION.....	1181
ORDER DENYING APPLICANT’S MOTION TO RECONSIDER.....	1185
INDICTMENT.....	1187

**[THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
FROM THE NOVEMBER 22, 2024 PCR HEARING –
APPLICANT’S EXHIBITS 1-8 (PHOTOGRAPHS)]**

STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSIONS
COUNTY OF SUMTER	)	2014-GS-43-947
	)	
	)	
	)	
	)	
THE STATE OF SOUTH CAROLINA,	)	
PLAINTIFF,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
LARRY DURANT,	)	
DEFENDANT.	)	
_____	)	

May 23-26, 2016
Sumter, South Carolina

B E F O R E:

THE HONORABLE ROGER M. YOUNG, SR., JUDGE.

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Circuit Court Reporter

I N D E X

(PW) - Denotes Plaintiff's Witness

(DW) - Denotes Defense Witness

Page No.

(PW) <u>MINOR</u> (IC):	
Examination by Ms. Abee.....	75
Cross-Examination by Mr. Kent.....	83
Redirect Examination by Ms. Abee.....	91
(PW) <u>A.R.</u> (IC):	
Examination by Ms. Abee.....	92
Cross-Examination by Mr. Kent.....	99
Redirect Examination by Ms. Abee.....	107
(PW) <u>T.H.</u> (IC):	
Examination by Ms. Abee.....	111
Cross-Examination by Mr. Kent.....	115
(PW) <u>D.B.</u> (IC):	
Examination by Ms. Abee.....	123
Cross-Examination by Mr. Kent.....	127
Opening Statement by Mr. Fernandez.....	232
Opening Statement by Mr. Kent.....	235
(PW) <u>NATALIE KELLY:</u>	
Direct Examination by Mr. Fernandez.....	242
Cross-Examination by Mr. Kent.....	249
Redirect Examination by Mr. Fernandez...	277
Recross-Examination by Mr. Kent.....	278
(PW) <u>MINOR</u> :	
Examination by Ms. Abee.....	281
Cross-Examination by Mr. Kent.....	296
(PW) <u>ULANDA MCRAE:</u>	
Direct Examination by Mr. Fernandez.....	302
Cross-Examination by Mr. Kent.....	311
(PW) <u>A.R.</u> :	
Examination by Ms. Abee.....	313
Cross-Examination by Ms. Blazer.....	327
Redirect Examination by Ms. Abee.....	330

<u>(PW) JAMES TALLON:</u>	
Direct Examination by Mr. Fernandez.....	335
Cross-Examination by Ms. Blazer.....	342
<u>(PW) JESSICA STOWE:</u>	
Direct Examination by Mr. Fernandez.....	344
Cross-Examination by Ms. Blazer.....	354
<u>(PW) T.H. [REDACTED]:</u>	
Direct Examination by Ms. Abee.....	359
Cross-Examination by Ms. Blazer.....	367
Redirect Examination by Ms. Abee.....	370
<u>(PW) JENNIFER BARTMAN:</u>	
Direct Examination by Mr. Fernandez.....	372
Cross-Examination by Ms. Blazer.....	379
<u>(PW) D.B. [REDACTED]:</u>	
Direct Examination by Ms. Abee.....	394
Cross-Examination by Ms. Blazer.....	402
Redirect Examination by Ms. Abee.....	407
<u>(PW) LIZZIE JOHNSON:</u>	
Direct Examination by Mr. Fernandez.....	410
Cross-Examination by Mr. Kent.....	418
Redirect Examination by Mr. Fernandez....	439
<u>(PW) KATHY SAUNDERS:</u>	
Direct Examination by Ms. Abee.....	452
Cross-Examination by whoever.....	460
<u>(PW) VALERIE WILLIAMS:</u>	
Direct Examination by Ms. Abee.....	476
Cross-Examination by Mr. Kent.....	484
Redirect Examination by Mr. Abee.....	521
<u>(PW) DAVID KELLIN:</u>	
Direct Examination by Ms. Abee.....	523
Cross-Examination by Mr. Kent.....	534
Redirect Examination by Ms. Abee.....	542
Recross-Examination by Mr. Kent.....	544
<u>(PW) SAMARA SAMUELS:</u>	
Direct Examination by Ms. Abee.....	547
Cross-Examination by Mr. Kent.....	551
<u>(PW) JACOB MITCHELL:</u>	
Direct Examination by Mr. Fernandez.....	553
Cross-Examination by Mr. Kent.....	556

<u>(DW) MARVIN DAWSON, JR. (IC):</u>	
Direct Examination by Mr. Kent.....	573
Cross-Examination by Ms. Abee.....	575
<u>(DW) MARVIN DAWSON, JR.</u>	
Direct Examination by Mr. Kent.....	584
Cross-Examination by Ms. Abee.....	609
Redirect Examination by Ms. Kent.....	616
<u>(DW) A.R.</u>	
Examination by Mr. Kent.....	619
<u>(DW) NATALIE KELLY:</u>	
Direct Examination by Mr. Kent.....	623
<u>(DW) MINOR WHACK:</u>	
Direct Examination by Mr. Kent.....	624
Cross-Examination by Mr. Fernandez.....	636
<u>(DW) ELVIN VAUGHN:</u>	
Direct Examination by Mr. Kent.....	648
Cross-Examination by Ms. Abee.....	656
<u>(DW) KESHONA EDWARDS:</u>	
Direct Examination by Ms. Blazer.....	660
Cross-Examination by Ms. Abee.....	678
<u>(DW) ARLISA VAUGHN:</u>	
Direct Examination by Mr. Kent.....	682
Cross-Examination by Mr. Fernandez.....	689
<u>(DW) JASON LEONARD, M.D.:</u>	
Direct Examination by Mr. Kent.....	694
Cross-Examination by Ms. Abee.....	700
Closing Argument by Mr. Kent.....	710
Closing Argument by Ms. Abee.....	728
Charge by the Court.....	750
Verdict.....	766
Sentence of the Court.....	785
Certificate of the Reporter.....	787

E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
	(State's Exhibits)		
1	Photograph	201	290
2	Photograph	201	290
3	Photograph	201	339
4	Photograph	201	339
5	Photograph	201	339
6	Photograph	201	339
7	Serology Analysis	201	352
8	Forensics-Dress	333	353
9	DNA Analysis	333	376
10	Deed	440	442
11	Deed	440	444
12	Photograph	555	556
	(Defendant's Exhibits)		
1	Dawson's Report	593	594
2	Twitter Screen Shot	669	677
3	Copy of Check	685	686
	(Court's Exhibits)		
1	Pretrial Brief	584	
2	Note	765	

All Exhibits were retained by the Clerk of Court for Sumter County.

P R O C E E D I N G S

1 THE COURT: Good morning. My name is Roger Young.
2
3 I'm from Charleston. You know, judges on the circuit
4 court level, we travel all over the state. I'm getting
5 the opportunity to do that a good bit this last year and
6 this year. We've got 46 counties and I want to hold court
7 in all of them. This is, actually, number 32 on the list,
8 so I've got a ways to go. But still, it's a lot of fun
9 and you get to see a lot of parts of the state. It gets
10 you out of your home circuit for a while and lets you
11 appreciate some things, but it, also, lets you see that
12 not everything you do is the best way to do it. There's
13 different ways to do anything. So this is going to be a
14 good week, I think.

15 Judge Cothran, who qualified you, probably told you
16 we were doing General Sessions court this week. He's
17 doing trials, I'm doing trials. And you have already been
18 qualified now as jurors, so we are now going to go through
19 the part of the trial where we will pick a jury for the
20 case that we are going to begin.

21 Let me just make a couple of preliminary remarks
22 about criminal trials and the way we do these, not just in
23 South Carolina, but some of these rules apply to every
24 state in the union. And in a criminal case, the State,
25 the government, has charged somebody with a crime and the

1 person has pled not guilty to those charges. And
2 therefore, it becomes incumbent upon the government to
3 give them a trial in which they have -- the State or the
4 government has to convince 12 jurors that this person is
5 guilty of those crimes beyond a reasonable doubt.

6 No defendant in South Carolina or any state, for that
7 matter, is required to prove that they are innocent. The
8 State has to prove that they are guilty of the crime. And
9 that is something that you need to keep in mind because
10 that's not just one of those phrases that we hear when
11 you're in high school or middle school and taking civics.
12 It's an important Constitutional right that the Defendant
13 in this case has, and you have and I have, every person in
14 this courtroom has. We are not required to prove that we
15 are innocent of a criminal charge. The State has to prove
16 that we are guilty beyond a reasonable doubt.

17 So we'll get into that a little bit more, but I want
18 you to remember that and keep that in mind because that's
19 an important concept to keep in your mind as we go
20 throughout the trial.

21 Now, in this case, it is the State of South Carolina
22 versus Larry Durant. And the State of South Carolina
23 prosecute cases through the Attorney General's Office as
24 the chief prosecutor in the State. They often -- we have
25 different solicitor's offices throughout the State. We

1 have 16 circuits. This is the third circuit. But in this
2 case, the Attorney General's office will actually be
3 prosecuting the case.

4 The Attorney General in this state is Alan Wilson,
5 and he has designated a couple of folks from his office to
6 prosecute this case on his behalf while -- this week.

7 Could I ask you folks that are prosecuting this case
8 to stand and introduce yourself to the jury at this
9 moment?

10 MS. ABEE: Yes, Your Honor. Good morning. My name
11 Kinli Abee. I'm an Assistant Attorney General for the
12 State of South Carolina.

13 MR. FERNANDEZ: David Fernandez, also, Assistant
14 Attorney General with the Attorney General's Office.

15 THE COURT: Now, folks, is there any member of the
16 jury panel who is related by blood or marriage or
17 acquainted in any way with Mr. Alan Wilson, who is the
18 Attorney General, or with either of these two folks that
19 you just met or anybody who is now or currently -- either
20 now or in the past has worked for the Attorney General's
21 Office? If so, would you please stand.

22 (There was no response.)

23 THE COURT: I find none.

24 Now, the Defendant in this case is Mr. Larry Durant.
25 Mr. Durant, would you please face the jury panel?

1 (WHEREUPON, the Defendant complies.)

2 THE COURT: All right. Mr. Durant is the gentleman
3 in the darker gray suit with the sunglasses on or the
4 dark-shaded glasses. Is there any member of the jury
5 panel who is related by blood or marriage or acquainted in
6 any way with Mr. Larry Durant? If so, would you please
7 stand.

8 (There was no response.)

9 THE COURT: Okay. I find none.

10 Now, he is represented -- he has, I think, three
11 lawyers with him today.

12 Would you folks stand and introduce yourself to the
13 jury panel, please?

14 MR. KENT: Thank you so much, Your Honor.

15 How are y'all doing? My name is Shaun Kent. I
16 practice law in Manning, South Carolina by myself. I've
17 been doing so for about the past 15 years.

18 MR. WEEKS: I'm David Weeks. I'm with the Weeks Law
19 Office here in Sumter. I'm an assistant.

20 MS. BLAZER: Good morning, my name is Cameron Blazer.
21 I'm an attorney in Charleston, South Carolina. I'll be
22 assisting Mr. Kent in this case.

23 THE COURT: Is there any member of the jury panel who
24 is related by blood or marriage, or acquainted in any way
25 with any of these folks, including maybe you have been

1 represented by them or a member of their law firm in the
2 past? If so, would you please stand?

3 (There was no response.)

4 THE COURT: Okay. I find none.

5 Now, I'm going to call you out the names of some
6 folks who may be called as witnesses. Not necessarily all
7 of these folks will be called as witnesses, but out of an
8 abundance of caution, we list everybody that may be called
9 and as trials go on, sometimes they pair them down. You
10 can always not call somebody, but it gets really a lot
11 more problematic if you add somebody on during the trial.

12 When I call these names out, if you are related by
13 blood or marriage or acquainted with these folks in any
14 way, when I call the name out, would you please stand?

15 First is Natalie Kelly with the Sumter Police
16 Department.

17 (WHEREUPON, Ms. Kelly stands.)

18 THE COURT: Is that Ms. Kelly?

19 THE CLERK: Yes.

20 THE COURT: Anybody related by blood or marriage or
21 acquainted with her?

22 (There was no response.)

23 THE COURT: I find none.

24 How about MINOR ?

25 (WHEREUPON, Ms. MINOR stands.)

1 THE COURT: All right. This is MINOR

2 (There was no response.)

3 THE COURT: All right. I find none.

4 How about Ulanda McRae?

5 (There was no response.)

6 THE COURT: I find none.

7 A.R. .

8 (WHEREUPON, Ms. A.R. stands.)

9 THE COURT: That's A.R. right there.

10 Anybody related by blood or marriage or acquainted with
11 her?

12 (There was no response.)

13 THE COURT: I find none.

14 Thank you.

15 How about Lizzie Johnson?

16 (There was no response.)

17 THE COURT: I find none.

18 T.H. I'm going to spell that, T.H.

19 And I apologize if I'm mispronouncing that.

20 (WHEREUPON, Ms. T.H. stands.)

21 THE COURT: That's Ms. T.H. there.

22 (There was no response.)

23 THE COURT: All right. I find none.

24 You may seated.

25 Valerie Williams, with the Attorney General's Office.

1 (WHEREUPON, Ms. Williams stands.)

2 THE COURT: Is that Ms. Williams?

3 THE WITNESS: Yes, sir.

4 (There was no response.)

5 THE COURT: All right. No one knows her. All right.

6 Thank you.

7 How about Kathy Saunders?

8 (There was no response.)

9 THE COURT: I find none.

10 D.B. ?

11 (WHEREUPON, Ms. D.B. stands.)

12 THE COURT: That's Ms. D.B. there.

13 (There was no response.)

14 THE COURT: All right. Nobody knows her.

15 Thank you.

16 Rondalyn Hodge.

17 (There was no response.)

18 THE COURT: I find none.

19 Johnnie Mae Brayboy?

20 (There was no response.)

21 THE COURT: I find none.

22 Jessica Herron with SLED, South Carolina Law
23 Enforcement?

24 (There was no response.)

25 THE COURT: I find none.

1 Jennifer Bartman with SLED?
2 (There was no response.)
3 THE COURT: I find none.
4 James Tallon with SLED?
5 (There was no response.)
6 THE COURT: I find none.
7 David Kellin, K-E-L-L-I-N?
8 (There was no response.)
9 THE COURT: I find none.
10 Jacob Mitchell?
11 (There was no response.)
12 THE COURT: I find none.
13 Amy Stephens with SLED?
14 (There was no response.)
15 THE COURT: I find none.
16 James Allsbrook, Sumter Police Department?
17 (There was no response.)
18 THE COURT: I find none.
19 Myer Donnell Whack?
20 (There was no response.)
21 THE COURT: I find none.
22 Elvin Vaughn?
23 (There was no response.)
24 THE COURT: I find none.
25 Jason Leonard, M.D., Dr. Jason Leonard, do you know

1 him or maybe a patient of his?

2 Yes, your name and number, please?

3 PROSPECTIVE JUROR: It's Vicki Truett, 163.

4 THE COURT: I can't hear her at all.

5 Can you speak up?

6 PROSPECTIVE JUROR: Vicki Truett. I'm a patient of
7 Dr. Leonard. And I'm 163.

8 THE COURT: If he is called as a witness in this
9 case, would that affect your ability to be a fair and
10 impartial juror, either for or against the State or for or
11 against the Defense?

12 PROSPECTIVE JUROR: No, sir.

13 THE COURT: Thank you.

14 What was her number?

15 THE CLERK: No. 163, Your Honor, Vicki Truett.

16 THE COURT: Yes, your name and number?

17 PROSPECTIVE JUROR: Katherine Nero, Juror No. 120.

18 THE COURT: Okay.

19 PROSPECTIVE JUROR: I work at the hospital and
20 Dr. Leonard used work at the hospital.

21 THE COURT: If he is called as a witness in this
22 case, would that affect your ability to be fair and
23 impartial in this case?

24 PROSPECTIVE JUROR: No, sir.

25 THE COURT: All right. Thank you.

1 Your name and number?

2 PROSPECTIVE JUROR: Jill Williams, 178. I'm
3 currently an active patient of his.

4 THE COURT: All right. If he is called as a witness
5 in this case, would that affect your ability to be fair
6 and impartial?

7 PROSPECTIVE JUROR: No, Your Honor.

8 THE COURT: All right. Thank you.

9 Anyone else?

10 (There was no response.)

11 THE COURT: All right. Regina Maynard?

12 (There was no response.)

13 THE COURT: I find none.

14 Daniel Maynard?

15 (There was no response.)

16 THE COURT: I find none.

17 Mickey Dawson?

18 (There was no response.)

19 THE COURT: I find none.

20 Allison Foster?

21 (There was no response.)

22 THE COURT: I find none.

23 Melody Durant?

24 (WHEREUPON, Ms. Durant stands.)

25 THE COURT: Is this Ms. Durant right there?

1 MR. KENT: Yes, sir.

2 (There was no response.)

3 THE COURT: All right. I find none.

4 Thank you.

5 Carleen Plowden?

6 (WHEREUPON, Ms. Plowden stands.)

7 THE COURT: Ms. Plowden?

8 THE WITNESS: Yes, sir.

9 (There was no response.)

10 THE COURT: All right. Anyone else?

11 Thank you.

12 Ronnie Keith McRae?

13 (There was no response.)

14 THE COURT: I find none.

15 Keshona Edwards?

16 (There was no response.)

17 THE COURT: I find none.

18 Alan Rodriguez?

19 (There was no response.)

20 THE COURT: I find none.

21 Arlisa Vaughn?

22 (There was no response.)

23 THE COURT: I find none.

24 Chiffon Hodge?

25 (There was no response.)

1 THE COURT: I find none.

2 James Hodge?

3 (There was no response.)

4 THE COURT: I find none.

5 Warren Evans?

6 (There was no response.)

7 THE COURT: I find none.

8 Makeyia Stacks? M-A-K-E-Y-I-A, if I'm pronouncing
9 that correctly.

10 (There was no response.)

11 THE COURT: I find none.

12 Patricia Rhodes?

13 (There was no response.)

14 THE COURT: I find none.

15 Simona Major?

16 (There was no response.)

17 THE COURT: I find none.

18 MS. ABEE: Your Honor, there are two additional on
19 the State's witness list, if I may approach?

20 THE COURT: Yes.

21 All right. Patricia Crooks with SLED?

22 (There was no response.)

23 THE COURT: I find none.

24 Doris Yarborough, also, with SLED?

25 (There was no response.)

1 THE COURT: I find none.

2 All right. One of the Defense lawyers is a member of
3 the House of Representatives, Representative Weeks. Is
4 there any member of the jury panel who has either voted
5 for or made financial contributions to his campaign? If
6 so, would you please stand.

7 (There was no response.)

8 THE COURT: How did you get elected if nobody voted
9 for you?

10 MR. WEEKS: I don't know, Judge.

11 THE COURT: All right. Is there any member --

12 PROSPECTIVE JUROR: Judge, Judge.

13 THE COURT: Yes, your name and number, please?

14 PROSPECTIVE JUROR: I didn't vote for him because
15 he's not in my district, but I do know him. We attend the
16 same church.

17 THE COURT: Do you think that would affect your
18 ability to be fair and impartial in this case, either for
19 or against the State or for or against the Defense?

20 PROSPECTIVE JUROR: Yes, sir.

21 THE COURT: You think it would?

22 PROSPECTIVE JUROR: I could be.

23 THE COURT: You'd be impartial?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: Could I get your number again, please?

1 PROSPECTIVE JUROR: Twenty-four.

2 THE COURT: Thank you.

3 PROSPECTIVE JUROR: Your Honor?

4 THE COURT: Yes.

5 PROSPECTIVE JUROR: I'm Juror 95.

6 THE COURT: Ninety-five.

7 PROSPECTIVE JUROR: Yes, sir.

8 THE COURT: Okay.

9 PROSPECTIVE JUROR: And my granddaughter works for
10 Mr. Weeks.

11 THE COURT: All right. You think that would affect
12 your ability to be fair and impartial in this case?

13 PROSPECTIVE JUROR: No, sir.

14 THE COURT: Either for or against the State or for or
15 against the Defense?

16 PROSPECTIVE JUROR: No, sir.

17 THE COURT: All right. Thank you.

18 THE BAILIFF: One more, Your Honor.

19 THE COURT: All right. Where are we at?

20 PROSPECTIVE JUROR: Juror No. 7. I know Mr. Weeks's
21 wife through Girl Scouts and our dealings in the
22 community.

23 THE COURT: Do you think that would affect your
24 ability to be fair and impartial, either for or against
25 the State or for or against the Defense?

1 PROSPECTIVE JUROR: No, sir.

2 THE COURT: All right. Thank you.

3 Anyone else?

4 (There was no response.)

5 THE COURT: All right.

6 THE BAILIFF: Order in the court, please.

7 THE COURT: Has any member of the jury panel, either
8 you or one of your family members or close friends ever
9 attended a church service given by the Defendant, Larry
10 Durant, or listened to his sermons on the internet? If
11 so, would you please stand.

12 (There was no response.)

13 THE COURT: Okay. I find none.

14 Any member of the jury panel, your family or close
15 friends ever attended Word International Ministry, Miracle
16 Deliverance Temple or the Love Center located in Sumter?

17 (There was no response.)

18 THE COURT: I find none.

19 Any member of the jury panel ever read the book
20 Victory Over Life Crisis?

21 (There was no response.)

22 THE COURT: I find none.

23 Any member of the jury panel watched the Jeffery
24 Lampkin show?

25 (There was no response.)

1 THE COURT: I find none.

2 Any member of the jury panel, either you or your
3 family members or a close personal friend ever been a
4 member of federal, state, county, city or military police
5 department? If so, would you please stand.

6 THE CLERK: One, Judge.

7 THE COURT: I'm going to walk down a little closer.

8 All right. Could I get your name and number, please?

9 PROSPECTIVE JUROR: Jill Williams, 178.

10 THE COURT: Okay.

11 PROSPECTIVE JUROR: My spouse is a City of Columbia
12 police officer, was formally an investigator with the
13 Sumter County Sheriff's Office.

14 THE COURT: You think that would affect your ability
15 to be fair and impartial in this case?

16 PROSPECTIVE JUROR: No, Your Honor.

17 THE COURT: All right. Could I get your name and
18 number, please.

19 PROSPECTIVE JUROR: Amy Gibson, No. 53.

20 THE COURT: Okay.

21 PROSPECTIVE JUROR: Duane Lashley was married to my
22 niece 20 years ago.

23 THE COURT: Do you think that would affect your
24 ability to be fair and impartial in this case, either for
25 or against the State or for or against the Defense?

1 PROSPECTIVE JUROR: No, sir.

2 THE COURT: Anyone else?

3 (There was no response.)

4 THE COURT: All right. Any member of the jury panel,
5 either you or one of your family members ever been a
6 member of or a financial contributor to of a police
7 booster organization, honorary law enforcement
8 organization or a similar group, includes such things as
9 the South Carolina Troopers Association, South Carolina
10 Law Enforcement Officers Association, County Sheriff's
11 Organization, Fraternal Order of Police, that sort of
12 thing? If so, would you please stand.

13 Okay. Your name and number for the record again,
14 please?

15 PROSPECTIVE JUROR: Jill Williams, 178.

16 THE COURT: Okay.

17 PROSPECTIVE JUROR: Your Honor, if I'm not mistaken,
18 I think we did give to the Troopers Association.

19 THE COURT: Okay. Let me focus back on her just a
20 second.

21 Which of those groups do you belong to? Is it you or
22 a family member?

23 PROSPECTIVE JUROR: It's my spouse. It's the Police
24 Officer's Benevolent Association.

25 THE COURT: Do you think that would affect your

1 ability to be fair and impartial in this case, for or
2 against the State or for or against the Defense?

3 PROSPECTIVE JUROR: No, Your Honor.

4 THE COURT: All right. Your name and number, please?

5 PROSPECTIVE JUROR: Yes, Lennalee Elie, No. 46.

6 THE COURT: Forty-six.

7 PROSPECTIVE JUROR: I used to be employed with the
8 South Carolina Department of Corrections.

9 THE COURT: All right. Do you think that would
10 affect your ability to be fair and impartial in this case,
11 either for or against the State or for or against the
12 Defense?

13 PROSPECTIVE JUROR: No, Your Honor.

14 THE COURT: Yes, ma'am?

15 PROSPECTIVE JUROR: I don't want to be out of order.

16 THE COURT: That's okay. I promise you, you have to
17 do a lot worse for me to throw you in jail.

18 PROSPECTIVE JUROR: Roszele Catanch, No. 24.

19 THE COURT: Okay.

20 PROSPECTIVE JUROR: If I'm not mistaken, I think we
21 used to give to the Troopers Association years ago.

22 THE COURT: Okay. Do you think that would affect
23 your ability to be fair and impartial, either for or
24 against the State or for or against the Defense?

25 PROSPECTIVE JUROR: No.

1 THE COURT: You'd be okay?

2 PROSPECTIVE JUROR: Yes, sir.

3 THE COURT: Anyone else? Anyone over here?

4 (There was no response.)

5 THE COURT: All right. Any member of the jury panel,
6 either you or your family member or a close friend had any
7 contacts with child protective services or the Department
8 of Social Services for any reason? If so, would you
9 please stand.

10 This is one of those -- I should have said something
11 before I started. I don't want to pry into anyone's
12 personal affairs to embarrass you. That's not the purpose
13 of the question. The question, as you can probably figure
14 out, we just need to know if it affects your ability to be
15 fair and impartial.

16 If you feel like you need to let me know something,
17 but you don't want to stand up and tell your business in
18 front of a bunch of people, you are welcome to come down
19 here and speak a little more privately. The lawyers do
20 have the opportunity to listen to your answer, but I
21 certainly understand if you don't want to stand up in
22 front of a group of strangers and answer some of these
23 questions.

24 So in a question like this, if you want to come up
25 and tell me more privately what the situation is, please

1 do that, but don't just sit down and not say anything.

2 If anybody has had -- either you or a family member,
3 close friend had any contacts with any child protective
4 services or DSS, anything like that, either as a witness,
5 a suspect, employment, victim, any reason, would you
6 please stand.

7 Okay. Do you want to come down?

8 PROSPECTIVE JUROR: No, I'm good.

9 THE COURT: Your name and number, please?

10 PROSPECTIVE JUROR: Amy Gibson, No. 53.

11 THE COURT: Okay.

12 PROSPECTIVE JUROR: I have volunteered for the Sexual
13 Trauma Services of the Midlands out of Columbia. And my
14 daughter currently runs the office here in Sumter.

15 THE COURT: All right. Would that affect your
16 ability to be fair and impartial in this case, either for
17 or against the State or for or against the Defense?

18 PROSPECTIVE JUROR: I don't believe so, no, sir.

19 THE COURT: Do you know anything at all about this
20 case?

21 PROSPECTIVE JUROR: No, sir.

22 THE COURT: Okay. Thank you.

23 Yes, your name and number?

24 PROSPECTIVE JUROR: No. 157, Kayla Thomas.

25 THE CLERK: She wants to come forward.

1 THE COURT: Okay.

2 (Out of the hearing of the panel.)

3 THE COURT: What would you like to tell me?

4 PROSPECTIVE JUROR: She's not my blood cousin, but
5 she's my cousin. Her child was taken away from her by DSS
6 because her and her boyfriend were abusing the child and
7 they're awaiting court.

8 THE COURT: Do you think that would affect your
9 ability to be fair and impartial to either side?

10 PROSPECTIVE JUROR: No.

11 THE COURT: For or against either side?

12 PROSPECTIVE JUROR: No.

13 THE COURT: Thank you.

14 PROSPECTIVE JUROR: You're welcome.

15 THE CLERK: 164, Your Honor. Mr. Truschka.

16 THE COURT: What would you like to tell me?

17 PROSPECTIVE JUROR: My wife was a day care -- she
18 worked at a daycare center. She was accused of child
19 abuse on one of the children.

20 THE COURT: Okay.

21 PROSPECTIVE JUROR: I had to go and fight with her on
22 everything about that. It took about three weeks. She
23 was reinstated with no charges. But I just wanted to let
24 you know that.

25 THE COURT: Do you think that would affect your

1 ability to be fair and impartial, for or against the State
2 or for or against the Defense?

3 PROSPECTIVE JUROR: I don't know. I got a real bad
4 taste in my mouth the way the childcare center handled the
5 whole situation. They just automatically laid her off
6 without any evidence or anything. I was not happy with
7 that.

8 THE COURT: Okay.

9 PROSPECTIVE JUROR: I don't know what this case is.
10 I'm just letting you know, I would not be -- I just have
11 that, like, anger built up for that.

12 THE COURT: Okay.

13 PROSPECTIVE JUROR: The way they handled the case.

14 THE COURT: Okay. Anger towards?

15 PROSPECTIVE JUROR: Towards the child development
16 center. They have cameras and everything else and there
17 was no evidence. The case, like I said, was eventually
18 dropped. They, basically, laid her off for three weeks
19 without pay, which we needed the money. That's why she
20 was working.

21 THE COURT: Do you think you would hold that against
22 the State in this case?

23 PROSPECTIVE JUROR: I don't know what the case is.

24 THE COURT: Well, it's an allegation of criminal
25 sexual conduct.

1 PROSPECTIVE JUROR: Probably not.

2 THE COURT: Okay.

3 PROSPECTIVE JUROR: Okay.

4 THE COURT: Thank you.

5 PROSPECTIVE JUROR: You're welcome.

6 THE COURT: All right. Anyone else?

7 (There was no response.)

8 THE COURT: All right. Any member of the jury panel
9 ever participated in a women's advocacy group or a group
10 for prevention of rape or domestic violence, such as Take
11 Back the Night rally, Rape Hotline, that sort of thing?

12 Okay. Yes, give us your name and number again for
13 the record, please?

14 PROSPECTIVE JUROR: Jill Williams, 178.

15 THE COURT: Okay.

16 PROSPECTIVE JUROR: I am currently a victim advocate
17 for the Department of Defense.

18 THE COURT: All right. Do you think that would
19 affect your ability to be fair and impartial in this case,
20 either for or against the State or for or against the
21 Defense?

22 PROSPECTIVE JUROR: No.

23 THE COURT: All right. Thank you.

24 Your name and number again, please.

25 PROSPECTIVE JUROR: Amy Gibson, No. 53.

1 THE COURT: Okay.

2 PROSPECTIVE JUROR: I have been involved in Sexual
3 Trauma Services of the Midlands doing hospital visits.

4 THE COURT: All right. Do you think that would
5 affect your ability to be fair and impartial in this case,
6 for or against the State or for or against the Defense?

7 PROSPECTIVE JUROR: No, sir.

8 THE COURT: Thank you.

9 Any member of the jury panel, either you or one of
10 your immediate family members or a close personal friend
11 ever been the victim of a crime, either of sexual abuse or
12 any crime whatsoever? When I say other crime, it could
13 include sexual abuse, but we also want to know any crime,
14 if you've been the victim of any crime. So if that would
15 apply to anyone, would you please stand?

16 Yes, name and number again?

17 PROSPECTIVE JUROR: Amy Gibson, No. 53.

18 THE COURT: Okay.

19 PROSPECTIVE JUROR: I was a child victim of sexual
20 abuse.

21 THE COURT: All right. And do you think that would
22 affect your ability to be fair and impartial in this case?

23 PROSPECTIVE JUROR: No, sir.

24 THE COURT: All right. Thank you.

25 Yes, your name and number?

1 PROSPECTIVE JUROR: May I come up there?

2 THE COURT: Sure.

3 (Out of the hearing of the panel.)

4 THE COURT: Yes, ma'am, your name and number, please?

5 PROSPECTIVE JUROR: 112, I believe.

6 THE COURT: Okay.

7 PROSPECTIVE JUROR: Emily Miller.

8 THE COURT: What would you like to tell me?

9 PROSPECTIVE JUROR: I've been the victim of domestic
10 violence recently. I'm also pretty sure I went to school
11 with Mr. Durant's daughter. I know her well.

12 THE COURT: Okay. You know his daughter?

13 PROSPECTIVE JUROR: Yeah, very well. Went to school
14 and graduated with her and I know him and this case.

15 THE COURT: Do you think that would affect your
16 ability to be fair and impartial?

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: All right. Thank you.

19 THE BAILIFF: Ms. Colelough, Your Honor.

20 THE COURT: Yes, what would you like to tell me?

21 PROSPECTIVE JUROR: My son was accused, but the
22 charges was dismissed.

23 THE COURT: He was accused of what?

24 PROSPECTIVE JUROR: Sexual assault.

25 THE COURT: Could you speak up just a little bit?

1 PROSPECTIVE JUROR: Sexual assault as a minor, but
2 the charges was dismissed.

3 THE COURT: He was accused of that while he was a
4 child or of a child?

5 PROSPECTIVE JUROR: And while he was a child.

6 THE COURT: How old was he?

7 PROSPECTIVE JUROR: Sixteen.

8 THE COURT: Okay. This case involves allegations of
9 sexual abuse against someone between 11 to 14. Do you
10 think that would affect your ability to be fair and
11 impartial in this case, for or against the State or for or
12 against the Defense?

13 PROSPECTIVE JUROR: Yes.

14 THE COURT: All right. Thank you.

15 Anyone else?

16 (There was no response.)

17 THE COURT: I guess at this point, I should let you
18 know. I didn't have the indictments in front of me to
19 read them out to you, but Mr. Durant is charged with
20 criminal sexual conduct with a minor between the ages of
21 11 and 14. And, also, with three counts of criminal
22 sexual conduct third degree and a charge of forgery.

23 MR. KENT: Your Honor, I have something to bring up
24 at another point in time.

25 THE COURT: Pardon?

1 MR. KENT: I'll bring it up later.

2 THE COURT: Again, I bring that up just for the
3 purpose of letting y'all this case involves allegations of
4 sexual abuse. So, again, he pled not guilty to those
5 charges. The State has the burden of proving them.

6 MS. ABEE: I'm sorry, Your Honor. Can we talk to you
7 on a sidebar briefly?

8 THE COURT: Sure. Sure.

9 (Pause.)

10 THE COURT: I have to apologize to y'all and to
11 Mr. Durant. I made a mistake. My law clerk is not with
12 me today. He is getting sworn in. He just passed the bar
13 exam. And he sent me an e-mail with the -- what he
14 thought were the charges. He was incorrect. There's only
15 one charge that Mr. Durant is facing, and that is criminal
16 sexual conduct with a minor second degree. So I was
17 incorrect in stating those other charges before. So
18 please do not consider that in any way or hold that
19 against Mr. Durant.

20 But the indictment is the charging instrument for
21 which somebody is put on notice of the crime that they are
22 to appear at trial for. Back in the old days when the
23 kings could just go along and pull people off the roadside
24 and charge them with a crime and, basically, the king got
25 to make the charges and the king or one of his close

1 friends got to be the judge, trials were pretty much a
2 joke back then. Over time, there were remedies to that.
3 You might even recall if you're a student of history the
4 signing of the Magna Carta. The 800-year anniversary of
5 that was last summer.

6 So one of the things that came out of that was the
7 right to know what you got charged with before you went to
8 trial. And that has over time evolved into what we now
9 call an indictment or a charge by a -- there's a panel of
10 18 people that are brought in. They served for a year at
11 a time. You folks are known as petit jurors. Those folks
12 are known as grand jurors. Their sole purpose is to
13 determine if there was probable cause to charge somebody
14 with a crime. And that is sort of a buffer between the
15 State and the person so that they can be put on notice of
16 what they are charged with. And so the Grand Jury met and
17 they indicted Mr. Durant with the charge of criminal
18 sexual conduct with a minor second degree.

19 I'm going to read you what this indictment says.
20 Remember, Mr. Durant pled not guilty to this, but I'm
21 reading it for the purpose of letting you know what the
22 charge is. This is the only charge he is facing, and I
23 was mistaken in telling you about the others before, so
24 please disregard that. But also for the purpose of asking
25 if anybody knows anything about this charge.

1 And the charge states that on or about some time
2 between December 26th, 2012, through May 10th, 2013, the
3 Defendant, Larry Durant, did in Sumter County unlawfully
4 engage in sexually battery upon the body of [REDACTED] MINOR ,
5 date of birth [REDACTED]/99, the victim being less than 16 years
6 of age, in violation of section 16-3-655(b) of the South
7 Carolina Code of Laws.

8 And this is just an indictment. The sole purpose is
9 to let Mr. Durant know what he is charged with so that
10 when he comes to court, he'll know what he's standing
11 trial for. It does not create any presumptions of guilt.
12 He, in the eyes of the law, is presumed to be not guilty
13 of this charge.

14 This instrument as well is not evidence. In fact,
15 this is going to be the only piece of paper that you have
16 back in the jury room if you're picked as a juror that
17 will go back to you -- go back to the jury with you during
18 deliberations that is not evidence. And the only reason
19 that it goes back is so the foreman of the jury can write
20 what the verdict is on the back, either guilty or not
21 guilty.

22 Okay. So having now heard what this indictment is
23 for, is there any member of the jury panel who knows
24 anything at all about this case? If so, would you please
25 stand.

1 Okay. I find none.

2 THE CLERK: Judge, there is one.

3 PROSPECTIVE JUROR: Judge, I --

4 THE COURT: And you told me that you did know about
5 it?

6 PROSPECTIVE JUROR: Uh-huh.

7 THE COURT: Okay. Thank you. That was No. 28.

8 THE CLERK: 112.

9 THE COURT: Anyone else?

10 (There was no response.)

11 THE COURT: Is there -- other than somebody who has
12 already told us about it, is there any member of the jury
13 panel, either you or your family members or close personal
14 friends before the victim of child abuse, child
15 molestation, criminal domestic violence, sexual assault,
16 sexual harassment, rape or any other inappropriate sexual
17 behavior, whether or not it resulted in any trial or
18 formal charges being brought against somebody? If so,
19 would you please stand? I'm sure this would be one you'd
20 want to talk to us about more privately. If that applies
21 to anyone, would you please stand if you haven't already
22 told us about it?

23 (There was no response.)

24 THE COURT: Okay. I find none.

25 Now, is there any member of the jury panel, either

1 you or a family member or a close personal friend ever
2 been accused of any crime, which would include charges of
3 sexual abuse? If so, would you please stand?

4 (There was no response.)

5 THE COURT: Okay. I find none.

6 Any member of the jury panel, a close personal friend
7 or a family member ever been accused of any form of
8 inappropriate sexual conduct with another? If so, would
9 you please stand?

10 (There was no response.)

11 THE COURT: Okay. I find none.

12 Any member of the jury panel, either you or an
13 immediate family member have any training, work or
14 volunteer experience in medicine, criminology, psychology,
15 sociology, nursing, teaching or daycare? If so, would you
16 please stand?

17 Okay. Let's start over here on this side of the
18 room. Let me get your name and number, please?

19 PROSPECTIVE JUROR: Jill Williams, 178. Studying
20 sociology for my degree.

21 THE COURT: Okay.

22 PROSPECTIVE JUROR: Katherine Nero, 120. I'm a
23 nurse.

24 THE COURT: All right. Thank you.

25 PROSPECTIVE JUROR: Wanda Coleman, 29, early

1 childhood education.

2 THE COURT: Okay. Thank you.

3 PROSPECTIVE JUROR: Kelly Jordan, 82, teacher, and I
4 have a degree in educational administration, as well.

5 THE COURT: Thank you.

6 PROSPECTIVE JUROR: Katie Weathersbee, 173. I'm a
7 biology major and I'm studying premed, also.

8 THE COURT: Thank you.

9 PROSPECTIVE JUROR: Christine Herrera, No. 66. I've
10 been a paralegal for 15 years with the Air Force and I'm
11 superintendent of the legal office just currently.

12 THE COURT: Thank you.

13 PROSPECTIVE JUROR: No. 32. We own a childcare
14 center.

15 THE COURT: Could I get your number again?

16 PROSPECTIVE JUROR: Thirty-two.

17 THE COURT: Thank you.

18 PROSPECTIVE JUROR: John Gibson, No. 59. I'm
19 currently employed as a CNA and I've worked on the Board
20 of Disabilities and I also worked as a teacher's
21 assistant.

22 THE COURT: All right. Thank you.

23 Anyone else?

24 (There was no response.)

25 THE COURT: Any member of the jury panel, either you

1 or immediate family member or close family had training in
2 law, law enforcement or criminal justice? If so, please
3 stand.

4 Yes, your name and number, please?

5 PROSPECTIVE JUROR: Lennalee Elie, 46. I work with
6 the South Carolina Department of Corrections.

7 THE COURT: Okay. Thank you.

8 Anyone else.

9 (There was no response.)

10 THE COURT: Any member of the jury panel have any
11 professional or -- personal or professional knowledge on
12 the subject of child abuse or child molestation and you
13 haven't already responded in some form to this question
14 earlier? Anybody have any --

15 Oh, yes, your name and number?

16 PROSPECTIVE JUROR: No. 66, Christine Herrera. I'm a
17 paralegal. We've dealt with military justice cases that
18 dealt with child abuse and sexual misconduct.

19 THE COURT: Thank you.

20 Yes, your name and number, please?

21 PROSPECTIVE JUROR: No. 157, Kayla Thomas. I work
22 with Sumter OB/GYN and we deal with patients.

23 THE COURT: Thank you.

24 Anyone else?

25 (There was no response.)

1 THE COURT: Any member of the jury panel have any
2 specialized training in the recognition of sexual assault
3 and you haven't already answered the question because of
4 other training?

5 Yes, your name and number?

6 PROSPECTIVE JUROR: Anthony Jones, 185.

7 THE COURT: Okay.

8 PROSPECTIVE JUROR: Part of my job with the
9 Department of Veteran Affairs is military sexual trauma
10 coordinator.

11 THE COURT: Okay. Thank you.

12 Anyone else?

13 PROSPECTIVE JUROR: Christine Herrera, 66. Part of
14 my past job was as a sexual assault facilitator, staff
15 facilitator.

16 THE COURT: All right. Thank you.

17 All right. Any member of the jury panel ever had any
18 training in interrogation techniques?

19 (There was no response.)

20 THE COURT: All right. I find none.

21 Any member of the jury panel ever appeared as a
22 witness for the prosecution or defense at any trial? If
23 so, would you please stand?

24 (There was no response.)

25 THE COURT: I find none.

1 Any member of the jury panel ever testify as an
2 expert witness of any kind in a trial before?

3 (There was no response.)

4 THE COURT: I find none.

5 One of the things that jurors are asked to do is
6 judge credibility of witnesses, so you're going to hear
7 from different types of witnesses throughout this trial.
8 You're going to hear from law enforcement officers,
9 government witnesses. You're going to hear from lay
10 people, from children, young people, older people,
11 doctors.

12 Anybody feel like they would not be able to give
13 equal weight to any witness because of their profession.
14 In other words, you might either feel like you would give
15 extra weight to law enforcement or less weight to law
16 enforcement officer? Things like that. Those are just
17 examples. Same thing with doctors. People, you know,
18 feel like a doctor says something, it must be true. Other
19 people are like, no, don't believe anything a doctor has
20 to say. Same thing with ministers, with children
21 witnesses, that sort of thing? Anybody feels like they
22 could not objectively listen to a witness and not treat
23 witnesses equally because of either their status or their
24 employment? If so, would you please stand?

25 (There was no response.)

1 THE COURT: Okay. I find none.

2 As you've heard, this is a case that involves
3 allegations of sexual matters. And, obviously, back in
4 the jury room, jury deliberations, you are going to have
5 to discuss the evidence that you've heard.

6 During the course of the trial, you're going to hear
7 testimony about sexual matters. Is there anyone that
8 feels that they would feel so awkward or uncomfortable,
9 either hearing about or discussing during deliberations
10 matters about sexual matters that they would not be able
11 to serve as a juror? If so, would you please stand?

12 Okay. Your name and number?

13 PROSPECTIVE JUROR: Thirty-two, Darrin Conyers.

14 THE COURT: Okay. Do you want to come forward and
15 talk to me about that?

16 PROSPECTIVE JUROR: I want to ask you a question.

17 THE COURT: What would you like to tell me?

18 PROSPECTIVE JUROR: I had a niece this happened to.
19 It's ongoing still. Mr. Kent represented my brother and
20 Alan Wilson was the Attorney General that prosecuted, so
21 to be honest, I wouldn't be fair to Mr. Wilson, I won't.

22 THE COURT: All right. What was your number again?

23 PROSPECTIVE JUROR: Thirty-two.

24 THE COURT: Thirty-two. You don't think you would be
25 able to be fair and impartial in this case?

1 PROSPECTIVE JUROR: I won't.

2 THE COURT: Thank you. You can be seated.

3 Anyone else.

4 (There was no response.)

5 THE COURT: Now, I guess as kind of a catch-all
6 question at the end, is there any member of the jury panel
7 that knows of any reason why they don't think they could
8 be a fair and impartial juror in this case? It may be any
9 reason at all.

10 Here's what we're going to try to do this week. In a
11 few minutes, we're going to pick a jury of 12 people, a
12 couple of alternates and you'll get sworn in. And then
13 the State will present their witnesses, put up their
14 evidence. The Defense has the opportunity if they want
15 to. They don't have to. If they don't put up a defense,
16 you're not to hold that against them. But you're going to
17 hear a trial, all right. At the end of the trial, then
18 you will be asked to go back -- before you go back, I'll
19 charge you on what the law is.

20 The oath that you'll take at the beginning of the
21 trial is that you will make a verdict based on what you
22 hear in this courtroom this week, not on what other people
23 think about the case, not on what other people -- how
24 other people feel about these kind of cases, but what you
25 hear in this courtroom as evidence. And then you will

1 take that evidence and listen to the law that I charge
2 you.

3 It may not be the law that you think applies. It may
4 not be what you wish the law was, but you've got to be
5 able to take an oath that says I will take the law that
6 the judge applies -- or the judge tells me applies and
7 apply it to the evidence that I heard in the courtroom and
8 that's how you'll come up with a verdict.

9 That's what we're really -- all we're asking. It's a
10 lot to ask, but it's really all we're asking.

11 This, obviously, is a big case for both sides. They
12 are entitled -- both sides are entitled to a fair and
13 impartial jury. Mr. Durant is entitled to a fair and
14 impartial jury. The State of South Carolina is entitled
15 to a fair and impartial jury. And if you have some reason
16 why you don't think you could be a fair and impartial
17 juror in this case, well, you owe it to them to just come
18 up and tell me about it, what it is, why you think it may
19 be that you can't be fair and impartial. I'm not going to
20 try to change your beliefs about any particular thing.

21 You know, I've heard lots of reasons. And I'm going
22 to just throw out a couple of examples, all right. The
23 most typical one you hear is some folks say well, there's
24 verses in the Bible that says you shouldn't judge other
25 people and I don't think I can be a fair and impartial

1 juror. That's a reason we get from time to time.

2 I've heard all kinds of reasons and I'm not going to
3 list them out. And I'm not going to try to change your
4 minds about what your beliefs are. As far as I'm
5 concerned, this is the United States of America. And you
6 can pretty much believe whatever you want. As long as you
7 don't advocate the violent overthrow of the United States
8 government or you don't advocate hurting somebody else, I
9 don't care what you believe in. I'm not going to try to
10 change your mind. The only thing that I am seeking is 12
11 folks who can take that oath and say whatever beliefs that
12 I have about matters, I'll set them aside and it won't
13 bother me this week. I can put it aside and take an oath
14 in good conscience, that I will make my decision based
15 only on what I hear in this courtroom as evidence, and
16 I'll apply the law as you, the judge, tells me applies to
17 that. That's really all I'm asking do you do. Search
18 your conscience in that manner. If you have some reason
19 you don't think you can be fair and impartial, I want you
20 to stand. You can come up and talk to me about it a
21 little more privately.

22 All right. That's all I really want. I'm not trying
23 to embarrass anybody and I'm not going to try and change
24 your mind on your sincerely-held beliefs. If anybody has
25 any reason why they think they can't be fair and

1 impartial, would you please stand? You're welcome to come
2 forward. Okay.

3 (Heard at sidebar.)

4 PROSPECTIVE JUROR: Judge, I hate to say it --

5 THE COURT: Just for the record, your name and number
6 again?

7 PROSPECTIVE JUROR: Steven Struschka, No. 164.

8 THE COURT: Okay.

9 PROSPECTIVE JUROR: Not a cliché of God and
10 everything, but I'm a firm believer in God. It's a
11 serious case and I've got to go with the law, but I don't
12 want to judge another person.

13 THE COURT: Okay.

14 PROSPECTIVE JUROR: I just don't want to sit in
15 judgment of any man.

16 THE COURT: All right. Tell me what your number was
17 again.

18 PROSPECTIVE JUROR: 164.

19 THE COURT: 164. All right. Well, the only thing
20 that I would ask that you consider is -- you know, I run
21 into this from time to time. It's probably the most
22 frequent one. And I always use the example like, well --
23 and, again, I don't even like to talk about
24 interpretations of the Bible.

25 PROSPECTIVE JUROR: I'm not talking Bible. I'm

1 talking God.

2 THE COURT: If you don't feel like you can sit in
3 judgment of somebody --

4 PROSPECTIVE JUROR: I can't.

5 THE COURT: -- in a legal setting as opposed to well,
6 I don't like what they did or I don't like that kind of
7 person and that sort of thing, that's one thing.

8 PROSPECTIVE JUROR: But those are man's rules and I
9 don't want to judge anybody by man's rules. Let God do
10 that work.

11 THE COURT: All right. Well, thank you. You be
12 seated.

13 PROSPECTIVE JUROR: Thank you.

14 THE BAILIFF: Juror No. 89.

15 THE COURT: Yes, sir. What would you like to tell
16 me?

17 PROSPECTIVE JUROR: Mr. Durant's daughter, I see her
18 every day.

19 THE COURT: What?

20 PROSPECTIVE JUROR: Her daughter and my daughter go
21 to the same dance school. I see her every day. I don't
22 think --

23 THE COURT: Okay. So you don't think you could be
24 able to sit in judgment of him because your daughter goes
25 to school with his daughter.

1 PROSPECTIVE JUROR: They go to dance school together.
2 I see her often.

3 THE COURT: All right. Thank you.

4 Anyone else?

5 (There was no response.)

6 THE COURT: All right. I think I've got all the
7 questions asked that you wanted. Did I leave out
8 anything?

9 MR. ABEE: There is nothing from the State?

10 MR. KENT: Yes, sir.

11 THE COURT: I think I've asked everything.

12 MR. KENT: I'm comfortable with everything.

13 THE COURT: Everybody okay with the questions? All
14 right. Let's go over the ones that asked for cause for
15 strike. I have down here No. 89, he asked -- he said his
16 daughter, the Defendant's daughter went to school. And
17 I've got No. 32. He seemed to have a problem with both
18 sides is kind of what I'm gathering.

19 MR. WEEKS: Yes.

20 THE COURT: Twenty-eight, there was an accusation of
21 a sexual assault. 112, he knows the Defendant's daughter
22 really well. 164 was that gentleman who said he had
23 religious beliefs or he didn't feel like he could sit in
24 judgment. And then I've got -- well, 53 stood up for just
25 about every kind of sexual training program there was

1 offered in this state.

2 I figured y'all would probably be asking about that.

3 MR. KENT: Yes, sir.

4 THE COURT: Those are the ones that I'm looking at as
5 jumping out at me for cause, but does anybody have
6 any other ones?

7 MS. ABEE: No, Your Honor.

8 THE CLERK: Judge, that's a total of six.

9 MR. KENT: Fifty-three and 178 were the two that I
10 had.

11 THE COURT: Fifty-three and 178? Yeah, she was a
12 victim's advocate.

13 MS. ABEE: They both said they could be fair and
14 impartial, though.

15 THE COURT: Well, that's true.

16 MS. ABEE: I mean, in comparison to people who just
17 flat out said.

18 MR. KENT: I just smiled.

19 THE COURT: I think they're training, though. Being
20 victim's advocates and having a lot of training in that, I
21 just think that really would be a stretch. I know they
22 did say they could be fair and impartial, but they seemed
23 to be all tied into as a professional on what he's accused
24 with. I'm going to grant for cause on 178 and 53.

25 How do y'all feel about 164, 112, 28, 32 and 89?

1 MR. KENT: Did you excuse the one who said I
2 represented his brother?

3 THE COURT: Of course. No. 32 I think it was.

4 MS. ABEE: He said he couldn't be fair.

5 THE COURT: Any others?

6 MR. WEEKS: No.

7 THE COURT: We'll take them out of the system.

8 THE CLERK: Yes, sir, I'm with you.

9 THE COURT: All right.

10 (WHEREUPON, bench conference was concluded.)

11 THE COURT: Okay. Well, folks, we now are going to
12 go ahead and draw the jury. The way we do it in General
13 Sessions court is a little different than we do it in
14 civil court. On the civil side, we give the lawyers a
15 printout list of names, usually, a few minutes to go off
16 and study them, but General Sessions court, we handle a
17 little bit different.

18 What's going to happen is the clerk is going to call
19 out the name. When you get called, would you pick your
20 belongings up and bring them with you. Because if you get
21 picked, you'll just go sit in the jury box. If you don't
22 get picked, you'll go back to your seat. You'll still
23 have an opportunity to serve as a juror in Judge Cothran's
24 court, which he'll be drawing afterwards.

25 But we are going to start with the clerk calling out

1 the name. You come through the little area right here and
2 stand in front of that little podium where I was standing,
3 turn around and face the back. The State says present the
4 juror or excuse the juror. And depending on -- if the
5 State excuses you, you go back. If they say present the
6 juror, then it moves to the Defense. They get the
7 opportunity to say present or excuse. If both sides say
8 present the juror, then you're a juror and you come over.

9 If you are not picked by either side, again, don't
10 take it personally. There's a lot of reasons why people
11 do not get picked as jurors. But, again, you'll have the
12 opportunity to serve in another case.

13 So each side -- let's see, this is five and 10. Five
14 for the State and 10 for the Defense. So let me give the
15 clerk a second to draw the names out. Everything is
16 computerized these days, and it takes a few minutes to
17 plug that in and get it out. We used to do things in the
18 old days, you'd have a blind person or a child under the
19 age of seven, they would pull things out, but we've
20 progressed over time. Now, there's an algorithm that
21 picks the names out. The names as you get called, there
22 is absolutely no rhyme or reason as to why you get called.

23 I'm also going to pick two alternates, so the strikes
24 will be one and two on that.

25 All right. Mr. Clerk, whenever you're ready.

1 THE CLERK: All right. May it please the Court.

2 As the Judge has instructed, just bring your personal
3 belongings with you when your name is called, your name
4 and number is called.

5 No. 181, Robert Wingard.

6 (Robert Wingard, a white male, came forward.)

7 THE CLERK: Yes, sir, just face the back of the
8 courtroom.

9 What says the State?

10 MS. ABEE: Please present Mr. Wingard.

11 THE CLERK: What says the Defense?

12 MR. KENT: Please swear Mr. Wingard.

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

14 No. 18, George Britton.

15 (George Britton, a black male, came forward.)

16 THE CLERK: What says the State?

17 MS. ABEE: Please present Mr. Britton.

18 THE CLERK: What says the Defense?

19 MR. KENT: Please swear Mr. Britton.

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

21 No. 75, Emory Infinger, the third.

22 (Emory Infinger, III, a white male, came forward.)

23 THE CLERK: What says the State?

24 MS. ABEE: Please present Mr. Infinger.

25 THE CLERK: What says the Defense?

1 MR. KENT: Please excuse Mr. Infinger from the trial
2 of this case.

3 THE CLERK: Have a seat back in the panel, sir.
4 You've been excused from the trial at this time.

5 No. 102, George McGregor.

6 (George McGregor, a white male, came forward.)

7 THE CLERK: What says the State?

8 MS. ABEE: Please present Mr. McGregor.

9 THE CLERK: What says the Defense?

10 MR. KENT: Please excuse Mr. McGregor from the trial
11 of this case.

12 THE CLERK: Have a seat back in the panel, sir.
13 You've been excused from the trial at this time.

14 No. 54, John Gibson.

15 (John Gibson, a black male, came forward.)

16 THE CLERK: What says the State?

17 MS. ABEE: Please present Mr. Gibson.

18 THE CLERK: What says the Defense?

19 MR. KENT: Please swear Mr. Gibson.

20 THE CLERK: Have a seat behind the bar, sir.

21 No. 143, Deshawn Simmons.

22 (Deshawn Simmons, a black male, came forward.)

23 THE CLERK: What says the State?

24 MS. ABEE: Please present Mr. Simmons.

25 THE CLERK: What says the Defense?

1 MR. KENT: Please swear Mr. Simmons.

2 THE CLERK: Have a seat up here, sir.

3 No. 46, Lennalee Elie.

4 (Lennalee Elie, a black female, came forward.)

5 THE CLERK: What says the State?

6 MS. ABEE: Please present Ms. Elie.

7 THE CLERK: What says the Defense?

8 MR. KENT: Beg the Court's indulgence one moment.

9 (Pause.)

10 MR. KENT: Please swear Ms. Elie.

11 THE CLERK: Have a seat in the jury box, ma'am.

12 135, Tiffany Robinson.

13 (Tiffany Robinson, a black female, came forward.)

14 THE CLERK: What says the State?

15 MS. ABEE: Please excuse the juror from this case.

16 THE CLERK: Please have a seat back in the panel,

17 ma'am. You're excused from this trial at this time.

18 No. 173, Teresa Hyatt.

19 (Teresa Hyatt, a white female, came forward.)

20 THE CLERK: What says the State?

21 MS. ABEE: Please present Ms. Hyatt.

22 THE CLERK: What says the Defense?

23 MR. KENT: Please excuse Ms. Hyatt from the trial of
24 this case.

25 THE CLERK: Have a seat back in the panel, ma'am.

1 You're excused from the trial at this time.

2 No. 116, Rebecca Myers.

3 (Rebecca Myers, a black female, came forward.)

4 THE CLERK: What says the State?

5 MS. ABEE: Please present Ms. Myers.

6 THE CLERK: What says the Defense?

7 MR. KENT: Please swear Ms. Myers.

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

9 No. 62, Maria Haughton.

10 (Maria Haughton, a black female, came forward.)

11 THE CLERK: What says the State?

12 MS. ABEE: Please present Ms. Haughton.

13 THE CLERK: What says the Defense?

14 MR. KENT: Please swear Ms. Haughton.

15 THE CLERK: Have a seat in the jury box, ma'am.

16 No. 57, Kayla Thomas.

17 (Kayla Thomas, a white female, came forward.)

18 THE CLERK: What says the State?

19 MS. ABEE: Please present Ms. Thomas.

20 THE CLERK: What says the Defense?

21 MR. KENT: Please excuse Ms. Thomas from the trial of
22 this case.

23 THE CLERK: Have a seat back in the panel, ma'am.

24 You've been excused from the trial at this time.

25 No. 23, Stephanie Cason.

1 (Stephanie Cason, a white female, came forward.)

2 THE CLERK: What says the State?

3 MS. ABEE: Please present Ms. Cason.

4 THE CLERK: What says the Defense?

5 MR. KENT: Please swear Ms. Cason.

6 THE CLERK: Have a seat in the jury box, ma'am.

7 No. 69, Antonio Hodges.

8 (Antonio Hodges, a black male, came forward.)

9 THE CLERK: What says the State?

10 MS. ABEE: Please present this juror.

11 THE CLERK: What says the Defense?

12 MR. KENT: Please swear Mr. Hodges.

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

14 No. 68, Brian Hodge.

15 (Brian Hodge, a white male, came forward.)

16 THE CLERK: What says the State?

17 MS. ABEE: Please present this juror.

18 THE CLERK: What says the Defense?

19 MR. KENT: Please excuse Mr. Hodge from the trial of
20 this case.

21 THE CLERK: Have a seat back in the panel. You're
22 excused from the trial at this time.

23 No. 71, Rashawna Howard.

24 (Rashawna Howard, a black female, came forward.)

25 THE CLERK: What says the State?

1 MS. ABEE: Please present Ms. Howard.

2 THE CLERK: What says the Defense?

3 MR. KENT: Beg the Court's indulgence one moment.

4 THE COURT: Yes, sir.

5 (Pause.)

6 MR. KENT: I'm sorry, please swear Ms. Howard.

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

9 No. 55, Roy Graham.

10 (Roy Graham, a black male, came forward.)

11 THE CLERK: What says the State?

12 MS. ABEE: Please present this juror.

13 THE CLERK: What says the Defense?

14 MR. KENT: Please swear Mr. Graham.

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

16 No. 153, Shirley Bradley.

17 (Shirley Bradley, a black female, came forward.)

18 THE CLERK: What says the State?

19 MS. ABEE: Please present Ms. Bradley.

20 THE CLERK: What says the Defense?

21 MR. KENT: Please excuse Ms. Bradley from the trial
22 of this case.

23 THE CLERK: Have a seat back in the panel. You're
24 excused from the trial at this time.

25 No. 6, Branson Armstrong.

1 (Branson Armstrong, a white male, came forward.)

2 THE CLERK: What says the State?

3 MS. ABEE: Please present Mr. Armstrong.

4 THE CLERK: What says the Defense?

5 MR. KENT: Please excuse Mr. Armstrong from the trial
6 of this case.

7 THE CLERK: Have a seat back in the panel, sir.

8 You've been excused from the trial of this case.

9 No. 127, Candace Portee.

10 (Candace Portee, a black female, came forward.)

11 THE CLERK: What says the State?

12 MS. ABEE: Please excuse Ms. Portee for this case.

13 THE CLERK: Have a seat back in the panel, ma'am.

14 You're excused from the trial at this time.

15 No. 29, Wanda Coleman.

16 (Wanda Coleman, a black female, came forward.)

17 THE CLERK: What says the State?

18 MS. ABEE: Please present Ms. Coleman.

19 THE CLERK: What says the Defense?

20 MR. KENT: Please excuse Ms. Coleman from the trial
21 of this case.

22 THE CLERK: Have a seat back in the panel. You're
23 excused from the trial at this time.

24 No. 95, Ella McBride.

25 (Ella McBride, a black female, came forward.)

1 THE CLERK: What says the State?

2 MS. ABEE: Please excuse Ms. McBride from this case.

3 THE CLERK: Have a seat back in the panel, ma'am.

4 You're excused from the trial at this time.

5 No. 131, Randolph Richardson.

6 (Randolph Richardson, a black male, came forward.)

7 THE CLERK: What says the State?

8 MS. ABEE: Please excuse Mr. Richardson from this
9 case.

10 THE CLERK: Have a seat back in the panel, sir.

11 You're excused from the trial at this time.

12 No. 91, Malik Livingston.

13 (Malik Livingston, a black male, came forward.)

14 THE CLERK: What says the State?

15 MS. ABEE: Please present Mr. Livingston.

16 THE CLERK: What says the Defense?

17 MR. KENT: The Court's indulgence one moment.

18 (Pause.)

19 MR. KENT: Please swear Mr. Livingston.

20 THE CLERK: Have a seat in the jury box.

21 Alternate juror, No. 106, Jacqueline McLeod.

22 (Jacqueline McLeod, a black female, came forward.)

23 THE CLERK: What says the State?

24 MS. ABEE: Please present Ms. McLeod.

25 THE CLERK: What says the Defense?

1 MR. KENT: Please excuse Ms. McLeod from the trial of
2 this case.

3 THE CLERK: Have a seat back in the panel, ma'am.
4 You're excused from the trial at this time.

5 No. 8, Sydney Bailey.

6 (Sydney Bailey, a white female, came forward.)

7 THE CLERK: What says the State?

8 MS. ABEE: Please present Ms. Bailey.

9 THE CLERK: What says the Defense?

10 MR. KENT: Please swear Ms. Bailey.

11 THE CLERK: Have a seat in the jury box, ma'am.

12 No. 92, Lavonya Mack.

13 (Lavonya Mack, a black female, came forward.)

14 THE CLERK: What says the State?

15 MS. ABEE: Please present Ms. Mack.

16 THE CLERK: What says the Defense?

17 MR. KENT: Please swear Ms. Mack.

18 THE CLERK: Have a seat in the jury box, ma'am.

19 Okay, Judge.

20 THE COURT: All right. Anything from the State?

21 MS. ABEE: No, Your Honor.

22 THE COURT: Anything from the Defense?

23 MR. KENT: Nothing on behalf of Mr. Durant, Your
24 Honor.

25 THE COURT: All right. Well, folks, you are our jury

1 now for this case. We'll begin this case after lunch.

2 I've got 20 minutes until 1:00 right now. Let's have
3 you guys come back to the jury room by 2:30.

4 If you'll follow the bailiffs right now, they'll show
5 you where to go. That's where you'll report back to after
6 lunch. Don't come back in the courtroom. They'll show
7 you the jury room where you're to report back, how to get
8 in and out of the courthouse.

9 Now, you don't know anything about the case yet other
10 than just what I told you were the allegations. This is a
11 standard sort of a charge that I give you every time we
12 take a break. Even though you haven't heard any evidence
13 yet, don't begin discussing, deliberating, or talking
14 about the case in any way with either other members of the
15 jury or anyone, for that matter, including family members
16 or people that walk up to you on the street or anybody.

17 You'll have all the time in the world to talk about
18 the case after it's over with, but until you've heard all
19 of the evidence and I charge you on the law, you can't
20 talk to each other about the case. It's not proper for
21 you to be influenced by outside influences. Because
22 remember, I told you, when we come back, you'll take an
23 oath that says, basically, I promise that I'll make my
24 decision based on what I hear in this courtroom so you
25 won't be influenced by outside people and what other

1 people think about the case and that sort of thing.

2 Also, now this day and age, people can find out stuff
3 about almost anything on the internet. I don't know
4 whether or not there's anything on the internet about this
5 case, but don't go and try to find out things about the
6 case or newspapers or anything like that. Again,
7 everything that you need to know for you to be able to
8 make a decision about this case, you will hear in this
9 courtroom. So it's not proper to go out and look on the
10 internet or do any kind of research.

11 Once people get on a jury, they tend to get invested,
12 and they want to go out and explore and sometimes try to
13 research the law and stuff like that. Please don't that.
14 That's improper. It's not fair to everybody.

15 And one last thing I want to cover before we break is
16 social media. You've got Facebook and Twitter and all
17 kinds of different things. I'm just using those as
18 examples. People want to express themselves and that's
19 great. But it would be the same as if you went out and
20 started talking with anybody on the street about the case
21 if you went and started posting about the case on the
22 internet, or Facebook, or Twitter or anything like that
23 during the case.

24 After it's over with, you can say whatever you want
25 about the case and your thoughts on jury service and

1 everything like after it's over with, but during the
2 course of the trial, please don't post anything on any
3 kind of social media websites or anything like that about
4 your jury service or the case that you are doing jury
5 service for.

6 I'm not going to prohibit you from talking about the
7 case once it's over with. I want you to talk about your
8 jury experience because I, frankly, think you'll enjoy it.
9 Most people do once they get picked on a jury. But during
10 the course of the trial, again, that would be improper
11 communication to do that during the trial. So please
12 don't that.

13 If you would, go enjoy lunch. You may need to tell
14 folks at home or at work that you're picked on a jury, so
15 you'll be with us the rest of the day and the rest of the
16 week on this.

17 Let me ask you this, earlier Judge Cothran came in
18 after he qualified the jury and told me somebody on the
19 jury panel had something they had to be at at
20 4:00 o'clock, but he didn't remember the names. Was that
21 any of the members of the jury panel that had something to
22 do today at 4:00 o'clock?

23 THE CLERK: No, sir, it's in the panel.

24 THE COURT: I just wanted to make sure. That will
25 help us with our planning for the afternoon.

1 We will probably go to 5:00, either a little before
2 or a little after, just depending on how the flow of the
3 evidence goes. I'll be talking with the lawyers during
4 the lunch break about our plans. We usually start around
5 9:30, break for lunch around lunchtime, and go to 5:00ish.
6 We might go a little later if we're running behind. But
7 everybody thinks from what I understand that we'll get
8 done with this case this week. We may work a little bit
9 late in the evening on a night or so just to be on track
10 to be finished by the end of the week.

11 Thank you for your patience. I'll see you back at
12 2:30.

13 (WHEREUPON, the jury left the courtroom at 12:44
14 p.m.)

15 THE COURT: Okay. Now, the rest of you folks, they
16 gave me a note to ask y'all to please come back to
17 courtroom 3-A at 9:30 tomorrow. You won't need to come
18 back today. They've got something else that they've got
19 to do. They'll get their case ready to go, and Judge
20 Cothran will have a trial for you guys starting tomorrow
21 morning at 9:30.

22 So you don't have to come back today. Just report
23 back to courtroom 3-A tomorrow morning at 9:30. Thank you
24 very much for your patience today. You're free to go.

25 (WHEREUPON, the unselected members of the jury left

1 the courtroom.)

2 THE COURT: Okay. Why don't we meet back at
3 2:00 o'clock for any pretrial motions that we need to take
4 up.

5 Is there anything that needs to be heard?

6 MS. ABEE: Well, Your Honor, just to be -- kind of
7 for scheduling purposes, the State has three different
8 pretrial motions, which one of those is a Lyle motion,
9 Your Honor, to where we have the named victim in this case
10 on the indictment 947, and then three additional that
11 we'll have to proffer Lyle testimony for.

12 Your Honor, in the pretrial briefs, I believe my
13 motion was somewhere between seven to nine pages and
14 Mr. Kent, also, filed a motion to exclude the Lyle
15 testimony, which was, also, decently lengthy. So I do
16 think that's going to take a decent chunk of time in the
17 afternoon. Then we, also, have a rape shield motion and
18 then a res gestae motion on our behalf, Your Honor.

19 There is a motion to suppress search warrant photos
20 from the Defense, Your Honor, as well as to exclude the
21 testimony of one witness. So there are six total motions,
22 three for each side, but one from each side overlap.
23 One's to admit Lyle and one's to exclude Lyle. So for
24 scheduling reasons, that is the motions that we have on
25 the table after lunch.

1 THE COURT: Might be a little ambitious to start, but
2 we'll try it today.

3 Okay. All right. Well, I'll see you back at
4 2:00 o'clock and we'll see where we're at.

5 MR. KENT: Your Honor, I can just take care of this
6 one very briefly so I don't forget.

7 THE COURT: Uh-huh.

8 MR. KENT: And I think you gave the jury a curative
9 instruction, which we appreciate. When talking to the
10 jury at some point in time and telling them about that
11 charges -- and I want to make sure I get the language
12 correct. At first, we mentioned the indictment that Mr.
13 Durant finds himself charged under criminal sexual conduct
14 second degree. Thereafter, I think the Court told the
15 jury that he was, also, facing four other charges, which
16 were, also, criminal sexual conduct in nature. At that
17 point in time, I was not going to stand up immediately. I
18 think that grabs their attention. I didn't want to draw
19 too much attention to the fact. Ms. Abee properly alerted
20 me we probably needed to say something so we didn't
21 continue to mention the fact there were additional
22 charges.

23 My concern, Your Honor -- and I appreciate you giving
24 me the opportunity to place this on the record. My
25 concern is that we, potentially, have tainted the jury

1 panel. They have now heard that there are other unrelated
2 charges that are potentially outstanding against Mr.
3 Durant. I would not expect a ruling now because this is
4 going to come part and parcel when we have the Lyle
5 motion.

6 My fear is this. If we don't allow Lyle, if the
7 Defense is successful in keeping out the Lyle evidence and
8 the jury still has heard that there are outstanding
9 charges and the females who are read from the State's
10 witness list aren't going to be called, the jury in the
11 back of their mind could possibly say well, there were
12 outstanding charges made and this individual has been
13 charged. If the females do come in under Lyle, that's
14 still the same that they have actually been criminally
15 charged in these cases. And I don't know that that would
16 be permissible.

17 So in a way, the Court -- and I'm not saying there
18 was anything dishonest or disingenuous, but, unknowingly,
19 has, basically, corroborated or helped give more credence
20 to the State's case saying that there are other
21 outstanding charged crimes out there against them.

22 Now, if we were to say well, no, the jury is just to
23 forget that, well, this is the type of situation where the
24 State is actively trying to get these other charges in.
25 We would ask for respectfully, definitely not a mistrial,

1 but we would ask for a continuance or a new jury panel
2 just based upon the information that they heard. Thank
3 you. I don't expect a ruling because we still have the
4 Lyle information. I just want to make sure I'm covered on
5 the record.

6 THE COURT: Would you like to respond?

7 MS. ABEE: Just very briefly, Your Honor. Mr. Kent
8 is correct in stating that the Lyle motion and whether or
9 not that evidence comes in really does change the
10 importance or the severity of what it is that you said.
11 However, Your Honor, you did gave a curative instruction
12 rather clearly, almost immediately after that was said.
13 It was very clear, Your Honor, that you didn't say well,
14 those charges are for a different time. You stated just
15 they didn't exist. I think you stated you didn't have a
16 law clerk here with you. So it was clear to the jury
17 panel and the jury pool, Your Honor, that those charges
18 did not belong to Mr. Durant.

19 Further, Your Honor, regarding the witness list and
20 the people that were read off the witness list, prior to
21 reading that, you did state that sometimes these witnesses
22 won't all testify. You were very clear in that. That
23 sometimes the witness list dwindles down throughout the
24 course of the trial, Your Honor. So I don't believe that
25 just because other females are read on the witness list

1 that the jury is going to necessarily believe that they
2 have outstanding charges -- that Mr. Durant has
3 outstanding charges on him for these other witnesses, Your
4 Honor.

5 THE COURT: All right. Well, you know, it's
6 unfortunate. I really do apologize. It's just the nature
7 of sometimes on the travel aspect, you get here, you get
8 set up and, you know, it gets past you. But somehow or
9 another, I guess my law clerk in his, really, ambition to
10 be the best law clerk I've ever had did up this little
11 sheet for me of all the case -- the charges. It looks
12 like he got them off the clerk of court's website. And I
13 guess based on reading through what y'all had sent us this
14 weekend, he and I all thought that you were going on a
15 trial with more than one and I just hadn't seen a copy of
16 the indictment.

17 It, actually, popped in my mind to say oh, I need the
18 indictment, but we got in here and I didn't, actually, put
19 my hands on it to see that we were only going forward on
20 one. So whatever damage is done, I can't undo it, but I
21 do believe a curative charge took care of it. I'll allow
22 you to renew it later if you feel it's necessary based on
23 what may or may not come in on the Lyle evidence. But at
24 this point, any motion for a mistrial or a continuance is
25 denied.

1 We'll crank up at 2:00 o'clock. Have your witnesses
2 ready and we'll see how far we get today as to whether or
3 not we actually start with calling any witnesses or we
4 start in the morning.

5 Anything else?

6 MS. ABEE: Nothing from the State, Your Honor.

7 MR. KENT: Nothing on behalf of Mr. Durant.

8 THE COURT: Okay. See you at 2:00.

9 MS. ABEE: Thank you.

10 (WHEREUPON, a lunch break was taken.)

11 THE COURT: All right. Well, I hope everybody got
12 lunch finally. It took a little while to get it over
13 there where we were eating.

14 I'm trying to figure out whether or not we should let
15 the jury go for the afternoon. Do y'all have a feel for
16 how long your motions might take?

17 MS. ABEE: Your Honor, Mr. Kent and I kind of spoke
18 briefly before this. And I don't think either of us think
19 that testimony starts today with the length of the
20 motions.

21 THE COURT: Okay.

22 MR. KENT: Candidly, Your Honor, even if we went
23 quick, it would be an hour-and-a-half, maybe two hours.
24 And I don't know if you'd want to start the trial at 4:00
25 o'clock, 4:30.

1 THE COURT: Well, why don't I bring them in then and
2 dismiss them for the afternoon. Does 9:30 tomorrow work
3 for you all right?

4 MS. ABEE: Yes, sir.

5 MR. KENT: Yes, sir.

6 THE COURT: All right. Bring them in.

7 (WHEREUPON, the jury entered the courtroom at
8 2:28 p.m.)

9 THE BAILIFF: All the jurors are back in the
10 courtroom, Your Honor.

11 THE COURT: All right. Welcome back, folks.

12 We have got to work through a few pretrial things.
13 And I talked to the lawyers and everybody realistically
14 feels it's going to take, you know, an hour and a half,
15 two hours or so. And that would just put off getting
16 started about the time we would quit, so I'm going to send
17 you home for the day. We'll start tomorrow morning fresh
18 with the opening arguments and the first witnesses being
19 called.

20 So let me send you home with the instructions that
21 are, basically, identical to what I sent you off with
22 before you went to lunch. And that is, don't talk to
23 anybody about the case. I'm certain that when you get
24 home tonight, if you haven't talked with anybody already,
25 the first thing they're going to ask you, did you get

1 picked for a jury. You can say yes, I did. It's a
2 criminal case and that's really all I can tell you about
3 it. The Judge says not to talk to anybody about the case.
4 Not only that, I haven't heard any testimony yet, so I
5 really don't have anything to tell you at this point.

6 The idea behind that instruction, it usually makes
7 sense to people, is you're going to take that oath that
8 says you're going to make your decision based on what you
9 hear in this courtroom. And it's not fair to either side
10 if you go home and have, you know, your husband, your
11 wife, your next door neighbor, whoever start telling you
12 what their opinion is about whatever it is that you talk
13 about. Everybody has an opinion, and they feel like
14 they're right.

15 Well, they haven't heard anything. You're the only
16 ones that are going to hear anything and be in a position
17 to hear all the testimony and judge things like witnesses'
18 demeanor, things like that. It's just a human natural
19 thing that you would be influenced by people telling you
20 what they think about a case and about people and other
21 things like that. So that's the basis for the instruction
22 is just a simple fairness issue. So I want to send you
23 home with those instructions, again, not talk to anybody
24 about the case. And don't go on the internet, don't try
25 to find out anything about the case. Don't post things on

1 social media.

2 If you would, be back in the jury room tomorrow
3 morning about 9:20. We should get started right at
4 9:30 as soon as everybody gets here. So go home this
5 evening, do whatever it is that you want to do the rest of
6 the day. Just be prepared for a full day for the rest of
7 the week.

8 All right. Thank you for your patience today. We'll
9 see you tomorrow morning.

10 (WHEREUPON, the jury left the courtroom at 2:32
11 p.m.)

12 THE COURT: Okay. What would make sense to start
13 with?

14 MS. ABEE: Your Honor, I think it would make sense to
15 start with Lyle since I -- and I don't know, Mr. Kent and
16 I, actually, didn't talk about order.

17 Your Honor, can we have just one second to try to
18 talk this out, figure out.

19 THE COURT: That's okay.

20 (Pause.)

21 MS. ABEE: Your Honor, I think it makes sense to
22 start with the Lyle testimony and the Lyle motion. That
23 is probably the lengthiest and most extensive one that we
24 have pending in front of you.

25 THE COURT: Okay.

1 MS. ABEE: Whatever that outcome, I do think will
2 affect the other motions and the way that those are
3 argued, as well. I think it would be best if we started
4 with that.

5 In speaking with Mr. Kent previously, we both agreed
6 to sequester the witnesses in this case, Your Honor. I
7 don't believe the Defense has any objection to that. I
8 would just ask that, also, extend to pretrial motions,
9 especially Lyle testimony that's about to happen, that the
10 witnesses be sequestered at this time, as well.

11 THE COURT: Okay. Well, I don't know who's a witness
12 and who's just a spectator. So whoever is a potential
13 witness in the case, you need to have them step outside.

14 MR. KENT: Thank you, Your Honor.

15 THE COURT: I need y'all to assist me on who that
16 might be. I, literally, know no one out there.

17 MR. KENT: Your Honor?

18 THE COURT: Yes.

19 MR. KENT: If I may, just as a small housekeeping
20 issue. This isn't by way of a motion. And I've explained
21 this to the State. The Sumter County Sheriff's Department
22 has a policy that they don't want anyone sitting behind
23 the Defendant as they're getting ready for trial. My
24 client has difficulty sitting as well as standing up
25 because he has two prosthetic legs. So I've had his wife

1 standing behind him so she can assist me, lift him up,
2 give him things, things of that nature. They said I have
3 to get permission from the Court, basically, to have his
4 wife sit behind him. And I understand if she sits behind
5 him, or anyone sits behind him, they won't be testifying
6 during the course of the trial.

7 THE COURT: That's fine with me.

8 Does that work for you?

9 SHERIFF'S DEPUTY: Yes, sir.

10 MR. KENT: Thank you, Judge.

11 THE COURT: All right. Do you want to call your
12 first witness?

13 MS. ABEE: Yes, Your Honor, just by a brief way of
14 background. I know Your Honor received pretrial briefs
15 from both the State and the Defense. Larry Durant is the
16 Defendant here for trial here today on one count of
17 criminal sexual conduct with a minor in the second degree.

18 Your Honor, the alleged victim in that case -- the
19 victim in that case is MINOR She is seated here
20 in this courtroom, Your Honor. We intend for her to
21 testify regarding Lyle characteristics of her sexual
22 assault, time, place, date, age, those basic
23 characteristics, and then calling three other witnesses to
24 testify as to their sexual assaults, as well, to establish
25 the similarities and dissimilarities in the cases of their

1 sexual assaults, Your Honor. We'll call the witnesses and
2 then make our arguments.

3 THE COURT: All right. Go ahead.

4 MS. ABEE: Your Honor, the State calls MINOR
5 to the stand.

6 MINOR after being duly
7 sworn, testified as follows:

8 THE CLERK: State your name for the record, please.

9 THE WITNESS: MINOR

10 THE CLERK: Thank you. Come around on this side,
11 please.

12 State your name, spell your last for the record.

13 THE WITNESS: MINOR

14 MS. ABEE: May it please the Court, Your Honor?

15 THE COURT: Go ahead.

16 DIRECT EXAMINATION

17 BY MS. ABEE:

18 Q MINOR, how old are you?

19 A I'm 17.

20 Q When's your birthday?

21 A 1999.

22 Q Where do you currently live?

23 A I stay on THE RESIDENCE

24 Q Is that here in Sumter?

25 A Yes, ma'am.

1 Q Do you go to school?

2 A Yes, ma'am.

3 Q Where at?

4 A Sumter High.

5 Q Now, MINOR, do you know Larry Durant?

6 A Yes, I do.

7 Q How do you know Larry Durant?

8 A I grew up in his church.

9 Q Is Larry Durant a pastor?

10 A Yes, he is.

11 Q How old were you when you first recall going to Larry
12 Durant's church?

13 A When I was five years old.

14 Q And tell us all how frequently you would attend Larry
15 Durant's church?

16 A We would be church on Tuesdays, Wednesdays, Fridays
17 and Sundays.

18 Q And tell us a little bit about a normal Sunday. How
19 long did Sunday services usually last?

20 A In the morning, it would be an 8:00 o'clock service.
21 We would have praise and worship. Then after that, we
22 would say some announcements, then he'd get up and give a
23 second sermon.

24 Q So approximately how long were you at church on
25 Sundays?

1 A For the 8:00 o'clock service, we'd probably get out,
2 I want to say like maybe 9:00ish. Then we'd go to the
3 bigger church, have Sunday school over there. Then we
4 have our 11:00 o'clock service.

5 Q And what time did the 11:00 o'clock service usually
6 end?

7 A On a good day, we'd probably get out 12:00, 1:00ish.

8 Q So it's from about 9:00 in the morning to about noon
9 or 1:00?

10 A Yes, ma'am.

11 Q Who would you attend church with?

12 A My auntie and my grandmother and my brother.

13 Q Now, what's your auntie's name?

14 A Ulanda Riley.

15 Q And what about your grandmother?

16 A Lizzie Johnson.

17 Q Were they members of the church?

18 A Yes, they were.

19 Q What were some of their involvements with the church,
20 their positions there?

21 A I know my auntie, Ulanda Riley, she was the armor
22 bearer there from time to time, and my grandmother, she
23 would help with the money.

24 Q What is the armor bearer?

25 A Someone who assist him, get him his water if he needs

1 is, or like carry his personal belongings as he's walking
2 down the aisle.

3 Q So is it fair to say your family members were pretty
4 involved in the church?

5 A Yes, ma'am.

6 Q Now, you said something earlier about moving over to
7 the big church on Sundays. Was there more than one
8 church?

9 A Yes, ma'am.

10 Q What was the smaller church's location?

11 A It was on 710 Manning Avenue.

12 Q Is that here in Sumter?

13 A Yes, ma'am.

14 Q What about the bigger church. Where was that
15 location?

16 A 1010 North Guinyard.

17 Q Is that in Sumter?

18 A Yes, ma'am.

19 Q MINOR was there ever a point in time when you going
20 to church that something sexual happened between you and
21 Larry Durant?

22 A Yes, ma'am.

23 Q How old were you when that first happened?

24 A Thirteen.

25 Q Do you recall what year that was?

1 A Yes, ma'am.

2 Q Okay. When was that?

3 A 2014.

4 Q 2014?

5 A Yes, ma'am.

6 Q Is when you were 13?

7 A I was 13, yes, ma'am. I was in 8th grade.

8 Q Okay. So what year were you born in?

9 A I was born in 1999.

10 Q So 13 years from there would be 2012?

11 A Yes, ma'am. I'm sorry. I'm sorry. I'm sorry.

12 Q It's okay. I just want to make sure this is right.

13 Do you recall it starting in 2012?

14 A Yes, ma'am.

15 Q And explain to us where this took place?

16 A In his office.

17 Q When you say his office, whose do you mean?

18 A Larry's.

19 Q And which office? Where is the office located?

20 A On 710, when you walk into the -- 710 is the smaller
21 church. When you walk into the church, like, you see the
22 pulpit and off to the far right is his office.

23 Q So it happened in the office at the smaller church.
24 What about the bigger church?

25 A The bigger church, it -- in order to get to his

1 office -- well, he changed his office plenty of times, but
2 the sexual assaults only happened in one office. You have
3 to go in there, you make a left and it's, like, around the
4 corner.

5 Q Okay. So church offices in both churches; is that
6 right?

7 A Yes, ma'am.

8 Q And why were you back in his office?

9 A For prayer, so he would say.

10 Q Okay. Explain that to us. What do you mean by
11 prayer?

12 A He would say that you just helping us -- well, when
13 he said something to me, he would say he was just helping
14 me, like, not like girls and not catching any diseases.

15 Q Okay. So explain to me how Pastor Durant would get
16 you back into his office?

17 A Well, his armor bearers would come and tell me that
18 he needs me.

19 Q So someone would come and get you and then you'd go
20 back into his office; is that right?

21 A That's correct.

22 Q And once you were in the office, this is where he
23 would start the prayers; is that right?

24 A Yes, ma'am.

25 Q What was he praying for for you?

1 A For me to stop liking girls and not have any
2 diseases.

3 Q And so in order to pray for you, what did he do?

4 A Well, at 710, the only thing he would do is insert
5 his fingers into my vagina. That's the only thing he
6 would do at 710.

7 Q What about at the other church location?

8 A 1010 Guinyard, he would, actually, insert his penis
9 inside my vagina and, actually, have sexual intercourse
10 with me.

11 Q And how old were you when this was happening?

12 A I was 13.

13 Q And when y'all were having sexual intercourse, you
14 just stated that he was putting his penis in your vagina,
15 where were you in the office? How were you positioned?

16 A He would have me over the desk. Like my body would
17 be over the desk.

18 Q Would Larry Durant be standing or sitting during this
19 time?

20 A He would be standing.

21 Q Was anybody else in the office during this time?

22 A No, ma'am.

23 Q What about any physical disabilities that Larry
24 Durant has? Did you know of any of those?

25 A Yes, ma'am.

1 Q And what did you know of those?

2 A His legs are amputated.

3 Q And did you know that during the time?

4 A Yes, ma'am.

5 Q And have you ever seen Larry Durant's penis?

6 A Yes, I have.

7 Q Is there anything about that?

8 A He has a skin pigmentation, like, some of it's pink
9 and some of it's his actual skin color.

10 Q So it's different colors?

11 A Yes, ma'am.

12 Q And MINOR, approximately, how many times did this
13 praying session happen?

14 A Pretty much every Friday, Sunday and Wednesday when
15 we -- he would put his fingers inside my vagina on
16 Wednesdays at the smaller church. And Fridays and Sundays
17 when we get to the bigger church, that's when he,
18 actually, inserted his penis inside of my vagina.

19 Q And while he was doing any of this, was he ever
20 saying prayers for you?

21 A No, ma'am.

22 MS. ABEE: Your Honor, may I have one second?

23 THE COURT: Yes.

24 (Pause.)

25 BY MS. ABEE:

1 Q MINOR, what would happen once the sex was done?

2 A I would clean up and leave. If there was any mess,
3 then he would clean up, but I would never see him clean.

4 Q Where would you clean up in the office?

5 A I would go into his bathroom.

6 MS. ABEE: Your Honor, I have no further questions
7 for this witness regarding Lyle testimony at this time.

8 THE COURT: All right. Mr. Kent.

9 MR. KENT: Beg the Court's indulgence one moment,
10 Your Honor.

11 (Pause.)

12 CROSS-EXAMINATION

13 BY MR. KENT:

14 Q Ms. MINOR, how are you doing?

15 A Wonderful. Yourself?

16 Q Good. And I don't have very many questions and I
17 hate to go through all this stuff, but I want to make sure
18 I have all the information you just gave to the State of
19 South Carolina, okay?

20 A Yes, sir.

21 Q I want to make sure, you were born [REDACTED] 1999?

22 A Yes, sir.

23 Q You were 13 years old at the time --

24 A Yes, sir.

25 Q -- of these allegations?

1 A Yes, sir.

2 Q I think you had indicated that your sexual
3 preference, you preferred women over men?

4 A Yes, sir.

5 Q Okay. And I think you said that the Defendant, one
6 of the ways that he was persuading you was he was saying
7 let me help you pray for you; is that correct?

8 A Yeah, he would say I'm praying for you so you won't
9 like girls and catch diseases.

10 Q So it was for diseases and so you wouldn't like women
11 anymore?

12 A Yes, sir.

13 Q Were you able to describe what he was wearing? I
14 think you did in your statements.

15 A Yes, sir, one of the times I was able to describe
16 what he had on.

17 Q And what was that?

18 A On this one particular Sunday, he had on a
19 three-piece brown suit and white underwear like he usually
20 wears.

21 Q He didn't ask for any pictures from you or anything
22 like that?

23 A No.

24 Q And there was nothing about a cell phone or anything
25 of that nature?

1 A No, because at the time, I wasn't supposed to let
2 anyone know about that.

3 Q And you've been a member of the church about seven
4 years, I think you told me?

5 A Yeah, ever since I was five, back and forth.

6 Q Did he ever threaten you in any way?

7 A No, not at all.

8 Q Did he ever say anything about that he would expose
9 y'all's conversations if you did anything?

10 A No, sir.

11 Q So he never threatened to expose conversations if you
12 told anybody?

13 A No, sir.

14 Q The prayer session, did he give it any type of
15 special name or anything like that, private prayer
16 sessions or special prayer sessions or anything like that?

17 A No, sir, not at all.

18 Q What about locking the doors? Were the doors locked?

19 A Yes, sir.

20 Q So your testimony is that the doors were specifically
21 locked?

22 A Yes, like, he would have me lock the door.

23 Q He would have them lock the door?

24 A Have me lock the door.

25 Q Okay, have you lock the door. Did you ever go to the

1 Defendant's house?

2 A Yes, I have.

3 Q Okay. And I think you said the way that you were
4 brought to his office was through his armor bearers; is
5 that correct?

6 A Yes, sir.

7 Q How long do you think the sexual act took? I think
8 your testimony was like 10 to 15 minutes?

9 A Yeah.

10 Q Does that sound about right?

11 A Yes, sir.

12 Q Would he have conversations with you during the sex?
13 Do you remember during your statement, you mentioned that
14 he would have conversations with you during the sex?

15 A The one Sunday that was real clear to me when he had
16 the three-piece brown seat, yes, he, actually, said, I
17 want you to have my baby.

18 Q You, also, testified he would say things like, do you
19 like it, wanted you to have a baby, things like that?

20 A Yes, sir.

21 Q I think in your statement, you mentioned that he
22 would say that he would make noises during the sexual act,
23 breathing heavy, grunting noises?

24 A Yes, sir.

25 Q But wouldn't speak during the sexual act, he was just

1 breathing --

2 A Yes, sir, just made grunting noises.

3 Q And after sex, you said you would clean up yourself
4 with a paper towel, correct?

5 A Yes, sir.

6 Q Your testimony was that y'all would have sex on his
7 desk?

8 A Yes, sir.

9 Q You never got any cash from him or anything like
10 that?

11 A No, sir.

12 Q He never paid you money?

13 A No, sir.

14 Q You weren't -- he didn't ask you anything about birth
15 control or anything of that nature?

16 A No, sir.

17 Q He never smacked your behind or anything like that,
18 correct?

19 A No, sir.

20 Q Okay. You didn't get pregnant or anything like that,
21 did you?

22 A No, sir.

23 Q I think you had said that he used some language, he
24 would say the word coochie or something like that? Do you
25 remember saying that in your statement?

1 A I'm sorry, what was that?

2 Q The word coochie. Do you remember him saying he was
3 praying for your coochie in your statement?

4 A Yes, sir.

5 Q I'm just trying to go through the things you said in
6 your statement.

7 A Yeah.

8 Q Now, the statement you gave to law enforcement, that
9 was a statement you give on your own, correct?

10 A Yes, sir.

11 Q No one told you what to say?

12 A No, sir.

13 Q No one helped you say anything in your statement?
14 That was -- you had the opportunity to review your
15 statement?

16 A Yes, I did.

17 Q And you've looked at it before trial today?

18 A No, I've not looked over it.

19 Q I mean, at some point?

20 A Before, yes.

21 Q Not immediately before, but at some point before
22 trial, you've had an opportunity to look at your
23 statement?

24 A Yes, sir.

25 Q And you would agree with me that whatever is in the

1 statements that you gave to law enforcement are your
2 words, no one told you what to say or anything of that
3 nature?

4 A Yes, sir, a hundred percent my words.

5 Q And nobody helped you with times, dates, or anything,
6 this was all your words?

7 A All my words.

8 Q Do you remember how many times you met with law
9 enforcement?

10 A No, I don't remember the exact number.

11 Q Would it be more or less than three?

12 A It would be more than three.

13 Q More or less than four?

14 A Fourish, fiveish, around there.

15 Q Okay. Did you give a different -- probably about
16 five times, you met with them?

17 A Yes, sir, I would say that.

18 Q Every time, did you give a statement to them?

19 A No, not every time, no, sir.

20 Q Did they ask you what happened every time?

21 A No, sir, not every time.

22 Q So why would -- I'm just confused. I'm not trying to
23 trick you. No jury here. Why would you meet with them if
24 they didn't want to go over your testimony or go over your
25 statement or talk with you about the case?

1 A Like one time, they asked me, like, to get some --
2 gather some evidence. They talked to me about that. But,
3 specifically, you mean, like trying to coerce me to say
4 anything about the case --

5 Q Oh, no, no, I'm not trying to say nobody tried to
6 coerce you or trick you or anything like that. I'm just
7 wondering how many times you met with them --

8 A Yes, sir.

9 Q -- and told them what happened. Not coerced. No one
10 is trying to trick you. Did you meet with law
11 enforcement?

12 A Yes.

13 Q Do you understand what I'm saying?

14 A Yes, sir.

15 Q Say, you would meet them on Tuesday, they would ask
16 you what happened and go over your testimony. And maybe
17 you would meet them again on a Saturday and they'd say,
18 tell us what happened. Do you understand what I'm saying?

19 A Yes, sir.

20 Q So on the five times that you met with them, did you
21 go over your case and your statement as to what happened?

22 A Yes, sir.

23 Q So all five times?

24 A Yes, sir.

25 Q And all five times, they would ask you about the case

1 and what happened?

2 A Yes, sir.

3 Q And none of this was ever recorded, right? It was
4 just them talking to you?

5 A Not to my knowledge, it wasn't recorded.

6 MR. KENT: Thank you, MINOR. That's all the
7 questions I have.

8 MS. ABEE: Your Honor, if I could just ask one
9 clarifying question.

10 REDIRECT EXAMINATION

11 BY MS. ABEE:

12 Q MINOR, when you said meet with law enforcement, are
13 you talking about just law enforcement at the Sumter
14 Police Department, or are you including our office and the
15 Attorney General's Office?

16 A Your office, and the Attorney General's office.

17 MS. ABEE: Thank you, Your Honor. I have no further
18 questions of this witness.

19 THE COURT: Any recross?

20 MR. KENT: No, Your Honor.

21 THE COURT: All right. You may step down. Thank
22 you.

23 MS. ABEE: Your Honor, the State calls A.R.
24 to the stand.

25 THE CLERK: Place your left hand on the Bible, raise

1 your right hand.

2 A.R. after being duly
3 sworn, testified as follows:

4 THE CLERK: Thank you. Come around here, please.
5 State your name, spell your last for the record.

6 THE WITNESS: A.R.

7 DIRECT EXAMINATION

8 BY MS. ABEE:

9 Q A.R., how old are you?

10 A I'm 22.

11 Q When is your birthday?

12 A 1994.

13 Q Where are you from?

14 A Sumter.

15 Q Did you go to school here?

16 A Yes, I did.

17 Q Are you currently in school?

18 A Yes, I am.

19 Q Where at?

20 A Winthrop University.

21 Q A.R., do you know Larry Durant?

22 A Yes, I do.

23 Q How do you know Larry Durant?

24 A I went to his church.

25 Q Was he your pastor?

1 A Yes, he was.

2 Q How old were you when you first started going to
3 Larry Durant's church?

4 A I was four years old.

5 Q Did you continuously go to Larry Durant's church from
6 the age of four up until the time in question that we're
7 talking about?

8 A Yes.

9 Q How frequently would you go to church?

10 A It would be between three and five times a week.

11 Q Explain that to us a little bit.

12 A We would have Bible study on Tuesday or Wednesday,
13 depending on whichever one he tried to switch it to. We
14 have church on Friday and Sunday. And sometimes, we would
15 be there throughout the week for practice, whether it's
16 choir rehearsal or praise dancing.

17 Q And tell us a little bit what a typical Sunday looked
18 like at Larry Durant's church?

19 A We would have regular, you know, church service, as
20 in praise and worship, him preaching and then offering
21 time and then he would spend some time talking to the
22 congregation, whether that would be fussing at us or just
23 talking to us in general.

24 Q Now, did Larry Durant have one church or two
25 churches?

1 A He had two.

2 Q Did you go to both churches?

3 A Yes, I did.

4 Q And who did you usually go to church with?

5 A My mom and my grandmother.

6 Q And what's your mother's name?

7 A Ulanda Riley.

8 Q What about your grandmother, what's her name?

9 A Lizzie Johnson.

10 Q And what were their roles in the church at that time?

11 A My mom was one of his armor bearers and, at a point
12 in time, she was over the youth department. And my
13 grandmother, she was like a treasurer, someone who counts
14 money, handled the financial things.

15 Q A.R. was there a point in time when something
16 sexual happened between you and Larry Durant?

17 A Yes.

18 Q How old were you when that first happened?

19 A I was 18.

20 Q Explain to us where did that happen.

21 A It happened at church at 1010 North Guinyard.

22 Q Is that the first time that it happened?

23 A Yes.

24 Q And where at the church at North Guinyard did it
25 happen?

1 A In his office.

2 Q How did you get into his office?

3 A He told me that he was going to pray for me to make
4 sure I wouldn't get any diseases or no kind of harm would
5 come to my body.

6 Q Did this happen -- where in the church service did
7 this happen?

8 A At the church.

9 Q And once you were back in Larry Durant's office, did
10 he pray for you?

11 A Yes.

12 Q Explain that to us.

13 A Well, he would -- he told me to pull my pants down
14 and he put his fingers in my vagina, but he never said
15 anything. He was just feeling around on me.

16 Q So were any words ever coming out of his mouth during
17 this time?

18 A No.

19 Q And what about once he was done with that, what
20 happened?

21 A He would tell me to get hand sanitizer or alcohol to
22 wipe off his hands.

23 Q So some sort of clean up?

24 A Yes.

25 Q Now, A.R., did it ever happen at the other

1 church?

2 A Yes, it did.

3 Q And what would happen at the other church?

4 A The same thing, as --

5 Q Go ahead.

6 A The same thing as in telling me to pull down my
7 pants, inserting his fingers into my vagina and the
8 clean-up process.

9 Q Now, did anything other than his fingers going in
10 your vagina happen?

11 A Yes.

12 Q Explain that to us.

13 A Well, after a while of him saying that he was praying
14 for my vagina, he told me that God was taking him to a new
15 level and we're going to have to go further in this
16 process, as in he told me -- he was telling me that he has
17 to have sex with me.

18 Q And did y'all have sex?

19 A Yes.

20 Q Was this in the office?

21 A Yes, it was.

22 Q Explain us to how you all were positioned in the
23 office.

24 A I would pull my pants down. He would tell me to bend
25 over the desk and he would come behind me.

1 Q So was he standing?

2 A Yes.

3 Q What would happen once that was done?

4 A He would tell me to make sure nothing was on his
5 clothes, to clean up his hands and stuff again. And
6 that's it.

7 Q So, again, some sort of clean-up process?

8 A Yes.

9 Q And, A.R., do you know of any disabilities that
10 Larry Durant has?

11 A Yes.

12 Q Explain that to us.

13 A I know that he is legally blind and he has double
14 amputee from the knee down.

15 Q And have you ever seen his penis?

16 A Yes, I have.

17 Q And when did you see his penis?

18 A During the prayers when he wanted to have sex with
19 me.

20 Q And is there anything different about that?

21 A Yes.

22 Q Explain that to us.

23 A He has a skin pigmentation on his penis, so it
24 appears pink, but specks of pink, not just the whole thing
25 is pink. Like, some on the shaft and some on the head of

1 his penis.

2 Q So it's different colors?

3 A Yes.

4 Q All right. A.R., when did this first start? I
5 know you said you were 18, but do you recall what year
6 that was?

7 A Yes, it was 2012. It was the second semester of my
8 senior year.

9 Q And do you recall when it stopped?

10 A Yes, it was Mother's Day of 2013.

11 Q So for about a year?

12 A Yes.

13 Q Is that right? Okay. And what would Larry Durant,
14 typically, be wearing?

15 A He would wear a suit or shirt and tie.

16 MS. ABEE: Your Honor, may I have one moment?

17 THE COURT: Sure.

18 BY MS. ABEE:

19 Q A.R., could you ever see -- I know you talked
20 about the clothing he was wearing, but could you ever see
21 his undergarments or underwear?

22 A Yes.

23 Q Can you tell us what his underwear looked like?

24 A He would have on white underwear, like Fruit of the
25 Loom or Hanes.

1 Q And what is it that he told you that he was praying
2 for when he was having these sex acts with you?

3 A Well, at first, he told me that he was praying to
4 make sure I didn't get any diseases or unmarital
5 pregnancies. And then after that, he said that things
6 wouldn't go right for me in life or I wouldn't get in the
7 school I wanted to if I didn't do it.

8 Q Thank you, A.R.

9 MS. ABEE: Your Honor, I have no further Lyle
10 questions for this witness at this time.

11 THE COURT: Cross?

12 MR. KENT: One moment, Your Honor.

13 CROSS-EXAMINATION

14 BY MR. KENT:

15 Q A.R., how are you?

16 A I'm good.

17 Q Again, I don't have very specific questions. There's
18 no jury here. I'm just going to talk back and forth and
19 go through some of the testimony you just gave, okay?

20 A Okay.

21 Q And it states that you're 22 right now, I think you
22 said, 21, 22?

23 A Twenty-two.

24 Q And your testimony was when all of this stuff
25 happened, you were 18 years old?

1 A That's correct.

2 Q Your birth date is [REDACTED] 1994?

3 A Yes.

4 Q You're not saying that Mr. Durant forced you down or
5 held you down or anything of this nature? It was
6 consensual intercourse, you didn't fight him, correct?

7 A That's true, but the only reason it happened is
8 because he lied to me and I was naive and young at the
9 time.

10 Q You were 18, you were an adult at the time, correct?

11 A Yes, but I was naive and I trusted in him.

12 Q I understand. And your preference is, also, women?
13 You prefer women over men; is that correct?

14 A Yes.

15 Q And you still prefer that at this point in time?

16 A Yes.

17 Q I think you had just described his penis. I want to
18 make sure I have the proper language. Like I said, no one
19 is trying to trick you, I'm just trying to make sure I
20 have everything correct. I think you said it had a speck
21 of pink on it and some pink on the shaft or some on the
22 head. Is that probably an accurate description of what
23 you just gave?

24 A Yes.

25 Q A speck of pink was the language that you used?

1 A Yes.

2 Q I'm just making sure. You said this ended on
3 Mother's Day, correct?

4 A Yes.

5 Q And I want to make sure, I know you had mentioned --
6 and I'm going through some of this stuff. You've had an
7 opportunity to review your statement that you gave law
8 enforcement?

9 A No, I haven't.

10 Q You haven't reviewed it. So if I ask you anything
11 and you need to review it, let me know and I'll give you a
12 copy of it, okay?

13 A Okay.

14 Q Do you remember in your statement -- I know you
15 testified to the prosecutor just now, you said the
16 Defendant was praying for you that you wouldn't get
17 diseases?

18 A Yes.

19 Q And you wouldn't have a baby early, also?

20 A Yes.

21 Q Making sure you wouldn't have a baby early. Do you
22 remember, also, talking about the Defendant was praying
23 that your breasts would get bigger, also?

24 A No, I never said that.

25 Q You never said that?

1 A No.

2 Q So that's not something he did?

3 A I'm sorry, what did you say?

4 Q That's not something that Mr. Durant did, he never
5 prayed for your breasts to get bigger?

6 A No.

7 Q I'm sorry about that. If I'm wrong, I'm just wrong.
8 I apologize. You testified that he would wear white Fruit
9 of the Loom underwear, not boxer shorts, correct, like
10 white Fruit of the Loom?

11 A Yes.

12 Q Not like -- like the briefs, not boxer shorts?

13 A Kind of like women underwear.

14 Q Like bikini briefs?

15 A No, not like --

16 Q Okay. Like boy shorts?

17 A Like men's underwear, but they weren't boxers and
18 they weren't briefs.

19 Q I understand. The location of the sexual acts, where
20 all -- did this just only happen with you at the church is
21 your testimony?

22 A No.

23 Q Where else was it?

24 A At his house.

25 Q So it was at his house and the church?

1 A It was at his house, the church and a dry cleaners
2 that he had next to the church.

3 Q And the dry cleaners. This ended because you decided
4 that you didn't want to do this anymore, correct, on
5 Mother's Day, I think it was?

6 A Yes.

7 Q Your statement was that you came to the conclusion
8 that you couldn't do this anymore?

9 A Yes.

10 Q And he didn't force you and tell you to keep doing
11 it, you just said I'm not doing this anymore, correct?

12 A That's correct.

13 Q And I think there was a cell phone. He would ask you
14 about cell phones and things of that nature? Like, would
15 he text you and call you, according to your testimony?

16 A Yes, he would call and text me.

17 Q Would he ever ask for pictures and anything of that
18 nature?

19 A Yes.

20 Q And you told this to law enforcement, that he would
21 call and request pictures?

22 A Yes.

23 Q Did he ever make any threats to you or anything like
24 that or something would happen if you didn't continue to
25 have sex with him?

1 A Well, he told me things wouldn't go good in my life
2 and I wouldn't get into the school I wanted to if I did
3 not do it.

4 Q Did he ever tell you anything about affliction or
5 anything would come over you if you didn't do what he
6 wanted to do?

7 A Yes, he told me I wouldn't be blessed and things
8 would happen to me if I did not do it.

9 Q Did he give the prayer sessions? Did he call them
10 private prayer sessions? Did he say prayer sessions,
11 special prayer sessions? Was there any special name
12 given?

13 A Yes, he called it the process.

14 Q He called it the process is what he called it with
15 you?

16 A Yes.

17 Q Would he lock the door or did you lock the door when
18 you went inside of his office?

19 A Yes, he told me to lock the door.

20 Q He would tell you to lock the door?

21 A Yes.

22 Q And you did go to his house?

23 A Yes.

24 Q Would you perform oral sex on him?

25 A No.

1 Q All right. Okay. You did not perform oral sex on
2 him?

3 A No.

4 Q Was it ever requested or did it come up or anything
5 like that?

6 A Yes, he asked and I told him I did not do that.

7 Q How did you come to his office? Would he call you
8 directly to the office or did he have someone bring you to
9 the office?

10 A He would either call me himself or he would get
11 someone to come get me.

12 Q How long did the sex act take when you guys would
13 have sex? How long would it take?

14 A About between five and 10 minutes, except for the
15 time at his house and at the dry cleaners. Those lasted a
16 little bit longer.

17 Q Would y'all ever have conversations during sex?
18 Would he, actually, say things to you, anything specific
19 that you remember?

20 A I recall one time when he told me, he said, Don't let
21 no one get this, but me.

22 Q Don't let anyone get -- which was in your statement,
23 Don't let anyone get this, but me. Do you remember, also,
24 stating this was supposed to feel good, right, or
25 something like that? If you don't remember, you don't

1 remember.

2 A No, he said, I'm supposed to show you what it feels
3 like to be with a man.

4 Q Would he make any noises when the two of you were
5 having intercourse?

6 A Sometimes.

7 Q And you said the sexual acts would happen over a
8 desk?

9 A Yes, when we're at church.

10 Q And he would be standing up during the time?

11 A Yes.

12 Q Did you get any money from the Defendant? Did you
13 ask for it? Did he give you any money?

14 A Yes, he did give me money a few times, but it wasn't
15 much.

16 Q How much?

17 A I think the most he ever gave me was \$20.

18 Q Did he ever ask you if you were on birth control?

19 A No.

20 Q Did he ever smack you on your bottom or on your
21 behind or anything of that nature?

22 A I recall one or two times.

23 Q So he would, okay. And you gave a statement to law
24 enforcement, correct? Do you remember giving that? It's
25 like an eight-page statement?

1 A Yes, I did.

2 Q Nobody forced you or threatened you in any way to
3 gave that statement?

4 A No, they did not.

5 Q Are you and your sister fairly close?

6 A I don't have a sister.

7 Q Okay. I'm sorry. Are you and MINOR fairly close?

8 A Yes.

9 MR. KENT: That's all the questions I have. Thank
10 you so much.

11 THE COURT: Redirect?

12 REDIRECT EXAMINATION

13 BY MS. ABEE:

14 Q A.R. Mr. Kent asked you about some things in
15 your statement. Do you recall him asking those questions?

16 A Yes.

17 MS. ABEE: Your Honor, may I approach the witness?

18 THE COURT: Yes.

19 BY MS. ABEE:

20 Q A.R., I'm approaching you with your statement.
21 Is this your signature?

22 A Yes, it is.

23 Q It's got one, two, three, four, five, six, seven,
24 eight pages; is that right?

25 A Yes.

1 Q Mr. Kent was asking you about whether or not you had
2 ever stated that Larry Durant was praying for your breasts
3 to get bigger --

4 MR. KENT: Your Honor, I'm not quite sure the purpose
5 of what we're asking this witness about. Is she trying to
6 impeach her? Is she trying to clarify?

7 MS. ABEE: Trying to clarify, Your Honor, about the
8 specific part of that question that Mr. Kent asked.

9 MR. KENT: Then I don't think that's the proper way
10 to do it, to give this witness the statement and ask her
11 about it. I think this would be an out-of-court
12 statement. I think you need to ask the witness about it,
13 ask if she remembers making it and then try to impeach her
14 with this statement. Of if she says she doesn't remember
15 making statement -- she doesn't just get to give her the
16 statement and ask her, basically, let me testify the way I
17 want.

18 THE COURT: She can refresh her memory.

19 If you want to show it to her, but just to lead her
20 in and say is that true. Ask her a question, if she
21 doesn't remember or impeach her, do it that way.

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

23 BY MS. ABEE:

24 Q A.R., you stated to Mr. Kent that you don't
25 remember Larry Durant ever praying for your breasts to get

1 bigger. Do you recall stating that just a couple of
2 minutes ago?

3 A Yes.

4 Q Okay. I'm going to give you your statement and see
5 -- go ahead and read through part of that and see if it
6 refreshes your recollection as to whether or not that ever
7 happened.

8 MR. KENT: Your Honor, I'm going to object again.
9 I'm sorry. This is just an improper way to try to refresh
10 her memory because she's not saying there's something to
11 refresh her memory. Her testimony to me was it didn't
12 happen and I didn't say it. So there's nothing to refresh
13 her memory on.

14 MS. ABEE: Then, Your Honor, I'll move to impeach,
15 then it would be a statement inconsistent with a statement
16 previously made.

17 THE COURT: Well, we're in a pretrial area. It's not
18 coming in before the jury, and there's technically nothing
19 to stop her from reading her statement after this hearing
20 is over with.

21 MR. KENT: I agree. I just want to make sure the
22 record is clear. This witness did not say I don't
23 remember. This witness said I didn't say that and that
24 never happened. It's a big distinction to later say I'm
25 refreshing someone's memory on something they don't

1 remember as opposed to that did not happen.

2 THE COURT: Well, if she has denied stating it, you
3 can ask her if she remembers making the statement, who it
4 was to, under what conditions and ask her if she then
5 denies it. If she does, then, she's impeached herself at
6 that point if she admits that she made that statement if
7 she remembers it at that point.

8 Again, we're not in front of the jury, so it's --
9 technically, Mr. Kent has a point, but it's a point that
10 maybe gets made and has relevance during a trial. Because
11 I don't know of anything that prohibits her from looking
12 at her statement when we're done. Other than -- at that
13 point, if she has denied that she made the statement, then
14 you would have further record in which she could be
15 impeached upon at that point.

16 MS. ABEE: Then, Your Honor, I have no further
17 questions for a A.R. at this time.

18 THE COURT: All right.

19 MR. KENT: No redirect, Your Honor.

20 THE COURT: You may step down. Let me ask you a
21 question. I started to write this down, but I was making
22 a note on something else. Did you state that your sexual
23 preference was for women?

24 THE WITNESS: Yes.

25 THE COURT: Okay. I thought you did, but I wanted to

1 be sure. Thank you.

2 MS. ABEE: Your Honor, the State calls T.H.
3 to the stand.

4 THE WITNESS: Place your left hand on the Bible,
5 raise your right hand.

6 T.H. after being duly
7 sworn, testified as follows:

8 THE CLERK: Thank you. Come around, please. State
9 your name, spell your last for the record.

10 THE WITNESS: T.H.

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 DIRECT EXAMINATION

15 BY MS. ABEE:

16 Q T.H., how old are you?

17 A I'm 19.

18 Q When's your birthday?

19 A [REDACTED] 1996.

20 Q Where are you from?

21 A I'm from Sumter, South Carolina.

22 Q Did you grow up here your whole life?

23 A Yes, ma'am, I did.

24 Q Do you currently live here in Sumter?

25 A I do.

1 Q T.H., do you know Larry Durant?

2 A I do.

3 Q How do you know Larry Durant?

4 A He was my former pastor.

5 Q And how long did you attend his church or how old
6 were you when you first started going there?

7 A About four years old.

8 Q Do you recall when you stopped going to his church?

9 A I was 16.

10 Q And how frequently would you attend Larry Durant's
11 church?

12 A On Sundays, on Wednesdays and on Fridays and in
13 practices during most of the week.

14 Q Practice for what?

15 A Praise dance and choir.

16 Q And explain to us what a typical Sunday would be like
17 at Pastor Durant's church?

18 A First goes prayer, then the praise team, then he
19 preaches, then his prayer again. Well, when he's laying
20 hands at alter call, that's when it's offering, then we
21 leave.

22 Q Now, was there one church or two churches?

23 A Two.

24 Q Did you go to both churches?

25 A I did.

1 Q Who did you usually attend church with?

2 A My mother and my father.

3 Q What are their names?

4 A Rondalyn Hodge and Gary Hodge.

5 Q Were they involved in the church at all?

6 A My mother was.

7 Q How was she involved?

8 A My mom was part of the choir and she was a teacher
9 for Sunday School and, also, a minister.

10 Q T.H. was there a point in time when something
11 sexual happened between you and Larry Durant?

12 A It was.

13 Q How old were you when it first happened?

14 A Fourteen, fifteen.

15 Q Do you recall what actually happened?

16 A Basically, we were supposed -- we were having prayer,
17 supposed to be having prayer. And he told me he was going
18 to pray stuff off of me, that way when I did something, I
19 would be covered from it. And he would, basically, touch
20 my breasts or fondle in my vagina.

21 Q And where would this take place at?

22 A In his office.

23 Q At which church?

24 A Both.

25 Q And approximately how many times did that happen?

1 A About six or seven times.

2 Q And do you recall when it stopped?

3 A Had to have been maybe April, February, April.

4 Q Do you recall which year?

5 A 2014 -- '13.

6 Q Did you tell anyone that this was happening as it was
7 going on?

8 A Later on, when it's -- like right when it was about
9 to stop, I told my mother and then I told my God sister.

10 Q Who's your God sister?

11 A A.R.

12 Q And, T.H., when he was doing -- I'm sorry, what was
13 he, actually, back there for? Why were you back in the
14 room with him, for what reason?

15 A Prayer.

16 Q What was he praying for?

17 A Sexual diseases, breast cancer, anything that would,
18 basically, harm me.

19 Q In order to do this prayer, what would he do?

20 A He would tell me to lift my shirt up or, if I had a
21 dress, pull my dress up or pull my pants down.

22 Q And during this prayer, was he saying anything?

23 A No.

24 MS. ABEE: Your Honor, may I have one second?

25 THE COURT: Yes.

1 MS. ABEE: Your Honor, I have no further questions
2 for T.H. at this time.

3 CROSS-EXAMINATION

4 BY MR. KENT:

5 Q Ms. T.H., how are you?

6 A I'm great. How are you?

7 Q Good. Do you remember giving a statement to law
8 enforcement in this case?

9 A I do.

10 Q Have you had an opportunity to review that statement?

11 A I did.

12 Q You reviewed it before court today?

13 A Well, before court, but not today.

14 Q Not today, but before court, you had an opportunity
15 to review it?

16 A Yes.

17 Q And that statement is an accurate statement?

18 A Yes, it is.

19 Q There's nothing different or incorrect in the
20 statement that you gave law enforcement?

21 A No.

22 Q You would agree with me it's about a one-page
23 statement in your own handwriting, signed by yourself for
24 law enforcement purposes?

25 A Yes, it is.

1 Q And I might be misspeaking, but a few moments ago,
2 the Attorney General's Office asked you what age you were
3 when this stuff started?

4 A Right.

5 Q And today, you said 14 or 15 years old?

6 A Right.

7 Q Do you remember saying it was 16 years old when you
8 wrote your statement?

9 A I may have, but I probably was writing it down
10 nervous, but, of course, it happened.

11 Q I'm not saying it didn't happen. I just remember --
12 age becomes very important.

13 A Yes.

14 Q And the age that you gave in the statement that you
15 gave to law enforcement dated February 21st, 2014?

16 A Right.

17 Q Do you remember stating this happened when you were
18 16 years old?

19 A Yes, I do.

20 Q And that was the statement that you gave to law
21 enforcement?

22 A Right.

23 Q And the statement was given almost two years ago?

24 A Right.

25 Q Today is the first time you have stated or testified

1 that this, actually, happened when you were younger than
2 that?

3 A Yes.

4 Q So you've never told anyone else in the world until
5 today that you just made this up?

6 A Right.

7 Q Why did you just lie about this?

8 A Could you repeat that for me?

9 Q Why didn't we just make up the age at 16?

10 A I'm sorry. I did not understand what you were
11 saying. But 14 or 15 was me like going on with the years.
12 When I wrote that statement, that was closer to the time
13 when it happened. So if the statement would be more
14 accurate with me thinking about what's going on now
15 besides me just sitting here telling you how old I was.
16 But 16 years old may have been the age where it started.
17 As I said before, that was closer -- when I wrote that
18 statement, it was closer to the time where it happened.

19 Q I understand. So this statement was closer? Let me
20 make sure I'm not putting words in your mouth. Would you
21 agree with me the statement is probably more accurate than
22 the testimony you're giving today?

23 A The statement that I wrote was closer to the time it
24 happened. I know what happened to me. I'm saying exactly
25 what's going on. Fourteen and 15, when I told her that

1 just now, I was actually guesstimating what age I was.

2 Q I understand that. And you've done wonderful. So is
3 it safer to say that this probably happened when you were
4 16?

5 A Yes.

6 Q And you would agree that your statement that you gave
7 is accurate?

8 A Right.

9 Q So this happened when you were 16 years old?

10 A Yes.

11 Q Okay. You weren't forced or held down or anything of
12 that nature? Nobody is making that allegation? No one
13 forced you or held you down?

14 A No, he never held me down.

15 Q This was consensual?

16 A No, I did not do this by -- I mean, yes, I -- yeah, I
17 did it by consent.

18 Q At the time of these allegations -- you used to
19 prefer women over men. I don't think you prefer that
20 anymore?

21 A I did used to like women, yes, I did.

22 Q I think from your statement, you no longer?

23 A I do not.

24 Q I'm sorry, it's just something I have to ask. You
25 would agree with me, in your statement, you didn't give a

1 description of his penis or anything of that nature?

2 A No.

3 Q This happened -- where did this happen? In what
4 location did this happen?

5 A When it first happened, at 710 North -- I mean,
6 Manning Avenue. Then, the later -- everything else that
7 happened would happen at 1010.

8 Q Okay. This all stopped because you told him you were
9 uncomfortable, correct?

10 A Right.

11 Q And you said you didn't want to come back?

12 A Right.

13 Q And he didn't make you come back, according to your
14 statement?

15 A Correct.

16 Q Did he ever use a cell phone or call you or text you
17 or anything of that nature?

18 A No, he never contacted me on my phone.

19 Q Did he ever make any threat to you about what would
20 happen if you told anybody or anything of that nature?

21 A No, he would just, basically, say whatever happens
22 stays where we did it at. So, basically, don't take it
23 out of his office.

24 Q Do you ever remember making some statement don't show
25 or I'll have you -- I'll have your mother make you stay at

1 my house or anything like that?

2 A He never told me that.

3 Q Okay. Don't throw me under the bus, did he ever tell
4 you anything like that?

5 A No.

6 Q He never told you anything like that?

7 A No.

8 Q He never said anything like I know people in high
9 places, I'll come get your family?

10 A No.

11 Q So he never said anything like that to you?

12 A No.

13 Q The prayer sessions or whatever you call them, did he
14 ever call them anything special, special prayer sessions
15 or anything like that?

16 A No, he just would say it's prayer.

17 Q Who would come get you? Or would you go in there,
18 would he call you? Would somebody specifically come get
19 you?

20 A One of his armor bearers would come.

21 Q The door, would he lock the door or did you lock the
22 door?

23 A I locked the door behind me.

24 Q Okay. Did you ever perform oral sex on him?

25 A No, I did not.

1 Q Okay. How long would the act last, minutes, hours?

2 A Minutes.

3 Q Okay. Less than five minutes?

4 A Yes.

5 Q Would he ever make any -- would he ever say anything
6 during the act?

7 A No.

8 Q And there's no allegation -- you never said he had
9 sexual intercourse with you?

10 A Never.

11 Q Did you ever get any cash from him?

12 A No.

13 Q Nothing happened around the desk or on a desk because
14 you never had sex with him on the desk or anything?

15 A Right.

16 Q Did he ever ask you about birth control or anything
17 of that nature?

18 A No.

19 Q Would he ever touch your butt or anything of that
20 nature?

21 A No.

22 Q And T.H. you met with law enforcement several
23 times on this case, would you agree with me on that?

24 A Yes, sir.

25 Q Do you remember about how many times you met with

1 them?

2 A The first time I met with them at school and maybe
3 two times before today.

4 Q And would you agree with me, you met with them last
5 week at some point in time, Monday of last week?

6 A Yes, sir.

7 Q Do you remember during Monday of last week
8 specifically telling them that he never stuck his fingers
9 inside of you?

10 A Yes.

11 Q And that would be different than what you told them
12 originally?

13 A I always said that he never stuck his fingers inside
14 of me.

15 Q Do you understand why they charged him saying he
16 stuck his fingers inside of you or anything?

17 A I don't know, but he never stuck his fingers -- he
18 had his fingers in my vagina, but never to stick them
19 forcefully up there, no.

20 Q He never stuck his fingers inside of you, that was
21 the statement you gave to law enforcement earlier last
22 week?

23 A Right.

24 MR. KENT: Thank you.

25 THE WITNESS: No problem.

1 MS. ABEE: Your Honor, I have no redirect for this
2 witness.

3 Your Honor, the State calls D.B.

4 THE COURT: You can step down.

5 What's the name of this witness?

6 MS. ABEE: This is D.B. Your Honor. I
7 believe her first is D.B. . If you see D.B.
8 anywhere, it's the same person.

9 THE CLERK: Place your left hand on the Bible, raise
10 your right hand.

11 D.B. , after being duly
12 sworn, testified as follows:

13 THE CLERK: Thank you. Come around here, please.
14 State your name, spell your last for the record.

15 DIRECT EXAMINATION

16 BY MS. ABEE:

17 Q Go ahead and state your full name and spell your last
18 name.

19 A D.B. .

20 Q All right. And what do you go by?

21 A D.B. .

22 Q D.B. , how old are you?

23 A I'm 18.

24 Q When's your birthday?

25 A 1998.

1 Q And D.B., where are you from?

2 A Sumter, South Carolina.

3 Q Have you lived here pretty much your whole life?

4 A Yes, ma'am.

5 Q D.B., do you know Larry Durant?

6 A Yes, ma'am, I do.

7 Q How do you know him?

8 A He was my pastor and I grew up around him.

9 Q Do you recall how old you were when you first started
10 going to church with Larry Durant?

11 A No, ma'am. I was really young, though.

12 Q Is it fair to say that you pretty much grew up in his
13 church?

14 A Yes, ma'am.

15 Q Who would you usually attend church with?

16 A My mother, my family, basically.

17 Q And was your family involved in the church at all?

18 A Like, my mother ushered. My nephew was armor bearer.
19 My sister, she was, like, over the daycare part.

20 Q And approximately, how many times a week did you go
21 to Larry Durant's church?

22 A Just about every day.

23 Q Was there one church or more than one church?

24 A It was two.

25 Q Would you attend both churches?

1 A Sometimes, I would.

2 Q D.B. , was there ever a point in time when something
3 sexual happened between you and Larry Durant?

4 A Yes, ma'am.

5 Q Do you recall how old you were when that happened?

6 A Thirteen.

7 Q Where did that this take place?

8 A In his office at 1010 North Guinyard Drive and at his
9 home.

10 Q Now, how did you get back into his office at the
11 church on Guinyard?

12 A One of his armor bearers came and got me and told me
13 he wanted to speak to me.

14 Q And once you got into his office, what happened?

15 A He said that he needed to pray for me.

16 Q And when he said pray for you, what did he say he was
17 praying for?

18 A He was praying for like -- he said he didn't want
19 anything to go wrong with me in my life. That if I didn't
20 get prayed for or if I told someone that something bad
21 would happen to me. And then he, like, asked me to pull
22 down my pants.

23 Q What did he do to, actually, pray for you?

24 A He either would stick his fingers in my vagina or he
25 put his penis inside of me.

1 Q And approximately how many times did this happen?

2 A He prayed and put his fingers in my vagina when I had
3 bladder issues, so that happened for about a year. Then
4 he only had sex with me when -- like, twice.

5 Q And do you recall where he had sex with you at?

6 A In his office and at his home.

7 Q Where, specifically, in his office do you recall it
8 being?

9 A It was over his desk.

10 Q Was Larry Durant standing at this time?

11 A Yes.

12 Q And do you recall what year this was when this
13 happened?

14 A Either 2012 or 2013.

15 Q When did it stop?

16 A When I left the church.

17 Q And D.B., have you ever seen Larry Durant's penis?

18 A Yes.

19 Q How did you see it?

20 A When he pulled it out, he asked me could I hold it.

21 Q Is there anything unique about his penis?

22 A It has, like, a discoloration, like pink.

23 Q So it's different colors?

24 A Yes.

25 MS. ABEE: Your Honor, may I have one second?

1 THE COURT: Yes.

2 (Pause.)

3 MS. ABEE: Your Honor, I have no further questions
4 for this witness at this time.

5 THE COURT: Cross?

6 MR. KENT: Yes, Your Honor. Court's indulgence for
7 one moment.

8 (Pause.)

9 BY MR. KENT:

10 Q Is it D.B. or is it D.B.? What do you prefer to
11 go by?

12 A You can call me D.B..

13 Q D.B.?

14 A Yes, sir.

15 Q D.B., I don't have a lot of questions. I know this
16 is embarrassing, but I'm just going to go through some
17 questions you were just asked by the Attorney General's
18 Office?

19 A Okay.

20 Q D.B., the allegations from you were this all
21 happened when you were 14 years old; is that right?

22 A Yes, either 14 or 15.

23 Q Okay. And you prefer men over women, correct?

24 A Yes.

25 Q Never have preferred women?

1 A No.

2 Q Okay. And I think you had testified that the pastor
3 started having sex with you, according to your testimony,
4 for -- what were the reasons why? Why did he start,
5 because you had a bladder infection?

6 A Yes, but then I found out I was pregnant and he said
7 that he would knock the seed out of.

8 Q I think the phrase used was "bump the seed out"?

9 A Yes.

10 Q He found out you were pregnant and he was going to
11 "bump the seed out"?

12 A Yes.

13 Q Do you remember what he was wearing when the two of
14 you were having sexual intercourse? If you don't, that's
15 no big deal.

16 A No.

17 Q And where would y'all have sex?

18 A In his office or at his home.

19 Q Why did the sexual acts end? Why did this all stop?

20 A Because I left the church.

21 Q You left the church?

22 A Yes.

23 Q Did he ever request pictures from you or anything
24 like that from your cell phone or anything?

25 A No.

1 Q How long were you member of the church? If you don't
2 remember, it's no big deal.

3 A I don't remember, but it was a long time.

4 Q Did he ever make any threats or anything to you if
5 you wouldn't have sex with him or anything like that? Did
6 he say you wouldn't get blessings or anything of that
7 nature?

8 A Yes.

9 Q What would he say to you?

10 A He would say, like, something bad would happen to me
11 and my family. The blessings that's promised wouldn't
12 come to pass.

13 Q What about the door in the office, would you lock the
14 door or would someone else lock the door?

15 A I would lock the door.

16 Q Would he tell you to lock the door?

17 A Yes.

18 Q How long would the sexual acts last? Would they last
19 a long period of time, a short period of time, or do you
20 remember?

21 A Short.

22 Q Less than five minutes?

23 A Uh-huh.

24 Q Would he ever get -- did he ever give you any money?

25 A Yes.

1 Q How much money did he give you directly?

2 A He didn't give it to me. He gave to it my mom, but
3 it was for me.

4 Q What was it for?

5 A For the abortion.

6 Q Okay. He gave your mom \$500 for the abortion?

7 A Yes.

8 Q Did he ever ask if you were on birth control?

9 A No.

10 Q Did he ever smack or hit your behind or anything of
11 that nature?

12 A No.

13 Q All right. Do you remember giving a statement to law
14 enforcement? Do you remember when law enforcement came
15 and met with you and asked you about this case?

16 A Yes.

17 Q Do you remember them asking you what had happened on
18 this case?

19 A Yes.

20 Q Okay. When they asked about the case, did they talk
21 about the abortion? And I know this is personal, but I
22 need to ask about it. Did they ask you about the
23 abortion?

24 A Yes.

25 Q They did? It's a question, I just need to make sure

1 sure I have an answer to it.

2 A Yes.

3 Q What did they ask you about the abortion?

4 A They asked me where I got it done and was he the
5 father of my baby.

6 Q And so you were specifically asked was he the father
7 of the baby?

8 A Yes.

9 Q And what did you tell them?

10 A No.

11 Q So you specifically told them he was not the father
12 of the baby?

13 A Yes.

14 Q Did you give a name of who the father of the baby
15 was?

16 A No.

17 Q Did they ask you who the father of the baby was?

18 A No.

19 Q They did not ask?

20 A No.

21 Q Did you tell them how old the person was who had
22 gotten you pregnant?

23 A No.

24 Q So they didn't know any information whatsoever about
25 the person who got you pregnant?

1 A No.

2 Q I just want to you show in this real quick, this
3 document. Is that your handwriting?

4 MS. ABEE: Your Honor, I would just ask to see that.

5 MR. KENT: I'm going to show it to you.

6 BY MR. KENT:

7 Q I just want to know if that's your handwriting. I
8 want to show it to the solicitor.

9 A Yes.

10 Q Is that your signature?

11 A Yes.

12 MR. KENT: Thank you. That's all the questions I
13 have. She might have some more. You can't get off yet.
14 She might have more for you.

15 MS. ABEE: I don't have more questions for you.

16 Your Honor, I have no further questions for this
17 witness.

18 THE COURT: You can step down. Thank you.

19 Any other witnesses on this issue?

20 MS. ABEE: Your Honor, that concludes the State's
21 presentation of witnesses for Lyle.

22 THE COURT: Do you have any, Mr. Kent?

23 MR. KENT: Not as far as Lyle goes, no, Your Honor.

24 THE COURT: All right. Do you want to make argument?

25 MS. ABEE: Yes, sir, Your Honor. Evidence of other

1 bad acts is admissible to show, among other things,
2 motive, identity, the existence of a common scheme or
3 plan, the absence of mistake or accident or intent. That
4 is Rule 404 (b) of the South Carolina Rules of Evidence
5 that has been in several different cases throughout the
6 State of South Carolina.

7 There's a test that we have to go through, Your
8 Honor, in order for this evidence to be admissible. Those
9 factors and that procedure is laid out in State v.
10 Wallace. Step one, Your Honor, is to determine whether or
11 not the evidence is relevant under Rule 401 of the Rules
12 of Evidence for South Carolina, Your Honor. These
13 witnesses talked clearly about similar occurrences of
14 sexual acts with the Defendant, which would be relevant to
15 the criminal sexual conduct with a minor charge that we're
16 presenting before you today, Your Honor.

17 The second test -- or the second step is that we then
18 look to see if it fits within a 404 (b) exception, Your
19 Honor. The specific exception in this case that we're
20 contending this evidence is admissible under is the common
21 scheme or plan exception, Your Honor. State v. Wallace,
22 again, clearly lays that out. So that such evidence is
23 relevant because proof of one is, in fact, strong proof of
24 the other.

25 Your Honor, in order to determine if a common scheme

1 or plan exist, it's upon the State to show that the
2 similarities outweigh the dissimilarities in the case,
3 Your Honor. Wallace lays out specifically five factors
4 that are not exhaustive, but they do say are five factors
5 that the Court should look at. One, being the age of the
6 victim at the time the abuse occurred; two, being the
7 relationship between the victims and the perpetrator;
8 three, the location where the abuse occurred; four, the
9 use of coercion or threat; and five, the manner of the
10 occurrence, for example, the type of sexual battery.

11 Your Honor, the test is not to see how similar they
12 all are to each other, but how similar each Lyle witness
13 is to the main testifying witness, which in this case is

14 MINOR Your Honor, looking at factor number one,
15 which is the age, yes, they are not the exact same age,
16 however, they're all teenagers. You've got MINOR
17 who says she was 13 at the time this sexual abuse
18 happened, Your Honor. Her birthday is in [REDACTED] 1999,
19 and she states the sexual abuse ended in May of 2013,
20 which puts her into the age of 14. So 13 turning 14, Your
21 Honor. The next witness, A.R. [REDACTED] stated that she
22 was 18 years old at the point in time the abuse started.
23 T.H. [REDACTED] states that she is 16 years old, Your Honor.
24 And D.B. [REDACTED] states 13 or 14 years old, Your Honor.
25 All of these girls are teenagers. They're all in their

1 teens, Your Honor. So they all are around the same age at
2 the time the abuse occurs.

3 The second is the relationship between the Defendant
4 and the victims. Your Honor, you heard all of the victims
5 up on the stand today talk about how they had,
6 essentially, grown up in Larry Durant's church, that they
7 spent multiple days a week at Larry Durant's church and
8 with him every single Sunday and that they had done this
9 for years. Also, all of them had family members that were
10 highly involved in the church, as well, Your Honor. So
11 they share the same relationship between all the victims
12 and the Defendant.

13 Next would be the location. Your Honor, MINOR
14 states that this occurred at the church on North Guinyard
15 and on Manning Avenue, Your Honor, as do the other victims
16 in this case. Not only do they specifically state the
17 church, but they, also, state the location of the church,
18 back into the office. They, also, state, Your Honor, that
19 they all got back to the office in the exact same manner
20 being that they were summoned by an armor bearer, who
21 would take them back into the office for this prayer time.
22 And then for those where sex, actually, occurred, Your
23 Honor, the sex, actually, took place in the exact same
24 place as well, being bent over the desk in the pastor's
25 office with the Defendant standing behind them.

1 The next is the use of coercion or threats, Your
2 Honor. Every single one of these girls told you that this
3 was some sort of prayers that he was doing for them,
4 whether it was praying for diseases, praying that they not
5 like girls anymore, praying that they get into the schools
6 they want, praying that they not be pregnant anymore. No
7 matter what it was, it was some sort of coercive prayer
8 that he was using, Your Honor, in order to accomplish
9 these acts and to get the girls back into the office in
10 the first place.

11 And finally, Your Honor, would be the manner or the
12 type of battery that occurred, which MINOR stated was
13 digital penetration for her, as well as sex, which is what
14 A.R. states, also, happened. T.H. does
15 not state the sexual battery part, Your Honor. However,
16 she does join in with MINOR in saying that he would pray
17 and rub on her breasts and rub on her vagina underneath
18 her clothes, Your Honor. And then D.B. states
19 that it was, in fact, digital penetration as well as sex
20 that happened two different times, Your Honor.

21 So these are similar in age, relationship, location,
22 use of coercion, Your Honor, and the type of battery, just
23 to name a few of the things that are similar within the
24 case.

25 Once the similarities have outweighed the

1 dissimilarities, Your Honor, then we look at a 403
2 balancing test, which is whether or not the danger of
3 unfair prejudice suggest a result based on an improper
4 basis, Your Honor, which would be when the probative value
5 is substantially outweighed by the danger of unfair
6 prejudice. Allowing this testimony in would not suggest
7 that the jury come to a conclusion based on an improper
8 basis, but would rather establish that a common scheme or
9 plan existed by Pastor Durant to lure these younger girls
10 back into his office, to pray for them, Your Honor, and to
11 disguise this sexual assault as prayer for them, for girls
12 that grew up in his church from the time that they were
13 younger.

14 So at this time, we would seek the admission of
15 testimony of A.R. T.H. and D.B.
16 as appropriate and proper Lyle witnesses in MINOR
17 's case.

18 THE COURT: Mr. Kent?

19 MR. KENT: I will, Your Honor. Your Honor, thank
20 you. May it please the Court? First, if you will -- and
21 I understand where the case law and analysis is in the
22 State of South Carolina in dealing with Lyle evidence.

23 If you will, first, of course, respectfully and
24 understandably, I am -- I disagree with our Supreme
25 Court's case law analysis that they've gone through on the

1 Lyle analysis because, very clearly, when I say disagree
2 with, the reason is there is no common scheme or plan
3 exception or no rape exception or no sex trauma exception
4 that has been carved out by our Supreme Court. They very
5 clearly said we are unwilling to carve out this exception.
6 Our position is if they are unwilling to carve out this
7 exception, that means that State vs. Lyle is still good
8 law. And in State vs. Lyle and its progeny cases, such as
9 People vs. Molineux are still good case law, and those
10 should be controlling in this type of situation.

11 What I mean by that, Your Honor, is the State of
12 South Carolina has very carefully enunciated the fact that
13 they plan on utilizing the common scheme or plan
14 exception. Since Lyle has come out and those case law
15 analysis have come forward, very simply, Your Honor, what
16 has happened -- since that case law and that analysis has
17 come out, what has happened very clearly is that, and
18 excuse my language, but we have bastardized what was
19 originally set forth when we talked about Lyle analysis.

20 People vs. Molineux is not a very complicated case,
21 but it did an excellent job of talking about what can't be
22 considered common scheme or plan. Mr. Molineux was a
23 member of the Knickerbocker club up in New York. As he
24 was a member of the Knickerbocker club up in New York, he
25 had two separate problems. One, he had a problem with the

1 people who worked at the Knickerbocker club. He had a
2 problem that one fellow wanted his woman. So what he did
3 is he came up with this careful plan in which he was,
4 basically, going to send poison through the mail. I think
5 they call it Bromo-Seltzer. And he sent it and that's
6 what he labeled it as. And he sent it to his chief
7 adversary to his office. And his chief adversary got
8 ready to drink it because he had a headache. He took a
9 little thimble of it, but his secretary, actually, drank
10 it. It turned out what it, actually, was cyanide of
11 mercury. She drank it. She died. He became very sick.

12 So they got ready to try that case. When they got
13 ready to try that case, the prosecutor in that situation
14 said, wait a minute, this is kind of similar to another
15 case that we've had with this same fellow. They end up
16 exhuming the body of his chief rival who went after a
17 woman he liked. They exhumed his body. They looked it up
18 and they saw that he had, also, been poisoned. He had,
19 also, been sent medication in the mail. It, actually,
20 was, also, cyanide of mercury and he drank it and he died.

21 The Court in that situation said just being similar
22 on its face is not enough to create common scheme or plan.
23 All we need for common scheme or plan is, actually, a
24 nexus of one that, actually, equates to the nexus of the
25 other. Meaning, there must be something that brings them

1 close together. And that's where we go with State vs.
2 Lyle.

3 As you're aware from the State vs. Lyle case, that
4 was, basically, a postmaster case when people were writing
5 fraud checks to banks and stealing money from banks. What
6 the Supreme Court said in that situation people were
7 stealing checks in Aiken, South Carolina, and doing fraud
8 in Aiken, and they had, also, been doing fraud in other
9 states, in Georgia and so forth. The Court allowed
10 information to come in because they said it was necessary
11 to show that they were tied in together, a common scheme
12 or plan.

13 An example is often used that if an individual robs a
14 bank in Charleston, South Carolina, steals a car in
15 Columbia, South Carolina, and kills somebody in Rock Hill,
16 all that comes together because one was necessary for the
17 effective release of the other. So that's what was
18 necessary in those situations for a common scheme or plan.

19 So our argument on our first place would be that this
20 is simply not a common scheme or plan. I understand what
21 the Court case law says. I understand what State vs.
22 Wallace says. I've read the original opinion of State vs.
23 Wallace when our Court of Appeals got it right and used a
24 similar analysis that I'm using with you right now. Our
25 Court of Appeals said this is not common scheme or plan.

1 What it is is we're allowing the State of South Carolina
2 to introduce propensity evidence. To, basically, say you
3 are allowed to say because you're likely to do this,
4 you're likely to do something else. That's exactly what
5 for the longest time our jurisprudence has said that we
6 don't want to do. There is no exaggeration or no doubt
7 whatsoever that Jean Toal, the Chief Justice of the
8 Supreme Court has been the chief advocate, if you will, of
9 the common scheme or plan. She's no longer going to be
10 our Supreme Court Judge. It's my personal belief that's
11 going to change our analysis on how we look at Lyle.

12 That being said, Your Honor, I have given the Court
13 -- of course, when you start using technology, of course,
14 it stops working when you, actually, want it to work,
15 which is the story of my life. But I have given the Court
16 several charts. And I don't know why I'm not smart enough
17 to make this stuff work. Let's see if we can try this
18 again.

19 Now, I've given the Court several of these charts.
20 There should be one that should have just come up right
21 next to you, Judge, on the monitor directly in front of
22 you. If we are going to take the analysis that is relied
23 on in State vs. Wallace, which, unfortunately, I, also,
24 disagree with, but if we are going to take that analysis
25 from State vs. Wallace, unfortunately, what State vs.

1 Wallace, basically, says is we get into a counting
2 contest. And that's as simple as they made it. They've
3 made it a contest. They have said if there are more
4 similarities -- and that's the exact language of the case,
5 if there are, basically, more similarities than
6 dissimilarities, then it comes in or vice versa.

7 So that's what we have done, is given you a chart
8 that shows you the similarities versus the
9 dissimilarities. I'm trying to find that language for
10 you, Your Honor. The language directly out of State vs.
11 Wallace, When the similarities outweigh the
12 dissimilarities, the bad act evidence is admissible
13 pursuant to Rule 404(b). Which if the similarities
14 outweigh the dissimilarities and vice versa, it's the only
15 way that must be looked at.

16 So in chart one that we've given to Your Honor, what
17 we have done at the very top, all in green, would be all
18 the things that are very specific that I asked each
19 witness on the stand about about **MINOR** And I keep
20 calling her Madam Solicitor, so, please, forgive me, but
21 the State of South Carolina very clearly has gone through
22 certain things they're looking at. We've looked at the
23 date of birth, whether there was consent, whether the
24 Defendant has, actually, been charged criminally, her
25 sexual preference, the description of the penis, who was

1 told and when they were told, whether or not hand
2 sanitizer or air freshener is mentioned, how did the
3 Defendant persuade, the description of the sexual act. We
4 went through in painstaking detail each of the statements
5 that were given from these girls and utilized each one.

6 The first thing we need to talk about is the age. I
7 know the solicitor seemed to think that that's not
8 important. My personal belief, this is as important as it
9 possibly gets. Because when you are going to try to use
10 this close similarities --

11 THE COURT REPORTER: Sir, you're going to have to
12 slow down, please.

13 MR. KENT: Thank you for the interruption. I'll try.

14 Your Honor, when we are trying to utilize the
15 similarities, when we are trying to look at them, the age
16 becomes the most important thing that you can look at.
17 Because when you're looking at age, what the State is,
18 actually, trying to say is they're trying to say this is
19 the type of individual that Larry Durant prefers. This is
20 the type of individual that he wants. This age range,
21 this group. You cannot go and say well, they're all
22 teenagers because, realistically, the majority of the
23 individuals that the State of South have introduced to you
24 are adults. T.H. [REDACTED] is an adult. She is 16 years
25 old. A.R. [REDACTED] was 18 years old when these

1 allegations happened. Those two at the very minimum are
2 adults. So if they are adults, those are dissimilar.

3 We look at other dissimilarities. And the reason
4 that I brought up consent is because that becomes --

5 THE COURT: I'm not sure I get a 16-year-old is an
6 adult.

7 MR. KENT: Well, Your Honor, under the eyes of the
8 statute on what she could be charged with -- I'm sorry, I
9 should have utilized it that way. She's not charged with
10 criminal sexual conduct second degree because the age
11 range becomes completely different. It becomes a
12 different statute that they can charge her under. As a
13 matter of fact, they did charge her under a different
14 statue. They charged her under criminal sexual degree
15 conduct in the third degree, realizing that they couldn't
16 charge her because she was 16 years old at the time of the
17 allegation.

18 THE COURT: Charge her? You mean charge him?

19 MR. KENT: I sorry, charge him. I apologize, Your
20 Honor.

21 THE COURT: Okay. I think that has a lot more to do
22 with presumed consent than anything else as opposed to
23 modus operandi.

24 MR. KENT: I understand completely, Your Honor. Our
25 point is still the analysis and the charge would be

1 completely different than the victim in this situation.
2 We look at the sexual preference between the victims. Do
3 they prefer women or do they prefer men? You've see on
4 the chart it's differences.

5 We go to chart two. Chart two talks about the
6 clothing that he was wearing, the location of the sexual
7 acts, how often the sexual acts occurred, why were the
8 sexual acts started, why did the sexual acts end, pictures
9 requested by the Defendant, was a cell phone used, how
10 long were they members at the church, digital sex, all of
11 these. These are all more than State vs. Wallace
12 requires. State vs. Wallace says you can look at these
13 things, but it, also, is very clear this is not an
14 exhaustive list. You can look at as many details as you
15 want.

16 Chart number three, threats made by the Defendant.
17 Some of the girls talked about the fact that he would make
18 threats, but the one who did not say he made any threats
19 was MINOR Those would be differences. Mentions
20 the prosthetic legs. Some of the girls mentioned the
21 legs. On the testimony today, some were not even asked
22 about the prosthetic legs. Door locked. We acknowledge
23 most of the girls said on their testimony today, not
24 necessarily in their statements, but in their testimony
25 today they did state that he locked the door, had them

1 lock the door. Oral sex, some of the girls talked about
2 the fact that she did not perform oral sex. Some talked
3 about the fact that they did.

4 Chart number four, who took them to the location
5 where the sexual acts occurred, the reason they agreed to
6 sexual acts, who are the outcry witnesses, dates that the
7 sexual acts began, duration of the sexual acts. As you
8 are aware, when we were talking to the witnesses, they all
9 talked about differences in time. Conversations during
10 the sexual acts. Some talked about the fact that he would
11 say things, others would say that he would not. Noises
12 during sex, how he cleaned up after the sexual acts.

13 Chart five, location. Did you receive -- did you ask
14 for or did you get money. Two of the girls testified they
15 were. One said she was given \$500 for an abortion. One
16 girl said she was given 20 or \$30 or something of that
17 nature. MINOR testified that she was given no
18 money. Did he hit her behind? Two of the girls --

19 A.R. testified -- just A.R. testified
20 that yes, he did.

21 Your Honor, I know that's painstaking and I know
22 that's a long, exhaustive list, but if we are going to try
23 to stretch and utilize the analysis of State vs. Wallace,
24 or agree or disagree with it, we must, actually, use the
25 analysis of State vs. Wallace. And State vs. Wallace is

1 pretty clear that you just look -- I hate to say it, they
2 turn it into a math equation. That you look at the
3 similarities and you look at the dissimilarities. In this
4 situations, there are more dissimilarities than there are
5 similarities. The chief of them and the most concerning
6 would be the fact of the ages. Thank you, Your Honor.

7 THE COURT: Do you wish to reply?

8 MS. ABEE: Yes, sir, Your Honor. I think this chart,
9 in and of itself, really splits hairs down to about the
10 smallest amount of splitting hairs that you could,
11 actually, make. And, most importantly, Your Honor, what
12 this chart consists of in some part is a lot of things
13 that doesn't go to establish a common scheme or a plan.

14 For instance, Your Honor, an outcry witness, whether
15 or not the girls after they were sexually assaulted
16 decided to tell someone. That doesn't go to establish
17 Larry Durant's common scheme or plan. Similar with
18 whether or not the Defendant was charged. That doesn't go
19 towards his common scheme or plan. There are a lot of
20 things in this chart, Your Honor, that don't go to
21 establish his actual acts and things that he had control
22 over, but whether or not the girls had changes in behavior
23 afterwards or things that they experienced as a result of
24 his acts, Your Honor.

25 So once you start weeding through all of that and

1 weeding through the minute details in this, Your Honor,
2 whether or not someone said he has on white underwear or
3 white little boy's underwear, Your Honor, they're still
4 saying he's wearing white underwear. So those are
5 necessarily differences within the acts themselves, Your
6 Honor. Not to mention that all the girls, again,
7 described his penis. Whether or not they describe it as
8 pink with black or pink and skin tone or black with a pink
9 spot, they're still describing the same sort of
10 discoloration and pigmentation even though their
11 individual words are different, Your Honor.

12 There's a reason why these five different topics were
13 enumerated in Wallace, Your Honor. And we would contend
14 it's because those are the most important ones to look at.
15 Those are the things we have to consider. Are the acts
16 the same? Are the use of threats or coercion the same?
17 The location, the relationship, are these things that are
18 the same, Your Honor? And although the ages are
19 different, Your Honor, while 16 might be the age of
20 consent, a 16-year-old physically doesn't look very
21 different from a 14-year-old, so that does, in fact, go to
22 show sexual preference. Whether or not they're of age to
23 consent doesn't change the way that they look and whether
24 or not someone has a preference for them, Your Honor.
25 They're all still teenagers.

1 So Wallace is still good law, Your Honor. And even
2 State vs. Atieh, A-T-I-E-H, came down in 2012 and, again,
3 held that those characteristics or those five categories
4 are things that we should look at to determine whether or
5 not a common scheme or plan does exist, Your Honor. And,
6 again, we would ask that Your Honor admit that testimony.

7 THE COURT: All right. Well, whether or not you want
8 to hang your argument on the fact that the analysis may
9 not be the same, because Jean Toal is not on the court
10 anymore, you've made your record. I can't overrule any
11 Supreme Court decision just as -- even if I bought into
12 your argument that the analysis may change, which I don't,
13 but be that as it may, it's a Supreme Court opinion and I
14 I'm bound by it.

15 Frankly, it's one of the more compelling 404(b) cases
16 I've ever come across. You know, the idea is that is this
17 person -- is this part of his modus operandi, so to speak?
18 The acts are very similar in here for the common scheme
19 and plan. The similarities, in my analysis, far outweigh
20 any of the dissimilarities. You have a group of teenage
21 girls. While the age may vary between 13 and 18, they're
22 all still young, impressionable girls.

23 If more -- maybe another way of looking at it is
24 there's no argument or no evidence that he was praying on
25 more mature women in the church, but girls that, if you

1 believe all of what they say, he's definitely praying on
2 the younger girls in that teenage group. All of these
3 girls were girls that grew up in the church, you know,
4 from the time they were very small girls. There was no
5 allegation that any of this took place prior to them
6 reaching the age of puberty, but once the age of puberty
7 was onset, then these girls -- that's the ones he went
8 after.

9 The relationship between the victims and the
10 Defendant in this case, all of them grew up in that
11 church, they all attended church all of the time, their
12 families were very involved in the church. They,
13 obviously, grew up trusting the pastor. That's a -- it
14 was a position of trust that he held. And, in fact, the
15 use of the psychological ploy of prayer, I'm going to pray
16 for you, in the context of your pastor telling you that
17 he's going to pray for you and using that as the seg-way
18 into sexual acts, that's the exact same ploy that he used
19 in every single instance that was presented. And, in
20 fact, it's probably -- the crux of the argument is every
21 single one of them testified that that's what he said.
22 You have some problem with you, and I am going to be
23 praying for you to either cure your problem or to make
24 sure that you don't have a problem in the future, some
25 sort of bizarre pre-emptive use of the prayer ploy.

1 The sex acts range all in the same sort of thing
2 where he would, you know, use their bodies for his
3 gratification, whether it be to insert his penis or his
4 fingers or to just show him various parts of their bodies
5 under the guise of I am going to be praying for you to,
6 you know, not get diseases or not get cancer or whatever
7 the ploy was, it was all the same thing.

8 They all took place either at his church office on
9 the desk or, you know, a couple of them I think said it
10 might have taken place at his house. While none of them
11 said there was any actual force used, that was also a
12 similarity, but it was more or less the use of the
13 position and the ploy of saying I am praying for you to
14 get them to give their quote, unquote consent to the act.

15 I'd also say that all of these took place within the
16 same sort of timeframe, temporal aspect of the case. It's
17 all within the same two or three year timeframe.

18 So I think the State has far exceeded its burden in
19 showing that this is common scheme or plan type of
20 evidence, so it will be allowed in.

21 All right.

22 What do we have next?

23 MS. ABEE: Your Honor, at this point, the State would
24 seek to invoke the rape shield statute for all of the
25 victims potentially testifying in this case. That would

1 be [REDACTED] MINOR [REDACTED] A.R. [REDACTED] T.H. [REDACTED] and [REDACTED] D.B. [REDACTED]

2 [REDACTED]. As Your Honor knows, South Carolina code
3 annotated 16-3-659.1 is the rape shield statute. And it
4 mandates limited admissibility of opinion evidence,
5 reputation evidence or specific instances of sexual
6 activity by the victim with a person other than the
7 Defendant. We do acknowledge that there is an exception
8 when showing a pregnancy or source of semen or disease.
9 We do realize that will be an issue with [REDACTED] D.B. [REDACTED]
10 as she testifies, as she did, in fact, state she was
11 pregnant by someone else at that point in time, Your
12 Honor. We do understand that protection. However, we
13 would seek to invoke the rape shield statute regarding any
14 other testimony or reference to anyone's sexual acts other
15 than those of the Defendant by the Defense at this time.

16 THE COURT: Is that something that you were planning
17 on pursuing?

18 MR. KENT: Your Honor, I've given you a motion to
19 excluded testimony on one of the witnesses. So with the
20 exception of that witness, I'd have no exception to rape
21 shield.

22 THE COURT: Refresh me of it.

23 MR. KENT: I can argue my motion, that might make it
24 more sense.

25 THE COURT: Okay. I tell you what, we've been at it

1 for about an hour and a half, why don't we take about a
2 five-minute break.

3 MR. KENT: Okay.

4 MS. ABEE: Yes, sir, Your Honor.

5 (WHEREUPON, a short break was taken.)

6 THE COURT: Mr. Kent.

7 MR. KENT: Your Honor, realistically, I don't think
8 we would offer any evidence that would be violative of the
9 rape shield statute. I think my only issue would be -- I
10 guess, it would be in the wording of the rape shield
11 statute in and of itself. The rape shield statute uses
12 the word victim, but it doesn't say they have to be the
13 victim of the current trial that you're in. So that would
14 be the issue with victim being used under the rape shield
15 statute. That being said, I don't think I have anything
16 that would violate rape shield statute. If I did, I would
17 notify the Court. But I do not believe there would be
18 anything.

19 THE COURT: Well, be sure -- if you feel like you've
20 got a change and it might come close, let's revisit that.

21 MS. ABEE: And Your Honor, just to clarify to make
22 sure I'm on the same page, is he talking about he's going
23 to put the Court on notice for any of the women testifying
24 or just the specific victim named in this case?

25 MR. KENT: If they put somebody on and I know

1 something, I'll let the Court know.

2 THE COURT: Okay.

3 MS. ABEE: I just wanted to be clear. Thank you.

4 Your Honor, the State's final motion is a motion to
5 enter evidence under the res gestae theory.

6 In this case, Your Honor, the grandmother of two of
7 the victims, one being MINOR the second being

8 A.R. had a home at THE RESIDENCE This

9 house was deeded to her by Larry Durant in 2009.

10 Allegations of the sexual assaults came out in May, late
11 May of 2013, Your Honor, and then, subsequently, in June
12 of 2013, the grandmother, Lizzie Johnson received notice
13 that her house -- that she was being evicted from her
14 house, essentially, Your Honor, and that Larry Durant was,
15 in fact, the rightful owner of the house. So then this
16 included looking at a quit claim deed that was allegedly
17 signed by Lizzie Johnson and notarized by Samara Samuels.
18 That was filed May 31st, 2013, Your Honor, and then the
19 eviction proceedings commenced after that.

20 Your Honor, Lizzie Johnson states that she did not
21 deed this house back to Larry Durant. Further, Your
22 Honor, Samara Samuels, who served as the notary on this
23 deed, states that her signature was also forged, Your
24 Honor. At this time, the State --

25 THE COURT: There wasn't an indictment for forgery.

1 MS. ABEE: There is an indictment for forgery.

2 THE COURT: Well, why didn't you just try it?

3 MS. ABEE: Well, Your Honor, we --

4 THE COURT: Instead of trying to stretch what would
5 clearly be relevant to the prosecution of that indictment?
6 You know, you wouldn't have to boot strap it over into a
7 res gestae theory in this one.

8 MS. ABEE: Yes, Your Honor. That indictment is still
9 pending. However, we called this case first and we do
10 contend --

11 THE COURT: I know, but you could have called the
12 other one, as well. I don't know why you didn't. If
13 you're going to want to try to offer the -- all the
14 evidence that would come in, presumably, and bootstrap it
15 into a theory of res gestae, a retaliatory eviction, why
16 didn't you call the forgery case as well today?

17 MS. ABEE: I'm uncertain as to why I, actually, did
18 that, Your Honor. There were several different witnesses.
19 We didn't believe or didn't think that it would meet under
20 a consolidation theory to consolidate that in since there
21 are some witnesses that are separate, different and
22 distinct from the CSC case, Your Honor. That's why we
23 proceeded under the res gestae theory.

24 THE COURT: Well, you almost make the argument right
25 there for not letting it in if it's different witnesses,

1 different sort of facts.

2 MS. ABEE: Your Honor, I --

3 THE COURT: I don't understand if you could have done
4 it why you didn't. And you just said why you didn't,
5 which makes sense to not let it come on this one.

6 MS. ABEE: That would be to prove the actual forgery,
7 Your Honor, itself. They don't necessarily go --

8 THE COURT: Wouldn't you have to prove it in this
9 case?

10 MS. ABEE: Well, Your Honor, we'd be able to submit
11 evidence from Ms. Lizzie Johnson when she states that's
12 not her signature, as well as Samara Samuels stating that
13 that's not her signature. However, we wouldn't have to
14 bring in any sort of handwriting analyst or anything like
15 that to show whether or not it is the -- was, in fact, a
16 true forgery, Your Honor. We wouldn't have that burden of
17 beyond a reasonable doubt at this point in time in this
18 part of the case.

19 THE COURT: Mr. Kent?

20 MR. KENT: I really don't care if it comes in. I
21 don't think it's res gestae. I don't know if it's -- and
22 it's strictly intertwined for a necessary full
23 presentation of the case.

24 My only issue would be almost the State arguing,
25 basically, the -- as you have said, retaliatory eviction.

1 Almost like a subsequent remedial measure because it
2 happened thereafter. But I don't care if they want to get
3 into it, Judge, as long as it's relevant. I don't know if
4 they can get to the relevancy part, but I don't think it's
5 -- I just don't think it's res gestae. I don't see how
6 it's res gestae.

7 THE COURT: But are you objecting to it coming in or
8 not?

9 MR. KENT: I'm objecting to -- Your Honor, my
10 objection would be as I just stated. My objection -- my
11 only problem with it would be as to the last part of them
12 arguing that the reason -- the rationale for the eviction,
13 that this was done because of X, Y and Z. I think that
14 would be almost like something that has happened after the
15 fact. I don't know if that's relevant. But if they can
16 get to the relevancy part, Your Honor, I don't have any
17 problem with it.

18 THE COURT: Well, I don't understand what it would be
19 offered for that is at contest in the trial for which --

20 MR. KENT: Your Honor, could we proffer that
21 testimony?

22 THE COURT: Criminal sexual conduct with a minor,
23 what element of that crime is being proved by this
24 forgery?

25 MS. ABEE: Your Honor, we do think it's clearly

1 suspect that six days after somebody's granddaughter
2 alleges sexual assault that the Defendant -- that this
3 deed is suddenly forged. Your Honor, we do anticipate
4 that throughout the course of the trial, the Defense is
5 going to call into character -- or state that the
6 Defendant has good character. So in order to show this
7 retaliatory eviction, Your Honor, does, in fact, change
8 the nature of the character of the Defendant and what he
9 did as a result of these allegations, Your Honor. It's
10 extremely closely connected to the full scenario that's
11 being presented here today, Your Honor, with the different
12 members of the church and the different family members.
13 It goes to show it's all one big nexus and one big thing
14 that's happening in this case, Your Honor. The sexual
15 allegations were made, and then just six days later, the
16 Defendant did file paperwork and then, subsequently,
17 attempted to evict the grandmother of one of the victim's
18 from the house, Your Honor.

19 THE COURT: Well, I don't see where it proves
20 anything in whether or not the sexual act took place. All
21 right. So the only thing that would be relevant to
22 actions that took place after it -- and you could argue on
23 the one hand that he forged the document and evicted her
24 in retaliation for the young lady making the allegations,
25 but that cuts both ways. If the allegations were false,

1 you know, you could say well, of course, he was going to
2 have somebody evicted. You wouldn't want to have somebody
3 there. So I don't really see how this fits into your res
4 gestae theory. So it's not res gestae. It's not a
5 404(b), other bad act or I don't see how it shows motive,
6 identity, existence of common scheme or plan, absence of
7 mistake or intent.

8 The only thing that it might conceivably come in
9 based on what I heard you argue would be, if there were
10 bad evidence of character that's offered, then, perhaps,
11 under 404(b), a specific instance of conduct to rebut a
12 claim of good character. I'd consider it at that point,
13 but that would have to be after -- well, that would be in
14 the defenses. That would be in reply to something the
15 Defense came up with.

16 So at this point, no, it's not coming in under res
17 gestae or 404(b). We'll revisit the issue if evidence of
18 character comes in of the Defendant in their side of the
19 case, okay.

20 MS. ABEE: Yes, sir, Your Honor. And that concludes
21 the State's pretrial motions. I believe the Defense still
22 has two outstanding pretrial motions itself.

23 THE COURT: Okay. What do you have?

24 MR. KENT: Thank you, Your Honor. Your Honor -- and
25 I have given you a copy, of course, on the screen in front

1 of you as to what we filed with the clerk. I'll argue
2 first would be the motion to exclude the testimony of
3 D.B. .

4 Your Honor, you have heard Ms. D.B. testify on the
5 stand today and you've read a copy of our brief. I can
6 give a background on what has happened.

7 Your Honor, we were given full discovery in this
8 case. Included in the full discovery was at that point in
9 time when I received it was a copy of a statement
10 purported to be of D.B. . I've given you a copy
11 of that, Your Honor. There's a copy now on the screen in
12 front of you, a copy of D.B. 's statement.

13 Upon reviewing D.B. 's statement, Your
14 Honor, during one portion of her statement, as I read to
15 the Court, D.B. said that the next time Durant
16 did something to her -- let me give you a better -- I'm
17 sorry.

18 THE COURT: Didn't she admit this when she said this?

19 MR. KENT: Yes, Your Honor. That's why I'm going
20 through this. This is what she admitted to on the stand.
21 She, basically, acknowledged that she had saw pastor, that
22 she was two months pregnant. After becoming two months
23 pregnant, he, basically, said he was going to bump the
24 seed out of her.

25 THE COURT: Okay.

1 MR. KENT: Your Honor, meeting with Mr. Durant, as
2 well as legal counsel, the way the statement was written,
3 the way it was given, it was the assumption, candidly,
4 that there was going to be an allegation that Pastor
5 Durant had gotten this child pregnant. So we discussed
6 this with him over and over on several occasions. Even
7 from her testimony today, it could look as though he had
8 gotten her pregnant. So we had discussed this with him in
9 full detail. He, of course, denied it. He said no, this
10 never happened.

11 Then I got a subsequent statement, which is in front
12 of you again. You'll notice on the top of that page,
13 that's again where it says D.B. stated she got pregnant,
14 had an abortion in North Carolina. D.B. stated during
15 her pregnancy she was told by Pastor Durant that he was
16 going to bump the seed out. This would, also, be where
17 there would be indication that he had given her family
18 \$500 for the abortion. So, again, it was still -- the
19 statement given to us from law enforcement was a
20 suggestion, yet again, that Pastor Durant had gotten this
21 individual pregnant. We had discussed this again with
22 Pastor Durant.

23 Thereafter, I contacted --

24 THE COURT: Didn't she admit that she -- she was not
25 alleging that he was the father?

1 MR. KENT: Only on the -- I'm sorry, Your Honor.

2 THE COURT: I'm missing it if you're going somewhere.

3 MR. KENT: You're completely right. On the stand
4 today is when she admitted it. I have not had any
5 opportunity to talk to her until on the stand today. I'm
6 basing this on my analysis of what I've gotten from the
7 solicitor -- I'm sorry, I keep saying solicitor, Attorney
8 General's office.

9 As you'll notice, I sent an e-mail that states, Is
10 the State going to allege that Larry Durant was the father
11 of the aborted baby? This was based upon only on the
12 statements that I had been given from the Attorney
13 General's office. The response that I was given was, We
14 don't have any information that indicates that he was the
15 father of the child. Reading that statement from any
16 defense attorney -- and I've talked to several. Reading
17 that from any defense attorney, the thought was well, we
18 don't have any information that can prove it. We don't
19 have any information that can prove that he was the father
20 of the child. Having an abortion, not testing the fetus,
21 that's what we thought at that point in time.

22 So then I asked even further, I asked, Was she asked?
23 Was she sexually active with another? The response that I
24 was given, Your Honor, is what you see now at the top.
25 Investigator Williams states, The father was another

1 teenager. CC her on this e-mail if you have any further
2 questions.

3 Your Honor, that's when I began to ask very
4 specifically about more information and, basically, was
5 told I wasn't entitled to it. Saying that I have
6 statements from your office which indicates that this is,
7 basically, potentially exculpatory information. I,
8 actually, specifically say that. This is potentially
9 exculpatory information and is not provided in any of the
10 discovery. Further, it's not in any synopsis or writings.
11 Please provide all information regarding D.B.
12 pursuant to Rule 5 in discovery.

13 The reason I said that, Your Honor, when you read the
14 statement, one thing that's very clearly left out there,
15 just from any purview of common sense was, they start
16 talking about the fact that the pastor, according to the
17 statements, was with this individual who, presumably, was
18 two months pregnant. At no point in time in the writings
19 from the statements of law enforcement was the question
20 asked in the statement who got you pregnant, was the
21 pastor the father of the child, what happened. That's not
22 in any of the statements. That's why I started asking
23 those questions. You heard from the witness today, yes,
24 they directly asked me who was the father of the child.
25 Something that's not inside of the statements, which, of

1 course, becomes even more exculpatory.

2 Then, again, the response from the attorney general's
3 office, the only paperwork regarding D.B. that I
4 have is a medical record from DHEC. They contain no
5 exculpatory information or information that should be
6 turned over pursuant to Rule 5. If you would like these
7 records, please file a motion with the court.

8 I responded, Yet, we have two separate -- I'm sorry,
9 that was a two-page statement. I apologize. Anyway, I
10 responded and specifically asked for exculpatory
11 information because this would be exculpatory information
12 that is necessary so I could do a full investigation and
13 see what happened. One, figure out who the father of the
14 child was, figure out if it was an adult, figure out if it
15 was a child, figure out who the individual was that could
16 surround all the allegations. As many times as I asked
17 for this information, I was, basically, told I wasn't
18 entitled to it.

19 So then I sent at the bottom, exculpatory information
20 would be a fact that your investigator knows Larry is not
21 the father of the baby, knows who the real father is and,
22 clearly, has interviewed D.B. regarding these facts and
23 none of this is memorialized.

24 The reason I sent that, Your Honor, is I received a
25 message from the Attorney General's office specifically

1 saying that their investigator knew for a fact that the
2 father of the child was a teenager, not Mr. Durant. This
3 was only after I started pressing and asking about it.
4 And that's when they said the investigator on our case
5 knows who the father of the child was.

6 Your Honor, that's in opposite with the message that
7 I got that we have no information that would lead us to
8 believe that Larry Durant is the father of the child.
9 Those two statements are in opposite of each other.

10 THE COURT: As I understand it, correct me if I'm
11 wrong, but the State is not offering evidence that the
12 Defendant was the father of the child. So if they're not
13 offering anything inculpatory -- it's not their theory
14 that he impregnated her. Their theory was that he was
15 using her pregnancy as a ruse to have sex with her to,
16 perhaps, cause God to abort the child.

17 MR. KENT: I understand that the --

18 THE COURT: Where are you going with this? I guess
19 I'm confused.

20 MR. KENT: I understand that that's the Court's
21 theory, but you have to go with what was provided to the
22 Defense. I understand that they're saying that that could
23 be their theory today, but only after I made specific
24 requests for this information was it given. And then I
25 still don't have the exculpatory information about the

1 father of the child, which I think I'm entitled to. For
2 them to say that I'm not entitled to it when they sent me
3 the information about the abortion --

4 THE COURT: There is no theory under which I am --
5 unless they change their theory, they is -- they aren't
6 trying to offer that he was the father of the child, so if
7 that's not their theory, then it's not necessary for them
8 to provide you with exculpatory evidence because they
9 weren't planning on suggesting to anyone that he was --
10 he's the one that impregnated her.

11 MR. KENT: Your Honor, the State is who sent me the
12 information about the abortion, absent the information
13 about the individual who is the father of the child.

14 THE COURT: What are you asking me to do?

15 MR. KENT: Your Honor, I need to investigate this in
16 full detail. I really do. Because there's information --
17 one, we can still look at Kyle vs. Whitley. And there is
18 some investigational problems here that they didn't
19 include this. There's information that I need to look
20 into. And I even got new information today that's
21 different than what I've still been told by the State of
22 South Carolina.

23 The information that I got new today from this young
24 lady was no, they never asked me about it. I never told
25 them who this person was. They wouldn't know about it.

1 So the question then becomes, how does the investigator
2 now know that it's a teenager who got this individual
3 pregnant? That's what they put in writing to me. This
4 individual on the stand today said I never told anybody
5 anything. So that's more information that I don't have to
6 properly figure out how to cross-examine this individual.
7 They've opened Pandora's box by hiding evidence from me.
8 It's very simple. I've asked for it. They can giggle all
9 they want as I'm trying to talk, but, Your Honor, I'm
10 asking -- this is why I continue to get laughed at --

11 THE COURT: Maybe you're confusing me by using the
12 word exculpatory when I'm, at best, thinking it is
13 impeachable evidence, impeachment evidence that she has
14 given prior inconsistent statements. Because I haven't
15 heard that the State was suggesting that he was the
16 father. I haven't heard that and I didn't read it in
17 anything. I've read where you, I think, maybe were
18 assuming that that was their theory, but I didn't pick
19 that up anywhere.

20 MR. KENT: Your Honor, I guess --

21 THE COURT: Either today or in the stuff that y'all
22 sent me in the last week.

23 MR. KENT: Your Honor, the State can't send the
24 Defense down one path and not give them other information
25 and then say ha-ha, that's not where we're going. They

1 sent me some very specific information about an abortion.
2 This is a three-year-old case. There was nothing in there
3 saying we're not going to utilize this information. We're
4 not going to get into this information. This is
5 information sent on two different memos.

6 THE COURT: What was it that you got from them that
7 suggested that he was the father?

8 MR. KENT: The statement that they wrote for D.B.
9 [REDACTED]. You could read into that statement -- there's
10 only one way to read it, that he was the father of the
11 child. That's why I --

12 THE COURT: Show me again where that's at.

13 MR. KENT: Yes, sir.

14 THE COURT: I don't read that to say that anybody,
15 including D.B., was saying that the Defendant was the
16 father of the child. That paragraph you just highlighted.

17 MR. KENT: I'm going to give you one more.

18 THE COURT: I'm going to read this out loud for the
19 record, D.B. [REDACTED] said that the next time Durant did
20 something to her, it was in December of 2012 on a Sunday.
21 He learned that she was pregnant and he said he could,
22 "Bump the seed out" of her. He put his penis in her
23 vagina to do this. D.B. [REDACTED] stated that during this school
24 year, her grades dropped. She found it hard to sleep and
25 she cried a lot. She said in January of 2013, one week

1 before she was scheduled to have an abortion, Durant told
2 her to come in his office, and he would try to bump the
3 seed out again. She said he did this standing against his
4 desk. She recalls his penis looked pink on the end, but
5 dark everywhere else. D.B. said that when he was not
6 able to bump the seed out of her, he gave her mother money
7 to pay for her abortion.

8 She said she went to North Carolina for the abortion,
9 but she told her doctor at Sumter OB/GYN about the
10 procedure. She does not recall the name of the place in
11 North Carolina nor which city it was located. D.B.
12 said that after he tried to bump the seed out again, he
13 told her she was to keep these meetings just between me
14 and him. And he said he was going to trust me with that.
15 He told D.B. that he believed T.H. her cousin,
16 did not keep their meetings private and what goes on in
17 his office stays in his office. She said she did not, and
18 it goes on. I don't see where she's saying that he was
19 the father nor does she insinuate.

20 MR. KENT: I would respectfully disagree. As a
21 Defense attorney, that's how we read into the case, that's
22 how we read into what the suggestion was. And as an
23 officer of the court, I will tell you very specifically
24 that's a specific meeting I had with my client about the
25 insinuation of this. Also, as an officer of the court, I

1 can tell you, why else would I have sent the e-mail if I
2 did not believe that to the Attorney General's office
3 asking that?

4 Additionally, Your Honor, whether they intend on
5 using it, whether they don't intend on using it, there is
6 still some intentional concealment of a person who was,
7 actually, having sex with this individual at a
8 contemporaneous time frame that they have not turned over
9 that I'm entitled to know that they knew the entire time.
10 How else would they know -- and you have to look at the
11 statement specifically does not reference the fact this
12 child was asked who was the father of the baby? Who was
13 having sex with you? Who had intercourse with you?
14 That's not included in there anywhere. She testified they
15 did ask me about this.

16 To say that I'm not entitled to that when they gave
17 me one part of it -- it's sort of like they gave me the
18 peanut butter and not the jelly. They gave me one part
19 and said you can assume what you want. And I spent the
20 time researching, looking into this, getting into this
21 information. And they did not give me information on an
22 individual she was having sex with contemporaneous to the
23 same time. When I requested it, I was told, basically,
24 I'm not entitled to it. I don't see how I'm not entitled
25 to it because that was someone they were having sex with

1 contemporaneously to the same time as the allegations as
2 Pastor Durant. That would, also, be an exception that I
3 would be allowed to get into, investigate, look into in
4 full detail, contact this individual. I would have looked
5 into it in full detail. I don't see how it's --

6 THE COURT: They weren't using this to say that he
7 got her pregnant. They were using this to say this was
8 his -- again, one of his ruses of his using his position
9 to get a girl -- get a young girl in a vulnerable position
10 to have sex with him. I don't see that as reading
11 anything other than she was already pregnant when she came
12 to him.

13 MR. KENT: And, Your Honor, I can understand how you
14 can see that it way. And I hope you could understand how
15 I could see it the other way.

16 THE COURT: Well, I'm trying, but you're -- you may
17 have read it, but I don't see --

18 MR. KENT: Your Honor, would I not be entitled --

19 THE COURT: -- the construction that was being
20 offered -- that's not their theory.

21 MR. KENT: It's easy to say that now that they've
22 said it wasn't their theory. My question is if we think
23 backwards, what would have happened had I not made a
24 request of the question of the office? And number two,
25 would I not be entitled to information on individuals that

1 this woman was having sex with contemporaneous to the same
2 time as Pastor Durant? Would I not be entitled to that
3 information? And number three, would I not, also, be
4 entitled to cross-examine the investigator about this
5 information that she did not put inside the statement
6 pursuant to Kyle V. Whitley? Why didn't she include
7 information inside of this statement? Where did she get
8 the information that this person was a teenager that she
9 told the Attorney General's office in light of the fact
10 that this person on the stand, specifically, said I never
11 told anybody who the father was. Is that not information
12 I would be entitled to and properly subject to
13 cross-examination of the investigating officer? That's
14 where I get how is this not exculpatory because I'm
15 entitled -- I can't investigate all of it because they
16 won't tell it to me.

17 THE COURT: Help me understand how that is
18 exculpatory to your client. He either did have sex with
19 her under the guise of this special prayer and I will bump
20 the seed out of it or he didn't. But if she was pregnant
21 by somebody else, how does that aid your case?

22 MR. KENT: You just said it, by somebody else. One,
23 I didn't know it -- I'm going to stress this. We didn't
24 know it was by somebody else until we made that request
25 and asked about it. That's the only time we knew it was

1 by somebody else.

2 THE COURT: Okay. Now you know it. How does it help
3 you to now know it, whether you know it at this moment for
4 the first time or that you knew two months ago or two
5 years ago as a result of an investigator saying it?

6 MR. KENT: You just asked the ultimate question. How
7 does it help my case? I have got to research and look
8 into that to see how it helps my case. Even from just
9 listening to her on the stand today, she gave a different
10 version than what they even wrote down in their
11 statements. So without properly vetting and investigating
12 and looking into who this other person is, maybe -- she
13 doesn't want to give the information today. Maybe it's
14 another adult. There's a lot of information that we don't
15 know. That's what makes -- becomes exculpatory about it.
16 She doesn't want to give this information.

17 Your Honor, what should be concerning with the Court
18 is if she's on the stand saying I never gave this
19 information and there's an investigator who has told the
20 Attorney General's Office she specifically told me it was
21 another teenager, then I have another problem. I need to
22 figure out who's telling -- I mean, who is the father of
23 the child that she was having sex with contemporaneously
24 to the allegations against Pastor Durant.

25 THE COURT: Why does it matter who the identity is of

1 another person?

2 MR. KENT: Your Honor, that could go into a whole
3 bevy of information. It depends on who the other person
4 is. I mean, the person could be a 70-year-old pastor from
5 a different church. The person could be an 18-year-old
6 they choose not to charge. There's a lot of information I
7 just don't know. That's my problem, Your Honor. That's
8 why the information is necessary because without me
9 properly investigating and looking into information they
10 don't give me, I can't answer those questions properly.

11 THE COURT: All right. Let me hear from the attorney
12 general's Office.

13 MS. ABEE: Thank you, Your Honor. We clearly had a
14 very different reading of these memorandums regarding the
15 interviews with D.B. Specifically, Your Honor,
16 the interview that you just read from out loud for the
17 record dated back in 2014, the second paragraph goes into
18 the fact that she stated that Pastor Durant was healing
19 her from a bladder infection. So in order to do that, he
20 put his fingers in her vagina. She also testified to that
21 today.

22 Then in the next paragraph is where she said that he
23 had sex with her in order to bump the seed out because she
24 was already pregnant. Your Honor, there are no
25 allegations that he even had sex with her before then.

1 The only allegations were the digital penetration or to
2 clear up any sort of bladder infection that she might
3 have.

4 So, Your Honor, we don't stand by the fact or agree
5 with the Defense when they state that it was alleged that
6 Pastor Durant was the father of the child. If we thought
7 Pastor Durant was the father of the child, we clearly
8 would have put that in bold print within the memos, Your
9 Honor, if that was an allegation we had evidence to
10 support, but we didn't. Like you said, we had evidence to
11 support the fact that he had sex with her after she was
12 already pregnant in order to "bump the seed out".

13 Your Honor, I don't necessarily understand what the
14 remedy is that the Defense is asking for in this case.
15 They're asking that we exclude the testimony of D.B.
16 [REDACTED] because they didn't have time to properly vet out
17 the fact that she was pregnant from someone else, Your
18 Honor. A lot of that is partially covered by the rape
19 shield statute. The fact that she's pregnant by someone
20 else, that was stated clearly on the record, Your Honor.
21 Whether or not who she was pregnant by isn't relevant to
22 this case, Your Honor, and it doesn't come into this case.
23 It is protected under the rape shield as long as we're not
24 saying that it was Pastor Durant or Larry Durant that, in
25 fact, got her pregnant, Your Honor. So it's not relevant

1 information to this case. And we contend that the Defense
2 doesn't need time to vet it out.

3 Further, Your Honor, [REDACTED] D.B. [REDACTED] or [REDACTED] D.B. [REDACTED]
4 [REDACTED], which she also goes by, and the fact that Pastor
5 Durant paid for her abortion has been in the discovery
6 since the beginning. There are no allegations that we
7 have hidden [REDACTED] D.B. [REDACTED] from the Defense or stopped
8 them from sending anyone over there to talk to her or to
9 vet out these allegations. They've been in the discovery
10 since the beginning, Your Honor. And, again, the State
11 doesn't contend or plan to go into any insinuation that
12 Larry Durant was, in fact, the father of [REDACTED] D.B. [REDACTED]'s
13 child, but rather that he used that ploy to "bump the seed
14 out" in order to get her to have sex with him.

15 THE COURT: Just looking back on my notes, the only
16 thing that I can see that might possibly add anything to
17 this argument was -- I have this as a note that Mr. Kent
18 brought out on his cross was that, originally, he was
19 offering this prayer meeting for, I think it was a kidney
20 infection, and then they said, but then she got pregnant.
21 So I think there was actually sex going on or this -- the
22 molestation going on before she got pregnant. Didn't have
23 exactly how long that was, but looks like it was only two
24 months or so prior, so it might have been ongoing.

25 I guess I still just cannot get my head around how

1 the name of the father of that person is going to aid your
2 theory.

3 MR. KENT: Again, Your Honor, respectfully, and I
4 understand the Court is having trouble getting their head
5 around it, but my question is this -- and maybe I can
6 query back and forth with the Court, would I be entitled
7 to that information with the witnesses on the stand?
8 Number two, would the State be allowed to get into the
9 fact that he did spend \$500 on an abortion? So what are
10 we supposed to do, leave it alone or just say well, who is
11 it without knowing more information?

12 THE COURT: Well, I'm not opposed at this point -- if
13 that's the theory to avoid the confusion of whether or not
14 the Defendant is being accused of being the father
15 providing -- making the statement, if it's known who the
16 father was, the name of the person.

17 Do you have that information?

18 MS. ABEE: I do not, Your Honor, have the name of the
19 father. As I stated in the e-mails to --

20 THE COURT: Was there an investigator other than the
21 one that wrote up the notes that were provided to him?

22 MS. ABEE: There are two investigators, Your Honor.
23 There's Detective Natalie Kelly of Sumter, and then our
24 in-house investigator, Valerie Williams, spoke with D.B.
25 [REDACTED] previously in 2014 before Detective Kelly. And

1 Investigator Williams spoke with her a little bit more
2 recently, Your Honor. So there are two --

3 THE COURT: Are both of them here?

4 MS. ABEE: Detective Kelly is in the courtroom and
5 Investigator Williams is sequestered. She's out of the
6 courtroom, but she is present -- or, at least, she should
7 be.

8 THE COURT: You can talk to them -- after we break,
9 you can talk to them and see if they have -- if they know
10 the name and they can provide it to you, we'll have a
11 discussion, perhaps, in the morning about how that
12 possibly could aid your case. If they know the name, I'm
13 ordering that they provide to it you, but beyond that, I
14 just --

15 MR. KENT: One -- I'm sorry. I apologize for
16 interrupting. I apologize.

17 THE COURT: No, I'm just saying, I still struggle
18 with the exculpatory nature of that, but, you know, in the
19 spirit of giving you the opportunity to make a full and
20 fair defense of your client, I think, in fairness, you're
21 entitled to the name of the father if they know it.

22 MR. KENT: Just for the record, a question, would I
23 have the right -- if I found the name of the father, would
24 I have the right to ask that individual potentially on the
25 stand did you ever offer -- or did someone ever offer, do

1 you have knowledge of someone offering to bump the seed
2 out of the woman that you got pregnant? Would I have the
3 right to ask that individual that?

4 THE COURT: To ask them what?

5 MR. KENT: Would I have the right to ask the father
6 of the child, did you ever offer or do you know if
7 anyone's ever offered to bump the seed of the unborn baby
8 out of them?

9 THE COURT: You could go and talk to them. Whether
10 or not I'm going to allow you to bring them into court and
11 ask that -- I'll let you go talk to them tonight or get an
12 investigator out to talk to them tonight, in the morning
13 if you can find them. But if you're asking me today --

14 MR. KENT: I'm just --

15 THE COURT: -- would I allow you to call this person
16 in and testify to that, you know, I'm not going to rule on
17 it until we see, in fact, you can uncover such a witness.

18 MR. KENT: And so the next question -- and I
19 understand that. And I will leave it at this. The next
20 question will be, the State of South Carolina, it's my
21 understanding, you would allow them to get into the
22 background about the abortion, correct?

23 THE COURT: Get into the background?

24 MR. KENT: Or get into the fact that -- or their
25 allegation, which I don't believe is accurate, but they're

1 allegation that Mr. Durant paid \$500 for an abortion.
2 They would be allowed to get into that?

3 THE COURT: That's what the young lady testified to.

4 MR. KENT: So that would be allowed to come in front
5 of the jury?

6 THE COURT: Yes.

7 You plan to offer that, right?

8 MS. ABEE: We do, Your Honor. And just to clarify, I
9 have no problem eliciting and making it clear on the
10 record that Pastor Durant was not the father of that child
11 to clear up any confusion or any sort of thought that the
12 State might try to just insinuate that, slip that in
13 without being clear about it. I'm fine to ask her now,
14 you know, you're not telling us Pastor Durant was the
15 father of that child, right? To which, based on her
16 testimony earlier, she would respond with no. That would
17 be clear and we'd move on with the rest of the case.

18 MR. KENT: And that would be my concern is that --
19 and I'll leave it at this. My concern would be when you
20 get into that -- and I know you're giving me the
21 opportunity tonight, but that's where the exculpatory
22 nature comes in because there's a lot of -- there's a
23 lineage of questions that would come from that, was this a
24 child? Was this an adult who got you pregnant? I don't
25 want go fishing with somebody. I like to know my

1 information before I just start randomly asking.

2 THE COURT: Well, if you're asking me if they know
3 the name of the father, and you found the father, and you
4 talked to him tonight, and he said yeah, I used that
5 phrase "bump the seed", then the insinuation that you
6 might try to phrase in front of the jury would be oh, it
7 was this guy who was the father and not my client that
8 came up with that weird-sounding phrase "bump the seed out
9 of you". Is that what you want to use it for?

10 MR. KENT: I don't know, Your Honor --

11 THE COURT: I'm just listening and I'm going okay, I
12 can see that.

13 MR. KENT: That's the problem. There's potentially a
14 lot of things that we can go --

15 THE COURT: That's the first thing you've said that
16 makes sense to me. How about that?

17 MR. KENT: I'll sit down on that one.

18 THE COURT: I see at this point where it could be
19 relevant. Prior to that, I was struggling mightily. So,
20 perhaps, if you can meet all those conditions.

21 All right. What else?

22 MR. KENT: Finally, Your Honor, the last thing I
23 submitted to you was a motion to suppress. This was to
24 suppress some penis pictures that were taken of
25 Mr. Durant.

1 By way of background, Your Honor, the State of South
2 Carolina originally provided me with a Schmerber order
3 dated February 13th, 2014. I do not have a copy on the
4 iPad, so I'm just going to do it old-fashioned and hand
5 you a copy of it. May I approach, Your Honor?

6 THE COURT: I think I have it.

7 MR. KENT: You probably do. So I was given a copy of
8 that Schmerber order. We, actually, had a full Schmerber
9 hearing in front of the Honorable Howard King. I have a
10 copy of the order if you need it, Your Honor. So I was
11 contacted, at that point in time, it was Kelly Hall, who
12 was the assistant attorney general at the time. We had a
13 full hearing in this courtroom. It took a few hours.
14 After doing the full hearing, in May 2014, Judge King
15 issued an order. However, we didn't get a copy of the
16 order for quite some time. He issued the order in May
17 of 2014.

18 In the order, he, basically -- he very specifically
19 stated that he was not making a ruling. They requested a
20 Schmerber hearing. We were fighting it. Our fighting
21 over the Schmerber hearing was, basically, that they
22 wanted to take a picture of Mr. Durant's penis. We found
23 that it was objectionable in light of the case law. That
24 it was just a problem, to be perfectly candid, for someone
25 to take a picture of their penis. And we thought it was

1 just, basically, crass and rude at that point in time.
2 They were just utilizing it to -- I don't want to say
3 corroborate, but they were trying to utilize it to make
4 their case, the argument that we're making in front of the
5 Court.

6 Judge King provided an order, in which the order, he
7 said I'm not saying you can, I'm not saying you can't.
8 I'm, basically, holding this in abeyance right now because
9 y'all just didn't do it the right way. If you do it and
10 file everything the right way, come back and see me at
11 another point in time. I'm giving you a copy, Your Honor,
12 of the two-page order. It's included in the brief that I
13 gave you.

14 THE COURT: What do you mean they didn't do it the
15 right way? Didn't make the motion the right way or they
16 had already done it by then?

17 MR. KENT: No, Your Honor, what ended up happening,
18 when they requested the Schmerber hearing, there were no
19 pictures taken at all. So what the Court said was the
20 problem was, you guys did not comport with State vs.
21 Anthony Woods, which was a case out of Clarendon County.

22 In Anthony Woods, what ended up happening is officers
23 from Clarendon County Sheriff's Department went to the
24 Honorable Judge Cooper in his office and said hey, I need
25 a copy -- I need a search warrant signed for a Schmerber

1 order. Judge Cooper did not require any signature
2 affidavit or any supporting affidavit and did not take
3 information, basically, did not take sworn testimony from
4 the officer at that point in time. So the Court said
5 well, that's not a good warrant. You can't do it that
6 way. At the hearing, no officer testified during the
7 course of the hearing. No one testified. So I think what
8 happened is Judge King said come back to me when you do a
9 supporting affidavit and do things the proper way. I'm
10 not ruling on anything, but when you do it the right way,
11 come back to me.

12 I then went -- and I was teaching a seminar and after
13 teaching -- I was out teaching a seminar when I received a
14 phone call from Pastor Durant as well as his wife saying
15 law enforcement is taking me to go take a picture. I
16 tried to tell them, don't go, don't go. He said they're
17 forcing know go with them. I contacted my office, Your
18 Honor. I contacted the Attorney General's office's. I
19 contacted Sumter and requested a copy of the search
20 warrant trying to figure out how the search warrant was
21 issued and how they, basically, had Pastor Durant. I was
22 told I was not entitled to look at the search warrant. I
23 wasn't given a copy of the search warrant. They took him
24 from his home. They took him to the hospital.

25 I contacted my law clerk because I think I was in Las

1 Vegas at the time teaching a seminar. I contacted my law
2 clerk. My law clerk immediately tried to get in touch
3 with Pastor Durant's wife. After trying to get in touch
4 with Pastor Durant's wife and figured out where they were,
5 he immediately went to the hospital and said I need to see
6 this individual. They wouldn't let him be seen. They
7 forced him to disrobe and they took a picture of his
8 penis.

9 We have a couple problems. One, I first believe --
10 because, of course, we still had the argument pending with
11 the Honorable -- with the Court saying we had a problem.
12 He had an affirmative assertion of his right to be free
13 from warranted bodily intrusions. We still had that
14 argument that was outstanding. And this was a motion
15 brought by the State of South Carolina. This wasn't a
16 motion brought by me. This was a Schmerber motion brought
17 by the State of South Carolina requesting they take a
18 picture. The Court didn't give a ruling, said come back
19 to me when you do this properly. And then they went on
20 their own to an individual who was represented at the
21 time, took him from his home, took him to the hospital,
22 pulled down his pants and took a picture.

23 THE COURT: Without a warrant?

24 MR. KENT: Well, they had the search warrant. And
25 that's included -- I can pull it up for you, Your Honor.

1 They do have a search warrant. Here's a copy of the
2 affidavit of the search warrant that they applied.

3 So at this point in time, we will contend that they
4 100 percent comported with the normal way you would get a
5 search warrant before an individual is arrested. They
6 went, they gave an affidavit. They gave a sworn statement
7 to a magistrate.

8 Judge, if you will look at the bottom, amendment,
9 should it be necessary to physically manipulate Mr.
10 Durant's body, he will be transported to a medical
11 facility. Similarly, if Mr. Durant refuses to comply, he
12 will be escorted to a medical facility to accomplish the
13 photograph. So they went to a magistrate and got this
14 warrant, went to his home. They did not contact his
15 attorney. I was representing him. There was no doubt
16 about that because this was after our Schmerber hearing.
17 Took him to the hospital, pulled down his pants and took a
18 picture of him. Before this, I requested copies of the
19 search warrant so we could request an emergency hearing.
20 I was told I was not entitled to the search warrant. I
21 could not look at it until after it was executed.

22 And, Your Honor, one of the problems that we also
23 have, as you know, the Schmerber case law talks about --
24 on the face of the warrant, is it going to be unreasonable
25 in nature? Was it reasonable in nature? Is there a

1 medical doctor there? I think that's what Schmerber
2 talked about, did you have doctor there? Are you doing
3 this as reasonably as possible? In the search warrant
4 return, none of that information is put down whatsoever.
5 There is no evidence from the search warrant return,
6 affidavit or otherwise, that any appropriate medical
7 personnel or protocol was, actually, involved. So there
8 was nothing in there, in the search warrant return that
9 I'm sending you saying that they did things pursuant to
10 what Schmerber requires.

11 Here are my concerns and here are my requests. One,
12 I do believe that the circuit court still had jurisdiction
13 over this case in light of the fact that the Attorney
14 General's office -- not through this Attorney General's
15 office, they're no longer the same folks. But the
16 Attorney General's office had knowledge that an order was
17 given by a circuit court. The circuit court said if you
18 comply with this, come back and see me. Rather than ever
19 coming back and seeing me, they went to the magistrate,
20 got their own search warrant. I'm not saying that is or
21 isn't wrong, but I think they probably should have taken
22 that search warrant to the circuit court, said we now have
23 an affidavit, can we now do what Schmerber says we can do.
24 But they took that search warrant and then they went and
25 they, basically, took Mr. Durant, knowing that he had an

1 attorney, took him to the hospital, forced him to disrobe,
2 took a picture, hid him from my staff.

3 And, Your Honor, for these reasons, I'd ask those
4 pictures be suppressed. One, I never even got the chance
5 to make my argument that I'm making to you right now that
6 Schmerber doesn't allow what they did. Even if they had
7 the search warrant, it still is an unnecessary body
8 intrusion. What they did was try to corroborate their
9 case unjustifiably. They, basically, forced
10 self-testimony of Mr. Durant against himself. This is an
11 unreasonable intrusion. This is an argument we made in
12 front of Judge King in this same courtroom and he
13 understood our argument. He was like, Mr. Kent, that's a
14 strange argument. And when I say strange argument,
15 actually, at the time, I suggested, Your Honor, if we're
16 going to do something like that, I'd like a penis lineup.
17 I, actually, made that suggestion to him. He told me it
18 was quite strange.

19 THE COURT: A what?

20 MR. KENT: A penis lineup.

21 THE COURT: That's unique.

22 MR. KENT: Yeah, he said the same thing. But the
23 point of the matter is that the request was if you're
24 going to do this in this specific way, that belies on the
25 point of all the case law, Schmerber and everything that

1 should be done. So our remedy is that you suppress the
2 pictures he took. Thank you, Your Honor.

3 THE COURT: All right. What's the State's response?

4 MR. FERNANDEZ: Thank you, Your Honor. You have the
5 order. You have Judge King's order. It's a procedural
6 order. In no way, shape or form does Judge King retain
7 jurisdiction or even invite the State to refile Schmerber.
8 He simply says, actually, quite directly that an
9 accompanying affidavit or supporting evidence needs to be
10 joined with this Schmerber application that the State
11 made. It's a purely procedural order and makes no
12 finding. I think in the last paragraph, he specifically
13 lays out that he's making no finding any way whatsoever
14 other than the fact this particular application didn't
15 include an affidavit or supporting testimony.

16 So the State's next -- and I'll agree with counsel
17 that the State then applied for a search warrant. Your
18 Honor has the affidavit that was included with the search
19 warrant. It is very specific as to the three allegations
20 of [REDACTED] that would MINOR, AR, that would be A.R., and
21 LM, that would be L.M., who is not going to be called in
22 this particular case, all stating in relevant part their
23 explanation of what Larry Durant's penis looked like. And
24 at the end -- I think the last sentence -- paragraph in
25 the affidavit describes the penis, being pink spotted,

1 that nature.

2 The search warrant is valid for two reasons. The
3 easiest one to address is the Fifth Amendment issue that
4 counsel raised. This is non-testimonial identification
5 evidence. It's non-testimonial, so he can't be forced to
6 testify against himself because it's non-testimonial in
7 nature. It's his body. It's analogous to tattoos that
8 someone wears. It's analogous to anything that's unique
9 about your body. It's non-testimonial. It's how his
10 penis looks and that was what the evidence we were seeking
11 was, to verify these allegations by the girls saying that
12 his penis looked a certain way.

13 Second, the process for identifying -- well, also, as
14 far as non-testimonial evidence is concerned, the two
15 factors that the Court should consider are the seriousness
16 of the crime and the importance of the evidence sought.
17 In this case, the seriousness is pretty -- it's a
18 relatively serious charge, Your Honor. It's a CSC second
19 with a minor. I believe it carries up to 20 years. So I
20 think that establishes that prong. As to the importance
21 of the evidence, this case is largely about what occurred,
22 whether or not sex or touching or whatever occurred. And,
23 largely, it revolves around the believability of the
24 girls, the victims. And in this case, they had
25 allegations that it was a very specific instance -- a very

1 unique body part Mr. Durant had.

2 In order to do their job fully, law enforcement
3 followed up on that lead. It's the same as if an
4 informant tells police there's drug deals going on in this
5 house and rather than just relying on their word, they,
6 actually, execute a search warrant to verify yeah, in
7 fact, there are drugs in this house. It's the same thing.
8 The girls said not only did I have sex with him, he had a,
9 for lack of a better term, spotted or pigmented penis.
10 And, sure enough, they go and find evidence of the spotted
11 or pigmented penis. Again, I'll remind Your Honor again
12 this is information that no one really should know about,
13 save anyone who has been intimate with Mr. Durant.
14 Generally, the kind of testimony that the girls said is
15 things that would not be commonly known by anyone or
16 should not be.

17 Regarding probable -- and I don't know if counsel is
18 necessarily saying that there's lacking probable cause. I
19 can address that, but I don't know if I, actually, heard
20 that. I mostly heard the fact that it was Fifth Amendment
21 issues, about testifying against himself --

22 THE COURT: He did not, no.

23 MR. FERNANDEZ: Okay. I'm not going to go there. As
24 far as the undignified aspect of it, I think we did hear
25 that, Schmerber talks about, obviously, blood tests.

1 That's an intrusion of the body. It's, actually, sticking
2 a needle into someone's body and removing blood or plasma
3 or potential DNA. This is a far less intrusive procedure
4 because it involved no procedure at all, simply taking
5 photographs.

6 Now, as counsel did point out, there was an amendment
7 to the search warrant by the magistrate, which stipulated
8 what should occur should his body parts need to be
9 physically manipulated. And he was transported to the
10 hospital pursuant to the order. I don't know of any
11 requirement that doctors necessarily be present for
12 photographs. There was no medical procedure being
13 performed. There was no intrusion of his body. There was
14 no medical instruments needed, simply a removal of his
15 pants and a photograph from a person standing away from
16 him. No one needed to touch him in that manner, a medical
17 manner. So I don't know of any requirement in the case
18 law that would support any kind of a standard that we
19 follow involving some sort of medical professionals in the
20 photography of someone's body parts.

21 Nevertheless, he was transported to a hospital, so it
22 wasn't at the police department or a jail or wherever else
23 the pictures might have been taken. I would submit to the
24 Court that merely taking photographs is far less invasive
25 than a mandatory buccal swab, a mandatory blood test or a

1 mandatory DNA test. This is, as I said, photographs.

2 MR. KENT: If I may, Your Honor?

3 THE COURT: Yeah, go ahead. First of all, for the
4 sake of discussion, I gather that the photographs showed
5 that he has -- his penis has pigmentation?

6 MR. KENT: Yes, sir.

7 MR. FERNANDEZ: They do, Your Honor.

8 THE COURT: Mr. Kent, your position would be any
9 photographs of any of his body parts violate Schmerber or
10 is it just the penis?

11 MR. KENT: No, Your Honor. I would go specifically
12 with the language of Schmerber when you talk about whether
13 or not the dignity and the privacy of the specific areas
14 of the body. This is -- with all due respect to
15 Mr. Fernandez, I would much rather somebody take a buccal
16 swab out of my mouth or put a needle in my arm than pull
17 down my pants and take a picture of my penis. For him to
18 say that's not intrusive --

19 THE COURT: Well, here's where I'm going with this.
20 He mentioned tattoos, scars. At some point, you know, is
21 it pull your shirt up, you have a tattoo on your arm or
22 you have a distinctive scar, a photograph of that, would
23 that violate your client's Constitutional rights or is it
24 just the fact that they pulled his pants down and took a
25 picture of it?

1 MR. KENT: I think we have to rely on the Schmerber
2 language about dignity. And I don't think dignity is
3 being violated by taking a picture of his arm because that
4 is not something that people intentionally keep private.
5 We talk about the rights of privacy. An arm, people take
6 off their shirts at the beach. But a penis is as private
7 as someone can get. Your genitalia is an area that we
8 intend and we try to keep private.

9 Your Honor, not to be simple, but Schmerber stands
10 for the position that cops can't draw blood, get a doctor.
11 So that's why I said cops shouldn't be able just to say
12 we're going to take a picture of your penis. They should
13 have gotten somebody else to do it. I don't think they
14 should have been able to do it at all. But I understand
15 where the Court's going with the tattoos on the arm or the
16 tattoos on the chest, but if you were to ask me if it was
17 a tattoo on the penis, yes, I would be making the same
18 argument. I think that takes away from the dignity. The
19 level of intrusiveness that's created by that is -- it's
20 huge is the easiest way to say it. I think it's crossing
21 the line.

22 THE COURT: Does anybody have any law on this that
23 might be helpful?

24 MR. KENT: Well, the language that we're both
25 utilizing is the law.

1 THE COURT: A case on point more than just Schmerber?

2 MR. FERNANDEZ: I can get Your Honor some case law
3 about -- this generally comes up in the realm of tattoos
4 and unique body identifications. I couldn't find any on
5 the penis, in particular, but it's pretty standard that
6 there is -- for non-testimonial identification evidence,
7 tattoos is where you generally see it, but it's pretty
8 standard procedure. It's not controversial case law.
9 Now, again, I couldn't find anything on identifying
10 someone's penis, but Schmerber is all about a balancing
11 test. It's all about whether the invasiveness sought is
12 justified by the seriousness of the crime and the
13 importance of the evidence.

14 The evidence in this case couldn't be more important
15 because you have a very specific allegation of something
16 that a child, a teenager should never know about. And if
17 you're talking about the level of invasiveness -- now, if
18 you're talking about embarrassment, that's one thing, but
19 the level of invasiveness, I believe the Supreme Court
20 would say that sticking a needle in someone or requiring
21 them to undergo some sort of surgery, however slight,
22 would be more invasive than removing their pants. So I
23 think if we draw a line between what is more embarrassing
24 versus invasive, it's certainly more invasive to have a
25 needle stuck in you or some sort of operation performed

1 rather than pictures taken.

2 Embarrassment, again, Your Honor, it's a balancing
3 test. In this case, the evidence could not be more
4 important. The level of embarrassment to the Defendant
5 was minimized by him being brought to a hospital in a
6 relatively private location where only he and the law
7 enforcement personnel were there to take the photographs.
8 It was not public. It wasn't meant to publically
9 humiliate him, simply to do the least intrusive way of
10 obtaining the evidence that was sought.

11 MR. KENT: And, Your Honor, if I may, as included in
12 my brief, if the State has shown probably cause and the
13 factors are satisfied, then the Court must determine
14 whether the character of the requested search is
15 appropriate. The balancing test that we often hear is the
16 Court must balance the seriousness of the nature of the
17 crime, the importance of the investigation and the
18 unavailability of an alternative less intrusive means of
19 obtaining evidence. The more intense, unusual, prolonged
20 or uncomfortable, unsafe or undignified procedure
21 contemplated or the more it intrudes upon the essential
22 standards of privacy, the greater must be the showing for
23 the procedure's necessity.

24 Your Honor, I'm not saying that the witnesses for the
25 State could not get on the stand and testify as to what

1 they've seen. That's not going to change that. They're
2 allowed to do that. And I'm not going to say they can't
3 testify to what they've seen or what they observed or what
4 they believe. The problem -- and that's the alternative.
5 They're still allowed to testify to what they've seen.
6 This crosses the line and it becomes so -- are they going
7 to lose this evidence if we suppress it? No. Are they
8 still going to be able to testify about this? Yes. Are
9 they all going to give -- you've heard the testimony.
10 They're going to be able to say this is what we've seen.
11 That's balanced on the level of intrusiveness of what we
12 have here. The level of intrusiveness we have is forcing
13 a man to take down his pants and take a picture. And the
14 fact that it was at the hospital, Your Honor, is important
15 because that shows you that he was fighting and did not
16 want this done. He did not want this done at the jail.
17 He did not want this done at all.

18 THE COURT: Well, I doubt seriously that anybody
19 would want to have it done, but here's the real issue of
20 what it boils down to, you're going to let four girls get
21 up there and testify he had a penis that had distinctive
22 pigmentation on it. Everybody in the place is going to
23 want to go, well, are we going to see a picture? And, you
24 know, your first argument on that would be where's their
25 proof.

1 MR. KENT: No.

2 THE COURT: You don't get to argue where's their
3 proof if you --

4 MR. KENT: I understand that. I completely
5 understand that and would not argue that as an officer of
6 the court. I understand that completely and I understand
7 that I would be chastised if I tried to make that
8 argument. But in the same respect, that would be the
9 problem that the Defense has when they're saying well,
10 wait a minute -- because I agree with you completely. If
11 that's true, why isn't Mr. Kent showing me X, Y and Z.
12 That's a problem that the Defense would have. I am
13 arguing not based upon this case, but based upon Supreme
14 Court precedent, case law in the future that this is
15 intrusive. We cannot allow officers to go to represented
16 individual's homes, take them out of their homes, force
17 them to do things in contravention of case law, Supreme
18 Court case law and just general decency.

19 THE COURT: Did you want to say something else?

20 MR. FERNANDEZ: Your Honor, the only thing I was
21 going to comment on is an essential tenant of this defense
22 is likely to be this didn't happen. It necessarily has to
23 be.

24 I fully intend -- I fully expect that the victim's
25 credibility will be called into question. I fully expect

1 this to be an argument in general about not enough
2 evidence or some sort of argument along those lines
3 because that's typically what occurs.

4 In this case, the State, actually, did go out of its
5 way to obtain very credible information, which, quite
6 frankly, could have been not only inculpatory, which it
7 ended up being, but it could have been exculpatory because
8 had his penis not had the unique and distinctive skin
9 pigmentation, then, Your Honor, that would have completely
10 upset the case. So when Valerie Williams was obtaining
11 the search warrant, she had never seen the penis. Of
12 course, she was relying on the information given by the
13 victims. It turned out to be true, thus, inculpatory, but
14 that doesn't still excuse the fact that it very well could
15 have been potentially exculpatory evidence that we were
16 seeking. The only reason we're hearing now that they
17 don't want it into evidence is because it corroborates
18 what the girls on the stand say.

19 MR. KENT: I disagree with that. The reason we're
20 here is because they forced a man to take off his pants
21 and take a picture of his penis. That's why we're here.
22 And I make a motion to stop it. Actually, the Court --
23 their office made a request for it, they ignored the
24 request and went and forced him to take off his pants and
25 took a picture of his penis.

1 THE COURT: Is it the Defense's position that only a
2 circuit judge can hear an application for an order
3 pursuant to Schmerber?

4 MR. KENT: No, sir. Our position would be this is
5 the avenue --

6 THE COURT: So is it your position or not that they
7 were not -- that they were precluded from going before a
8 magistrate?

9 MR. KENT. Were they precluded from going in front of
10 a magistrate, no, sir.

11 THE COURT: Okay. But it's your belief that you
12 should have -- they can't go before a magistrate ex parte
13 for this because you were entitled to make a motion to the
14 magistrate that it is improper to require him to be
15 photographed?

16 MR. KENT: The State of South Carolina was on notice
17 of Mr. Durant's representation, our argument and our
18 analysis. And they were on notice at that point in time.
19 They were on notice that -- it would be one thing if I
20 made the motion. They made the motion. They chose the
21 venue in which they came in front of. And when they
22 didn't get what they wanted, they came to a separate venue
23 and they didn't give Mr. Durant an opportunity to make his
24 argument that he's making today. That's our position.

25 THE COURT: All right. Well, that will give me

1 something to think about tonight. I'll let you know.
2 I'll think about it. It's a novel position.

3 MR. KENT: And Mr. Fernandez is completely correct.
4 There are no cases, I don't think in the United States,
5 that cover this issue.

6 THE COURT: Well, then I'll get to rely on citing my
7 favored authority, which would be me. So I'll give it
8 some thought and research it tonight and let y'all know.

9 Anything else then before we break so that you can go
10 find the witness that you need to seek out?

11 MS. ABEE: Nothing from the State, Your Honor.

12 THE COURT: Anything?

13 MR. KENT: Nothing, Your Honor.

14 THE COURT: Okay. Well, why don't we reconvene
15 tomorrow morning at 9:30 and see where we're at at that
16 point.

17 How about if I met with the lawyers back in chambers
18 for a minute before I break for the day?

19 (WHEREUPON, the proceedings were adjourned to be
20 reconvened on Tuesday, May 24, 2016.)

21 TUESDAY, MAY 24, 2016

22 (WHEREUPON, State's Exhibit Nos. 1 through 7 were
23 marked for identification.)

24 THE COURT: Well, the record will reflect the Defendant
25 is in the courtroom.

1 Did you find the fellow you were looking for or get the
2 name of the fellow you were looking for?

3 MR. KENT: No, sir.

4 THE COURT: All right. Anything left to do on that
5 issue then?

6 MR. KENT: I think I've said everything I needed to
7 say on that issue.

8 THE COURT: All right. Well, then the only other
9 thing is this issue about the photograph. Let me ask you
10 just to clarify the issue. Are you contesting that when
11 the State went before the magistrate and got a search
12 warrant that there was not probable cause within the four
13 corners of the affidavit?

14 MR. KENT: No, sir.

15 THE COURT: All right. Your sole argument is
16 twofold, as I understand it. One, they should have gone
17 before a circuit judge and given you notice, correct?

18 MR. KENT: Yes, sir.

19 THE COURT: And then the second prong would be even
20 if that wasn't required and there is probable cause in the
21 search warrant, then he still shouldn't be subjected to
22 having his penis photographed because he had -- it's
23 overly invasive compared to what the State needs evidence
24 for. Does that pretty much sum it up correctly?

25 MR. KENT: The only caveat I would say to you on

1 point one would be not that they should have, but that
2 they did as they gave jurisdiction to the general sessions
3 just when they went the first time. Not that the proper
4 procedure when they should have gone to the general
5 sessions judge, it's just when they did go the general
6 sessions judge, Judge King, I think they should have kept
7 going to him in complying with his order.

8 THE COURT: Okay.

9 MR. KENT: So, basically, it's just a small caveat,
10 Your Honor.

11 THE COURT: Does anybody want to have any further
12 thing to say before I rule on the issue?

13 MR. FERNANDEZ: I don't think we need to, Your Honor.
14 I think I said everything that's appropriate.

15 THE COURT: Well, as far as the first issue goes as
16 to whether or not the circuit court had, essentially,
17 exclusive jurisdiction to issue a search warrant at that
18 point in time, I believe there is nothing in the law that
19 requires them to go before a circuit judge for a search
20 warrant.

21 The statute that governs that issuance of search
22 warrants is 17-13-140, and it speaks in terms of a
23 magistrate or a court of record. When Judge King issued
24 his order, he did not in any way suggest that it had to be
25 back before him. It's just he declined to rule at that

1 time because the warrant wasn't supported by an affidavit.
2 And so he said, you know, when you get that, you can come
3 back, essentially, or he would rule if he had a proper
4 one. But I've researched it, I don't see any authority
5 that says that a search warrant can't be issued by a
6 magistrate once the case is -- has jurisdiction by circuit
7 court. Furthermore, I don't find anything that says there
8 has to be a hearing held before an issue -- a search
9 warrant is issued, including a Schmerber search.

10 So the best I can come up with is that it's one of
11 those deals where you go well, it's just the way we've
12 always done it. Well, just because it's the way we've
13 always done it doesn't necessarily mean it's the only way
14 to do it.

15 So I find that the State was not incorrect in going
16 before a magistrate instead of a circuit judge for the
17 search warrant. The Defendant doesn't contest that there
18 was probable cause in that affidavit for a search warrant.
19 I've reviewed it and I would rule, even he did contest it,
20 that there was probable cause in it anyway.

21 So it really boils down to an argument then as to
22 whether or not the State has an interest in that
23 photograph that overrides his interest in privacy. And,
24 you know, what we've got at this point is four witnesses
25 who were willing to testify that they could identify his

1 penis because of particular characteristics, in
2 particular, spotted pigmentation. And there is no way to
3 corroborate that testimony other than with either a
4 photograph or a display in the courtroom. And we are not
5 going to have a display in the courtroom.

6 So there is -- the State has a compelling reason to
7 obtain this evidence. There is no less intrusive means of
8 obtaining this evidence. And while it is, of course,
9 highly personal to have your genitals photographed, the
10 State's interest in prosecuting this crime -- it's not
11 like they're just on a fishing expedition. They have a
12 specific need to corroborate very particularized testimony
13 and this is the only way to get it. So I deny the motion
14 to suppress the photographs.

15 All right. Now, that leaves us with getting the case
16 started.

17 MS. ABEE: Your Honor, just one more thing I'd like
18 to place on the record. I spoke with Mr. Kent yesterday.
19 There is some SLED evidence. I know you read off a lot of
20 SLED witnesses yesterday. Mr. Kent has agreed to
21 stipulate to the chain of custody in this case for those
22 pieces of evidence. So we do have who took the swabs and
23 the person who tested it, but not the chain in the middle.

24 MR. KENT: That's correct, Your Honor.

25 MS. ABEE: I just wanted that for the record.

1 THE COURT: Well, before I bring the jury in, let me
2 talk to Mr. Durant for a second.

3 MR. KENT: Your Honor, I have one more matter.

4 THE COURT: What would that be?

5 MR. KENT: And I apologize. Just one more matter.
6 And I understand the Court's ruling on the Lyle issue on
7 allowing the witnesses to testify as to their Lyle
8 evidence. My question I would have for the Court is
9 noticing the State's witness list, there's other witnesses
10 that don't have anything relevant to MINOR who is
11 the major victim in this case, but there are witnesses who
12 would have relevance to some of the Lyle witnesses. It's
13 kind of a strange issue, but in light of what State vs.
14 Wallace says, is the State going to be permitted to call
15 corroborating witnesses to prove their Lyle witnesses? If
16 so, we have a motion in limine that all they would be
17 allowed to do is call the Lyle witnesses, not have mini
18 trials inside of mini trials to their Lyle witnesses.

19 THE COURT: I don't know what you're planning on
20 offering.

21 MS. ABEE: Your Honor, I think specifically one
22 witness -- and we can go through each of the witnesses if
23 Mr. Kent has more than one. One of the witnesses would be
24 Rondalyn Hodge. She is the mother of T.H. who is
25 one of the Lyle witnesses that is allowed to testify in

1 this case. Specifically, with Rondalyn Hodge, the
2 importance of her testimony is that when T.H. disclosed
3 to her in December, which is five months before May when
4 all this came out, she contacted the Defendant and spoke
5 with him about it and stated that her daughter wouldn't be
6 engaging in any prayer time with him anymore or anything
7 like that. So it does show, Your Honor, there is a
8 difference in time gap with these.

9 We do anticipate that part of the defense is going to
10 be that these girls got together and made up these
11 allegations, Your Honor. So showing that there was a
12 disclosure in December is extremely important to the
13 credibility of T.H., who is a Lyle witness.

14 Further, Your Honor, the statements made from
15 Rondalyn Hodge to the Defendant as well are extremely
16 important in this case to go towards the case as a whole,
17 not just necessarily T.H.'s events and what
18 happened with her.

19 MR. KENT: Then that would be my problem. That goes
20 against what similarity is doing with Lyle. They're
21 trying to prove another case through this case and that's
22 just not what Lyle is about.

23 We look at State vs. Wallace, in that language toward
24 the end of the case, actually, the appellate court, I
25 don't want to say chastised the trial court, but the trial

1 court at that point in time was redacting information that
2 wasn't similar. They said you can bring in the
3 similarities, but you can't bring in anything else. To
4 bring in this extraneous stuff to try to prove [REDACTED] 's
5 case has nothing to do with [REDACTED] 's case. They're trying
6 to prove the case as a whole.

7 THE COURT: Well, if you insinuate that the girls got
8 together and made this all up, it seems to me that it
9 would be fair game for the State in rebuttal to show that
10 there was a time gap between the time the one young lady
11 told her mother and the other girls.

12 MR. KENT: Perhaps, but --

13 THE COURT: That would be something you could take up
14 in your rebuttal phase of the trial, but not in your case
15 in chief.

16 MS. ABEE: Yes, Your Honor.

17 THE COURT: Okay.

18 MR. KENT: Are we going to go through the other girls
19 or is that the only one?

20 MS. ABEE: The other lay witnesses other than the
21 girls themselves would be Ulanda McRae, who is the aunt.
22 Okay. And then Lizzie Johnson, who is the grandmother of
23 both of them. And then I believe that would be it, unless
24 there's somebody else that we --

25 MR. KENT: Johnnie Mae Brayboy?

1 MS. ABEE: I'm not anticipating calling Johnnie Mae
2 Brayboy.

3 MR. KENT: I think we've addressed the issue, just to
4 make sure I'm clear on the record. They will be allowed
5 to put in the Lyle evidence. However, they will not be
6 allowed to prove up their Lyle evidence unless they can
7 make a showing to the Court that I've done something that
8 they need to rebut, a recent claim of fabrication. Until
9 then, they can't just put witnesses on to corroborate
10 their Lyle witnesses?

11 THE COURT: Correct. In and of itself, the young
12 ladies that testified yesterday, I don't know that I said
13 the magic words of clear and convincing evidence, but I
14 find that their testimony is clear and convincing evidence
15 of the fact of the other similar acts pursuant to a 404(b)
16 common scheme or plan were met. That ends -- they don't
17 need to corroborate that any further. But if there are
18 particular points that you bring out in cross or some
19 other phase of the trial, they may be allowed to call
20 witnesses to rebut, but not in their case in chief.

21 MR. KENT: Yes, Your Honor.

22 THE COURT: All right. Anything else?

23 MS. ABEE: Your Honor, I believe there was just some
24 discussion about putting the plea offer and the rejection
25 on the record.

1 THE COURT: All right.

2 MR. KENT: It --

3 THE COURT: Well, Mr. Durant -- do you want to talk
4 to him first?

5 MR. KENT: I do. If I can have one moment, Your
6 Honor.

7 THE COURT: Okay. I'm going to run one second, so
8 talk to him.

9 (WHEREUPON, a short break was taken.)

10 THE COURT: All right. Are you ready?

11 MR. KENT: I'm sorry, Judge. Just to make sure I'm
12 covered on the record and protecting myself and
13 Mr. Durant. On speaking to Ms. Blazer and then reviewing
14 State vs. Wallace and thinking about the argument that I
15 just made about not necessarily going into things that
16 aren't similar, we'd make a motion to not get into the
17 information about the abortion dealing with D.B.
18 because it is not similar in scope to the allegations
19 brought by MINOR and the question of why it would
20 be necessary to bring up at all.

21 State v. Wallace specifically talks about just
22 getting into the similarities and that would be the extent
23 of the purpose of this witness. The question would be why
24 is it relevant under the analysis of State vs. Wallace to
25 even get into that analysis? MINOR specifically

1 said he didn't give her any money. There's no talk about
2 an abortion. There's no talk about him paying to send her
3 anywhere. So the question would be what would be the
4 relevance and the necessity?

5 THE COURT: Would you like to be heard on that?

6 MS. ABEE: Just very briefly, Your Honor. It's clear
7 the abortion was part of the reasons why the Defendant was
8 praying for her. He was going to bump the seed out, which
9 is very similar to praying away diseases or praying that
10 she wouldn't like girls anymore. Your Honor, it's part of
11 that plot and ploy of the Defendant to encourage these
12 young women to engage in these sexual acts with him and to
13 coerce them to engage in sexual acts with him based on
14 something that they possess, whether or not they are
15 pregnant, whether or not they are attracted to females.
16 That's part of his plot and ploy.

17 Just because the specific subject matter as a reason
18 why he was coercing her, what that characteristic is that
19 she possesses is different than that of the victim doesn't
20 mean that it's not overwhelmingly still similar. As

21 MINOR stated, the Defendant was praying that she
22 would not like girls anymore, and then for D.B.
23 it was bumping the seed out so she wouldn't be pregnant
24 anymore. Your Honor, they are extremely similar and we
25 contend they are admissible under Wallace.

1 THE COURT: Well, I agree. The whole mode of his
2 actions with regard to the young ladies, he was using the
3 position that he had as pastor bringing them in for prayer
4 time, counseling, to aid them with some affliction that
5 they had. And, you know, the abortion issue is why he was
6 continuing to use that ploy with the one young lady.

7 So your motion is denied.

8 What else?

9 MR. KENT: Did you want to talk to Mr. Durant?

10 THE COURT: Yes.

11 Mr. Durant?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Do you want to stand for a second? All
14 right. I want to go over two things with you. First of
15 all, you are charged with criminal sexual conduct with a
16 minor second degree. That carries a sentence of up to 20
17 years in prison. I like to have it put on the record what
18 any plea offer was and for the record whether or not you
19 understood that that offer was made and that, presumably,
20 you reject it and wish to go to trial.

21 So what offer was made to him, if any?

22 MR. KENT: It was a 10 to 15-year sentence.

23 THE COURT: All right. Do you understand that?

24 THE DEFENDANT: Yes, sir, I do.

25 THE COURT: All right. And you understand that if

1 you get convicted, you could face up to 20 years in
2 prison? The Court is under no obligation to give you what
3 was offered by the State in a plea bargain?

4 THE DEFENDANT: I understand.

5 THE COURT: Okay. And you wish to go to trial?

6 THE DEFENDANT: Yes, sir, I do.

7 THE COURT: Okay. Now, I want to, also, go over with
8 you a right that you have, which is to testify or not
9 testify at trial.

10 You don't have to tell me now whether or not you want
11 to testify, but I'd like to go over it with you now. I'm
12 certain that your lawyers have gone over this with you,
13 but I'd like to make sure that we talk about it on the
14 record.

15 Whenever somebody is charged with a crime in this
16 state or any of the United States, for that matter, the
17 State has to prove the defendant is guilty beyond a
18 reasonable doubt. You do not have to prove that you are
19 innocent of this charge. The State has to prove your
20 guilt.

21 Part of that is -- the only obligation that you
22 really have is to show up, which you've done. You don't
23 have to put up a defense. You don't have to call
24 witnesses. You don't have to testify if you don't want
25 to. You can put up a defense. You can call witnesses,

1 and you can testify if you want and tell the jury your
2 side of the story. However, you have the Constitutional
3 right to not testify. And I bring that up because that is
4 a Constitutional right, which means only you can exercise
5 it and only you can waive it or give it up.

6 So you don't have to tell me today whether or not you
7 want to testify. You can change your mind between now and
8 then as to whatever you're thinking about doing. That is
9 totally a matter between you and your lawyers. But after
10 the case -- after the State presents all of the evidence
11 that they are going to present, then you have to make a
12 decision as to whether or not you are going to testify at
13 that time and you and I will have this conversation again
14 because, again, it is your right to testify. It is your
15 right to not testify. If you decide you don't want to
16 testify, I will instruct the jury that they are not to
17 consider that in any way while they are deliberating the
18 verdict.

19 If you are -- if you do decide you want to testify,
20 you will be put on the witness stand. You will be put
21 under oath and you'll have to answer not only the
22 questions that your lawyer asked you, but you will also be
23 subject to cross-examination by the State.

24 So I want you to be thinking about that. I'm sure
25 you have been thinking about that and discussing it with

1 your lawyers, but when this case gets to the point where
2 the State has finished calling all their witnesses, you
3 and I will have this discussion again and you'll have to
4 make a decision at that point as to whether or not you
5 want to testify.

6 Do you understand that?

7 THE DEFENDANT: Yes, sir I do.

8 THE COURT: All right. Now, I encourage you to
9 continue to discuss this matter with your lawyers and any
10 of your family members or friends that you place
11 confidence in, their decision or their judgment.
12 Ultimately, it's your decision and your decision alone,
13 okay?

14 THE DEFENDANT: Yes, sir.

15 MR. KENT: Just for the record, so after talking with
16 the Attorney General's office, the only usable record --
17 or the only thing on his record would be a 1978 grand
18 larceny, which would be a crime of moral turpitude.
19 However, we believe it would be outside of the 10-year
20 window and we have not been put on sufficient notice that
21 they're intending on using it. That's what they're
22 telling me it is, from 1978.

23 THE COURT: Did you have any intention of bringing
24 that up?

25 MS. ABEE: No, Your Honor.

1 THE COURT: Okay.

2 MR. KENT: So no usable record. So he can
3 understand, so if he chooses to testify, there would be no
4 record offered by the Attorney General's Office if he
5 chose to take the stand.

6 THE COURT: All right. Now, we were waiting on one
7 juror who, apparently, sprained his ankle yesterday, but
8 says he's on his way.

9 MR. KENT: Can I put one last thing and be done
10 maybe?

11 And this is just to cover myself on the record.
12 During pretrials, we made several motions. Ms. Blazer
13 made sure I've gotten all of them right. We made our Lyle
14 motion. We made the motion at the beginning of jury
15 selection in which we asked for a new jury panel based
16 upon the reading of the indictment with the four
17 subsequent indictments. We made a motion for the
18 suppression of testimony of D.B. We made a
19 motion for the suppression of the search warrant issue
20 dealing with the picture of the penis. I think that will
21 be the extent of the motions made in pretrial.

22 Just for the record, I understand the Court's
23 rulings. We renew all the motions at this point in time.
24 And just for the record in case a higher court is reading
25 this someday, the motions that we made at that point in

1 time control how we would try this case at this point in
2 time. Just for the record, that does make the decision on
3 how we will try the case based on the Court's rulings.

4 THE COURT: All right.

5 MR. KENT: Thank you, sir.

6 THE COURT: I'll renew my denial on all of them.

7 MR. KENT: Yes, sir.

8 THE BAILIFF: Not here yet.

9 THE COURT: All right. Well, as soon as the juror
10 gets here, we'll get started. So if you want to stand at
11 ease, use the restroom or anything, we'll get started as
12 soon as that juror shows up.

13 (WHEREUPON, a short break was taken.)

14 MR. KENT: The Defendant is here.

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

16 (WHEREUPON, the jury entered the courtroom at
17 10:01 a.m.)

18 THE BAILIFF: All the jurors are in the courtroom,
19 Your Honor.

20 THE COURT: Thank you. All right, folks, well,
21 welcome back. We are going to get started now with the
22 trial, but before we do, I need to have you placed under
23 oath, so if you would, please stand and raise your right
24 hand while the clerk administers your oath.

25 THE BAILIFF: Ladies and gentlemen of the jury,

1 please stand and raise your right hand to be sworn.

2 You shall well and truly try and true deliverance
3 make, between the State of South Carolina, and Larry
4 Durant, whom you shall have in charge, and a true verdict
5 give, according to the law and the evidence, so help you
6 God.

7 Please respond by saying will.

8 (All responded affirmatively.)

9 THE BAILIFF: Thank you. Be seated.

10 THE COURT: All right. Now, the gentleman down on
11 the end with the tie and the beard. What is your name and
12 number?

13 PROSPECTIVE JUROR: Fifty-five, Roy Graham.

14 THE COURT: Mr. Graham, congratulations, you're the
15 foreman of the jury. You don't get any extra pay, you
16 just write the verdict on the indictment at the end of the
17 trial and if things get out of hand in the back, you're in
18 charge to calm things down. All right. We don't have
19 assigned seats in here, but, traditionally, the foreman of
20 the jury sits in that chair right there, so when we come
21 back, you swap with that lady or just take that chair.
22 Anybody else can sit wherever they want, but I'm
23 appointing you foreman of the jury. So congratulations.

24 Now, let me go over a few things with you as to what
25 we do when we have a trial. As I told you, this is a

1 criminal case. General Sessions is our big fancy word for
2 criminal court. Everything we do has big fancy words and
3 that's why I like to try explain it sometimes. Probably
4 most of you have not been in a jury trial before. Maybe
5 if you have, it was in municipal court or magistrate court
6 or something like that. We have certain rules and
7 procedures we follow. All of them make sense to us
8 because we've been doing them for awhile, but if you
9 haven't lived in this world that we live in, some of the
10 words and some of the things we do may not make sense to
11 you. So I'd like to take a couple of minutes and explain
12 the process and procedure to you to help you understand
13 the flow of what we do.

14 Now, as I said, this is circuit court. We have
15 General Sessions court and Common Pleas court. General
16 Sessions is criminal court, Common Pleas court is civil
17 court. So we're doing General Sessions or criminal court
18 this week for this trial. And as I told you yesterday,
19 the State of South Carolina indicted Mr. Larry Durant in
20 indictment 2014-GS-43-947 with the charge of criminal
21 sexual conduct with a minor in the second degree. And,
22 specifically, the State is alleging that on or about some
23 time between December 26th, 2012, through May 10th, 2013,
24 the Defendant, Larry Durant, did in Sumter County
25 unlawfully engage in sexual battery upon the body of

1 MINOR date of birth is 1999, the
2 victim being less than 16 years of age in violation of
3 section 16-3-655(b) of the South Carolina Code of Laws as
4 amended. And again, this is against the peace and dignity
5 of the state contrary to the statute in such case made and
6 provided. The indictment was brought by the Attorney
7 General's Office, and this is the instrument by which the
8 Defendant is put on notice of what he is to stand trial
9 for. And it also gives this Court jurisdiction of the
10 case so that we can proceed with the trial. Other than
11 that, the indictment serves no function. It is not
12 evidence in this case and it raises no presumption of
13 guilt.

14 In fact, as I told you yesterday when we were
15 qualifying the jury, the Defendant is presumed to be not
16 guilty of this charge. That presumption stays with him
17 throughout the trial unless and until at the end of the
18 trial, you, the jury, find him guilty of the charge beyond
19 a reasonable doubt.

20 Other than that, the case, when it is brought, he
21 pled not guilty to it and therefore, it becomes incumbent
22 upon the State of South Carolina to provide him with a
23 trial of 12 people from the community and then the State
24 has to provide evidence to you to convince you beyond a
25 reasonable doubt that he is guilty of this charge. And if

1 they do not provide enough evidence to convince you of his
2 guilt beyond a reasonable doubt, you have a duty to find
3 him not guilty of this charge.

4 All right. Now, when we have a trial like this, as I
5 told you, he is presumed to be not guilty of it. And we
6 have certain Constitutional rights that we all have when
7 we are charged with a crime in this state. You have them.
8 I have them. Mr. Durant has them. The court reporter,
9 everybody in this courtroom has them. Among those
10 Constitutional rights is the right of the Defendant to not
11 testify if he doesn't want to. I do not know if he plans
12 to testify or not, and at this point in the trial, he does
13 not have to tell me.

14 I bring this up for you for the sole purpose that
15 sometimes people think well, the Defendant needs to get up
16 and tell his side of the story. He does not. That is
17 absolutely against the law of this state on a
18 Constitutional level, both the Federal and State
19 Constitutions. No person is required to testify when they
20 are charged with a crime. If he decides to, that's his
21 business. If he decides not to, that's his business. But
22 if he decides he does not want to testify or present a
23 defense even for that matter and call any witnesses, you
24 are not to hold that against him in any way while you are
25 deliberating. Your deliberations are based on the

1 strength of the evidence that you hear. The State, again,
2 has to prove enough evidence for you to believe that he is
3 guilty of this charge beyond a reasonable doubt or you
4 cannot convict him of this. You must find him not guilty.

5 He does not have to prove he is innocent. The State
6 has to prove he is guilty. That is an important
7 Constitutional right. I'll mention it more than once
8 throughout this trial. That's how important it is. I
9 want you to remember it and keep it in mind throughout the
10 trial.

11 Now, I've told you about this concept of proof beyond
12 a reasonable doubt. What is that? All right. We have a
13 concept called a burden of proof, which simply means the
14 amount of evidence that a party has to present in order to
15 convince you, the jury, to find in their side. We have --
16 as I said, criminal court and civil court. The levels of
17 proof that are required for a side to prevail are
18 different in criminal court than civil court.

19 In a civil case, again, where people have sued
20 because they had a disagreement and can't resolve it among
21 themselves, the level of proof is called a preponderance
22 of the evidence, or sometimes it's stated another way,
23 it's called the greater weight of the evidence or is
24 whatever the party is trying to prove more likely true
25 than not. Think of it as a car wreck situation, okay,

1 that's a common civil case. And the person who is suing
2 the other person, whoever brings the lawsuit has the
3 burden of proving what they allege in their complaint.
4 And that burden of proof in a civil case is called a
5 preponderance of the evidence.

6 For a lot of folks who are like me, you're visual
7 learners and it helps you if you can see something a
8 little bit better to understand it. So we often refer to
9 that scales of justice you see, the lady justice holding
10 out the scales like that.

11 When a case starts out, the sides are even, all
12 right. In a civil case, the plaintiff is the big fancy
13 word for the person who brings the lawsuit. The defendant
14 is the person who gets sued. The plaintiff has to tip
15 those scales, even if it's just a little bit, in order to
16 prevail, the greater weight of the evidence. If at the
17 end of the trial, the scales are still even or they tip in
18 favor of the defense, the jury has to find in favor of the
19 defendant.

20 Well, let's contrast that with a criminal case like
21 this. In a criminal case, you have the State of South
22 Carolina and the defendant. The State has charged the
23 defendant with a crime and so the State has to tip those
24 scales in its favor in order to prove that he is guilty,
25 but that burden of proof is much stronger or heavier on

1 the State than it is in a civil case. And we call that a
2 preponderance -- or excuse me, beyond a reasonable doubt.
3 And beyond a reasonable doubt, essentially, means after
4 you've heard all the evidence, you have to be firmly
5 convinced of the defendant's guilt. If you're not firmly
6 convinced of the defendant's guilt, then you have a duty,
7 an obligation to find him not guilty. On the other hand,
8 if you are firmly convinced of his guilt, you have a duty
9 to find him guilty.

10 Let's go back to those scales then and help us, you
11 know, understand the difference between civil and
12 criminal. You have the State on one hand, the defendant
13 on the other hand. Those scales have to tip quite a bit.
14 Remember in the civil case, they've got to tip a little
15 bit. In a criminal case, those scales have to tip quite a
16 bit more. So that's what we mean by preponderance of the
17 evidence in a civil case versus beyond a reasonable doubt
18 in a criminal case. In a criminal case, the State has a
19 heavier burden of proof, and you have to be firmly
20 convinced of his guilt in order to convict him.

21 Now, let's talk about the roles that everybody is
22 going to have throughout this trial. Everybody in here
23 has a role, all right. My job as the trial judge is to
24 conduct the trial, make sure both sides get a fair trial,
25 and then I, also, have to charge you on what the law is in

1 this type of case. That's my job.

2 Your job is also as judges, but you're a different
3 type of judge. You're the judge of the facts. You're
4 going to hear contested evidence. Otherwise, we wouldn't
5 be here, all right.

6 You're going to hear contested evidence, and it's up
7 to you to decide what to believe. I don't get a choice.
8 The law doesn't permit me to tell you what I think about
9 the facts of this case or whether or not to believe one
10 witness over another witness. That is totally up to you.
11 Your job is to judge things like credibility, what a
12 person looks like when they're testifying. Do they have a
13 motive or an interest of the outcome of a lawsuit? Do
14 they have some kind of bias or prejudice? Those are all
15 things that you alone as a jury decide. So when you're
16 back deliberating at the end of the trial, you can discuss
17 what you think of a witness's testimony and then make a
18 decision as to whether or not to believe them or not. But
19 that is totally your job. It has nothing to do with me,
20 and I'm not allowed to have an opinion, and I'm not
21 allowed to express it to you if I did have an opinion.

22 So that's your job, is to sit in the courtroom and
23 listen to the evidence that is presented to you in this
24 courtroom. And then at the end of the trial, you take the
25 a law that I tell you applies to this, apply it to however

1 you resolve the facts and then say well, did the State
2 meet its burden of proving that he is guilty of these
3 charges beyond a reasonable doubt. That's really what it
4 boils down to, okay.

5 The lawyers have their jobs. Their job is to present
6 evidence, and, occasionally, to make arguments to you.
7 The lawyers are not witnesses in this trial. So whatever
8 the lawyers say is not to be considered by you as
9 evidence. Evidence is when we bring a witness up, put
10 them under oath, and they tell you what they heard, they
11 saw, they touched, they felt, they smelled. That's
12 evidence. Photographs of anything if it comes in, that's
13 evidence, documents, that's evidence, but lawyers talking
14 to you like they will in a few minutes when we have
15 opening arguments, that's not evidence. When a lawyer ask
16 a question of a witness, that's not evidence. The answer
17 to the question is evidence, okay. So keep that in mind.
18 That might help you, you know, follow that a little bit
19 later, but sometimes -- frankly, you're probably going to
20 hear more from the lawyers than you hear from anybody else
21 throughout trial. So it's important to understand, you
22 know what, that's the lawyers talking. What was the
23 evidence in the trial? Okay. That's the only thing that
24 should concern you when you are deliberating is what did
25 those folks say, what did the documents show us, what did

1 the photographs show us, that sort of thing.

2 Now, we have some procedural things that we need to
3 follow. That's part of my job, to make sure that we
4 follow our rules of procedure and our rules of evidence.
5 And procedure simply means that we have an order to the
6 trial. And it begins here me swearing you in and then
7 talking to you a little. Then we'll move to -- the trial
8 begins when the lawyers come up and begin with an opening
9 statement. It's simply the lawyers getting up making a
10 fairly brief opening statement about what the trial is. I
11 call it the Reader's Digest condensed version. And it's
12 simply to tell you what the issues are in this trial, what
13 it is that you're likely to hear. It will help you then
14 follow what this case is about.

15 It's important to remember that's just an opening
16 statement, it's not evidence, all right. So the State has
17 the burden of proof, so the State will get to go first,
18 make their opening statement. Then the Defendant's lawyer
19 will get a chance to make an opening statement if he
20 wishes because, again, he doesn't have to. They can sit
21 there throughout the trial and never utter a peep. But if
22 they want to, they'll have the opportunity to make an
23 opening statement. Then we'll move into the evidence.

24 All right. The evidence will be starting with a
25 witness getting sworn in. They'll tell you what they saw,

1 they heard, they touched, they felt, they smelled. We'll
2 go through all of the witnesses that the sides present.
3 And then at the end of the trial, we have -- the lawyers
4 will get back up and make closing arguments.

5 They'll then review all the evidence that you've
6 heard and attempt to persuade you to render a verdict in
7 their client's behalf. They'll tell you what the law is
8 that I'm getting ready to charge you on. And, again,
9 attempt to persuade you to render a verdict on their
10 client's behalf, either the State of South Carolina or
11 Mr. Durant.

12 Then I will charge you on the law that applies to
13 this kind of case, and then you'll go back in the jury
14 room and discuss it until you come up with a unanimous
15 verdict. That's what we do.

16 Now, occasionally, we have -- the one other phase of
17 the trial that I have duties on is to rule on evidence.
18 And evidence -- you know, all our rules of evidence boil
19 down to this. We're trying to get evidence to you in its
20 best and most reliable form. We call it legally competent
21 evidence. So most of the time, it's with people telling
22 you, again, what they saw, heard, touched, felt, smelled.
23 But you'll hear occasionally one of the lawyers will stand
24 up and say I object. That's their coded word for me to
25 say, Judge, tune in, you've got to make a ruling here.

1 That's part of my job, to make sure that evidence is
2 the kind of evidence that you're supposed to be allowed to
3 hear. Some evidence is reliable in its form and
4 sometimes, it's not reliable in its form. It's my job to
5 make sure that you either hear only -- you hear only the
6 kind of evidence that you're supposed to hear. Because
7 when it's all said and done at the end of the day, if
8 there ever is an appeal from a case, 99 percent of the
9 time, if there is any evidence to support what the jury
10 found as their verdict, then the appellate courts approve
11 it. Ninety-nine percent of the time when a case gets
12 reversed, it's because the judge made a mistake at the
13 trial, either in incorrectly charging you on what the law
14 is or maybe I let you hear something you weren't supposed
15 to hear or I kept you from hearing something you were
16 supposed hear.

17 So nobody wants to do a trial twice. We're trying to
18 do it one time and do it correctly. So when a lawyer
19 stands up and says I object, then I have to make a ruling.
20 Sometimes I can make a ruling based on just the flow of
21 the trial and the evidence when they say I object,
22 hearsay, maybe. I can go sustained or overruled.

23 Sometimes, I have to have the lawyers come up here
24 just out of your earshot and make a little argument so I
25 can, you know, hear what the -- their argument is about a

1 little bit more. Sometimes, it's necessary for me to send
2 you back out into the jury room so that I can hear their
3 arguments a little bit better or hear what the witness was
4 going to say so that I can make a ruling on that.

5 Nobody is trying to hide anything from you. We're
6 just trying to do it correctly so we're only doing this
7 one time. So don't hold it against the lawyer when they
8 say object. They're just doing their job and I'm just
9 doing my job, all right.

10 So we don't make lots of progress when I stand here
11 talking. However, it's necessary for me to talk just a
12 little bit. I will leave you with one last thing before I
13 let the lawyers make their opening statements. And this
14 is the most common sense sounding piece of advice I'm
15 going to give you, but you'd be surprised at how hard it
16 is to do, so I'm going to stress it to you. Keep an open
17 mind until you've heard all of the evidence.

18 You're going to hear one witness at a time. And it's
19 only natural, you know, when you hear a witness -- one
20 side has to call that witness and you're going to hear
21 that side first. Then we have cross-examination where the
22 lawyers on the other side gets to ask questions. And then
23 we'll get a little round of redirect and then a round of
24 recross, and then we'll move on. So you're going to hear
25 something that's going to make an impression on you, but

1 you're all over the age of 18. You've lived a little bit.
2 I see some gray hair. And you have figured out that
3 there's usually two sides to every story. And it's
4 important that you listen to all of this evidence before
5 you begin to make up your mind, all right, because your
6 mind is going to change back and forth, back and forth.
7 Try your best to keep an open mind.

8 That's one of the main reasons why I always tell you
9 when you go back there don't begin deliberations or
10 discussions about the case because you haven't heard all
11 the evidence. It's really not proper to begin your
12 deliberations until you've heard all of the evidence in
13 the trial. People tend to get set in their positions a
14 lot of times with their first impressions. That's not to
15 say you won't come back to your first impression, but I
16 can almost certainly guarantee you that in this trial,
17 unless it's totally different than every other trial I've
18 ever been, more than once, you're going to think about
19 things a little bit differently than you did the first
20 time you heard something.

21 So keep an open mind and you'll have plenty of time
22 at the end of the trial when you guys are doing your
23 verdict to discuss it in a full and free manner and talk
24 about it and resolve it however you resolve it.

25 So that's the last thing I'm going to tell you before

1 I turn it over to the lawyers to begin with their opening
2 statement. As I said, the State has the burden of proof,
3 so I'll let the Attorney General make the first opening
4 statement.

5 So who is that?

6 MR. FERNANDEZ: Thank you, Your Honor. May it please
7 the Court?

8 THE COURT: Go ahead.

9 OPENING STATEMENT BY MR. FERNANDEZ

10 MR. FERNANDEZ: Good morning, ladies and gentlemen.

11 THE JURORS: Good morning.

12 MR. FERNANDEZ: Good morning. I'm going to
13 reintroduce myself. My name is David Fernandez. And I,
14 along with co-counsel, Kinli Abee, will be representing
15 the State of South Carolina in the matter of State V.
16 Larry Durant.

17 I want to first begin by thanking y'all for your
18 service. I know -- we all know that jury duty is a
19 hassle. Everyone has things do in their life. However,
20 jury service is, perhaps, the most important thing that
21 any citizen can do for their country. This country is
22 founded on the rule of law, and in order to do anything,
23 we need jurors. We cannot accomplish, essentially,
24 anything without jurors that will give their time and come
25 and serve. So for that, I want to thank you.

1 This case, ladies and gentlemen, is about power.
2 It's about church abuse. It's about a man who is a pastor
3 in two churches. And it's about a number of female
4 victims, teenagers, who were taken advantage of.

5 This case -- and I'm going to be honest, this case
6 may make some people uncomfortable. We're going to be
7 talking about things that generally will make people
8 uncomfortable and we wouldn't be human if it didn't. It's
9 just -- it's not going to be an easy subject. The law in
10 this case is criminal sexual conduct with a minor in the
11 second degree. And Judge Young did a fantastic job
12 introducing some of the things that are going to go on
13 today. I have no doubt he's going to do a great job
14 charging y'all on it. What he says -- what he will tell
15 you is what the law is, but, essentially, it's there was a
16 sexual battery of a victim who was between the ages of 11
17 and 14.

18 Sexual battery, you can think of -- and it will be
19 defined for you. Rest assured, you'll know everything you
20 need to know by the end of this case. But sexual battery
21 is, essentially, some sort of penetration, be it sexual
22 intercourse, digital penetration, some sort of penetration
23 of the victim. In this case, the victim is MINOR
24 sitting right over there.

25 The Judge also touched on reasonable doubt. And that

1 is the burden that the State has. One way to put it is
2 it's a doubt that would cause a reasonable person to
3 hesitate to act. Another way to put it is, what the Judge
4 was talking about earlier, that after hearing all the
5 evidence, it leaves you firmly convinced of the
6 Defendant's guilt, firmly convinced. It's a burden that
7 all states across the country use in criminal cases. It's
8 a burden that is routinely met. It's a burden that we
9 welcome and accept and we would have it no other way. We
10 intend to meet that burden in this case with the evidence
11 we present to you today.

12 What you'll hear in this case, you'll hear from a
13 number of people. You'll hear from law enforcement.
14 You'll hear from some family members and, most
15 importantly, you'll hear from victims. These victims
16 were, as I said, teenage girls. You'll hear from MINOR ,
17 you'll hear from T.H. , you'll hear from A.R. , and
18 you'll hear from D.B. These were all girls who grew up
19 in this church, since they were children, since before
20 they can even remember. They grew up with one man and as
21 far as they were concerned, his word was straight from
22 heaven. If he said it, it was true. They knew nothing
23 else. They went to church every day of the week for
24 multiple hours. Weekends, there half the day.

25 As I said before, Larry Durant used his power as

1 their spiritual leader, as an elder, as someone that they
2 grew up with, and he did something to them and we're here
3 today. He had intercourse with them and he touched them,
4 and they're going to come and tell you all about it.

5 Perhaps, they were a little naive. Perhaps, they
6 should have known better. They were children. MINOR ,
7 we'll show you, was 13 years old at the time. Again, knew
8 nothing else, knew nothing different.

9 As I said before, this subject matter is not going to
10 be easy. It's going to be uncomfortable. But what will
11 be easy is finding Larry Durant guilty of criminal sexual
12 conduct with a minor because he did it, and the evidence
13 will show it.

14 Thank you for your time.

15 THE COURT: All right. Mr. Kent.

16 MR. KENT: Thank you, Your Honor. May it please the
17 Court?

18 OPENING STATEMENT BY MR. KENT

19 MR. KENT: Ms. Abee, Mr. Richardson [sic]. How are
20 y'all?

21 THE JURORS: All right.

22 MR. KENT: Last night, I was driving home, I got done
23 with court, it was about 6:30, 6:00, 6:30, we were driving
24 home, and I had totally forgotten that I had made plans
25 with my fiance to do something. Totally forgot.

1 Completely slipped my mind. I told her I would be home at
2 a specific time and I wasn't close.

3 So I'm driving home, thinking about this case, and I
4 stopped by my mom's church. My mom's a Baptist minister
5 down in Charleston, South Carolina. Stopped by my mom's
6 church and we were sitting there, we were talking for a
7 while. You go to church, you know, and there are certain
8 ladies in the church will come up to you and want to talk
9 to you and kiss you on the lips and talk to you. I'm
10 like, Oh, my God, don't kiss me on the lips. And they
11 come and they kiss you and their scent perfume is all
12 over your body and you're like, oh, my God, that's the
13 cheapest perfume I've ever smelt.

14 So at my mom's church, this little old lady comes up,
15 oh, my God, I'm so happy to see you. You've gotten so
16 big. And she comes and she kisses me on my lips and she
17 hugs on me and doing this. I've got her perfume all over
18 me. I leave my mom's church, I go home and I grab my
19 phone. I forgot my phone. You can anticipate what's
20 happened. I've got about 15 missed text messages and
21 calls from my fiancée, where are you? Where you been?
22 Where are you? Where you been?

23 So I go home. I walk into the house. I'm just like,
24 I've been to court this entire time. I forgot to mention
25 the church part. Been in court this entire time. She

1 looks at me. I've got a little lipstick right here on my
2 collar, smell like perfume and I've got lipstick right
3 here. So she looks at me and she just explodes. No, you
4 haven't. I know where you've been. How dare you, you
5 cheater. You did this. You did that. You dirty son of a
6 gun. How am I ever going to trust you? And of course, I
7 do what all guys do in that situation, I said, Baby, baby,
8 baby, calm down, calm down. Let me tell you the rest of
9 the story. And that's what this case is about. There are
10 truly two sides to every story. And that's what I'm going
11 to need y'all to do today. I'm going to need y'all to
12 listen to both sides of the story because there truly are
13 two sides of the story.

14 My fiancée last night turned into the Attorney
15 General's Office, their officers, their witnesses. They
16 turned into them. They made an assumption and they jumped
17 on it. They hopped on it and they believed with it with
18 everything they have. All their fervor, all their energy,
19 all their power, all their money, they started to believe
20 in a story. The problem is when you start to believe in a
21 story and start to make it true, you look for things that
22 make it true. Me, fiancée, where have you been. Well,
23 I've been at court. Court's been over forever. You
24 couldn't have been at court this whole time. She starts
25 to believe in things. She starts to leave things out.

1 Why didn't you call? Why didn't you text? Why didn't you
2 get in touch with me? Darling, I'm sorry, you know, it
3 just slipped my mind. The same conversations that we have
4 all the time.

5 And, ladies and gentlemen, that's the same
6 conversation that I'm going to want you to have as you
7 listen to the evidence from the great State of South
8 Carolina as they put it on the stand against my friend,
9 Larry Durant, who sits here a completely innocent man.

10 Now, we're starting to hear the rest of the story.
11 Mr. Fernandez got up and gave you an excellent
12 presentation about you're going to hear from a bunch of
13 girls. You're going to hear about this man who was
14 complete with power, who took his power out and took it
15 out on these young ladies. The rest of the story you're
16 going to hear about is a blind man with no legs. And
17 you're going to hear this story, the rest of the story.
18 You're going to hear about DNA. You're going to hear
19 about evidence. You're going to hear about police
20 officers.

21 And as you listen to each piece of that evidence,
22 what I want you to do is challenge yourself and say to the
23 great State of South Carolina live up to the burden, live
24 up to the promise, live up to the claim that they gave to
25 us in opening statement. Are they going to keep up with

1 everything they just promised us? I don't think they're
2 going to.

3 I'm going to be candid you. Myself and my dear
4 friend, David weeks, attorney friend of mine, Cameron
5 Blazer, together all represent our friend, Pastor Durant.
6 When he came to me and I heard the story, I'll be very
7 candid with you, when I heard the first story and I heard
8 the allegations, guess who I turned to, my finance. Oh,
9 my God, how could somebody make such allegations? Because
10 that's what y'all are going to be thinking. Let's get it
11 out right now. Everyone is going to say the same thing.
12 How can somebody make such allegations? Why would girls
13 make these things up? Don't be embarrassed because I had
14 the same conversation and the same statements.

15 I had the conversation with David Weeks. I had the
16 conversation with Cameron Blazer. And we looked at it.
17 And then we started looking a little deeper. We started
18 to listen to his story. And then I didn't just listen to
19 his story, because you can't do that. And that's not what
20 I want you to do. Because if this was the case, all that
21 would happen is he would say I didn't do it. They would
22 say he did, and we would be done.

23 So we do something very interesting. We do what the
24 Judge told you at the beginning. Do you remember, he said
25 evidence. He talked about evidence. That's what I want

1 you to look for in this trial. There should be what's
2 called corroboration of all facts. There should be
3 officers who put information inside of statements that
4 tell us everything that happened. There shouldn't be
5 hiding. There shouldn't be evidence missing. There
6 should be DNA evidence. These are things we look for. We
7 look for if a child talks as a child or has been coached
8 to talk like an adult. We look for if there's a reason,
9 if there's a motive, if there's some reason out there why
10 people aren't telling the truth. That's what this trial
11 is really about.

12 I'll leave you with, my friend, Cameron Blazer,
13 before she became an attorney -- and she's a sensational
14 attorney. We fight all the time like brother and sister.
15 Before she became an attorney, she was a chef. She's,
16 actually, a very good cook. She's never cooked for me,
17 but she's a very good cook. When you talk about cooking,
18 that's what reminded me of this case. We've all cooked
19 before and you've all tasted food. And when somebody
20 makes you something good one time, you go, God, I love
21 that. That's so good. I would like to have it again.
22 And when you get ready to have it again, sometimes
23 something's missing. All right. There's not enough salt
24 in it. Maybe there's not enough pepper in it. Just
25 something is missing. All the ingredients aren't there.

1 And when all the ingredients aren't there, the dish is not
2 complete. At the end of this trial, you're going to
3 realize they've been cooking and they're going to offer
4 you a dish. They're going to have some meat. Oh, they're
5 going to have some meat. And they'll probably have some
6 potatoes with it. But they're going to be missing a lot
7 of seasoning. They're going to be missing some
8 silverware. And they're going to want you to eat it with
9 your hands without any napkins. Because what they're
10 hoping is you just look at the big picture and don't look
11 at everything around it. They're hoping you're not going
12 to dig in deep and say wait a minute, that just doesn't
13 make sense. So they're going to serve you a bland dish
14 very cold and hope you eat it. Thank you very much.

15 THE COURT: All right. Call your first witness.

16 MR. FERNANDEZ: Thank you, Your Honor. The State
17 calls Detective Kelly.

18 THE BAILIFF: State your name, please.

19 THE WITNESS: Detective Natalie Kelly.

20 NATALIE KELLY, after being duly
21 sworn, testified as follows:

22 THE BAILIFF: Come around, please. State your name,
23 spell your last for the record.

24 THE WITNESS: Good morning, Detective Natalie Kelly.
25 K-E-L-L-Y.

DIRECT EXAMINATION

BY MR. FERNANDEZ:

Q Detective Kelly, would you please tell us with whom you're currently employed with?

A The Sumter City Police Department.

Q And how long have you been in law enforcement?

A A total of 14 years.

Q Okay. And what is your current role with Sumter Police Department?

A Lead detective in the violent crimes division.

Q Okay. Tell us a little bit about what your day-to-day responsibilities might be.

A I get reports in, investigate those reports. I talk with witnesses, victims, suspects, make arrests.

Q Okay. Have you received additional training in order to conduct investigations in homicides, violent crimes or sexual assaults?

A Yes, I have.

Q What kind of training have you received?

A I've had investigative training. I've had criminal sexual conduct training. I've had domestic violence training. I've had training with children, investigating children witnesses.

Q Thank you. I'm going to get right to the point, Detective Kelly. Do you understand why you're here today?

1 A Yes, I do.

2 Q Please tell me what first made you conduct an
3 investigation into Larry Durant?

4 A The report came to our office on May the 21st of
5 2013. The report was assigned to me on May 22nd, the
6 following day. At that time, I called in the victim and
7 interviewed her along with her guardian at that time.

8 Q Okay. Do you remember who that victim was?

9 A Yes, it was MINOR

10 Q Okay. And when you met with the victim, did you
11 conduct an interview of her?

12 A Yes, I did.

13 Q Okay. And during that interview -- I'm going to be
14 specific here. During that interview, did she disclose to
15 you that a sexual assault had occurred?

16 A Yes, she did.

17 Q Did she disclose to you when it occurred?

18 A Yes, she did.

19 Q Okay. When did she say it occurred?

20 A She said it occurred back in 2012, the end of 2012
21 throughout 2013.

22 Q Okay. And did she say where the sexual assault had
23 occurred?

24 A She did.

25 Q Where did she say it occurred?

1 A It was, actually, two different locations.

2 Q Okay.

3 A Churches that she attended, Word International
4 Ministry located at 710 Manning Avenue in the City of
5 Sumter, and, also, another Word International Ministry
6 located at 1010 North Guinyard Drive in the City of
7 Sumter.

8 Q Both of those are within the County of Sumter, as
9 well?

10 A That's correct.

11 Q That would be the 1010 North Guinyard and the 710
12 Manning Avenue?

13 A That's correct.

14 Q Okay. Thank you. Did she say where within the
15 church that the sexual assault occurred -- or where within
16 the churches the sexual assaults occurred?

17 A She did.

18 Q Where within the churches did the sexual assaults
19 occur?

20 A She said it happened in her pastor's office.

21 Q And that would be for both churches?

22 A That's correct.

23 Q Okay. And did you have an opportunity to meet with
24 any other alleged victims in this case?

25 A I did.

1 Q Okay. Who did you meet with next?

2 A Ash --

3 Q Pursuant to your investigation, sorry.

4 A [REDACTED] A.R.

5 Q Okay. Did you conduct an interview of [REDACTED] A.R.

6 [REDACTED] ?

7 A I did.

8 Q Okay. And after interviewing [REDACTED] A.R., did she
9 disclose that a sexual assault had occurred to her?

10 A She did.

11 Q Okay. Did she disclose when it occurred?

12 A Yes, she did.

13 Q And when did she say her sexual assault occurred?

14 A She said it happened when she was a senior in high
15 school. She was 18 years old at the time, between 2011
16 and 2012.

17 Q Did she say where the sexual assaults occurred?

18 A She did.

19 Q Where did she say they occurred?

20 A She said that it happened at church in her pastor's
21 office in two different locations and at her pastor's
22 home.

23 Q And the church locations, would they have been the
24 same as the ones you just mentioned?

25 A That's correct.

1 Q Did you have an opportunity to meet with T.H. ?

2 A I did.

3 Q And did you interview T.H. ?

4 A I did.

5 Q Okay. Did T.H. disclose a sexual assault to you?

6 A She did.

7 Q And did she disclose when that sexual assault
8 occurred?

9 A She did.

10 Q And when did she say it occurred?

11 A She was 16 years old at the time it occurred. When I
12 met with her, she was 17 years old.

13 Q And did she say where the sexual assault occurred?

14 A She did.

15 Q Where did she say the sexual assault occurred?

16 A It occurred at her church, her pastor's church in the
17 pastor's office.

18 Q Did you have an opportunity to meet with and
19 interview D.B. ?

20 A I did.

21 Q After interviewing her, did she disclose a sexual
22 assault had occurred?

23 A She did.

24 Q Did she disclose when these sexual assaults occurred?

25 A She did.

1 Q When did she say they occurred?

2 A She said it was during her -- the end of 8th grade
3 school year, 9th grade school year. She would have been
4 13, 14 years old at the time.

5 Q And did she say where these sexual assaults occurred?

6 A She did.

7 Q Where did she say they occurred?

8 A She said it occurred at Word International Ministry
9 at 1010 North Guinyard Drive and, also, at her pastor's
10 home.

11 Q I don't know if you said this before, but I'm going
12 to ask it again. [REDACTED] MINOR how old was she at the
13 time of her disclosure -- or when she said the incident
14 occurred, sexual assaults occurred?

15 A She was 13.

16 Q Okay. After conducting interviews with those
17 victims, what's the next step in your investigation?

18 A I set them up for medical, forensic medical exams.

19 Q Okay.

20 A And then I got search warrants for those locations in
21 which they disclosed that a sexual assault happened.

22 Q Okay. And did you accompany them at the medical
23 examination?

24 A I did.

25 Q And the search warrants at the locations, tell me a

1 little bit about the two places you executed search
2 warrants for?

3 A 1010 North Guinyard Drive, which is Word
4 International Ministry, also, 710 Manning Avenue, Word
5 International Ministry, and at his residence at [REDACTED]
6 Bridges Road in the County of Sumter.

7 Q What sort of evidence did you collect at these
8 locations?

9 A Evidence from the church included hand sanitizer, air
10 freshener. At the residence, we collected electronic
11 devices.

12 Q Were any pictures taken as far as you are aware?

13 A Yes.

14 Q All right. Did you have an opportunity to meet with
15 Larry Durant during the course of your investigation?

16 A I did.

17 Q Did you have any discussions with him?

18 A It was brief.

19 Q Do you remember what was said, if anything?

20 A I just told him about the allegations, and he
21 respectfully denied talking to me about them.

22 Q Okay. And did you end up -- after conducting your
23 investigation and finishing it, did you end up taking
24 warrants out?

25 A I did.

1 Q And what did you charge Mr. Durant with?

2 A Criminal sexual conduct with a minor second degree.

3 Q Okay. Do you remember the date of arrest?

4 A The date of arrest was June 21st, 2013.

5 Q Is Mr. Durant here today?

6 A Yes.

7 Q Could you point him out for me?

8 A He's sitting over with the shades on and the blue
9 shirt.

10 MR. FERNANDEZ: Thank you.

11 Beg the Court's indulgence one moment.

12 (Pause.)

13 MR. FERNANDEZ: Nothing further, Your Honor.

14 THE COURT: Cross?

15 MR. KENT: Thank you, Your Honor.

16 CROSS-EXAMINATION

17 BY MR. KENT:

18 Q Detective Kelly, how are you?

19 A Good morning, Mr. Kent.

20 Q In the spirit of disclosure, we know each other very
21 well.

22 A (Witness nodded.)

23 Q Is that a yes?

24 A That's a yes.

25 Q As a matter of fact, in the last 14 years, I think

1 both of us have been here about the same amount of time,
2 we've had plenty of cases together, correct?

3 A That's correct.

4 Q And I know you've testified numerous times. I want
5 to make sure I go over the admonitions. I know you've
6 heard them before, but I want to make sure we're on the
7 same page. Madam Court Reporter can't take down head nods
8 and shakes and things like that, so make sure when you
9 answer questions, make sure your affirmative, yeses and
10 noes and I'll give you the opportunity to answer. Okay?

11 A Okay.

12 Q We're going to try our best not to talk over each
13 other so I don't get yelled at by her and make sure she
14 can take down every word you're saying. So I'll give you
15 an opportunity to answer your questions if you'll give me
16 an opportunity to ask my questions.

17 A Okay.

18 Q And everybody knows I speak entirely too fast, so if
19 at some point you don't understand my question, if you'll
20 simply ask me to restate it or ask it again, I'm happy to.

21 A Okay.

22 Q Now, the first thing first, you are the case agent on
23 this case, correct?

24 A That's correct.

25 Q Could you explain to the jury what a case agent, if

1 you don't mind?

2 A Case agent, pretty much what happens is the reports
3 come into the office, it's assigned to a detective and
4 it's that detective's job to fully investigate that case.

5 Q So it's safe to assume that you have full working
6 knowledge of everything that's included inside of this
7 case?

8 A That's correct.

9 Q So if I ask you questions, you would have knowledge,
10 or you would be able to grab the file and answer any
11 questions I have about this case?

12 A That's correct.

13 Q I want to talk a little about your training. I know
14 you're a very good officer and well-trained officer. They
15 train you officers at the Criminal Justice Academy,
16 correct?

17 A That's correct.

18 Q Some 14 years ago at the Criminal Justice Academy,
19 when they trained you, they trained you guys in report
20 writing?

21 A That's correct.

22 Q They trained you in investigation?

23 A That's correct.

24 Q They trained you in evidence collection?

25 A That's correct.

1 Q They trained you in the law?

2 A That's correct.

3 Q And they do all of these things to make sure you're
4 better officers, would you agree with me there?

5 A I agree.

6 Q And I want to talk first about report writing. Now,
7 they train us in report writing because -- how many cases
8 have you had in 14 years?

9 A Plenty.

10 Q And there's no possible way you have them all
11 memorized?

12 A That's correct.

13 Q So the report writing and incident reports, those are
14 things we try to do as close to the incident as possible,
15 correct?

16 A That's correct.

17 Q And we do that as close to the incident as possible
18 because memories are fallible, correct?

19 A Correct.

20 Q And the same thing with witness statements, they,
21 also, train us on witness statements, would you agree with
22 me there?

23 A Yes.

24 Q And in dealing with witness statements, it's the same
25 thing, try to get a witness statement as close to the

1 incident as possible, also?

2 A That's correct.

3 Q Because memories change?

4 A That's correct.

5 Q And memories are fallible, so we try to get it
6 written down as soon as possible?

7 A That's correct.

8 Q And then the Judge kept talking about and I've
9 mentioned it, you've heard the word evidence?

10 A That's correct.

11 Q You guys are in the business of just giving the jury
12 everything and trying to give them all of the evidence we
13 have in a case, correct?

14 A That's correct.

15 Q So one of the things that we do as officers, we don't
16 just put bad stuff in a report, we put all of the
17 information in the report?

18 A That's correct.

19 Q And that's something you always do?

20 A That's correct.

21 Q You put all of the information in a report and say
22 y'all do with it what you will?

23 A That's correct.

24 Q Because we don't -- or we shouldn't leave vital
25 information out of a report. Why is that?

1 A Because it's vital information.

2 Q Because it's vital information. And if you leave
3 vital information out of a report, what does that mean?
4 It could look like you're trying to hide something, right?

5 A That's correct.

6 Q And you don't ever want to look like you're trying to
7 hide something on a case because that could completely
8 hurt the investigation completely?

9 A That's correct.

10 Q I, also, want to talk to you -- you talked about the
11 fact that you've -- and I know you've had -- you've had
12 training interviewing children?

13 A That's correct.

14 Q Where were you trained in doing that? I know you
15 have been, but just for the record, where were you trained
16 in doing your interviewing with children, talking with
17 children and things of that nature?

18 A I've had training in Columbia, I've had it in
19 Lexington, I've had it in Charleston, several different
20 places.

21 Q Yes, ma'am. I first want to talk about forensic
22 interviews. Do you understand what a forensic interview
23 is?

24 A Yes.

25 Q What is a forensic interview, just so the jury

1 understands?

2 A Forensic interview is, basically, an interview of an
3 individual, mostly children, in reference to a crime that
4 may or may not have happened to them.

5 Q And when we do forensic interviews, it's usually when
6 we deal with children under the age of 14?

7 A Yeah.

8 Q We try to deal with -- pretty much, we try to deal
9 with younger children if we can?

10 A That's correct.

11 Q Okay. We try to record the setting?

12 A That's correct.

13 Q Almost always recorded in the State of South
14 Carolina. We record the interviews with these children?

15 A Well, it depends on the agency who is actually
16 conducting the interview.

17 Q Sumter County usually records the interviews for
18 forensic interviews?

19 A No.

20 Q They do not?

21 A They do not.

22 Q But they have? You would agree with me that there
23 are recorders that do exist to record children's
24 interviews?

25 A No, we don't have that capability. When we're doing

1 an actual forensic interview, we --

2 Q I'm sorry.

3 A We send them over to Columbia, who actually -- they
4 have the equipment and the setup to record those
5 interviews.

6 Q All right. And I apologize, that was a missed
7 question on my part. When we're dealing with children and
8 we need to have a forensic interview, we send the children
9 to some place, correct?

10 A That's correct.

11 Q And then we have those recorded from an actual
12 forensic interview?

13 A That's correct.

14 Q And we record these because we want to make sure
15 there's no suggestibility?

16 A That's correct.

17 Q We don't want the children suggested something
18 because what the forensic interviews are trying to do,
19 make sure that questions and answers aren't suggested to
20 children?

21 A Normally, with those type interviews, if the children
22 are of age and they can pretty much tell exactly what it
23 is that, actually, happened to them, we don't normally
24 refer them out if they're older. If they're younger and
25 cannot really articulate exactly what happened to them, we

1 normally send them out to have those interviews conducted.

2 Q Okay. So then we -- but they are video recorded?

3 A They are video and audio recorded, yes.

4 Q Because it's easier for the jury to see the video and
5 see the interview themselves and not take somebody's word
6 for what happened?

7 A When they're minor children, absolutely.

8 Q And in dealing, also, with your interviewing and
9 talking to children, we always suggest that we don't go
10 and do a bunch of multiple interviews with children, do
11 you agree with me there?

12 A That's correct.

13 Q And we don't like to do five or six interviews with
14 children. We like to get one and go from there because of
15 suggestibility and things of that nature?

16 A That's correct.

17 Q All right. And I want to talk about things that
18 you've done as the case agent or things that you're aware
19 of done on this file dealing specifically this case?

20 A Okay.

21 Q And things that you had already talked about with the
22 Attorney General's Office. You have done with pretty much
23 all of -- when I say all, there is only one victim in this
24 case that this jury is concerned with today?

25 A That's correct.

1 Q And that's just MINOR ?

2 A That's correct.

3 Q The other ones are not dealing with this case at
4 all -- or not charged in this case at all?

5 A That's correct.

6 Q And you interviewed MINOR ?

7 A That's correct.

8 Q You did your own written statement, you wrote her
9 statement out?

10 A I did not.

11 Q I'm sorry, you typed her statement out?

12 A I did not.

13 Q Did she write her statement?

14 A No.

15 Q Did somebody else type her statement up?

16 A No, she did.

17 Q Where did she do that at?

18 A At the law enforcement center.

19 Q Okay. So she was with y'all as she typed up her own
20 statement?

21 A She was with me.

22 Q And she typed it up on her own, wrote it on her own,
23 nobody coached her or coerced her or anything of that
24 nature?

25 A That's correct.

1 Q But, again, we don't have a recording or a video of
2 anything of that nature?

3 A That's correct.

4 Q And she would be one of the people we talked about
5 who was under the age of 14 that we could have done a
6 forensics interview with?

7 A We could have, but --

8 Q Okay. We just chose not to in this situation?

9 A Well, she was old enough to articulate what happened
10 to her. She didn't have any problems with describing what
11 happened to her.

12 Q Okay. She still was under 14?

13 A Yes.

14 Q Okay. After taking that statement and taking
15 statements from other individuals, you guys went to the
16 residence and I think you said -- and we talk about the
17 search for evidence. You got a search warrant and you
18 went and got and garnered evidence, would that be correct?

19 A That's correct.

20 Q And one of the things that we utilize to garner
21 evidence is you took information that Ms. MINOR put inside
22 of her statement and went to look for information to
23 corroborate what she said?

24 A I investigated it, correct.

25 Q And in doing that, there's certain things that we

1 did. You went and took pictures, correct?

2 A Correct.

3 Q You got cell phone records?

4 A Correct.

5 Q You got a search warrant for things that you found
6 inside of the residence? And by that, I mean, you got a
7 search warrant for -- and you took things like Febreze,
8 Lysol disinfectant, hand sanitizer. You took hair fiber,
9 you took DNA swab. This is all the stuff you took
10 collecting evidence?

11 A Yes. But that wasn't from the residence, that was
12 from the church.

13 Q From the church, okay. I want to first start with
14 all of the stuff that you took from the church based upon
15 the information that MINOR gave you. Do you have
16 your file in front of you?

17 A I don't have everything, but I can...

18 Q Are you familiar with the search warrant that I'm
19 talking about?

20 A Yes.

21 Q Okay. Can you tell me about the search warrant and
22 what did you take? And if you need a copy, I can give
23 that to you if that would that be helpful.

24 A From?

25 Q From the church?

1 A From one of the churches, we took one bottle of hand
2 sanitizer and from the other church, we took hair fibers,
3 hand sanitizer, air freshener. We collected some DNA
4 evidence, DNA swabs.

5 Q I think you're doing -- you're doing good.

6 A I think we --

7 Q Would you agree with me it was two cans of Febreze
8 Gain scent, one can of Lysol disinfectant spray, vanilla
9 and blossom scent, two bottles of instant hand sanitizer,
10 one suspected hair fiber from carpet, two DNA swabs from
11 the black leather chair, two DNA swabs from the right side
12 of the desk, two test swabs from front of the desk, two
13 DNA swabs from right -- the left side of the black couch
14 cushion, two DNA swabs from the right side of the black
15 couch cushion. Would you agree that's the return?

16 A Yes.

17 Q Explain to the jury what a search warrant and a
18 return is so they understand.

19 A A search warrant is, when you get a case and there is
20 evidence that you want to collect, if you have enough
21 probable cause, which is what you need to actually obtain
22 a search warrant, you put that information into the
23 warrant itself. You will take that paperwork or that
24 document to a magistrate judge, who will then review the
25 warrant, review the items that you're looking for, review

1 your probable cause. From there, they would actually sign
2 it. Then you're able to go and search the area in which
3 you have, obviously, the search warrant to obtain whatever
4 evidence you stated that you're looking for.

5 Q And the reason you were looking for this evidence is
6 based on the statement that you got from Ms. MINOR, as
7 well as potential others?

8 A That's correct.

9 Q Would you agree with me? So Ms. MINOR specifically
10 told y'all that you'd find DNA there or there would be
11 semen or some substance inside the church, would you agree
12 me there?

13 A Well, she didn't say that we would find it. She said
14 this is what happened. And, of course, we went to --
15 during the search, we searched for it.

16 Q For the record, tell me what you were told that made
17 you look for this evidence inside of the search warrant.
18 What did she tell you that made you look for the things
19 that you asked the Court for?

20 A Well, she told me that the pastor --

21 MR. FERNANDEZ: Your Honor, I'm just going to object
22 to hearsay here at this point.

23 THE COURT: I'm sorry, I couldn't hear you.

24 MR. FERNANDEZ: I'll object to the hearsay, Your
25 Honor.

1 THE COURT: Sustained.

2 BY MR. KENT:

3 Q As a result of what Ms. MINOR told you, that's the
4 reason you went looking for the information that you
5 looked for?

6 A That's correct.

7 Q And that's why you garnered all of the stuff we just
8 talked about in the search warrant?

9 A That's correct.

10 Q After you take everything that you get from the
11 search warrant, what do you do with it?

12 A It's collected by our forensic unit. They package it
13 up. They take it back to the office. From there, it's
14 sent to SLED, which is State Law Enforcement Center, in
15 Columbia to get analyzed.

16 Q And what do they do -- what are they analyzing for?
17 Just explain to the jury the whole process.

18 A They're analyzing for DNA. Whatever it is that we
19 send it over for, whatever we collect it for in our search
20 warrant, that's what they analyze it for. In this
21 particular case, it would have been DNA.

22 Q Okay. So make sure I'm right, based upon the
23 information, the statement that you got from MINOR
24 she gave you and the other individuals who you
25 interviewed, based upon them, you went to the church and

1 you took a bunch of stuff, swabs for DNA, looking for DNA.
2 I'm sure you looked in locations where they told you that
3 DNA would be found?

4 A That's correct.

5 Q You didn't just swab ceilings and stuff, right?

6 A That's correct.

7 Q Why did you choose to swab the couch?

8 A DNA evidence.

9 Q Why did you choose to swab the desk?

10 A DNA evidence.

11 Q You also found a hair fiber, also?

12 A That's correct.

13 Q What is the relevance of the hair fiber that you
14 found? If you need your search warrant, I can give it to
15 you or if you remember, that's fine.

16 A The relevance of the hair fiber is because she stated
17 that she was bent over his desk.

18 Q Yes, ma'am.

19 A While he was having sexual intercourse with her.

20 Q Yes, ma'am. So when we asked for the search warrant,
21 we said that we expect to find DNA evidence based upon
22 what was told to us?

23 A That's correct.

24 Q Isn't that how we get a search warrant? In this
25 search warrant, we said based upon what Ms. MINOR said,

1 please let us go in here to search this residence because
2 we expect to find hair fibers, we expect to find DNA, we
3 expect to find these things. That's one of the things you
4 have to tell a judge, that we expect to find this stuff
5 based upon our investigation, based upon what a witness
6 has told you?

7 A Yes. When we searched the church, not the residence.

8 Q And as the officer who is familiar with this full
9 case file and saying you're familiar with the SLED
10 results?

11 A Yes.

12 Q You've looked over the SLED results because they come
13 back to you as the case agent?

14 A That's correct.

15 Q Do the SLED results indicate the finding of any DNA?

16 MR. FERNANDEZ: Your Honor, I'll object at this
17 point. It's beyond the scope of her knowledge.

18 MR. KENT: She hasn't said it's beyond the scope of
19 her knowledge.

20 THE COURT: Overruled. Go ahead.

21 THE WITNESS: It said that it could not be
22 inconclusive with -- basically, it was mixed with several
23 different individuals.

24 BY MR. KENT:

25 Q Is that your testimony? Is that what you understand

1 from the SLED report?

2 A Yes.

3 Q Okay. You also did a search warrant for cell phone
4 records?

5 A That's correct.

6 Q And the search for cell phone records, one of the
7 things that you were asking about were towers and
8 locations?

9 A Yes.

10 Q You asked for towers, locations, user data,
11 information that could corroborate or distance Ms. MINOR
12 or anyone else's story. Would you agree with me there?

13 A That's correct.

14 Q The cell phone records turned up nothing. Would you
15 agree with me there?

16 A Yes. But the cell phone record wasn't for MINOR's
17 case.

18 Q The cell phone records turned up nothing. Would you
19 agree with me there?

20 A Yeah, but they wasn't for her case.

21 Q It was for someone else who you interviewed, who gave
22 you story and talked about it?

23 A That's correct.

24 Q You didn't just get other folks' cell phone records,
25 you got Mr. Durant's cell phone records, also?

1 A That's correct.

2 Q And the cell phone records turned up nothing?

3 A That's correct.

4 Q At some point, Ms. MINOR gave you statement talking
5 to you about a polka-dotted dress. Do you remember that?

6 A Polka-dotted?

7 Q In our file, she talked about a polka-dotted dress?

8 A I'd have to look at the statement. I don't remember
9 that.

10 Q Just one moment. Are you aware of a polka-dotted
11 dress at some point in time being sent to the State Law
12 Enforcement Division on MINOR based on a statement
13 that she would have given to you and Valerie Williams?

14 A Do you have that?

15 Q I'm going to show you the SLED report.

16 MR. KENT: Approach the witness, Your Honor?

17 MR. FERNANDEZ: Your Honor, I don't think it's
18 appropriate for this witness. It's beyond the scope of
19 her knowledge.

20 THE COURT: Let me see it.

21 (WHEREUPON, a bench conference was held.)

22 MR. KENT: Did you want to rule on that, Your Honor.

23 THE COURT: You can go ahead and ask her.

24 BY MR. KENT:

25 Q I'm not trying to trick you. And I understand it's

1 hard to remember everything that's included inside of the
2 file. Take your time and review that and see if that
3 refreshes your memory as to any information that you
4 noticed or saw inside the file that you testified that you
5 have all the information about.

6 (Pause.)

7 A I have no knowledge about that.

8 Q Okay. So you have no knowledge if this was included
9 in your case file, was in the case file? You just have no
10 personal knowledge of this at all?

11 A That wasn't included in my case file. Let me back up
12 just a little bit just to clarify that.

13 Q Yeah, please, please.

14 A There was actually two investigations in this case,
15 two investigators and two officers that investigated this
16 case. I began the initial investigation and from there,
17 the file -- or the case was, actually, turned over to the
18 Attorney General's Office for prosecution, which is not
19 uncommon when we have larger cases with multiple victims.
20 So I just wanted to clarify.

21 Q That's fine.

22 A And is from another investigator.

23 Q And, again, I'm not trying to trick you or anything
24 of that nature. I'm glad you gave that clarification. Do
25 you remember earlier I asked you if you're familiar with

1 everything inside of the file?

2 A Yes, everything that's inside of my case file, I'm
3 very familiar with.

4 Q Okay. With your own case file. You're not familiar
5 -- if anybody else did any additional work, you're not
6 familiar that information?

7 A If it's not in my file, no, I'm not.

8 Q So there's another officer that has done other
9 investigation inside of this case. Did y'all collaborate,
10 talk together or did she do her own thing and you do your
11 own thing?

12 A No, we talked.

13 Q But that's just some information -- the polka-dotted
14 dress is something you never talked about?

15 A No, I have no knowledge of that.

16 Q Okay. Were you given -- are you usually given all of
17 the summaries and statements and everything inside of the
18 file from the officer? Does she give you all of those?

19 A Normally, she does.

20 Q But that's something you've never heard anything
21 about whatsoever?

22 A No, I have no knowledge about that.

23 Q I want to talk to you briefly -- we're almost done, I
24 promise. I want to talk to you about investigating and
25 talking to all of the people you talked to in this case.

1 You've talked to a decent amount, would you agree with me
2 there?

3 A I agree.

4 Q And when we talk to individuals, we find out what
5 happened, they give you a statement as to what happened
6 and we decide if we're going to get an arrest warrant or
7 not. I think they were asking about getting arrest
8 warrants. Would you agree with me there?

9 A I agree.

10 Q Could you tell the jury what an arrest warrant is?

11 A An arrest warrant is, pretty much, an affidavit.
12 Again, it has probable cause in it as to why this
13 individual was arrested, the allegations. It's signed by
14 a judge. And from there, they take the arrest on the
15 individual. So it's just, basically, a charging document.

16 Q And in the charging document, one of the things you
17 said, it has an affidavit. It has a sworn statement from
18 you?

19 A That's correct.

20 Q Swearing to a judge that something is correct?

21 A That's correct.

22 Q And I've known you a long time. You're not the type
23 of person who's going to say something that's not correct
24 that you're not going to put in a document?

25 A That's correct.

1 Q And then you have to take it to a judge and say, Your
2 Honor, based upon the information I have, this is what
3 I've been told and this is the truth?

4 A That's correct.

5 Q And you've got arrest warrants for all of the
6 individuals who you just mentioned when Mr. Fernandez the
7 list?

8 A That's incorrect.

9 Q Who did you not get an arrest warrant for?

10 A D.B.

11 Q Okay. But the other ones he mentioned, you got
12 arrest warrants for?

13 A That's correct.

14 Q And so you would have gotten an arrest warrant for
15 MINOR ?

16 A That's correct.

17 Q You would have gotten an arrest warrant for T.H.
18 ?

19 A That's correct.

20 Q And I'm going to show you --

21 MR. FERNANDEZ: I'll just have to see what that is.

22 MR. KENT: I'm sorry.

23 (Pause.)

24 MR. KENT: Approach the witness, Your Honor? I'm
25 sorry.

1 THE COURT: Go ahead.

2 BY MR. KENT:

3 Q Would that be the arrest warrant that you got on
4 T.H. [REDACTED] ?

5 A That's correct.

6 Q And your signature is at the bottom of it?

7 A That's correct.

8 Q And have you had a chance to review and read the body
9 of it to make sure all the information --

10 A Yes.

11 Q Based upon what you have heard throughout the last
12 two days, is all the information you put inside of that
13 warrant still correct?

14 A That's correct.

15 Q That is based upon the information that you were
16 told?

17 A That's correct.

18 Q And there's nothing changing, what you were told,
19 that's what you were told and that's what's inside of that
20 warrant?

21 A That's correct.

22 Q Has anyone told you anything differently, that what
23 Ms. T.H. [REDACTED] is alleging is not what's in the body of this
24 statement?

25 A No.

1 Q Let's go ahead and say it. During the body of this
2 statement, Ms. T.H. alleges that Mr. Durant stuck his
3 fingers inside of her?

4 A That's correct.

5 Q And you were not aware that she has later said that
6 didn't happen?

7 A During her testimony, yes.

8 Q Okay. So during her testimony, she specifically said
9 that didn't happen, I never told anybody that?

10 A As far as fingers being stuck inside, but he did
11 touch her. That's what she said.

12 Q So the body of this warrant is in opposite or
13 different than what Ms. T.H. testified to?

14 A That's correct.

15 Q Is that the first time you've ever heard her say
16 something other than what she told you when she got this
17 search warrant?

18 A That's correct.

19 Q Did you ever have a subsequent opportunity to
20 interview Ms. T.H. with Valerie Williams or anybody of
21 that nature saying she never said anyone stuck any fingers
22 inside of her or anything like that?

23 A No.

24 Q And I know you as an officer, if you would have
25 gotten the information that you got yesterday, what would

1 you have done?

2 A I would have turned it over.

3 Q Would you have dismissed the warrant or reissued the
4 warrant saying that's not what happened?

5 A I can't say that I would have done that, but I would
6 have --

7 Q Well, if a witness comes to you and says this just
8 didn't happen, what you put inside of this warrant, what
9 would you have done?

10 A You mean prior to trial?

11 Q Prior to trial. No, I'm not -- prior to trial, a
12 witness comes and says this just isn't in there, that
13 didn't happen?

14 A I would make sure I let the prosecution know. Maybe
15 that warrant can be amended.

16 Q But, again, your testimony today is the first time
17 you ever heard about that was yesterday?

18 A During trial.

19 Q During trial. And your testimony is, also, there's
20 another officer who works on this case with you?

21 A Yes.

22 Q Her name is Valerie Williams?

23 A Agent Williams, yes.

24 Q And for the most part, she gives you -- all the
25 information that she has, she will put it in a memo and

1 give you copies of these memos?

2 A Yes.

3 Q And that's just because you're the case agent, so you
4 can have all the information?

5 A Yes.

6 Q So you can make sure the right thing happens?

7 A That's correct.

8 Q If you're not given all the information, you're in
9 the position you're in right now that you don't know
10 exactly what happened?

11 A That's correct.

12 Q And in these memos, you would agree me that when
13 someone else is writing a memo, it should have as much
14 detail as possible so when you're reading it, you know
15 what happened?

16 A That's correct.

17 Q Because without all the necessary information, you
18 would just be up here guessing?

19 A That's correct.

20 Q And we wouldn't tell the jury exactly what happened
21 that day?

22 A That's correct.

23 MR. KENT: Thank you so much.

24 Beg the Court's indulgence for one moment.

25 THE COURT: Uh-huh.

1 (Pause.)

2 BY MR. KENT:

3 Q And then, finally -- and I'm almost done, I promise.
4 Mr. Richardson [sic] was asking you about the interviewing
5 with the women in this case. Could you tell me where and
6 under what circumstances each was interviewed?

7 A [REDACTED] MINOR was at the department. Also, was [REDACTED] A.R. [REDACTED].
8 [REDACTED] T.H. [REDACTED] I came in on the second interview, which was at
9 the high school and her residence, which we didn't really
10 talk to her again at the residence, but she was there when
11 we talked with the parents. And Ms. [REDACTED] D.B. [REDACTED] was at her
12 residence.

13 Q Okay. Tell me about interviewing somebody at school.
14 Is that difficult to do, to go to school and interview?
15 Because the allegation is these are minors.

16 A No, it's not difficult at all. Normally, when we
17 have to talk to a child that's at school, the principal
18 will normally give us an office which is off of his
19 office. It's like a conference room.

20 Q Yes, ma'am. Do we have to contact a parent or
21 anybody of that nature or just go in and interview -- or
22 should we contact a parent and let the parent --

23 A Yeah, we try to make contact with the parent.

24 Q So we try to contact the parent, talk to the parent
25 and let them know. We don't just go talk to people's kids

1 without interviewing -- letting the parents know we're
2 going to talk to their kids?

3 A We would try to make contact with the parent prior
4 to, yes.

5 MR. KENT: Thank you so much. That's all the
6 questions I have.

7 THE COURT: Redirect?

8 MR. FERNANDEZ: Thank you, Your Honor.

9 REDIRECT-EXAMINATION

10 BY MR. FERNANDEZ:

11 Q Detective Kelly, we heard a lot about your
12 investigation and being thorough. You would agree it's
13 important to be thorough, correct?

14 A Absolutely.

15 Q And this is in general, I'm not even talking about
16 this case right now. Do you typically -- when
17 investigating a violent crime or some other serious
18 charge, would you typically collect as much evidence as
19 you could possibly imagine?

20 A Yes, I do.

21 Q And would you say -- is it important to you to be not
22 only thorough, but not make assumptions about where or
23 what or when or whatever you might find on a crime scene?

24 A That's correct.

25 Q Would that be why in this case that you decided to

1 collect multiple samples covering the entire office?

2 A That's correct.

3 Q Tell me why you might have done more than, perhaps,
4 even the allegations supported?

5 A To make sure that we have the evidence that we need
6 for the case.

7 Q Okay. In your experience in your 14 years of law
8 enforcement, does it turn out that every single thing you
9 test turns up important evidence in a case?

10 A No, it doesn't.

11 Q And yet, why do you still test multiple objects and
12 multiple pieces of furniture and multiple areas of a room?
13 Why would you still do that if it doesn't always turn up
14 important evidence?

15 A It's important for the case.

16 MR. FERNANDEZ: Nothing further, Your Honor.

17 THE COURT: Any recross?

18 MR. KENT: Based on that question, can I ask two
19 questions?

20 THE COURT: Yeah.

21 RECROSS-EXAMINATION

22 BY MR. KENT:

23 Q I notice you have a copy of Ms. MINOR's statement in
24 front of you?

25 A Yes, I do.

1 Q And you've had an opportunity to review it?

2 A Yes.

3 Q And he was saying you test all areas. And I agree
4 with that, you test any areas to see just where any DNA
5 might be? Let me put it this way. In Ms. MINOR's
6 statement, I'm not asking what she told us specifically,
7 but in the second page of her statement, didn't she give
8 you a specific area where you would find semen or
9 something of that nature?

10 A She gave an area of where she was in his office, yes,
11 she did.

12 Q But she gave you a very specific area where semen
13 would have been?

14 A Where she saw semen fall, yes.

15 Q So she gave you a very specific area where she saw
16 semen fall. And that's the area that we swabbed and
17 that's the area that we sent to SLED for testing to see if
18 there was DNA to corroborate her story?

19 A Yes.

20 MR. KENT: Thank you so much.

21 THE COURT: All right. You can step down.

22 Thank you.

23 Okay. Let's take a 10-minute break here.

24 Folks, let me send you back to the jury room, again,
25 with these instructions not to begin deliberations or

1 discussions about the case. We'll just have you back in
2 in about 10 minutes after everybody has had a chance to
3 use the restroom. See you in a few minutes.

4 (WHEREUPON, the jury left the courtroom at 11:14
5 a.m.)

6 THE COURT: Okay. Let's start back at 11:30.

7 (WHEREUPON, a short break was taken.)

8 THE COURT: All right. Let the record reflect the
9 Defendant is in the courtroom.

10 Bring the jury back in.

11 (WHEREUPON, the jury entered the courtroom at
12 11:29 a.m.)

13 THE BAILIFF: All jurors are back in the courtroom,
14 Your Honor.

15 THE COURT: All right, folks, welcome back.

16 We'll resume with the State calling your next
17 witness.

18 MS. ABEE: Thank you, Your Honor. The State calls

19 MINOR

20 THE BAILIFF: Place your left hand on the Bible and
21 raise your right hand. State your name, please.

22 THE WITNESS: MINOR

23 MINOR after being duly
24 sworn, testified as follows:

25 THE BAILIFF: Thank you. Come around, please. State

1 your name and spell your last for the record.

2 THE WITNESS: MINOR

3 MS. ABEE: May it please the Court, Your Honor?

4 THE COURT: Go ahead.

5 DIRECT EXAMINATION

6 BY MS. ABEE:

7 Q Go ahead and introduce yourself to the jury and tell
8 them what name you go by.

9 A MINOR.

10 Q MINOR, how old are you?

11 A Seventeen.

12 Q What is your date of birth?

13 A 1999.

14 Q Are you in school?

15 A Yes, I am.

16 Q Where at?

17 A Sumter High School.

18 Q What year are you at Sumter High School?

19 A Class of 2017.

20 Q So you graduate next year?

21 A Yes, ma'am.

22 Q What are your plans for after gradation?

23 A I want to go to a four-year college and then go into
24 the military.

25 Q MINOR how long have you lived in Sumter?

1 A Since my 8th grade year.

2 Q Had you ever been to South Carolina before then?

3 A Yes, ma'am.

4 Q Explain to us when that was.

5 A When I was five years old, with my dad, I used to
6 come to visit for the summers. And I went to Wilder and I
7 went to Crosswell here for those two years. Any other
8 time, I was coming back for the summer.

9 Q You said you would come back to visit, who were you
10 visiting?

11 A My cousin, A.R. , and my auntie and my
12 grandmother.

13 Q What's your auntie's name?

14 A Ulanda Riley.

15 Q And what about your grandmother, what's her name?

16 A Lizzie Johnson.

17 Q Now, MINOR, when you were here in Sumter when you
18 were younger, did you go to church?

19 A Yes, I did.

20 Q Which church did you go to?

21 A Well, at the time, it was called Miracle Deliverance
22 Temple.

23 Q And you've got to slow down just a little bit for me.
24 It was called what?

25 A Miracle Deliverance Temple.

1 Q Who was the pastor of Miracle Deliverance Temple?

2 A Larry Durant.

3 Q How old were you when you first started going to
4 church with Larry Durant as the pastor?

5 A I was five years old.

6 Q And you said you moved back to Sumter in the 8th
7 grade, did you continue to go to Larry Durant's church
8 then?

9 A Yes, I did.

10 Q What was the church called then?

11 A Word International Ministries.

12 Q And was there one church or two churches?

13 A There was two churches.

14 Q Do you know the locations of those churches?

15 A Yes, I do.

16 Q Let's talk about -- how would you classify them?
17 What do you call them?

18 A They were both the same churches, but the one on 710
19 Manning Avenue, that church was smaller than 1010 North
20 Guinyard.

21 Q So Manning Avenue is the small church?

22 A Yes, ma'am.

23 Q And then North Guinyard is what you call the big
24 church?

25 A Yes, ma'am.

1 Q And how often did you go to church at Pastor Durant's
2 church?

3 A Pretty much every day. We went Monday -- I'm sorry,
4 Tuesday and Wednesday for Bible studies, then Friday night
5 joy night and then Sunday.

6 Q And talk to us about a typical Sunday. What time
7 would you get to church in the morning?

8 A Sunday mornings, there would be an 8:00 o'clock
9 service usually at the smaller church on Sunday morning.
10 And then we'd have Sunday School at the bigger church and
11 then we'd have an 11:00 o'clock service also at the bigger
12 church.

13 Q So you'd start at the small church and end at the big
14 church?

15 A Yes, ma'am.

16 Q And how long did you spend at the big church on
17 Sundays?

18 A Pretty much, all day it seems like. On a good day,
19 we would get out 12ish, oneish, around that time.

20 Q And what about not on a good day?

21 A We'd be there all day, like, maybe 3:00, 4:00. Seems
22 like we spent our whole life in that church.

23 Q Who would you typically go to church with?

24 A My aunt, Ulanda Riley, and my grandmother.

25 Q What about any cousins, anybody like that attend with

1 you?

2 A Yes, ma'am, A.R., when she -- of course, she was
3 in college, but when she came down from college, she would
4 go over there.

5 Q Let's talk about a typical church service. Walk us
6 through that. Once you're at the big church on Sundays,
7 what usually happened?

8 A It would be praise and worship, consist of them
9 singing. And then after praise and worship, Larry, he
10 would get up and say his sermon. As he says his sermon,
11 he will sometimes call an alter call, which means he will
12 say if anyone needs to be prayed for, they will come to
13 the alter and he will, of course, lay his hands on them
14 and pray for him. Then after that, it's offering. And
15 then he'll kind of like -- we'll like lounge around at the
16 church because my aunt and grandmother was in the church
17 heavy.

18 Q I want to talk a little about what you just said.
19 You talked about an alter call. You said that's where he
20 would ask if anyone needed to be prayed for, is that what
21 you said?

22 A Yes, ma'am.

23 Q And then you said something to us about that's where
24 he would, of course, lay hands on them. What does that
25 mean? Explain that to us.

1 A He would lay his hands on your head and, of course,
2 pray for you.

3 Q So he would pray for people in front of the whole
4 congregation?

5 A Yes, ma'am.

6 Q And you said that your grandmother and your auntie
7 were involved in the church. What was their roles in the
8 church?

9 A My auntie was one of his armor bearers and my
10 grandmother was over the money.

11 Q What is an armor bearer?

12 A Someone who assisted him with his belongings, or
13 carried his water, like if he needed his towel, stuff like
14 that.

15 Q And, MINOR, do you see Larry Durant in the courtroom
16 today?

17 A Yes, I do.

18 Q If you can, just tell us where he's sitting and maybe
19 an article of clothing that he's wearing.

20 A He's sitting over there next to his representative,
21 Mr. Kent. He has on a blue shirt with glasses on.

22 MS. ABEE: Your Honor, the witness has identified
23 Larry Durant as the Defendant.

24 THE COURT: Let the record reflect.

25 BY MS. ABEE:

1 Q MINOR, was there ever a point in time where
2 something sexual happened between you and the Defendant?

3 A Yes, it has.

4 Q Do you recall how old you were when that first
5 happened?

6 A Yes, I do.

7 Q How old were you?

8 A I was 13.

9 Q Do you recall when or what year that was?

10 A Yes, I do.

11 Q Tell us about that. When was it?

12 A 2012.

13 Q Do you recall when in the year it was?

14 A It was December. The sexual assault happened on the
15 26th, but he talked to me and kind of was, like, I guess
16 preparing me for it on the 25th.

17 Q All right. Let's talk about that a little bit.
18 Where did the sexual assault occur?

19 A The sexual assault occurred in his office.

20 Q Which church?

21 A Both churches.

22 Q And how did you get back into his office?

23 A His armor bearers.

24 Q Explain that to us. How did the armor bearers get
25 you?

1 A I guess he would tell one of his armor bearers to
2 come and get me. Then the armor bearer would tell me that
3 Bishop wants to see you and I would just go to his office
4 because I knew where it was at.

5 Q Where would you typically be when the armor bearer
6 would come and get you?

7 A I would probably be outside talking or just lounging
8 around in the sanctuary.

9 Q So after the armor bearer came and got you, you said
10 you went back to the office?

11 A Yes, ma'am.

12 Q And what was the purpose of you being back in the
13 Defendant's office?

14 A He said he was praying for me.

15 Q What specifically did he say he was going to pray
16 for?

17 A Me not liking girls and not catching any STDs.

18 Q Did you like girls at that time?

19 A Yes, I did.

20 Q And so did he actually pray for you?

21 A No, nothing came out of his mouth.

22 Q Well, what did happen?

23 A Well, at the bigger church, at 1010 North Guinyard,
24 he would actually stick his penis inside my vagina and
25 have sexual intercourse with me. But on 710, he would

1 only insert his fingers inside my vagina.

2 Q And while he was doing this, were any words coming
3 out of his mouth?

4 A No, ma'am.

5 Q Were any prayers being said?

6 A No, ma'am.

7 Q MINOR, what would you typically be wearing?

8 A On Sundays, I would usually wear dresses, but like
9 Bible study night or joy night, I would usually wear jeans
10 or sweatpants or something.

11 Q And how long did these prayers last?

12 A Like 10, 15 minutes.

13 Q And how frequently did the Defendant pray for you in
14 this way?

15 A Every time we went to church. On a Wednesday -- on a
16 Wednesday, he would just insert his fingers inside my
17 vagina, but on a Friday or a Sunday, he would actually
18 have sexual intercourse with me.

19 Q And you said this happened multiple times?

20 A Yes, ma'am.

21 MS. ABEE: Your Honor, may I approach?

22 THE COURT: You may.

23 MS. ABEE: Your Honor, I'm approaching the witness
24 with what's been premarked as State's Exhibit 1 and 2.
25 These have previously been shown to Defense counsel.

1 MR. KENT: No objection.

2 THE COURT: All right.

3 BY MS. ABEE:

4 Q MINOR I'm showing you what's been premarked as
5 State's Exhibit No. 1 and No. 2. Do you recognize these?

6 A Yes, I do.

7 Q What are these?

8 A This is pictures of the office.

9 Q And is this a fair representation of his office and
10 what it looked like when you were back in there?

11 A Yes, it is.

12 MS. ABEE: Your Honor, at this time I seek to
13 introduce State's Exhibits 1 and 2 into evidence.

14 MR. KENT: No objection.

15 THE COURT: Admitted.

16 MS. ABEE: Your Honor, permission for the witness to
17 step down in front of the jury?

18 THE COURT: Sure.

19 (WHEREUPON, State's Exhibit Nos. 1 and 2 were
20 admitted into evidence.)

21 BY MS. ABEE:

22 Q Come on down, MINOR. Now, MINOR, go ahead and
23 explain to us what we're looking at in this photo.

24 A This right here is -- a picture of his desk right
25 here. This is one of his rooms that I never been into.

1 It's like it has a couch in there, but we never did
2 anything in there. This is just his office. It's like a
3 -- if you would come in the front door, this is kind of
4 the view you would be looking at.

5 Q If you stay here for one second. I'm going to grab
6 what's been entered into evidence as State's Exhibit
7 No. 2. What are we looking at here?

8 A This is where he would have me bent over the desk
9 right here. And after the sexual intercourse was over, I
10 would go into the bathroom located here, grab the towels
11 and clean up.

12 Q You can return to your seat.

13 A (Witness complies.)

14 Q Now, MINOR, you said showed us somewhere where you
15 said you would go and clean up after the sex acts
16 happened. Explain that to us, what happened once the
17 Defendant was done praying for you?

18 A I would go into the bathroom and, like, clean up,
19 like I stated when I was down there showing the pictures,
20 and then after that, I would just leave.

21 Q Did he say anything to you at this time?

22 A No.

23 Q And, MINOR did you tell anyone this was happening
24 to you at this time?

25 A When it first -- the very first time when he -- like,

1 when he first inserted his fingers inside my vagina, like,
2 I kind of mentioned to it my brother and then I kind of
3 brushed it off because he didn't believe me, so I just
4 left it at that. Other than that, no, I did not.

5 Q And is your brother older or younger than you?

6 A He's younger than me.

7 Q So did you tell any adults that this was happening to
8 you when it was going on?

9 A No, ma'am.

10 Q Why?

11 A I was afraid no one would believe me.

12 Q Why did you think no one would believe you?

13 A Because at the time, I was lying real bad about
14 having a cell phone and a lot of my grades.

15 Q So you were lying about cell phones and grades and
16 that's why you didn't tell anyone?

17 A Yes, ma'am.

18 Q MINOR did you want to have these sexual acts with
19 the Defendant?

20 A No, ma'am, not at all.

21 Q Well, then, why did you?

22 A I was afraid. I was naive. At the time, my auntie
23 and my grandmother, they were very spiritual-based people
24 and I know with me liking girls, it wasn't right. And
25 with him telling me that it would kind of cure that, me

1 being like naive, I kind of believed that.

2 Q Did you want to be cured from that?

3 A I really did.

4 Q MINOR, you told us that this started in December
5 of 2012. When did it end?

6 A It ended in May.

7 Q Of which year?

8 A 2013.

9 Q And do you recall the first adult that you were
10 telling about this?

11 A The first person that I told?

12 Q Yes.

13 A My auntie and my grandmother.

14 Q And again, what's your auntie's name?

15 A Ulanda Riley.

16 Q Now, did you just go up to your auntie and tell her
17 what happened? How did this come out?

18 A Me and my cousin, A.R. were having a
19 conversation in the bathroom about something irrelevant,
20 like, to this whole thing. And she overheard us saying it
21 and then she called us into the kitchen and that's when
22 she asked us have Bishop Larry ever touched us. And
23 that's when I finally came out and I said he did.

24 Q And after all of this came out, did you ever talk to
25 the Defendant about it?

1 A Yes, actually, that same night. As a matter of fact,
2 he called -- my grandmother called and was talking to him
3 about it. Once she was talking to him about it, he was
4 speaking to me and he was saying why am I saying this, why
5 am I lying about it. And that's when I got real upset and
6 I just gave the phone to A.R. . That's when him and
7 A.R. started to proceed to have a conversation.

8 Q Is that all that you've talked to the Defendant about
9 since then?

10 A Yes, ma'am.

11 Q MINOR tell us what he would typically be wearing
12 when this happened?

13 A He would have on a suit, usually, because it would be
14 on a Sunday or a Friday night and his underwear was white,
15 like kind of boxer briefs.

16 Q And what about you? You told us you would typically
17 be wearing dresses. Do you ever remember a specific dress
18 that you were wearing?

19 A Yes, ma'am, it was a blue polka-dotted dress.

20 Q To your knowledge, was that dress ever collected by
21 police?

22 A Yes, it was.

23 Q And was it collected right at the time you were
24 wearing it or had some time passed?

25 A Some time had passed.

1 Q Are we talking a week or are we talking -- how long
2 are we talking?

3 A Years, actually. They just collected it, like, maybe
4 some months, three -- like a few months ago.

5 Q So a lot of time had passed?

6 A Yes, ma'am.

7 Q And do you know whether or not you ever washed that
8 dress in between that time?

9 A I could have, but, I mean, I threw it in a bag and
10 put it in the garage with a bunch of other stuff I didn't
11 want.

12 Q MINOR did your see the Defendant's penis?

13 A Yes, I have.

14 Q And how did you see it?

15 A Because he had sexual intercourse with me.

16 Q Did you ever see a picture of it?

17 A No.

18 Q Did anyone ever describe it to you?

19 A No.

20 Q Is there anything unique about the Defendant's penis?

21 A Yes, it is. He has a skin pigmentation. It's like
22 pink and then it has his actual skin complexion.

23 Q So it's pink and his skin tone?

24 A Yes, ma'am.

25 MS. ABEE: Your Honor, may I have one second?

1 THE COURT: Yes.

2 (Pause.)

3 MS. ABEE: Your Honor, I have no further questions
4 for this witness at this time.

5 THE COURT: Cross?

6 MR. KENT: Thank you, Your Honor.

7 CROSS-EXAMINATION

8 BY MR. KENT:

9 Q Ms. MINOR, how are you?

10 A Wonderful. Yourself?

11 Q Very well. We had the opportunity to meet yesterday?

12 A Yes.

13 Q Outside the presence of the jury when I asked you
14 some questions, do you remember that?

15 A Yes, sir.

16 Q And I'm going to give you the same admonitions and
17 talk to you the same way I did yesterday, okay?

18 A Yes, ma'am.

19 Q You're doing a wonderful job. Madam court reporter
20 is taking down every word that you're saying, okay?

21 A (Witness nods head.)

22 Q See how you just shook your head, she can't take down
23 head shakes and nods. So make sure you give me all your
24 answers affirmatively and loudly so everybody in the jury
25 can hear everything that you're saying.

1 A Yes, sir.

2 Q And if you have any questions or if I speak too fast,
3 you simply let me know and I'll repeat my question, okay?

4 A Yes, sir.

5 Q And I don't have too many questions. First, I want
6 to talk about some of the stuff when Ms. Abee was asking
7 you questions, okay?

8 A Yes, sir.

9 Q One of the first things you talked about, back in
10 that time, you were lying real bad?

11 A Yes, I was.

12 Q Did people know that you were lying -- and I don't
13 want to call you a liar, I'm just going from what you were
14 saying.

15 A Yes, sir.

16 Q You were lying real bad. And was it just about
17 grades or was there anything else that you were lying
18 about?

19 A And I said I was lying about having a cell phone.

20 Q So you had a cell phone at that point in time?

21 A Yes, sir, I did.

22 Q And you weren't allowed to have a cell phone?

23 A No, I wasn't.

24 Q Was there anything else that you were lying about
25 real bad back then?

1 A No, just the cell phone and I lied about my grades.

2 Q And you lied about your grades, also?

3 A Uh-huh.

4 Q And just going through some of your testimony, I
5 think some of the testimony that you testified about was
6 Mr. Durant would have sexual intercourse with you at the
7 church?

8 A Yes, sir.

9 Q And you testified that it was so you wouldn't get
10 pregnant and you wouldn't have STDs and things of that
11 nature, correct?

12 A I didn't state because I wouldn't get pregnant. I
13 stated so I wouldn't like girls and so I wouldn't catch
14 any STDs.

15 Q And you don't have any STDs, do you?

16 A No, I do not.

17 Q And we talked about his description. It's safe to
18 assume the pastor doesn't have any legs from the knees
19 down or something of that nature, would you agree with me?

20 A Yes, he's double amputee.

21 Q From his knees down?

22 A Yes.

23 Q And that's where his braces go, from his knees down,
24 if I'm not mistaken?

25 A Yes, it does.

1 Q And you gave a statement to law enforcement -- well,
2 first of all, let me ask you this question. Yesterday
3 when I was asking you questions, we were talking about
4 going inside of his room and you talked about the door
5 locking. Do you remember that statement?

6 A Yes, sir.

7 Q And you were pretty specific yesterday. What did you
8 tell me yesterday on the stand?

9 A I told you that when I went into the office, I locked
10 the door behind myself because he would tell me to.

11 Q And that was what you specifically remember. Do you
12 remember giving a statement to law enforcement?

13 A I do.

14 Q And you gave the statement yourself?

15 A I did.

16 Q And I asked you about that and you said everything in
17 that statement was accurate and what happened?

18 A Yes, I did.

19 Q And that was a statement that you gave back as close
20 to the incident as possible. A couple of years ago is
21 when you gave the statement? I think you typed it on
22 their computer?

23 A Yes, sir.

24 Q Do you remember in that statement saying that the
25 door couldn't lock?

1 A I stated that for 710.

2 Q Okay.

3 A That's when he did not -- the only thing he did at
4 710 was insert his fingers inside of my vagina. I did say
5 that in my statement.

6 Q And, also, in your statement -- I just want to make
7 sure we're clear -- and your statement is two pages long.
8 You're pretty specific on dates. You would agree with me
9 there? You would say things like this happened on
10 December 25th at 9:00 a.m., December 26th at 10:30 a.m.
11 you gave like seven dates and specific times?

12 A Yes, I was very specific with the dates, but the
13 time, I'm not too sure. I don't remember that.

14 Q You don't remember giving specific times, this
15 happened at 9:30 p.m.?

16 A No, I don't remember the times.

17 Q If I showed you a copy of your statement, would that
18 help refresh your memory?

19 A Yes, it would.

20 (Pause.)

21 MR. KENT: Approach the witness, Your Honor?

22 THE COURT: Uh-huh.

23 BY MR. KENT:

24 Q Ms. MINOR, I'm just going to show you that two-page
25 statement. First things first, do you recognize that

1 statement?

2 A Yes, I do.

3 Q Would that be the statement you gave to law
4 enforcement?

5 A Yes, it is.

6 Q In the second paragraph of the statement, does it --
7 do you see where I'm indicating on the second paragraph,
8 the first line, on December 26th at around 9:30 p.m.?

9 A Yes, sir.

10 Q Okay. Let me get that statement back from you. So
11 do you agree that you have dates and very specific times?

12 A Yes, sir.

13 Q Okay. Where do you live right now?

14 A I live on [REDACTED] Sumter, South Carolina.
[REDACTED] THE RESIDENCE

15 Q And [REDACTED] just a question on who all has
16 lived at that residence. Has [REDACTED] A.R. [REDACTED] lived at that
17 residence?

18 A Yes, she has.

19 Q How about [REDACTED] T.H. [REDACTED] has she lived or visited at
20 that residence?

21 A Yes, she has visited.

22 Q And [REDACTED] D.B. [REDACTED] has she lived or visited or been
23 at that residence?

24 A Yes, she lived there.

25 Q So all of y'all are friends?

1 A Yes, we are.

2 Q And all of you are pretty close?

3 A Yes, we are.

4 MR. KENT: Thank you so much. That's all the
5 questions I have.

6 THE COURT: Redirect?

7 MS. ABEE: I have no redirect for this witness, Your
8 Honor.

9 THE COURT: All right. You may step down.
10 Next witness.

11 MR. FERNANDEZ: The State calls Ulanda McRae Riley.

12 THE BAILIFF: Place your left hand on the Bible,
13 right your right hand, please.

14 ULANDA MCRAE, after being duly
15 sworn, testified as follows:

16 THE BAILIFF: Thank you. Come around, please. State
17 your name, spell your last for the record.

18 THE WITNESS: Ulanda McRae, M-C-R-A-E.

19 DIRECT EXAMINATION

20 BY MR. FERNANDEZ:

21 Q Ms. McRae, tell me, how many children do you have?

22 A Two.

23 Q And what are their names?

24 A A.R. and Aquan Cummings.

25 Q All right. Do you have any nieces or nephews?

1 A I do.

2 Q Could you tell me about who they are?

3 A MINOR Tirana Riley, Genesis Riley, those are
4 my nieces. Nephews are Nathan Riley, Joshua Riley and
5 Brandon Riley.

6 Q Thank you. What church did you attend up to 2013?

7 A Well, Miracle Deliverance Temple, which later changed
8 to Word International Ministries.

9 Q How long did you attend those churches?

10 A I started in 1999 up to 2013.

11 Q And who was the head pastor of those churches?

12 A Larry Durant.

13 Q Is Mr. Durant here today?

14 A Yes, he is.

15 Q Could you identify him for us?

16 A He is the gentleman sitting over there in the navy
17 blue suit with the blue shirt on.

18 Q And tell us a little bit about your church routine.

19 How often would you go to church on a weekly basis?

20 A On a weekly basis, I could go to church anywhere from
21 three, four times a week. Tuesday would be at Bible study
22 at one of the churches, which is at 710 Manning Avenue,
23 Wednesday could be Bible study at the other church on 1010
24 North Guinyard, and then Friday night service, we rotate
25 sometimes between 1010 North Guinyard and 710, and on

1 Sundays, we'd normally have 8:00 o'clock service, regular
2 11:00 o'clock service and sometimes we would be back that
3 afternoon about 5:00.

4 Q And who did you bring with you to those church
5 services or Bible study or any time you were visiting
6 either of those churches?

7 A Well, starting, it would be my children --

8 Q Okay.

9 A -- until they got grown. Then my niece and my
10 nephew.

11 Q When did your niece, [REDACTED] decide to come
12 live with you?

13 A [REDACTED] MINOR came to live with me in July of 2012.

14 Q And I think you just said it, but did you bring her
15 to church with you?

16 A Yes, I did.

17 Q The church locations, you said there's two locations.
18 Do you remember where they're located?

19 A Yes.

20 Q Okay.

21 A 710 Manning Avenue.

22 Q Would that be the bigger or the smaller church?

23 A That was smaller.

24 Q Where was the bigger church?

25 A The bigger church is 1010 North Guinyard Drive.

1 Q And throughout the years you've been involved in this
2 church, what was your role? Did you ever obtain any kind
3 of official role with the church?

4 A I was the youth director, secretary, armor bearer for
5 Pastor Durant and his wife, altar worker, Sunday School
6 teacher, kitchen committee. I believe that's it.

7 Q Okay. In particular, the armor bearer designation,
8 what were the responsibilities with that? What's an armor
9 bearer?

10 A Armor bearer, normally, we assist the pastor, his
11 family on more of a personal level, as well, you know,
12 within ministry.

13 Q And were there any -- the church service on Sundays,
14 tell me a little bit about what the process would be. Was
15 there ever any time where Pastor Durant would pray for
16 individuals there?

17 A There would be times during -- after he finished
18 preaching, he called it to make an altar call. And with
19 that, then several people would come up and he would pray
20 then.

21 Q And what's an altar call? What kind of prayers would
22 be done during the altar call?

23 A Sometimes it's like an open prayer where he just
24 prayed for someone -- you know, prayed as a whole. And
25 there are other times where he would have a word of

1 prophecy for them and he may say something to that person
2 directly.

3 Q Did Mr. Durant ever do private prayer sessions with
4 either your daughter or your niece?

5 A No, not private prayer with them.

6 Q Okay. Were you aware of any?

7 A I wasn't aware of a private prayer.

8 Q Do you know why you're here today? Do you know why
9 we're all here?

10 A Yes.

11 Q Tell me a little about a conversation you overheard
12 your daughter and your niece having?

13 A Well, it was on May 19th. We just got back from
14 Louisiana. And I just went to the grocery store and came
15 back home. And as I was coming down the hall --

16 Q Let me interrupt you, ma'am, one second. During this
17 conversation that you overheard -- did you overhear a
18 conversation, first of all?

19 A Yes.

20 Q I'm going to be very specific.

21 A Yes, I did.

22 Q Where did the conversation occur? Where did you hear
23 it?

24 A It took place in the bathroom in my house down the
25 hall.

1 Q And did the -- who was having the conversation? Who
2 were the two girls talking -- or the girls talking?

3 A My niece, MINOR my daughter, A.R. .

4 Q Were they aware that you could hear them?

5 A No.

6 Q And during the course of what you overheard in this
7 conversation, did they disclose or did they talk about a
8 sexual assault that had occurred to them -- on them?

9 A Not to them.

10 Q Okay. Did they disclose a sexual assault in general?

11 A Yes, they did.

12 Q Okay. And during this conversation, did they say
13 where that sexual assault had occurred?

14 A Yes.

15 Q And where did they say it had occurred?

16 A At the church.

17 Q Okay. Were they specific about where it occurred or
18 just at the church in general?

19 A They were specific about that church.

20 Q Okay. Did they say when that sexual assault had
21 occurred?

22 A I don't recall them saying when.

23 Q All right. After hearing that conversation -- after
24 overhearing that conversation, what did you do next?

25 A After I overheard it, they came out the bathroom, and

1 then I told them to meet me in the kitchen.

2 Q Did you confront them about that conversation?

3 A Yes, I did.

4 Q Okay. And after confronting them with that
5 conversation, did you have another conversation with

6 MINOR and A.R. ?

7 A Yes, we did.

8 Q Okay. And during that conversation, did they
9 disclose to you a sexual assault on them?

10 A Yes, they did.

11 Q Okay. And when you were discussing this with them,
12 did they tell you where their assaults had happened?

13 A Yes, they did.

14 Q And where did they tell you it had happened?

15 A MINOR told me it happened at 710 Manning Avenue, the
16 church there.

17 Q Okay.

18 A And then 1010. A.R. told me it happened at 710
19 Manning Avenue and 1010 North Guinyard.

20 Q Okay.

21 A And at his residence.

22 Q Okay. Now, did they tell you when the assaults
23 happened?

24 A No, they didn't say when.

25 MR. FERNANDEZ: Beg the Court's indulgence.

1 (Pause.)

2 BY MR. FERNANDEZ:

3 Q Okay. After the sexual assaults occurred -- after
4 the sexual assaults were disclosed to you, what was your
5 reaction?

6 A My reaction? I wanted to cause bodily harm to him.

7 Q Did you end up confronting the Defendant, Mr. Durant?

8 A I didn't confront him -- I did end up eventually.

9 Q Did you call him on the phone that night?

10 A I did not call him.

11 Q Okay. Tell us about the phone conversation.

12 A The phone conversation, my mother called him.

13 Q Okay. Who's your mother?

14 A Lizzie Johnson.

15 Q Okay. Were you a part of that conversation?

16 A Yes, I was.

17 Q Did you hear it?

18 A Yes, I did.

19 Q And how could you hear it?

20 A Because I was on the other line.

21 Q Who else was present during that phone conversation?

22 A My mother, Lizzie Johnson, was on the phone. I was
23 on another line. My niece, [REDACTED] and my daughter,
[REDACTED]

24 A.R.

25 Q Okay. Tell us about that conversation, please.

1 A In the conversation, my mom confronted him, told him
2 what the girls just said and he said that was a lie. Then
3 he asked my mother where was the girls. My mother said,
4 They are right here. So she passed the phone to MINOR
5 and MINOR asked him, said -- so MINOR said, What are you
6 telling them?

7 MR. KENT: I'm going to object to the hearsay, Your
8 Honor.

9 MR. FERNANDEZ: Your Honor, maybe this will help.
10 BY MR. FERNANDEZ:

11 Q But without saying what MINOR or A.R. said, can
12 you tell us how the conversation went? In particular,
13 what Mr. Durant said?

14 A Mr. Durant said it was a lie, that didn't happen.
15 Then he got on the phone with A.R., the question was
16 asked what was going on. A.R. said --

17 Q And without saying what A.R. said --

18 A Yes --

19 Q -- how the conversation continue?

20 A It continued with Durant saying, You shouldn't have
21 said that. Y'all need to stop that. Then it was asked
22 where was I. Mr. Durant asked where was I. And I said,
23 I'm here on the phone.

24 Q Okay.

25 A And the conversation went between him and I and he

1 asked me, Why are they saying this or why they doing this
2 to him. And I said -- for the record, I said, excuse my
3 French, I said, Why the fuck are you doing it to them?
4 And he said -- he was like -- and he started crying.

5 Q Did he say anything else after he began to cry?

6 A He then said that he wanted to meet with me and the
7 girls. He wanted to apologize to them and say that he was
8 sorry. I said, If you didn't do anything, why do you want
9 to apologize?

10 Q Okay. When you physically -- did you have a
11 face-to-face meeting with Mr. Durant?

12 A I did not.

13 Q As far as you know, who had the face-to-face meeting
14 with him?

15 A My mother, Lizzie Johnson.

16 MR. FERNANDEZ: Beg the Court's indulgence.

17 (Pause.)

18 MR. FERNANDEZ: No further questions, Your Honor.

19 Thank you, ma'am.

20 THE COURT: Cross?

21 MR. KENT: Thank you.

22 CROSS-EXAMINATION

23 BY MR. KENT:

24 Q You had mentioned that -- oh, I'm sorry. How are
25 you?

1 A I'm doing well. How are you?

2 Q I apologize. We haven't gotten to meet. My name is
3 Shaun Kent. I'm not going to ask you very many questions,
4 but if I ask you a question and you don't understand,
5 simply tell me you don't understand and I'll rephrase it,
6 okay?

7 A Okay.

8 Q The only real question I have is, I think from their
9 questioning, you talked about MINOR came to live with
10 y'all. Why did she come to live with y'all?

11 A She was staying with my brother in New Jersey. And
12 at the time, his work schedule got hectic, so he asked me
13 if I can keep MINOR and his son, Joshua.

14 Q So that's the only reason she came, just because of
15 the work schedule?

16 A Yes, that was my understanding.

17 Q And then, also, there was some question about she was
18 lying really bad back then. What was she lying about that
19 would get her in so much trouble?

20 A It wasn't something that she would get -- it was what
21 typical teenagers would do. It was not so much that would
22 get her in trouble, but typical of what teenagers do when
23 they want their way.

24 Q What was it?

25 A It would be something about grades. I want to play

1 basketball, so I lie about my grades.

2 Q Was there anything about cell phones or anything like
3 that?

4 A Cell phone, she's not supposed to have one. She got
5 one. But it wasn't nothing that would have caused her to
6 go to jail for or anything.

7 Q I understand. I was just asking the question.

8 MR. KENT: Thank you so much for your time.

9 MR. FERNANDEZ: Nothing further, Your Honor.

10 THE COURT: You may step down.

11 THE WITNESS: May I be excused?

12 MR. FERNANDEZ: Yes.

13 THE COURT: Next witness?

14 MS. ABEE: Your Honor, the State calls A.R.

15 .

16 THE BAILIFF: Place your left hand on the Bible,
17 raise your right hand. State your name, please.

18 THE WITNESS: A.R. .

19 A.R. , after being duly
20 sworn, testified as follows:

21 THE BAILIFF: Thank you. Come on around, please.
22 State your name, spell your last for the record.

23 THE WITNESS: A.R.

24 DIRECT EXAMINATION

25 BY MS. ABEE:

1 Q And go ahead and introduce yourself to the jury by
2 telling them what you go by.

3 A A.R. is my name, call me A.R. .

4 Q A.R. , how old are you?

5 A I'm 22 years old.

6 Q When's your birthday?

7 A , 1994.

8 Q Are you in school?

9 A Yes, I am.

10 Q Where?

11 A Winthrop University.

12 Q Where is that located?

13 A That's in Rock Hill, South Carolina.

14 Q And what year are you at Winthrop?

15 A This is my senior year. I'll be graduating spring of
16 '17.

17 Q What do you plan to do after college?

18 A I want to be an athletic trainer, so I'm going to try
19 get a GA position to work at a university. And then after
20 that, I want to work in Spain with men's soccer.

21 Q And you said that you go to college in Rock Hill, but
22 where are you from?

23 A Sumter.

24 Q How long did you live in Sumter?

25 A Pretty much all my life.

1 Q Who do you live with here in Sumter?

2 A My grandmother and my mom.

3 Q What's your grandmother's name?

4 A Her name is Lizzie Johnson.

5 Q What about your mother, what's her name?

6 A Her name is Ulanda Riley.

7 Q And A.R., do you know Larry Durant?

8 A Yes, I do.

9 Q Tell us how you know Larry Durant.

10 A I went to his church.

11 Q Do you recall how old you were when you first started
12 going to his church?

13 A I was four years old.

14 Q And what's the name of his church?

15 A It was Miracle Deliverance Temple. Then he later
16 changed it to Word International Ministries.

17 Q And how frequently did you attend church -- or the
18 church of the Defendant?

19 A I would go between three to five times week.

20 Q Explain that to us. What would you do on the various
21 different days of the week?

22 A On Tuesday, we would have Bible study. Then he
23 changed it to Wednesday Bible study. Then we would have
24 church on Friday night and Sunday. Then we would have
25 either choir rehearsal or praise dance practice on another

1 day of the week.

2 Q Was it one church or more than one church?

3 A It was more than one church.

4 Q How did you differentiate between the two churches?

5 A The location. One was on 710 Manning Avenue and the
6 other one was on 1010 North Guinyard.

7 Q And you just told us about various days of the week
8 that you would go to church. Is that only one location or
9 both locations?

10 A That would be at both locations.

11 Q And walk us through a typical Sunday. How much time
12 would you spend at church on Sunday?

13 A I would spend a good bit of time. Church started --
14 well, depended on if I went to Sunday School or not.
15 Sunday School would be at 10:00 o'clock and church would
16 probably get out around 1:00 or 1:30.

17 Q Who did you attend church with?

18 A My mom and my grandmother.

19 Q Now, were they involved in the church?

20 A Yes.

21 Q What was their roles or positions in the church?

22 A My mom was an armor bearer. At one point in time,
23 she was over the youth department and helped with the
24 praise dance ministry. And my grandmother, she was like a
25 treasurer who would count the money after offering.

1 Q And explain to us a typical service on a Sunday.
2 What all happened during your church services?

3 A There would be regular praise and worship, then he
4 would preach and then it would be offering time. Then
5 after preaching, he would either talk to the congregation
6 or fuss at us about something.

7 Q And you just said he, who are you referring to when
8 you said the word he?

9 A Larry Durant.

10 Q Do you see Larry Durant in the courtroom today?

11 A Yes, I do.

12 Q Can you tell us where he's seated and an article of
13 clothing that he's wearing?

14 A Yes. He's to my right and he's wearing a baby blue
15 shirt with a navy blue suit.

16 Q Thank you. Now, do you know what an altar call is or
17 a prayer line?

18 A Yes, I do.

19 Q Explain that to us. What is that?

20 A Well, he would say things like, you know -- the
21 general altar call would be if you're trying to get closer
22 to God or you want to be saved to come up. Then after
23 that, you just want to rededicate your life back to God
24 because maybe you have backslide or, you know, did
25 something you want to be forgiven for, to come up. Or

1 maybe someone was just sick or something, he would ask you
2 to come up.

3 Q Would he pray for those people in front of the whole
4 congregation?

5 A Yes, he would.

6 Q Now, A.R., was there a point in time when
7 something sexual happened between you and the Defendant?

8 A Yes.

9 Q How old were you when that happened?

10 A I was 18 years old.

11 Q Do you recall what year that was?

12 A Yes, that was 2012.

13 Q How do you remember it was 2012?

14 A Because it started my second semester of high school,
15 and I was -- I graduated my senior year. That was my
16 senior year.

17 Q You graduate in 2012?

18 A Yes, I did.

19 Q All right. Explain to us where this sexual thing
20 happened?

21 A It would happen in his office at church, and it
22 happened at his home and it happened at the cleaners.

23 Q Okay. Well, let's first talk about the church.
24 Where in the church would this happen?

25 A It happened in his office.

1 Q And why where you in his office?

2 A Because he told me that he wanted to pray for me.

3 Q How did you get back into his office?

4 A He would either call me over the mic or tell me
5 himself or he would get one of his armor bearers to come
6 get me.

7 Q And what's an armor bearer?

8 A They're someone that's kind of like a body guard or
9 just someone that protects him or holds his Bible or lead
10 the way for him when he's in a new place.

11 Q When the armor bearers would come to get you, where
12 would you typically be?

13 A Sometimes I would be outside of the foyer of the
14 church or I would be actually in the parking lot.

15 Q And so once you were back in the Defendant's office,
16 what did he say he was praying for?

17 A He said he was praying for my vagina to say that I
18 wouldn't get any diseases or any early pregnancy.

19 Q Now, was he saying prayers?

20 A No, he wasn't.

21 Q What was he doing?

22 A He was penetrating my vagina with his fingers.

23 Q Is that all that he did or did anything else happen?

24 A Yes, he -- after about two months or so of that, then
25 he said God is taking me to a next level. You're not

1 going to understand it and I'm not going to understand it,
2 but you can't tell nobody else about it. And that's when
3 he started to have sex with me.

4 Q Now, where would the sex take place?

5 A In his office.

6 Q Where specifically in the office?

7 A Across his desk. Like, he would tell me to bend over
8 the desk and he would come up behind me.

9 MS. ABEE: Your Honor, may I approach?

10 THE COURT: You may.

11 MS. ABEE: Thank you.

12 BY MS. ABEE:

13 Q A.R., I'm handing you what's already been entered
14 into evidence as State's No. 1 and State's No. 2. Do you
15 recognize these?

16 A Yes, I do.

17 Q And what are these pictures of?

18 A This is a picture of his office at 1010 North
19 Guinyard.

20 MS. ABEE: I'm going to ask Your Honor for permission
21 for the witness to step down?

22 THE COURT: Sure.

23 BY MS. ABEE:

24 Q Go ahead and step down. Come over here with us,

25 A.R. .

1 A (Witness complies.)

2 Q Explain to us what are we looking at in this first
3 picture?

4 A This is his office with the desk and the two windows
5 and some plaques and decorations.

6 Q And what about -- now, I'm showing you State's
7 Exhibit 2. What's this?

8 A That's his desk with some different rooms that were
9 in the office and decorations.

10 Q Now, you just told us that when the Defendant had sex
11 with you, he would bend you over a desk. Is that this
12 desk?

13 A Yes.

14 Q Go ahead. And return to your seat.

15 A (Witness complies.)

16 Q A.R. once he was done having sex with you, what
17 would happen?

18 A He would ejaculate in his hand and he would ask me to
19 get him a napkin to wipe it out and get hand sanitizer or
20 either alcohol to clean his hands.

21 Q And would you clean his hands for him?

22 A Yes.

23 Q Did you ever clean up at all?

24 A No.

25 Q And when he was having sex with you, you said you

1 were bent over the desk. What was he doing?

2 A He would be behind me penetrating me from the back.

3 Q Was he standing or sitting or something else?

4 A He was standing.

5 Q A.R. , how frequently did this happen?

6 A This would happen pretty much every time I went to
7 church, either on a Bible study night or Friday night or
8 Sunday service.

9 Q Now, did you want to have sex with him?

10 A No, I did not.

11 Q Did you want him to put his fingers in your vagina?

12 A No, I did not.

13 Q So why did you let him do it?

14 A Because he told me that this was the way of him
15 making sure I didn't get diseases or early pregnancy and
16 because I trusted him and I believed in him and I believed
17 the God that was in him. I let him do it because I
18 thought it was right. Then shortly, like, after a long
19 time, that's when I really feel like it wasn't right
20 because of the things he would say to me.

21 Q What do you mean the things he would say to you?

22 A I remember one time when he was having sex with me,
23 he told me don't let nobody else get this, but me.

24 Q And you stated that he said he was praying for your
25 health. Is there anything else that he told you he was

1 praying for?

2 A Well, he told me if I didn't -- if I didn't have sex
3 with him, then I wouldn't get into the school I wanted to
4 or opportunities wouldn't happen for me or, basically, I
5 wouldn't be blessed in life if I didn't do it.

6 And there was a time where he did -- it only happened
7 one time when he prayed for my breasts and said that
8 they -- for them to get bigger.

9 Q And A.R. , did you end up getting into the school
10 that you wanted to get into?

11 A Yes, I did.

12 Q Now, you said this started second semester of your
13 senior year, which was 2012. When did it stop?

14 A It stopped on May 12th, 2013, which was Mother's Day.

15 Q And who -- did you tell anyone while -- did you tell
16 any adult that this was going on while it was happening?

17 A No, I did not.

18 Q Why?

19 A Because he told me I could not tell anyone because
20 they would not understand. And I was too afraid to tell.

21 Q So who did you finally tell? Which adult did you
22 tell?

23 A Well, I finally told my mom after she overheard me
24 talking to MINOR

25 Q Did you approach your mom and intend to tell her that

1 this had happened?

2 A No, I did not.

3 Q When you were talking to MINOR did you know that
4 your mom could overhear you?

5 A No, I did not.

6 Q After this disclosure came out, did you ever talk to
7 the Defendant about this?

8 A Yes, I did.

9 Q Explain that to us.

10 A After my mom and my grandmother found out what was
11 happening to us, my grandmother called him and asked him
12 about it. And, of course, he denied it. He said it did
13 not happen. And then he wanted to talk to us. At first,
14 MINOR got on the phone to talk to him --

15 Q And I'm going to stop you real quick.

16 A Okay.

17 Q Let's just talk about what Pastor Durant said and not
18 what anyone else said, okay?

19 A Okay.

20 Q So when you got on the phone and could hear the
21 Defendant talking, what did you hear the Defendant say?

22 A He said -- he busted out crying and said, Why are you
23 doing this to me?

24 Q Now, A.R. what would you typically wear when
25 this would happen?

1 A I would wear a dress to church or sometimes similar
2 to what I have on now, pants and a nice shirt.

3 Q What about the Defendant, what would he wear?

4 A He would wear a suit like he has on today or a suit
5 and tie or three-piece suit.

6 Q What about his underwear? Did you ever see his
7 underwear?

8 A Yes.

9 Q What kind of underwear did he wear?

10 A They were white Fruit of the Loom, like
11 little-boy-style underwear.

12 Q And A.R. have you ever seen the Defendant's
13 penis?

14 A Yes, I did.

15 Q How did you see it?

16 A During sex.

17 Q Have you ever seen a photo of it?

18 A No, I did not.

19 Q Has anyone ever described it to you?

20 A No, they have not.

21 Q Is there anything unique or different about the
22 Defendant's penis?

23 A Yes, it is.

24 Q Tell us about that.

25 A The Defendant has a pigmentation on his penis. It's

1 dark brown as his skin complexion, but then it has pink on
2 the head and I think a speck on the shaft of his penis.

3 MS. ABEE: Thank you, Your Honor. May I have one
4 second?

5 THE COURT: Yes.

6 (Pause.)

7 BY MS. ABEE:

8 Q Just a couple more questions, A.R. During this
9 point in time when this was going on between you and the
10 Defendant, did you like men or did you like women?

11 A I liked women.

12 Q And what about -- was anyone in the office with you
13 when this was going on?

14 A No, they were not.

15 Q Do you know whether or not the office door was open
16 or shut?

17 A It was shut.

18 Q What about locked or unlocked?

19 A It was locked.

20 Q How did it get locked?

21 A He told me to lock the door behind me once I entered.

22 Q Thank you.

23 MS. ABEE: Your Honor, I have no further questions
24 for this witness at this time.

25 THE COURT: Cross?

CROSS-EXAMINATION

BY MS. BLAZER:

Q Good morning, Ms. A.R.?

A Good morning.

Q My name is Cameron Blazer. I just have a few questions for you, all right?

A Okay.

Q Now, at the time this all started, how old were you? You were in the second semester of your senior year, how old were you?

A I was 18 years old.

Q And you were already planning for college, had your goals and your hopes and Winthrop was the place you wanted to be?

A Yes, it was.

Q And that's where you've been since the Fall of that next year; is that right?

A I've been there since Fall of 2012.

Q Fall of 2012, right?

A Yes.

Q Very good. So are you a junior, senior?

A I'm a senior.

Q And you said you've got plans to go to Spain to work with men's soccer; is that right?

A Yes, that's correct.

1 Q So did you major in sports management?

2 A I majored in athletic training.

3 Q In athletic training. Okay. Are you there on any
4 kind of scholarship?

5 A No, I'm not.

6 Q Now, at the time that you and Pastor Durant started
7 engaging in this conduct, was there any physical force
8 involved?

9 A No, there was not.

10 Q And do you recall telling investigators that sometime
11 in May -- I think you just testified a few minutes ago,
12 May of 2012, you cut off all that sexual conduct?

13 A It was May of 2013.

14 Q May of 2013?

15 A Yes.

16 Q Okay. So you had gone to Winthrop in 2012, but you
17 continued to have sexual contact with Pastor Durant after
18 that?

19 A Yes.

20 Q Okay. I know you testified earlier that Pastor
21 Durant wanted to cover you in prayer and to protect you
22 from a variety of things, including diseases; is that
23 correct?

24 A That's correct.

25 Q And in the course of your -- at that time or any time

1 since, have you been ill in any way?

2 A No, I have not.

3 Q Now, MINOR is your cousin, correct?

4 A That's correct.

5 Q But at the time that all this was going on, she was
6 living with you in the same house with you; is that
7 correct?

8 A Yes.

9 Q And y'all were close?

10 A Yes.

11 Q Would you say you were kind of like a big sister to
12 her, a little bit older?

13 A I would say so.

14 Q And did you confide in one another about all sorts of
15 things?

16 A Some things.

17 Q You mentioned on direct that the armor bearers would
18 lead the way for Pastor Durant when he was in a new place.
19 Why would they have to lead the way for him in a new
20 place?

21 A That's only because he is legally blind, and so when
22 he's in a new environment --

23 Q He doesn't know where to go?

24 A Yes.

25 Q So you made your first statements to the police in

1 May of 2013, correct?

2 A Yes.

3 Q And you were then a student at Winthrop University?

4 A Yes.

5 Q Okay. Just one last question, I think. Once you and
6 Pastor Durant began engaging in this conduct together, did
7 I understand you correctly from direct to say that every
8 time you went to church, you would have sexual interaction
9 with him?

10 A I said mostly every time.

11 MS. BLAZER: Okay. Beg the Court's indulgence.

12 (Pause.)

13 MS. BLAZER: Nothing further.

14 THE COURT: Redirect?

15 MS. ABEE: Very briefly, Your Honor.

16 REDIRECT EXAMINATION

17 BY MS. ABEE:

18 Q A.R., just explain to us -- you said that you
19 went to Winthrop in the Fall of 2012, right?

20 A Yes.

21 Q And you stated that this continued to happen then?

22 A Yes.

23 Q Explain to us how. I know Winthrop's in Rock Hill
24 and we're here in Sumter?

25 A Well, I lived in Sumter, so when I wanted to come

1 home, which was rare, I never wanted to come home. But
2 when I missed my family, missed my mom and wanted to come
3 home, my mom -- and they're very church-going people, so I
4 it would have to go to church. And being that I went to
5 church, that's why it would happen again.

6 MS. ABEE: Thank you, Your Honor. I have no further
7 questions.

8 THE COURT: All right.

9 Recross?

10 MS. BLAZER: No, sir, Your Honor.

11 THE COURT: All right. You may step down.

12 All right. Folks, this is where I think we'll go
13 ahead and break for lunch. It's almost 12:30 now. Let's
14 break until 2:00 o'clock. You can go to lunch with
15 anyone, including other members of the jury if you want
16 to, but it's very important you don't talk about the case
17 or discuss witness demeanor or anything at all relating to
18 this case or any testimony that you've heard. If anybody
19 does approach you to talk about the case, please report
20 that when you come back.

21 Again, the same talk that we had yesterday about
22 talking with other people, going on social media. I'm
23 really not that familiar with the local media, so I don't
24 know if there is any media cover or if there's any
25 reporters here or anything covering the case. But if you

1 happen to see any newspaper articles or hear anything on
2 the radio about it or TV, please don't listen, just turn
3 it off. You know, don't read newspaper for the next
4 couple of days. You can read all that after it's all over
5 with. Again, those are improper influences on your
6 decision making, so just please avoid doing that if there
7 is any coverage. And I don't know if there will be.

8 But if you would, be back into the jury room at
9 2:00 o'clock and we will resume this afternoon. Thank you
10 for your patience.

11 (Whereupon, the jury left the courtroom at 12:23
12 p.m.)

13 THE COURT: Okay. Anything before we break for lunch
14 that we need talk about?

15 MS. ABEE: Your Honor, I just have one question. I
16 noticed there is a juror taking notes. I didn't know if
17 this is something you had told them. I don't have a
18 problem with it, I just --

19 THE COURT: I meant to say something. I'm okay with
20 taking notes. I'll just tell them that they can't keep
21 them when they're back in deliberations.

22 MS. ABEE: That's fine. I just wanted to make sure
23 it was something that either all of them knew they could
24 or couldn't do.

25 THE COURT: I'll talk to them about it when we come

1 back.

2 MS. ABEE: Yes, sir.

3 THE COURT: Thank you.

4 MS. ABEE: That's all from the State.

5 THE COURT: Anything?

6 MR. KENT: Housekeeping, do you want me to renew my
7 objections, Your Honor, or am I protected?

8 THE COURT: As far as the --

9 MR. KENT: Lyle issues.

10 THE COURT: Yeah, you made an all encompassing one
11 when we started, but for the record so you don't have to
12 do that in front of each witness, I'm taking it as a
13 continuing objection --

14 MR. KENT: So for the record --

15 THE COURT: -- as to the Lyle witnesses.

16 MR. KENT: So for the record, even though we didn't
17 say anything before A.R. testified, we'd be
18 protected as to our Lyle motion as to her testimony in
19 case another court reviews this?

20 THE COURT: Correct.

21 MR. KENT: Thank you, sir.

22 THE COURT: All right. See you all at 2:00.

23 (WHEREUPON, a lunch break was taken.)

24 (WHEREUPON, State's Exhibit Nos. 8 and 9 were
25 marked for identification.)

1 THE COURT: All right. We got everybody here?

2 MS. ABEE: Yes, sir. We wanted to clarify with
3 Defense counsel about this. Once a witness is done
4 testifying, they're allowed to be in the courtroom and it
5 no longer violates the sequestration order?

6 THE COURT: Yes, as long as they don't talk to other
7 witnesses.

8 MS. ABEE: Yes, sir, we just wanted to make sure.

9 THE COURT: All right. The Defendant is in the
10 courtroom.

11 Are you ready.

12 MR. KENT: Yes, sir.

13 THE COURT: All right. Bring the jury in.

14 (WHEREUPON, the jury entered the courtroom at
15 2:01 p.m.)

16 THE BAILIFF: All jurors are back in the courtroom.

17 THE COURT: Thank you.

18 Folks, before we call the next witness, I wanted to
19 talk to you about taking notes. I noticed one juror was
20 taking notes and that's fine. If anybody wants to take
21 notes, let us know, we can get you a notepad.

22 The one thing that I would like to -- well, there's
23 two things about notes I want to say. One, don't let it
24 distract you from the testimony. Some people write down
25 notes. It helps them to make a point. However, as I

1 said, there's only one piece of evidence that you're going
2 to be allowed to have -- one piece of paper that you'll be
3 allowed to have back in your jury deliberations that is
4 not evidence and that's the indictments. So you won't be
5 able to use your notes when you're deliberating. You can
6 use them -- if it helps you follow the testimony better to
7 take notes, that's fine. You just won't be able to use
8 them during deliberations. If anybody wants a notepad,
9 raise your hand real quick and the bailiff will get you
10 that and a pen.

11 Anyone else?

12 Okay. We'll resume then with the State calling the
13 next witness.

14 MR. FERNANDEZ: Thank you, Your Honor. May it please
15 the Court. The State calls James Tallon.

16 THE BAILIFF: State your name, please.

17 THE WITNESS: James Tallon.

18 JAMES TALLON, after being duly
19 sworn, testified as follows:

20 THE COURT: Thank you. Come around, sir.

21 THE BAILIFF: State your name and spell your last for
22 the record.

23 THE WITNESS: James Tallon, T-A-L-L-O-N.

24 DIRECT EXAMINATION

25 BY MR. FERNANDEZ:

1 Q All right. Thank you, Mr. Tallon. If you would very
2 briefly, with whom are you currently employed?

3 A With the South Carolina State Law Enforcement
4 Division, also known as SLED.

5 Q Okay. And what are your responsibilities at SLED
6 currently?

7 A I am a crime scene agent. I, basically, answer calls
8 for service anywhere in the State of South Carolina for
9 any number of crime scenes.

10 Q Okay. How long have you been in law enforcement?

11 A Seven years.

12 Q Okay. And in order to become a sworn police officer,
13 did you attend what's known as the Criminal Justice
14 Academy?

15 A Yes, sir, I did.

16 Q Prior to working at SLED, where were you employed?

17 A The Sumter Police Department.

18 Q And how long were you employed with the Sumter Police
19 Department?

20 A Almost five years.

21 Q And what were your responsibilities at the Sumter
22 Police Department?

23 A Towards the end there, I was a crime scene detective
24 active, and I did, basically, the same job that I do now,
25 where I answer calls for service for crime scenes.

1 Q Okay. Mr. Tallon -- or Agent Tallon, I'm going to
2 direct your attention back to 2013, May of 2013. Do you
3 recall -- where were you employed back in May of 2013?

4 A City of Sumter Police Department.

5 Q And do you recall going and carrying out a warrant at
6 1010 North Guinyard Street and 710 Manning Avenue?

7 A Correct.

8 Q What are those two locations, if you recall?

9 A They were churches.

10 Q Did you -- what did you do upon arriving at the
11 scene?

12 A Upon arriving at the scene, first thing that we do --
13 or we did do in Sumter was take photographs of the area.

14 Q Okay. And upon entering the premises, what then did
15 you do?

16 A We would also rephotograph the area.

17 Q And did you collect any samples while you were
18 assisting with this search warrant?

19 A Yes, sir, samples were taken in both locations -- or
20 evidence was taken in both locations.

21 Q All right. And I'm going to --

22 MR. FERNANDEZ: Permission to approach, Your Honor?

23 THE COURT: Sure.

24 BY MR. FERNANDEZ:

25 Q I'm going to show you, Agent Tallon, what's been

1 marked as State's Exhibits 3 through 6. Take a look at
2 those for me, if you would.

3 A (Witness complies.)

4 Q Those photographs I just handed you, are you familiar
5 with them?

6 A Yes, sir, those are some of the photos that I took.

7 Q And if you would -- and you took them during the
8 service of this search warrant?

9 A Correct.

10 Q And what do they show? If you would, just explain
11 what they show, each one -- without showing to the jury,
12 first, just tell me what they show.

13 A Okay. The first photograph is a bottle of hand
14 sanitizer. The second bottle -- or second photograph is a
15 doorway leading into an office, and the third and fourth
16 photographs are both of underwear.

17 Q Okay. And the third and fourth photographs, do you
18 remember where those photographs were taken?

19 A I believe those would have been taken on Four Bridges
20 Road, if I'm not mistaken.

21 Q Was that a residence?

22 A Yes, sir.

23 Q Do you know whose residence it was?

24 A I was informed it was Mr. Durant's.

25 MR. FERNANDEZ: Okay. The State moves at this point

1 to enter Exhibits 3 through 6 into evidence.

2 MS. BLAZER: No objection.

3 THE COURT: Admitted.

4 (WHEREUPON, State's Exhibit Nos. 3 through 6
5 were admitted into evidence.)

6 MR. FERNANDEZ: And permission to allow the jury to
7 publish to the jury very briefly?

8 THE COURT: You may.

9 BY MR. FERNANDEZ:

10 Q Agent Tallon, if you would, just show the jury the
11 pictures and explain to them what they're looking at.

12 A This is the first photograph, the bottle of hand
13 sanitizer. State's Exhibit 3 is the doorway to the office
14 with the do not enter sign on it.

15 Q And Agent Tallon, I know you did say there's a do not
16 enter sign. And what's on the doorknob there as well?

17 A It also says meeting in session. Please do not
18 disturb or knock. State's Exhibit 6 is the dryer with the
19 underwear inside.

20 Q And what color is that underwear?

21 A It's white with gray bands.

22 Q Okay.

23 A And here's another one. I believe this would have
24 been in a hamper. That's State's Exhibit 5.

25 Q What does that purport to show there?

1 A It is also underwear, same color type.

2 Q Thank you. Agent Tallon, have you received training
3 in order to conduct crime scene investigations?

4 A Yes, sir.

5 Q And have you received training specifically in the
6 area of evidence collection?

7 A Yes, sir.

8 Q Okay. And did you -- what other evidence did you
9 collect when you were on the scene at the churches and
10 household?

11 A There was another combination of hand sanitizers,
12 bottles, some spray bottles, Lysol spray bottles and
13 several swabs for testing for DNA and other bodily fluids.

14 Q Explain to the jury if you would what a DNA swab
15 would be.

16 A Basically, when we take a DNA swab, it's going to be
17 two sterile Q-tips. They're a little longer than your
18 normal Q-tip. They only have one cotton end. You would
19 put fresh gloves on, take the cotton tip applicators out,
20 place a drop of sterile or deionized water onto one of the
21 swabs while leaving the other swab dry. And then swab the
22 area in which you would like to test for whatever you're
23 testing for, DNA or bodily fluids. And then that would
24 go -- in Sumter, what we did was place that inside a very
25 small cardboard box that would allow it to air dry, but to

1 keep it from it getting cross-contaminated with anything.
2 That would be placed into a small manila envelope that you
3 might get at the post office and that is sealed with
4 evidence tape.

5 Q Did you do that for each item of evidence that you
6 collected that day?

7 A Yes, sir.

8 Q And that would include the DNA swabs as well as the
9 hand sanitizer bottles you just mentioned?

10 A Correct.

11 Q After obtaining that -- first of all, let me ask you
12 this, is it your general practice -- when you're directed
13 to a crime scene to collect evidence, is it your practice
14 to collect as much evidence as you can?

15 A As much as is practical, yes, sir.

16 Q And when you -- after sealing the evidence, what was
17 the next step of the process when you're, I guess, leaving
18 the scene?

19 A Once we left the scene and took it back to our lab,
20 the Sumter lab, if it wasn't processed in-house, which
21 most things are not, it was then placed on a shelf in our
22 secure evidence storage locker until which time, in this
23 case, I actually took the evidence myself from -- some of
24 the evidence myself from Sumter PD to SLED and logged it
25 into their evidence log in.

1 Q And when you took that evidence to SLED for further
2 testing, had it been opened prior to that point?

3 A No, sir. Once it's sealed, it stays sealed until the
4 agents at SLED get it and decide what they want to do with
5 it.

6 Q So it was sealed when you dropped it off at SLED?

7 A Correct.

8 MR. FERNANDEZ: Beg the Court's indulgence.

9 (Pause.)

10 MR. FERNANDEZ: No further questions. Thank you,
11 Agent Tallon.

12 THE COURT: Cross?

13 CROSS-EXAMINATION

14 BY MS. BLAZER:

15 Q Good afternoon, Agent Tallon.

16 A Good afternoon.

17 Q My name is Cameron Blazer. How are you?

18 A Good.

19 MS. BLAZER: May I approach, Your Honor?

20 THE COURT: Uh-huh.

21 BY MS. BLAZER:

22 Q May I take a look at that photo you had of the
23 doorknob? Yeah. It says meeting in session, do not
24 disturb or knock. When you arrived to execute the search
25 warrant, was there a meeting in session?

1 A No, ma'am, not that I'm aware of.

2 Q And as you just told Mr. Fernandez, your job as an
3 evidence collection person on the scene is to make sure
4 that you get the evidence that's going to be relevant and
5 probative of the allegations that have been made, right?

6 A Correct.

7 Q So you didn't take Q-tips and run them all over the
8 office? You swabbed areas of the office that you thought
9 would be most likely to produce evidence, correct?

10 A Correct.

11 Q And you did that on the basis of some knowledge about
12 where those places might be, right?

13 A Correct.

14 Q Because you read the search warrant application and
15 you knew what the allegations were that were contained in
16 that search warrant application, correct?

17 A Correct.

18 Q And so that's why you swabbed Pastor Durant's desk,
19 right?

20 A Correct.

21 Q That's why you swabbed a thing of hand sanitizer, why
22 you collected the handle sanitizer, correct?

23 A Correct.

24 MS. BLAZER: I have nothing further.

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

1 THE COURT: You can step down. Thank you.

2 MR. FERNANDEZ: We ask the Court permission to excuse
3 Agent Tallon. He's under subpoena, Your Honor.

4 THE COURT: You're free to go. Thank you.

5 THE WITNESS: Thank you.

6 THE COURT: Next witness.

7 MR. FERNANDEZ: The State calls Jessica Herron, Your
8 Honor, also, Jessica Stowe. Her name has changed since
9 being married.

10 THE BAILIFF: State your name, please.

11 THE WITNESS: Jessica Stowe.

12 JESSICA STOWE, after being duly
13 sworn, testified as follows:

14 THE BAILIFF: Thank you. Come around, please. State
15 your name, spell your last for the record.

16 THE WITNESS: My name is Jessica Stowe, S-T-O-W-E.

17 DIRECT EXAMINATION

18 BY MR. FERNANDEZ:

19 Q Thank you. Now, Ms. Stowe, with whom are you
20 currently employed?

21 A The South Carolina Law Enforcement Division.

22 Q And before we begin, your name is Jessica Stowe, but
23 did you have another name that might appear on some
24 reports?

25 A Yes, Jessica Herron. I recently got married.

1 Q Same person, though?

2 A Same person.

3 Q All right. What's your position at SLED?

4 A I'm a forensic serologist.

5 Q How long have you been at SLED?

6 A Four years.

7 Q If you would, please tell us a little bit about your
8 educational background?

9 A Sure. I have a Bachelor's of Science in biology and
10 chemistry -- well, minor in chemistry from the University
11 of South Carolina. While at SLED, I also took numerous
12 courses through places such as West Virginia University,
13 DNA.gov, the DNA initiative in courses such as hair
14 analysis, laboratory safety, ethics, courtroom testimony,
15 as well as a graduate-level course in biological evidence
16 and serology from the University of Florida.

17 Q Thank you. If you would, please tell the jury a
18 little about what forensics serology is.

19 A Sure. Forensics serology is the identification of
20 bodily fluids. So as a forensic serologist, we get items
21 of evidence in and we're given a task. We know what we
22 need to look for and we use our resources available to us
23 to look for those bodily fluids. Once we do that, we take
24 small portions of those areas that we think need to go
25 forward for DNA analysis, place them into small tubes,

1 send them to DNA. We generate reports based off of our
2 findings, as well as testify in court.

3 Q And what would your typical duties include as a
4 forensic serologist at SLED?

5 A My typical duties would be to request evidence,
6 screen those items for blood, semen, saliva, hair,
7 anything they request, really. Again, generate the report
8 based off those findings and then testify in court.

9 Q Okay. And in addition to your educational
10 background, I think you might have touched a little bit on
11 it, but did you receive any additional training in order
12 to perform forensic serology?

13 A Yes, I did. I participated in SLED's in-house
14 training program. It's a very lengthy program. I was
15 trained by a court-qualified DNA analyst and evidence
16 processing technician. In the beginning, it's a lot of
17 observation. It's during this time where you're learning
18 the policies and procedures that go behind everything that
19 you're doing. They want to make sure you have a clear
20 understand before you touch any piece of evidence.

21 After this period of time, you then -- your trainer
22 will let you test this, test that. You're getting your
23 feet wet. You're getting comfortable. After you've done
24 this for a while and you're getting really comfortable in
25 the lab, you perform something call your training samples.

1 What those are is they are mock samples that are
2 generated by the lab. They're cuttings of cloth. They're
3 swabs. They have all kinds of body fluids on them. And
4 you have to use your resources to figure out what is there
5 and what isn't.

6 Once you pass this, you enter a phase of your
7 training called your supervised case work, where you are
8 taking cases from start to finish, again, under
9 supervision.

10 Once you leave this phase of training, you take a
11 five-part competency examination that encompasses all
12 aspects of being a forensic serologist. Once you pass
13 this exam, you are then deemed competent to perform
14 independent case work as a forensic serologist.

15 Q Thank you. How many cases would you estimate you've
16 worked as a forensic serologist?

17 A I would say easily a thousand.

18 Q And have you ever had an opportunity to testify as an
19 expert in the field of forensic serology in a court of
20 record?

21 A I have.

22 Q How many times would you estimate?

23 A Five so far.

24 MR. FERNANDEZ: At this point, Your Honor, we move to
25 qualify Ms. Stowe as an expert in the field of forensic

1 serology?

2 MS. BLAZER: No objection, Your Honor.

3 THE COURT: All right. Folks, remember at the --
4 when I was talking to you earlier this morning, I said
5 witnesses give evidence by telling you what they heard,
6 they saw, they touched, they felt, they smelt. We don't
7 normally let people get up and give you their opinion
8 about evidence. That's for you to decide how much -- or
9 what to decide about particular evidence in a trial.

10 But the law says that when somebody because of
11 education or training or experience in a field becomes an
12 expert in that field, they are allowed to come to court
13 and testify as an expert within that field of expertise
14 and to give you their opinion about testimony and the
15 basis of that testimony -- or give you their opinion about
16 that evidence and the basis for that opinion.

17 This witness has now been qualified as an expert in
18 the field of forensic serology. She will be allowed to
19 tell you what her opinion is about the evidence and what
20 the basis for that opinion is.

21 Now, simply because somebody has been qualified as an
22 expert doesn't mean that you are required to blindly
23 accept their opinion about what they say. She's a
24 witness. You decide how much weight to give her testimony
25 based on all the evidence that you'll hear throughout the

1 trial. And if you feel like it does not deserve any
2 weight, that's totally your choice. If you think it
3 deserves weight, that's totally your choice. But it is up
4 to you to decide how much weight to give this witness's
5 testimony based on all of the evidence that you'll hear
6 throughout the trial.

7 All right. You may resume.

8 MR. FERNANDEZ: Thank you, Your Honor.

9 BY MR. FERNANDEZ:

10 Q In the course of your work as a forensic serologist,
11 did you receive items of evidence in the case at hand
12 today that we're here for?

13 A I did. I received item 3, a hand sanitizer bottle,
14 and a dress from MINOR

15 Q Thank you. And when you received these items into
16 evidence from SLED, had it been tampered with in any way?

17 A No.

18 Q Could you explain generally what form the evidence
19 would come in?

20 A I don't -- actually, can I refer to my chain of
21 custody?

22 Q Sure.

23 A I want to see if that's on there. The hand sanitizer
24 bottle was in a sealed box, as well as the dress was in a
25 sealed box. When I received those items, I ensured that

1 everything is sealed properly. It did not appear to be
2 tampered with, initialed.

3 Q Thank you.

4 MR. FERNANDEZ: Your Honor, permission to approach
5 the witness?

6 THE COURT: You may.

7 BY MR. FERNANDEZ:

8 Q Ms. Stowe, I'm handing you two documents that have
9 been marked State's Exhibit 7 and State's Exhibit 8?

10 A Okay.

11 Q If you would, please, review those and let me know if
12 you're familiar with both of those?

13 A Yes. They appear to be copies of my analysis.

14 Q Okay. Thank you. And would you please tell me
15 specifically what the analysis was for on State's Exhibit
16 No. -- the first exhibit, I think it was 7?

17 A Okay. You said State's Exhibit 7.

18 Q Correct. State's Exhibit 7.

19 A The hand sanitizer bottle?

20 Q Correct.

21 A Okay. Yes, the request in this case was for semen,
22 so I performed our initial semen screen on this item.

23 Q And if you would, please, tell the jury a little
24 about the screening, the science behind it.

25 A Absolutely. For semen screening, we have a test

1 called acid phosphatase. That is the first test that we
2 use to determine if we need to -- what areas we need focus
3 on further down the line.

4 In this case, I swabbed the entire exterior of the
5 bottle and then used our acid phosphatase test on the
6 swabs that I collected from the bottle. A color change
7 occurred. When that color change occurred, it indicated
8 it was possible -- or positive, excuse me.

9 So acid phosphatase, what that means is, it's a
10 chemical found in high concentrations of semen. So when
11 that color change occurred, what that said to me was okay,
12 we need to focus on this area for further testing to
13 determine if semen is present or not. Since it was
14 positive, it did indicate possibly that semen was present.

15 Q And after receiving that positive indication for
16 semen, did you then forward that item on for further
17 testing?

18 A I did, yes.

19 Q And would that be within your department or is that a
20 separate department that handles DNA testing?

21 A Right. So it was returned to our evidence control
22 area, and then the DNA analysts retrieve it from there.
23 That's where the further testing would have occurred.

24 Q So you did not do the further testing?

25 A I did not.

1 Q Thank you. And as far as positives from the acid
2 phosphatase test, what are some things that would -- I
3 think you did say semen was in high concentration, but
4 what are some other things that may show up on such a
5 test?

6 A Acid phosphatase can be found in high concentrations
7 in semen. It can be found in low concentrations in other
8 substances, such as vaginal fluid, fecal matter, plant
9 matter, some feminine hygiene products, as well as
10 herbicides.

11 Q And as far as you're aware -- and this is just within
12 your personal knowledge realm, is there anything that is
13 inside of hand sanitizer solution or hand sanitizer itself
14 that would test positive for the acid phosphatase?

15 A Not that I'm aware of, but, again, I reiterate I'm
16 not sure what was inside or outside that bottle.

17 Q Okay.

18 MR. FERNANDEZ: At this point, Your Honor, we would
19 move to enter into evidence the report which would be
20 State's Exhibit No. 7.

21 MS. BLAZER: No objection.

22 THE COURT: Admitted.

23 (WHEREUPON, State's Exhibit No. 7 was admitted
24 into evidence.)

25 BY MR. FERNANDEZ:

1 Q Now, Ms. Stowe, moving on to what's been marked as
2 State's Exhibit No. Eight, I think you did say you're
3 familiar with it. Would you please tell the jury what
4 that is?

5 A This appears to be a copy of my serology analysis
6 from the dress of MINOR

7 Q What means of testing did you use on the dress from
8 MINOR

9 A So, again, their request was for semen, so I used an
10 alternate light source. It is a special light that when
11 we use it on items that could contain semen, it
12 fluorescences, the semen fluorescences. So that's what we
13 are initially looking for. In this case, no areas of
14 biological fluorescences were observed.

15 Q And let me ask you this, if a dress or any article of
16 clothing were to have been laundered, washed in any form,
17 would that wash away any fluorescence from the semen, as
18 well?

19 A Yes, it is certainly possible.

20 MR. FERNANDEZ: At this point, I then move State's
21 Exhibit No. 8 into evidence.

22 MS. BLAZER: No objection.

23 THE COURT: Admitted.

24 (WHEREUPON, State's Exhibit No. 8 was admitted
25 into evidence.)

1 MR. FERNANDEZ: Beg the Court's indulgence one
2 moment.

3 (Pause.)

4 MR. FERNANDEZ: No further questions, Your Honor.
5 Thank you, Ms. Stowe, please answer any questions
6 counsel may have.

7 THE COURT: Cross?

8 CROSS-EXAMINATION

9 BY MS. BLAZER:

10 Q Good afternoon, how are you?

11 A I'm good. How are you?

12 Q Good. Thank you. My name's Cameron Blazer. I'll
13 just ask you a few questions. Now, I did not -- I got out
14 of biology just as quick as I possibly could in college,
15 but am I right that acid phosphatase is an enzyme?

16 A You are.

17 Q And it's an enzyme that has a variety of different
18 types, so there's prostatic acid phosphatase and other
19 kinds of acid phosphatase, correct?

20 A I do believe so. I haven't read that much literature
21 on other types other than what I usually test for.

22 Q So then you're not familiar with the fact that
23 prostatic acid phosphatase is the kind of acid phosphatase
24 typically found in the prostate gland and, therefore, in
25 semen?

1 A Yes, that is true.

2 Q And are you testing specifically for prostatic acid
3 phosphatase when you do your color collect?

4 A That is a possibility, yes, but the test is just
5 looking for acid phosphatase.

6 Q Any acid phosphatase. And I know you mentioned that
7 acid phosphatase can be in a variety of other serum in the
8 body. You mentioned vaginal fluids -- go through that
9 list for me again.

10 A Vagina fluids, fecal matter, spermicides, some
11 feminine hygiene products.

12 Q And saliva, too?

13 A Not that I'm aware of.

14 Q So you're not aware of any research that indicates
15 that acid phosphatase can often be present in the saliva
16 of people who have periodontal disease or other issues?

17 A It certainly could be, but I'm not aware of it being
18 present in high concentrations.

19 Q But your test, does it test for the concentration of
20 the acid phosphatase or it's a positive or a negative?

21 A Our test when we test for it, if there's a lot there,
22 our color change may deepen. If there's maybe not a lot
23 there or there's not a reaction as heavily as possible,
24 then it's going to be a lighter purple. But as long as
25 it's in that range of purple, then it's positive.

1 Q So if I were to look at your report, it doesn't say
2 dark purple, light purple, it just says -- it determined
3 it purple, right?

4 A On my report, it wouldn't say that, but I do have my
5 bench notes with me that indicate what type of color
6 change occurred.

7 Q But you didn't put that in the record?

8 A No.

9 Q That's just typically not what y'all do?

10 A Right. We just report out the results.

11 Q And then because you had a positive screen for acid
12 phosphatase, that's why you forwarded it back to the DNA
13 folks for them to test?

14 A Well, it never went to them in the first place for it
15 to go back to them.

16 Q You're absolutely, right. I'm sorry.

17 A Yes, the swabs were collected and then it was
18 forwarded to the DNA department for further analysis.

19 Q And who in the DNA department tested that, do you
20 know?

21 A I believe it was Jennifer Bartman. She was the
22 analyst in this case.

23 Q And then as you explained to Mr. Fernandez, you
24 didn't even get to the acid phosphatase test on that
25 polka-dotted dress; is that right?

1 A That would be correct.

2 Q And that's because when you did your swab for bio
3 fluorescence, nothing showed up?

4 A That's correct.

5 Q And were you given any indication about that dress,
6 what had -- who'd had it, how long -- what you were
7 testing for, you don't get any of that information, do
8 you?

9 A I am told what it needs to be tested before, and then
10 I perform the necessary steps in order to determine if
11 that body fluid could be present.

12 Q Right.

13 MS. BLAZER: Beg the Court's indulgence.

14 (Pause.)

15 BY MS. BLAZER:

16 Q Now, let's just be perfectly clear, when you're
17 testing for acid phosphatase, are you indicating the
18 presence of sperm or other sperm particles on something
19 that would test positive for acid phosphatase?

20 A Not sperm, no, that would require microscopic
21 examination.

22 Q So you did no test to determine whether there was or
23 was not sperm on anything you were asked to test?

24 A I did not. That would fall under the category of the
25 further testing.

1 Q And if you had --

2 MS. BLAZER: Beg the Court's indulgence.

3 (Pause.)

4 BY MS. BLAZER:

5 Q I'm sorry to be so particular about this, but they
6 submitted a dress to you to be tested?

7 A Uh-huh.

8 Q And there was nothing on that dress?

9 A There was no fluorescence observed on the dress.

10 Q But the theory would be -- well, let me ask you this,
11 if you had acid phosphatase because you had some bodily
12 fluid, like saliva, or semen, or blood, or fecal matter
13 like you described, and you washed that, you're not going
14 to get a positive acid phosphatase, are you?

15 A Well, that's different.

16 Q You washed it in detergent?

17 A It doesn't -- you may or may not. I can't say that
18 you never would. It depends.

19 Q But you're not typically going to receive an item in
20 evidence that's been washed since it was relevant to a
21 case that you're being asked to assess, are you?

22 A It happens.

23 Q It happens?

24 A Uh-huh.

25 MS. BLAZER: I have nothing further.

1 THE COURT: Redirect?

2 MR. FERNANDEZ: No further questions, Your Honor.

3 THE COURT: You may step down. Thank you.

4 MR. FERNANDEZ: Permission to excuse Ms. Stowe from
5 her subpoena?

6 THE COURT: You're free to go.

7 THE WITNESS: Thank you.

8 Next witness.

9 MS. ABEE: Your Honor, the State calls T.H.
10 to the stand.

11 THE BAILIFF: Place your left hand on the Bible,
12 raise your right hand. State your name, please.

13 THE WITNESS: T.H. .

14 T.H. , after being duly
15 sworn, testified as follows:

16 THE BAILIFF: Thank you. Come around, please. State
17 your name, spell your last for the record.

18 THE WITNESS: My name is T.H.

19 DIRECT EXAMINATION

20 BY MS. ABEE:

21 Q T.H. go ahead and introduce yourself to the jury
22 by telling them what name you go by.

23 A Hi, my name is T.H. . I go by T.H.

24 Q And do you want me to call you T. or T.H. ?

25 A It doesn't matter.

1 Q Okay. T.H. , how old are you?

2 A I'm 19.

3 Q When's your birthday?

4 A T.H. , 1996.

5 Q And are you from Sumter?

6 A Yes, I am.

7 Q And how long have you lived in Sumter?

8 A For a long, long time.

9 Q And who do you live with here?

10 A My mother and my father.

11 Q What are their names?

12 A Rondalyn Hodge and Gary Hodge.

13 Q Did you go to Sumter High School?

14 A Yes, I did.

15 Q What year did you graduate?

16 A 2014.

17 Q Now, T.H. , do you know Larry Durant?

18 A Yes, I do.

19 Q Tell us how you know Larry Durant.

20 A He was my former pastor.

21 Q Approximately, how old were you when you first
22 started going to church with Pastor Durant?

23 A Four years old.

24 Q Who would you attend church with?

25 A My mother and my father again.

1 Q Approximately, how many times a week did you go to
2 church with Pastor Durant?

3 A Three times with church services and then I would go
4 for practices.

5 Q Practices for what?

6 A Praise dance and choir.

7 Q T.H. do you see Larry Durant in the courtroom
8 today?

9 A Yes, I do.

10 Q Can you tell where he's seated and an article of
11 clothing that he's wearing?

12 A He's sitting over on my right with a blue shirt on
13 and shades.

14 Q So let's talk about a typical Sunday at the
15 Defendant's church. What time would you usually get to
16 church?

17 A About 9:15.

18 Q Now, was there one church or two churches?

19 A Two.

20 Q How do you differentiate between the two?

21 A One is on Manning Avenue, 710, and one is on 1010
22 North Guinyard Drive.

23 Q You said you get to church what time on Sunday?

24 A We would go there about 9:15 on the 710 if it was
25 morning services. And then for the 11:00 service, we

1 would go to 1010.

2 Q So you would go from one church to the other?

3 A Yes.

4 Q And then how long are services once you switched to
5 the second church?

6 A The second church would be to about 1:30.

7 Q Now, was your family involved in the church?

8 A Yes.

9 Q Explain us how they were involved in the church.

10 A My mother was a minister there and a teacher and she
11 was an usher and she prayed.

12 Q Were you involved in the church?

13 A Yes.

14 Q Explain to us how you were involved.

15 A I was a praise dancer, I was on the praise team, I
16 was in the choir and I was an usher.

17 Q Explain what that means to us. Being a praise dancer
18 and on the praise team, how were you involved in the
19 services?

20 A I would sing to the beginning of the service. When
21 we were appointed to praise dance, I would praise dance.

22 Q Did you enjoy doing this?

23 A I really did.

24 Q Was there ever a point in time when something sexual
25 happened between you and the Defendant?

1 A Yes.

2 Q Do you recall how old you were when that happened?

3 A It was my junior year in high school. I was about 16
4 years old.

5 Q Do you recall what year that was?

6 A 2012.

7 Q And where did this take place?

8 A Both locations, church locations, on 710 and 1010.

9 Q And where specifically in the church did this occur?

10 A In his office.

11 Q How would you get back into his office?

12 A One of his armor bearers would come get me.

13 Q Explain to us what an armor bearer was?

14 A Someone who, basically, was with him throughout the
15 whole service and make sure he was okay and gave him what
16 he needed throughout service.

17 Q Where would they come get you from?

18 A Normally, we would stand in the hallway at the church
19 or they would tell us, like, at the offering that we have
20 to go inside his office.

21 Q And once you got inside of his office, why were you
22 there?

23 A Supposed to be for a private prayer.

24 Q And what were these private prayers supposed to be
25 for?

1 A Sexual diseases, breast cancer.

2 Q And explain what you mean by that.

3 A I was supposed to get prayed for so that when I was
4 to have sex -- or so that I wouldn't get breast cancer and
5 when I did have sex, I wouldn't have to contact any sexual
6 diseases.

7 Q Now, did Pastor Durant pray for people during the
8 church services?

9 A He did.

10 Q Now, were these prayers in front of the rest of the
11 congregation?

12 A No, ma'am, they weren't.

13 Q Was anyone else back in that room with you?

14 A No.

15 Q And when you were back in his office, was the door
16 open or the door shut?

17 A Closed.

18 Q And do you know whether or not the door locked or
19 unlocked?

20 A It was locked we had to lock it behind us.

21 Q So you locked the door?

22 A Yes, I did.

23 Q Tell us exactly how Pastor Durant prayed for you, how
24 he prayed for you not to have diseases or any breast
25 cancer?

1 A Basically, he would tell me to pull my shirt down or
2 pull my shirt up, depending on what I had on, pull my
3 pants down or pull my skirt up. And he would touch my
4 breasts and then he would touch my vagina.

5 Q Was he saying anything during this?

6 A No.

7 Q Was he praying anything during this?

8 A No.

9 Q What happened once he was done?

10 A Nothing. He would tell me I could pull my shirt up
11 and pull my pants up and I could go.

12 Q And where specifically in the office were you when
13 this was happening?

14 A In front of his desk.

15 MS. ABEE: Your Honor, may I approach?

16 THE COURT: You may.

17 BY MS. ABEE:

18 Q T.H., I'm showing you what's already been entered
19 into evidence as State's Exhibit No. 1 and State's Exhibit
20 No. 2. Do you recognize those?

21 A I do.

22 Q What are these pictures of?

23 A His office.

24 Q Explain to us where you would be in his office when
25 he would pray for you?

1 A Right in front of the two chairs.

2 Q Is it accurate if I point here right in front of the
3 two chairs?

4 A Right here.

5 Q And T.H. how many times did this happen?

6 A It happened about six times.

7 Q Do you recall when it stopped?

8 A I do not. The only thing that I do remember is
9 telling my mother and her speaking to him telling her she
10 wasn't happy with it. Then it stopped after that. He
11 told me I didn't have to come back in there if I was so
12 uncomfortable. And I didn't have to go back. And then in
13 May, that's when it all came.

14 Q So when you told your mom, was that prior to May?

15 A Yes.

16 Q So it wasn't still going on with you in May of 2013?

17 A No.

18 Q Do you know how much earlier it had stopped with you?

19 A February.

20 Q So there was a time gap in between there?

21 A Right.

22 Q T.H., what would you normally be wearing when this
23 happened?

24 A I would wear skirts most of the time. I'm always
25 wearing a regular t-shirt or a button-up shirt.

1 Q And what about the Defendant, what would he be
2 wearing when this happened?

3 A Normally, in his shirt and suit.

4 MS. ABEE: Your Honor, I have no further questions
5 for this witness at this time.

6 THE COURT: Cross?

7 CROSS-EXAMINATION

8 BY MS. BLAZER:

9 Q Good afternoon, Ms. T.H.. How are you?

10 A Good afternoon. How are you?

11 Q Fine. Thank you. My name is Cameron Blazer and I
12 just have a few questions for you, all right?

13 A All right.

14 Q You mentioned that you told your mom before May?

15 A Uh-huh.

16 Q Is your mom the first person you told about this?

17 A Yes.

18 Q And do you remember when that was?

19 A It was in February.

20 Q You told your mom in February?

21 A Uh-huh.

22 Q And you said this happened about six times?

23 A Right.

24 Q And then after you told your mom in February, things
25 calmed down, nothing else happened until May when

1 investigators contacted you?

2 A Right.

3 Q Where were you contacted first by an investigator?

4 A On my phone.

5 Q On your phone. And did you then have a meeting with
6 an investigator or multiple investigators?

7 A I had a meeting at school, yes.

8 Q You met at school. Who did you meet with at school?

9 A Ms. Valerie and Investigator Kelly.

10 Q They were together or you met with them separately?

11 A They were together.

12 Q You met with them one time at school and that was it?

13 A Right.

14 Q Did they ask you to write out a statement for them?

15 A Yes, they did.

16 Q Before they asked you to write out that statement,
17 they asked you what happened?

18 A Right.

19 Q And you told them what happened. And you told them
20 that he had touched you on your breasts and he had touched
21 you on your vagina, correct?

22 A Yes, ma'am.

23 Q You didn't tell him that he had put his fingers
24 inside you?

25 A I did not tell him that he stuck his fingers up my

1 vagina, no, I did not.

2 Q You told him that he touched your breasts and he
3 touched your vagina because he was -- this was because he
4 was trying to cure you or protect you from possible sexual
5 diseases, breast cancer, that kind of thing?

6 A Yes.

7 Q Prior to that time, did you have sexual diseases that
8 is he was protecting you from?

9 A I did not.

10 Q Do you have sexual diseases?

11 A I do not.

12 Q You do not. Okay. And just going back to how your
13 church family was before all this happened, you had been
14 there since you were a little girl. And it sounds like it
15 was a family affair. It almost sounds like it was a big
16 family. You know, it was your family, but you were all
17 interconnected with your church family. Is that fair to
18 say?

19 A Yes.

20 Q Because your daddy, he's, actually, Riley's
21 Godfather; is that right?

22 A Right.

23 Q Your mom was a minister. I mean, y'all spent all
24 your time there?

25 A Correct.

1 Q So you were close with A.R. ?

2 A I was.

3 Q And MINOR ?

4 A Right.

5 Q And D.B. ?

6 A Right.

7 Q Okay.

8 MS. BLAZER: Beg the Court's indulgence.

9 (Pause.)

10 MS. BLAZER: Nothing further, Your Honor.

11 MS. ABEE: Brief redirect, Your Honor.

12 THE COURT: Go ahead.

13 REDIRECT EXAMINATION

14 BY MS. ABEE:

15 Q T.H., you were just asked about giving a statement
16 to police. Do you remember being asked that?

17 A Yes.

18 Q And you stated you never told police the Defendant
19 had put his fingers in your vagina. Do you recall that?

20 A I do.

21 MS. ABEE: Your Honor, may I approach?

22 THE COURT: Uh-huh.

23 BY MS. ABEE:

24 Q T.H., I'm showing you your statement. Do you
25 remember writing this?

1 A Yes, I do.

2 Q Is this your signature at the end?

3 A It is.

4 Q Now, I'm going to read a part. Follow along with me,
5 okay?

6 A Okay.

7 Q Starting right here, it says, As time continued on,
8 he would touch me in my vagina, as well as my breasts
9 saying he was stopping diseases. Is that what you wrote?

10 A Yes, ma'am.

11 Q And is this the statement you gave to police?

12 A Yes, it is.

13 MS. ABEE: Your Honor, I have no further questions.

14 MS. BLAZER: No recross.

15 THE COURT: You may step down.

16 THE WITNESS: Am I excused?

17 THE COURT: Pardon?

18 THE WITNESS: Am I excused?

19 THE COURT: Yes.

20 You don't need her any further?

21 MS. BLAZER: No.

22 THE WITNESS: Thank you.

23 THE COURT: Next witness.

24 MR. FERNANDEZ: The State calls Jennifer Bartman to
25 the stand.

1 THE BAILIFF: State your name, please.

2 THE WITNESS: Jennifer Bartman.

3 JENNIFER BARTMAN, after being
4 duly sworn, testified as follows:

5 THE BAILIFF: Thank you. Come around, please. State
6 your name, spell your last for the record.

7 THE WITNESS: My name is Jennifer Bartman,
8 B-A-R-T-M-A-N.

9 DIRECT EXAMINATION

10 BY MR. FERNANDEZ:

11 Q Thank you. Ms. Bartman, please tell me with whom you
12 are currently employed?

13 A I'm employed by South Carolina Law Enforcement
14 Division, commonly known as SLED.

15 Q And what is your position at SLED?

16 A I am currently assigned to the DNA casework unit at
17 SLED.

18 Q How long have you been with SLED?

19 A Approximately three and a half years.

20 Q If you would, please tell the jury a little bit about
21 your educational back ground.

22 A I have a Bachelors Degree in biology and I also have
23 Master's Degree in Forensic Science with a concentration
24 in forensic biology.

25 Q And if you would, please tell the jury a little bit

1 about what forensic science is in general and, more
2 specifically, what, perhaps, that field of DNA analysis
3 is.

4 A Sure, forensic science is when science assists law
5 enforcement. We receive evidence in our lab from crimes
6 that occur across the State of South Carolina. And in the
7 DNA unit, we can screen for those different body fluids,
8 including saliva, semen, blood. And then we perform DNA
9 analysis on those items. We can compare them to DNA
10 profiles of known standards from identified individuals
11 and then make comparisons and generate a report to those
12 results.

13 Q And what are your duties working in the DNA lab at
14 SLED?

15 A Primarily, I perform DNA analysis on evidence that is
16 submitted, make those comparisons and then generate a
17 report as well as review other analysts' reports and then
18 testify to my findings.

19 Q In addition to your educational background that you
20 described earlier, did you receive any other training in
21 the realm of DNA analysis or forensics science?

22 A Yes. While at SLED, I completed approximately a year
23 of on-the-job training with a court-qualified analyst in
24 the proper techniques and procedures of the DNA
25 laboratory. And we also have eight hours of continuing

1 education every year in the field of DNA analysis.

2 Q And how many cases would you say you've worked as a
3 DNA analyst?

4 A Approximately 175.

5 Q Okay. And have you ever testified as an expert in
6 any court of record?

7 A Yes, I have.

8 Q What did you testify as an expert in?

9 A An expert in DNA analysis.

10 Q How many times have you testified as an expert?

11 A Eleven.

12 MR. FERNANDEZ: At this time, Your Honor, we move to
13 qualify Ms. Bartman as an expert in the area of DNA
14 analysis.

15 MS. BLAZER: No objection.

16 THE COURT: All right. Folks, the same instruction
17 that I gave you earlier about expert witnesses applies to
18 this witness, who has now been qualified as an expert in
19 the field of DNA analysis. You decide how much weight
20 that her testimony deserves. You're not required to give
21 it any more weight simply because she is an expert. And
22 you decide how much weight her testimony deserves in your
23 opinion based on all the evidence that you hear throughout
24 the trial.

25 You may resume.

1 MR. FERNANDEZ: Thank you, Your Honor.

2 BY MR. FERNANDEZ:

3 Q In the course of your work as a DNA analyst, did you
4 have an opportunity to receive items of evidence from the
5 case at hand here today?

6 A Yes, I did.

7 Q Okay. And when you received the evidence, had it
8 been tampered with in any way?

9 A No, it had not.

10 Q Are there internal safeguards at SLED that govern the
11 transporting of items of evidence?

12 A Yes, we have a chain of custody that tracks the item
13 of evidence throughout our laboratory, as well as if
14 there's any indication of tampering or that the evidence
15 is damaged, no analysis would be done until further
16 investigation is done.

17 Q Did any of that occur in this case?

18 A No tampering.

19 MR. FERNANDEZ: Permission to approach the witness,
20 Your Honor?

21 THE COURT: Sure.

22 BY MR. FERNANDEZ:

23 Q Ms. Bartman, I'm handing you what's been marked as
24 State's Exhibit No. 9. Could you please take a look at
25 that and let me know if you're familiar with that

1 document?

2 A Yes, that is copy of the DNA report that I issued in
3 this case.

4 Q Okay. Thank you. Ms. Bartman, I'm going to direct
5 your attention to items 3.1 and 4 on the list of items
6 analyzed. Would you please tell us what 3.1 and 4 are?

7 A Item 3.1 are swabs from Assure brand hand sanitizer
8 bottle and SLED item 4 is swabs from the seat of a leather
9 chair.

10 Q Before you tell me what the results were for the test
11 on those two items, did you conduct tests to say analyze
12 those two items?

13 A Yes, I did.

14 Q Are they contained in that report you have in your
15 hand?

16 A Yes, they are.

17 MR. FERNANDEZ: At this point, we move to enter into
18 evidence State's Exhibit No. 9?

19 MS. BLAZER: No objection.

20 THE COURT: Admitted.

21 (WHEREUPON, State's Exhibit No. 9 was admitted
22 into evidence.)

23 BY MR. FERNANDEZ:

24 Q Concerning No. 3.1, that would be the Assure Brand
25 hand sanitizer bottle, could you please tell us what your

1 test revealed from that item?

2 A From item 3.1, no STR/DNA profile was developed from
3 that.

4 Q And what did you test for on that bottle?

5 A We tested for DNA. We look at 15 different locations
6 on the DNA for comparison, along with a marker, which
7 tells us gender. And we will run the evidence as well as
8 known standards, which I received in this case, and any
9 comparisons between them.

10 Q When this item was forwarded to you, what type of DNA
11 were you testing for?

12 A The request from our case coordinator was to test it
13 for female DNA.

14 Q So you were not testing 3.1 for the presence of
15 sperm?

16 A No, I did not.

17 Q Regarding No. 4, can you remind us again what No. 4
18 was?

19 A SLED item 4 were swabs from the seat of the leather
20 chair.

21 Q Okay. Can you please tell the jury what 4 revealed
22 to you?

23 A The DNA profile that was developed from item 4 was a
24 mixture of, at least, two individuals. Due to low level
25 activity, no conclusive statement could be made regarding

1 the inclusion or the exclusion of Larry Durant as a
2 possible contributor to that mixture.

3 Q Okay. And were you able to exclude anyone's DNA
4 profile from that swab?

5 A Yes, I was, A.R. [REDACTED] and MINOR [REDACTED] --

6 Q Let me interrupt you one second. Was A.R. [REDACTED]
7 able to be excluded?

8 A Yes.

9 Q Was MINOR [REDACTED] able to be excluded?

10 A Yes.

11 Q Was T.H. [REDACTED] able to be excluded?

12 A Yes.

13 Q And going back to the -- your statement about the
14 inclusion or exclusion of Larry Durant, essentially, does
15 that mean that you can't say with certainty whether or not
16 it was him?

17 A That's correct. I can't conclusively say whether
18 he's part of that mixture.

19 Q What kind of factors might lead to your inability to
20 develop a strong enough profile?

21 A When we have mixtures of DNA, that means more than
22 one person has contributed DNA to whatever item we might
23 get. In some cases, we have major and minor mixtures,
24 where one person is giving more DNA than another person.
25 We also have indistinguishable mixtures, which means we

1 can't tell who's giving more or less. We can't make that
2 determination. So in this case, it was an
3 undistinguishable mixture.

4 This mixture had some lower levels of DNA. And so I
5 can't conclusively say his DNA is a part of that mixture
6 due to some of the locations having some DNA not being
7 fully represented.

8 Q But Larry Durant was not ruled out and excluded from
9 that mixture; is that correct?

10 A That's correct.

11 MR. FERNANDEZ: Beg the Court's indulgence one
12 moment.

13 (Pause.)

14 BY MR. FERNANDEZ:

15 Q And concerning DNA and its ability to degrade over
16 time, if you receive an item from evidence or that was
17 collected at the scene, is it possible that DNA due to
18 various factors degrades to the point where you would not
19 be able to then find it?

20 A It's possible.

21 MR. FERNANDEZ: Okay. Beg the Court's indulgence.

22 (Pause.)

23 MR. FERNANDEZ: No further questions, Your Honor.

24 Thank you very much, Ms. Bartman.

25 CROSS-EXAMINATION

1 BY MS. BLAZER:

2 Q Good afternoon.

3 A Good afternoon.

4 Q My name is Cameron Blazer. How are you?

5 A Good.

6 Q I just want to go through this piece by piece. What
7 you testified today is that item 4 -- and just to be
8 clear, item 4 is a swab from a leather chair?

9 A That's correct.

10 Q And you don't know where that leather chair was in
11 the room or whose leather chair it was?

12 A That's correct.

13 Q But item 4 has a mixture of more than one person's
14 DNA somewhere contained in that swab?

15 A That's correct.

16 Q Okay. And when you say low level activity, do you
17 mean it's a small amount of DNA?

18 A Yes, it means that some -- the DNA had low -- it was
19 low levels.

20 Q Small amounts of DNA. So because the amounts were so
21 small, when you do your test, you actually try to
22 replicate that DNA so that you can test it, correct?

23 A That's correct.

24 Q So when you don't have much to start with, it's hard
25 to get enough to test; is that right?

1 A That's correct.

2 Q But item 3.1, that's that bottle of hand sanitizer.
3 Now, that bottle doesn't come back to the lab with you,
4 does it?

5 A I did not have possession of the hand sanitizer.

6 Q You had swabs?

7 A That's correct.

8 Q You never even looked at the hand sanitizer?

9 A That's correct.

10 Q But you work in an environment where you probably
11 have to use hand sanitizer regularly, right?

12 A Correct.

13 Q So you know that hand sanitizer is mostly ethyl
14 alcohol, right?

15 A That's one of the components, yes.

16 Q And ethyl alcohol is actually something you use in
17 the lab to assist in some of the things that you have to
18 do sometimes; is that right?

19 A We use alcohol to clean our benches.

20 Q But you wouldn't use -- if you were to use ethyl
21 alcohol in cleaning, it's not because it destroys DNA, is
22 it?

23 A We use it to break down DNA, yes.

24 Q You're telling me that ethyl alcohol denatures DNA?

25 A Ethyl alcohol?

1 Q Uh-huh.

2 A When we clean, we mostly use a bleach solution.

3 Q A bleach solution?

4 A That's correct.

5 Q Now, Mr. Fernandez asked you a few minutes ago about
6 DNA degrading over time. You're familiar with the concept
7 of the half life, right?

8 A Sort of, yes.

9 Q Tell me if I've got it right, because science is not
10 my bag, but the half life of a molecule is how long it's
11 going to last before it begins to break down, right? Am I
12 sort of on the right track?

13 A From my understanding.

14 Q So as somebody who spends a lot time with DNA and
15 spends a lot of time doing education on DNA, you're up on
16 the research on DNA, so you know that the half life of DNA
17 is 521 years, right?

18 A I wasn't aware of that, no.

19 Q Now, when you test for DNA, you just told
20 Mr. Fernandez that you were specifically asked to look for
21 female DNA, correct?

22 A That's correct.

23 Q On item 3.1?

24 A Item 3.1, that's correct.

25 MS. BLAZER: Your Honor, may I publish a portion of

1 what's already been marked as State's Exhibit 9?

2 THE COURT: Was it admitted?

3 MS. BLAZER: I believe it was.

4 MR. FERNANDEZ: It was.

5 THE COURT: Okay. If it was admitted, you can
6 publish it.

7 MS. BLAZER: Thank you.

8 BY MS. BLAZER:

9 Q This is your report. On page two of your report --

10 MR. KENT: Page two?

11 MR. BLAZER: Uh-huh.

12 MR. Kent: Okay.

13 BY MS. BLAZER:

14 Q I just want to make sure we're clear on exactly what
15 it says. A.R. MINOR and T.H.
16 are excluded as possible contributors to this mixture,
17 correct?

18 A That's correct.

19 Q When I asked you -- when you tell me that it's
20 excluded, that doesn't mean you're not sure? That means
21 you know those people are not contributors to the DNA
22 swabs that you received, correct?

23 A They are excluded from the DNA profile --

24 Q They contribute -- I'm sorry, I talked over you.
25 They contributed no DNA to that DNA which you tested?

1 A They were excluded from the mixture that I developed,
2 yes.

3 MS. BLAZER: Nothing further.

4 MR. FERNANDEZ: Nothing further, Your Honor.

5 THE COURT: All right.

6 MR. FERNANDEZ: Nothing further from the State, at
7 least.

8 THE COURT: You may step down.

9 MR. FERNANDEZ: Permission to excuse Ms. Bartman.

10 THE COURT: Any objection to her being excused?

11 MR. KENT: None, Your Honor.

12 THE COURT: Thank you. You're free to go.

13 Next witness.

14 MS. ABEE: Your Honor, at this time, we have a brief
15 matter of law we need to take up outside the presence of
16 the jury, as well as some witness scheduling, if we can
17 take a break pretty quickly.

18 THE COURT: Okay. Folks, let's go ahead and take our
19 mid-afternoon break and send you to the jury room about
20 10, 15 minutes while you use the restroom and we take up a
21 legal matter.

22 Again, don't begin deliberations or discussions about
23 the case. We'll have you back in a few minutes. Thank
24 you.

25 (WHEREUPON, the jury left the courtroom at 3:02

1 p.m.)

2 THE COURT: Okay.

3 MS. ABEE: Thank you, Your Honor. Pretrial today,
4 Your Honor ruled that any testimony of Rondalyn Hodge,
5 who's the mother of T.H. would be excluded unless
6 there was some sort of defense put up that the girls
7 somehow made this up together, got together, colluded in
8 order to come forward with this allegation. We talked
9 about her testimony being relevant in rebuttal. However,
10 at this point in time, three of the victims that
11 testified, all three have been cross-examined on the fact
12 that they are close with each other, visit each other,
13 lived at the same house, Your Honor. Therefore, we would
14 contend that the Defense has insinuated that they have
15 somehow collaborated on this account. Therefore, we would
16 contend that Rondalyn Hodge's testimony now becomes
17 relevant. We would ask to be able to call her as a
18 witness.

19 MR. KENT: I guess I don't understand what they would
20 be calling Rondalyn Hodge for. What would her
21 testimony --

22 THE COURT: What would she be testifying about?

23 MS. ABEE: Your Honor, she would be testifying that
24 her daughter did disclose to her prior to this May date,
25 that her daughter was close to her. And she then

1 contacted Pastor Durant and stated that her daughter
2 wouldn't be spending any more time with him. This does
3 show a separation in time and a gap in time between the
4 May disclosures when everybody else's came out and law
5 enforcement was notified, Your Honor.

6 So it does go to show that all of these girls didn't
7 get together in May and say hey, let's get Larry Durant in
8 trouble. It goes to show that one of them even disclosed
9 previously -- I believe T.H. testified to it being in
10 February of that year, that she notified someone
11 previously and she stopped going into this private prayer
12 time at that point.

13 MR. KENT: Your Honor, that's what the witness
14 testified to. How is that not improper bolstering? The
15 witness testified to that uncontroverted. It's in the
16 record. She said that's what happened. Now, they want to
17 bolster their Lyle witness.

18 THE COURT: I'm trying to think how you get around
19 it's hearsay, what her daughter told her. So what is it
20 that --

21 MS. ABEE: Your Honor, we would contend that would
22 fall under the outcry exception. She can say her daughter
23 disclosed to her some form of sexual touching by the
24 Defendant, just like the other outcry witnesses have
25 testified. Therefore, she, as a result of that, contacted

1 the Defendant, which is something that T.H. cannot
2 testify to and did not testify to, contacted Larry Durant,
3 said her child would not be participating in private
4 prayer time anymore. That is a piece of evidence that has
5 not come in because T.H. was not a part of that
6 conversation. Therefore, that would be something
7 additional to that.

8 Further, Your Honor, the credibility of these
9 witnesses is at stake. There is nothing preventing the
10 Defense from getting up during closing argument and saying
11 she well, she said she told her mom in February, but we
12 have no idea about that. So the fact that the mother can
13 state she did, in fact, tell her earlier, prior to this
14 May date, does, in fact, go towards her credibility as a
15 witness.

16 MR. KENT: Your Honor, respectfully, I would have to
17 disagree with the State of South Carolina what she said
18 Ms. T.H. did not testify to. That's exactly what she did
19 testify to. She specifically testified about a
20 conversation. She testified that her mother contacted Mr.
21 Durant and said she would no longer be coming to church
22 again. She testified about the February date. I don't
23 see how they get past the improper bolstering. This is
24 what I brought up originally in pretrial. They're not
25 trying to substantiate recent fabrication or anything of

1 that nature, which I'm still not sure it even comes in
2 under the purview, but what they're trying to do is
3 bolster their Lyle witness, as she said, to make their
4 Lyle witness more credible to make their case more
5 credible. I just don't think that's what State vs. Lyle
6 allows.

7 The evidence is in. The witness has testified to it.
8 They want to say we really believe her because her mother
9 said it. I mean, she testified, I told my mother. I told
10 my mother in February. My mother contacted Pastor Durant
11 and said that we're not coming back anymore. What
12 different would her mother testify to and how would that
13 be relevant or allowed?

14 THE COURT: I'll have to think about it a few minutes
15 during the break.

16 What did you want to talk about scheduling?

17 MS. ABEE: I just need to check on a witness. I'm
18 dealing with a doctor, so I'm trying to fit into the best
19 part of her schedule. And she called during this
20 testimony, so I just --

21 THE COURT: Why don't you go do that and I'll give a
22 little thought on what you're asking me.

23 (WHEREUPON, a short break was taken.)

24 THE COURT: Okay. Here's what I think, until a
25 witness's credibility has been attacked, you don't get to

1 bolster it. At this point, I did not hear an attack on --
2 was it T.H. ?

3 MS. ABEE: T.H. , Your Honor.

4 THE COURT: T.H. ? T.H. about her telling her
5 mother in February to stop, that it happened and her
6 mother then called the Defendant. So to call the mother
7 now would be improper bolstering under 608(b), I believe,
8 yeah. If under 608(b), if any rule does apply on point,
9 it would be that one, so she hasn't had her credibility on
10 that issue attacked at this point. So to -- and that
11 would be improper bolstering then to bring the mother in
12 now.

13 However, to get back to what I said, you may be able
14 to use that on rebuttal. For instance, if the Defendant
15 testifies and he denies that he got a call from T.H. 's
16 mother, then you can call her in rebuttal.

17 MS. ABEE: Yes, sir, Your Honor.

18 THE COURT: All right. Does that solve that problem
19 for now?

20 MR. FERNANDEZ: Just one other so we don't have to
21 break before a witness is called. The State will call
22 Ms. Lizzie Johnson very shortly. She does have a record.
23 She does have one count of breach of trust conviction back
24 in 1989. For the same reasons we didn't believe that the
25 Defendant's grand larceny conviction was relevant because

1 it was so distant in time, we believe the same is true for
2 Ms. Johnson. I don't know what the Defense's position is
3 on --

4 THE COURT: This is one of your witnesses?

5 MR. FERNANDEZ: This is our witness, yes, Your Honor.

6 THE COURT: Okay.

7 MR. KENT: It's actually a different rule, a
8 different standard, Your Honor. Candidly, it's still a
9 crime of dishonesty. The rule usually allows it. What
10 happens is the State gives a rap sheet to the Defense.
11 And we have a rap sheet and they have to notify us whether
12 or not they intend on utilizing something that's outside
13 of what's in their window. The difference is we don't
14 have a rap sheet provided on behalf of Lizzie Johnson.
15 Additionally, she's a witness, not a defendant, so she
16 doesn't get -- my belief, she doesn't get the protection
17 of the rules that says you have a window in which you
18 can't go into prior criminal record.

19 THE COURT: I would agree with you, under 609(a)(1),
20 if it's a conviction punishable by more than a year in
21 prison that the standard is different between a witness
22 and a defendant. We would have to do a 403 analysis,
23 which would play a little bit more towards the Defendant,
24 protection under 609(a)(2), evidence that any witness that
25 has been convicted of a crime shall be admitted if it

1 involved dishonesty or false statement regardless of the
2 punishment. Then you go to B, evidence of a conviction
3 under this rule is not admissible if more than 10 years
4 has elapsed since the date of conviction or of the release
5 from confinement, unless the court determines in the
6 interest of justice that the probative value of the
7 convictions supported by specific facts and circumstances
8 substantially outweigh its prejudicial effect.

9 It also says evidence of a conviction more than 10
10 years old is not admissible unless the proponent as to the
11 adverse party sufficiently advances notice of the intent
12 to use it.

13 I guess we start with that, did you give them notice
14 that you plan to use it?

15 MR. KENT: I found out about it the same time you
16 did, Your Honor, so I couldn't give written notice. I'm
17 not complaining about it.

18 THE COURT: Well, it's a 1989 conviction. What do we
19 know about it other than it's a conviction? Because I
20 would have to do -- when it's over 10 years old, I've got
21 to do a 403, basically, a reverse 403 and I don't know
22 anything about it.

23 Does anybody know anything about it that would
24 suggest that --

25 MR. FERNANDEZ: We know --

1 THE COURT: Specific conduct that it's prejudicial --
2 the specific facts and circumstances substantially
3 outweigh its prejudicial effect. So if anybody knows
4 anything about it other than it was a conviction for that,
5 I think we could entertain a discussion. Other than that,
6 over 10 years I'm kind of like presumptively against
7 letting it in.

8 MR. KENT: We could put the witness on the stand and
9 simply ask her.

10 THE COURT: Well, no, you don't get to just fish on
11 it.

12 MR. KENT: I'm not fishing. I mean, it is a
13 conviction. It's not fishing.

14 THE COURT: But it's over 10 years old.

15 MR. KENT: But it's for a crime of dishonestly,
16 correct?

17 MR. FERNANDEZ: It's breach of the trust.

18 MR. KENT: That's a crime of dishonestly.

19 THE COURT: So you're saying you want to bring her in
20 now and ask her about it, is that what you're saying, as
21 opposed to just fish on the stand?

22 MR. KENT: I was trying to help Your Honor to get the
23 background. I'm not saying in front of the jury. I'm
24 saying outside the presence of the jury, we could ask
25 about the background. Or I have no problem whatsoever

1 with Mr. Fernandez just going to ask the witness right now
2 what this is about. I have no problem with that. That
3 would take even less time.

4 THE COURT: Let's take it up that way before we take
5 up any more time.

6 MR. FERNANDEZ: I'll go talk to her, Your Honor.

7 THE COURT: Do you have a witness to go forward now?

8 MS. ABEE: Absolutely, Your Honor.

9 THE COURT: What is your plan for the rest of the
10 afternoon? It's 3:30.

11 MS. ABEE: Your Honor, it's 3:30 right now. We have
12 two witnesses that are here and ready to testify. We've
13 got a doctor that's in the middle of finishing an
14 examination. I told her if she can get her by 4:00 or
15 4:15, then we would be happy to call her to the stand.
16 It's easier for her to testify later in the afternoons
17 than early in the morning. She would have to reschedule
18 some things. But my law clerks have the phone and are
19 waiting for her to call back to see if she's going to be
20 able to make it this afternoon. So we definitely have two
21 witnesses that are ready to go and, potentially, a third.

22 THE COURT: Do you have one right now?

23 MS. ABEE: We have one right now, yes, sir, Your
24 Honor.

25 THE COURT: Who is that?

1 MS. ABEE: D.B., Your Honor.

2 THE COURT: Okay. Well, let's call her.

3 MS. ABEE: Do you want to get the jury back in?

4 THE COURT: That's probably a good idea. I'm all
5 wrapped up in the moment.

6 (WHEREUPON, the jury entered the courtroom at
7 3:35 p.m.)

8 THE BAILIFF: All jurors are back in the courtroom,
9 Your Honor.

10 THE COURT: All right. Folks, we'll resume now with
11 the State calling the next witness.

12 MS. ABEE: Thank you, Your Honor. The State calls
13 D.B.

14 THE BAILIFF: Place your left hand on the Bible,
15 raise your right hand. State your name, please.

16 THE WITNESS: D.B.

17 D.B., after being duly
18 sworn, testified as follows:

19 THE BAILIFF: Thank you. Come around, please. State
20 your name, spell your last for the record.

21 THE WITNESS: D.B.

22 DIRECT EXAMINATION

23 BY MR. ABEE:

24 Q Go ahead and introduce yourself to the jury by
25 letting them know what you go by.

- 1 A My name is D.B. , but I go by D.B. .
- 2 Q D.B. , how old are you?
- 3 A I'm 18.
- 4 Q When's your birthday?
- 5 A , 1998.
- 6 Q Are you in school?
- 7 A Yes.
- 8 Q Where at?
- 9 A Sumter High School.
- 10 Q When do you graduate?
- 11 A This year, June 4th.
- 12 Q Now, are you from Sumter?
- 13 A Yes.
- 14 Q How long have you lived here?
- 15 A Basically, all my life.
- 16 Q And who do you live with?
- 17 A My mother.
- 18 Q What's her name?
- 19 A Johnnie Mae Brayboy.
- 20 Q Now, D.B. do you know Larry Durant?
- 21 A Yes, I do.
- 22 Q How do you know Larry Durant?
- 23 A He was my pastor, and I grew up around him.
- 24 Q Do you know how old you were when you first started
- 25 going to church with Larry Durant?

1 A No, ma'am. I was very young.

2 Q Is it fair to say you grew up in his churches?

3 A Yes, ma'am.

4 Q And which church did you attend that was his?

5 A 1010 North Guinyard Drive and 710 Manning Avenue.

6 Q What were the names of the churches, if you recall?

7 A Miracle Deliverance Temple and I can't remember the
8 other one.

9 Q That's okay. But do you recall going to another
10 church of his?

11 A Yes, the one in Bishopville.

12 Q Let's talk a little bit about how involved you were
13 in church. How frequently did you go to church?

14 A Basically, every day it was open.

15 Q And what were things you did at the church?

16 A I praise danced. I helped with the kids in the
17 daycare. I usher -- I was his nurse at one point in time.

18 Q Explain to us, any of your family members, were they
19 involved in the church?

20 A Yes, my mother, she was head of the usher. My
21 nephew, he was an armor bearer. My sister, she worked the
22 cameras and with the daycare.

23 Q And who would you typically go to church with?

24 A My mother.

25 Q Explain to us what a typical Sunday service was like

1 with Pastor Durant?

2 A It would start at 8:00, but I would usually be there
3 around 7:30. You do Sunday school, then open up in prayer
4 and then the choir come sing. And they introduce him and
5 then he starts doing his sermon and then they take up
6 offering. And then, that's church.

7 Q Now, did you enjoy going to church?

8 A At one point in time, I did, yes.

9 Q Do you see Larry Durant here in the courtroom today?

10 A Yes, I do.

11 Q Can you tell us where he's seated and something he's
12 wearing?

13 A He's sitting right there with the black shades and
14 blue shirt.

15 Q Now, D.B. was there a point in time when something
16 sexual happened between you and the Defendant?

17 A Yes, ma'am.

18 Q Do you recall how old you were?

19 A I was 13, 14.

20 Q Where did this happen?

21 A In his office at 1010 North Guinyard Drive and at his
22 home.

23 Q How did you get to his office?

24 A One of his armor bearers came and got me and told me
25 that he wanted to speak to me.

1 Q And where would you typically be when the armor
2 bearers would come to get you?

3 A I was either inside the church or outside playing
4 around.

5 Q And once you got back into his office, what was your
6 understanding of what you were there for?

7 A I was getting prayed for so my blessing would come.

8 Q Now, did the Defendant pray for people in front of
9 the full congregation?

10 A No, he did some things in front of the congregation,
11 but as far as personal things, he didn't.

12 Q So these personal prayers for you, were they out in
13 front of everybody?

14 A No.

15 Q Was there anybody in the room with you?

16 A No.

17 Q Do you know whether or not the office door was open
18 or shut?

19 A It was shut.

20 Q Do you know whether or not it was lock or unlocked?

21 A It was locked.

22 Q How do you know it was locked?

23 A He told me to lock it.

24 Q So once you locked the door, what did he say he was
25 specifically praying for?

1 A He was praying for me to be blessed and, like, for my
2 healings and stuff.

3 Q Was there anything that you were sick with that he
4 was specifically healing?

5 A Yes, I had a bladder problem that I had to use the
6 bathroom urgently.

7 Q So in order to pray for your bladder problem, what
8 did the Defendant do?

9 A He stuck his fingers inside my vagina.

10 Q And D.B., about how many times did this happen?

11 A Like every Friday night service.

12 Q So is this something that happened more than once?

13 A Yes.

14 Q And was there ever a point in time where he did
15 anything other than sticking his fingers in your vagina?

16 A Yes.

17 Q Okay. Tell us what that was.

18 A I got pregnant, and he gave -- he wanted to give me
19 money for an abortion, but he said he wanted to bump the
20 seed out of me. So he stuck his penis inside of me and
21 said that's how he was going to do it.

22 Q Now, you weren't pregnant by the Defendant, right?

23 A No.

24 Q But he learned that you were pregnant and then said
25 he could bump the seed out?

1 A Yes.

2 Q So explain to us what he did to do that?

3 A He stick his penis inside of me and he had sex with
4 me.

5 Q And where was this?

6 A At his church on 1010 North Guinyard Drive and at his
7 home.

8 Q Where specifically in the church did this happen?

9 A In his office.

10 Q And where in the office?

11 A Bent over his desk.

12 Q Now, when you were bent over the desk, how was the
13 Defendant standing?

14 A He was standing straight up.

15 Q And how many times did the sex happen?

16 A Twice.

17 Q And how old were you when that happened?

18 A Fourteen.

19 Q And do you recall when the sexual acts stopped
20 between you and the Defendant?

21 A When I left the church.

22 Q When was that?

23 A When my sister got sick. She was kind of sick often,
24 but when she got sick, I left with her.

25 Q Did you go back to the church ever again?

1 A No.

2 Q And did the sexual assaults ever happen again?

3 A No.

4 Q What were you typically wearing when the Defendant
5 was doing these healing prayers for you?

6 A Jeans and a t-shirt.

7 Q And what about the Defendant, what was he typically
8 wearing?

9 A His suits.

10 Q Did you notice anything about his undergarments?

11 A No.

12 Q Have you ever seen the Defendant's penis?

13 A Yes.

14 Q And how did you see the Defendant's penis?

15 A He pulled it out and asked me to hold it.

16 Q Did you?

17 A Yes.

18 Q Have you ever seen a picture of the Defendant's
19 penis?

20 A No.

21 Q Have you ever been told what it looks like?

22 A No.

23 Q Now, was there anything unique or different about his
24 penis that you saw?

25 A It was -- it's like a pink discoloration to it.

1 Q So it's pink and what other color?

2 A Black.

3 MS. ABEE: Your Honor, may I have a second?

4 THE COURT: Uh-huh.

5 (Pause.)

6 BY MS. ABEE:

7 Q Now, D.B., was there ever a point in time when
8 somebody came to talk to you about not having to testify
9 in court?

10 A No, they didn't contact me. They contacted my
11 mother.

12 Q As a result of that, do you recall writing a
13 statement?

14 A Yes, I copied one.

15 Q And do you recall who that was that asked you to
16 write the statement?

17 A My mom did. She never told me who contacted her.

18 Q And did you ever see anyone from the State contact
19 you to talk to you about not testifying?

20 A No.

21 MS. ABEE: Thank you, Your Honor. I have no further
22 questions at this time for this witness.

23 THE COURT: Cross?

24 CROSS-EXAMINATION

25 BY MS. BLAZER:

1 Q Good afternoon, D.B. . How are you?

2 A I'm good. How are you?

3 Q I'm fine. Thank you. My name is Cameron Blazer and
4 I just have a few questions for you, okay?

5 A Okay.

6 Q Am I right that the first time you talked to police
7 in this case was in February of 2014? Is that when you
8 met with Valerie Williams?

9 A Yes.

10 Q At your school?

11 A She goes to my school, yes.

12 Q And you gave her a statement that day that; is that
13 right?

14 A Yes.

15 Q Did you write that statement down?

16 A Yes.

17 Q You wrote it down?

18 A Yes.

19 Q And then did you sign the statement that you wrote
20 with her?

21 A Yes.

22 Q Did you write down a statement a few days later?

23 A No, I copied one.

24 Q But did you use your hand to write a statement
25 several days later?

1 A Yes.

2 Q And that was maybe on February 24th?

3 A Yes.

4 Q And in that statement that you wrote a few days
5 later, you said that Ms. Williams put words in your mouth?

6 A Yes.

7 Q And made you think that your mom was in trouble when
8 she was questioning you?

9 A No, I didn't.

10 Q You didn't write that down in the statement that you
11 wrote on the 24th of February?

12 A I'm not quite sure what I wrote. I was just writing.

13 Q Okay. So you don't remember that you told her you
14 were never abused by Pastor Durant?

15 A No.

16 Q In that meeting with Investigator Williams, did she
17 ever ask you who the father of your baby was?

18 A No.

19 Q Did you tell her that Pastor Durant was not the
20 father of your baby?

21 A Yes.

22 Q You said that Pastor Durant learned that you were
23 pregnant. Who told him?

24 A My mother.

25 Q Your mother told him. And you told us that Pastor

1 Durant paid money for you to get an apportion; is that
2 right?

3 A Yes.

4 Q How do you know he paid money for that?

5 A Because he gave it to my mother.

6 Q Were you there when he gave to it your mother?

7 A No.

8 Q So you don't know if he gave her a check or gave her
9 cash, you don't know?

10 A No, I don't know.

11 Q And when was that that he gave your mom money for the
12 abortion?

13 A I'm not quite sure of the date.

14 Q Was it in the wintertime?

15 A Yes.

16 Q Was it before you met with Investigator Williams?

17 A Yes.

18 Q You mentioned that you were getting prayed for -- or
19 that's what Pastor Durant told you before these incidents
20 occurred; is that right?

21 A Yes.

22 Q And what was he praying for you for?

23 A My bladder issues.

24 Q Your bladder issues. Was he praying for any other
25 issues for you?

1 A No.

2 Q Diseases or --

3 A No.

4 Q -- anything like that?

5 A No.

6 MS. BLAZER: Beg the Court's indulgence.

7 (Pause.)

8 BY MS. BLAZER:

9 Q Now, D.B. we were talking a few minutes ago about
10 the statement from February 24th. You do remember writing
11 a statement that day?

12 A Yes.

13 Q But you said a few minutes ago that you didn't
14 remember some of the things in it. Would you like to
15 review it to refresh your recollection as to what's in it?

16 A Yes.

17 MS. BLAZER: May I approach, Your Honor?

18 THE COURT: Yes.

19 (Witness reviews statement.)

20 BY MS. BLAZER:

21 Q So now that you've had a chance to refresh your
22 recollection, do you remember writing all this out?

23 A Yes.

24 Q And is that your signature at the bottom of the
25 statement?

1 A Yes.

2 Q All right. Is that your mom's signature at the
3 bottom of the statement witnessing that you made it?

4 A Yes.

5 Q And so do you now recall writing down that you
6 thought that Investigator Williams had put words in your
7 head?

8 A Yes, I copied that, yes.

9 Q Do you remember writing down that she had -- that you
10 felt confused and scared?

11 A Yes, I copied it.

12 Q Do you remember saying that you had never been abused
13 by Pastor Durant?

14 A No, I never said that.

15 Q You don't remember writing down I was never abused by
16 Apostle Larry Durant?

17 A Yes, I wrote it, but I never said it.

18 Q Okay.

19 MS. BLAZER: I have nothing further, Your Honor.

20 THE COURT: Redirect?

21 MS. ABEE: Briefly, Your Honor.

22 REDIRECT EXAMINATION

23 BY MS. ABEE:

24 Q D.B. you were just asked about that statement and
25 some specific statement, so I want to make sure we all

1 understand. Are these your words?

2 A No.

3 Q Now, is this your handwriting?

4 A Yes.

5 Q Now, you told us earlier that someone had contacted
6 your mother and said you wouldn't have to testify if you
7 wrote down and copied a statement?

8 A Yes.

9 Q Is this that statement you copied?

10 A Yes.

11 Q So it's not your words, then, you wrote down that
12 Valerie Williams put words in your mouth?

13 A Yes.

14 Q And it's not your words when you said Larry Durant
15 never abused you, right?

16 A Correct.

17 Q That's someone else who contacted your mother and
18 said if you wrote that you wouldn't have to testify?

19 A Correct.

20 Q And at the time that you wrote that, did you want to
21 testify about this?

22 A No.

23 Q Did you want to have to talk about this in front of
24 anyone?

25 A No.

1 Q And was person who contacted you and asked you to
2 copy down that statement anyone that you see here in this
3 courtroom from the statement?

4 A I'm not sure who it was.

5 Q Was it Investigator Valerie Williams?

6 A No.

7 Q Do you recall if it was Detective Kelly?

8 A No.

9 Q Was it anyone that you've met with from the State of
10 South Carolina?

11 A No.

12 MS. ABEE: Thank you, Your Honor. I have know
13 further questions.

14 THE COURT: Recross?

15 MS. BLAZER: No, Your Honor. Thank you.

16 THE COURT: You may step down.

17 THE WITNESS: Am I excused?

18 THE COURT: Do we need her for anything else?

19 MS. ABEE: I don't, Your Honor.

20 THE COURT: You are free to go. Thank you.

21 You had another witness before the doctor?

22 MR. FERNANDEZ: Yes, Your Honor.

23 MS. ABEE: Your Honor, the doctor won't be able to
24 make it until tomorrow morning, but there is another
25 witness.

1 THE COURT: Okay.

2 MR. KENT: Your Honor, may we approach?

3 THE COURT: Sure.

4 (WHEREUPON, a bench conference was held in the
5 presence of the jury, but outside the hearing of the
6 jury.)

7 THE COURT: All right. Next witness.

8 MR. FERNANDEZ: Thank you, Your Honor. The State
9 calls Lizzie Johnson.

10 THE BAILIFF: Place your left hand on the Bible,
11 raise your right hand. State your name, please.

12 THE WITNESS: Lizzie Johnson.

13 LIZZIE JOHNSON, after being duly
14 sworn, testified as follows:

15 THE BAILIFF: Thank you. Just state your name, spell
16 your last for the record.

17 THE WITNESS: Lizzie Johnson, J-O-H-N-S-O-N.

18 DIRECT EXAMINATION

19 BY MR. FERNANDEZ:

20 Q Ms. Lizzie, let me ask me you this, how long have you
21 lived in Sumter?

22 A How long? Ever since '96.

23 Q Okay. Where did you live before Sumter?

24 A In Manning.

25 THE COURT: Excuse me, Mr. Bailiff, can you move that

1 a little closer to her? You can try to lean forward. You
2 talk soft. They need to be able to hear all the way down
3 there.

4 THE WITNESS: Okay.

5 THE COURT: That's better.

6 BY MR. FERNANDEZ:

7 Q All right. Now, Ms. Lizzie, where have you attended
8 church since being in Manning and Sumter?

9 A I used to go to Love Center, that's on the county
10 line.

11 Q How long did you attend the Love Center?

12 A For about four years.

13 Q And what made you leave the Love Center?

14 A We started a church with Larry Durant.

15 Q And did you meet Mr. Durant over at the Love Center?

16 A Yes.

17 Q And do you remember what years that was during?

18 A When I first met him?

19 Q Correct.

20 A That was in '95.

21 Q Okay.

22 A December of '95.

23 Q The first church that you opened up with Mr. Durant,
24 what was the name of that church?

25 A Miracle Deliverance Temple.

1 Q What year did you open that church?

2 A That was in '98.

3 Q And how long was the church named Miracle Deliverance
4 Temple?

5 A I'm not sure how it was named.

6 Q Did the name ever change?

7 A Yes.

8 Q What did the name change to?

9 A Word International.

10 Q And did you have any formal roles or responsibilities
11 in those churches?

12 A Yes, I did.

13 Q And what were some of your responsibilities?

14 A I was the treasurer. I was superintendent. I was
15 secretary. I wore a lot of hats.

16 Q And how often would you attend church during any
17 given week?

18 A Sunday, Wednesday -- first it was only Tuesday night,
19 and then we had Tuesday, that day prayer, and then Friday.
20 Sunday, Tuesday, sometime Wednesday. The last time they
21 changed to Wednesday instead of Tuesday, then back on
22 Sundays.

23 Q And who would visit church with you? Who would you
24 take with you to church?

25 A My grandchildren.

1 Q Okay. And this is your time to brag, but who are
2 your grandchildren?

3 A A.R. [REDACTED] MINOR [REDACTED] Joshua.

4 Q Okay. And who -- do you have a daughter?

5 A Yeah, I have a daughter.

6 Q And what's her name?

7 A Ulanda Riley.

8 Q And would that be formerly McRae?

9 A Yes.

10 Q Thank you. Now, I'm going to ask you something.

11 Back in 1989, did you have a charge against you?

12 A Yes, I did.

13 Q Okay. What was name of the charge? Do you remember?

14 A Breach of trust.

15 Q Okay. And what happened there?

16 A I loaned my cousin some money from out of the safe
17 box, and she was supposed to pay it back and didn't.

18 Q And then you got in trouble for it?

19 A Yes, I did.

20 Q I'm going to ask you about specific instances that
21 happened during May of 2013. Do you remember that
22 timeframe?

23 A Yeah.

24 Q Okay. In May of 2013, were you still a member of
25 the -- Larry Durant's church?

1 A Yes.

2 Q Okay. And was there a time when you became aware of
3 sexual assaults of your granddaughters?

4 A Not until my daughter told me.

5 Q Okay. And do you remember roughly what day -- what
6 timeframe that was when you became aware of the assaults?

7 A Yeah.

8 Q When was that?

9 A May the 19th, 2013.

10 Q Why do you know it was that day?

11 A Because we had just came back from Louisiana from my
12 other granddaughter's graduation.

13 Q Okay.

14 A And they was talking about it.

15 Q Okay.

16 A And she overheard and she came and got me.

17 Q Okay. Did you end up in -- the granddaughters were
18 talking about who?

19 A Talking about what was going on.

20 Q The granddaughters that we are referencing that had
21 the assaults on them, who ware they? What are their
22 names?

23 A A.R. and MINOR

24 Q And did you have an opportunity to talk to A.R.
25 and MINOR about this?

1 A Yeah.

2 Q Back in 2013?

3 A Yes, sir.

4 Q And after talking to them about what had happened,
5 did they disclose to you that they had been sexually
6 assaulted?

7 A Yes, sir.

8 Q Okay. And did they tell you where the sexual
9 assaults occurred?

10 A Yes, sir.

11 Q Okay. Where did they tell you those assaults
12 occurred?

13 A They said at the church at 710 Manning Avenue and
14 1010 North Guinyard Drive.

15 Q And those would be the churches that you attended; is
16 that correct?

17 A Yes, sir.

18 Q And those are within Sumter County, also?

19 A Yes, sir.

20 Q And did they tell you when these assaults occurred?

21 A Yeah.

22 Q When did they say they occurred?

23 A Sometime on Wednesday, sometime on a Sunday morning,
24 early morning and sometime after church on Sunday.

25 Q Okay.

1 MR. FERNANDEZ: Beg the Court's indulgence one
2 moment.

3 BY MR. FERNANDEZ:

4 Q And Ms. Lizzie, after learning about this and after
5 talking with A.R. and MINOR did you confront Larry
6 Durant?

7 A Yes, I did.

8 Q Okay. And how did you confront him first?

9 A I asked him what is this -- see, my son called me and
10 told me --

11 MR. KENT: Objection to hearsay, Your Honor.

12 BY MR. FERNANDEZ:

13 Q Ms. Lizzie, without saying what other people said.

14 A Okay, I'm sorry.

15 Q I'm just going to ask you, did you confront -- first
16 when you confronted Mr. Durant, was it over the phone or
17 was it in person?

18 A First, it was over the phone.

19 Q Okay. And during that phone call, was it you who
20 contacted Larry Durant?

21 A Yes, I did.

22 Q What did you say to Mr. Durant?

23 A I asked him what is this that I heard about him
24 having sex with both A.R. and MINOR.

25 Q And what did -- how did Mr. Durant respond?

1 A He said, what? He asked me did I believe that.

2 Q What did you say?

3 A I told him I don't know what to believe.

4 Q Who else was a part of that phone conversation?

5 A Just him and I tell at the time.

6 Q Okay. Was anyone else listening into the phone call?

7 A Not that I know of.

8 Q Okay. Did anyone else later become a part of that
9 conversation?

10 A No.

11 Q Okay. And what did you do after that? Did you ask
12 him any more questions? Did he say anything else to you?

13 A Yes, he asked me to meet him at the church.

14 Q Okay. In person?

15 A Yes.

16 Q Did you agree to go meet him at the church?

17 A Yes.

18 Q How did that meeting go?

19 A It went okay. He was crying.

20 Q Did he say anything to you?

21 A Yes, he said it seemed like he was in a desert all
22 along. He told me he needed me to help his wife run the
23 church.

24 Q Okay. Did he ask you for any other help?

25 A No.

1 Q Did he ever say anything about how he would
2 continue -- whether he would continue being a pastor of
3 the church?

4 A He said he was stepping down.

5 Q Did Mr. Durant step down as pastor of that church?

6 A No.

7 Q Okay.

8 MR. FERNANDEZ: Beg the Court's indulgence.

9 (Pause.)

10 MR. FERNANDEZ: No further questions.

11 Ms. Lizzie, thank you. Please answer any questions
12 counsel might have.

13 THE WITNESS: Okay.

14 CROSS-EXAMINATION

15 BY MR. KENT:

16 Q Ms. Johnson, how are you?

17 A Fine. How are you?

18 Q Good. We have not had the pleasure of meeting. My
19 name is Shawn Kent, okay. I'm going to go over some
20 admonitions I usually go over with people. I see that
21 you're shaking your head. This lady right here is taking
22 down every word that you're saying, so make sure you say
23 -- I know you're soft-spoken, so make sure you say yes and
24 no so she can understand and write down everything that
25 you're saying, okay?

1 A Okay.

2 Q Number two, sometimes I speak real fast, so if I do
3 and you don't understand what I'm saying, just tell me to
4 stop, slow down, or repeat myself and I happily will.
5 Okay?

6 A Okay.

7 Q And I will give you the opportunity to answer all
8 questions if you will give me plenty of opportunity to ask
9 any questions I may have. Okay.

10 Now, Ms. Johnson, I just want to go over some of the
11 background they talked about a little bit. You're
12 originally from Manning, South Carolina?

13 A Pardon me?

14 Q Are you originally from Manning, South Carolina, is
15 that what I heard?

16 A Yes.

17 Q Same place where I practice. Are you related to the
18 folks that own Johnson's Fish Shop?

19 A No.

20 Q Okay. I just know there's a Johnson's Fish Shop.
21 I've never been over there, didn't know if you were
22 related to them. You live now in Sumter, South Carolina?

23 A Yes.

24 Q And you've lived here for how long? I just want to
25 make sure I got it right?

1 A Since '96.

2 Q Since 1996?

3 A Yeah.

4 Q Currently, and I know currently you live at [REDACTED]

5 [REDACTED] THE RESIDENCE, correct?

6 A That's where I live now.

7 Q Okay. Before that, did you live at [REDACTED] Perry
8 Boulevard?

9 A Yes.

10 Q Who did you live there with? And I want to talk
11 about [REDACTED] Perry Boulevard.

12 A That was Larry Durant's house.

13 Q So you lived in a house with Larry Durant?

14 A Yes.

15 Q You and Larry Durant, actually, have known each other
16 for quite some time?

17 A Twenty years and five months.

18 Q You dated for a little bit, also, correct?

19 A Yeah.

20 Q So you and Mr. Durant, actually, dated for what, six
21 months to a year, would that be about right?

22 A Just about.

23 Q And it was a sexual relationship?

24 A Yeah.

25 Q And the two of you cared about each other?

1 A Yes, at the time.

2 Q And then after dating you and after living -- y'all
3 lived at [REDACTED] Perry Boulevard together?

4 A Yes.

5 Q And thereafter, you moved to another residence that
6 Mr. Durant owned, correct?

7 A Yes.

8 Q At some point, y'all stopped dating?

9 A Right.

10 Q Was it that you stopped dating because he got ready
11 to start his church?

12 A Yes. Plus, he was -- yes.

13 Q You're a little unhappy about that?

14 A No.

15 Q But he stopped dating you at some point in time?

16 A Yes.

17 Q But y'all still remained friends?

18 A Right.

19 Q And you still stayed on a friendly basis?

20 A Right.

21 Q The man you had dated for six months to a year or
22 something of that nature?

23 A That's correct.

24 Q And then you went living at [REDACTED] THE RESIDENCE ?

25 A After I moved from [REDACTED] Perry Boulevard?

1 Q Yes, ma'am.

2 A Yes.

3 Q So you moved, go to -- make sure I got it right, [REDACTED]
4 THE RESIDENCE. You're living at THE RESIDENCE. And
5 this was another residence that Mr. Durant owned?

6 A Yes.

7 Q Who all lived at THE RESIDENCE with you?

8 A Who?

9 Q Who lived there with you at any point in time?

10 A My grandkids and my daughter.

11 Q Okay. So A.R. [REDACTED] would have lived at [REDACTED]
12 THE RESIDENCE?

13 A That's correct.

14 Q [REDACTED] MINOR would have lived at THE RESIDENCE?

15 A Later on, she came --

16 Q Later on?

17 A Yeah.

18 Q And I'm sorry, I don't want to -- remember I told
19 you, I'm not going to interrupt you. I'll give you an
20 opportunity to let you finish?

21 A Yeah, she didn't move with you us at first until
22 later on, MINOR and Josh.

23 Q And we heard some testimony that at some point D.B.
24 [REDACTED] had stayed at the residence or had visited the
25 residence at THE RESIDENCE?

1 A She visited.

2 Q And T.H. , also, had either stayed at the
3 residence or visited the residence at THE RESIDENCE ?

4 A Yes.

5 Q And that's the testimony I heard, that all of the
6 girls would hang out together and lived together under the
7 roof at THE RESIDENCE , correct?

8 A Yes.

9 Q Now, I'm going to get into -- at THE RESIDENCE ,
10 at some point in time, you and Mr. Durant had a
11 disagreement over that residence, over who was the
12 rightful owner of the residence, correct?

13 A No.

14 Q Okay.

15 A No.

16 Q At some point in time, I think you said that he gave
17 you the property?

18 A Yes.

19 Q Okay. This property was about \$112,000 property?

20 A No. He only paid \$23,000 for the house.

21 Q Okay. But the property had a value of 100 something
22 thousand dollars?

23 A Yes.

24 Q So you had a \$112,000 property house. You two were
25 not dating anymore?

1 A Right.

2 Q He had broken with you?

3 A Right.

4 Q And for some reason, he had given you a piece of
5 property. Why is that?

6 A Why is that?

7 Q Yes, ma'am.

8 A He said the Lord said for him to give me house.

9 Q And as a matter of fact, that's a disagreement that
10 you and Mr. Durant have gotten over over some deeds to
11 this property, correct?

12 A Repeat.

13 Q You and Mr. Durant have a disagreement over the
14 ownership of the property currently going on right now,
15 correct?

16 A This was after all of this came about.

17 Q I'm understanding, but you and Mr. Durant have a
18 disagreement over the ownership of the property of the
19 house currently, correct?

20 A No.

21 Q You do not have a disagreement right now?

22 A Now, we do.

23 Q Okay.

24 A But not at the time.

25 Q Currently, right now, you have a disagreement over

1 the ownership of the home?

2 A Yes.

3 Q As a matter of fact, there is a disagreement over a
4 deed of a piece of property, whether or not he actually
5 gave you a deed or whether or not -- and you've made an
6 allegation that he forged your signature on the deed?

7 A I didn't say he did it. I said someone.

8 Q Well, didn't you make a specific allegation that
9 Larry Durant -- and brought criminal charges, that Larry
10 Durant forged your name on a piece of property, on a deed?

11 A I said someone forged my name.

12 Q You never told law enforcement or stated to law
13 enforcement that Larry Durant is the individual who forged
14 your name on a deeded piece of property?

15 A (There was no response.)

16 Q I'm asking, you've never told anyone that?. You
17 never told that to law enforcement? You never put that
18 inside of an affidavit to law enforcement?

19 A I didn't specifically say Larry Durant. I said
20 someone forged my name.

21 Q And Larry Durant currently has pending criminal
22 charges as a result of you alleging that he forged your
23 name on a deed?

24 A I didn't know that.

25 Q And you would have been the person who told law

1 enforcement that he forged your name on a deed, correct?

2 A I said someone.

3 Q All right. So why did they pick Larry Durant if you
4 just said somebody?

5 A Because I guess his signature was on the forgery
6 paper.

7 Q And let's talk about that. We have two deeds that
8 are at issue in this case?

9 A Uh-huh.

10 Q In the forgery case.

11 A Uh-huh.

12 Q Deed one is a deed that you are alleging that Larry
13 Durant deeded and gave you a piece of property worth
14 \$100,000 just because God told him to give it to you?

15 A Uh-huh.

16 Q And then a little bit later, you're saying that Larry
17 Durant or somebody came along and forged your signature on
18 a piece of property to give the property back to Larry
19 Durant, correct?

20 A I guess.

21 Q And your testimony is that the signature, your
22 signature on these two deeds would be different?

23 A Yeah.

24 Q You're saying that there's no way, that no expert or
25 anybody in the world who could say that you signed both

1 deeds, actually?

2 A Right.

3 Q And that would be a problem if you had signed both
4 deeds and had gone to law enforcement and made this claim
5 about forgery and all these other things, correct?

6 A Yes.

7 Q And additionally, talking about the deeds and the
8 problem that we had with the deeds, you actually got
9 governmental money as a result of the property that you
10 got from Larry Durant by way of deed?

11 A Yeah.

12 Q You got, like, \$20,000, right?

13 A That's correct.

14 Q So you went to the government, got a \$20,000
15 improvement on a piece of property, on piece of property
16 that you're saying Larry Durant, actually, just gave you
17 for no reason whatsoever just because you're saying God
18 told him to?

19 A That's because he did.

20 MR. KENT: Beg the Court's indulgence for one moment,
21 Your Honor.

22 (Pause.)

23 BY MR. KENT:

24 Q And Lizzie, you would agree with me that if we went
25 to the government and got \$20,000 that wasn't rightfully

1 belonging to us, that would be a problem? You have to
2 have a justifiable reason to get \$20,000 from the
3 government? That's a lot of money.

4 A Yeah.

5 Q And you'd have to have a justifiable reason to get
6 this money on a piece of property, correct?

7 A Correct.

8 Q And that would be a huge problem if we went to the
9 government and took money that we didn't own, correct?

10 A Yeah, but I didn't take any money.

11 Q But you got a \$20,000 check from the government?

12 A Yeah, a grant.

13 Q A grant on a piece of property that you're saying
14 that Larry Durant just happened to give you, correct?

15 A That's correct.

16 Q Was there still a mortgage on this property?

17 A Not that I know of.

18 Q Did you not check on that? Just say this person gave
19 me a deed, gave me a piece of property, I never wanted to
20 check and see if there was a mortgage or anything?

21 A I trusted him blindly.

22 Q To just give you a piece of property?

23 A Well, he gave me cars, so, you know, I figured that
24 it was all right. The Lord was good.

25 Q Do you ever remember meeting with an officer by the

1 name of Detective Lidiker to give him an affidavit stating
2 that Larry Durant was the person who forged the deed on
3 your piece of property?

4 A A detective?

5 Q Yes, ma'am.

6 A I showed them the paper, and I stated that someone
7 signed my name.

8 Q How about this, how about without me trying to put
9 words in your mouth -- and I'm going to show you a copy of
10 this paper in just a moment, tell me in your own words
11 what happened with the forgery, what happened with
12 everything, what happened with the deeds, what did you do
13 with law enforcement. You tell the jury what happened.
14 I'm going to give you a chance to tell your story.

15 A Okay. When I went to the treasurer's office to get a
16 copy of the deed and I found out that the deed had been
17 transferred back to Larry Durant, back in Larry Durant's
18 name. And I know I didn't transfer it. I didn't give him
19 no signature of mine, but it was signed my signature that
20 I gave it back to him and that wasn't true.

21 Q And then what happened?

22 A Then I took it to the police, the detective.

23 Q You took it to the police, the detective?

24 A Uh-huh.

25 Q And they took out a warrant and said that Larry

1 Durant had forged the property. So now you two are in a
2 battle who actually owns the home?

3 A Yes.

4 Q Correct?

5 A Yes.

6 Q And that's a hundred and something thousand dollar
7 home that's either yours or Pastor Durant's, correct?

8 A It's mine as far as I'm concerned.

9 Q As far as you're concerned, it's yours. As far as
10 he's concerned, it's his. And these deeds, if I'm not
11 mistaken, they're back in 2011, 2009, 2011, something like
12 that?

13 A 2009, September 16, 2009.

14 Q So you guys have been battling about this house and
15 this property for quite some time?

16 A No, this happened after this case came up with the
17 children.

18 Q Go ahead. And I want you to talk about that because
19 at some point, he had you leave the residence. He got mad
20 at you and he said you weren't paying rent anymore and
21 told you you had to get out of the residence, right?

22 A That's what he tried to say, that I wasn't paying
23 rent.

24 Q Were you still paying rent?

25 A No.

1 Q So you had stopped paying rent to him on the home
2 that you stayed in on THE RESIDENCE that may or may
3 not have had a mortgage on it. You stopped paying rent
4 and he asked you to leave the residence, correct?

5 A Yeah.

6 Q You two still have -- I know you -- do y'all still
7 have a civil lawsuit about the ownership of the home going
8 on right now?

9 A Yes, sir.

10 Q So there is a lawsuit in which you have filed
11 charges, at least -- not even talking criminal, you have a
12 civil lawsuit against Larry Durant about who is the owner
13 of the home?

14 A Yes, sir.

15 Q And that's pending right now?

16 A Yes, sir.

17 Q And you understand the amount of problems, the
18 troubles that it would be in if you didn't own the home
19 rightfully, lawfully to get \$20,000 in grant money from
20 the city of Sumter? You would agree with me there, that
21 would be a problem?

22 A Uh-huh.

23 Q It would be an additional problem if you forged a
24 second deed. That would be a problem? I'm not saying you
25 did --

1 A Me forge?

2 Q Yeah, wouldn't that be a problem if your signature
3 was on that second deed?

4 A Yeah, that would be a problem.

5 Q Would be a huge problem, wouldn't it?

6 A Yes.

7 Q And it would be a huge problem if we put Larry
8 Durant's signature on a piece of property and took a
9 \$112,000 home? That would be a big problem, wouldn't it?

10 A Yes, sir.

11 Q All of these would be big problems?

12 A Yeah.

13 Q And you've never paid the mortgage on this residence
14 at all?

15 A Huh-uh.

16 Q So I guess that's my question, if you own the
17 property free and clear and thought it was fine, did you
18 never check to see if there was a mortgage outstanding at
19 all?

20 A No.

21 Q Did you ever check to see how much the taxes were on
22 the residence?

23 A I used to pay the taxes.

24 Q You paid the taxes on the residence and not Pastor
25 Durant?

1 A Right.

2 Q When's the last time you paid the taxes?

3 A I didn't pay this year.

4 Q Okay.

5 A Since all this commotion was going on.

6 Q When is the last time you paid the taxes?

7 A 2013.

8 Q And you and Pastor Durant, you went over to the next
9 church. You were at Miracle. The church had a lot of
10 businesses, would you agree, outside business outside the
11 church. They actually had an apartment complex; is that
12 true?

13 A Yes, sir.

14 Q Did you ever get in trouble at that apartment
15 complex?

16 A Yes, sir.

17 Q For financial --

18 A I didn't get in trouble.

19 Q Were you investigated for possibly stealing money
20 from the apartment complex?

21 A Yes, sir.

22 Q You were investigated by the federal authorities for
23 possibly stealing money?

24 A Yes, sir.

25 Q So now, the Solicitor's Office has just talked about

1 the breach of the trust over money in Manning, South
2 Carolina?

3 A Right.

4 Q We just talked about the fact that you've been
5 investigated by the federal authorities for stealing
6 money?

7 A Right.

8 Q We're now talking about the \$20,000 from the City of
9 Sumter?

10 A Uh-huh.

11 Q We're talking about the \$112,000 home, correct?

12 A Yes.

13 Q We've got the forgery allegations that would have
14 come to the State of South Carolina and made an allegation
15 of forgery?

16 A Uh-huh.

17 Q Is that a yes?

18 A Yes, sir.

19 Q And we have two potential deeds that are outstanding,
20 two deeds -- and you've seen both deeds that I'm talking
21 about?

22 A Yes.

23 Q And deed one, of course, has your signature on it?

24 A Right.

25 Q It has, supposedly, Larry Durant's signature on it?

1 A (Witness nods.)

2 Q Is that a yes?

3 A That's correct.

4 Q It has a notary signature on it?

5 A Yes, sir.

6 Q Is it your testimony today that Larry Durant signed
7 that deed one in front of you deeding the property back to
8 you?

9 A The one that he deeded to me?

10 Q Yes.

11 A Yes.

12 Q It's your testimony that you watched Larry Durant
13 sign deed one deeding the property to you directly?

14 A Yes, sir.

15 Q It is your testimony that would be Larry Durant's
16 signature on deed number one?

17 A Yes, sir.

18 Q Okay. I just want to make sure you saw him sign that
19 deed. Where did that happen? Where were you and who was
20 there?

21 A In Ms. Samuels's office.

22 Q Okay. Just tell me about it. Tell me what happened.
23 Who else was there? Who were the witnesses? Because
24 there had to be witnesses with deeds.

25 A It was Regina Maynard and Daniel.

1 Q Okay. There's no doubt about it, Pastor Durant can't
2 see?

3 A He can see.

4 Q Can he sign stuff pretty easily?

5 A Yes, he can.

6 Q Does he a beautiful signature?

7 A Yes.

8 Q So the testimony from the State of South Carolina
9 we've heard from the witnesses that he's legally blind,
10 that's not true?

11 A Right.

12 Q So any witness who said, if it was A.R.
13 any of these witnesses that said he's legally blind, they
14 just made that up?

15 A I don't know whether they made it up, but I know he's
16 not legally blind.

17 Q It's your testimony you don't believe he's legally
18 blind?

19 A He can see.

20 Q It is your testimony he is not legally blind?

21 A Yes, sir.

22 Q And then I want to make sure I got the dates right.
23 The first deed is 2009, 2011, something of that nature, in
24 which you said you witnessed Larry Durant sign a piece of
25 property directly over to you in front of some woman named

1 Ms. Samuels, who is the notary, and in front of Regina
2 Maynard and a few other witnesses, correct?

3 A Yes, sir.

4 Q And then there is a second deed that you're saying I
5 never signed. My signature is on there, that ain't me?

6 A Right.

7 MR. KENT: Beg the Court's indulgence.

8 (Pause.)

9 BY MR. KENT:

10 Q I'm going to show you two documents that we've been
11 talking about, okay?. The first one is dated
12 September 16th, 2009, and it has the words quit claim deed
13 written at the top of it. Do you recognize that?

14 A Yes, sir.

15 Q Okay. What is that?

16 A It's a deed he deeded over to me.

17 Q In which he gave you the \$112,000 property because
18 God told him to?

19 A That's what he said. He said it in church on Sunday
20 morning.

21 Q Okay. And those are the people who were present, and
22 it's your testimony that's Larry Durant's signature on
23 that deed, correct?

24 A Look like it.

25 Q Okay. Now, showing you a deed dated November 1st,

1 2009, which is the second deed. Now, it's your testimony
2 that that is not your signature on the second deed,
3 correct?

4 A No, that's not my signature.

5 Q And it's your testimony that you did not sign deed
6 number two?

7 A No. That's my testimony.

8 Q And to be make sure I'm perfectly clear, you did sign
9 deed number one?

10 A Right.

11 Q Which is dated September 16th, 2009?

12 A Uh-huh.

13 Q But you did not sign that second deed?

14 A Right. Did not deed it back over to him.

15 Q You would not have given him back his property,
16 correct?

17 A That's right.

18 Q Okay. You have seen both of these deeds?

19 A Yes, sir.

20 Q And you would agree that these are reasonably similar
21 to the deeds you have seen dealing with the case -- with
22 your criminal case that you've brought against Mr. Durant
23 as far as forgery and with the civil case you brought
24 against Mr. Durant as far as forgery?

25 A Yes, sir.

1 Q Okay.

2 MR. KENT: Beg the Court's indulgence for one moment.

3 (Pause.)

4 MR. KENT: Thank you, Ms. Johnson. That's all the
5 questions I have for you.

6 THE COURT: Redirect?

7 MR. FERNANDEZ: Thank you, Your Honor.

8 REDIRECT EXAMINATION

9 BY MR. FERNANDEZ:

10 Q Ms. Lizzie, counsel brought up the federal
11 investigation. There were no charges that resulted; is
12 that correct? Were you charge by the federal authorities
13 with anything?

14 A Back in '89.

15 Q More recently, were you charge more recently?

16 A No.

17 Q We also heard a lot about the home on THE RESIDENCE . Is
18 that where you currently live?

19 A Yes, sir.

20 Q Thank you. And when you received the property, what
21 kind of -- how would you -- what kind of state of repair
22 was it in? Was it in good shape or was it in bad shape?

23 A Pretty bad shape.

24 Q And the grant that you received to repair it, why
25 would you have applied for such a grant?

1 A Because it needed some work done to the house.

2 Q Okay. What kind of work was done to it that was
3 absolutely necessary?

4 A A new unit and the ceiling, the kitchen floor and the
5 laundry room.

6 Q Okay.

7 A They put a new ceiling in the whole house.

8 MR. FERNANDEZ: Your Honor, permission to approach
9 the witness?

10 THE COURT: Yes.

11 MR. FERNANDEZ: I'd like to also mark as State's
12 Exhibits 10 and 11.

13 (WHEREUPON, State's Exhibit Nos. 10 and 11 were
14 marked for identification only.)

15 BY MR. FERNANDEZ:

16 Q Ms. Lizzie, I'm going to hand you two documents that
17 I just marked as State's Exhibits 10 and 11. I believe
18 counsel just showed you this before, but I'd have you take
19 a look at No. 10. Tell me if you recognize that document.

20 A Yes, sir.

21 Q Okay. And is this, in fact, the quit claim deed that
22 was just referenced earlier for THE RESIDENCE ?

23 A No. This isn't right. That's not what he showed me.

24 Q I know. This is separate. This is a separate
25 document, but is this, in fact, the deed on the front page

1 and then the information about THE RESIDENCE ?

2 A Yes.

3 Q Thank you. And if you would, tell me, on the first
4 deed that's State's Exhibit 10, is that your signature?

5 A Yes, sir.

6 Q And what's the date that the deed was transferred
7 you?

8 A On September the 16th, 2009.

9 Q Okay. Thank you. And if you would, Ms. Lizzie,
10 please tell me -- and if you look at the top right -- and
11 I apologize because it is in small print, but if you look
12 at the top right, there's a word that says file. Would
13 you tell me the filing date for that deed, that it was
14 actually filed with Sumter County?

15 A I don't have my glasses, but...

16 Q It's okay if you're not able to see it. We can
17 certainly --

18 A The writing is too small.

19 Q I know it is. That's okay. All right. And, also,
20 that's Pastor Durant -- Mr. Durant's name on there; is
21 that correct?

22 A Right.

23 Q And were you physically present when he signed this?

24 A Yes.

25 Q I know you said before that he's legally blind -- or

1 that he can see, but have you witnessed him writing things
2 before?

3 A Oh, yes.

4 Q Okay.

5 A He has other people writing for him, too.

6 Q Okay.

7 MR. FERNANDEZ: Now, at this point, I'll move to put
8 State's Exhibit No. 10 into evidence.

9 MR. KENT: That's fine. Go ahead.

10 (WHEREUPON, State's Exhibit No. 10 was admitted
11 into evidence.)

12 BY MR. FERNANDEZ:

13 Q All right. Now, Ms. Lizzie, I'm going to refer you
14 to State's Exhibit No. 11. Take a look at that and tell
15 me if you recognize that document.

16 A I seen it, you know, but...

17 Q Is that the document that counsel just showed you
18 earlier, that defense counsel showed you?

19 A No, this is not it. He just showed me a sheet.

20 Q Okay. The front page is the same, but the document
21 has more pages in it?

22 A Yes.

23 Q Thank you. On this front page where your name
24 appears, is that your signature?

25 A No, it's not.

1 Q Under the grantor line?

2 A No. Right here?

3 Q That's right. Is that your signature?

4 A No, sir.

5 Q Okay. What is the date that it shows on the --
6 purported date of the quit claim deed, what does it show
7 it as?

8 A November the 1st, 2009.

9 Q Thank you. And again, even though it's small print,
10 I guess you're not able to read the fine print at the top,
11 are you?

12 A I didn't bring my glasses.

13 Q Okay.

14 MR. FERNANDEZ: Your Honor --

15 THE WITNESS: Can I get my reading glasses?

16 MR. FERNANDEZ: Can we take a small break to get some
17 reading glasses?

18 THE COURT: Do we have some handy?

19 THE WITNESS: Yes, sir. It's in my pocketbook.

20 THE COURT: We'll get them for you real quick.

21 (Pause.)

22 MR. FERNANDEZ: Your Honor, permission to hand
23 reading glasses to the witness?

24 THE COURT: Sure.

25 BY MR. FERNANDEZ:

1 Q Now, I just handed you some reading glass. Would
2 that assist you to be able to read the smaller print?

3 A Yes.

4 Q Okay. Referring back to State's Exhibit No. 10.
5 This would be the deed that was signed by Larry Durant to
6 you granting you the house in September 2009. In the top
7 right corner, there is a filing date?

8 A Yes.

9 Q Do you see the word filed and, right below it, there
10 is a date. That's when it was filed with the county.
11 Would you please tell me what that date reads?

12 A November the 4th, 2009.

13 Q Okay. November 4th, 2009. Thank you. And that's
14 when this property was deeded to you?

15 A That's correct.

16 Q Now, I'm showing you State's Exhibit No. 11.

17 MR. FERNANDEZ: Also, I move to put this into
18 evidence at this point.

19 MR. KENT: No objection.

20 THE COURT: Admitted.

21 (WHEREUPON, State's Exhibit No. 11 was admitted
22 into evidence.)

23 BY MR. FERNANDEZ:

24 Q State's Exhibit 11, could you tell me the date that's
25 on the front it purports to be signed on?

1 A November 1st, 2009.

2 Q Tell me the date, if you would, that that document --
3 and this is the document that was supposedly signed by you
4 to sign it back to Larry Durant?

5 A That's correct.

6 Q If you would, please read me the date this document
7 was filed?

8 A May 31st, 2013.

9 Q May 31st, 2013. Tell me again when you first learned
10 about these allegations involving MINOR and A.R. ?

11 A It was May 19th, 2013.

12 MR. FERNANDEZ: Thank you. No further questions,
13 Your Honor.

14 THE COURT: Recross?

15 MR. KENT: No, Your Honor, nothing further.

16 THE COURT: All right. Folks, I think this would be
17 a good place to break for the day.

18 I'll tell you what, hang on just a second while I
19 discharge the jury, that might make it easier to get out.

20 So we're going to break for the day. Resume tomorrow
21 morning at 9:30. When you go home, again, same thing I've
22 been telling you about don't talk to anybody about the
23 case, including other members of the jury, no family
24 members, friends, neighbors or anything like that. If
25 anybody approaches you about talking to you about the

1 case, please report that to the Court right away.

2 Now, again, I don't know if there's any media
3 coverage, but please tomorrow morning, if you get up, read
4 the newspaper, if there's anything in it, just avert your
5 gaze, put the paper aside and don't read it. There
6 haven't been any TV cameras in here, I know there hadn't
7 been that kind of coverage, but if you happen to hear
8 something on the radio, just turn it off. Again, the main
9 thing is the newspaper, so don't read that in the morning.

10 So we'll see you all tomorrow morning at 9:30. Thank
11 you for your patience.

12 (WHEREUPON, the jury left the courtroom at 4:34
13 p.m.)

14 THE COURT: Okay. So tomorrow morning, what does the
15 schedule look like?

16 MS. ABEE: Your Honor, the State has probably one to
17 two extremely quick -- we should rest by 11:00, if that
18 makes it -- if we start by 9:30, I don't see, unless
19 Mr. Kent crosses for an hour, us taking longer than 11:00.
20 And at that point, I'd anticipate us resting our case.

21 THE COURT: So you would be ready to present any
22 defense if you want to starting tomorrow morning?

23 MR. KENT: If we decide to present a defense, we
24 would be ready to go tomorrow at 11:00 o'clock, yes, sir.

25 THE COURT: Anything else we need to take up before

1 we break?

2 MS. ABEE: One thing I just want to clarify. I know
3 there's been a rule change about closing arguments, so I
4 just wanted to discuss with Your Honor --

5 MR. KENT: There's no rule change.

6 MS. ABEE: The rule change was supposed to take place
7 in April of -- I think April 23rd of this year where the
8 State closes in full, the Defense closes in full and then
9 State is allowed a brief rebuttal. That was a rule change
10 that came out. I haven't closed since the date of effect
11 when it came out, so I just wanted to make sure we were
12 all on the same page before preparing for closing
13 potentially tomorrow or Thursday.

14 MR. KENT: I think they're talking about the proposal
15 of the Rule 21. It's my understanding that got shot down.
16 The General Assembly did not accept it. I don't think the
17 rule has changed. And I've tried a case since then in
18 this courtroom. It's my understanding the rule has not
19 changed yet.

20 MS. ABEE: I'll be happy to research it and try to
21 figure it out to make sure we're all on the same page.
22 That's why I asked because I was asked by another defense
23 counsel in a trial previously to April to do it that way,
24 to go ahead and let it take effect and the judge didn't
25 tell me that hadn't been accepted and implemented. I know

1 we're in kind of a gray area right now and that's why I
2 wanted to make sure we're all clear on that.

3 THE COURT: I thought I was clear, but now I'm not,
4 so I'll --

5 MR. KENT: What was your understanding of the rule?

6 THE COURT: Well, I'm not going to say right now.
7 I'm as confused as you two.

8 MR. KENT: I know there was a proposal --

9 THE COURT: I used to know everything. Now, I know
10 nothing.

11 MR. KENT: Your Honor, I know there was proposal on
12 rule 21. I taught a seminar about it and I know the rule
13 change did not go through. After speaking to the
14 legislatures about the change, they did not accept it in
15 full, so it's back to the drawing board on the rule is my
16 understanding. If I'm wrong, then I've really uneducated
17 a lot people in the seminar.

18 THE COURT: I'll look it up again tonight before I
19 speak.

20 Anything else.

21 MS. ABEE: That's it from the State, Your Honor.

22 MR. KENT: Ms. Blazer is looking it up. It was 85 to
23 zero not to make the change.

24 THE COURT: Okay.

25 MR. KENT: But you can look it up. I wish it did.

1 THE COURT: I personally thought that it had not gone
2 through, but I don't want to sound -- I may have missed
3 the seminar.

4 All right. See you in the morning.

5 MS. ABEE: 9:30, Your Honor?

6 THE COURT: Yes.

7 (WHEREUPON, Court was adjourned to be reconvened
8 on Wednesday, May 25, 2016)

9 WEDNESDAY, MAY 25, 2016

10 THE COURT: Okay. One thing we need to take up is
11 the photograph?

12 MS. ABEE: Yes, sir.

13 THE COURT: You can go ahead and object -- unless you
14 want to object during the trial, but, presumably, you just
15 want to have the record made?

16 MR. KENT: Yes, sir. Judge, for the record, at this
17 point in time, I appreciate the Court allowing my motion
18 to be continuous. My understanding is that the State of
19 South Carolina at the conclusion of their case will be
20 placing the picture that we objected to. We're just
21 renewing our motion that we made at the beginning of
22 pretrial when the picture of the penis was placed in that
23 was taken that we believe is in contravention of
24 Schmerber.

25 THE COURT: You're calling it through a witness,

1 right?

2 MS. ABEE: Yes, sir, we're calling it through the
3 photographer, the person who executed the search warrant
4 and took the photo.

5 THE COURT: All right.

6 Well, your motion for the reasons I stated on Monday
7 is denied.

8 We left off yesterday on this question about the
9 rule. I was under the impression there had been one
10 proposed, it hadn't passed. It hadn't passed. I
11 researched it yesterday. It's still the old way.

12 MS. ABEE: Yes, sir.

13 THE COURT: All right. Is everybody here?

14 THE BAILIFF: Yes, sir.

15 THE COURT: We're ready then?

16 MR. FERNANDEZ: We're trying to do one housekeeping
17 thing.

18 MR. KENT: I'll cut it off so it's not making noise.

19 MR. FERNANDEZ: We just need to swap out two pieces
20 of evidence because they needed to be redacted.

21 MS. ABEE: I have an additional victim's name on
22 them, Your Honor, one that is not a Lyle witness. She
23 lives in New York, so she's not down here. But the SLED
24 paperwork had her name on it, so we've got redacted
25 versions with her name removed that we're trying to just

1 print to put in, but we can stop the printing and do it
2 during a break.

3 MR. KENT: We're fine.

4 THE COURT: All right. Let the record reflect the
5 Defendant is in the courtroom.

6 Bring jury in.

7 THE BAILIFF: Judge, I'm sorry. It's still one, No.
8 23.

9 THE COURT: Have you heard from him or her?

10 THE BAILIFF: Haven't heard anything.

11 THE COURT: Do you want to see if you can track them
12 down?

13 THE BAILIFF: Yes, sir. We have a call in to them
14 now.

15 (Pause.)

16 THE COURT: Well, we have everybody, so let's bring
17 them in.

18 (WHEREUPON, the jury entered the courtroom at
19 9:52 a.m.)

20 THE BAILIFF: All jurors are back in the courtroom,
21 Your Honor.

22 THE COURT: All right. Welcome back, folks. We are
23 going to now resume the trial this morning with the State
24 calling the next witness.

25 MS. ABEE: Thank you, Your Honor, the State calls

1 Kathy Saunders.

2 THE BAILIFF: Place your left hand on the Bible,
3 raise your right hand. State your name, please.

4 THE WITNESS: Kathy Saunders.

5 KATHY SAUNDERS, after being duly
6 sworn, testified as follows:

7 THE BAILIFF: Thank you. Come around, please. State
8 your name, spell your last name for the record.

9 THE WITNESS: Kathy Saunders, S-A-U-N-D-E-R-S.

10 DIRECT EXAMINATION

11 BY MS. ABEE:

12 Q Good morning.

13 A Good morning.

14 Q Are you employed?

15 A I am.

16 Q Where at?

17 A At the Sumter County Health Center.

18 Q What's your professional title there?

19 A I am a family nurse practitioner.

20 Q How long have you been a family nurse practitioner?

21 A Since 2009.

22 Q Tell us all a little bit about your educational
23 background.

24 A Well, I'm a registered nurse. I obtained my degree
25 in 1987, and that was an Associate's Degree. I furthered

1 my education, graduated in 1993 with a Master's Degree as
2 a pediatric nurse practitioner in clinical nurse
3 specialist. Then in 2008, I completed as a family nurse
4 practitioner and my Doctorate Degree.

5 Q All right. Do you have any professional licenses or
6 Board certifications?

7 A I do.

8 Q In what?

9 A In both family practice and pediatrics.

10 Q Do you have any specialized training in sexual
11 assault examinations?

12 A I do. I started doing child sexual abuse in 1996.
13 And prior to doing those examinations, I completed what
14 they called at that time a fellowship program of about
15 three months. I trained with professionals in San Diego,
16 California. And then because of the requirements of State
17 Board of Nursing, I had to complete, at least, 40 hours
18 every year thereafter in the field of child abuse to
19 continue to practice.

20 Q Do you continue to do that every year up until today?

21 A Actually, in 2013, '14, kind of on the edge of that
22 year, I no longer practiced in child maltreatment, so I
23 have not met those qualifications since 2015.

24 Q Do you still continue to do sexual assault
25 examinations?

1 A Not since 2015, I do not.

2 Q So in 2013, were you doing sexual assault
3 examination?

4 A Yes, ma'am, I was.

5 Q Was your training up to date in regards to 2013
6 and 2014?

7 A Yes, ma'am.

8 Q And what is the age range of examinations you would
9 perform?

10 A From birth until 18 years of age. After 18 years of
11 age, we did -- or I did do some developmentally delayed
12 adults, depending on their age scale factor.

13 Q Approximately, how many sexual assault examinations
14 have you performed?

15 A Since beginning in 1996 until the end of 2014,
16 probably more than 10,000 exams.

17 Q And when I say sexual assault examination, is that
18 the same as a forensic medical examination?

19 A Yes, ma'am, it is.

20 Q Have you ever testified in court before?

21 A Yes, ma'am, I have.

22 Q Have you ever been qualified as an expert before?

23 A I have.

24 Q Approximately, how many times?

25 A Several hundred times.

1 MS. ABEE: Your Honor, at this time, the State would
2 tender Kathy Saunders as an expert in child sexual abuse
3 and forensic medical examinations?

4 MR. KENT: No objection at all.

5 THE COURT: Okay. All right. Folks, the same
6 instructions that I gave you earlier in the week about
7 expert witnesses now applies to this witness who has been
8 qualified in the field of -- what were the fields again?

9 MS. ABEE: Child sexual abuse and forensic medical
10 examinations, Your Honor.

11 THE COURT: All right. All right. She will be
12 allowed to give her opinion within those fields and give
13 you the basis for her opinion. You decide how much weight
14 to give her testimony based on all the testimony you may
15 hear throughout trial.

16 You may continue.

17 MS. ABEE: Thank you, Your Honor.

18 BY MS. ABEE:

19 Q Now, walk us through what a forensic medical
20 examination is.

21 A Basically, it's a head to toe examination. It looks
22 at the child from the top of the head to the bottom of
23 their feet, looking for not only abnormal findings on the
24 exam, but things that are also normal. Taking into
25 consideration their past medical history that's available

1 and how what you may see on the examination may influence
2 your findings.

3 Q And what are some of the things that you're looking
4 for?

5 A Anything that may be abnormal, from, you know, bad
6 teeth to heart murmurs or skin findings of old injuries on
7 the skin, whether it be accidental or nonaccidental
8 injury. I inspect the abdomen, the lungs, you know, their
9 gait, their ability to walk, a little of their cognition
10 or their developmental stage, look at their eyes, ears.
11 It's just a full general examination of the child.

12 Q Now, are you looking for signs of physical abuse as
13 well as sexual abuse?

14 A Certainly.

15 Q Do you always find signs of sexual abuse during these
16 examinations?

17 A No, not always.

18 Q Why or why not? What are some factors that
19 contribute to you not finding any signs of sexual assault?

20 A The type of assault that occurred. If someone just
21 touches a body part with their hands or another object,
22 you may not see medical findings. The length of time from
23 when the last incident occurred until the date of the
24 examination because healing can occur over time. It can
25 heal to complete normal if there was injury at the time of

1 sexual trauma.

2 Q And does sex always leave physical signs?

3 A It does not.

4 Q Talk to us a little about the part of the examination
5 where you look deeper at the genitalia of the child,
6 specifically, a female. What is that you do during that
7 part of the examination?

8 A Well, it's a complete inspection of the outside of
9 the genitalia, mainly, the vaginal area to begin with,
10 using a colposcope, which is a piece of equipment that has
11 a light source on it, and it has, for lack of better
12 words, a pair of binoculars or a microscope so that it
13 magnifies objects of the genitalia anywhere from three to
14 15 times its normal size. So you can see very minute
15 pinpoint injuries that you probably wouldn't even see with
16 the naked eye or without a visual tool. It magnifies it
17 so you can see that area of injury or even scar tissue
18 that has healed to an area of injury.

19 Q Now, talk to us a little about that part of the body.
20 How quickly does the vagina heal if there is some sort of
21 trauma?

22 A Well, it all depends on the depth of the injury. If
23 it's very superficial or just on top of the skin, it can
24 heal within hours, especially if -- being a female, if
25 they've entered into puberty or they've started their

1 periods, because the estrogen progesterone cycle in women
2 allow tissue to heal very, very quickly. So oftentimes,
3 if it's a very superficial or on top of the skin injury,
4 it can heal within hours. If it's deeper penetrating
5 injury, meaning it tears through the skin or into the
6 muscle of the vagina, it may take days or sometimes weeks
7 to heal.

8 Q And, again, are there always physical signs of sex or
9 sexual assault?

10 A No, there are not.

11 Q If somebody had had sex previously, would you be able
12 to tell whether or not they had sex just by doing a
13 forensic medical exam, say, months later?

14 A It, there again, depends on the individual and the
15 distensibility or the stretchability of the vagina opening
16 because that tissue -- if you could imagine it being like
17 a rubber band, it stretches and it gives and it goes back
18 to its normal shape and size. If there is injury to that
19 area, repeated injury over a period of time, then it can
20 change its shape and kind of presentation of what you see.
21 There again, it doesn't always happen that way.

22 Q Now, did you perform forensic medical exams in this
23 case?

24 A I did.

25 Q Did you see MINOR ?

1 A I did.

2 Q When did you see her?

3 A May 30th, 2013.

4 Q And during your examination, were there any signs of
5 sexual trauma?

6 A Her exam was found to be a normal pubertal exam.

7 Q Now, does this rule sexual abuse in or out?

8 A It does not.

9 Q And what about A.R. did you perform a
10 medical exam on her?

11 A I did.

12 Q When?

13 A It was June 5th, 2013.

14 Q Okay. So even after MINOR came to see you?

15 A That's correct.

16 Q And were there any indicators of sexual trauma on
17 A.R.?

18 A No. It was found to be a normal pubertal exam, as
19 well.

20 Q Does that rule sexual abuse in or out?

21 A It does not.

22 Q Did you see T.H.?

23 A I did.

24 Q When did you see her?

25 A March the 4th, 2014.

1 Q Were there any signs of sexual abuse on T.H. ?

2 A There were. They were consistent with past
3 penetration.

4 Q And what percentage of cases show no signs of
5 physical trauma?

6 A The literature says around 90 to 93 percent will be a
7 normal examination, but you have to take into account your
8 personal population of children that you see. If you do
9 acute exams, meaning you see a lot of children when the
10 incident happens, within 24, 48 hours of the incident
11 happening, your numbers may be a little larger or, you
12 know, a greater percentage of being able to have findings,
13 abnormal findings on the exam.

14 If you see both acute and chronic, meaning they
15 occurred at some point after the sexual assault, then your
16 numbers should pretty much be in line of about 90 to
17 93 percent normal.

18 Q Thank you.

19 MS. ABEE: Your Honor, may I have one second?

20 (Pause.)

21 MS. ABEE: Thank you. Your Honor, I have no further
22 questions for this witness at this time.

23 THE COURT: Cross?

24 MR. KENT: Thank you, Your Honor.

25 CROSS-EXAMINATION

1 BY MR. KENT:

2 Q Dr. Saunders, how are you?

3 A I'm fine.

4 Q I hope I don't fall as I walk up and talk to you.

5 Dr. Saunders, my name is Shawn Kent. I think we met
6 sometime ago. I don't have lot of questions of you. Of
7 course, you are the expert, I am not, so if I ask anything
8 that is incorrect, please correct me so the jury
9 understands that I am not correct on the things that I'm
10 asking, okay?

11 A Yes, sir.

12 Q Again, sometimes, I speak really fast and I apologize
13 if I do. If I speak too fast and you can't understand one
14 of my questions, just ask me to repeat it. I'm happy to
15 repeat it.

16 A Certainly.

17 Q Talking about these forensic medicals -- and you do
18 forensic medical interviews, correct? Make sure I say it
19 right.

20 A It's not an interview. It's a medical examination.

21 Q So it is a medical examination, just, basically,
22 you're not trying to prove or disprove anything. You're
23 just doing a medical examination on individuals that you
24 meet?

25 A That is correct.

1 Q You're not an activate, you're not looking out for
2 somebody or to get somebody. You're just like, this is
3 what it is and you write it down in a report?

4 A That's correct.

5 Q And that's how you've always been?

6 A That's correct.

7 Q And the prosecution just asked you about three
8 reports that you did on three individuals that you met
9 with?

10 A Yes, sir.

11 Q And when you meet with these individual, you do a --
12 and I think you've been reading from one of your reports
13 in front of you; is that correct?

14 A I was, yes, sir.

15 Q The reports that we do, I think it's called -- at the
16 top of it, it says something like a child maltreatment
17 protocol?

18 A That is correct.

19 Q And it is a lengthy, lengthy form. It's almost like
20 20 pages?

21 A I think it's about 13.

22 Q Thirteen?

23 A Yes, sir.

24 Q And I think that's what you were testifying to
25 earlier. We do everything. From top to bottom, we look

1 at these individuals who come to see us. We check their
2 heights?

3 A That is correct.

4 Q We check their weights?

5 A That's correct.

6 Q We check their appearance?

7 A That is correct.

8 Q We check their gate, how they walk?

9 A Yes.

10 Q We check how they talk?

11 A Yes, sir.

12 Q We check to see if they have sexual diseases?

13 A That's correct.

14 Q We check everything whatsoever, again, so we can just
15 put it down openly in a report just to discuss what
16 happened?

17 A That is correct.

18 Q First, I want to talk to you -- and I know they were
19 asking you about the abnormal versus normal. Could you
20 explain that to me again? Again, I'm not an expert in the
21 field. You check for abnormal versus normal. What does
22 that mean?

23 A Just looking for injury or past injury that's on the
24 body, whether it's the genital area or any other part of
25 their body. There again, it depends on if you find on a

1 medical examination, say, there's a scratch on the child's
2 arm, it doesn't necessarily mean it was a nonaccidental or
3 an intended injury. It could have been an accidental
4 injury. So you have to take into account the history
5 that's provided and, also, how the injury looks. Injuries
6 with scars and without scars. I'm sure we've all cut
7 ourself with a knife or scratched ourselves at some point
8 in time, and it heals and it doesn't leave evidence that
9 the scratch or the injury was ever there. So that would
10 be an example of injury that happened, but it did not
11 leave physical evidence after it healed.

12 Q Okay. Thank you so much. I appreciate that. Now,
13 when we look at these reports and we go through, you were
14 the one responsible for putting all the information on the
15 report?

16 A That's correct.

17 Q And Dr. Saunders, I've known you a long time. You
18 don't just put information on the report. All the
19 information you're given, where do you get it from? You
20 don't guess?

21 A Some of it is, actually, provided by child. Some is
22 provided by the legal guardian of the child. So kind of a
23 blend of two sources usually.

24 Q And then, finally, we talked about through the
25 solicitor -- through the Attorney General's Office, we

1 talked about -- and I can't pronounce it properly. You do
2 an anal genital exam, is that the proper way to say it?

3 A That is correct.

4 Q And the Attorney General's Office is saying that's
5 one of the things we check, an anal genital exam when
6 we're looking at females, because sometimes you look at
7 males?

8 A I do.

9 Q But we check on females to try to see if there's been
10 sexual abuse would ou agree with that? I'm not saying
11 you're always going to see it.

12 A You do an examination.

13 Q Now, what is the purpose of the examination?

14 A To ensure that the child is healthy, number one, for
15 me.

16 Q Yes, ma'am.

17 A And number two, to determine if they need testing for
18 sexual transmitted infections and to document whether the
19 exam is normal or abnormal.

20 Q And then -- and I think we glossed over this a little
21 bit. Again, this is educational for me, also. You had
22 talked about the vagina heals different in women versus
23 children. Were you saying something of that nature?

24 A Not really women versus children. It's -- the
25 determining factor can be puberty.

1 Q Yes, sir.

2 A Meaning they started their menstrual cycles and they
3 have estrogen progesterone cycles on board that help with
4 the healing.

5 Q So if a person has not started their period, they
6 will heal differently than a person who has started their
7 period?

8 A Potentially. Again, depending on the type of injury
9 that's present.

10 Q And I notice you keep saying a word and I appreciate
11 you saying it, you keep saying the word depends. A lot of
12 this all depends on the individual person that we're
13 looking at. We can't say there's a blanket test for
14 everyone, would you agree with me there?

15 A There's some commonalities, but then, everybody heals
16 at different rates, responds differently to injuries or
17 sexual assault. So there are variables that you take into
18 account.

19 Q Okay. I want to start -- and I know they went
20 through it a little bit and I know you have your report in
21 front of you. I want to start on a report that you did on

22 [REDACTED] ?
MINOR

23 A Okay.

24 Q Of course, the first page of the report that we did
25 on [REDACTED] the child maltreatment program, that is
MINOR

1 protocol, that is written directly at the top, correct?

2 A Yes, sir.

3 Q In this interview, it has her birth date, it has the
4 county of residence and it just has a bunch of
5 information. It has your name on the first page, would
6 you agree?

7 A That is correct.

8 Q And throughout this report, these are things that we
9 talked about. One of the things that we were talking is
10 whether or not we test for sexual diseases. Is that
11 something that's included inside of this report?

12 A Yes, sir, it should be.

13 Q If we looked, did we check for sexual diseases inside
14 this report?

15 A Yes, sir, we did.

16 Q What did you find?

17 A I tested for gonorrhea, chlamydia, HIV and RPR, which
18 is syphilis and a pregnancy test and all were negative.

19 Q So she was negative for STDs?

20 A That is correct.

21 Q Okay. And then we also did on Page 9 of your
22 report -- let me know when you're at Page 9 of your
23 report.

24 A Yes, sir.

25 Q Page 9 of the report would talk about the outcome of

1 the medical evaluation. Would you agree with me there?

2 A Yes, sir.

3 Q Tell the jury what does that page -- what is that
4 for, just so we understand what I'm talking about.

5 A It has an area where you can actually document any
6 anal genital injuries, which would be the vaginal area or
7 the anal injury, and any injuries on the skin.

8 Q And if we can back up one to Page 8, just right
9 before that.

10 A Yes, sir.

11 Q What is that page for?

12 A It allows you to document. It actually has little
13 diagrams where you can denote or label areas of injury
14 that you've seen. And it also gives you a chance to
15 describe the genitalia.

16 Q Okay. Now, specifically to this case -- and I'm just
17 going through there. The first line on Page 8, the first
18 picture is a picture of a child with no hair. Would you
19 agree with me there?

20 A That is correct.

21 Q The next thing we have is something called skin
22 findings and it says photos?

23 A That is correct.

24 Q What does that mean under there? You wrote normal
25 skin survey. What does that mean?

1 A There were no abnormal findings on her skin survey.

2 Q And then below that, we talk about female genital
3 exam findings. What is that, Dr. Saunders?

4 A It allows me to describe the genitalia as I saw it on
5 the examination and the tools that I used, the position
6 that I used to examine her in.

7 Q And again, I'm not as smart as you, but the first
8 thing we talked about, that's a colposcope?

9 A That is correct.

10 Q That is what you used to do the exam and took
11 pictures with the colposcope?

12 A That is correct.

13 Q And the position would be the supine position?

14 A That's right, laying on her back.

15 Q Then the Tanner scale. That's the Tanner scale for
16 development, is that what we're talking about?

17 A That's correct.

18 Q Can you explain to the jury what the Tanner scale?

19 A You look at the pubic hair development of the vagina
20 area and you also look at the development of the breast
21 tissue, and it's rated on a scale of one to five. One
22 being the most infancy-like and five being the most
23 adult-like. And she was rated at a four.

24 Q A four out of five?

25 A That's correct.

1 Q And we talk about right below there it says hymen?

2 A Yes, sir.

3 Q What is the hymen?

4 A The hymen is the opening into the vagina. Some
5 people or lay people often call it the cherry or the
6 vaginal ring or the virginal ring. That is a collar of
7 skin that lies below the labia minora, which is the outer
8 folds of the skin. It's recessed inside the body behind
9 fossa navicularis, which is just another protective
10 structure that actually protects the hymen tissue from the
11 external, if you will, environment or external part of the
12 skin. So it's recessed back into the vagina.

13 If you kind of think about your tonsils and how they
14 lie in your mouth or that little uvula that hangs down the
15 back of your throat, that's kind of like the hymen. It
16 sits back inside of the vagina. And it comes in different
17 presentations. It can be an annular, which is a complete
18 circle of skin. It can be crescentic, if you think about
19 a half moon shape. It can be estrogenized, which just
20 means that it's stretchy because she started her periods
21 or has estrogen progesterone cycles on board. It can be
22 fibrinated, which means it has kind of like a rose bud
23 presentation. Just different presentations that we can
24 use to describe what we see.

25 Q Thank you so much. And you describe this one as

1 annular?

2 A That is correct.

3 Q And then under there, you put your -- there's a
4 comment section. That's where you put your own comments;
5 is that correct?

6 A That is correct.

7 Q What were the comments -- based upon the examination,
8 meeting with this individual, what were the comments that
9 you indicated on your report?

10 A Thick, smooth posterior rim, the cervix normal with
11 no discharge present, normal pubertal examination.

12 Q And I understand that when the Attorney General's
13 Office was asking -- and I'm not saying it does show or
14 does not show sex has occurred, but this shows a normal
15 test and does not show signs of sexual abuse?

16 A That is correct.

17 Q And Dr. Saunders, at the very last page, 13 of 13,
18 you make a recommendation. And I know you've done this
19 for quite some time. You make a recommendation when you
20 meet with individuals based upon the information they have
21 given you. Did you make a recommendation in this case?

22 A I did.

23 MS. ABEE: Objection, Your Honor. May we approach?

24 THE COURT: Uh-huh.

25 (WHEREUPON, a bench conference was held in the

1 presence of the jury, but outside the hearing of the
2 jury.)

3 BY MR. KENT:

4 Q Before we stopped, Dr. Saunders, I was asking did you
5 make a recommendation?

6 A I did.

7 Q All right. And what was the recommendation that you
8 made?

9 A Because MINOR had disclosed some information to me
10 about the sexual victimization, I felt it to be
11 appropriate that she receive counseling to address her
12 victimization and that was the recommendation that I made.

13 Q All right. And, usually, if you would recommend
14 counseling, you would expect somebody to go through
15 counseling if they were the victim of a crime or sexual
16 assault?

17 A I think you always need to leave that opportunity
18 open because some children are ready to deal with the
19 issue, some are not. But I think that the guardians of
20 those children need to know that tool was there to help
21 children work through that process to kind of regroup and
22 have a normal life from that point forward. So I do often
23 make that recommendation.

24 Q And now, let's talk about -- I'm going to go a little
25 faster now. You also said you did a forensic medical with

1 [REDACTED] D.B. ?

2 A I don't recall that name, sir.

3 Q Let me make sure I have all that. Well, let's start.

4 Who was the other name that you indicated that you did?

5 You said you did three forensics interviews?

6 A [REDACTED] A.R. .

7 Q Yes, ma'am.

8 A And --

9 Q [REDACTED] T.H. ?

10 A [REDACTED] T.H. .

11 Q And not to go through most of [REDACTED] A.R. 's, but
12 you indicated that was a normal test, also?

13 A I believe that is correct. Let me just -- yes, that
14 was normal pubertal exam.

15 Q No signs of sexual trauma?

16 A That is correct.

17 Q And then you did a report of [REDACTED] T.H. . Do you
18 have Ms. [REDACTED] T.H. 's information in front of you?

19 A Yes, sir, I do.

20 Q Okay. And Ms. [REDACTED] T.H. 's report was a little bit
21 different. Would you agree that your testimony was that
22 you had found some indication?

23 A Yes, sir. It was consistent with past penetration.

24 Q Okay. Now, her report also indicates that she told
25 you that she was sexually active, though?

1 A That is correct.

2 Q And that would be consistent with the information
3 that she told you, that she was -- she made it clear to
4 you I was sexually active. Was your report anything other
5 than consistent with what she gave you that she was
6 sexually active?

7 A It was consistent with the information that she had
8 shared with me about being sexually active and the
9 incident had occurred with the victimization.

10 Q Just give me one moment. It's hard to go through all
11 of this smart stuff. You can go to Page 3 of your report.

12 A Yes, sir.

13 Q That's where you take the history. And we talked
14 about taking of the history, correct?

15 A Yes, sir, I did get a history.

16 Q Okay. And the history -- and you were testing. You
17 take that history to determine the test that you're going
18 to give and are normal from A to B to figure out if these
19 are the victims, correct?

20 A Well, it's kind of a guiding tool. I don't think
21 it's the total determining factor, but it does guide and
22 give me information regarding the child.

23 Q And the history that you got from this report
24 indicated that somebody had stuck their fingers inside of
25 Ms. T.H.'s vagina?

1 A That is correct.

2 Q Okay. And that was the report that you were given?

3 A That is correct, from the grandmother and Ms. T.H..

4 Q So you got that history as it says from the report,
5 the history via the grandmother, agreed?

6 A At the top, that's correct.

7 Q And under that history, it says, inserted his fingers
8 into her vagina? It would be the last sentence.

9 A Yes, and fondled her breasts and inserted his penis
10 into her vagina.

11 MR. KENT: Thank you so much, Dr. Saunders.

12 MS. ABEE: No redirect, Your Honor.

13 THE COURT: All right. You can step down. Thank
14 you.

15 MS. ABEE: Your Honor, we would ask this witness be
16 executed from her subpoena.

17 THE COURT: No objection. You are free to do. Thank
18 you.

19 Next witness.

20 MS. ABEE: Your Honor, the State calls Valerie
21 Williams.

22 VALERIE WILLIAMS, after being
23 duly sworn, testified as follows:

24 THE BAILIFF: State your name.

25 THE WITNESS: Valerie Williams.

1 THE BAILIFF: Come around, please. State your name,
2 spell your last for the record.

3 THE WITNESS: Valerie Williams, W-I-L-L-I-A-M-S.

4 DIRECT EXAMINATION

5 BY MS. ABEE:

6 Q Good morning, Investigator Williams.

7 A Good morning.

8 Q All right. Are you currently employed?

9 A I am.

10 Q Where at?

11 A I am at the South Carolina Office of the Attorney
12 General.

13 Q And what's your current role there?

14 A My title is special investigator. I conduct
15 investigations.

16 Q And how long have you been at the Attorney General's
17 Office?

18 A Approximately three years.

19 Q How long have you been in law enforcement?

20 A Over 28 years.

21 Q If you could, just give us a brief run down of your
22 history in law enforcement?

23 A I started in law enforcement in 1988 when I graduated
24 from the Criminal Justice Academy. I worked for the
25 Sumter Police Department for over nine years, and then I

1 went on to work for SLED for the next 15 years.

2 I retired from SLED, and then I joined the Attorney
3 General's Office. I do have a Bachelor's Degree in
4 criminology and a Master's in counseling.

5 Q And what was your position at SLED?

6 A I was a special agent. I worked as a field agent,
7 which was conducting criminal investigations. I worked in
8 the special victim's unit and I worked in the behavioral
9 science unit.

10 Q And working in the special victim's unit, did you
11 ever have an opportunity to investigate criminal sexual
12 cases?

13 A The vast majority of my career as an investigator --
14 with Sumter, I started on patrol. I was on patrol roughly
15 two and a half years. I did drug abuse resistant
16 education to kids in school, and then I went to
17 investigations. And the vast majority of the cases I
18 worked were violent crimes. Because at one time, I was
19 the only female in that unit, I worked most of the sexual
20 assaults.

21 Q And approximately how many sexual assault cases do
22 you think you've worked?

23 A Wow. I've never counted. Hundreds.

24 Q Now, were you involved in this specific case?

25 A I was.

1 Q How did you become involved?

2 A Initially, this case was assigned to an attorney in
3 our office by the name of Kelly Hall. This was in 2013,
4 the end of 2013. And Kelly had asked to have me assigned
5 as an investigator on this case.

6 Q Now, is that normal during your work at the Attorney
7 General's Office?

8 A Yes, that is normal. They go to my supervisor, who's
9 Pete Logan, and they ask for an investigator. Sometimes,
10 based on the investigator's training and skills, they ask
11 for a specific investigator.

12 Q Now, once you become involved in a case, do you
13 continue to work with the local case agent?

14 A Yes, I work very closely if the case has an agent
15 still in place, yes, I do that.

16 Q Did you stay in contact with Detective Kelly during
17 this investigation?

18 A Oh, yes.

19 Q Now, are there things that you did independently of
20 Detective Kelly?

21 A There were some things that I did if she was not
22 available, yeah.

23 Q Is that normal throughout your investigative
24 experience at the Attorney General's Office?

25 A Oh, that's very typical, yes.

1 Q Now, I want to talk to you about a few specific
2 things that have come up throughout the course of this
3 trial. Were you involved in the collecting of a dress of
4 MINOR ?

5 A Yes.

6 Q Explain to us how you were involved in that.

7 A I want to say it was 2014 and we had a meeting. We
8 would meet typically with victims for the attorneys to
9 understand what all was involved in their case. And one
10 of the things I had mentioned -- actually, the meeting was
11 over, and we were leaving. And I had mentioned, you know,
12 is there any remote chance that there was anything, that
13 any of you might have clothing that you had worn during
14 any of these encounters. And MINOR said she thought she
15 might still have one in some clothes that she had been
16 boxed up, but she said it had been washed, et cetera. I
17 told her I'd like to, at least, try get it tested.

18 Q Now, how much time had passed approximately between
19 the initial disclosure of abuse by MINOR and the time you
20 collected the dress?

21 A Approximately, a year. I'd have to look at the
22 incident report to be more specific.

23 Q And so why did you collect the dress?

24 A I collected the dress because it's been my experience
25 that sometimes even when an article of clothing -- you

1 know, clothing is porous, it absorbs things. Sometimes
2 even after it's washed, it's a chance that there might
3 still be something that can be identified on that.

4 Q Now, after you do your investigations, is there
5 anything that you do to write down or dictate what it is,
6 the conversations that you had?

7 A Usually, I would create a memorandum. And I created
8 a memorandum of that day when we interviewed them. Later
9 on after I picked up the dress, I created one much later.

10 Q Now, what dates do you usually put at the top of your
11 memorandums?

12 A Well, usually, the day that I'm creating them or the
13 action that I've done, whatever action I've taken, I will
14 just date the memorandum for that.

15 Q Now, I want to talk to you a little about D.B.
16 [REDACTED]. Do you remember meeting with her?

17 A Yes, yes, I remember D.B. .

18 Q Do you recall when you first met with her?

19 A The first time I met with her was at Sumter High
20 School.

21 Q Do you remember when that was?

22 A I would have to look at the memo to give you the
23 exact date.

24 Q Do you have the memo with you?

25 A I think so. Excuse me. Put on my eyes here.

1 (Pause.)

2 A That would have been February 21st.

3 Q Of which year?

4 A Oh, I'm sorry, 2014.

5 Q So you met with her in 2014 out of school. Is that
6 normal for you to interview people at school?

7 A Yes. When it comes to kids, it's not unusual, yes.

8 Q Did you notify her mother or any of her parents
9 before you went to meet her?

10 A No, not at that juncture, I did not.

11 Q Why?

12 A Well, when -- first of all, these are high school
13 students, so they're old enough to say I want to talk to
14 you, I don't want to talk to you. One of things I always
15 do, these are not students who are in any kind of trouble.
16 These are victims.

17 So I always just say, you know, ask the principal --
18 in this case, the principal and the school resource
19 officer to come in and introduce me and ask the student if
20 they're willing to talk to me. Then if they are willing,
21 I ask them if they want the teacher or the principal to
22 stay in the room with them, you know, would they prefer to
23 have somebody in the room with them. In this case, she
24 indicated she did not. She would rather talk to me by
25 herself.

1 Q Now, throughout this conversation, did it come to
2 your attention that D.B. had been pregnant?

3 A Yes.

4 Q Did you ask her if the Defendant was the father of
5 the child?

6 A Yes.

7 Q And what was her response?

8 A She said he was not.

9 Q Then as a follow-up question, what did you ask?

10 A I asked if the father was possibly any other adult.

11 Q And why did you ask that?

12 A Because I've done so many of these cases, one of the
13 things I always ask kids is for an alternative to this
14 particular question, and number one, if it was another
15 adult, then that would be another case, but number two,
16 she indicated no. And she kind of started getting very
17 quiet and shutting down and looking down. I could tell,
18 you know, she wanted to be left alone. I respected her
19 privacy and I just didn't follow up anymore. She said it
20 wasn't an adult, so she was safe in that regard. I left
21 her alone.

22 Q Did you ask her any further questions about who the
23 father was?

24 A No, I was afraid she would stop talking to me. She
25 was shutting down pretty rapidly.

1 Q Now, did you put in a memo? You told us you create
2 memorandums?

3 A I did create a memo of my interview with her, yes.

4 Q And did you put in the memorandum the conversation
5 about who the father of the child was?

6 A Let me look at it and make sure.

7 No, I did not.

8 Q Why wouldn't you do that?

9 A It wasn't pertinent to this case. She had said it
10 was not Mr. Durant, so I had no reason to address it. I
11 just didn't put it in. If it had been, I would have
12 addressed it, but it wasn't. She didn't say who it was
13 and I left it alone.

14 Q And did D.B. write a statement for you that day?

15 A She did not. She was very clear in her responses.
16 And one of the things I asked her that I would ask anybody
17 who was old enough to write on their own is would she be
18 willing to write a statement for me. She stated no. She
19 wanted to talk to her mother first. I told her that was
20 fine. I gave her my business card. I thanked her for
21 talking to me. I just asked her to give the card to her
22 mom and ask her mom to call me.

23 Q Did you create your memorandum after that?

24 A Yes.

25 Q At any point in time, did you force D.B. to

1 stay in that room and talk to you?

2 A Oh, no. If she had told me -- that's one of the
3 reasons I use somebody she's familiar with, you know, the
4 school staff. If she had wanted one of her friends or
5 somebody in there, that would have been fine. She asked
6 to speak with me alone. She said that was fine with her.

7 Q In fact, a little bit earlier, you indicated she had
8 started to shut down. When she did, what did you do?

9 A Well, I want for people to talk to me. And when
10 you're talking about something this sensitive, it's very
11 touching. And you have to respect their privacy. And I
12 just stopped asking the questions that were causing her to
13 kind of just look down and kind of close in on herself.
14 You know, I was trying to encourage her to open up, not
15 shut down.

16 MS. ABEE: Thank you, Investigator Williams.

17 Your Honor, I have no further questions for this
18 witness at this time.

19 THE COURT: Cross?

20 MR. KENT: Yes, Your Honor.

21 CROSS-EXAMINATION

22 BY MR. KENT:

23 Q Investigator Williams, how are you doing, ma'am?

24 A I'm well. Thank you.

25 Q And I'm going to be asking you questions. And I'll

1 give you -- as I've told everybody who has testified
2 before you, madam court reporter is taking down every word
3 that you're saying, okay?

4 A (Witness nods head.)

5 Q As you just shook your head, she can't take down head
6 shakes, so make sure when you answer my questions they are
7 yes and no, and make sure they're affirmative and I'll
8 give you an opportunity to answer, okay?

9 A Okay.

10 Q If at any point in time you do not understand my
11 questions, if you will simply ask me to repeat it, I will
12 repeat my question and give you an opportunity to answer.

13 A Thank you.

14 Q Additionally, if at any point in time you want time
15 to explain your answer, simply ask me and I'll let you
16 explain your answer.

17 A Okay.

18 Q Finally, if you'll give me an opportunity to ask my
19 questions, I will give you an opportunity to answer.
20 Would that be okay?

21 A That would be fine.

22 Q First, I want to go through some of your background.
23 I know you had talked to the Attorney General's Office
24 about your background. I had known you for quite some
25 time. You have been doing this, I think you said, about

1 28 years?

2 A Yes.

3 Q And in your 28 years, you've had numerous amounts of
4 training and dealing with just about everything. You've
5 been a seasoned officer for 28 years?

6 A I have had quite a variety of experiences in this
7 job, yes.

8 Q And does some of the training we have -- we have
9 training -- we've already heard some of the other officers
10 testify about training. And it's all about the same,
11 would you agree with that?

12 A I probably have had a little more unusual training.
13 I actually seek it out.

14 Q When you all first start, you start at the Criminal
15 Justice Academy?

16 A That is where we start normally, yes.

17 Q And as has been testified already, the Criminal
18 Justice Academy is what comes in and gives you officers
19 your start and trains you on the basis or the underlying
20 foundation on becoming good officers?

21 A Well, when I started, it was a little bit different.
22 We were actually trained in-house and worked for several
23 months before they sent us to the Academy. But then they
24 give us state certification, yes.

25 Q And some of the training, we're taught training on

1 interviewing witnesses?

2 A Not at the Criminal Justice Academy.

3 Q You've been taught training on interviewing
4 witnesses?

5 A I have, yes.

6 Q We've been taught on report writing, how important
7 report writing is?

8 A Yes.

9 Q We've been taught training on collecting evidence?

10 A Yes.

11 Q And we've been taught training on preserving evidence
12 and testifying. All things that you have had personal
13 training on?

14 A I have.

15 Q And as the Attorney General's Office has already
16 stated, can you even give a measurable amount of trials --
17 or not even trials, but cases that you have worked?

18 A I have not ever counted them.

19 Q It clearly is over the thousands. You would agree
20 with me there?

21 A I don't know if it's thousands. I figure in 28
22 years, just the sheer volume that comes in to, say, a
23 local police department like the Sumter Police Department,
24 we could easily get anywhere from 60 to 100 cases in our
25 office in a month. And that's was one investigator. It

1 was slightly less at SLED.

2 Q So if that's 60 to 80 a month and it's slightly less
3 at SLED, it's, at least, 100 a year. That's thousands of
4 cases, 2800 cases?

5 A Well, they don't all end up in investigations.
6 Sometimes you can just look at them and rule them out
7 based on what you learn initially, but I've investigated a
8 lot of cases, yes.

9 Q And in investigating a lot of cases, any officer, as
10 has been testified already, new officers cannot memorize
11 everything?

12 A No.

13 Q And your job is not to memorize everything?

14 A We do not.

15 Q And your job as an officer is not to be an advocate
16 for anybody; is that correct?

17 A No, I'm supposed to go right down the middle.

18 Q Right down the middle. You put down all the
19 evidence, whether it shows innocence or whether it shows
20 guilt. You put it all down so a jury can make their own
21 decision or prosecutors or defense attorneys can make
22 their own decisions?

23 A If we think it's going to matter in either direction,
24 yes, we should report that.

25 Q What do you mean we think it should matter? Does it

1 matter what y'all think or do we just put all the evidence
2 in?

3 A We always take anything that's evidentiary.

4 Q Correct.

5 A And we would put that in. If we have something to
6 put in --

7 Q With what --

8 A Or there's nothing to put in.

9 Q Right. So that's one of things that's important. We
10 try to get everything so -- because these cases are like
11 snapshots, your report writing, your interviews,
12 investigating, talking to people, are all snapshots
13 because we cannot memorize everything that happens. As a
14 matter of fact, when you were asked a question from the
15 Attorney General, you made a point, let me look back at my
16 report and see what it says. We can't memorize
17 everything?

18 A Yes.

19 Q And you would agree you have not memorialized all the
20 cases that you have investigated over time?

21 A I don't have that kind of memory, no.

22 Q And I want to start at the beginning. And I
23 understand and I know you haven't said, but you also used
24 to be a forensic interviewer?

25 A Yes, I have trained to do that.

1 Q You're a trained forensic interviewer?

2 A I am.

3 Q And we've heard testimony from another individual who
4 testified before you, forensic interviewers interview
5 children?

6 A Yes, that's -- well, children and handicapped adults,
7 yes.

8 Q And when we interview -- a forensic interview, one of
9 the things we do is we record forensic interviews in South
10 Carolina?

11 A If we do a forensic interview in a child advocacy
12 center, we would record, yes.

13 Q Why do we do forensic interviews?

14 A We do forensic interviews with children under the age
15 of 12, specifically, because those interviews, the
16 recorded interviews can be used in court. Over the age of
17 12, they cannot.

18 Q So it's your testimony that we don't ever do forensic
19 interviews with anybody over the age of 12?

20 A Well, we do them. It's dependent on the case. It's
21 dependant on the circumstances. I don't do them anymore.
22 As an investigator for the Attorney General's Office, I
23 come after a case has already been investigated to assist
24 with whatever else might need doing.

25 Q And you would agree me in the time that you've done

1 forensic interviews, or when you did forensic interviews,
2 one of the things we do is when we interview a child, we
3 don't like interview them bunches of times? As forensic
4 interviews, most people say we want to interview them one
5 good time. Would you agree with that or you disagree?

6 A Ideally, we try and do one interview. It is
7 sometimes necessary to do more than one.

8 Q But as forensic interview, the training is that we
9 only try to interview children one time?

10 A Yes.

11 Q Because we want to avoid suggestibility?

12 A It's more to avoid retraumatizing. One of the things
13 that we -- we try to encourage people to get counseling so
14 that we don't -- because these things are very difficult
15 and they have a way of impacting people into the future.

16 Q And then finally talking again and I was asking you
17 questions about reports and you have agreed with me that
18 we try to put all the information in a report because we
19 can't trust our memories because our memories are
20 fallible, correct?

21 A They can be, yes.

22 Q And we don't try to memorize stuff, we try to put
23 everything down, again, so the jury can hear all the
24 facts?

25 A If it is pertinent, yes, we do try to put it down.

1 Q And you keep saying if you decide if it's pertinent
2 or if anyone decides that it's pertinent?

3 A I think that we have a very good understanding of
4 what is evidentiary and what is not.

5 Q Okay. And let's talk about evidence. When you guys
6 collect all of your evidence, you send it to the defense,
7 correct?

8 A I do not send it to the defense. We do not deal with
9 any of that. That is between the attorneys.

10 Q Right. And you would never get upset if a defense
11 attorney wants information? They're entitled to have all
12 the information they can?

13 A As long as they go through the prosecuting attorney,
14 yes.

15 Q There's no reason to get upset if a client or a
16 defendant or anybody just wants evidence?

17 A There would not be that I would know of.

18 Q That you would not get upset about it?

19 A I would not have anything to do with it. It would go
20 through the attorney.

21 Q Now, I want to talk about the case that you were a
22 part of today. I think you testified that you and
23 Ms. Kelly, who was --

24 I apologize for pointing at you.

25 Investigator Kelly, who is sitting here, who has

1 already testified about her role. I think your testimony
2 is the two of you worked together on this case?

3 A We did later. Initially, Detective Kelly
4 investigated the case and when it came to our office, I
5 was asked to assist that attorney. Then I went in to
6 assist Detective Kelly with anything else that would need
7 to be done.

8 Q Did you share information with her?

9 A Absolutely.

10 Q And that's something you would do, you would give her
11 all the information that you have?

12 A We would talk back and forth on the phone, by e-mail,
13 et cetera, in person about everything that was done, yes.

14 Q And it would be your testimony that there was nothing
15 that you wouldn't have done that you wouldn't have shared
16 and told her about?

17 A I can't think of anything, no.

18 Q So everything that you did, you would have
19 100 percent given copies of it, shared it, given it to
20 Detective Kelly, also?

21 A I don't need to necessarily give her a copy of
22 everything that I've done because we're prosecuting and
23 the case is now in our office, but I would definitely have
24 discussed it with her so she was aware of anything that I
25 was doing if she was not present for it.

1 Q Okay. Let's start first with where the Attorney
2 General's Office was asking you questions about the dress?

3 A Okay.

4 Q This first question, did you share that information
5 with Investigator Kelly?

6 A I told her, yes.

7 Q So you told her about the dress?

8 A And that I was submitting to it SLED, yes.

9 Q So that would have been information she would have
10 known about and would have testified to?

11 A Yes.

12 Q How did you share that information with her? Did you
13 give her a memo, did you call her, did you discuss it with
14 her?

15 A I discussed it by telephone, I know. There may have
16 been an e-mail, I don't know.

17 Q Okay. But it's your testimony that you discussed the
18 dress situation in full detail?

19 A By telephone, yes.

20 Q Now, talking about the dress situation in full
21 detail, the Attorney General's Office asked you about a
22 memorandum that you wrote. You write memorandum rather
23 than letting people write their own statements. Why do
24 you write memorandums rather than getting written
25 statements?

1 A No, that's not correct. We ask -- as I said, I asked
2 D.B. to write a statement. She said no. I asked
3 another young lady to write a statement. She said yes.
4 So if I'm talking to somebody and they choose not to write
5 a statement, then I make a record of what we discussed.

6 Q Now, let's talk about the memorandum of the dress.
7 You did a memo dealing with this dress. Do you have your
8 file in front of you?

9 A I have, yes.

10 Q Of course, I'm not going to get into any information
11 that's hearsay, but you did a memorandum after you had a
12 meeting with MINOR agree me there?

13 A If you'll give me the date. I have quite a few memos
14 in front of me.

15 Q Okay. Just one moment. Do you remember doing a memo
16 dated July 1st, 2015?

17 A With MINOR?

18 Q With MINOR?

19 A Yes.

20 Q So you did a memo dated July 1st, 2015?

21 A Yes.

22 Q At the top of the memo, it's dated July 1st, 2015,
23 agreed?

24 A Correct.

25 Q And is the date in which you took the memo?

1 A Correct.

2 Q And that's the date that you wrote it or that's the
3 date that it happened?

4 A That's the date that it happened.

5 Q And that's the date that we put on the top of the
6 memo, July 1st, 2015?

7 A I believe so, yes.

8 Q And this memo is one page along?

9 A Yes.

10 Q Okay. And it just gives information that happened on
11 that date from the interview of [REDACTED] MINOR ? I'm not
12 going to get into it because it's hearsay, but it's just a
13 memo that you wrote down of everything that you said
14 happened on that date, correct?

15 A Yes.

16 Q And then you gave this memorandum to the Attorney
17 General's Office, agreed?

18 A Yes.

19 Q And along with this memorandum, you sent the dress to
20 the State Law Enforcement Division for testing?

21 A No, not with this memorandum, I didn't.

22 Q But you did send the dress to the State Law
23 Enforcement Division?

24 A Yeah, almost two weeks later, yes.

25 Q You sent it to the State Law Enforcement Division for

1 testing?

2 A Yes.

3 Q For testing for any semen, bio fluorescence, any
4 evidence whatsoever on the dress?

5 A Exactly.

6 Q We've already heard that testimony, there was no
7 semen, no bio fluorescence, nothing on the dress
8 whatsoever?

9 A Well, I didn't testify to that, sir.

10 Q We've already heard testimony --

11 A Okay.

12 Q Is there anything on the dress?

13 A There was no biological fluorescence sense observed.

14 Q Now, inside of your memo dated July 1st, 2015 there's
15 no mention whatsoever about the dress. You would agree
16 with me there, correct?

17 A No, we actually had that discussion walking out of
18 the interview when she brought that up.

19 Q But that still was something that happened that day?

20 A It was something that happened day, but she had said
21 she wasn't sure if she still had the dress. So unless I
22 had a reason to note that it existed. And that's why the
23 memo came later with the dress.

24 Q Okay. We're going to talk about that. Later, I made
25 request saying what in the world is the deal about this

1 dress, it's not mentioned anywhere, agreed?

2 A I agree.

3 Q I specifically asked, I was like you sent me a memo.
4 It doesn't mention this dress. You've sent it to SLED to
5 be tested and it just so happens there's no semen on it,
6 but it's not mentioned in a memo. Then later, I was told
7 oh, we forgot to give you a second memo. Would you agree
8 with me there?

9 A Well, I'll tell you I don't normally create memos
10 about evidence collected because the report is there, the
11 receipt is there, the evidence chain is there. But I was
12 asked to do one after you sent that e-mail to the Attorney
13 General, so I did one.

14 Q So it's your testimony that you asked -- Ms. Abee
15 asked you to do what now?

16 A She said you had asked for a memo, so I made a memo
17 of what I had done.

18 Q This was in December, six months after all of this
19 information had happened, agreed?

20 A I don't have the e-mail in front of me, but possibly,
21 yes.

22 Q Would you disagree with me?

23 A It was some time after that, yes.

24 Q It was six months later. Then you went and created
25 another memo and you back dated it. You put July 10th,

1 2015. You put a different date on it?

2 A No, sir, I put the date that the dress was submitted
3 to SLED. And that is the same date that you will see on
4 the receipt from SLED.

5 Q You put a date of July 10th, 2015, and just sent that
6 to us and didn't explain that it was backdated or anything
7 of that nature. You backdated a memo?

8 A You sent an e-mail asking about that and you got that
9 response, so you already have that information.

10 Q Well, let's go through that. You were included in
11 all of these e-mail trains about evidence, correct?

12 A I don't know if I was included in all of them, but I
13 was included, certainly, in some. I usually would get
14 them forwarded from Mr. Abee.

15 Q The memo was not created until December 2015,
16 correct?

17 A If you have the e-mail, I could tell you if that was
18 correct, yes.

19 Q Just one moment.

20 A Okay.

21 MR. KENT: May I approach the witness?

22 Do you need to see these e-mails?

23 MS. ABEE: Just to make sure.

24 THE COURT: Okay.

25 BY MR. KENT:

1 Q So in December, I asked about the dress?

2 A You asked for a memo or something. You said it
3 was -- that there was nothing other than the paperwork
4 from SLED on the dress and you asked for something. So
5 she asked me for one, and I sent one.

6 Q Okay. Let's make sure everyone knows. I sent a memo
7 specifically stating, Upon receiving the discovery, you
8 provided DNA semen analysis on the dress from MINOR
9 [REDACTED]. This was submitted on July 5th, 2015. The
10 analysis produced no area of biological fluorescence
11 observed. Pursuant to Rule 5 Brady, please provide the
12 significance of this dress. It is not covered in Valerie
13 Williams's memorandum dated July 1st, 2015. When, why was
14 the dress provided? Was a statement given regarding the
15 dress? That's something that's normal for a defense
16 attorney to ask for, he wants everything, correct?

17 A I don't know about every defense attorney, Mr. Kent.
18 Normal, with evidence, as I stated earlier, we do not
19 create memos, but because I was asked to create a memo,
20 then I created a memo.

21 Q You do not believe it was pertinent for you
22 interviewing an individual to say hey, by the way, I have
23 a dress that there may be semen on? There's not an
24 important piece of evidence? That's not pertinent?

25 A I think it's pertinent. That is not the issue. The