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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

Certiorari to the Court of Appeals
Court of Appeals Appellate Case No. 2024-000090
Appeal from Greenville County Court of Common Pleas
The Honorable R. Scott Sprouse, Circuit Court Judge

App. Case No. 2026-000963

David Quintan Jones, #00391227,.....Petitioner,

v.

State of South Carolina,.....Respondent.

APPENDIX VOLUME I

WILLIAM G. YARBOROUGH, III
LAUREN CAROLE HOBBIS
WGY Law
308 West Stone Avenue
Greenville, South Carolina 29609
(864) 331-1612 | F: 864-271-0711
ATTORNEYS FOR PETITIONER

THE HONORABLE ALAN WILSON
WILLIAM JOSEPH MAYE, AAG
Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 779-8477 | F: 803-253-6283
ATTORNEYS FOR RESPONDENT

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	)	COURT OF GENERAL SESSIONS
COUNTY OF GREENVILLE	)	2020-GS-23-2981;
	)	2021-GS-23-1820-1823
	)	
	)	
THE STATE	)	
PLAINTIFF	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
DAVID QUINTAN JONES	)	
DEFENDANT	)	

June 5-8, 2023
Greenville, South Carolina

B E F O R E:

THE HONORABLE PERRY H. GRAVELY, Judge; and a jury.

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

CHRISTY SUSTAKOVITCH, ESQ.
WALKER MILLER, ESQ.
Attorneys for the State

WILLIAM YARBOROUGH, ESQ.
Attorney for the Defendant

APRIL HERRON
Official Court Reporter

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June 5, 2023

THE COURT: All right, ladies and gentlemen, we'll have -- oh, we're waiting on one more?

THE BAILIFF: Yes, sir.

THE COURT: Okay.

THE BAILIFF: If we can do a count?

(WHEREUPON, a count was done of the jury by the bailiff.)

THE COURT: The State ready?

MRS. SUSTAKOVITCH: Yes, Your Honor.

THE COURT: Defense ready?

MR. YARBOROUGH: Yes, sir.

THE COURT: All right, ladies and gentlemen, we are getting ready to select a jury on the first case up. And it's The State vs. David Quintan Jones. The questions that I'm going to ask you at this point are a little bit different than you heard before. The purpose of these questions are twofold. One is to make sure -- to give the attorneys a little more information about you. They are a little more specific to this case. And also, to make sure that you can be fair and impartial in the trial of this case.

Now, as we get into some of these questions, I will tell you, due to the nature of the charge, some

of these are very sensitive questions. And kind of information that you -- many of you may not want to reveal. So what we do there is the lawyers, will have you stand up here with the court reporter just so you don't have to announce some of this to everybody in the jury panel. But it is information that we have to have. At this point, I'm going to read to you indictments. And always before I read indictments, I always preface that with saying, indictments are merely allegations made by The State. This is not evidence and these are allegations which The Defendant has denied and pled not guilty to. This just shows what The State -- the allegations that they plan to attempt to prove. But this would not be considered evidence.

The charges, there are five separate indictments. And they are for criminal sexual conduct with a minor first degree, okay. And the indictments are similar in the time period that we're talking about and the location. The first one that David Quintan Jones, did in Greenville County, between February 1st, 2016 and April 16th, 2019, commit a sexual battery on an alleged victim with initials Child, as follows. By digitally penetrating Child, who was less than 11 years old. The next one is

The Defendant did perform cunnilingus on [redacted], who was less than 11 years old. The next indictment, that The Defendant made [redacted] perform fellatio on him and she was less than 11 years old. That next indictment is that The Defendant did anally penetrate [redacted], who was less than 11 years old. And the final indictment is that The Defendant did have vaginal intercourse with [redacted], who was less than 11 years old.

So first of all, is there anyone who knows anything about this case? If so, please stand.

(There was no response.)

Okay. At this time, I would ask that The Defendant --

Mr. Jones, if you would stand and just face the jury. All right. Thank you. You may be seated.

All right, is there anybody related by blood or marriage, have a close personal, social or business relationship with David Quintan Jones? If so, please stand.

All right, there was no response.

At this time, I would ask that the attorneys introduce themselves and anybody from their office which will be assisting in this case.

MRS. SUSTAKOVITCH: Good morning, my name is Christy Sustakovitch. I'm a prosecutor with the 13th

Circuit Solicitor's Office. This is Walker Miller, my co-counsel. And this is Lindsey Kicklighter, my investigator.

MR. YARBOROUGH: Good morning, I'm Bill Yarborough, I'm a lawyer here in Greenville. I have a practice. It's my pleasure to represent Mr. Jones. Thank you.

THE COURT: All right, is there anybody related by blood or marriage, have a close personal, business or social relationship with any of the attorneys or staff members that will be participating in this case? If so, please stand.

(There was no response.)

All right. Has anybody ever been involved in a matter where the attorneys represented you or where the attorneys were involved in any matter that you were in? Even if they were on the other side. If so, please stand.

(There was no response.)

Okay. Now, what I'm going to do is tell you possible witnesses in the trial. And the same questions, are you related by blood or marriage, have a close personal, social, business relationship with any of these individuals? When you hear a name that you recognize, just stand and then I'll follow up

with you. Investigator Laura Jones, Greenville County Sheriff's Office; Investigator Shannon McHale, Greenville County Sheriff's Office; Marita Jones; [redacted]; [redacted] Dr. Erin Bhatia, Parkside Pediatrics; Danielle Schoviak, Parkside Pediatrics; Melissa Collins, Julie Valentine Center; Dyneshia Kilgore; Tonya Stewart; Dr. Mary Fran Croswell; Shauna Galloway-Williams; Investigator Dan Acord with The Greenville County Sheriff's Office; Joanna McDuffie, Richland County Sheriff's Office; Chief Jim Steward, Richland County Sheriff's Office; Lieutenant Brian Godfrey, Richland County Sheriff's Office; Emma Dunning and William Dunning.

All right, is there anybody related by blood or marriage, have a close personal, business or social relationship with any of those witnesses? If so, please stand.

THE COURT: All right, your name and number?

PROSPECTIVE JUROR: 182, Mariam Setian.

THE COURT: What was your number again?

PROSPECTIVE JUROR: 182.

THE COURT: Okay. And how do you respond to that?

PROSPECTIVE JUROR: I'm on the board of the Julie Valentine Center.

THE COURT: Okay. I believe that would be a basis for cause.

MR. YARBOROUGH: Yes, sir, Your Honor.

MRS. SUSTAKOVITCH: Yes, sir, Your Honor.

THE COURT: All right and I'm going to excuse you from this case and if you can just stay here until we finish up this process.

All right. Anyone else?

(There was no response.)

Okay. Is there any member of the jury panel formed or expressed an opinion about any matter or issues involved in this case? If so, please stand.

Okay, and no response.

Is there any member of the jury panel or member of your immediate family related by blood or marriage or connected socially or close social relationship with Greenville County Sheriff's Office or somebody from the Richland County Sheriff's Office? If so, please stand.

(There was no response.)

In other words, are you related to or have a close personal friend that works for the Greenville County Sheriff's Office or Richland County Sheriff's Office?

Yes, your name and number?

PROSPECTIVE JUROR: Chase McAbee, 126.

THE COURT: Okay, how do you respond to that?

PROSPECTIVE JUROR: Blake Wolfe, he's one of the investigators for Greenville County, he's a close friend of mine.

THE COURT: Okay. And could you still be fair and impartial in the trial of this case?

PROSPECTIVE JUROR: Yes, sir.

THE COURT: All right, thank you.

All right. Is there any member of the jury panel have -- related by blood or marriage, have a close personal, business or social relationship with anyone who works for the Greenville County Solicitor's Office for the 13th Circuit Solicitor's Office? If so, please stand.

Okay, there was no response.

Is there any member of the jury panel or member of your immediate family a contributor to any group or organizations which promotes alleged victims rights or law enforcement such as MADD or SADD or any other advocacy group which promotes the interest of law enforcement or any group that is against law enforcement? If so, please stand.

Okay and no response.

Is there any member of the jury panel who's read

any newspaper articles, seen any postings on any social media or any internet site about The Defendant or any matters related to this case? If so, please stand.

Okay and no response.

Is there any member of the jury panel a member of any political, religious, social, industrial, fraternal, law enforcement or other organizations whose beliefs or teaching would prejudice him or her either against The State or The Defendant in this matter? If so, please stand.

(There was no response.)

Okay, and as I told you before, if you need to bring -- anything you would like to bring to my attention without saying in front of everybody else, then I'll have that opportunity for that. Does any member of the jury panel or member of your immediate family ever worked for any organization, agency or business which investigated or counseled victims or victims families who have been sexually assaulted or molested? If so, please stand.

PROSPECTIVE JUROR: Does a guardian ad litem count?

THE COURT: Yes, that would be okay. First of all, your name and number?

PROSPECTIVE JUROR: Number 70, Patricia Fuller.

THE COURT: All right. And what is your response?

PROSPECTIVE JUROR: My husband is a guardian ad litem at present.

THE COURT: Okay, for what county?

PROSPECTIVE JUROR: Greenville.

THE COURT: Okay. Do you believe that you could still be fair and impartial in the trial of this case?

PROSPECTIVE JUROR: Yes, sir.

THE COURT: All right, thank you.

Anyone else?

Yes, your name and number?

PROSPECTIVE JUROR: Morgan Stiles, 196. I have a sister who's an attorney for DSS and was also a guardian at one time.

THE COURT: Okay, what was her name?

PROSPECTIVE JUROR: Amanda Stiles.

THE COURT: All right, could you still be fair and impartial in the trial of this case?

PROSPECTIVE JUROR: Yes.

THE COURT: All right, thank you.

Anyone else?

PROSPECTIVE JUROR: Judge, foster family.

THE COURT: What's your name and number?

PROSPECTIVE JUROR: Daniel Wackerhagen, 217.

THE COURT: Okay and because of --

MR. YARBOROUGH: What was the number?

THE COURT: 117.

PROSPECTIVE JUROR: 217.

THE COURT: 217, okay. And again you say -- what was your response?

PROSPECTIVE JUROR: I'm a foster parent.

THE COURT: Okay, could you still be fair and impartial in the trial of this case?

PROSPECTIVE JUROR: Yes.

THE COURT: All right, thank you.

Has any member of the jury panel or member of your immediate family -- this is one y'all want to come up here, I'll be glad to talk with you. Has been a complainant to law enforcement or any other agency regarding allegations involving sexual assault or molestation? If so, please stand and I'll address that up here.

All right and no response.

Is any member of the jury panel or member of your immediate family ever been involved in law enforcement? For any agency? If so, please stand.

Yes, your name and number?

PROSPECTIVE JUROR: Angela McNeely, 134, my husband's a retired police officer.

THE COURT: Where did he work?

PROSPECTIVE JUROR: Akron, Ohio.

THE COURT: All right. Could you still be fair and impartial in the trial of this case?

PROSPECTIVE JUROR: Yes.

THE COURT: All right, thank you.

Anyone else?

(There was no response.)

All right, this is one that I will ask you to stand but I will ask that you come up here. Any member of the jury panel or member of your immediate family, including children or close friend, been a victim of sexual abuse or sexual assault? If so, please stand.

All right, no one.

Okay, is there any member of the jury panel aware of any bias or prejudice towards The State or The Defendant in this case? If so, please stand.

(There was no response.)

All right. Is there anyone that would like to present any information to The Court, like I said up here, that has not been covered by any of the questions that I've asked?

(There was no response.)

Okay. Is there any member of the jury panel know any reason whatsoever that they cannot be fair and impartial in the trial of this case? If so, please stand.

(There was no response.)

All right. Any additional questions from The State?

MRS. SUSTAKOVITCH: Can we approach just briefly?

THE COURT: Yes.

(WHEREUPON, an off-the-record bench conference was held in the presence of the jury but out of the hearing of the jury.)

THE COURT: All right, is there any member of the jury panel or member of your immediate family, either you or a member of your family, ever been accused of a sexual abuse or sexual assault or have been a victim of sexual abuse or sexual assault? And at this point, if you would come up front.

Your name and number again?

PROSPECTIVE JUROR: It's Angela McNeely, 134.

THE COURT: Okay.

PROSPECTIVE JUROR: My brother [indiscernible] sex [indiscernible] sex offender since he was 16, I

believe.

THE COURT: Okay, 134?

PROSPECTIVE JUROR: Yes.

THE COURT: Could you be fair and impartial in the trial of this case?

PROSPECTIVE JUROR: I think so.

THE COURT: Okay, thank you.

All right, anyone else while I'm standing up here?

(There was no response.)

THE COURT: All right. All right, any other questions from The State?

MRS. SUSTAKOVITCH: None from The State, Judge.

THE COURT: Any other questions--

MR. YARBOROUGH: No, sir, Judge.

THE COURT: -- from the Defense. All right.

All right, you may proceed.

THE CLERK: Okay. When I say your name, please stand and await for further instruction.

Juror number 148, Johnathan North.

(Johnathan North, a white male, stood.)

What says The State?

MRS. SUSTAKOVITCH: Please present the juror.

THE CLERK: What says The Defendant?

MR. YARBOROUGH: Please swear the juror.

THE CLERK: Sir, please have a seat in the jury box.

THE COURT: You can move up to the front row.

THE CLERK: Juror number 118, Kathryn Little.

(Kathryn Little, a white female, stood.)

What says The State?

MRS. SUSTAKOVITCH: Please present this juror.

THE CLERK: What says The Defendant?

MR. YARBOROUGH: Please excuse the juror.

THE CLERK: Ma'am, you may be seated, you've been excused from this case.

Juror number 70, Patricia Fuller.

(Patricia Fuller, a white female, stood.)

What says The State?

MRS. SUSTAKOVITCH: Please present the juror.

THE CLERK: What says The Defendant?

MR. YARBOROUGH: Please swear the juror.

THE CLERK: Ma'am, please gather your things and have a seat in the jury box.

Juror number 154, Prity Parikh.

(Prity Parikh, a Asian female, stood.)

What says The State?

MRS. SUSTAKOVITCH: Please present the juror.

THE CLERK: What says The Defendant?

MR. YARBOROUGH: Please excuse the juror.

THE CLERK: Ma'am, you may be seated, you've been excused from this case.

Juror number 55, Lisa Desatnik.

(Lisa Desatnik, a white female, stood.)

What says The State?

MRS. SUSTAKOVITCH: Please present this juror.

THE CLERK: What says The Defendant?

MR. YARBOROUGH: Please swear the juror.

THE CLERK: Please have seat in the jury box.

Juror 196, Morgan Stiles.

(Morgan Stiles, a white female, stood.)

What says The State?

MRS. SUSTAKOVITCH: Please present this jury.

THE CLERK: What says The Defendant?

MR. YARBOROUGH: Please excuse the juror.

THE CLERK: Ma'am, you may be seated, you've been excused from this case.

Juror number 161, Alma Pineda.

(Alma Pineda, a Hispanic female, stood.)

What says The State?

MRS. SUSTAKOVITCH: Your Honor, may we approach briefly?

THE COURT: Yes.

(WHEREUPON, an off-the-record bench conference was held in the presence of the jury but out of

the hearing of the jury.)

MRS. SUSTAKOVITCH: Please excuse the juror.

THE COURT: All right, you may be seated.

THE CLERK: You may be seated, you've been excused from this case.

Juror number 119, Brijida Lopez.

(Brijida Lopez, a Hispanic female, stood.)

What says The State?

MRS. SUSTAKOVITCH: Please excuse the juror.

THE CLERK: Ma'am, you may be seated, you've been excused from this case.

Juror number 49, Mary Crutts.

(Mary Crutts, a white female, stood.)

What says The State?

MRS. SUSTAKOVITCH: Please present this juror.

THE CLERK: What say The Defendant?

MR. YARBOROUGH: Please swear the juror.

THE CLERK: Ma'am, please have a seat in the jury box.

Juror number 139, Thaxton Miller.

(Thaxton Miller, a white male, stood.)

What says The State?

MRS. SUSTAKOVITCH: Please excuse this juror.

THE CLERK: Sir, you may be seated, you've been excused from this case.

Juror number 107, Walter Kucaba.

(Walter Kucaba, a white male, stood.)

What says The State?

MRS. SUSTAKOVITCH: Please present this juror.

THE CLERK: What says The Defendant?

MR. YARBOROUGH: Please swear the juror.

THE CLERK: Sir, please have a seat in the jury box.

Juror number 150, Paul Overly.

(Paul Overly, a white male, stood.)

What says The State?

MRS. SUSTAKOVITCH: Please present the juror.

THE CLERK: What says The Defendant?

MR. YARBOROUGH: Please swear the juror.

THE CLERK: Sir, please have a seat in our jury box.

Juror number 30, William Burrows.

(Williams Burrows, a white male, stood.)

What says The State?

MRS. SUSTAKOVITCH: Please present this juror.

THE CLERK: What says The Defendant?

MR. YARBOROUGH: Please swear the juror.

THE CLERK: Sir, please have a seat in our jury box.

Juror number 183, Daniel Sherry.

(Daniel Sherry, a white male, stood.)
What says The State?
MRS. SUSTAKOVITCH: Please present this juror.
THE CLERK: What says The Defendant?
MR. YARBOROUGH: Please swear the juror.
THE CLERK: Sir, please have a seat in our jury box.
Juror number 126, Chase McAbee.
(Chase McAbee, a white male, stood.)
What says The State?
MRS. SUSTAKOVITCH: Please present this juror.
THE CLERK: What says The Defendant?
MR. YARBOROUGH: Please excuse the juror.
THE CLERK: Sir, you may be seated, you've been excused from this case.
Juror number 152, Jonathan Pait, Jr.
(Jonathan Pait, Jr., a white male, stood.)
What says The State?
MRS. SUSTAKOVITCH: Please excuse this juror.
THE CLERK: Sir, you may be seated, you've been excused from this case.
Juror number 64, Joseph Forbes.
(Joseph Forbes, a white male, stood.)
What says The State?
MRS. SUSTAKOVITCH: Please excuse this juror.

THE CLERK: Sir, you may be seat, you've been excused from this case.

Juror number 65, Sandra Francis.

(Sandra Francis, a white female, stood.)

What says The State?

MRS. SUSTAKOVITCH: Please present this juror.

THE CLERK: What says The Defendant?

MR. YARBOROUGH: Please excuse the juror.

THE CLERK: Ma'am, you may be seated, you've been excused from this case.

Juror number 128, Courtney McCrary.

(Courtney McCrary, a white female, stood.)

What says The State?

MRS. SUSTAKOVITCH: Please present this juror.

THE CLERK: What says The Defendant?

MR. YARBOROUGH: Please swear the juror.

THE CLERK: Ma'am, please have a seat in our jury box.

Juror number 195, Roger Stewart.

(Roger Stewart, A white male, stood.)

What says The State?

MRS. SUSTAKOVITCH: Please present this juror.

THE CLERK: What says The Defendant?

MR. YARBOROUGH: Please swear the juror.

THE CLERK: Sir, please have a seat in our jury

box.

Juror number 216, Amy Veil.

(Amy Veil, a white female, stood.)

What says The State?

MRS. SUSTAKOVITCH: Please present this juror.

THE CLERK: What says The Defendant?

MR. YARBOROUGH: Please excuse the juror.

THE CLERK: Ma'am, you may be seated, you've been excused from this case.

Juror number 115, Krishni Lester.

(Krishni Lester, a black female, stood.)

What says The State?

MRS. SUSTAKOVITCH: Please present this juror.

THE CLERK: What says The Defendant?

MR. YARBOROUGH: Please swear the juror.

THE CLERK: Ma'am, please have a seat in our jury box.

Juror number 189, Barry Smith.

(Barry Smith, a white male, stood.)

What says The State?

MRS. SUSTAKOVITCH: Please present this juror.

THE CLERK: What says The Defendant?

MR. YARBOROUGH: Please swear the juror.

THE CLERK: Sir, please have a seat in our jury box.

THE COURT: Two alternates.
MR. YARBOROUGH: Two and one?
THE COURT: Yes.
THE CLERK: Juror number 43, Sarah Clark.
(Sarah Clark, a white female, stood.)
What says The State?
MRS. SUSTAKOVITCH: Please present this juror.
THE CLERK: What says The Defendant?
MR. YARBOROUGH: Please swear the juror.
THE CLERK: Ma'am, please have a seat in our jury box.
THE COURT: All right, next alternate.
THE CLERK: Juror number 38, John Chapman.
(John Chapman, a white male, stood.)
What says The State?
MRS. SUSTAKOVITCH: Please excuse this juror.
THE CLERK: Sir, you may be seated, you've been excused from this case.
Juror number 34, Cong Cap.
(Cong Cap, a Asian male, stood.)
What says The State?
MRS. SUSTAKOVITCH: Please present this juror.
THE CLERK: What says The Defendant?
MR. YARBOROUGH: Please swear the juror.
THE CLERK: Sir, please have a seat in our jury

box.

THE COURT: All right, any objection or exception to the jury selection process from The State?

MRS. SUSTAKOVITCH: None from The State.

THE COURT: From The Defense?

MR. YARBOROUGH: No, sir, Your Honor.

THE COURT: All right, talk to this crowd first. All right, ladies and gentlemen, y'all have been selected for the jury, we've got some other matters that we have to go over in this case and also another matter. So what we're going to do is break for -- we're going to start this case at 3:00. We need to start it today. And I realize that gives y'all a long time. But we should be able to start with opening statements and a couple short witnesses so you will be finished by 5:00 today. So let me tell you a couple of rules. Do not discuss the case. I know you don't know anything about it but it's very important that you not discuss it among yourselves or with anybody -- anybody else. Also, do not do any type of research about this case. Do not Goggle the attorneys, the parties, the law, anything about this. Because everything that you need to get for this case you'll get under our court rules.

And you also disregard any kind of media coverage, I'm not aware of any. If there's any social media, can't look at anything like that, please do not look at any of that. And finally, should anybody contact you, other than somebody from the clerk's office, please let the bailiffs know when you get back at 3:00. At this time, follow the bailiff, he'll direct you where you need to be back at three o'clock, all right. So see you this afternoon.

(WHEREUPON, the jury left open court at approximately 12:07 a.m.)

THE COURT: All right, for the rest of the panel, y'all need to go back downstairs. I'm not sure exactly -- I know they got another trial they're going to try to start today and I'm not sure if they're going to try to squeeze that in before lunch but anyway, they'll give you that information downstairs. I don't know if I'll see y'all later on in the week but I want to, again, express my appreciation for you coming in. I realize you probably feel like you didn't have a choice but it really is important that we have jurors to serve when we have to have cases before us. So thank you very much for your service. Like I say, go back

downstairs and they'll give you additional instructions.

(WHEREUPON, the jury venire was excused at approximately 12:08 p.m.)

THE COURT: All right. I will entertain any pretrial motions from The State.

MRS. SUSTAKOVITCH: Thank you, Your Honor, may it please the Court. The State has a few pretrial motions. The first is the standard motion for rape shield, which I've given to Defense Counsel and I'll provide The Court with a copy of. I don't know if anything that Defense -- The Defense plans to elicit in this case that would be in contravention of rape shield but I did want to put it on the record now and talk about it, if there is something.

THE COURT: All right, anything from the -- what's The Defense's position on this?

MR. YARBOROUGH: Your Honor, at this point, we don't know of any information like that that might come out.

THE COURT: All right, if that changes, let us know.

MR. YARBOROUGH: All right, I'll let you know.

THE COURT: All right. So you consent to their motion in limine on that?

MR. YARBOROUGH: At this juncture.

THE COURT: Right.

MRS. SUSTAKOVITCH: Next, Your Honor, The State will be moving to admit a forensic interview that was done in this case with the minor victim. She was eight years old at the time the interview was done. And The State will be moving to permit it pursuant to 17-23-175. I've given Defense Counsel a copy of the motion. Here's one for Your Honor.

Your Honor, at this time, The State would like to call the forensic interviewer and lay the voir dire for admission of the tape.

THE COURT: All right, you may proceed.

MRS. SUSTAKOVITCH: The State calls Melissa Collins.

THE CLERK: Please pause at the end of the bench.

MELISSA COLLINS, after being duly sworn{,}testified as follows:{F}

THE CLERK: Thank you, please be seated. State your name for the record.

THE WITNESS: Melissa Collins.

DIRECT EXAMINATION

BY MRS. SUSTAKOVITCH:

Q Okay, can you move that just a tiny bit? There

you go. Ms. Collins, where are you employed?

A The Julie Valentine Center.

Q And can you tell The Court your training and background?

A Yes. So I am a forensic interviewer at the Julie Valentine Center. I have Bachelor's of Arts in Psychology from Clemson University. And I have a Master of Social Work from the University of North Carolina at Willmington. I am a license independent social worker clinical practice and I'm licensed in the State of South Carolina. And I conduct forensic interviews at the Julie Valentine Center.

Q And when did you graduate first from Clemson?

A Clemson was December of 2011.

Q All right. And then your Master's, when did you get that?

A 2014.

Q All right. How long have you been employed with the Julie Valentine Center?

A Since 2017, so coming on six years.

Q And what are your duties at the Julie Valentine Center?

A I conduct forensic interviews, I -- I work with community partners. Most of my role and responsibility has to do with forensic interviews but I also do some

parent education courses.

Q And can you tell The Court, roughly, how many forensic interviews you've conducted over the years?

A My best estimate is 961, as of today.

Q What is a forensic interview?

A A forensic interview is a neutral, fact-finding interview with a child conducted by a trained professional and part of the investigation.

Q And are the child's parents allowed to be in the room when you're conducting a forensic interview?

A No. No one else is allowed in the room, it's me and the child.

Q And just, briefly, can you tell The Court how a interview is conducted?

A Yeah. So it is in a room, like I said with just me and the child. It is audio and video recorded. Observers, who are investigating the situation. So only investigative parties are able to watch the interview from a different room, a observation room, they're able to watch it in realtime. The interview involves, you know, rapport building and then transition to the topic of concern, exploring the narrative of the report, if any. And then there's a closure at the end.

Q What type of questioning format is used in a forensic interview?

A A forensic interview is open-ended questions. So it would be opened questions, followed by more specific clarifying questions, if needed, and then right back to the open-ended questions. So it's all neutral, non-leading questions.

Q And why is that important to have non-leading questions in a forensic interview?

A Because it yields reliable -- the most reliable information.

Q Did you, in fact, conduct a forensic interview in this case that's led you to be in court today?

A Yes, ma'am.

Q What was the date that you conducted that forensic interview?

A May 1st, 2019.

Q What was the name of the child that you conducted the interview on?

A It was Child

Q How old was Child at the time that you conducted the interview?

A She was eight years old at the time of the interview.

Q What person or agency referred Child over to you?

A Investigator Shannon McHale with the Greenville

County Sheriff's Office.

Q I'm showing you what's marked as --

(WHEREUPON, State's Exhibit No. 1 was marked for identification only.)

BY MRS. SUSTAKOVITCH:

Q I'm showing you what's marked as State's Exhibit 1 for purposes of this hearing.

Just, for the record, this is a complete copy of the forensic interview with no redactions. All right.

THE COURT: Y'all expect to be redactions--

MRS. SUSTAKOVITCH: Your Honor, I believe there's three that will be appropriate that we'll discuss at the appropriate time.

THE COURT: Okay, just making sure.

MRS. SUSTAKOVITCH: Yes, sir.

BY MRS. SUSTAKOVITCH:

Q And so would you take a look at State's Exhibit 1, for purposes of this hearing and tell me what that is?

A This is a DVD copy of the reported forensic interview.

Q And again, what date is on that interview? Or when did you conduct the interview?

A May 5th -- I'm sorry, 5/1 -- so May 1st.

Q Have you watched this interview recently?

A Yes, ma'am.

Q Does State's Exhibit 1 fairly and accurately depict the interview that you had with [redacted] on May 1st, 2019?

A Yes.

Q And State's 1, has there been any alterations or deletions or anything like that made to this interview?

A No, ma'am.

Q So this is a full and complete copy?

A Yes, ma'am.

MRS. SUSTAKOVITCH: Your Honor, at this time, The State moves to admit State's 1 for purposes of this hearing.

THE COURT: All right, any objection, as far as this hearing?

MR. YARBOROUGH: For purpose of this hearing.

THE COURT: All right. Yes.

(WHEREUPON, State's Exhibit No. 1 was admitted into evidence.)

MRS. SUSTAKOVITCH: And, Your Honor, at this time, The State normally moves to publish or provide it to Your Honor for in-camera review.

THE COURT: All right, I'll review it.

MRS. SUSTAKOVITCH: All right, please answer any questions The Defense counsel has.

CROSS-EXAMINATION

BY MR. YARBOROUGH:

Q You conducted the interview in this case?

A Yes, sir.

Q You're not supposed to use leading questions; correct?

A No, sir, no.

Q Okay. Tell me how you're taught to handle one of these interviews?

A The training is really comprehensive. It's a five day, 40-hour training. It would be difficult for someone very quickly -- you know, open-ended questions. Clarifying questions certainly when needed but a return to open-ended questions.

Q Okay. So that's my point, is you're supposed to use open-ended questions; right?

A In -- yes, sir, you're supposed to use open-ended and, you know, a closed question may be necessary for clarifying. And then open-ended questions again, yes, sir.

Q Okay. But questions like what should you say implies an answer; correct?

A I'm--

Q If you said that on the tape, if you said, What should you say if somebody asks you about--

MRS. SUSTAKOVITCH: Your Honor, I'm going to object as to -- Your Honor's going to view this video and make a determination on whether Your Honor believes it's leading or non-leading and whether it meets the requirements of 17-23-175.

THE COURT: I mean, I'll let him --

You can proceed.

BY MR. YARBOROUGH:

Q Just for clarity, I'm just saying you're trained not to do that; right?

A There is an education part, at the very end of the interview, that's part of the Child First Protocol, where we do ask a child what they -- who they could tell if someone ever -- if someone ever does touch them.

Q Okay.

A Nor not hurt them or if anything happens along the line of abuse or neglect. That is part of the Child First Protocol that's used in South Carolina.

Q If there was a term like sexual abuse on there, that would be a -- that would be something that a child would normally know; right?

A If the child brings it up -- and now I would use the child's words regardless of what those words are.

Q Okay. And so what if you said something like, you said that daddy is one that did that. That would be

unappropriate; right?

A If the child had previously said that daddy was the one that did that and I was referencing a previous statement, that would be appropriate to call the child's attention back to what we were talking about so that she would know what I was talking about.

Q But with that you would have to say that -- that daddy had previously said that or done that; right? I mean, in order to bring them back you had to have had it to start with; right?

A It -- I would typically use that reference something the child had previously said. I'm not sure if you're referencing the specific point.

Q Well, my question is, is that leading?

A So that would be an example of the clarifying questions. So I'm bringing her back to the point to clarify more about something that she had brought up.

Q Okay. And so we can -- Judge Gravely can judge for himself --

A Sure --

Q -- about that; correct?

A Yes, sir.

MR. YARBOROUGH: Thank you, I don't have any further questions for you. Thank you.

THE COURT: Any redirect?

MRS. SUSTAKOVITCH: Your Honor, did you want to ask questions post redactions or do that after you watch?

THE COURT: We can do that after I watch it.

MRS. SUSTAKOVITCH: Nothing further.

THE COURT: All right.

You can step down subject to my review of the video. So thank you.

All right, anything else in regard to that?

MRS. SUSTAKOVITCH: Nothing further in regards to the forensic interview.

MR. YARBOROUGH: I previously just filed a motion. I'll let you look at it then we can argue it afterwards.

THE COURT: Okay, yeah, let me look at that and I'll be glad to. . .

MR. YARBOROUGH: I'd ask you look to at my motion.

THE COURT: Okay, that addresses any concerns you have?

MR. YARBOROUGH: It does.

THE COURT: All right.

MRS. SUSTAKOVITCH: Your Honor, the only thing I would add about that motion that Defense Counsel filed, The State has no intentions to try to qualify

a forensic interviewer as a expert. That would be wholly inappropriate and would be a mistrial. So we have no plans to do that.

THE COURT: Okay. All right. Anything else from The State?

MR. MILLER: Yes, Your Honor, at this time, we have a State v. Denno motion in regards to two statements The Defendant made, as well as the excited utterance.

THE COURT: All right.

MR. MILLER: In regards to the motion of the excited utterance, The State calls Investigator Shannon McHale.

THE COURT: All right, come forward to be sworn.

SHANNON MCHALE, after being duly sworn, testified as follows:

THE CLERK: Please state your name for the record.

THE WITNESS: Shannon McHale.

DIRECT EXAMINATION

BY MR. MILLER:

Q Investigator McHale, where are you employed?

A Greenville County Sheriff's Office.

Q And how long have you been at the sheriff's office?

A Since 2015, so coming up on eight years.

Q What have your roles been within the sheriff's office?

A I originally was assigned to uniform patrol. I was then an investigator with the Crimes Against Children Unit. I'm currently a investigator with the homicide unit.

Q Did you become involved in the case of The State vs. David Jones?

A Yes.

Q How did you become involved?

A We received a DSS referral to us regarding allegations of sexual abuse.

Q Okay. Do you recall when that occurred?

A I believe April 15th of 2019.

Q Okay. And what was the first step of your investigation?

A First step was to determine if there was already a previous report about this, as we had received this call from DSS. And then we made contact with the family to do -- meet with them and establish a safety plan and begin the investigation.

Q Okay. Where did you meet with the family?

A At the incident location at Address.

Q Who did you speak -- just briefly, who did you

speak with while you were out there?

A The minor victim, Child her brother, ZJ, Marita Jones and David Jones.

Q And who is Marita?

A Marita is the mother of Child

Q Who did you speak with first?

A I spoke first with Child

Q Who did you speak with after Child

A I believe I spoke with both Marita and David together.

Q Okay. And after you spoke with both of them, who did you speak with?

A I believe I spoke again with Child

Q Okay. After you spoke with Child a second time, what was her demeanor like in this interaction?

A In this interaction she was forthcoming with answers but reluctant to give a lot of details.

Q Okay. Was this the last time that you spoke with Child

A No.

Q When was the last time that day that you spoke with Child

A I spoke with Child a total of three times. The last one being after my second interview with Marita.

Q Okay. How did her demeanor, if at all, change

the last time you spoke with Child

A Child was a lot more visibly upset. She was sniffling, she -- you could hear a distinct, like, gurgle to her voice.

Q Okay. And from your impression, what was causing the distress?

A It was in regards to the allegations and disclosing everything that had occurred.

Q The overall case of the sexual assault?

A Yes.

Q Okay. Did Child make any statements to you while she was under stress?

A Yes.

Q And did she make those in response to a question you were asking?

A No, I was just advising her that I was there to help and make sure that people were getting the help they needed.

Q Okay. What was it that Child said?

A She stated, I want to save my daddy, though.

MR. MILLER: Your Honor, this would be the statement of an excited utterance.

THE COURT: Can you repeat that?

THE WITNESS: She stated, I want to save my dad, though.

THE COURT: Save?

THE WITNESS: Save, yes sir.

THE COURT: Okay.

MR. YARBOROUGH: I'm sorry, I can't really get that last part. What words she said, I wanted to what?

THE WITNESS: I want to save my daddy, though.

BY MR. MILLER:

Q Did she make that statement while she was under distress?

A Yes.

Q Unprompted?

A Yes.

Q To you?

A Yes.

MR. MILLER: Your Honor, this would be the statement that The State would want to move in as an excited utterance under the Rule 803(2).

THE COURT: Mr. Yarborough?

MR. YARBOROUGH: Your Honor, first of all, it's classic hearsay. I'm not sure the reliability of the statement is fairly and accurately presented at this time. And I think -- I think it -- it's something that should probably be brought up at a later time. At this point, I don't think the admissibility, we

don't know enough about the circumstances or the situation around which that statement was made. And further, I -- I can't imagine any situation that it's admissible but there may be some point, at some time, that, you know, The State could revisit that and try to admit it. But, at this time, I don't think they've shown--

THE COURT: It's almost a reverse motion in limine.

MR. MILLER: Well, we wanted to clear it up and not be a surprise with The Court as to what the--

THE COURT: Right and I agree with Mr. Yarborough. I think that -- I think that has to be addressed more at the time -- after the foundation's been laid.

MR. MILLER: As we get closer--

THE COURT: I guess, I just never have ruled on one where -- I mean, the Jackson v. Denno is one thing, but.

MR. MILLER: For context, this is after time, place and disclosure was made by Child and under that rule you're not allowed to state the name. So The State wanted to bring it to the attention that while this was close to a time and place disclosure, which builds up into this statement as one of the

final statements is left with, I want to save my daddy, though. And that's why we're wanting to bring it to attention so it wouldn't be a surprise or cause anything later. And we would be happy to fully address it later but definitely did not want this to come up and just be completely unknown as we were going down that road.

THE COURT: Okay.

MR. YARBOROUGH: Your Honor, I -- I think that it's going to end up being several -- if I think correctly, it's going to be several weeks after the last allegation. And so I think -- I just ask The Court to revisit it at the time. First of all, it's hearsay. And second of all, I can't imagine any circumstances that's admissible. I see what he's trying to say but, at this point, I don't think I understand enough of what he means or the circumstances of which that is taken to be able to ask The Court to make a ruling.

THE COURT: Well, I have to address it at the time, anyway. So I'm going to -- I guess as we get ready to do that, we may want to take a break and discuss it.

MR. MILLER: Yes, sir.

BY MR. MILLER:

Q In regards to -- to continue on, did you ever have the opportunity to speak with The Defendant?

A Yes.

Q After this day on April 15th, 16th, when you were at Address?

A Yes.

Q How did that occur or how did it become arranged for you to speak with The Defendant?

A I actually spoke with Mr. Jones the day -- the initial on the 15th and I arranged to meet with him at a later date. I believe the 22nd at the county square, at our office, to speak.

Q And was it known that you were a law enforcement officer?

A Yes.

Q Okay. Did The Defendant, did he wish to speak with you?

A Yes.

Q Did he want to speak with you?

A Yes.

Q Okay. What -- when you say at the county square, your office, what office is that?

A It's the Greenville County Sheriff's Office. Specifically, the SID office, which is Specialized

Investigations Division.

Q All right. Do you remember what time of day this occurred?

A Not without reviewing my report.

Q Okay. Anyway, did The Defendant come voluntarily?

A Yes.

Q Did he come on his own freewill?

A Yes.

Q Was he detained at all?

A No.

Q Was he free to leave at any time?

A Yes.

Q Okay. Did he wish to be there and wish to speak with you?

A Yes.

Q If he, at any time, wanted to not speak with you, what would have happened?

A We would have ceased all questions.

Q Okay. When you spoke to The Defendant, did he appear lucid?

A Yes.

Q Did he appear to understand your questions?

A Yes.

Q Did his responses, did they appear coherent,

coherently made?

A Yes.

Q Okay. Did he appear under the influence of any drugs or alcohol?

A No.

Q Okay.

Your Honor, at this time --

Well, do you recognize this?

A It's copy of the -- or it's a DVD of my interview with Mr. David Jones.

Q How do you recognize that?

A It has my signature at the bottom.

Q Just to recap, this was freely and voluntarily given by The Defendant?

A Yes.

Q He could have left at any time?

A Correct.

Q He was not detained?

A Correct.

Q He was not under arrest?

A Yes.

Q He was not in custody?

A Correct.

MR. MILLER: Your Honor, at this time, for purposes of this hearing, The State would move to

admit -- this is an unredacted copy, there would be proposed redactions that we would discuss at a later time -- The Defendant's statement made to Investigator Shannon McHale.

THE COURT: Any objection?

MR. YARBOROUGH: I don't have any objection at this point. There's one -- one issue that, I think, Mr. Miller and I agree on, we're not dealing with that right now. The statement about the girl coming into his bedroom, is that?

MR. MILLER: That's the next Denno hearing, we're not planning to play the statement at the Denno hearing, just deals with the admissibility of the statement and of the actual substance of itself. When we get to admissibility -- we can --

THE COURT: Okay --

MR. MILLER: -- any redactions to be made.

MR. YARBOROUGH: That's fine, Your Honor.

THE COURT: So no objection for purposes of this hearing?

MR. YARBOROUGH: No, sir.

(WHEREUPON, State's Exhibit No. 2 was marked for identification and received into evidence.)

MR. MILLER: Your Honor, that's all for this witness.

THE COURT: All right, cross-examination?

MR. YARBOROUGH: No, sir, Your Honor, thank you.

THE COURT: All right, how long is this?

MR. MILLER: I believe this statement is about 45 minutes to an hour.

THE COURT: Do you have any Jackson v. Denno issues?

MR. YARBOROUGH: I don't, Your Honor. He doesn't make any admissions.

THE COURT: Okay. So no objection then as far as the--

MR. YARBOROUGH: The freely and voluntariness, no, sir, Your Honor.

THE COURT: All right. Don't need to review -- if there's no objection to it, I don't need to review it --

MR. YARBOROUGH: There's --

THE COURT: Y'all got to discuss certain redactions it sounds like.

MR. YARBOROUGH: Yes, sir.

THE COURT: But as the statement as a whole, you don't have any objections to it?

MR. YARBOROUGH: No, sir. He came freely and voluntarily, understood his rights, he made the statement.

MR. MILLER: Your Honor, for the record, just to clarify, this is the unredacted --

THE COURT: Right.

MR. MILLER: -- video of The Defendant's statement.

THE COURT: This is State's Exhibit?

MR. MILLER: Number 2, Your Honor.

THE COURT: Number 2. All right.

MR. MILLER: Your Honor, may Investigator McHale step down?

THE COURT: Yes, you may.

MR. MILLER: At this time, The State would call Investigator Laura Jones to the stand.

LAURA JONES, after being duly sworn{,}testified as follows:{F)

THE CLERK: Thank you, please be seated. State your name for the record.

THE WITNESS: Laura Jones.

DIRECT EXAMINATION

BY MR. MILLER:

Q Investigator Jones, where are you employed?

A Greenville County Sheriff's Office.

Q How long you been with the sheriff's office?

A Been with Greenville County since 2004.

Q What roles have you had with the sheriff's

office?

A I started uniform patrol, after three years went to investigations. Which included auto theft, arson, homicide. And then moved to the Office of Professional Standards.

Q And your educational background?

A I have a Bachelor's of Science in Psychology from Presbyterian College. And I have Master's in Criminal Justice from Anderson University.

Q How many years at the sheriff's office?

A Twenty-one total law enforcement, so 18, 19 at The Greenville County Sheriff's Office.

Q And your current rank?

A I'm a Sergeant.

Q Sergeant. Did you become involve in the case of The State vs. David Jones?

A I did.

Q How did you become involved?

A I was contacted by Investigator Shannon McHale and asked to assist with a interview of David Jones.

Q Of The Defendant?

A Yes.

Q Okay. Where did your interview take place?

A In my office.

Q In your office. And what building is that

located in?

A That's at the law enforcement center.

Q Okay. Was David Jones there freely and voluntarily?

A Yes, he was.

Q If he wanted to not speak with you, could he have not spoken to you?

A That's correct.

Q Did you have him in custody at the time?

A No, sir.

Q Was he detained at the time?

A No, sir.

Q Okay. Did you go over the rights of The Defendant with him?

A Yes, I did.

Q Hand you a document, do you recognize this document?

A Yes, I do.

Q What is it?

A The Waiver of Rights form.

Q Of who?

A Of David Jones.

Q What rights did you go over with him?

A I went over all of his rights. You want me to read through it?

Q Is it a true and accurate copy of it, as it's made for court rules?

A Yes.

Q Does it appear to be tampered with, other than any edits made for court rules?

A No, sir.

MR. MILLER: Your Honor, at this time, The State would move to admit for this hearing, the Miranda of Waiver of rights warned of The Defendant.

THE COURT: All right, any objection?

MR. YARBOROUGH: No, sir.

THE COURT: In without objection.

MR. MILLER: That will be State's Exhibit No. 3.

(WHEREUPON, State's Exhibit No. 3 was marked for identification and received into evidence.)

BY MR. MILLER:

Q And looking at this form, Sergeant Jones, what rights did you go over with The Defendant?

A I advised him that he had the right to remain silent. Advised him that anything could be used against him in court. And that he was entitled to talk to a lawyer and have him present now or any time during questioning. If he could not afford a lawyer, one will be appointed for him without cost. And if he decided to answer questions now, he may stop answering questions at

any time. And also that he understood each of these rights and he wished to waive them. Meaning that he wished to talk to me.

Q And is that memorialized where he wished to waive those rights and speak to you?

A Yes.

Q How is is memorialized?

A He agreed and initialed beside each of one those lines that I just read through and then signed on the bottom.

Q So these are his initials and his signature on the paper?

A Yes, sir.

Q Did he appear clear minded when you spoke with him?

A Yes.

Q The entire time when you initially spoke with him, when you went over the rights with him?

A Yes.

Q Did he appear to understand the rights?

A Yes, he did.

Q Did he appear to be under the influence of any drugs or alcohol?

A No, sir.

Q Did he appear to understand your questions?

A Yes, he did.
Q Did his responses or statements made, did they appear to be coherently made?
A Yes.
Q Were you speaking with him of his own freewill?
A Yes, sir.
Q And he appeared clear minded and lucid?
A He did.
MR. MILLER: Okay, Your Honor, at this time, we would move that statements made to Investigator Laura Jones were made freely and voluntarily of clear mind after a waiver of rights.
THE COURT: Is that recorded or?
BY MR. MILLER:
Q Was this recorded?
A It was at the time, yes.
Q Is there a recording of it?
A No, there's not.
Q What occurred [verbatim] to the recording?
A Unbeknownst to me at the time, the recording equipment was not working properly. It showed that it was working properly on my end and I didn't realize that it was not working properly until after this when I went to review it in order to write my reports.
Q And were you following your standard practice as

you were doing that?

A Yes.

Q And so is this a failure of technology?

A Yes.

Q Okay. There was no willful act on your part or anything to not have this recording?

A No, sir.

MR. MILLER: Your Honor, at this time, we would move the. . .

THE COURT: Any objection?

Yes.

CROSS-EXAMINATION

BY MR. YARBOROUGH:

Q So that you don't have the video or the recording; right?

A Correct. I normally audio and video.

Q Okay. So I read your report, do you have your notes from that interview?

A Any notes that I have, yes. That I took during the interview, I have, yes, sir.

Q I'm specifically talking about the one statement that we're all kind of concerned about, which is the statement about, allegedly, the little girl getting in the bed. Okay, do you have your notes from that?

A I did not take verbatim notes during that part

of the interview.

Q Okay. So you're relying on your recall at that time?

A Yes, I wrote--

Q So you don't have any notes and you don't have the video or the audio, you're just -- what you wrote in your report is all you got?

A I wrote the report right after I conducted the interview. I think the following day.

Q So, again, without notes; right?

A Correct.

Q So you never took any notes?

A I did take some notes during different parts of my interview. At the end, towards the end of the interview when he disclosed to this to me--

Q What did, specifically, do you know? What did he disclose to you? What did he disclose to you?

A That there was one incident where his daughter -- where he woke up on a Saturday morning and his daughter had crawled into the bed with him. He lifted up the sheets and he said that she was performing oral sex on him.

Q And you don't have any notes from that? There's no any kind of video or audio; right?

A That's correct.

MR. YARBOROUGH: Your Honor, I object to the admissibility of this. The reason the -- supposed to protect both The Defendant and The State and make sure it's fairly and accurately done. Not only do we not have any audio or video, we also don't have any notes, anything. All we have is a general recollection of what she wrote a day later. Which my client strongly disagrees with.

THE COURT: I'm not sure there's a requirement that it has to be recorded or anything like that. I mean, I realize you have some objection. Do you have any -- as far as Jackson v. Denno, do you any--

MR. YARBOROUGH: I don't have any objection to Jackson v. Denno --

THE COURT: Right --

MR. YARBOROUGH: -- but I do have objections -- well, not only to what I just said but to the relevance of that statement in regards to this case. That's a separate statement that he made that, I think, could be seen to be prejudicial but.

THE COURT: I mean, it's definitely prejudicial --

MR. YARBOROUGH: The way it's said -- the way it's said, I don't think it's the intention of being prejudicial. So the problem we now have is this. Is

that not only do we not have any notes or audio or anything, the context in which it was said is -- becomes very important. And so, that's why I object. Well, first of all, I object because it is prejudicial and I don't think it's relevant. But two, the context in which it was said in, now because of the lack of any type of reproductive mechanism on the part of this officer, it doesn't exist. So I don't know what the note said and I don't know what the audio. It would be like trying to take a statement from a Defendant and then not having any notes and not have any audio or anything and then so the statement that is taken, okay, I went and interviewed the guy this week and I read him his rights and this is all I had. You know, we don't know the specific -- the exact way that that was laid out. I would object to it.

THE COURT: Okay.

MR. MILLER: I was going to do a redirect question about the --

THE COURT: Yes.

MR. MILLER: Okay, may it please the Court?

THE COURT: Okay.

REDIRECT EXAMINATION

LAURA JONES-REDIRECT BY MR. MILLER

BY MR. MILLER:

Q Did you write a report --

A Yes, sir --

Q -- regarding this interview?

A Yes.

Q Did you document the interview in your report?

A Yes, I did.

Q Did you document the statements made in your report?

A Yes.

Q It was made close in time to the interview?

A Yes, sir.

MR. MILLER: Thank you.

THE COURT: All right, you want to respond to it in argument?

MR. MILLER: Judge, I would say -- I don't believe there's any objection under Jackson v. Denno. I think -- he says prejudicial, Rule 403, clearly, also lays out, that is the prejudicial value substantially outweighs the probative. There is a great amount of probative value. And there's also more than the one statement as to what was said as well. That is one of the statements that could be elicited as well from the overall statement. That's just one aspect that, I believe, that Mr. Yarborough

is focusing on. But also it substantially outweighs, not that it's prejudicial but substantial probative value. Here, The Defendant is talking about engaging in a sexual act with his the daughter, which is what we're here about. That is incredibly probative. Under whatever circumstances he describes them as, the statement of his own freewill made, that the jury should be allowed to hear. When it comes to the electronic issue, I don't believe there's -- that is there's a technical error, that was found later, going through standard practice of failure of equipment. And that would be the weight of the evidence for the jury to consider. That they could consider, well, we don't have it to see, it was there and we don't have it, that would just be in the purview of the jury, the state would argue, as to weight of the evidence, not admissibility.

THE COURT: Are y'all asking me to rule on the admissibility of this now or just Jackson v. Denno?

MR. MILLER: Well, The State was only doing Jackson v. Denno, Your Honor.

THE COURT: And he just turned it into another one.

MR. YARBOROUGH: I did -- I have --

THE COURT: Well, I --

MR. YARBOROUGH: -- just go ahead and deal with it.

THE COURT: I mean, so you don't have any objection to Jackson v. Denno?

MR. YARBOROUGH: I don't have any questions but--

THE COURT: I mean, I don't think that there's a requirement that it has to be video taped, kind of like a DUI where it has to be, you know, statutorily video taped. And, I mean, I believe its probative value outweighs its prejudicial value. And, I believe, it goes more to the weight. I mean, you will be able to cross-examine on that but I believe, otherwise, it's admissible.

MR. YARBOROUGH: Thank you, Your Honor.

MR. MILLER: Thank you, Your Honor.

THE COURT: Anything else?

All right, you may step down.

Anything else from The State?

MRS. SUSTAKOVITCH: Just for point of clarification, when we were on the trial docket last time in January, the Defense Counsel provided The State with two motions. Motion to exclude expert testimony. I believe they were thinking Melissa Collins, we were going to try to make her an expert,

which, of course, we're not. But then also they made another motion to exclude the blind expert that we intend to call, which is Shauna Galloway-Williams.

Do you not intend to do that--

MR. YARBOROUGH: I can do it when she comes. I mean, I always object to that, Your Honor. I think there's an ongoing battle with -- about blind experts. So yes, I do object. Just so you know, I object and I don't think it's relevant. I don't think it -- I think it's much more prejudicial than probative. The jury should be able to rely on each case and not have somebody come in and say this.

MRS. SUSTAKOVITCH: And, Your Honor, just in response to that. The State filed a -- beg the Court's indulgence one moment. A response to Defense Counsel's motion and I'll provide it to The Court.

THE COURT: And, I guess, for the motion, I guess, you're really just laying your objection to her testimony.

MR. YARBOROUGH: Yes, sir.

THE COURT: In the form of a motion.

MR. YARBOROUGH: And I have it here, Your Honor.

MRS. SUSTAKOVITCH: Your Honor, that--

THE COURT: I think you gave it to --

MR. YARBOROUGH: I gave it to you?

THE COURT: No, that was the other one.

MRS. SUSTAKOVITCH: Your Honor, The State, for planning purposes, intends to call --

MR. YARBOROUGH: It's in the same one--

THE COURT: Okay.

MRS. SUSTAKOVITCH: The State intends to call Shauna Galloway-Williams. The State relies on well settled case law, at this point, that under State vs. Brown and a progeny of cases, this is a expert that's never met with the victim, doesn't know the case law, doesn't know anything about it. She is here to simply educate the jury as to the dynamics of child sexual abuse. And to aide the finder of fact in topics that are outside the general knowledge of the jury. And I believe that the case law is settled on this point. While Defense Counsel does not like that she can testify, I believe that the courts have held, consistently, that under that fact scenario, Ms. Galloway-Williams would be an admissible witness. We intend to call her, I believe, Wednesday morning, Your Honor.

THE COURT: Okay.

MRS. SUSTAKOVITCH: And we would ask for a preliminary ruling because Ms. Galloway-Williams is out of the country right now and she is making every

effort to get back for this case. So if there's any real argument about this, we would. . .

MR. YARBOROUGH: Your Honor, there is a real argument about it. I think The Court's aware of numerous cases that are out there. I mean, I don't know why you need a blind expert to come in here and testify about the dynamics of child sexual abuse. The jury's being told, these are the charges, this is what is before the court. They're going to judge the witnesses, they're going to judge the credibility of those witnesses. They don't need a expert to come in here and say these are the dynamics of what happens. That makes -- every time I hear it, it just makes my blood boil.

MRS. SUSTAKOVITCH: And I appreciate that, Judge. We just, I guess, just week before last before Your Honor with this exact same issue. And while Mr. Yarborough does not like that Shauna Galloway-Williams is admissible, the case law is, in fact, that under that scenario she is admissible. It is not within the standard knowledge of a juror terms like delayed disclosure. Why children delay disclosure and all those different topics that would be relevant, in a case such as this one, to explain.

MR. YARBOROUGH: And what happens over and over

again, just like it did last time, is they start asking specific questions that kind of feedback into the -- the -- into what's going on in this case. And there's no point in it, Your Honor. The case should be on its own basis. And all that does is bring an issue in that's not relevant and it's not important to how the jury can determine the facts of the case, not some expert's devine opinion about these are the dynamics of child sexual abuse. Well, I mean, she probably can testify that these are the dynamics of, you know, running a circus, I don't know. But she -- it makes no sense to me, Your Honor.

THE COURT: All right. Well, I think the Supreme Court has weighed in and says that these are allowable expert testimony. I mean, as to the specifics, I mean, we need to address those at the time with objections.

MR. YARBOROUGH: Yes, sir.

THE COURT: But I believe that based on what The State has presented and the case law, that it's -- it's admissible expert testimony.

MR. YARBOROUGH: Thank you, Your Honor.

MRS. SUSTAKOVITCH: Thank you, Your Honor. One very last thing, I know Your Honor is going to review the forensic interview and I did just want to pass up

State vs. Clark, if this could save us some time on the back end. This is a case that does talk about -- I heard Defense Counsel asking a lot of questions of Ms. Collins related to whether the questions -- may I approach, Your Honor?

THE COURT: Yes.

MRS. SUSTAKOVITCH: Whether the questions were leading or not leading or this or that. And this case just provides instruction about that, that argument should be where we just did it, in front of Your Honor. Once Your Honor makes a ruling on that, it's not for us to have that all hashed out in front of the jury. So I just offer that up as Your Honor looks at the video.

THE COURT: All right.

MRS. SUSTAKOVITCH: Thank you.

THE COURT: Anything else from The State?

MRS. SUSTAKOVITCH: No, sir.

THE COURT: Anything else from The Defendant?

MR. YARBOROUGH: No, sir, Your Honor.

THE COURT: All right, I'll review the testimony and let y'all know what I come up with. I guess I need to review one but I don't need to review two; correct? Because that was the Jackson v. Denno. State's Exhibit 1 is the one I need to review.

MRS. SUSTAKOVITCH: Thank you, Your Honor.

THE COURT: Correct? He didn't have--

MRS. SUSTAKOVITCH: Yes, sir --

THE COURT: -- objection to Jackson v. Denno --

MRS. SUSTAKOVITCH: -- just State's Exhibit 1.

THE COURT: When do we need to address the redactions or have y'all agreed to that?

MRS. SUSTAKOVITCH: Well, I don't know that it's been agreed to. The State has three places--

THE COURT: All right, y'all want to talk about that and then let me know if we need to address it?

MRS. SUSTAKOVITCH: Sure and I'd love to put them on the record after lunch.

THE COURT: Okay. All right, y'all want to be in here just a little bit early? I know the jury's not coming back until 3:00, so just as soon as you get through with your. . .

MR. YARBOROUGH: I'll just come on, if that's okay.

THE COURT: Yeah. And we can address anything else we need to before the jury comes.

MR. YARBOROUGH: Thank you, Your Honor.

THE COURT: All right.

MRS. SUSTAKOVITCH: Your Honor, is the plan still to do openings and like two witnesses?

THE COURT: Yes. You said they're pretty short?

MRS. SUSTAKOVITCH: Yes, sir.

THE COURT: Okay.

(WHEREUPON, State's Exhibit No. 4 was marked for identification only.)

(WHEREUPON, a lunch break was taken.)

THE COURT: All right, before lunch we had that motion regarding the video, I have reviewed State's Exhibit 1, which is the forensic interview of the alleged victim. So I'll be glad to hear any arguments from counsel on the video. I also received, assuming it's introduced, these are the agreed upon redactions. Are y'all going to make that an exhibit?

MRS. SUSTAKOVITCH: Yes, sir, we can make that a Court's Exhibit.

THE COURT: Okay.

MRS. SUSTAKOVITCH: It's been provided to Defense Counsel.

THE COURT: All right, I'll hear from the admissibility of this recording.

MRS. SUSTAKOVITCH: May it please the Court, Your Honor. The State is moving to admit the forensic interview in this case under 17-23-175. As outlined in my motion, Judge, The State offers the

following facts in support of it. The statement was given in response to questioning conducted during an investigative interview, which is required by statute. There's an audio and visual recording of the statement that's been preserved by electronic means, as required by the statute. The child is going to be testifying and will be subject to cross-examination about the offense. The State believes and would contend that the totality of the circumstances surrounding this, have a guarantee and trustworthiness to them, Your Honor. And for those different reasons, we would ask Your Honor to allow admittance of this forensic interview.

THE COURT: All right, Mr. Yarborough.

MR. YARBOROUGH: First of all, I believe it's classic hearsay. But backing up from there, Your Honor, the child's going to be available to testify. They can testify to something that's not -- The State can use to refresh their memory. I do -- although, The State has redacted a good chunk of stuff that was -- which, I think, was leading or inappropriate statements. However, you want to say that. And they've taken those out. But my feeling about the tape in total is that any bit of, you know, person comes talks to a child and they use any form of

leading or improper statements, is what I was trying to conduct earlier, that once that starts, it -- it, in total, it makes the entire tape no good. Because the child has been prompted, told, you know, think about things this way, this is a bad idea. You know, the -- and I would just ask The Court, and I know The Court looked at it, I'd ask The Court not to admit the tape.

THE COURT: All right. Well, I believe -- I'll hear from you.

MRS. SUSTAKOVITCH: Do I need to argue? Additionally, Your Honor, I would just state that these interviews have been admitted since 2006, when the legislature specifically created this statute to allow for these types of statements from children during their passage of Jessie's Law.

THE COURT: Well, and I -- and as to whether, since the child is testifying, as to that argument, I mean, the statute specifically allows for that. Because it requires in order for this interview to be introduced, the victim has to testify. So I think that the statute itself kind of acknowledges that that is going to be the -- I realize it's kind of the dual testimony.

MR. YARBOROUGH: It is and it's bolstering. And

I know The Court--

THE COURT: I don't think you can bolster your own testimony.

MR. YARBOROUGH: Well, it is because what happens is that the child testifies, then the tape comes in and so because the child testified and said it one way or said it another way, then it's bolstering. I mean, it's -- it's taken -- I'm not going to beat a dead horse.

THE COURT: No and I think you're on the record with that. But I just think that maybe the way the statute is written, it specifically allows for not only the testimony but also the forensic interview. Although, there may have been some leading questions in there. I think with some of the redactions that had been provided and also I don't think that they're the type of leading questions that was in the form of manipulating and takes away from the trustworthiness of the interview. It clearly -- the factors that I need to look at, I think that they properly established her training and investigative interviews. I think overall the questions as to the event were of a nature that were not leading and were open ended. There's definitely a detail account of the offense. I think it has an internal coherence,

her overall testimony. And I think that overall it has a guarantee of trustworthiness and I'm going to allow it subject to the reactions.

And that's my understanding, these redactions have been agreed upon?

MRS. SUSTAKOVITCH: Yes, sir, Your Honor. The State -- these are three that The State found, I believe, that it's going into areas where, based on prior case law, it should be taken out. One is where it's talking about, my mommy told me to tell the truth. That naturally should be taken out. And then some of the rapport questions, the rapport building, where the interviewer, just for the record, is saying things like, you know, we're here to tell what happened and what truthfully happened. The State recognizes those should come out.

Are there any additional redactions? Because we're happy to take anything else that's of concern to Defense Counsel to look at that and discuss it.

THE COURT: Well, not everything concerning, you don't have to take everything out.

MRS. SUSTAKOVITCH: No, no, no. We're happy to discuss it.

MR. YARBOROUGH: Judge, I just want to note for the record that I'm objecting to the tape.

THE COURT: Right.

MR. YARBOROUGH: But I do think that they have made some redactions. I'm not agreeing that that is everything that could be redacted because as The Court just pointed out, I want it all out. But under these circumstances, I think I'm protected on the record.

THE COURT: Right. And you agree to those redactions subject to your objections on the--

MR. YARBOROUGH: Yes, sir.

THE COURT: All right. All right.

Anything else from The State before we begin?

MRS. SUSTAKOVITCH: Nothing from The State.

THE COURT: Anything else from The Defense?

MR. YARBOROUGH: No, sir, Your Honor.

THE COURT: All right, if the jury's ready, bring them in.

As you know, I'll start with a brief -- I'll do my little preliminary instructions to the jury and then turn it over to y'all.

Dona, you ready to swear them in?

THE CLERK: Yes, sir.

(WHEREUPON, State's Exhibits Nos. 5-14 were marked for identification only.)

(WHEREUPON, the jury entered open court at

approximately 3:08 p.m.)

THE COURT: All right, ladies and gentlemen, hope you enjoyed your long lunch, probably get a nap and everything else in there. So we worked throughout the lunch, so we weren't just idly sitting by. I got some information to tell you kind of about what's going to be happening but before I do that, I will have our clerk administer the oath.

THE CLERK: Please stand and raise your right hand. The correct response to the oath is, I will.

(WHEREUPON, the jury was sworn.)

THE COURT: All right, before I turn it over to the attorneys for opening statements, I want to give you a little bit of information, kind of a roadmap of the trial. But first I always like to start off by letting you know some of the -- you already met the attorneys and the parties involved. But I wanted to make sure you knew who the other people were in the courtroom. Seated in front of me is the court reporter, she takes down all the testimony and keeps a record of that. And we have the clerk of court, who administers the oath and is kind of in charge of the courtroom and the evidence. Seated to my right is my law clerk, he's a law school graduated, helps me with any type of research, anything needed there.

I always say the most important people for your concern are the bailiffs. We have fantastic bailiffs here in Greenville County. If you have any questions or comments, please direct that to the bailiffs. If there's anything that I need to be apprized of, they'll let me know. So that's who you need to communicate with.

You know, what is your role in this matter? Your role is to determine what the facts of the case are, okay. That's going to be your decision. You know, what I mean by that, at the end of the trial you will be handed a verdict form as to the charges that will be presented to you. And you will find -- and how you determine the facts is you'll find -- I'll go over the burden in just a moment. If you find that The State has met its burden on these charges, then you would find The Defendant guilty. If you find that The State has not met its burden, then you would find The Defendant not guilty. So that's the questions that you will be asked at the conclusion of the trial.

Now, how do you make that decision? You're going to be making decisions as the evidence is presented. And evidence may be several forms. It may be by way of testimony from witnesses, it may be

from video statements, it may be from exhibits, it may be stipulation of counsel, all of those things. And everything, every piece of evidence, you're to give it the weight and value which you feel is appropriate, okay. And The State has that sole burden in this case. The Defendant has absolutely no burden to prove anything. To prove that he is not guilty. That is not -- he has no burden whatsoever. The State has the burden to prove him guilty beyond all reasonable doubt, okay. And as to each element of each charge.

Now that's a higher burden than if anybody's ever been involved in a civil matter, that's a much lower, that's more likely than not by preponderance of the evidence. This is a criminal matter. And a criminal matter requires beyond a reasonable doubt. I'll give you some more definitions regarding that at the conclusion of the trial. So you will listen to the evidence or you will take the evidence, you'll give it the weight and value that you feel is appropriate. You will also take the law that I give you at the conclusion of the trial. And you will put those two together and that's how you will determine what the facts of the case are.

Now, my role is totally different. And if

there's anything that I do or say that makes you think I have an opinion of the facts, then you to disregard that because that's not my job. My job is to preside over the trial, rule on objections. Now, you will hear objections from time to time, most likely from The State or counsel for The Defense. We have very specific rules of evidence and court rules that apply in every criminal case. And that's what the basis of objections are. It's not -- it is for the purpose so that all of those rules are properly followed. And sometimes they're quite intricate and very specific. Also, sometimes it may be that we have to take some of those matters up outside your presence. And it's not to really keep anything from you, it's just so that we can hear all the arguments and so that we can have the case presented to you more efficiently. And we'll send you out at that point so we can protect the record there.

As I told you in the very beginning, the -- I read to you from indictments. Indictments, just like the fact that somebody may be charged or arrested, that's not evidence. The indictments that I read to you, as I mentioned, were merely the allegations brought by The State. Those are the formal papers that brings this matter to court. That's what The

State has to prove. But it's not evidence before you. The evidence will be, again, the testimony, the various factors that I mentioned to you.

As we go I'm going to ask that -- this is the type of trial and it should be, from talking with the attorneys, I expect that we will have today, we'll have testimony tomorrow and we should go into Wednesday. And then it should be, from talking to the attorneys, I think that you will have the case sometime Wednesday for your deliberations. So not -- it's not going to be an extremely long case but it's going to be a very important case for both The State and The Defendant.

Now, you will have all of the information, all of the exhibits that will be presented to you throughout the trial. I'm going to ask that you not take notes. I think it's important that you pay very close attention to all witnesses. And due to the fact that it will only been a couple of days, won't be anything if you have to look back at something, way back several days or weeks before.

The procedure of the trial, we'll start off with opening statements by the attorneys. Now, opening statements, that's not evidence. That's a summary that the attorneys will be presenting to you of what

the case is going to be about. Then we have the evidentiary phase. Again, that will be witnesses and whatever evidence is presented. After all of the evidence has been presented, and the parties rest, then they will have closing arguments by the attorneys and we'll have -- I'll charge you on the law. And after that, you will begin your deliberations in the jury room and determine what the verdict should be.

Now, we'll try to take breaks every hour or so. Sometimes that kind of depends on where we are with witnesses. If one witness may be going longer than that, then, of course, we're not going to try to take a break during the middle of a witness' testimony. Sometimes we have to. If any of you have to take a break, indicate to the bailiff or get his attention so that he can direct to me that we need to take a break. We realize this is a inconvenience to you and we try to make you as comfortable as possible. So if any issue should arise, let the bailiff know and we can take a break as soon as possible.

We will try to break -- we usually try to break as close to five o'clock as possible. Sometimes that may be 4:30 because of where the witnesses may be coming in for the next day. If it looks like we're

going to go after 5:00 for any reason, and I'm not talking way after 5:00, but if it looks like we may have a witness that may run us over 5:00, I'll let y'all know, make sure that y'all can make any, you know, if you have to take any step or action just to make sure something's covered, we'll let you know that. But I try to make sure we leave before 5:00.

Usually, we start in the mornings about 9:30. And sometimes -- sometimes we say we're going to start at 9:30 and you have back there and we're getting ready to start and realize there may be some issue here. So sometimes if you get here at 9:30 and you're like, Godly, I thought that Judge told us to be here at 9:30, we're waiting here for a few minutes. And I do apologize for that. But like I say, sometimes we end up with issues we have to address before we bring you out. So it's not like we're running late or getting that extra cup of coffee, we're actually in here working on something.

And I will tell you every time you break, they're four kind of rules that are very, very important that you follow. First one, very important one is, that you not discuss the case. And that's among yourself. Because once you start talking about the case, then you start making up your mind. You

shouldn't start making up your mind until you've heard all the evidence and you heard the law. Also, it's important that you not discuss the case with your friends or family in the evenings or any kind of breaks because then you're actually getting outside influence. It's important that everything that you get to -- or everything that you need to consider that you're getting in this courtroom under our court rules.

The other thing I will tell you, every time when you break for the evening or for lunch is do not research the case. That's very important too. You will get all the law that you need to apply in this courtroom. You don't need to Goggle the law, you don't need to Google the attorneys, you don't need to Google the incident, anything whatsoever. Everything that you need to be considering, you need to be getting from this courtroom. I'm not aware of any kind of media coverage but if there should be, you're not to view any of that, including any social media. Then I'll also tell you that if you should get contacted, which I don't expect, but if you are contacted by anybody other than somebody from the clerk's office, you need to let the bailiffs know about that. So with that being said, I will now turn

it over to the attorneys for their opening statement.

The State.

OPENING STATEMENT

MR. MILLER: Thank you, Your Honor, may it please the Court.

Good afternoon. As you heard earlier, my name is Walker Miller, I'm a solicitor in the 13th Circuit Solicitor's Office. And just to refresh, this is Christy Suskatovitch, also a solicitor in the office. This is Lindsey, an investigator in our office that we're fortunate to work with. What the job title solicitor means, so that everybody's clear, is we're prosecutors and some states called the job title district attorney. We represent The State in criminal matters in the 13th Circuit in Greenville and Pickens County. And we primarily work in Greenville County.

Now, as you heard as the indictments were read out a little bit ago just now, we're in a criminal matter, The State of South Carolina vs. David Jones, on five counts of criminal sexual conduct in the first degree with a minor. I just want to give a little bit of a warning or heads-up. These are crimes that involve testimony, evidence, about

topics, words, phrases, body parts that isn't really used in day-to-day life. Isn't said very often. But that is what we're here about today. And those are going to be, as Your Honor says, questions that you have to answer. And as Your Honor said, he will charge you on the law later on. But I want to give a brief summation, just a brief overview, just a little bit of a idea of what we're talking about. But his Honor will charge the law and that is the law.

So this crime can be said as a person performs a sexual battery on a minor. In this case, as you'll hear, the minor's name is Child And she's the daughter of The Defendant, David Jones. Now, sexual battery, that's the other big part of this crime. What is a sexual battery? It is penetration however slight. There's more than one type, as you can hear, as being read from the indictments. The indictments talked about vaginal sexual intercourse -- those words, that is penis into a vagina. Anal sexual intercourse, digital penetration. Digital means the finger. Cunnilingus and fellatio, that would be oral sex on the vagina, oral sex on the penis.

So that is what Christy and I intend to prove to you all over these next few days beyond a reasonable doubt. And make no mistake, the burden lies here, it

lies with us. It lies solely at this table. And beyond a reasonable doubt, I think the way we talk about what it is, I think is also to talk about what it is not. It is not 100 percent. When something is not 100 percent, that means that it's not that every question has to have an answer, every what if has to have a conclusion. It is not 100 percent. As you heard His Honor mention, it is greater than the civil burden of beyond the preponderance of the evidence, more likely than not. So we're in those goal posts.

What it also is not, what you will not hear His Honor charge you on the law on beyond a reasonable doubt, is any type of exact number. Any type of exact number of where you feel you have to be. So let's talk a little bit about what it is and how it's talked about. Some people refer to it as a doubt to which a reason can attach. And it's important that a reason -- a reasonable doubt. Think of it as a bar of reasonableness.

It's also discussed as the hesitate to act. Hesitate to act. I like to pause on this for a second. Because when you do get the case after the evidence is presented, after the closing arguments and Christy has a chance to come up here and give you the closing arguments on the case, you go back to

deliberate. And you think, hold on a second, I got a question I want to talk about something. That's not hesitating to act. That is fulfilling your oath and your job as a juror and having deliberations. That's what that is.

But after you deliberate and you discuss the evidence and you know this is true, then you are firmly convinced, you're firmly convinced beyond a reasonable doubt. And how do you know when you're firmly convinced of something? I'm going to venture for most people, this is probably some new territory, being a juror on a criminal sexual conduct case. No one gave you a policy and procedure handbook on how to do it, no one said here's how to do it. But everybody here has two things with them in the jury room here today in this courtroom. That's your life experience and your common sense. [indiscernible] they're your best tool. Think of your common sense as your guiding light when this evidence is presented to you and when you go to deliberate and you think about it and make your decision. Your common sense is absolutely the most important thing you have and everybody has with them everyday.

So let's talk about the case just a little bit and what you can expect to hear over the next few

days. As I mentioned, this case involves Child We're going to talk about the timeframe of when Child was six, seven, eight years old. And during this time, she's living with her dad, The Defendant, David Jones, her mother, Marita and older brother by about three years, ZJ. There were living at Address le :e in Simpsonville. You'll hear a little bit about this neighborhood and about this house. It's a nice two-story house in a nice neighborhood.

You will hear how Child and ZJ, like a lot of kids their age, they had activities they liked to do. They would draw, go outside and play sports, play video games. You'll hear a little bit about their life. You'll also hear that, at this time, Marita, she was working at a bank, she still is. But she was working at a bank, had to go into a bank each day. You'll hear that David Jones had a security company. And he didn't have that same schedule. The kids, Child and ZJ, also had their schoolwork. During this timeframe they were homeschooled.

And so what happened is that David Jones was the parent who stayed at home with Child and ZJ throughout the day. And you'll hear more about that and what transpired in this house. You'll hear about

this house at Address. You'll hear about how it's a two-story house, as I told you. The bedrooms are on the top. You'll hear about the few rooms in this house. There will be one room that you'll probably hear a little more about than most but I'm not discounting the other rooms. But this room as you're going to hear is called the Man Cave. It was up on the second floor with the other bedrooms. And you'll hear about how this was a room where there was a lot of electronics, this was the room where things took place, where you could play video games.

But you'll also hear about what happened in early 2019 is there was a fire at Address. There was a fire in the Man Cave. So after the fire the family had to move. And they moved in with Marita's parents at 1 Moreland Way in Simpsonville. You're going to hear about that house as well. You're going to hear about the rooms in that house and what happened in that house. And what you'll also hear about is throughout this time, it's kind of after this fire what comes to light, what started to come about.

And that is the reality of Child life. You'll hear how it started to make it's way known after this fire. What was happening to Child behind

closed doors. That's important to know because these crimes don't happen out in the public. They don't happen for others to see. They happen behind closed doors. It's important to remember that. You'll hear this evidence, apply your common sense as you hear this evidence.

As you heard His Honor say, there's different types of evidence. Obviously, you're not going to [indiscernible] you're not going to hear about DNA, complicated forensics medical exam, that is simply evidence that we do not have. But as you heard His Honor, there are other types of evidence. A major type of evidence just about in every criminal case comes from somebody called to the stand. They walk right down here, they come right up to this witness stand and they take the stand, they'll be up here. They'll look out at 14 adults they don't know and they're going to give you their testimony about their life involving criminal sexual conduct in the first degree with a minor.

That is evidence. And under the law, the evidence is equal. It's direct, it's circumstantial, it's for you to weigh. Use your common sense when you weigh that evidence. Make no mistake, that is evidence. And after the evidence is presented to

you, Christy is going to have the chance to come up here where I'm standing now and give you the closing argument. It's just a lawyer's way of saying, going through the evidence with you. Going through the case. What's been presented. And showing how David Jones is guilty of these indictments beyond a reasonable doubt. Which is why at the end we're asking for a verdict. A verdict that justice deserves.

And so I've asked you to use your common sense. I'm going to ask something else of you. Keep your eye on the ball. Keep your eye on the ball. What I mean by that are those five indictments. Those five questions His Honor said at the end you'll have to answer. Because that is what we're here about. Not some side stream [indiscernible] those five questions. And the evidence to those five questions. Keep your eye on the ball. Use your common sense.

And as His Honor said, this case is important. It's not just important for his attorney, Mr. Yarborough, David Jones or myself or Christy, it's important for Child as well. And you'll get to see her. It's important for her as well. It's a very important day. And I mention that because His Honor said this is not what you had planned for the

week of June 5th. No one thought I was going to come into court, get a summons for jury duty and now let alone, I'm in a criminal sexual conduct trial. Say that because I have friends that will get it and they'll call me and say, hey, how do I get out of this? How do I get out? My honest response to that is, You don't. You don't get out. You need to go. You need to show up. You answer the questions. Because it is so important. This job you're doing is so important.

We're going to be here a few days. We know everybody has something going on in their life. This isn't what you had planned. I know everybody has something going on. But this is very important. That's why I want to thank for your time and attention in this matter. Thank you.

MR. YARBOROUGH: May it please the Court, Your Honor?

THE COURT: Yes, sir, you may proceed.

OPENING STATEMENT

MR. YARBOROUGH: Good afternoon. How are y'all? Let me introduce myself to you. I spoke to you briefly when y'all were coming in for jury selection. My name is Bill Yarborough, been in Greenville, basically, all my life. Practice law here for as

long as I can remember. I have a lot of gray hair on my head. I want to tell you that today it's my pleasure to represent David Jones.

Stand up, David.

And those are his parents sitting back there in the courtroom.

You can sit down.

I liked everything Mr. Miller had to say and but what I want to tell you is this. All he said was what he thinks, right? Because today is David Jones' day in court. Today is his day. And it's an important day and it's his day. What I didn't hear Mr. Miller say was right now, at this very moment, David Jones is an innocent man. All that stuff that Mr. Miller just said, they got to prove something. They got to put the witnesses on the stand, like he said. And they got to prove it and they got to prove it beyond a reasonable doubt.

Now, the cool thing that happened in here a little while ago and what I love to see happen over and over in my career, is you guys walked in here and you took an oath. You took an oath with Judge Gravely and you said that you promised, you swear, to carry out your duty and listen to this case. Don't have any friends when you walked in this courtroom.

You don't have any friends in this courtroom. It's your job to listen to the evidence and give David Jones his day in court. It's The State's job to prove the evidence. It's not their job to walk in here and tell you all the great stuff about -- and this is not fun stuff to talk about, okay. Let me just say that to start off with. I have trouble with it. I've got girls, I don't like to talk about this. But that don't have anything to do with why we're here. We've got to deal with something that's very, very important. And can they prove him guilty beyond a reasonable doubt?

Now, in this world we know that people have different reasons why they come to anywhere and say something that may not be true. Maybe something going on in their life. Maybe something that went on in their life in the past. Maybe something they want from somebody for somebody else. Maybe because they don't like somebody. Sometimes people come in the courtroom and don't tell the truth. I'll submit to you that they're two sides of this case. We're going to present evidence to show that there was a lot going on in this little girl's life. You know, that's hard. That's hard. But there was a lot going on. There was a big fire in the house, had to move

in with her grandmother. There was a lot of stuff going on.

And, you know, if she had gotten taken away from the things that she liked. She knew her parents were fighting. Heard them fighting back and forth. And you're going to learn why they were fighting. They didn't have the best of marriages. Trying to work through things. Little girl hears stuff, says stuff. And sometimes they say things that aren't true.

You know, you're not here to make any friends or any enemies. It's your job to walk in this courtroom and listen to the evidence as presented by The State and listen to some of the questions I ask. And what I'm going to ask you to do is this. I'm going to tell you that we will call witnesses, okay. We will call witnesses about why stuff happened. I'm asking you -- because they go first, right? So I'm over here saying, please, listen to us. We're going second but please listen to us, we will go second. We've got something to say, okay.

But let me tell you this. This man right here.

Stand up again, David.

He really doesn't have to do anything. He doesn't have to walk into this courtroom and do a darn thing. Judge Gravely just told you that. It's

their job to prove him guilty beyond a reasonable doubt. Mr. Miller talks about shadow of a doubt, all this doubt, I don't know about all that stuff. I heard something when I was in law school about beyond a reasonable doubt. It was, you know, if you had a box and you had a cat and you took the box and put the cat in there and then put a rat in there and you tied a string around it and came back 30 minutes later and you opened the box and there's nothing out on the sides or anything else and the rat's gone, that's beyond a reasonable doubt. That cat ate that rat; right? But come back, put the cat in there, you put the rat in there, tie it up real tight, come back 30 minutes later, the rat's gone. You go, hmm. Then you look around, there's a little hole in there. And you go, uh. I guess maybe the rat either got eaten or it went away. It got out, it crawled out.

You know, just don't listen to their side of the case, just take it for what it's worth. There's two sides to every case. And it's their job to make sure that that rat didn't crawl out of that box and that hole. It's their job to prove him guilty beyond a reasonable doubt. He doesn't have to prove anything.

Now, I will tell you that on April the 2nd there was a fire. I think you're going to see some

pictures of fire that was there. They're going to talk, it was in the room that had the computers in it. I think they're going to call it a Man Cave or whatever they want to call it, they can call it that. But a fire took place, looks like some kind of -- I don't think they ever said exactly why there was a fire but there was a fire. I think it had to do with some kind of technology or electricity stuff. That was on the 2nd of April, 2019.

You're going to learn that about 15 days later, there was some kind of talk with a DSS worker or something. And there was a report of allegedly this happened. You're going to hear some stories back and forth about whether or not they believe that was or could have been true. And you're going to learn that at that point, David Jones said, look, I'll come down and tell you what I know about this. I'm going to sit down, I will be happy to talk to y'all. And didn't go down there with a lawyer or anything, went down there, signed his rights. They'll put in the Advice of Rights form and said he signed it and he talked to the police officers.

There will be some question about exactly what he said but I think it's pretty clear that he said that he didn't do this. And I think that after that,

you'll have to judge what other people did. You'll have to look at what the grownups did and then look at what the children did. And then I want you to listen to what my client did. And I think at the end of the day, no matter what Mr. Miller says, and no matter how hard these types of cases are to listen to, that you're going to have to find him not guilty because he didn't do it. Thank you.

THE COURT: All right, State may call your first witness.

MRS. SUSTAKOVITCH: Thank you, Your Honor, may it please the Court. The State calls Dr. Erin Bhatia.

I apologize, Your Honor, she is in the restroom. So sorry. We'll switch and call Dan Acord, Your Honor.

THE COURT: All right.

DAN ACORD, after being duly sworn{,}testified as follows:{F}

THE CLERK: Thank you, please be seated. State your name for the record.

THE WITNESS: My name is Daniel Acord.

DIRECT EXAMINATION

BY MR. MILLER:

Q Mr. Acord, where are you employed?

A I'm currently employed by the Greenville County Sheriff's Office.

Q How long you've been with the sheriff's office?

A Over 23 years.

Q And what roles have you had at the sheriff's office?

A I started my career in 1999 in uniform patrol division. In 2005, I took a voluntary additional position with the bomb squad. In 2006, I graduated from the FBI Hazardous Device School to be a public safety bomb technician. And I held that designation while working in uniform patrol up until 2016 when the sheriff's office created an arson bomb unit. And I was a part of that until 2019 when I let my bomb technician certification lapse and I've been doing fire investigations ever since.

Q What kind of training do you have for fire investigations?

A I've been to The National Fire Academy in Emmitsburg, Maryland. It's run by FEMA and the ATF. And I've also been through several classes there as well as at the Emergency Training Center, which is down in Huntsville, Alabama.

Q Do you recall if you were ever called out to the address of Address in Simpsonville?

A Yes, sir, I was.

Q When were you called out there?
A That was April 1st in 2019.
Q What county is that location?
A That's in Greenville County.
Q Why were you called out to that address?
A The fire department requested me due to a fire investigation at that residence. And they were not sure how the fire started. They were asking for some assistance.
Q I'm sorry, if you could say that again, I'm not sure everyone could hear you.
A I'm sorry. The fire department called and asked for some assistance with a fire at that address. They did not know what caused the fire.
Q Are you commonly called out to house fires?
A Typically, yes, sir.
Q All right. So when you go out to the house, what are the steps that you take in order to do your job?
A Typically, if the homeowner is present we speak with the homeowner, which I did in this instance. Then we have a systematic approach with fire investigations where I photograph the house and structure, then, eventually, what we call a excavation aid with the fire department where we move items in a room to try to find out where the fire started.

Q And you recall what the house looked like, in general?

A It was a two-story house. It was rather new construction.

Q And what kind of fire was this?

A Ultimately, I classified the fire as undetermined. I didn't know what had caused the fire, could not pinpoint one specific item.

Q Where in the house did the fire happen?

A It was in the upstairs. It wasn't being used as a bedroom, I assumed it was probably a bedroom but there were several computers and other things. I think it was referred to as a Man Cave. And has some comic books and drawing [indiscernible] RC cars, a couch, things like that in it.

Q And as part of your investigation were pictures taken?

A Yes, sir, they were.

Q Hand you what's been premarked as State's Exhibit 5 through 14.

A Yes, sir.

MR. YARBOROUGH: Without objection, Your Honor.

THE COURT: All right, this is what exhibit numbers?

MR. MILLER: Five through 14, Your Honor.

THE COURT: All right, in without objection.

(WHEREUPON, State's Exhibits Nos. 5-14 were admitted into evidence.)

MR. MILLER: Your Honor, if we could switch to the. . .

THE COURT: Yeah.

BY MR. MILLER:

Q This is marked as State's Exhibit 13. Is this Address?

A Yes, sir, it is.

Q And if you could point behind you, where is the location of the fire on the exterior of the house that you can look?

A Second floor of the two windows to the right are the room -- what we call the room or origin, that's where the fire originated from.

Q And you were told that that room was called what by the family?

A They referred to it as the Man Cave.

Q You call it the room of origin. What is the room of origin mean?

A That's just the room where the fire started.

Q This is State's Exhibit 9, what are we looking at here?

A That's is a picture of the room of origin.

Q State's Exhibit 11.

A Same. That's from the doorway of the room going out towards the front of the house. You can see the fire truck through the window there.

Q Exhibit 12?

A Same as the room of origin, it's just to the inside left of the doorway.

Q Exhibit 10?

A Inside the room of origin facing toward to entry door to the room.

Q When you say the room, this is the room of origin?

A Room of origin, yes, sir.

Q Okay. And state's Exhibit 5?

A That's a picture from the master bedroom.

Q What would be this line across here?

A That's what we call a line of demarcation. It's just where the heat of the hot gas layer comes down to that level before the fire was extinguished. Uninterrupted that line will eventually sink down to the floor. And then shortly thereafter, the room typically goes into what's called flashover.

Q And exhibit 6?

A That's a picture of the master bedroom closet.

Q And seven?

A That's a zoomed in picture.

Q Of the closet?

A Of the closet, yes, sir, I'm sorry.

Q Exhibit 8?

A That was one of the children's bedrooms.

Q And 14?

A Typically, what we do we'll take a photograph of either the cross street or sign to show where we are.

Q So the fire predominately stayed in that room of origin, did it spread anywhere throughout the house?

A No, fortunately the door to that room was closed at the time of the fire, which prevented the fire from spreading further into the house prior to intervention from the fire department.

Q So the room of origin had a door that closed?

A It was closed, yes, sir.

Q It was closed, okay. That would be the Man Cave?

A That would, yes, sir.

Q Okay. Now, looking at this, how from your training and experience, were you able to get an idea of temperatures that went on in that room?

A Typical temperatures in the average house to start a fire can range anywhere from 1300 to 1800 degrees. Given what we call the fuel load. Whether that be the

couches, the [indiscernible], the phones, things like that. If there's wood, that can add to the temperatures. Just depends what's in the room. But, obviously, from the damage, again, it exceeded some of those temperatures or got into that temperature range.

Q And what kind of items were you able to determine or through your investigation, were in the room of origin?

A There was several computers. There was some computer chairs, a desk, a couch. There was a large circular ring that I couldn't identify that later the victims were able to tell me that was a large clock that was on the wall, a decorative type clock. There was some bookcases and a birdcage. I did find some batteries in the fire debris where the origin of the fire, I believe, started. They were RC remote control cars.

Q And what kind of state would electronics be in after a fire like this?

A I have never been able to recover from a fire scene an electronic device that I was able to extract data from due to the high temperatures in there. The weak point on all your electronics is the solder. Which has a very low melting temperature. And this would have exceeded greatly that temperature.

Q So the electronics and any data on the equipment

would have been destroyed?

A In my experience they would have never been able to be recovered. Either from the fire or the suppression efforts from the fire department from getting wet.

Q All right. And were you able to determine the cause of the fire?

A I was not. I narrowed it down to a reciprocal or power strip, lithium battery pack. I couldn't determine which one of those three it was so we had to rule this undetermined.

Q Was anybody -- are you aware if anybody was at home at the time of the fire?

A They were not home, they had left to go eat dinner prior to the fire.

MR. MILLER: Please answer any questions the Defense Counsel has.

THE WITNESS: Yes, sir.

CROSS-EXAMINATION

BY MR. YARBOROUGH:

Q Thank you for coming. Do you work for The Greenville Fire Department?

A Greenville County Sheriff's Office.

Q Okay. And so you went out to investigate the fire and you investigated it and it looked like it was natural causes or some type of electrical or something

like that?

A It's possibly electrical, I couldn't say for sure.

Q And that happens at times?

A It does, yes, sir.

Q Was the house 50, 60 percent destroyed, 100 percent destroyed, can you say?

A From fire damage I would say the damage is limited more or less to that room, maybe a little out in the hallway.

Q Was that down below where you were showing those pictures? Let me show you State's Exhibit 5, let me show you that.

A Yes, sir.

Q Is that -- is that below or is that in the room?

A That is on the same level as the room of origin.

Q All right. Was State's Exhibit 5, was that room hurt?

A Not damaged by the fire. There was soot damage and water damage.

Q Water damage, okay. So what you're saying there was damage, it wasn't necessarily fire, it was like the fireman coming in and trying to put out the fire and the stuff getting wet; is that it?

A Correct, yes, sir. Oftentimes when they look,

it's what's called an extension of fire in the attic or something, that they will pull ceilings and walls to try to make sure that no fire still exists.

Q All right. A lot of times that causes damage as well?

A Correct, yes, sir.

Q So the insurance paid out on that, then it would have been reasonable that it was more than just that room; right?

A Oh, yeah for sure, yes.

MR. YARBOROUGH: Okay, thank you. No further questions, Your Honor.

THE COURT: Any redirect?

MR. MILLER: No, Your Honor.

THE COURT: All right, thank you, you may step down.

MR. MILLER: May this witness be excused from subpoena, Your Honor?

THE COURT: Any objection?

MR. YARBOROUGH: No objection.

THE COURT: All right.

MRS. SUSTAKOVITCH: Your Honor, now The State calls Dr. Erin Bhatia.

THE COURT: Okay.

THE CLERK: Place your left hand on the Bible,

raise your right hand.

ERIN BHATIA, after being duly sworn{,}testified as follows:{F}

THE CLERK: Thank you, please be seated. State your name for the record.

THE WITNESS: Erin Bhatia.

DIRECT EXAMINATION

BY MRS. SUSTAKOVITCH:

Q Good afternoon, Dr. Bhatia, where are you employed, ma'am?

A Parkside Pediatrics.

Q And could you scoot up just a little bit, make sure the jury can all hear you. How long have you been a physician at Parkside Pediatrics?

A I have been there for the past, almost, six years.

Q What is your role there? What type of doctor are you?

A I'm a general pediatrician.

Q All right. I'm going to show you what's marked as State's Exhibit 4 for identification. Do you recognize that item?

A Yes, I do.

Q What is that?

A That's a medical document that I wrote the day I

saw the patient -- or saw the person.

Q Are you nervous?

A Yes, I'm a little nervous.

Q That's okay.

A It's my first time.

Q Will that assist you in testifying to the jury?

A Yes.

Q If you have a copy?

A Yes.

Q All right. So let's tell the jury a little bit about your background. Where did you attend college, Dr. Bhatia?

A I did junior college at Wallace College in Dothan, Alabama. Then I went to Troy University in Troy. And then I got my [indiscernible] concentration in biology degree. Went to Auburn, got my Master's in nutrition and then went to UAP and got -- became -- got my registered [indiscernible], did my internship there and then I went on to medical school.

Q Where did you go to medical school?

A University of South Alabama, Mobile.

Q All right. Are you certified in general pediatrics?

A Yes.

Q And what year did you become certified; ma'am?

A 2013.

Q All right. So going back to Parkside, how many physicians are at Parkside Pediatrics?

A Oh, that's a good number. Greater than 30 to 40 employees.

Q Okay. So tell the jury a little bit about what are the normal range of visits that you have with children when they come to your office?

A You mean age wise or?

Q Yes, ma'am.

A Usually, newborn right outside the hospital, up to college age. We do have some that continue to stay with us through college.

Q Are you familiar with a patient or a child by the name of [redacted]

A Yes.

Q And are you aware of when she became -- was she, in fact, a patient at Parkside Pediatrics?

A Yes, she was.

Q When did she become a patient at Parkside Pediatrics?

A September of 2002, I think. Let me think about it. It was when she turned two years old. It was in 2012.

Q All right. And so she was two years old in

2012?

A Uh-huh.

Q And in your position as a pediatric physician at Parkside Pediatrics, do you have the opportunity to review [redacted] medical records from the time she was two when she became a patient?

A Yes.

Q Okay. And in your position as a pediatric -- a pediatrician, rather, at Parkside, is it in the normal course of business that you would review what other physicians have done in their visit with [redacted]

A Yes.

Q And have you been able to look back at those medical records in preparation for your testimony today?

A Yes.

Q Okay. And can you tell the jury [redacted] date of birth?

A It is April 27, 2010.

Q I'm sorry?

A I'm sorry, [redacted]

Q Okay.

A This is where the nerves catch me.

Q That's okay, a lot of people get nervous. So can you tell the jury the difference in say a well check at Parkside or when a patient comes in and there's a

concern of sickness. A sick visit.

A Yeah, a sick visit is just depending on the chief complaint. So if they're here because they have a runny nose, we focus on those respiratory symptoms. If it's a well-child check, we focus on the general patient, whether it be everything from vision, hearing, development and a full detailed exam.

Q Okay. And so going back to the well check at a physicians office. Say you're coming in and you're looking at a two year old, a three year old. Is this -- a four year old, rather. At these visits, if it's a well check, are you doing any specific exam of genitalia or anything like on the child, in any real specific way for a well check?

A Usually, just cursory. You're going to get a general view of it and just also, as they get older, seeing where they are from a puberty standpoint.

Q All right. And what systems are checking during a well check of a child?

A Everything from respiratory, cardiac, your GI, from a abdominal exam; neurologically, ears, nose and throat. Pretty much head to toe.

Q And as you testified, you're not doing a in-depth genitalia exam?

A No.

Q Is the parent usually in the room with the child during the well check?

A Yes, always.

Q Tell us about sick visits. Just, in general, what are those like?

A Sick visits depend on what the patient is there for. If they are coming in for a sore throat, you are focusing solely on those things that could cause a sore throat. If you're here for a ear infection, you're focusing on the ears, the lungs, the heart, you're not necessarily going below the waist.

Q Dr. Bhatia, in your training as a general pediatrician, are you specialized in being able to look at children, where there's a concern of chronic sexual abuse?

A No.

Q I want to go back to Child And you stated that she became a patient in 2012; correct?

A Yes.

Q Can you tell me from reviewing her records, do you recall when her last well check visit was with Parkside?

A I think it was in July of 2016. I think it was a five year welfare check.

Q All right. And just remembering her birthday, she, actually, would have been --

A She would have almost been six at that point. It was like July 19th and then her birthday was, obviously, in Birth month

Q Okay. So she was a little behind --

A Behind.

Q -- on getting the well check. But it was a general well check; correct?

A Yes.

Q And going back to that visit, July 29th, 2016, who brought Child to that well check, if you can recall?

A I think it was both of her parents.

Q Okay.

A To that one.

Q All right. And was there a cursory check of her general body, at that time?

A Yes.

Q Okay. Anything standing out with that?

A No.

Q All right. Dr. Bhatia, I want to take you to August -- excuse me, April 15th of 2019, were you working that day?

A I was.

Q And in what capacity were you working that day?

A I was seeing patients throughout the day. Both well check, sick visits, that was a Monday.

Q That was a Monday?
A Uh-huh.
Q Was it early in the morning?
A It was very early in the morning.
Q All right. And had you ever seen Child prior to April 15, 2019?
A No.
Q So it's early in the morning, roughly, what time would you say?
A I feel like it was seven or eight something, it was pretty early.
Q All right.
A I may have it documented but.
Q That's okay. And this is your report from that day; correct?
A Yes.
Q All right. And so how did you come in contact with Child on that day?
A She was there for a sick visit with her mother. And my understanding was she was there for some tonsil concerns, lymph nodes little concerns and some [indiscernible] complaints.
Q All right. So it's early in the morning. Is Parkside Pediatrics packed out on Mondays?
A Sometimes.

Q Sometimes, okay.

A Sometimes it is. It's usually first thing in the morning it's sick visits, it's not usually your well child checks as much. But in open access, that's the early morning hours that's usually a lot of -- several sick patients are coming in in short intervals between each other.

Q And just to clarify, you testified the concern was swollen tonsils and vaginal pain?

A So there was something about nodes, lymph nodes, ear and tonsils. And then there was mention in the chief complaint about some intermittence, something about vaginal pain.

Q All right. Who was in the room with Child when you were meeting with her?

A Her mom.

Q All right. And can you tell or explain to the jury what happened during that interaction with Child in that visit?

A So when I was talking to Child and her mother, I was just trying to find out about the tonsils, mainly, and see what was going on there. Mom actually looked to be getting upset and bothered and asked me to step out of the room. And so we left her there, walked outside the room and then shifted to another room next door.

Q Okay. And just to peel it back a little bit, you say upset and bothered, what was the mother's name, again? What was her name?

A It was Marita.

Q Marita. What was Marita's demeanor like? When you said she was getting upset, what, if anything, can you recall?

A I remember her being tearful, her face kind of crumbling almost and seeming really bothered by something. But not saying anything yet until she asked us to step out of the room.

Q Okay. When you say tearful, was she crying?

A Yes.

Q So as part -- when you walk outside the room, who's in the room with Child at this point?

A She was by herself at that point.

Q And then you're outside the room and you're with Marita --

A Uh-huh.

Q Tell the jury what happens then.

A So then we proceeded -- I, actually, had a empty room right next door. So we went ahead and stepped into that room for her to talk a little bit further. Just privately.

Q Okay. And at this point, Marita is crying and

upset. What did -- did she indicated to you at this point what--

A Yes.

Q -- what she was there for?

A Yeah. At this point, she was like -- she divulged that--

Q If she stated an identity of a perpetrator, please don't--

A I'm not--

Q -- say that.

A I'm not.

Q Okay, go ahead.

A So she divulged that Child had told her recently that -- that she had been -- had intercourse in various ways. And she was really here to just see, if like, could I tell whether she was being abused. And kind of bringing it to our attention.

Q All right. And so help the jury. Mom's upset, she's crying, Child in the other room. And now you're tasked with figuring -- trying to figure out if you can tell if she's been abused; right?

A Yes.

Q So what, if anything, do you tell Marita, at this point?

A I tell her I can't tell her those things, as a

general pediatrician. I'm, obviously, glad that she came to us but we really need to report that to law enforcement. Well, actually, have July Valentine where they have forensic pediatricians that go into more detailed examinations, they know how to question. So I am not able to be able to decide those to tell her one way or the other, based on just having a visit with Child She needed to go further and look more into it.

Q And again, are you a doctor specialized in treating children where there's a concern of sexual abuse?

A No.

Q So, at this point, after your conversation with Marita, do you go back into the room to, in fact, see Child

A Yes, I do.

Q And looking at your notes, do you see or have a notation of where you spoke with the mother? I believe we already covered that but.

A Yes.

Q It is noted in your report that--

A It was--

Q I'll draw your attention to that.

A It was down here.

Q Yeah, right.

A There it is right here.

ERIN BHATIA-DIRECT BY MRS. SUSTAKOVITCH

Q Did you, actually, noted that you spoke with the mother of the child separately from Child

A I did.

Q So you come back into the room and now what, if anything -- did you start questioning Child about whether she had been abused or not?

A No.

Q And why or why not?

A Because one, I didn't want to mix up any stories, that wasn't the purpose of -- I wasn't trained in that aspect, she needed someone that was more trained in that. And I didn't want to confuse the issue anyways. So I focused solely on the chief complaints with the tonsils, with, okay, what's going on with the intermittent pain? Making sure of urine, making sure you don't have a UTI, urinary infection, that sort of thing. So I avoided that conversation with Child

Q Okay. Is her mom still crying at this point or has she --

A She actually calmed down.

Q She's calmed down?

A Uh-huh.

Q All right. And then I want to go back to previous doctors visits with Child at Parkside. Again, what was Child last well check that you can recall?

A So that was the -- I think it was July 19th, 2016. I think that was.

Q And so that, you testified, would be when she was around six years old?

A Yeah, almost six.

Q And so she did not have another well check when she was seven, eight --

A No.

Q -- nothing like that?

A No.

Q And the well checks would be the time if there was a cursory look at the genitalia, it would have happened then; correct?

A Correct.

Q But there were no well checks?

A No.

Q What were the types of visits that Child had from the time she was six, seven, eight?

A Usually, they were respiratory related. She did have where there were breathing problems, A typical pneumonia, upper respiratory infections, throat concerns, that sort of thing. So always sick visits.

Q All right. Apart from your visit with Child [redacted] on that date, did you have any other visits with her?

A No.
Q And on that date again, how old was she?
A She was about eight and a half.
Q Are you familiar with the term mandatory reporter?
A Yes.
Q And what does that term mean?
A It means you're required, you're obligated to, if you have a reason to believe or you're concerned that someone is neglected or abused, you have to report it.
Q So based on what's happened here, were you put into a mandatory reporter situation?
A Yes.
Q Explain that to the jury. By law what are you supposed to do, at this point?
A So, at this point, and I told this to her mother as well. At this point -- well, actually, I reached out first to Julie Valentine and kind of figured that out. Then spoke with our office manager and I'm required to either reach out to law enforcement or DSS. And kind of report these concerns. So that's where I had my office management kind of help me in that regard.
Q Okay. And then back to Child you did not ask for any questions about whether she was sexually abused?
A No.

Q Did you, in fact, do any type of exam on her that day after the conversation with the mom?

A I did, yeah.

Q What, if anything did you do during that exam?

A So besides ear, nose and throat aspect, checking the sides of the tonsils, the concern of the lymph nodes because there was some intermittent vaginal complaints that were nonspecific. I kind of just generally talked about it and did look. So had her, you know, take her clothes off from the lower aspect and just looked generally just to see if there was anything that was abnormal but nothing in depth.

Q Okay. And did this cursory exam that you have in any way indicate to you whether Child had been sexually abused or not?

A No.

Q So at the end of the exam, you stated that you told Marita -- tell the jury a little bit about that, how did you leave things with Child mom, Marita?

A So I just kind of clarified everything. You know, I was like, I, as a physician, general pediatrician, cannot give you anything definitive. I'm going to go ahead and do a referral to Julie Valentine, where they do have pediatricians there that can help in investigating this and examining this. I'm also going to have to report

it to, and I'll figure that process out, probably through DSS. And so I let her know that you need to also go ahead and move forward with talking to law enforcement so they can get that ball rolling. And then it's out of my hands from that aspect. So I'll put the referral in, I'll keep you posted on anything I hear but I need you to go ahead and move forward with this.

Q And going back briefly to when it was you and Marita outside the room, when you explained to her that you were not going to be able to tell her one way or another, was she still crying or did she calm down or what happened then?

A Yeah, she calmed down. She understood. She had calmed down. She knew, you know, we had a long time at that point to kind of go through this. And so she knew what she needed to do and she was still processing it.

Q All right. Apart from this interaction, did you have anymore interaction with Marita or with Child

A I did not.

MRS. SUSTAKOVITCH: Please answer any questions that the Defense Counsel has.

THE COURT: Cross-examination.

MR. YARBOROUGH: Thank you, Your Honor, briefly.

CROSS-EXAMINATION

BY MR. YARBOROUGH:

Q Hello?
A Hey.
Q How are you?
A Good.
Q I'm Bill Yarborough.
A Nice to meet you.
Q Nice to see you. Let me understand this. So on April 15th, 2019, they came in doing a regular check; right?
A During a sick visit, yes.
Q And you met with Child mother?
A Yes.
Q And with Child and then -- and then she stepped out; is that right?
A Yes, sir.
Q And then you stepped out with her?
A Correct.
Q And, at that point, she told you about some disclosure of something happening?
A Correct.
Q And so based on that you tried to calm her down a little bit; is that right?
A Yeah.
Q Then your job after that was -- well, you had mandatory reporting. So that was going to happen?

A Yeah.

Q So you went back in and did a welfare check on the little girl; right?

A Yes.

Q And, at that point, you didn't see any -- you couldn't find anything; right?

A No.

Q And -- okay. They denied, at that point, there was no bleeding, no discharge, anything like that?

A Yeah, no.

Q And did you, at that point, did you do any other test on her vagina?

A I did a urinalysis that checked. I didn't do any test on her vagina per se, no.

Q Okay.

A That's where I leave that to forensics.

Q Okay.

A Based on what they need to do. I did a urinalysis and based on that urine test I can test for like gonorrhea and chlamydia --

Q Right.

A But that's just through the urine stream without having to -- her mom knew in the other room that we would have to do this. But I did not discuss it in front of

Child

Q Okay.
A So nothing else needed to be done.
Q Everything was normal?
A Everything was okay there, yes.
Q Okay. And so you fulfilled your role, you checked and didn't find any bleeding, didn't find any discharge. And then you made sure everybody checked, you made sure SLED got called and you made sure Greenville County got called. And you sent them to the Julie Valentine Center; is that right?
A Correct.
Q And that's all you know about this?
A That's all I know.

MR. YARBOROUGH: Great, thank you for coming.

THE WITNESS: Thank you.

THE COURT: Any redirect?

MRS. SUSTAKOVITCH: Just very briefly.

REDIRECT EXAMINATION

BY MRS. SUSTAKOVITCH:

Q Dr. Bhatia, to be clear, when Marita was upset and stepped in the other room, did any of the conversation about her concerns of what Child had told her, was any of that said in front of Child
A No, not at all.
Q And it was a separate room; correct?

A Completely separate, no one else heard anything. It was only between her and myself.

MRS. SUSTAKOVITCH: Thank you, no further questions.

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

MRS. SUSTAKOVITCH: Your Honor, may she be excused?

MR. YARBOROUGH: Sure.

THE COURT: All right, you may be excused. Thank you.

MRS. SUSTAKOVITCH: Your Honor, may we approach briefly?

THE COURT: Yes.

(WHEREUPON, an off-the-record bench conference was held in the presence of the jury but out of the hearing of the jury.)

THE COURT: They've indicated they were more efficient than they thought they were going to be. So instead of calling another witness, we'll just -- we got some things we got to go over. So we're going to go ahead and break early. But I'm going to give you an assignment before you leave. The original 12, I'm sorry alternates, you're not participating in this. You need to select your foreperson, okay.

Foreperson just has a few extra duties. Their duty is to lead the discussions when you begin your deliberations and do any communications with the court that's needed. Go back to your jury room, just determine who is going to be the foreperson, let the bailiff know, just write on a piece of paper. And at that point, you can leave. Be back in your jury room in the morning at 9:30. And we'll begin at that time.

All right. Okay, remember, you're going to get tired of hearing this but it is important. Don't discuss the case among yourselves or anybody else. Do not do any type of research about anything whatsoever, about any issues, any parties in the case. Do not pay any attention to any media coverage that may be out there, including any social media. If anyone contacts you other than somebody from the clerk's office, then please let the bailiffs know in the morning. All right, do your homework assignment about picking your foreperson. Then otherwise, we'll see you in the morning.

(WHEREUPON, the jury left open court and was excused for the day at approximately 4:16 p.m.)

THE COURT: All right, anything from The State before we break?

MRS. SUSTAKOVITCH: No, Your Honor.

THE COURT: Anything from The Defense?

MR. YARBOROUGH: No, sir, Your Honor.

THE COURT: I'm not sure when you're going to be doing the forensic interview, it was very difficult for me to hear on my computer. Which means, I think it's going to be very difficult for them to hear.

MRS. SUSTAKOVITCH: Okay.

THE COURT: Possible, may want to check that out.

MRS. SUSTAKOVITCH: Thank you, Your Honor.

THE COURT: Also, can y'all approach about something else?

(WHEREUPON, an off-the-record bench conference was held.)

(WHEREUPON, Court's Exhibit No. 1 was marked for identification only.)

(WHEREUPON, the proceedings were concluded for the day to be reconvened on June 6, 2023.)

June 6, 2023

(WHEREUPON, State's Exhibits Nos. 15-19 were marked for identification only.)

THE COURT: I am being assisted by Judge Daniel Martin.

JUDGE MARTIN: Good morning.

THE COURT: All right, anything from The State before we bring the jury in?

MRS. SUSTAKOVITCH: Nothing the from The State.

THE COURT: Anything from The Defense?

MR. YARBOROUGH: No, sir, Your Honor.

THE COURT: All right, as soon as Will comes in we'll. . .

All right, if the jury is ready, bring them in.

(WHEREUPON, the jury entered open court at approximately 9:42 a.m.)

THE COURT: Good morning, ladies and gentlemen, I hope everybody had a good evening. As you can see, I have an assistant with me today. This is Judge Danny Martin from Charleston. He's just been recently appointed. And one of the things for judges that have been recently appointed, they sit in with other judges. So that's kind of what his purpose is here today.

So, as you will recall, we ended yesterday, The

State was in their case. And, at this point, they're still in their case. I'll ask The State to call their next witness.

MRS. SUSTAKOVITCH: Thank you, Your Honor. May it please the Court, The State calls Dyneshia Kilgore.

THE CLERK: Pause right here, please. Place your left hand on the Bible, raise your right hand.

DYNESHIA KILGORE, after being duly sworn, testified as follows:

THE CLERK: Thank you, please be seated. State your name for the record.

THE WITNESS: Dyneshia Kilgore.

DIRECT EXAMINATION

BY MRS. SUSTAKOVITCH:

Q Good morning, where are you employed, ma'am?

A Greenville County Sheriff's Office.

Q And can you speak up just a little bit?

A Yes, ma'am.

Q Okay. What is your position there?

A I work on uniform patrol as a deputy sheriff.

Q Can you tell the jury, as a deputy on uniform patrol, what do you do on a daily basis?

A I respond to calls, complete reports, traffic, search warrants.

Q And how long have you been employed as a deputy with Greenville County?

A Since March of 2022.

Q Now, prior to being at Greenville County, did you work somewhere else?

A Yes, ma'am, Greenville County Department of Social Services.

Q When did you start at DSS?

A 2017.

Q And what was your position there?

A I was an investigator.

Q And tell the jury, as an investigator for DSS, what did that entail? What were your job duties?

A Whenever a report came in of suspected child abuse or neglect, I would have to go within a certain timeframe to complete an investigation.

Q Are you familiar with a man by the name of David Jones?

A Yes, ma'am.

Q And did a case investigation come about that's led you to come to court today and testify?

A Yes, ma'am.

Q How did you become involved in the investigation?

A We received an investigation of allegations of

sexual assault.

Q All right. And what date did you become involved?

A April 15th, 2019.

Q All right. Do you have a copy of your report up there with you?

A Yes, ma'am.

Q And if you need to refresh your memory, you can look at that.

A Okay.

Q All right. So on that date, April 15th, 2019, do you recall what day of the week it was?

A I do not recall what day of the week it was.

Q That's fine. So you get this phone call, who contacted DSS that there was a situation involving a child that needed to be investigated?

A The doctor at Parkside Pediatrics.

Q And what was the message from Parkside Pediatrics that you were being asked to investigate?

A Possible criminal sexual conduct with a minor.

Q All right. Once you were contacted by Parkside Pediatrics, is that standard that you would begin investigating at that point?

A Yes, ma'am, depending on the timeframe, that the investigating and everything wants to go out within zero

to two hours or two to 24.

Q Okay. And explain the difference between zero to two and two to 24, in your response time.

A Zero to two is when we have to respond within two hours. Two to 24, we have two to 24 hours, depending on what the allegations are.

Q And so zero to two would be a heightened level of response for more serious charges?

A Yes, ma'am.

Q All right. I want to show you what's marked -- what's marked as State's Exhibit 15, 16, 17, 18 and 19.

A Okay.

Q And can you take a look at those and see if you recognize them?

A Yes, ma'am, I do.

Q And what are they?

A These are pictures of when we respond to Address Address.

Q And do they -- are you in some of these photographs?

A Yes, ma'am, I have on the white shirt.

Q And do they fairly and accurately represent what was going on that day at Address?

A Yes, ma'am.

MRS. SUSTAKOVITCH: Your Honor, at this time,

The State moves to admits 15 through 19.

THE COURT: Fifteen through 19 in without objection.

(WHEREUPON, State's Exhibits Nos. 15-19 were admitted into evidence.)

BY MRS. SUSTAKOVITCH:

Q All right. So you get on scene, I'm going to walk you through a couple of these. Got to warm up just a little bit. All right, let's take these first. So you're at Address ; correct?

A Yes, ma'am.

Q And I'm trying to take this in order for you. Who are you there to meet at this location?

A The Jones family.

Q All right. Looking at this photograph, and you can stand up if you want. Do you see yourself in that picture?

A Yes, ma'am. I have on a white shirt and black pants.

Q Who is the lady with the blue shirt on?

A Investigator McHale.

Q And do you see in a distance the Jones' car coming up?

A Yes, ma'am.

Q All right. Now, at this point, do you know who

is coming in the Jones' car?

A I spoke with the mom, Mrs. Marita, asked her to bring her children.

Q All right. Did you expect anybody else in the car?

A No, ma'am.

Q All right. So they get on scene, I'm going to fast forward here. What am I looking at here?

A Myself and Investigator McHale speaking with Marita and the children.

Q Just to help the jury kind of get -- who is this person right here?

A That's Mrs. Marita.

Q And then right here, who is this?

A Child

Q All right. How old was Child at the time?

A Eight, if I'm not mistaken.

Q Who is this person right beside Child

A Mr. Jones.

Q So Child is sandwiched in there between them?

A Uh-huh.

Q Who's the little fella -- well, not little but who's the fella back there?

A ZJ.

Q All right. And how old was ZJ, at the time?

A Eleven.

Q All right. And then I believe this is just a little bit out of order. This is them arriving on scene; correct?

A Yes, ma'am.

Q And you and Investigator McHale out there; correct?

A Yes, ma'am.

Q All right. And as far as the house, we've seen some photographs previously admitted, but was the family living at this house at the time?

A No, ma'am, they had recently had a house fire.

Q So once you got the call from Parkside Pediatrics, how did you find the Jones family to talk with them? Did you check with Salvation Army or other places to find out where they might be living?

A Yes, ma'am. Just due to them having a house fire, I reached out to the Salvation Army to see if they had a address for them.

Q All right. And we're going to hear more from Investigator McHale later, but this is Investigator McHale; correct?

A Yes, ma'am.

Q So once the family gets on scene, were you part of Investigator McHale interviewing Child when she first

got on scene?

A No, ma'am.

Q Okay. What were you doing when she pulled [redacted] over to the side?

A I was speaking with Mr. Marita or Mr. David about the allegations that we had received.

Q All right. And after Investigator McHale showed -- just so I'm clear, she's over here with [redacted] by herself; right?

A Yes, ma'am.

Q All right. Then Investigator McHale, does she come back to you?

A Yes, ma'am. We all came back together.

Q All right. And, at that point, did she get, Investigator McHale, give you an idea of what she and [redacted] had talked about?

A Yes, ma'am.

Q Was [redacted] at that point, disclosing the identity of the person who had abused her?

A No, ma'am.

Q At this point, did you, in fact, speak with [redacted]

A I did because I had to speak with her separately to just go over the allegations and kind of get her take on what had happened.

DYNESHIA KILGORE-DIRECT BY MRS. SUSTAKOVITCH

Q All right. And I see you have something in front of you, what is in front of you?

A It's my dictation from that day.

Q Can we mark it for identification?

A Yes, ma'am.

MRS. SUSTAKOVITCH: Actually, we don't really have to do that, April, we're fine.

BY MRS. SUSTAKOVITCH:

Q So going forward, after Investigator McHale comes back, Child has not identified the perpetrator. When you spoke with Child were you by yourself?

A I was.

Q And tell me what, if anything, you said to Child at this point.

A I just let Child know that I was there -- who I was, what I was there for and that she needed to tell the truth so that we can kind of make sure that she's safe. And to let her know that if anything did happen that it's not her fault and that adults are supposed to keep children safe.

Q Okay. When you told her that if whatever happened it wasn't her fault, did you observe any change in her demeanor?

A Yes, ma'am, she asked -- it isn't--

Q And you can't --

MR. YARBOROUGH: Objection, hearsay. Objection to anything that she said.

MRS. SUSTAKOVITCH: Yes.

THE COURT: Sustained.

BY MRS. SUSTAKOVITCH:

Q You can't say what Child said right there.

A Okay.

Q But, at this point, you told her that it's not her fault, whatever's happened?

A Right.

Q Let me ask you this, without stating the identity of the perpetrator --

A Uh-huh.

Q -- if she gave one, did Child -- or did she disclose to you then that she had been the victim of sexual abuse?

MR. YARBOROUGH: Objection, hearsay.

MRS. SUSTAKOVITCH: Your Honor, that's admissible under time and place.

THE COURT: Right. And overruled.

MR. YARBOROUGH: Okay.

BY MRS. SUSTAKOVITCH:

Q And so, at this point, without stating the identity of the perpetrator, did Child indicate to you whether she had been the victim of sexual abuse?

A She did.

Q And when she disclosed this to you, without stating the name of that perpetrator, did she, in fact, tell you who it was?

A She did, she said her father.

MRS. SUSTAKOVITCH: No --

MR. YARBOROUGH: Objection, Your Honor.

THE COURT: Overruled -- I mean, sustained.

MRS. SUSTAKOVITCH: We will withdraw that question.

THE COURT: And I'm going to ask that it be stricken, too.

MRS. SUSTAKOVITCH: Yes.

MR. YARBOROUGH: Okay.

BY MRS. SUSTAKOVITCH:

Q Okay. So again, did she indicate to you the timeframe that the abuse took place?

A She did.

Q All right. And what was the timeframe?

A Three years.

Q All right. And so you speak to Child and after you spoke to her, what did you do with Child Did you bring her back over to her mom or anything like that?

A Yes, ma'am, I had to speak with Mrs. Marita again.

Q All right. And just wrapping things up, after you spoke with Child did you speak with any other people on scene?

A I spoke with ZJ.

Q And did you also speak with this Defendant, Mr. David Jones?

A I did.

Q All right. Did that conclude your involvement in this case?

A It did.

MRS. SUSTAKOVITCH: Please answer any questions that Defense Counsel has.

THE COURT: All right, cross-examination.

CROSS-EXAMINATION

BY MR. YARBOROUGH:

Q Good morning.

A Good morning.

Q You were called to the scene to do your normal DSS investigation; correct?

A Correct.

Q Okay. And when you go out there, your main focus is to protect the child; right?

A Yes, sir.

Q And that's what you were doing that day; correct?

A Correct.
Q At that point, you weren't a trained police officer?
A No, sir.
Q You are a trained police officer now?
A I am.
Q You work for Greenville County?
A I do.
Q Okay. And was everybody there seem to be pretty calm, at the time?
A Yes, sir.
Q I mean, the mother wasn't fussing and upset or anything, at that point?
A No, sir.
Q Right. And my client, Mr. Jones, is sitting over there --

You want to stand up.

He was cooperative, at the time, right?
A He was.
Q And you were just there to protect the best interest of the child; right?
A Correct.

MR. YARBOROUGH: Okay. No further questions, thank you.

THE COURT: Any redirect?

MRS. SUSTAKOVITCH: None from The State, thank you.

THE COURT: All right, thank you, you may step down.

MRS. SUSTAKOVITCH: May this witness be excused, Judge?

THE COURT: Yes.

MRS. SUSTAKOVITCH: Thank you, Your Honor.

MR. MILLER: Your Honor, at this time, The State calls ZJ .

THE COURT: All right.

THE CLERK: Please pause right here, please. Place your left hand on the Bible, raise your right hand.

ZJ , after being duly sworn{,}testified as follows:{F}

THE CLERK: Thank you, please be seated. State your name for the record.

THE WITNESS: ZJ .

DIRECT EXAMINATION

BY MR. MILLER:

Q Good job talking into the microphone, ZJ , I was going to ask you to do that. If you'll just talk into the microphone, make sure that everybody can hear you. ZJ , how old are you?

A I'm 15 years old.
Q Where do you live right now?
A Charleston, Monks Corner.
Q Where do you go to school now?
A I do school online, Connections Academy.
Q Okay. What are some things that you like to do for fun?
A I like to play basketball, play games.
Q What kind of games?
A NBA 2 game.
Q And you live in Charleston now, have you always lived in Charleston?
A I haven't.
Q Where have you lived before?
A I lived in Greenville, Simpsonville, Charleston now.
Q And do you know David Jones?
A I do.
Q What is his relationship to you?
A My father.
Q Do you think of him that way still?
A I don't.
Q Okay. And how you feeling right now?
A I feel sad.
Q Okay. Tough to testify right now?

A It is.

Q Okay. Got some tissue right there if you need them, ZJ. It's okay, take a minute. Is it important for you to testify today?

A It is.

Q Okay. ZJ, I want to ask you, do you recall living at Address?

A I do.

Q When you were living there, who were you living with?

A I was living with my father and my mother and my sister.

Q Okay. What's your sister's name?

A Child Child

Q Is she your younger sister?

A Yes, sir.

Q Okay. And do you remember at Address, was it a one-story house, a two-story house?

A Two-story house.

Q Okay. Where was your bedroom in the house?

A My bedroom, it was next to my bathroom.

Q Okay. Where was the kitchen?

A It was downstairs.

Q What other rooms are in the house?

A I don't know.

Q Did your sister have a bedroom?
A She did.
Q Okay. So you said your parents had a bedroom.
A They did.
Q Okay. You said you were homeschooled now, were you homeschooled then?
A I was.
Q Is that with Connections Academy or was it different?
A It was Connections Academy.
Q Where would you do your school work in the house?
A I would do it in the Man Cave.
Q In the Man Cave?
A Yes, sir.
Q What's the Man Cave?
A It was like -- it was my dad's room, play games and stuff.
Q Okay. Where was that room in the house?
A It was next to my bedroom.
Q Okay. Who named it the Man Cave?
A He did.
Q He did. What all was in the Man Cave?
A A bunch of computers, games, comic books, stuff like that.

Q Okay. And do you remember what your mom was doing for work at that time?

A She worked at TD Bank.

Q Okay. And what about David Jones?

A He was a police officer.

Q Okay. And what about your sister, was she homeschooled too?

A She was.

Q Okay. Where would she do her school work?

A She would also do it in the Man Cave.

Q Okay. Were y'all in different grades?

A We were, we are.

Q Okay. And would either of your parents stay at home with you during the day?

A My dad.

Q David Jones did?

A David Jones.

Q Okay. And around what time of day would y'all finish your school work?

A It really varied. I say, like, around three o'clock we would. Like, whenever we were done.

Q Would y'all finish before your mom would get home from work?

A We would.

Q Okay. What video games did you like to play

then?

A I would play Minecraft, any game, I just love the games.

Q You just love the games. Was there any furniture in the Man Cave?

A There was. There was a couch, there was a table in the middle, chairs around it. There was a desk with computers on it. Stuff like that.

Q Okay.

(WHEREUPON, State's Exhibits Nos. 20 & 21 were marked for identification only.)

BY MR. MILLER:

Q ZJ, I'm going to show you a picture that's marked as State's Exhibit 20, do you recognize that?

A I do.

Q Are you familiar with it?

A I am.

Q What is it?

A It's a screen shot from the video that we shot of my dad, my father.

Q Is that a true and accurate representation?

A It is.

Q Does it appear to be altered in any way?

A It's not altered.

MR. MILLER: Your Honor, at this time, The State

would move State's Exhibit 20 into evidence.

THE COURT: Any objection?

MR. YARBOROUGH: No, sir.

THE COURT: All right, in without objection.

(WHEREUPON, State's Exhibit No. 20 was admitted into evidence.)

BY MR. MILLER:

Q ZJ, if you'll show the jury, tell the jury, which room are we in right now?

A The Man Cave.

Q Okay. And who is this?

A That's my sister.

Q And what is this right here?

A That's the couch that was in the Man Cave.

Q Okay. And what's this area here?

A That area, I don't remember what that area was. I remember what was there.

Q And what would be on the right? What's this right here?

A Oh yeah, that's one of the computers that was in the Man Cave.

Q Okay. So ZJ, I want to talk to you a little bit about, you said you like to play video games. Would you get to play video games during the week?

A We were able to.

Q Would you get to play them whenever you wanted to?
A We would have to ask.
Q Who would you have to ask?
A We would have to ask our father.
Q Okay. And who would typically ask?
A Child
Q And why would she go ask?
A Because he usually say yes to her.
Q Okay. Now, were the -- I just want to get it straight. So during the day, it was you, Child and your dad, David Jones, at the house?
A Yes, sir.
Q Were there times when it was just you and Child alone?
A Very rarely.
Q Were there times that you and David Jones were alone?
A Rarely. Like, if mommy and Child had like girls day out.
Q Okay. And were there times that David Jones and Child were alone?
A I don't remember.
Q You don't remember?
A Yeah.

Q Okay. Do you ever remember them being in a room -- or being in a separate room and them being in a room?

A I do.

Q And what room do you remember them being in?

A The Man Cave.

Q The man cave. Would the door of the Man Cave be opened or shut?

A Shut.

Q Do you ever recall, if it all, hearing anything coming from the room?

A I do.

Q What, as best you can describe what you heard, please tell the jury.

A One time I was downstairs and I heard like, I don't know how to explain it. Like, like, you know, somebody like stepping upstairs, it's kind of like it was a motion, I don't know how to explain it. But the door kind of like rattle a little bit. I've heard that.

Q And, ZJ, do you recall their being a fire at the house?

A I do.

Q Okay. Where did y'all go after the fire?

A We lived with our grandparents.

Q Did they live close by?

A They did, like 20 minutes away.
Q Okay. Do you remember the address?
A I don't remember the address.
Q And were y'all still in school when you lived with your grandparents?
A We were.
Q And were your grandparents living there?
A They were.
Q Okay. And, ZJ, be a tough question, what was the health of your grandfather at the time?
A He had one leg.
Q How would he get around?
A With like either crutches or with a wheelchair.
Q Wheelchair, okay. When you were living at your grandparents house, was your mom still working at the bank?
A She was.
Q Would she still leave during the day?
A Yes, sir.
Q Okay. Now, at your grandparents house, were there ever times that Child and your dad, David Jones, would be alone in a room together?
A Yes, sir.
Q Would you, if at all, did you ever hear any noises?

A I did. And -- yes, I did.

Q You did. Were they similar to the noises you heard at Address?

A I could hear them more clearly.

Q Okay. Now, ZJ, I want you to listen to how I'm phrasing this question. Without stating anybody names, did Child ever disclose to you that she had been the victim of sexual assault?

A She did.

Q Do you remember which house you were in?

A I was in my grandparents house.

Q Okay. And again, as you answer these questions, don't state a name. How did you feel after you heard that?

A I was in -- I was in shock. I didn't know how to feel, I couldn't cry. I was -- I -- I don't know, I was in disbelief.

Q And about how old were you?

A Eleven years old.

Q You were 11, okay. Did you tell anybody about it?

A I didn't.

Q Do you recall a time being in the car in the Publix parking lot?

A I do.

Q Was anyone else in the car?

A My mom and Child

Q Okay. And again, without saying anybody's name, do you recall if Child said that she was the victim of sexual assault?

MR. YARBOROUGH: Objection, hearsay.

MR. MILLER: Time and place, Your Honor.

THE COURT: All right, overruled.

BY MR. MILLER:

Q All right. Let me state it again so we're clear. Without stating anybody's name, did Child disclose to you that she had been the victim of sexual assault?

A She did.

Q Okay. Where did y'all go after the Publix parking lot?

A We went back to my grandparents house.

Q Okay. Okay. Again, don't state anybody's name, but how were you feeling at that time, as well?

A I felt -- I felt weird. Like, I already knew but now it's real. It's really real.

Q Were you eating anything at all that day?

A We had chicken.

Q Okay. Do you remember anything about the chicken.

A I couldn't even taste it.

Q Okay.

MR. YARBOROUGH: Just a minute, Your Honor.

(WHEREUPON, the attorneys were having an off-the-record conversation.)

MR. YARBOROUGH: That's fine, without objection, Your Honor.

THE COURT: Okay.

BY MR. MILLER:

Q [redacted], let me show you a disk, it's marked as State's Exhibit 21, do you recognize this disk?

A I do.

Q How do you recognize it?

A You showed me the disk yesterday.

Q So you viewed it?

A I viewed the video.

Q Did you mark anything on the video to show that you viewed it?

A I did. I marked my initials and then the date.

Q Okay. And what video is it?

A It's naked video where he's showing around the Man Cave. Like around all the computers and stuff.

Q Who is he?

A My father.

Q Okay. And is that a true and accurate

representation?

A It is.

Q Okay.

Your Honor, at this time, move State's Exhibit 21 into evidence.

THE COURT: All right, you said you don't have an objection?

MR. YARBOROUGH: I don't have an objection, I'm just trying to clarify which one.

THE COURT: Okay.

(WHEREUPON, State's Exhibit No. 21 was admitted into evidence.)

BY MR. MILLER:

Q ZJ, while that's loading up, I just want to ask you another question. Do you recall after April 15th when investigators came -- do you recall when investigators came out to Address?

A I do.

Q And do you recall after that going to church?

A Like right after?

Q Well, a few days after?

A I do, I remember going to church, yes, sir.

Q Okay. And did you see David Jones at church that day?

A I did.

Q Did he give you anything?
A He gave me a Easter egg behind his back.
Q Okay. And what happened to that Easter egg?
A My mom took it.
Q Now, when we say Easter egg, are we talking about an actual egg that's been dyed or like a plastic egg?
A It was a plastic egg. I believe it had candy in it.
Q Okay.
(WHEREUPON, State's Exhibit No. 21 was published.)
MR. MILLER: Judge, can we make sure everybody on the jury can hear?
BY MR. MILLER:
Q ZJ, who is that on the scene?
A That's me.
Q Who's speaking on the video?
A My father.
(WHEREUPON, State's Exhibit No. 21 was continued to be published.)
BY MR. MILLER:
Q Who did we just see on scene there, ZJ?
A My sister, Child
(WHEREUPON, State's Exhibit No. 21 was

continued to be published.)

Q [redacted], just a couple more questions.

A Okay.

Q You testified earlier that [redacted] and David Jones would be in the Man Cave and was the door shut?

A Yes, sir.

Q Do you recall what you would be doing?

A I would either be playing games or eating lunch downstairs.

Q Okay. All right.

Please answer any questions The Defense counsel may have, [redacted].

THE COURT: Cross-examination.

CROSS-EXAMINATION

BY MR. YARBOROUGH:

Q How you doing?

A Not good.

Q I'll be brief. Is that video fairly and accurately represent the Man Cave, your dad's office?

A It represents it.

Q Okay. And you said that -- that when your mom was home and your dad worked as a police officer; is that what you said?

A Can you repeat the question?

Q Yeah. What did your dad do for a living?

A He was a police officer.

Q Okay. And a police officer and was he also an investigator, did y'all -- are you aware of that?

A I'm not sure, I just know he was a police officer.

Q All right. Did he help you with your homework and stuff?

A He did.

Q And so y'all were -- y'all were homeschooled and your mom helped you with your homework?

A She was usually at work when we were doing homeschool, so mostly him.

Q Okay. And then who would -- would your grandmother help you with your homework when your dad was working?

A When we were living with our grandparents.

Q So that's when you were living with your grandparents. You moved to your grandparents house right after the fire; right?

A Yes, sir.

Q You didn't live over there before?

A Not before.

Q Okay. And the fire kind of -- that was -- the house was done, uh?

A Pretty much.

Q Were you able to get your clothes and stuff out or not?

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

Q All right. Right after that y'all moved to Charleston?

A After the fire?

Q Well, no, after you were at your grandmother's house and then y'all went to Charleston? You live in Charleston now?

A Yeah, we live in Charleston now.

Q And so are you homeschooled in Charleston?

A I'm homeschooled in Charleston.

Q What grade are you in?

A I'm in tenth, going to the 11th.

Q Well, good. How you doing in school?

A I'm doing pretty good, straight A's.

Q That's awesome. And you like playing video games so you like going into the Man Cave or your dad's office so y'all could play video games in there?

A I liked going in there.

Q And your sister liked to play video games, as well?

A She did.

Q Okay. And your dad worked a lot when he was in

there; right?

A I think so.

Q And did you ever go with your dad when he would patrol neighborhoods and stuff?

A We did.

Q Yeah. So is he a pretty hardworking guy?

A I'd say so.

Q Had a good relationship with him?

A I had a great relationship with him.

Q Great?

A Uh-huh.

MR. YARBOROUGH: Okay, thank you. I don't have any further questions.

THE COURT: Any redirect?

MR. MILLER: No, Your Honor.

THE COURT: All right, you may step down.

All right, we're going to take a short break, ladies and gentlemen.

And I forgot to acknowledge, Mr. North, I believe, you've been appointed to be the foreperson, thank you for serving in that role.

At this point, if you'd step back in your jury room, do not discuss the case, we'll bring you out in just a few minutes.

(WHEREUPON, the jury left open court at approximately 10:24 a.m.)

THE COURT: All right, I believe The State wanted to bring up something? Bring something up at this point?

MRS. SUSTAKOVITCH: Yes, sir. The next witness is going to be Child Your Honor, The State will be eliciting testimony from Child about the date on April 15th, that's already been testified to where DSS -- Ms. Kilgore that testified came out and also the lead investigator who will be testifying, came out, they spoke to Child And, initially, when Child is on scene speaking to Investigator McHale, she does not want to say who has been sexually abusing her. She's worried about that person going to jail and she just does not want to say the identity. It was Dyneshia Kilgore, that when she spoke with Child told Child that she wasn't going to be in trouble, that it was okay to say. And that's when Child said that it was her dad and gave more particulars about that.

They continued to be on scene here for about an hour they were out there. And there's a point where the mother, Dyneshia and the lead detective are over here talking, this is all going to come out in

testimony. And Child goes over and she's back with ZJ and her father. And it's at that point that The State is going to put in evidence that David Jones told Child to recant her story. And I wanted to play for The Court the recantation. And then Your Honor can make a determination on how -- what, if any, of this can come in.

The State plans to hit it head on and just -- but she's going to testify next. Talk about the fact that she's out there on scene, she doesn't want to tell the initial lady the identity of the perpetrator. She does finally tell Dyneshia Kilgore. And then this Defendant told her to come back and say it was a boy on the bus. And you'll hear this. Can we play it? It's short.

THE COURT: Yes.

(WHEREUPON, a video was published.)

MRS. SUSTAKOVITCH: Your Honor, it's the last part where she is crying saying -- it's clearly an excited utterance at the end there where she says, I want to save my daddy, though. She's explaining why she came up with the boy on the purple bus. We just want direction from The Court on how to handle this. Mr. Miller was bringing that up pre-trial and this is the full context of what he was trying to talk to you

about then, if it makes more sense now.

THE COURT: Definitely makes more sense now.

MRS. SUSTAKOVITCH: Yeah, that what we've got.

THE COURT: Mr. Yarborough.

MR. YARBOROUGH: I'm kind of in -- Your Honor, I think the -- the investigator's statements there are hearsay. I think that -- I think that she can ask the girl what -- bouncing back, two parts. One, I think the investigator's statements are hearsay. I think she can ask the young lady what she said at the time. And then if she doesn't say what she said, then she can play that. But I don't think she can play the investigator's questions. I think those questions would be hearsay. I think the other stuff would just be strictly, you know, did you say this at this time. I guess that's a statement she's made. I understand the excited utterance part. Now, that she said that over. So I would object to the -- to the investigator's -- what she said. But the little girl, I think that -- I think that would make sense. Being excited utterance.

MRS. SUSTAKOVITCH: Your Honor, we agree then. I definitely want to protect the record for appellate review.

THE COURT: Actually, that's exactly what I

wrote down, those three things that the officer said -- well, we're not going to let in so I think we're all on the same page.

MRS. SUSTAKOVITCH: Yes, sir, I agree with that. So what we will do is just shorten -- if we can have time to shorten this to, I want to protect my daddy. That will be the only thing that we will play during [redacted] testimony.

MR. YARBOROUGH: Wait a second. The first part of it she can play is what she said she says that it was the boy on the bus.

THE COURT: Right.

MR. YARBOROUGH: I mean, she would be able to play that, I mean, as a whole; correct? You're going to play the part on the bus and then--

MRS. SUSTAKOVITCH: Which parts do you want out, Judge?

THE COURT: I mean, I think that her statement about it was a little boy on the bus.

MR. YARBOROUGH: Right.

THE COURT: And then take out the part where the officer's saying, you just want to protect your dad, tell me the truth, all that stuff out.

MR. YARBOROUGH: Right.

THE COURT: And then the very we end when the

girl's saying something and it's very difficult to hear. But what she says at the end, just what the little girl says.

MR. YARBOROUGH: Correct.

THE COURT: All right.

MR. YARBOROUGH: I think the complete -- yeah.

MRS. SUSTAKOVITCH: All right. Can we go back and have time to --

THE COURT: Yes.

MRS. SUSTAKOVITCH: --fix this and make sure that Mr. Yarborough gets to listen.

THE COURT: Right.

And tell the jury we've got a few things we've got to go over and we'll bring them out when we can.

MRS. SUSTAKOVITCH: Thank you, Your Honor.

THE COURT: All right, we'll just take--

How long will that take?

MRS. SUSTAKOVITCH: Probably about 15 minutes.

THE COURT: All right, we'll take a 15 minute break.

MRS. SUSTAKOVITCH: Thank you, Your Honor.

(WHEREUPON, a short break was taken.)

THE COURT: All right, y'all got everything worked out?

MRS. SUSTAKOVITCH: I do, Judge. It's very

brief. Could we just play it and make sure --

THE COURT: Okay.

MRS. SUSTAKOVITCH: -- that Mr. Yarborough's good with that? And also, I would say planning purposes wise, the victim's next. And I -- we expect it to take a while. I don't know if Your Honor would want to break then. The next witness is a forensic pediatrician that's going to take a while. So probably need a break for lunch.

THE COURT: Right, that's probably -- let's see where we are. But if it gets after 12, then I usually like to break before we start another witness.

MRS. SUSTAKOVITCH: Okay, thank you.

THE COURT: But we'll let you go -- you know, this kind of the way my rule is, if it's after 12 and there's a break in witnesses, then that's a good time to stop. But, I mean, you can go all the way to 1:00, if you need to as far as a witness on the stand.

MRS. SUSTAKOVITCH: Thank you, Your Honor. So this has been redacted, I believe in agreement with Defense Counsel.

THE COURT: All right. You should be able to play it.

(WHEREUPON, a video was published.)

MRS. SUSTAKOVITCH: If anything additional we can take it out.

MR. YARBOROUGH: That's fine, Your Honor, the way it is. It's fine.

THE COURT: All right, you don't have any objection then to what has been presented? I mean, my ruling was kind of the part about why protect your dad was part of that.

MR. YARBOROUGH: Yeah, I thought they were taking -- that's what I thought they were taking out.

THE COURT: Yeah, I mean, my ruling was the part where she says, Why protect your dad.

MR. YARBOROUGH: Yeah.

THE COURT: The question of, Why protect your dad.

MRS. SUSTAKOVITCH: Oh, I apologize, I did not understand. So I'm going back -- I'm sorry, Your Honor. She says, Why are you trying to protect a boy and get your dad in trouble?

THE COURT: I guess, protect your dad--

MR. YARBOROUGH: I think that's at the end, protect your dad part.

MRS. SUSTAKOVITCH: Tell you what, Judge, you want to see a copy of the transcript?

THE COURT: Yes.

MRS. SUSTAKOVITCH: Okay. And this is not made to be introduced in the trial.

THE COURT: Yeah, I understand.

MRS. SUSTAKOVITCH: If this will help at all.

THE COURT: Well, you've got it marked through on here but it didn't--

MR. YARBOROUGH: It didn't get cut out.

THE COURT: I think you're saying now to help protect your dad is what I thought I heard on there. You've got it marked out in red but I don't think that--

MR. YARBOROUGH: It didn't come out.

MRS. SUSTAKOVITCH: I'm sorry.

THE COURT: I mean, I think that's the part I think that I heard, how to protect your dad.

MRS. SUSTAKOVITCH: Oh. Oh.

Lindsey, the part that says, I think you're saying a fib now to help protect your daddy.

MR. YARBOROUGH: But it was on there.

(WHEREUPON, technical issues were being worked out.)

(WHEREUPON, a video was published.)

THE COURT: All right, I guess, I heard, why you protect and kind of your dad, I heard the word dad.

But I think that that--

MR. YARBOROUGH: Okay.

MRS. SUSTAKOVITCH: So we took out the objectionable part?

THE COURT: Yeah, you did. Sorry about that.

MRS. SUSTAKOVITCH: Okay, no problem.

THE COURT: All right, anything?

MR. YARBOROUGH: No, sir.

THE COURT: All right, based on the--

MR. YARBOROUGH: I'm with you.

THE COURT: Okay. All right, it's in without objection. And I'll tell the jury we had to -- had technical difficulty getting the audio ready to play, that was what the problem was. And then I had another matter to get into.

All right, bring the jury in. If they're ready.

(WHEREUPON, the jury entered open court at approximately 11:27 a.m.)

THE COURT: This turned into that when your mother said she was going to the grocery store for five minutes and come out, that's kind of what happened. Sorry about that. One thing we had some technical difficulties with getting the audio that you're going to hear in the next witness to be able to play, that was one issue. Then I got caught up in

another matter. We do apologize for sending you back there for the five minutes while we were in the grocery store kind of thing. Anyway, hold that against me, not against either of the parties and all that. We're aware of the time, too. What it looks like we'll probably go through the next witness and then we'll break for lunch.

So with that being said, The State call your next witness.

MRS. SUSTAKOVITCH: Thank you, Your Honor, may it please the Court. The State calls [redacted]

THE CLERK: Just pause right here. Place your left hand on the Bible, raise your right hand.

[redacted] after being duly sworn[,]testified as follows:{F}

THE CLERK: Thank you, please be seated. State your name for the record.

THE WITNESS: [redacted]

DIRECT EXAMINATION

BY MRS. SUSTAKOVITCH:

Q Good morning, [redacted]

A Good morning.

Q Are you nervous?

A Yes, very.

Q Can you scoot up just a little, want to make

sure the jury can hear you. So tell us how old are you, Child

A I'm 12 years old.

Q If you could not move the chair. There you go. When's your birthday?

A Birth month & day

Q So you're going to turn 13 then?

A Yes.

Q So where do you live now, Child

A I live in Moncks Corner.

Q All right. What county is Moncks Corner in?

A I'm not sure.

Q That's okay. And if I ask you a question and you don't know the answer, that's exactly what you should say. Do you have siblings, Child

A Yes, I have a brother named ZJ.

Q How old is ZJ?

A He's 15 turning 16.

Q Now, are you in school right now?

A I'm in online school.

Q And what's the name of your online school?

A Connections Academy.

Q How long have you been doing that?

A For a long time.

Q Do you like it?

A Uh-huh.
Q All right. Do you miss going to public school or no?
A No, not really.
Q All right. So you said ZJ, when's his birthday, do you remember?
A His birthday is 2007
Q And how old is he going to be on his birthday?
A Sixteen.
Q All right. So tell me about living down in Monks Corner, who do you live with Child
A My mom, my stepdad and my brother.
Q What's your mom's name?
A Marita?
Q What's your stepdad's name?
A Sebastian.
Q And how long has your mom been with Sebastain? How long has he been your stepdad?
A I'm not sure.
Q Okay. I want to go back to Connections Academy, online schooling. What are your favorite classes with Connections Academy?
A I love English and science.
Q And with online schooling, does the teacher come on and talk to you, are you like in little boxes, how does

that work?

A You usually go to zoom like meetings.

Q Okay. And you have an emogi or an icon and they can see you?

A Yes.

Q Kind of like when COVID happened and we went and had online school?

A Yes.

Q Okay. So what do you want to be when you grow up?

A I want to be a lawyer.

Q Oh, okay. Why do you want to be a lawyer?

A Because I want to be able to like help people.

Q Okay. I want to talk about when you were younger, Child Going back a couple of years, can you think back to when you were in kindergarten?

A (The witness nods.)

Q All right. So let's go back and take the jury back in time because now you're 12. But when you were in kindergarten, how old were you when you started kindergarten?

A I'm not sure.

Q All right. Let's go with your birthday again. Tell me that again.

A Birth month & day

Q All right. So [redacted] what year was it?
A 2010.
Q 2010. So five years later, would you have started kindergarten?
A Most likely.
Q All right. And tell me, do you remember the name of your kindergarten teacher?
A I think her name was Ms. Frets.
Q Ms. Frets?
A (The witness nods.)
Q Okay. And when you think back, I know it's been a while, but sometimes it's helpful to just think back in your mind. When you think of Ms. Frets' room, can you tell the jury a little bit about what it looked like when you came in there?
A It was like really colorful. And there was like a circle carpet. And there was chairs, like a lot stacked in the corner. It was another corner that had books and stuff.
Q Did you like that class?
A Uh-huh.
Q And did you have a best friend or anything in that class?
A I had a best friend named [redacted]
Q Okay. So did you guys have field day in

kindergarten?

A We did.

Q So I want to go -- that would have been August 27, 2015, sound about right? I want to go to the next grade, first grade. How old would you have been in first grade?

A I'm not sure.

Q Okay. Okay. So tell me about what school you went to in first grade.

A I don't remember.

Q That's fine. But you lived here in Greenville County; correct?

A I did.

Q And, Child just before we get going, you testified you're nervous to be in court today?

A (The witness nods.)

Q Have you been worrying about being here?

A Yes.

Q And can you explain to the jury the difference in the truth and a lie?

A The truth is something that, like, actually happened. And a lie is something that was made up or something that never happened.

Q And is it good to tell a lie?

A No, not at all.

Q You promise today to tell this jury only the truth?

A I promise.

Q Child I want to show you a few pictures. Do you remember, showing you what's been admitted as State's Exhibit 17, do you remember that house?

A Yes.

Q All right. Do you remember the address for -- I'm going to put it on the projector. Do you remember having to remember the address for this house?

A I believe it was Address.

Q Okay. And so we're going to talk about people in this picture in a little bit but yes, Address; right?

A (The witness nods.)

Q So if you could take the jury back a little bit, are you aware of the fire that happened at that house?

A I am.

Q All right. So I want to take the jury back before the fire. And Child coming in the front door of that house, what would the jury be seeing?

A Well, the stairs, I think, were on the right side. And then we had like this cool living room and kitchen on the left.

Q Yeah.

A And then be like the staircase.

Q All right. So when you went up the staircase, what would you be seeing then?

A On the right, there would be like a bannister sort of thing and then my room would be there and then to the right a little bit more there would be a bathroom.

Q All right. And then were there any other bedrooms upstairs?

A Yeah, if you look to the left, I think there was like a Man Cave. And then if you go forward, ZJ 's room. And forwarded again, my parents room.

Q Okay. And I'm going to show you what's been admitted. Child could you turn around and look at this picture? Well, I'll show it to you, I'm sorry. Do you recognize that picture?

A I do.

Q Okay. And I'm going to put it on the projector. What are you recognizing in this picture?

A Myself in the Man Cave and books and computers.

Q So tell the jury a little bit about the Man Cave.

A So the Man Cave was like this really cool room. There were books, drawing, games, there was a lot of stuff you can just do in there. We usually just hang out in there and play games and such.

Q All right. And when it's called the Man Cave, who was the man that the Man Cave is named after, whose room was it?

A David's.

Q All right. So, Child I want to talk to you about David. Who is David?

A My biological dad.

Q Do you consider him your father?

A Yes.

Q Do you consider him your biological dad?

A I do.

Q And, Child do you see him in this courtroom?

A I do.

Q Could you point him out?

A Right there.

MRS. SUSTAKOVITCH: Your Honor, let the record reflect the victim is pointing out The Defendant.

THE COURT: So noted.

BY MRS. SUSTAKOVITCH:

Q Child has anyone ever touched you in way that you did not like?

A Yes.

Q And who did that?

A David.

Q Child I want to -- before we go into all the

specifics of that, I want to talk about body parts. So the jury can know exactly what you're talking about, okay? What do you call the front part of a female, a girl or a lady, the front part of a female, where you would go to the bathroom?

A A vagina.

Q Okay. And you're how old again now?

A Twelve years old.

Q Do you remember when you were like eight years old, do you remember what you may have called it?

A Yes.

Q What did you call it when you were eight?

A Cauliflower.

Q How did you get the name cauliflower for your vagina?

A I think my mom or dad came up with it.

Q Okay. And then I want to talk about the backside of a female, what do you call this part where a lady or a girl would go to the restroom?

A Butt.

Q Okay. And what would you call the top part on a female or a girl?

A The breast.

Q All right. And I know this is embarrassing but we have to just make sure that the jury can understand

what you're saying. We're going to go through a boy now. The front part of a boy or a man, what would you call the front part where they go to the restroom?

A A penis.

Q Okay. And what about the back part where they go to the restroom?

A A butt.

Q All right. Child you testified that -- and you're calling him David, is there a reason you're calling him David?

A Yes.

Q Can you explain that?

A Well, I have a different dad now so.

Q Okay. You testified he started touching you in ways you don't like. Where was your mother when this started happening?

A She would usually be at work or hanging out with friends or just out somewhere.

Q All right. And where would your brother be when this would he happening?

A He usually would be in his room or playing with his friends somewhere.

Q All right. And I want to take you back to, so we're clear, this house at Address. You see it behind you, sweetie?

A (The witness nods.)

Q Where, when your dad would touch you in ways that you didn't like, where would that happen in that house?

A In the Man Cave or in my parents room.

Q In your parents room, okay. I'm going to show you what's previously been admitted as pictures from the fire, so it's going to look different. But do you recognize State's Exhibit 8?

A That's my room, my old room.

Q Okay. And do you recognize State's Exhibit 5?

A Yes, that was their room.

Q All right. I'm just going to put it up for a second. All right, Child so this is your room?

A It was.

Q Is there anything you see in that room that you wish you could have kept?

A Those are, like, all of my Hello Kitty's, I really miss those. I wish I could have saved them from that.

Q And four years ago, this was one of the Hello Kitty's?

A Yes.

Q All right. Showing you State's Exhibit 5. You're saying this was your mom and dad's room?

A Yes.
Q And your dad abused you there too?
A Yes.
Q Okay. I'm showing you what's marked as State's Exhibit 6, do you recognize that, sweetie?
A Yes, that's our parents closet.
Q All right. Did your dad ever abuse you in the closet?
A I believe so, yes.
Q Okay. I want to go back through a little bit. Child going back to the different ways that your dad abused you, did David Jones ever put his private part in your vagina?
A Yes.
Q And when he did that, how did that feel?
A It kind of hurt.
Q All right. And where would David Jones put his penis in your vagina? Which rooms at Address?
A In the Man Cave, in my parents room and in my room.
Q Okay. And back four years ago when you're calling your vagina your cauliflower, he was putting his penis in your cauliflower?
A Yes.
Q Child I want to take you back, did David Jones

ever put his penis in what you call your butt?

A Yes.

Q And where did David Jones put his penis in your butt? Was it at Address?

A Yes.

Q And when he would do that, would that ever hurt or how would that feel?

A It would hurt, like, really bad.

Q It would hurt, like, really bad?

A (The witness nods.)

Q Would that happen in the Man Cave?

A Yes.

Q Did David Jones ever put anything on his penis when he would put it your butt?

A Vaseline.

Q Did that help it not hurt?

A Yes.

Q Did you tell him that it hurt?

A Yes.

Q Child did your dad ever take his hand and put his fingers into your body in any way that you didn't like?

A Yes.

Q Where did he put his hands or his fingers?

A In my butt and in my vagina.

Q When he would put his fingers in your vagina, what can you remember that feeling like?
A I remember it feeling just really weird.
Q And where did that happen?
A In the Man Cave, in their room, in my room and in the closet.
Q Child did David Jones ever put his mouth on your cauliflower or your vagina?
A Yes.
Q How did it feel when David Jones did that?
A It felt kind of weird.
Q Did you want him to do that?
A No.
Q What, if anything, did he say to you when he was doing that?
A I remember him asking if it felt good and if it hurt.
Q Okay. So he licked your vagina?
A (The witness nods.)
Q Did you ever have to lick any part of him?
A Yes.
Q What did you have to lick?
A His penis.
Q Okay. So you're 12 now, four years ago you were eight; correct?

A (The witness nods.)
Q Did you ever see anything come out of your dad's penis?
A Yes.
Q What did you see come out of his penis?
A Come.
Q Did you know what that was when you were eight years old?
A No.
Q Did you understand why your dad wanted you to suck on his penis?
A No.
Q Did you -- when these things were happening and you were inside the Man Cave, was the door opened or was the door shut?
A Shut.
Q Was your brother somewhere else in the house or was he there watching?
A Somewhere else in the house?
Q Where was your mom?
A Out of the house.
Q Child has anybody else ever touched your body or abused you like that?
A No.
Q Child I want to talk a little bit about the

Man Cave. When you're in the Man Cave, what would you do in the Man Cave with your dad, what types of things would you get to do in the Man Cave? Did you study in the Man Cave?

A We would study, play games, draw, color.

Q Okay. And were there ever -- I know you testified he abused you in the Man Cave, were there ever things you wanted to do, like play video games or watch movies, were there things you wanted to do in the Man Cave too?

A Yes, I would want to go and play games like Roblox.

Q So if you wanted to play a game like Roblox, how would you get to play Roblox?

A I would have to do those things with him.

Q So you would have to suck on his penis or do some of those sexual things and then you could play Roblox?

A Yes.

Q What is Roblox so if somebody on the jury doesn't know, what is Roblox?

A Roblox is like a Lego style game where you can play online with other people.

Q Okay. Child how old were you when these things started happening to you with your dad?

A Five or six.

Q Okay. So you would have been in kindergarten or first grade?

A Yes.

Q And when they were happening to you, did you tell your mom right away or did you wait?

A No, I waited.

Q Who was the first person that you can remember telling that you were being sexually abused?

A My brother.

Q Why did you decide to tell your brother?

A Because I thought I could, like, trust him more. I just needed to let someone know.

Q Okay. And so tell me about when you told ZJ, what did you tell ZJ?

A I told ZJ that we had been doing those things together.

Q What was ZJ 's reaction?

A He kept on nagging me to tell mom.

Q He wanted you to tell your mom?

A (The witness nods.)

Q Okay. Did you, in fact, tell your mom?

A I waited a little bit but I eventually did.

Q And tell me about when you told your mom.

A Me, my mom and ZJ were inside the car in the

parking lot, David was in the store and I told my mom what happened.

Q Okay. So you told your mom and you said he was in some kind of store?

A Yes.

Q Do you remember how your mom took the news that he'd been sexually abusing you?

A She responded calmly. And she told me not to, like, let him know that I told but she would take care of it. And then she said I was brave to tell.

Q Okay. Do you remember -- so was this on the weekend or a weekday when you finally told your mom what had been going on with you?

A I don't remember.

Q Okay. Do you remember your mom, shortly after telling her about the abuse, do you remember her taking you to Parkside Pediatrics?

A Yes.

Q What is Parkside Pediatrics?

A I believe it's a medical place for children.

Q Okay. And after your mom took you to Parkside Pediatrics, do you remember -- I'm going to show you a couple of pictures. All right. So you went to Parkside Pediatrics. And then do you remember having to come out and meet with DSS and law enforcement here?

A Yes.
Q All right. Let me take you back -- can you see that screen, sweetie? Wherever it's easier to see it. Do you see yourself there?
A I do.
Q And where is your dad?
A He's beside me.
Q Right here?
A Uh-huh.
Q And who's that?
A My mom.
Q All right. So I want to show you -- do you remember meeting with a police lady?
A I do.
Q Look right here, do you remember that police lady?
A I do.
Q Do you see her in the courtroom?
A I do.
Q All right. And one last thing, do you remember this lady right here, see the African American lady right here?
A I do.
Q Okay. Do you remember her being the DSS lady?
A I don't remember her.

Q Okay, that's fine. All right. So when you go over and you're on scene, when the police lady took you to the side, did you immediately tell her that it was your dad or?

A No.

Q What happened there?

A I just remember stating that I wasn't going to be comfortable saying anything. I just really didn't want him to get in trouble.

Q So you're seeing the police there and you're whole family is there and you don't want him to get in trouble. So do you tell her the identity of who's abusing you or do you not?

A No, I don't.

Q Did you explain to her why you don't want to tell her who's doing these things?

A Because I don't want that person to get in trouble.

Q All right. The lady from DSS, do you remember on scene telling about what happened to you at that point, later while you're on scene?

A (The witness shook her head.)

Q Okay. So you talked to the police lady and you talked about the abuse happening to you, do you remember that?

A I do.

Q [redacted] do you remember when you were on the scene, telling that police lady that it wasn't your dad that was abusing you, that it was some boy?

A Yes, ma'am, I remember that.

Q Okay. I want to show you what's been marked as State's Exhibit -- oops, I need to mark it, sorry.

(WHEREUPON, State's Exhibit No. 22 was marked for identification only.)

BY MRS. SUSTAKOVITCH:

Q [redacted] I'm showing you what's been marked as State's Exhibit 22. I'm going to take it out so you can see the disk. Do you recognize that?

A I do.

Q Do you recognize any signatures or dates on it?

A Yes.

Q What's the signature on it?

A [redacted]

Q Have you listened to this prior to court today?

A I have.

Q Is this a fair and accurate representation of you talking about this boy that you said abused you?

A Yes.

MRS. SUSTAKOVITCH: Your Honor, The State, at this time, moves to admit State's Exhibit 22, subject

to The Court's rulings?

THE COURT: All right, subject to any--

MR. YARBOROUGH: Pursuant to -- yeah, thank you, Your Honor.

(WHEREUPON, State's Exhibit No. 22 was admitted into evidence.)

MRS. SUSTAKOVITCH: Permission to publish?

THE COURT: Yes, you may.

MRS. SUSTAKOVITCH: Thank you.

(WHEREUPON, State's Exhibit No. 22 was published.)

BY MRS. SUSTAKOVITCH:

Q Child you started crying at the end and you said, I need to save my daddy, though?

A Uh-huh.

Q What did you think you needed to save your daddy from?

A Going to jail.

Q Okay. And I want to clarify one thing for the jury. So when you first are out there on scene with your whole family -- I'm sorry. And you testified that you didn't want to tell Investigator McHale the name of the person that was abusing you. I want to show you again, this is the DSS lady, Dyneshia Kilgore; do you remember her?

A I don't.

Q Okay. You don't remember telling her that--

MR. YARBOROUGH: Objection, Your Honor, she says she doesn't remember her.

MRS. SUSTAKOVITCH: Okay.

THE COURT: Right, it's sustained.

MRS. SUSTAKOVITCH: All right.

BY MRS. SUSTAKOVITCH:

Q Well, let me say this, do you remember talking to Shannon McHale that day?

A I do.

Q All right. And do you remember that day telling Shannon McHale that your dad has sexually abused you for several years?

A Yes.

Q And do you remember telling Shannon McHale that your father made you do these sex acts with him so that you could play on the computer?

A Yes.

Q And do you remember telling Shannon McHale that you didn't know that it was bad to do that because you were eight?

A Yes.

Q And do you remember telling Shannon McHale that The Defendant put his penis in your mouth?

A Yes.
Q And in your vagina?
A Yes.
Q And your anus, your butt?
A Yes.
Q And you also said that he would rub his penis against your face?
A Yes.
Q And you also said that he licked your vagina, do you remember that?
A I do.
Q Child was it difficult to come here today?
A Yes.
Q And when these things were happening to you, did you -- did you do anything to harm yourself or have trouble dealing with what happened to you?
A Yes, I've been cutting myself.
Q When you say you've been cutting yourself, what does that mean?
A Like cutting yourself on your arm and stuff.
Q What do you cut yourself with?
A Either a knife or the razor on a pencil sharpener.
Q And that's helped you deal with the abuse?
A No, not really.

Q So you were cutting yourself because of why?
A I felt like I was doing something wrong. I was trying to like punish myself for doing it.
Q You thought you were doing something wrong by being involved in these sex acts with your dad?
A Yes and by telling.
Q And by telling?
A (The witness nods.)
Q Okay. Besides cutting yourself, did you have any other thoughts of self harm?
A Yes, I had attempted suicide a few times.
Q And why was that?
A Because I just -- I was tired of all of it.
Q Do you believe it's important for the jury to know what your dad did do to you?
A Yes.

MRS. SUSTAKOVITCH: Please answer any questions that the Defense Counsel has.

THE COURT: Cross-examination.

MR. YARBOROUGH: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. YARBOROUGH:

Q Good morning, Child how are you?
A I'm okay.
Q How old are you now?

A Twelve years old.
Q And so when you said you reported all of this, this was three or four years ago?
A Yes.
Q Okay. And you would have been, like, how old then, like, eight?
A Yes.
Q And I think they showed a picture of you when you were eight, you were -- State's Exhibit 20, is that you?
A Yes.
Q Okay. In that picture you're about eight years old?
A I believe so.
Q Okay. And when you were about eight years old, there's been a really bad fire in your house; right?
A Yes.
Q And that's a picture of the house when the fire went off?
A Yes.
Q And it was right after the fire that y'all moved in with your grandmother; isn't that right?
A Yes.
Q Okay. And so it was about four days after you moved in with your grandmother that the police came to the

house and DSS came to the house; right?

A I think so.

Q Okay. Well, it was -- okay. About that amount of time; right?

A I think so.

Q You don't really remember exactly?

A I don't remember the exact time.

Q Okay. And, at that point, when you first said something to them, you tried to stop and say, look, it was a boy on the bus. You tried to stop it at that point?

A Yes.

Q Because you didn't want to go any further with this story; right? That's what you wanted to stop; right?

A What story?

Q The story about what happened with you and your dad -- well, I guess, you call him David, that's your dad; right?

A My biological dad, yes.

Q Well, back then you called him dad? You called him dad, you didn't call him David; right?

A Yes.

Q Okay. And so, at that point, you told them -- you said that on the tape, you didn't want this to go any further; right? You said it was a boy on the bus; right?

A Yes, which it wasn't.

Q Okay. And after that -- well, let me ask you this. Right before that, your parents had been fighting a lot, your mom and your dad had been fighting a lot?

A No.

Q You hadn't heard them fighting recently before that?

A No, not at all.

Q Okay. Did you -- when you moved in with your grandparents, weren't they fighting a good bit at that point?

A No.

Q Because the house had burned down?

A No, they were very calm.

Q Okay. Did you -- after all -- all of this you had to start going to -- you went to a doctor over at the Julie Valentine Center; is that right?

A Yes.

Q Okay. And you talked to them; right?

A I did.

Q Okay. And they talk about stuff like this; right?

A I think so.

Q Well, you talked to them about it; right?

A Yes.

Q Okay. And you did all of that back when you're

eight years old?

A I believe so, yes.

Q All right. Well, you hadn't seen your dad since 2019; right?

A I think so.

Q Okay. And you moved to Charleston, where is that Monks Corner?

A Yes.

Q And you have a new dad in your life; right?

A I do.

Q Okay. And your mom's got a new man in his [verbatim] life; right?

A Yes.

Q Okay. And y'all live down there as a family?

A Yes.

Q And your grandmother's not around anymore?

A Yeah, she died.

Q All right. And your other grandparents, they're here, they're back in the courtroom; right?

A Yeah.

Q You haven't seen them either, have you?

A No.

Q Did -- there was a -- your brother liked to go outside and played when y'all lived at the house that burned down?

A Yes.
Q And he'd come in and out of the house a lot; right?
A Yes.
Q Okay. And he would like to come up into your dad's room, you call it the Man Cave, but he liked to come up there and play games too; right?
A Yes.
Q Okay. And he got to play on the computer; right?
A (The witness nods.)
Q You would get to play on the computer; right?
A Yes.
Q Okay. And, at that point, your dad had an investigation service; is that right?
A Yes.
Q What was -- he -- do you remember what did he do for a living?
A I think he was a police officer.
Q Okay. And he was proud of that?
A He was.
Q Okay. And in that area in there, there's comic books all kinds of stuff; right? It was a fun area to play. It was also where your dad worked; right? He had his work stuff in there?

A I think so.
Q Okay. And after -- after the house burned down, were you mad at your dad?
A No.
Q You weren't mad at him?
A No.
Q Did you -- you said you've been cutting yourself, are you okay?
A Yes, I'm okay.
Q You're not going to do that anymore; right?
A No.
Q Okay, good. You know that's not a good thing; right?
A Yes.
Q Okay. And the important thing's to take care of yourself; right?
A Yes.
Q Okay. Did -- when y'all were outside those pictures they keep showing you, you told the police officers that this didn't happen; right?
A I said that, yes.
Q You said that. And that was -- that time was, basically, the last time you saw your dad; right?
A Yes.
MR. YARBOROUGH: I don't have any further

questions. Thank you.

THE COURT: Any redirect?

MRS. SUSTAKOVITCH: Just very briefly.

REDIRECT EXAMINATION

BY MRS. SUSTAKOVITCH:

Q Child e, when you were talking about saying the boy on the bus. And you were asked why you were saying that. When you said, I want to save my daddy, though. Did you love your daddy then?

A Yes.

Q When you're eight years old, did you look up to him?

A Yes.

Q Did you have any idea why he was doing these things to you?

A No.

MRS. SUSTAKOVITCH: No further questions.

THE COURT: Thank you, you may step down.

I believe you said the next witness is a little bit lengthy?

MRS. SUSTAKOVITCH: Yes, sir.

THE COURT: Ladies and gentlemen, we're going to break for lunch until 1:30, does that work for everybody? You know my four rules. Don't discuss the case. Do not do any type of research about the

case. Do not review any type of media coverage including social media. If anybody contacts you other than someone from the clerk's office, let the bailiffs know. Otherwise, I will see you back at 1:30. All right, have a good lunch.

(WHEREUPON, the jury left open court at approximately 12:04 p.m.)

THE COURT: All right. Anything else from The State before we break for lunch?

MRS. SUSTAKOVITCH: No, sir.

THE COURT: From The Defense?

MR. YARBOROUGH: No, sir.

THE COURT: All right, be ready to go at 1:30.

MRS. SUSTAKOVITCH: Yes, sir.

(WHEREUPON, a lunch break was taken.)

(WHEREUPON, State's Exhibits Nos. 23-25 were marked for identification only.)

THE COURT: All right, The State ready?

MRS. SUSTAKOVITCH: The State is ready. The State just wanted to remind you, our next witness we are definitely not going to be stating the identity of the perpetrator. It's Dr. Mary Fran Croswell, just wanted to put that on the record, make sure everybody is aware.

THE COURT: Okay, anything from The Defense

before we get the jury?

MR. YARBOROUGH: No, sir.

THE COURT: All right.

(WHEREUPON, the jury entered open court at approximately 1:40 p.m.)

THE COURT: All right, ladies and gentlemen, as you will recall The State was still in their case in chief.

So, at this time, I ask The State to call their next witness.

MRS. SUSTAKOVITCH: Thank you, Your Honor, may it please the Court. The State calls Dr. Mary Fran Croswell.

MARY FRAN CROSWELL, after being duly sworn{,}testified as follows:{F}

THE CLERK: Thank you, please be seated. State your name for the record.

THE WITNESS: Mary Fran Ratford Croswell.

DIRECT EXAMINATION

BY MRS. SUSTAKOVITCH:

Q Good afternoon, Dr. Croswell, what is your occupation?

A I am child abuse pediatrician with Prisma Health.

Q How long have you been a pediatrician with

Prisma Health?

A I have been in this capacity as a child abuse pediatrician since 2006 there.

Q All right. And I want to give the jury a little bit of background. Can you explain to them your work experience, at the present time?

A So my initial work experience after my residency was as a general pediatrician for three years, until I moved into this role as a child abuse pediatrician for the past 16 years.

Q And can you tell them, just backing up a little further, where did you go to college, what was your degree and postgraduate studies?

A I completed my undergraduate degree from Wake Forrest University. I completed my medical degree from the University of Louisville School of Medicine. I completed a pediatric residency here at what was then Greenville Health System. And that's the extent of my background.

Q Okay. So going onto child abuse, can you tell the jury, are you licensed or have board certifications in that area?

A Yes. So I'm licensed to practice medicine in The State of South Carolina. I am board certified both in general pediatrics in the subspeciality of child abuse

pediatrics.

Q And are you a member of any other boards related to that?

A Yes. I am part of the Health [indiscernible] Society which is a medical professional society for child abuse pediatricians. I am involved in the American Academy of Pediatrics section on child abuse. As well as we have a statewide network, which is called The South Carolina Child Abuse Medical Response System.

Q And particularize training in the area of child abuse, can you -- I know you've got a long career, but can you give the jury some of the highlights of your training in that specific area?

A So I've done extensive continue medical education, specifically in the area of child sexual abuse. Both prior to starting in this field and then ongoing while I've been in the field.

Q And have you traveled to different seminars and different seminars like that throughout the years?

A Yes.

Q And have you been, not just a student or participant, but have you also taught at these different trainings?

A Yes, I have.

Q And have you had occasion to perform

examinations on children where there's a concern of sexual abuse?

A Yes, I have.

Q Roughly, how many children would you say you've examined where there's a concern of that?

A It would be probably 1,500, rough estimate. If I'm averaging over the course of my career.

Q Okay. And just to refresh my recollection on when you came to Prisma Health, can you tell me again when that was?

A 2006.

Q Okay. Going forward to what you presently do, can you explain your work on a daily basis right now with seeing children where there's a concern of sexual abuse?

A So in my field we see children both in the inpatient and outpatient world. Primarily most sexual abuse is evaluated at the outpatient world through the different child advocacy centers. Myself and my team cover the child advocacy centers throughout the Upstate of South Carolina. So we travel to Spartanburg, Anderson, Greenwood to perform these evaluations. Occasionally, a child has to be admitted to the hospital due to injuries related to the sexual abuse and then I would evaluate them on the inpatient side.

Q All right. Have you testified in the courts of

this state in the area of pediatrics and child sexual abuse?

A Yes, I have.

Q How many times, Dr. Croswell, have you testified in that area?

A I would estimate about 50 times.

Q And in which courts have you testified?

A Family court and criminal court.

Q And you've been qualified as a expert in family court or general sessions in the area of pediatrics and child sexual abuse?

A Yes, I have.

MRS. SUSTAKOVITCH: Your Honor, at this time, The State moves to admit Dr. Croswell as an expert in pediatrics and child sexual abuse.

THE COURT: Any objection or voir dire of this witness?

MR. YARBOROUGH: Not in that area, no, sir, Your Honor.

THE COURT: All right, any objection?

MR. YARBOROUGH: No, sir.

THE COURT: All right. Then she is qualified as a expert in the field of pediatric child sexual abuse.

Ladies and gentlemen of the jury, normally a

witness can only testify what they directly observed or heard or -- they cannot give their opinions and conclusions. An exception to that rule is when somebody has been qualified as a expert and then they can give their opinion based on their experience or education, their training, their job skills and so forth. And in this case, she has been qualified as a expert in pediatric and child sexual abuse. And like all evidence you're to give it the weight and value which you feel is appropriate.

So you made proceed.

MRS. SUSTAKOVITCH: Thank you, Your Honor.

BY MRS. SUSTAKOVITCH:

Q Dr. Croswell, did you preform an exam on a child that's led you to be in court today to testify?

A Yes, I have.

Q And what's the name of the child that you examined?

A Her name is [redacted]

Q How old was [redacted] when you examined her?

A She was eight years old.

Q And when did you perform this exam?

A It was on April 24th, 2019.

Q How did [redacted] get referred to you?

A She was referred by Investigator McHale from the

Greenville County Sheriff's Office.

Q And who brought Child to her exam?

A Her mother did.

Q All right. Just to educate the jury, are there different types of exams when there's a concern of sexual assault?

A Yes. There are both acute and chronic exams.

Q Okay. And starting first, can you tell the jury what an acute exam would be?

A So an acute exam is when a child discloses sexual abuse within 72 hours of the last contact having happened. If that occurs, they're usually recommended to be evaluated in the emergency room where an evidence collection kit can be performed. After that time, greater than 72 hours, we would consider that a chronic sexual abuse exam and that child would be referred to the child advocacy center for a medical exam.

Q And is one type of exam in your experience more common than the other?

A The chronic sexual exam is much more common as children often don't disclose right away. It's usually days, weeks, years, later, if at all.

Q All right. And so what type of exam did Child have on this date?

A She had a chronic exam.

Q All right.

(WHEREUPON, State's Exhibit No. 26 was marked for identification only.)

BY MRS. SUSTAKOVITCH:

Q Dr. Croswell, can you walk the jury through a chronic medical examine on a child, roughly, Child age? What is the child asked to do in that situation?

A So in our practice, the child advocacy center is met by a child life specialist, who is someone who is trained to provide developmentally appropriate education on what medical procedure is about to happen. She brings the child to the exam room. And goes through the process of what exactly we'll be doing during that exam with the caregiver and the child. Then I will take the caregiver to obtain a medical history on the child. Then I will talk to the child by him or herself to obtain an independent history about what has happened. Then next well perform a physical exam. Which is a head to toe exam. The last part of the exam is for sexual abuse evaluations is for the use of a colposcope. Which is a piece of medical equipment that allows us to have a bright light, magnification system as well as photo document -- the ability the photo document any findings. Once that is done, we will recommend any lab work that needs to be done based on the information that has been provided. And then

make any recommendations at that point in time.

Q All right. Dr. Croswell, I'm showing you what's marked as State's Exhibit 26, do you recognize what that is?

A Yes.

Q What is that?

A It's a drawing of the female genitalia.

Q And will this drawing assist you in explaining to the jury the general anatomy of a female?

A Yes.

MRS. SUSTAKOVITCH: All right. Your Honor, at this time, The State moves to admit State's Exhibit 26.

THE COURT: Any objection?

MR. YARBOROUGH: No, sir. That's just a drawing; right?

MRS. SUSTAKOVITCH: Yes, it's not an actual picture.

(WHEREUPON, State's Exhibit No. 26 was admitted into evidence.)

BY MRS. SUSTAKOVITCH:

Q Dr. Croswell, just to help the jury understand, back to a chronic medical exam, you've got, say Child let's walk through this picture. And if you could just generally describe the anatomy of a young female child.

MRS. SUSTAKOVITCH: Your Honor, can we have --

THE COURT: You have to turn them back on.

MRS. SUSTAKOVITCH: Oh. Are we okay just to continue with that?

THE COURT: Should be just a minute.

MRS. SUSTAKOVITCH: Okay.

THE COURT: Are they on?

THE JURY: They're coming on.

THE COURT: Times out at lunchtime every time.

All right, you can proceed.

BY MRS. SUSTAKOVITCH:

Q So, Dr. Croswell, feel free to stand up, if you want. Can you just walk us through the general anatomy of a female child?

A Sure. So when you first approach the female anatomy, the first thing you're going to see are the outer labia. Which are layers of tissue that cover the internal -- the interior portion. Once that's pulled aside, you'll see two other layers of tissue called the labia minora is the scientific term, which is the inner labia. And then beneath that you'll find two openings. One is the urethra, where the urine comes out. And then inferior to that is the vaginal opening. The vaginal opening is either -- it's partially covered by a layer of tissue called the hymen, which is not represented here but

it just partially covers this outer layer of the vagina.

Q All right, thank you. Dr. Croswell, going back to the chronic medical exam, Child is asked to -- what position is she asked to get into during the exam?

A So she is on -- on her back with her knees opened to the side to -- in order to -- so that I can visualize her genitalia.

Q Okay. And the colposcope, what does that do again?

A Again, it's a bright light. It has like a microscope lenses to magnify the findings on her genitalia. And then it has a camera attached to be able to photo document that exam.

Q All right. Dr.~Croswell, is part of your medical diagnosis and treatment of any child where there's a concern of sexual abuse, is it important for you to find out the suspected form of trauma so you can treat the child?

A Yes. One of the reasons I do a independent history with the child is to understand exactly what it is that has or hasn't happened. So that can guide my physical exam, as well as inform how -- what lab tests that I need to do, as well as any recommendations I want to make for the child.

Q All right. Did you initially speak with Child

and her mother or just Child as we go into this?

A Initially, mom stepped out of the room and I was speaking just to Child

Q And mom being Marita?

A Yes.

Q So mom -- Marita steps out of the room and you're speak with Child were you able to determine the chief medical complaints that you were following up on, at that time?

A Not initially.

Q All right. So, let's walk through that. Do you recall that meeting with Child

A Yes, I do.

Q And do you have any specific memory of Child [redacted] that day?

A Yes, I do.

Q Can you relay that to the jury?

A When I initially began talking to Child she appeared nervous.

MR. YARBOROUGH: Your Honor, I object to that. That's all information that Child -- that would all be hearsay.

MRS. SUSTAKOVITCH: She's describing her demeanor and what she observed of the child.

THE COURT: All right [indiscernible] of what

she said. Otherwise, I sustain in that regard.

MRS. SUSTAKOVITCH: Your Honor, may we approach?

THE COURT: Yes.

MRS. SUSTAKOVITCH: Okay.

(WHEREUPON, an off-the-record bench conference was held in the presence of the jury but out of the hearing of the jury.)

BY MRS. SUSTAKOVITCH:

Q So, Dr. Croswell, going back to Child do you specifically remember your interaction with her?

A Yes. As she began to share information, there was truly a visible change in her demeanor. That was -- made it very memorable in my career.

Q All right. Without stating the identity of the perpetrator, if she gave you one, did Child when she was meeting with you one-on-one, was she able to identify who sexually abused her?

A Not when it was one-on-one.

Q All right. So when she was not able to tell you that, what, if anything, did you do?

A So I asked her if there was something that scared her about talking to me? And she expressed fear that I would have to call the police. And then -- so she didn't feel comfortable talking anymore without her mom not being there.

Q Okay. And just -- we'll try not to talk about what Child said. But at this point, what did you do with Child Did you allow the mom to come back in or what did you do?

A I allowed the mom to come back in.

Q All right. So, at this point, without stating the identity of the perpetrator, did you again ask whether she was the victim of sexual abuse?

A Yes.

Q And was Child at that point, able to clearly identify, without stating the name, who that person was?

A Yes.

Q And what, if anything, did you notice about her demeanor?

A Once -- she just became visibly more confident and empowered is just the word I would use to describe that visible change I saw in her.

Q Now, did Marita stay in the room for the rest of the exam or just the very beginning when she said who the abuser was?

A She left immediately after that.

Q All right. At this point, when you're back and it's just you and Child did Child indicate to you the timeframe that the abuse had occurred?

A Yes.

Q What did she tell you, doctor?

A She said it started in 2016 and had occurred most recently as April of 2019, that month that I was seeing her.

Q All right. Back to medical diagnosis and treatment of a child, did you ask Child the specific types of trauma that she had suffered that you were there to examine for?

A Yes, I did.

Q Can you relay what those specific forms were?

A Penial/vaginal contact or penetration, penial/anal contact or penetration, oral or mouth contact of Child on his penis. And fondling of her genitalia.

Q Okay. And so I'm clear and the jury's clear, who's all in the room during this conversation?

A It's myself, Child and the child life specialist.

Q Okay. So I first want to go through each one of those and talk about what your finding was. Dr.~Croswell, as to the oral sex, can you talk about what your finding was related to an allegation of oral sex on Child Or that she was involved in oral sex encounter?

A So her mouth exam was normal. There were no -- there were no abnormalities on her exam.

Q Okay. And so the complaint was that she had to

perform oral sex on the perpetrator?

A That's correct.

Q Do you do STD testing and things like when there's a concern about that type of contact?

A Yes, I do.

Q All right. And what were the results of that?

A We do throat swab for gonorrhea and chlamydia, which were negative.

Q All right. Then I want to go to the vaginal/penial complaint. As to the vaginal genital area, what was the finding on Child exam?

A She had a normal exam.

Q Now, can you explain to the jury what that means when you say a normal exam?

A So when I'm looking at the genitalia--

Q You want me to put this back?

A That's okay. I'm looking for any, you know, bruising, bleeding, tears that would be acute findings. Everything was very normal on her exam on the day that I evaluated her.

Q Okay. And can you explain to the jury, in your experience in conducting medical exams, how often do exams come back normal, quote unquote, when there's a history of sexual abuse?

A So there have been multiple medical studies

looking at physical exam findings in child sexual abuse. And overwhelmingly -- the overwhelming majority of those cases, there are no specific findings of sexual abuse on the physical exam. And those numbers can range anywhere from 80 percent to greater than 97 percent of the time, depending on what study that you're looking at.

Q And can you explain to the jury a little further why might an exam come back normal when there is a history of vaginal/penial penetration or contact?

A So I think there are a couple of different reasons. One is that the area involved is the mucosal tissue. And so if there is a type of injury to that area it can heal very rapidly, you know, within days without leaving a physical sign of the injury. Secondly, is the perception of penetration. A child doesn't necessarily have or shouldn't have the knowledge of full penetration. So perceiving the penis entering the labia and either having what can be labial intercourse or rubbing against the vagina opening, may not be what we perceive as penetration into the vagina but it's perceived as the child going inside her.

Q Okay. Moving forward the anal exam, did you examine Child anal area?

A Yes, I did.

Q And what, if anything, were the result of that

exam?

A She had normal -- a normal anal exam.

Q And when you have a history of anal penetration by a penis, is it surprising to you that that would come back normal?

A No.

Q Can you explain that?

A Again, the anus is also made of mucosal tissue so injuries can, in that area, can heal rapidly. Secondly, if you think about the anus, it is controlled by a muscle called the anal sphincter that's designed to constrict and then relax to allow large objects, bowl movements, to pass through. The same can happen, the anal sphincter can relax to allow objects to enter without resulting in injury from that.

Q All right. And finally, as to, I believe you said, digital fondling of the hand in the vaginal area. What, if anything, did you find related to that concern?

A I did not find any specific findings on the genitalia.

Q Did that in anyway surprise you based on the allegations?

A No.

Q Okay. Dr. Croswell, back to the treatment and diagnosis of Child you said that you had a STD test

done?

A Yes.

Q And all of those, what were the results?

A They were all negative.

Q All right.

Please answer any questions that the Defense Counsel has.

THE COURT: Cross-examination.

MR. YARBOROUGH: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. YARBOROUGH:

Q Good afternoon, how are you?

A I'm well.

Q Just cut through all of it. You -- you brought -- she was brought in for you to examine her for child sexual abuse; correct?

A That's correct.

Q And so you did that examination; right?

A Yes.

Q And you found no medical evidence of child sexual abuse?

A I found nothing on her physical exam specific for child sexual abuse.

Q Okay. And her mother brought her in and she was much easier to talk to with her mother in the room about

it?

A She was able to start sharing information once her mother was in the room.

Q But when you -- when you did the -- when you did the final examination of the vagina and the rectum and the mouth and the breast, was the mother in the room or out?

A We usually give the child the choice. And she was -- she was in the room.

Q She was in the room. And when you looked at the vagina, you found a normal external female genitalia; right?

A That's correct.

Q And you found a crescent shaped hymen?

A That's correct.

Q And so the hymen had not been torn?

A That is not necessarily the case--

Q Wait a second, I'll let you explain but I'm asking you a question. Was the hymen torn?

A There was no separation in the hymen at the time that I saw her.

Q And it was found smooth; correct?

A Yes.

Q And there was no bruising?

A No.

Q No lacerations?

A No.

Q No scraping?

A No.

Q And you said something with the rectum. You say the rectum goes back -- like, if you discharge something it goes back to the original place? It was a normal rectum that you examined?

A That's correct.

Q That's correct. And was this girl eight? How old was she when you examined her?

A She was eight years old.

Q Okay. And just so the prosecution doesn't get back up here, you have an explanation that hymen's can regrow; right? That's your--

A The hymen can heal.

Q Can heal. But that -- that's a very small girl; correct?

A Yes.

Q Okay. And but --

Will you stand up, David?

He's a rather large man?

A Yes.

Q Okay. And if, as I believe, if this little girl had been, for lack of a better word, raped 20 or 30 times, wouldn't you have expected the hymen to have been torn?

A So there can be tears in the hymen that have been shown in the medical literature to heal.

Q Right.

A There can be types of contact with the genitalia that may not involve full vaginal penetration.

Q Well, I'm not going to ask you how old you are but I'm going to tell you I'm 63 years old, okay. Would you agree men in 40, 50--

MRS. SUSTAKOVITCH: Your Honor, can we approach?

MR. YARBOROUGH: I'll ask the question a different way.

MRS. SUSTAKOVITCH: Okay.

BY MR. YARBOROUGH:

Q There has been, historically, just as much information saying that the hymen would be torn during sex is not correct?

A That is not the case. In fact, there's a medical study on pregnant teenagers who have normal intact hymens. Which would show that it, you know, can be penetrated without--

Q Can be? Can be?

A In that particular study, the majority of them were.

Q No, I'm not -- I don't disagree with you about your study, what I'm saying is I'm talking about somebody

that has been penetrated 20 or 30 times by a grown man. Are you saying that the hymen would not be torn?

A Not -- depending on what penetration means and that's why--

Q But -- but if the allegations are criminal sexual conduct--

MRS. SUSTAKOVITCH: Your Honor --

MR. YARBOROUGH: Okay, can I --

MRS. SUSTAKOVITCH: -- allow the witness to finish--

MR. YARBOROUGH: Sure, yeah, finish.

MRS. SUSTAKOVITCH: Badgering.

BY MR. YARBOROUGH:

Q If I was badgering you, I apologize. I'm sorry. Go ahead and answer the question.

A So I think it's, again, depending on the interpretation of penetration, on one hand. But there are medical studies that show and follow children who have had hymenal tears to the point that they're well healed and without visible injury to the hymen. So, I can't tell you that it was or wasn't torn. But what I can tell you is that it was normal and that's still consistent with the information that was provided to me by my patient.

Q Okay. But in your report you said it was a crescent shaped hymen with smooth uninterrupted margins;

correct?

A That is correct.

Q And you said no vaginal discharge; correct?

A That's correct.

Q Normal anal sphincter tone without fissure. I don't know what that word is. Fissure, what's that word?

A It's a small tear.

Q Okay, no tear?

A No tear.

Q No lacerations or bruising; correct?

A That's correct.

Q Okay, thank you. And I apologize if you felt like I was badgering you, thank you.

THE COURT: All right, redirect?

MRS. SUSTAKOVITCH: Just very briefly.

REDIRECT EXAMINATION

BY MRS. SUSTAKOVITCH:

Q Dr. Croswell, so want to hit a few highlights. Back to the study. There's various sexual battery in this case that were concerns; correct?

A Yes.

Q All right, one by one. For vaginal/penial contact, you just testified there's a study. Could you tell us a little bit more about that with teenage girls and the findings of that study?

A Yeah. So there was a study of pregnant teenagers, teenage females, who had, obviously, been penetrated in order to be pregnant. And I don't remember the exact number but the majority of those, you know, females had hymens that were appeared to be normal on their exam.

Q And the mucosal tissue in the vaginal area, does that repair itself quickly?

A Yes, it does.

Q As far as what you just relayed about children don't always understand penetration, could you explain that a little further related to the anatomy of a child?

A So, you know, if there's something going through, you know, talk about the labia majora, labia minora, there's something going through those tissues touching the outside of the vaginal opening that may seem like penetration, even though it may not penetrate fully into the hymen, as adults think of penetration.

Q And moving on to an allegation of oral sex on a child. If -- would you be surprised if there's no finding if the allegation is a child being licked in their labia area, would you expect to find anything?

A No, I would not.

Q Okay. And then with anal sex, you testified her findings were normal?

A Yes.

Q And as far as the anus, could you explain to the jury, a little bit more, about why having a normal exam is what you would expect there?

A Again, mucosal tissue, so it heals very rapidly. And then just the way that the body is designed, there is a muscle called the anal sphincter; which it relaxes to allow objects to pass and then constricts back in its normal state. So that ability to relax can occur for both directions of things either entering the anus or leaving the anus.

Q And would lubrication of some type assist in also having a more excepted normal exam for the anal exam?

A It very well could.

MRS. SUSTAKOVITCH: No further questions, thank you.

MR. YARBOROUGH: Just one question, Your Honor.

THE COURT: All right.

RECROSS-EXAMINATION

BY MR. YARBOROUGH:

Q You cited a study dealing with teenagers?

A Yes.

Q How old was this girl?

A She was eight.

MR. YARBOROUGH: Thank you.

THE COURT: All right, thank you, you may step down.

MRS. SUSTAKOVITCH: Your Honor, may this witness be excused?

THE COURT: Any objection?

MR. YARBOROUGH: None at all, thank you.

MRS. SUSTAKOVITCH: Your Honor, may we approach related to the next witness?

THE COURT: Yes.

(WHEREUPON, an off-the-record bench conference was held in the presence of the jury but out of the hearing of the jury.)

THE COURT: Ladies and gentlemen, we need to take a short break, this is going to be a real short break. As soon as I said that I probably jinxed it. All right, go back in your jury room, don't discuss the case, we'll bring you back out in just a few minutes.

(WHEREUPON, the jury left open court at approximately 2:15 p.m.)

THE COURT: All right.

MR. MILLER: Your Honor, I just want to bring to the Court's attention, the next witness is Investigator Shannon McHale and we have a Denno hearing overall interview of The Defendant. The

State did proposed redactions, that we would address. I've given the transcript of the x out where The State has proposed redactions. Just wanted to make sure that we're in agreement on what those redactions are with The Defense before we get. . .

THE COURT: All right.

MR. YARBOROUGH: I didn't know that they gave me what they were -- I've got something in my hand that I think --

Is that what you're referring to? Just let me. . .

THE COURT: It had disappearing ink and you have to pour lemon on it before you could read it.

MR. MILLER: And, Judge, I'll say when it references a polygraph--

THE COURT: Do you need to discuss that with your client? You want a few minutes?

MR. YARBOROUGH: I mean, it looks to me like. . .

THE COURT: Chat with him and then--

MR. YARBOROUGH: I don't think I have what you're talking about.

MR. MILLER: This is our own trial preparation work product.

THE COURT: Why don't y'all chat and figure it

out.

MR. MILLER: Judge, I guess while we're here with the jury out, I believe there was a statement made in regards that Mr. Yarborough had a Denno hearing related to future a witness that we're not doing yet. That would be Investigator Laura Jones that we have the other Denno hearing related to about there was a statement, I believe, Mr. Yarborough was taking exception to, making a 403 argument about, in regards to in the interview with Laura Jones of The Defendant stating that, at one point, Child while he was asleep, crawled into his bed and started to perform oral sex on him. There are other statements in that interview The State would seek to introduce, we wanted to address that now while the jury was out.

THE COURT: And that's not related to this witness?

MR. MILLER: No, that is a different witness. I believe Mr. Yarborough said that he is fine with the proposed redactions on this interview but while the jury was out, didn't know if we wanted to go ahead and discuss--

THE COURT: Is that your next witness?

MRS. SUSTAKOVITCH: Your Honor, the schedule--

MR. MILLER: The one after next.

MRS. SUSTAKOVITCH: I'm sorry to interrupt.

Just planning purposes, we've got Shannon McHale, the mother of the victim and then Investigator Laura Jones. And depending on where we stop, I didn't know if we were going to get to the forensic interview today, we can kind of look at that. But the next three, if we could figure out if there's any objection to the statements coming in. One is this statement to Shannon McHale that was already discussed. Then the mom will be next. Then Investigator Laura Jones, Judge, that one was he came in to take a polygraph. We certainly know that no comments about the polygraph will be admissible. But it was statements he made at the polygraph that The State is seeking to elicit. Where he says he woke up one morning and his child -- his daughter was performing oral sex on him. The State is intending to put that in.

MR. MILLER: In addition to other statements.

THE COURT: All right. And what's the basis for putting that in?

MR. MILLER: The -- Investigator Laura Jones there was a interview, there was a Waiver of Rights form, he freely and voluntarily gave a statement as well to Investigator Jones. That was the same one we

discussed earlier. The Denno hearing is they have the equipment failure where there was the audio/video but the equipment --

THE COURT: All right, we've already addressed that one; right?

MR. MILLER: Well, there were statements, I believe, Mr. Yarborough is -- then we went from a Denno kind of went into a bit of a 403 that he wanted to exclude that one specific statement, is the only one I'm aware of, that that's the one The State would seek to introduce as well as others but--

THE COURT: Right.

MR. MILLER: We did have a Denno hearing on that but I don't know if there was the formal ruling as far as Mr. Yarborough's 403 on that--

THE COURT: I think I just kind of, you know, like wanted to get more into it. And the basis for introducing that statement--

MR. MILLER: He's admitting to a sexual act with the victim.

MR. YARBOROUGH: I don't think that's what he admitted to, Your Honor. I think -- and that's the problem, none of it is on tape. And, I mean, no notes. It's just some report that was typed up several days later. He doesn't -- he denies saying

that. You know, I think -- I was going to ask the wife about what he said. I mean, I think they talked about it at some point.

MR. MILLER: Judge, I would say that would be weight of the evidence. And that would be for the jury to consider and subject to cross-examination. Not an admissibility argument under 403 or under Denno, that would be purely weight of the evidence for the jury to consider to give it any weight they wanted to either way.

MR. YARBOROUGH: And didn't they say -- maybe I misunderstood them. But I thought he was down there to take a polygraph exam--

MRS. SUSTAKOVITCH: Judge, if I could clear this up, I'm sorry. The mom in this case is going to testify that after the allegations came out, that this Defendant called her up and wanted to meet at Barnes and Noble. And The Defendant told the victim's mom about this incident. Where he woke up and just all of a sudden, there's Child performing a blow job on him. So he said that to the victim's mom and she's going to testify to that.

Also, independently, with Investigator Laura Jones, The State's seeking admission of that to law enforcement. Because the jury can decide whether or

not to believe the victim's mom. They can sit there and weigh that and witness credibility and believe anything they want. But the fact that he said the same thing in the situation that he did after waiving his rights and voluntarily coming down, that statement should come in to Laura Jones. Because he's saying the same thing. Now, while he's going to try to argue it's an accident or--

MR. YARBOROUGH: Accident--

MRS. SUSTAKOVITCH: Or he's the victim. I guess he's the victim of his own daughter. That he woke up and was just -- but those statements come in, Judge. Because The State -- clearly, he's admitting to being involved in a sexual act, which is the substance of what we're here for. And it's going to be The State's position, frankly, it's preposterous what he's saying. But that's why it needs to come in from law enforcement as well. Because he stated that after waiving Miranda, freely and voluntarily. And that would be why The State would seek to admit it.

THE COURT: Mr. Yarborough.

MR. YARBOROUGH: Your Honor, I think it's extremely prejudicial and it doesn't go--

THE COURT: I mean, isn't all the evidence that The State's presenting prejudicial?

MR. YARBOROUGH: You know, that's--

THE COURT: I mean, isn't that the whole purpose of the prosecution?

MR. YARBOROUGH: It is the purpose of the prosecution but they are certain rules to protect The Defendant. And I think in this case there are rules that -- that -- this goes beyond anything that -- that statement -- if that statement was made to law enforcement there should have been some -- should have been taped, there should have been some notes, there should have been something. I can argue that to the jury but just having that police officer testify that that's what he said is extremely prejudicial under the circumstances. As I understand, he was down there to take a polygraph. And it was like why would she say this or something like that? I think that's right. And that's what he told them. I mean, it's -- it's -- you know -- so we can't put the whole -- because the polygraph information not coming in, we can't do the whole -- whole -- put it all in together so they understand the facts and circumstances of why he might have said that. And so it -- yeah, it goes to the weight and it is prejudicial. And so I'd ask The Court not to allow it.

THE COURT: Well, I mean, I believe that that's the basis, I'm going to deny -- I'm going to overrule your objection.

MR. YARBOROUGH: Oh and I--

MRS. SUSTAKOVITCH: Thank you, Your Honor.

MR. YARBOROUGH: -- I go back into my -- I forgot, I wanted to say that violates the confrontation clause because there's nothing -- there's nothing there that -- he -- he can't question her, all she's got is some report that she wrote two days later.

THE COURT: I mean, confrontation clause is confront the witness. And you do have the ability to do that.

MR. YARBOROUGH: Well, I can't confront the witness with it because I don't have any notes.

THE COURT: Well, you can cross-examine her.

MR. YARBOROUGH: Thank you, Judge.

THE COURT: All right, anything else?

MR. MILLER: Nothing from The state.

THE COURT: All right, ready for the jury?

MR. YARBOROUGH: Yes, sir.

THE COURT: All right, State's ready for the jury?

MRS. SUSTAKOVITCH: Yes, sir.

THE COURT: All right, bring the jury in.

(WHEREUPON, the jury entered open court at approximately 2:28 p.m.)

THE COURT: While the --

Do you expect Galloway-Williams, is that going to be your last witness tomorrow?

MRS. SUSTAKOVITCH: Yes, sir, and it will be tomorrow morning.

THE COURT: Okay.

All right, State may call your next witness.

MR. MILLER: Thank you, Your Honor, may it please the Court. The State calls Investigator Shannon McHale.

SHANNON MCHALE, after being duly sworn{,}testified as follows:{F}

THE CLERK: Please be seated. State your name for the record.

THE WITNESS: Shannon McHale.

DIRECT EXAMINATION

BY MR. MILLER:

Q Investigator McHale, where are you employed?

A I'm currently employed at the Greenville County Sheriff's Office.

Q And how long have you been with sheriff's office?

A Coming up on eight years.

Q What were you doing before the sheriff's office? Educational background?

A I attended Greenville -- oh, sorry. I attended Georgia College State University where I double majored in political science and criminal justice. I worked in the private sector before eventually working in law enforcement.

Q What is your current role with the sheriff's office?

A I'm an investigator in the homicide unit.

Q Okay. What other roles have you had?

A Prior to coming into the homicide unit I was initially hired at the sheriff's office working uniform patrol. And then after that I was an investigator with the Crimes Against Children Unit in the Special Investigation Division.

Q Okay. And were you -- what unit were you in in 2019?

A The Crimes Against Children Unit.

Q And a little bit about that unit, how do cases come to the Crimes Against Children Unit?

A There's three primary ways. We can get a report made to law enforcement, uniform patrol goes out there, either calls an investigator or gets referred out to the

division for investigation is one. We can have a walk-in either to our specific office or the front desk at the law enforcement center. Or we can also receive a DSS referral.

Q Okay. And are you familiar with this case?

A Yes.

Q Why are you familiar with it?

A I was the lead investigator.

Q How did this case come to you?

A We received a DSS referral.

Q And are you familiar with David Jones?

A Yes.

Q Do you see him in the courtroom here today?

A Yes.

Q And could you point him out?

A He's sitting over there wearing a blue shirt.

MR. MILLER: Your Honor, let the record reflect the witness has identified The Defendant.

THE COURT: Yes.

BY MR. MILLER:

Q You said you got a DSS report?

A Yes.

Q And when you get a report like this, what kind of response do you need to do?

A We consider this, essentially, an emergency

response, it needs to be addressed immediately. And is consistent with DSS zero to two policy.

Q And what kind of call was it that came in? What type of case?

A It was allegations of sexual abuse.

Q Okay. So where did you respond initially? Or did you go and respond, did you do any prior work before that?

A When we received the information, I conducted a check with our system to see if it had been reported previously to law enforcement at all. That's where I learned of the address involved in this incident and did some background check there.

Q What's the address there?

A Address in Simpsonville.

Q What county is that in?

A That's in Greenville County.

Q What was the background check or history check?

A In researching call history, I learned that there was a fire that had occurred at the beginning of April 2019.

Q And did you select the meeting location?

A No.

Q Who did?

A DSS.

Q When you responded to the scene who was present?
A When I initially responded to the scene it was myself, Dyneshia Kilgore with DSS and two deputies with uniform patrol.
Q What is everybody's role at the scene?
A DSS conducts their own separation investigation for the department of social services. And the uniform patrol deputies are there for scene security and officer presence.
Q So is this you?
A Yes.
Q Who is this?
A That's Dyneshia Kilgore with DSS.
Q Here?
A One of the uniform patrol deputies.
Q Where are y'all right now?
A We are at the corner of Rio Grande and Carl Street and actually in the yard of Address.
Q Okay. And what's going on at that moment in time?
A We are waiting on the Jones to arrive and I believe they're pulling up in that video.
Q Who are you expecting to arrive?
A Marita Jones, the mother, and potentially the children.

Q So you weren't expecting anybody else?
A No.
Q You weren't expecting -- did you see the picture earlier in court of that that showed everybody who arrived?
A Yes.
Q So that was not how you were expecting this to go?
A Correct.
Q When they arrived, what's the first step you do?
A I briefly make contact with the family and really focusing on Child And separated her from Marita and David and speak to her one-on-one separately.
Q So you speak to Child separately?
A Yes.
Q Why do you want to speak with her separately?
A To let her not be influenced by anyone, not have any of the adults answer the questions for her, to kind of put her in a neutral area and not to have her distracted at all.
Q Okay. And when you're talking with her, is this a full interview?
A It's just a brief interview, introduction to myself and just to kind of confirm a crime did occur. Nothing extensive.

Q Okay. And you were able to speak with her alone?

A Yes.

Q Okay. And where was everybody else located?

A They were on one side of the property near the vehicles. I had stepped over with Child to a separate area on the side of the property.

Q Okay. While you were speaking with Child and if it was disclosed, do not say the name of the perpetrator, but did Child disclose to you that she had been the victim of sexual assault?

A Yes.

Q Having heard that, what are the next steps that you need to take in your investigation?

A After her initial disclosure, our plans would be to set up a forensic interview through the Julie Valentine Center. We would also, initially on scene, of course, speak with the parents, kind of get some background information. Advise them what the next step is in this investigation.

Q Okay. So getting information, does that sort of fulfill your reason for the initial response?

A Yes.

Q Okay. And you mentioned the forensic interview, what is a forensic interview?

A A forensic interview is a special interview conducted with the children. It's conducted by a certified individual. It's done by a third party. It's neutral and fact finding.

Q Okay. And I want to go back to when you said Child did disclose that she was sexually assaulted. If it was disclosed, without saying the name, did Child give the name of the person that had performed the sexual assault?

A No.

Q Okay. So you said after speaking with Child who did you go speak with next?

A I then met with Marita and David. And Dyneshia Kilgore was present as well.

Q Okay. So in that discussion, it was -- just to be clear, it was you, Dyneshia Kilgore, Marita Jones and David Jones?

A Yes.

Q Okay. And what is that conversation typically about? What's going on there?

A That's to explain the allegations. To kind of, again, go over the next steps in the investigation, to obtain background information, contact information.

Q Okay. At this point, was anybody able to leave where y'all were? Leave the house, leave the yard?

A No one was under arrest.

Q Okay. What about the uniform patrol officers?

A So, at that point in time, because my invest -- in speaking with Child and speaking with the parents, I went and contacted -- spoke with uniform patrol, the two deputies there and advised them that they were free to leave and go back and be available for service and answer more calls.

Q Okay. Why, at that point in time, did you feel that you didn't need them there anymore?

A We were just planning on finishing up some paperwork with DSS and the family.

Q So you were expecting this interaction to be over fairly soon?

A Yes.

Q Okay. Was it?

A No.

Q Okay. So after you spoke with the uniform officers, what were the next steps you took?

A I then went back over to Marita and David and spoke to them.

Q Okay. After you spoke with them, did you speak with anybody else?

A Yes, I walked back over to Child standard process, kind of let them know, hey, thank you for

speaking with me. And that just because we're done here doesn't mean you won't be seeing me again.

Q Did you ever speak with ZJ ?

A At that point, no.

Q Okay.

A After speaking with Child yes.

Q After you spoke with Child yes?

A Yes.

Q And who was present this time when you were speaking with Child

A Dyneshia Kilgore.

Q Okay. Was there any difference in Child demeanor in this time that you were speaking with her?

A Yes. The first time she was uncertain, nervous, not forthcoming with certain information. Specifically, related to who the individual was. Who had sexually abused her. The second time I spoke with her she was much more forthcoming with both answers and details.

Q And without stating the name during this interaction with Child where it was just you, Dyneshia Kilgore and Child did Child give the name of the person who had been sexually abusing her?

A Yes.

Q And did -- you said Child gave more information about the types of sexual abuse?

A She did.

Q Okay. And after this interaction you went and spoke with ZJ ?

A Yes.

Q Okay. What were you -- generally, what did you want to speak with ZJ about?

A It was due to some of the stuff Child had spoken with me to speak to ZJ .

Q Okay. Would this had been a full on interview as well?

A No.

Q After you speak with ZJ , is there anyone else you speak with?

A We then meet with the parents. Specifically, I spoke with Marita.

Q How did that interaction come about?

A When I went to speak with the family, Marita gave us indication that she wanted to speak with me and Dyneshia Kilgore one-on-one.

Q Okay. So I just want to be clear, this interaction were you having now with just yourself, Dyneshia Kilgore and Marita?

A That's correct, yes.

Q And because the situation did not go how you think it would go, the uniform officers, were they around

anymore?

A No, they had already been available for calls and left the scene.

Q Okay. So there wouldn't have been any other adult around, other than The Defendant, that would have been present around the children?

A Correct.

Q And I want to talk a little bit about Marita. Did her demeanor change at all in this interaction?

A Yes.

Q How so?

A When I first interacted with her, Marita almost appeared to have a front. This time when I spoke with her she was quieter, whispering -- when she tried to get away from David to speak with us one-on-one, she began to whisper and talk quieter.

Q Was Marita more forthcoming with information?

A Yes.

Q Okay. About how long did that interaction take place?

A Approximately 14 minutes.

Q Okay. And after that interaction, do you speak with anybody else?

A After speaking with Marita again, I go over and speak with Child one last time.

Q Okay. And what do you go and speak with Child about?

A This time the conversation was investigation on scene was over. And again, I was going to just kind of let her know what was going on.

Q Okay. And what was Child demeanor like?

A She was visibly upset, nervous and wanted to speak with me about something.

Q And were you in the courtroom earlier for Child testimony?

A Yes.

Q And did you hear what was played over the audio? I believe it would have be State's Exhibit 22?

A Yes.

Q Okay. Is that the last interaction you had with Child

A Yes.

Q Where she gave that statement?

A Yes.

Q Okay. After that interaction with Child what happened? What do you do next?

A After I speak with Child really, at that point, we again wrapped it up. And allowed Marita, David, ZJ and Child to leave.

Q Is there any type of plan that's put into place?

A Yes, we implement -- DSS implements what's called a safety plan.

Q What, in general, is a safety plan?

A A safety plan is kind of an agreement put in place with the family listing that Marita would need to take care of making sure that other than the ride home, David would have no more interactions with Child

Q So David having no more interactions with Child that was the result of that safety plan?

A Yes.

Q Where were Marita, ZJ and Child going to go?

A They were going to go to Marita's mother and father's house located at 1 Moreland Place or Way.

Q Okay. And Investigator McHale, before we move on, I need to go back. I'm sorry, I meant to ask you a question, I didn't. Going back to the initial conversation you had with Child

A Uh-huh.

Q Where I believe you stated she did not -- she did not identify who did the assault. Was she giving any -- what was her demeanor? What was going on with her there? What was her demeanor?

A So during my first interaction with her she was willing to speak briefly about the assault but unwilling to identify who the abuser was. However, when I was

speaking with her, I noted that she kept glancing over towards her father.

Q Did you bring that to her attention?

A Yes.

Q And then what was [redacted] demeanor like after you did that?

A She appeared shocked and upset.

Q Okay. So now I want to go back to after the safety plan's in place, you then leave [redacted] Address? Place?

A Yes.

Q Okay. And I believe you stated Marita, [redacted] and [redacted] are going to live with Marita's parents?

A Yes.

Q And are you aware of the physical health, whether Marita's parents are living or not?

A Unfortunately, at this time, both grandparents are deceased.

Q And what -- was this the final steps, was this everything that you did as part of your investigation?

A No.

Q What else happened in your investigation?

A I sent referrals to the Julie Valentine Center for what's called a forensic medical exam and a forensic interview.

Q And did you have an opportunity to meet with The Defendant?

A Yes.

Q How did that come about?

A Well, on scene speaking with Mr. Jones, we arranged to speak on the 22nd at the Special Investigations Division office.

Q Was he forced to with speak you?

A No.

Q Okay. Did anybody promise him anything to speak with you?

A No.

Q Did he want to speak with you?

A Yes.

Q Did he speak with you on his own freewill?

A Yes.

Q Speak with you voluntarily?

A Yes.

Q And you interviewed him on the 22nd?

A Yes.

Q Where did the interview take place?

A In our SID office in county square.

(WHEREUPON, State's Exhibit No. 27 was marked for identification only.)

BY MR. MILLER:

Q Investigator McHale, I'm handing you a disk, do you recognize this disk?

A Yes.

Q What is it?

A It is a copy of the interview with David Jones.

Q Have you viewed it?

A Yes.

Q How do you know that you viewed it?

A I have my initials on the disk.

Q And other than anything subject to court rulings and rules of evidence, is that a true and accurate copy of the interview?

A Yes.

Q Does it appear to be tampered with in any way?

A No.

MR. MILLER: Your Honor, at this time, The State would move State's Exhibit, I believe, it's exhibit 25 -- 27 into evidence.

THE COURT: All right, subject to --

MR. YARBOROUGH: Yes, sir, subject to my previous objection.

(WHEREUPON, State's Exhibit No. 27 was admitted into evidence.)

BY MR. MILLER:

Q And while that's loading up I just want to ask you a couple questions. So again, was -- when you were interviewing David Jones on this day, was he in custody?

A He was not in custody.

Q Okay. Was he free to leave at any time?

A Yes.

Q Did he appear lucid to you?

A Yes.

Q Clear minded?

A Yes.

Q Under the influence of any drugs or alcohol?

A No.

(WHEREUPON, State's Exhibit No. 27 was published.)

BY MR. MILLER:

Q Who's that on the screen?

A That was myself on the screen.

Q And David Jones understood that you were a police officer?

A Yes.

Q Investigation McHale, I believe y'all were talking about the type of work Mr. Jones was doing?

A Yes.

Q What type of work was he doing?

A He was a private security officer.

Q Okay.

(WHEREUPON, State's Exhibit No. 27 was continued to be published.)

THE COURT: Counsel, I think -- I don't think anybody can hear well.

A JUROR: It's a little loud.

THE COURT: Really having trouble hearing what he's saying. Maybe cut it down a little bit, see if that. . .

(WHEREUPON, State's Exhibit No. 27 was continued to be published.)

THE COURT: Can y'all hear it?

(WHEREUPON, members of the jury panel shook their heads.)

THE COURT: Pause it, let's pause it.

(WHEREUPON, an off-the-record bench conference was held in the presence of the jury but out of the hearing of the jury.)

THE COURT: I mean, I think everybody agrees that we're having difficulty hearing that. Whether it was loud, I turned it down, that didn't help any. They have something they may be able to do but we're going to have take a break to figure that out. So -- but I think it's important that we should be able to

hear this. So let's take a break, don't discuss the case and we'll bring you back out as soon as we got everything worked out. Thank you.

(WHEREUPON, the jury left open court at approximately 2:54 p.m.)

MRS. SUSTAKOVITCH: Judge, we can turn up the audio file right now and see if it's better? Then we'll do the redactions if you think it is. I apologize.

THE COURT: So this is just the audio?

MRS. SUSTAKOVITCH: Yes, sir. The one you just watched that has audio/video and then there's a file that's just audio. I think the audio sounds better but.

(WHEREUPON, technical difficulties were being worked out.)

THE COURT: All right, let's just briefly go back on the record and we'll take a break.

So you can step down if you need to. But before you step down, you already started your testimony so you cannot discuss your testimony with attorneys or anybody. All right. Otherwise, you can step down.

(WHEREUPON, a short break was taken.)

THE COURT: All right, you can come on up.

Is everybody okay? My understanding is we are

now putting up the audio file only. Y'all have redacted it, you reviewed it and everybody's good with it?

MR. YARBOROUGH: Yes.

MR. MILLER: Yes, sir.

THE COURT: All right. So do we -- and you've listened to it, y'all going to lay the foundation?

MR. MILLER: Yes, sir. And I put the clerk -- or the court reporter get it premarked and we'll lay the foundation and play it.

MR. YARBOROUGH: You'll explain to the jury when you're explaining to them that we couldn't hear that one --

THE COURT: Right --

MR. YARBOROUGH: -- that he would be sitting there talking to her if--

THE COURT: Right. I'm going to tell them I took a nap and that's why it took so long. I'll take the blame. All right.

Okay, The State ready for the jury?

MRS. SUSTAKOVITCH: Yes, sir.

MR. YARBOROUGH: Yes, sir.

THE COURT: And I'll just tell them exactly what we we're doing.

MRS. SUSTAKOVITCH: Right.

THE COURT: Yeah.

MRS. SUSTAKOVITCH: Our IT guy says it's base or something, I don't think.

THE COURT: Yeah.

Okay, bring the jury in.

(WHEREUPON, the jury entered open court at approximately 4:00 p.m.)

(WHEREUPON, State's Exhibit No. 28 was marked for identification only.)

THE COURT: I told them I was going to tell y'all I would take the blame and say I took a nap but that wouldn't be true. Sometimes our technological ability does not keep pace with the technology. Let me just tell you exactly what they were doing. They were not able to correct the video where you could hear it. So what we've done -- what they've done is that now you will hear just the audio of the video. And my understanding it's a lot clearer. But they had to -- what took us so long was they had to make sure that the audio file was the same as the video that they agreed on was going to be put in the record. So that's kind of what they had to do and so that's what took all the time there. So you will hear an audio. It's the same video that you just saw but it will be the audio, okay. So thank you for

your patience.

All right, with that being said, you may continue.

MR. MILLER: Thank you, Your Honor.

BY MR. MILLER:

Q Investigator McHale, showing you a disk that's been premarked as State's Exhibit 28, do you recognize it?

A Yes.

Q How do you recognize it?

A It has my signature on it.

Q What it is?

A It's a audio copy -- it's a copy of the audio recording of my interview with Mr. Jones.

Q So that is the audio copy of that video that we started?

A Yes.

Q It's the same audio?

A Yes.

Q It is a true and accurate copy?

A Yes.

Q Has it appeared to be tampered with in any way?

A No.

Q Other than for court rulings?

A Yes.

Q Thank you.

At this time, Judge, The State would move to admit State's Exhibit 28 into evidence.

THE COURT: Any objection?

MR. YARBOROUGH: No, sir.

(WHEREUPON, State's Exhibit No. 28 was admitted into evidence.)

(WHEREUPON, State's Exhibit No. 28 was published.)

BY MR. MILLER:

Q Investigator McHale, you were just talking to The Defendant about other males that Child would be around; correct?

A Correct.

Q And was his answer to that, There weren't any other that he can think of.

Is that correct?

A Correct.

(WHEREUPON, State's Exhibit No. 28 was continued to be published.)

BY MR. MILLER:

Q Investigator McHale, you were just questioning there The Defendant if they had sex discussions with Child

A Yes.

Q And his response to that was?

A Not sex discussions just touching discussions.

Q Thank you.

(WHEREUPON, State's Exhibit No. 28 was continued to be published.)

BY MR. MILLER:

Q Investigator McHale, you were again asking about other males coming in the house, why are you asking about that?

A To identify possibly if there was another individual who was sexually abusing her.

Q And his response about the other males that were coming was that -- were there any others around?

A None unsupervised around them.

Q Okay.

(WHEREUPON, State's Exhibit No. 28 was continued to be published.)

BY MR. MILLER:

Q Investigator McHale, just a few more questions. I believe you testified earlier that you also set up a medical exam for Child

A Yes.

Q Did you attend the medical exam?

A No.

Q I believe you stated earlier that you also set up a forensic interview for Child

A Yes.

Q Did you attend the forensic interview for

Child

A Yes.

Q When was -- do you recall about how far off the forensic interview occurred date was?

A Let me check my notes real quick. I believe it was set up for May -- May 1st.

Q It is typical for a little time, that's not a great amount of time, that's about two weeks, is that standard?

A That is standard.

Q Okay. And I believe you also testified earlier a little bit about what a forensic interview is. But why, again, do you request a forensic interview?

A To again ensure that the child is being interviewed in a proper way by a independent third party, who is going to be asking neutral fact-finding questions in a non leading way.

Q And I believe, also, are you the only person that spoke with The Defendant?

A Yes.

Q Did any other officer speak with The Defendant?

A Law enforcement, no.

Q Laura Jones?

A Yes, sorry. During my interview I was the only one present. Investigator Jones did interview him at a later date.

Q Sorry, I didn't ask that clearly for you. And I believe you heard testimony earlier that the grandparents house is at 1 Moreland Way in Simpsonville?

A Yes.

Q What county is that in?

A Greenville County.

Q Greenville County, okay. And did you ever, through your investigation, hear about an incident with a Easter egg and ZJ ?

A Yes.

Q What is your knowledge about that?

A Mr. Jones had provided a Easter egg to David -- or sorry. Mr. Jones had provided a Easter egg to ZJ shortly after this investigation had begun. I believe Easter Sunday was actually right after our investigation had begun. He had provided this to ZJ . Marita did get the Easter egg. And in it had instructions about checking an email.

Q Did you -- would that be ZJ 's email?

A Yes.

Q Did you attempt to check ZJ 's email?

A Yes.

Q Were you able to locate anything of evidentiary value?

A The email had been deleted by the time I was made aware of it.

Q And were you able to recover the email?

A No.

MR. MILLER: Please answer any questions that Defense Counsel may have.

MR. YARBOROUGH: Quickly, Your Honor. I'll be short.

THE COURT: Okay.

CROSS-EXAMINATION

BY MR. YARBOROUGH:

Q My client, Mr. Jones, came down and freely and voluntarily gave you a statement?

A Yes.

Q And you're the chief investigator in this case?

A Yes.

Q And you sat down and talked to him, he answered all your questions?

A Yes.

Q And that was the tape of that interview or kind of the video tape or whatever. And you're aware that there had been a fire at that house; correct?

A Yes.

Q Did you do any investigation at the house?

A No, sir.

Q Okay. And did -- you discussed the Easter egg thing, that was between David and his son; right?

A That's correct, yes.

Q Okay. And you don't know anything more about it other than that; right?

A Correct.

MR. YARBOROUGH: Okay, I don't have any further questions, thank you.

THE COURT: Any redirect?

MR. MILLER: No, Your Honor.

THE COURT: Thank you, you may step down.

All right, it's 15 till 5:00, it's really not time to start another witness, at this time. So we'll go ahead and break for the day and start back at 9:30 in the morning. Is that good with everybody? My four rules, don't discuss the case among yourselves or anybody. Don't do any type of research about anything involved in this case. Please disregard any media coverage or social media about this. And if anybody contacts you other than somebody from the clerk's office, please let the bailiffs know. All right, y'all have a good evening and I will see y'all in the morning.

(WHEREUPON, the jury left open court at approximately 4:44 p.m.)

THE COURT: All right, for planning purposes, witnesses, how many witnesses?

MRS. SUSTAKOVITCH: Your Honor, we have four more witnesses. One being the forensic interview.

THE COURT: So the morning should be. . .

MRS. SUSTAKOVITCH: Yes, sir.

THE COURT: The way we're going may go into Friday.

MRS. SUSTAKOVITCH: We can go quicker. Yes, we have Investigator Jones, who's not that long.

THE COURT: And, I guess, we'll, you know, hopefully get this to the jury tomorrow. So do y'all have any -- do y'all have any charges? Just pretty much what we had last time.

MR. YARBOROUGH: Yeah, I'll grab that charge you did last time, I thought that was good.

THE COURT: I'll let y'all look at it before we do that. All right, anything else before we break for the day?

MRS. SUSTAKOVITCH: No, sir, we're going to check the forensic interview before we leave to make sure the audio is correct.

THE COURT: Okay.

Anything else from The Defense?

MR. YARBOROUGH: No, sir.

THE COURT: All right, have a good evening.

(WHEREUPON, the proceedings were concluded for the day to be reconvened on June 7, 2023.)

June 7, 2023

THE COURT: All right, The State ready?

MRS. SUSTAKOVITCH: Your Honor, there's one issue we want to bring up with The Court, the first witness is Marita Jones, she is Marita Murray now, the mother of the Victim, Child The State is planning to introduce two brief parts of jail calls that were made when this Defendant -- shortly after he was arrested. He was arrested on the 3rd and these two calls are on the 4th. We just wanted to let Your Honor know that we intend to say that these were shortly after he was arrested and we want to make sure there's no objection from Defense Counsel. Jail calls come in all the time. The fact that somebody goes to jail when they're arrested is normal. And I think that -- I don't know where The Defense is going in this case but these calls certainly show that the mom was supportive of The Defendant when he got arrested. She was telling him not to break, to stay strong for the family. Those are relevant because of where I anticipate this case may go.

THE COURT: All right.

Mr. Yarborough.

MR. YARBOROUGH: Your Honor, my -- my concerns

were that at the end of -- at the end of both of them I think you can kind of hear that blurb that Securus or whatever the name of the company that has it. And they also remark on the outside there it says, Jail calls. If -- if The Court will tell the jury that they were made when he was arrested so that there's not some kind of idea that he's been sitting in jail for a long time because that would be improper.

THE COURT: Well, I mean, I think the way they're going to introduce them would be like this was within a few days of--

MRS. SUSTAKOVITCH: It was the very next day.

THE COURT: Right.

MR. YARBOROUGH: Okay.

THE COURT: And --

MR. YARBOROUGH: Yeah, that's fine if that's clear.

THE COURT: All right. Yes.

MRS. SUSTAKOVITCH: Okay.

THE COURT: Good morning, how are you?

All right, so The State's ready?

MRS. SUSTAKOVITCH: Yes, sir.

THE COURT: Defense ready?

MR. YARBOROUGH: Yes, sir.

THE COURT: All right, when the jury is ready

bring them in.

(WHEREUPON, the jury entered open court at approximately 9:55 a.m.)

THE COURT: All right, ladies and gentlemen, I hope everybody had a good evening. We're now back, still in The State's case. Sorry about the delay, we had a few things to go over. Maybe I should tell y'all to come at 10:00 but then it will be 10:30, so sorry about that. That happens.

Anyway, at this time then, The State call your next witness.

MRS. SUSTAKOVITCH: Thank you, Your Honor, may it please the Court. The State calls Marita Jones, now Murray.

THE CLERK: Please raise your right hand.

MARITA MURRAY, after being duly sworn{,}testified as follows:{F}

THE CLERK: Thank you, please be seated. State your name for the record.

THE WITNESS: May name is Marita Murray.

DIRECT EXAMINATION

BY MRS. SUSTAKOVITCH:

Q Mrs. Murray, you can -- can I call you Marita?

A Yes.

Q Can you pull the microphone just towards you?

A Okay.
Q All right. Where were you born, ma'am?
A Where was I born?
Q Yes.
A Born in New Jersey.
Q All right. Do you have any children?
A I do.
Q What are their ages?
A They are 12 and 15.
Q All right. Can you tell me their names?
A Child and ZJ.
Q Now, Child what is her date of birth?
A Her date of birth is 2010
Q How old is she now?
A She's 12.
Q And what about ZJ, when is his birthday?
A It's tomorrow, it's 2007
Q So ZJ turns 16 tomorrow?
A Tomorrow.
Q All right. So I want to get a little background so the jury knows about you. Tell me about where all you lived growing up?
A I've lived in several places. I've lived in New Jersey, Maryland, Virginia. My daddy was military so we moved a lot.

Q All right. How old are you now?
A I am 44 years old.
Q All right. And when did you move to South Carolina, Marita?
A We moved to South Carolina several times. So the last time, 1997. No, no, no, 1994, maybe.
Q All right. Do you know The Defendant in this case, David Jones?
A I do.
Q How do you know him?
A He was my husband.
Q When did you meet him?
A I meet him June 6th, 2006.
Q And can you tell me a little bit about how you met him?
A Yes. We met -- I knew of him in Irmo High School. He was -- he went -- I didn't talk to him at that time but I saw him in Barnes & Noble's in Columbia, South Carolina and that's where we met. Where we officially met.
Q How old were you when you met?
A I think I was 26.
Q All right. And what were you doing in Columbia? Were you working, things like that?
A Yeah, I lived and worked in Columbia, at the

time.

Q Okay. So going back a little bit further before we talk about this Defendant and your life with him, where did you go to high school?

A I went to school at Irmo High School.

Q And did go to college somewhere?

A I did. I went to Winthrop University in Rock Hill?

Q Did you have any post graduate studies?

A I did.

Q What was your degree in?

A Master's in -- Master's in Business in Accounting.

Q And where was that from?

A That was from University of Phoenix.

Q All right. So going back to you graduate college, what's your first job?

A My first job is TD Bank. Well, it was Carolina First Bank, at that time.

Q All right. Taking you to when you met this Defendant. Again, tell me how you met him.

A I went to Barnes & Noble's and saw him in the computer section. And then I went to the Christian section and we kind of ran into each other at that time.

Q And how would you characterize when you met him,

was this love at first sight, did you, you know, did you date a long time prior to getting married?

A We did not date a long time at all prior to getting married. It wasn't love a first sight but we had a good time, you know. Once I met him, he seemed like such a great guy.

Q How long did you date him before you got married?

A Two and a half months.

Q When did you get married?

A August 26, 2006.

Q All right. All right. So during the first years of your marriage, did this Defendant work?

A He worked on and off, yes.

Q And tell me about that.

A He would work at -- he does -- he's extremely great when it comes to computers so had a lot of side jobs doing his computers but he worked at Wal-Mart security. And he worked, I think, Best Buy at one time, loss prevention. But he more so did more things on the side. He didn't keep the jobs that long when he was working for people.

Q Now, did you think this Defendant was a police officer?

A He told me later that he used to be a police

officer.

Q Okay. Were aware that he was not a police officer that attended the academy?

A No, I didn't know that.

Q Okay. I want to move forward to Greenville. When did you move to Greenville?

A We moved to Greenville, I want to say it was around maybe 2012.

Q And how old was Child at the time?

A She was -- well, she was a arm baby. I call it arm baby, younger than one, I believe.

Q Okay. And so you moved to Greenville, why did you move here?

A For a job promotion.

Q And where did you move when you moved here? What part of Greenville?

A I moved to the Mauldin area.

Q When you say I, was it your whole family?

A Our whole family.

Q All right. So you moved to Mauldin, and what's your job at that time?

A I was a credit underwriter, at the time. Commercial credit underwriter at TD Bank.

Q All right. So when the kids get to school age, where did you -- where did Child go to school?

A Child went, I believe, it was Greenbrier. I believe it was in Mauldin at Greenbrier Elementary School.

Q What about ZJ, where did he go to school?

A He was at Greenbrier Elementary School, as well.

Q Okay. Did you ever live at Address? place?

A Yes, we did.

Q Okay. And tell me about that, when did you buy that house?

A We bought that house, I think it was October 2017.

Q All right. We've seen pictures introduced into evidence, tell me about the house. Were you proud of the house, was it a nice house for y'all?

A We were so existed. It was -- to us it was a beautiful home. It was in a neighborhood that we were trying to get into. It was supposed to be a good neighborhood, a gated neighborhood, it was really nice.

Q Was this the nicest --

A It was two --

Q Okay, go ahead, I'm sorry.

A -- two story.

Q Okay. Was this the nicest house you lived in?

A At the time, it was the nicest house we lived in.

MARITA MURRAY-DIRECT BY MRS. SUSTAKOVITCH

Q All right. So describe to the jury the layout of the house. What was the house like? First floor you come in and what are we going to be looking at?

A Okay, first floor you come in --

Q You can look at -- yeah --

A Okay, first floor when you come in, on the right was like a living area and then there were stairs. You go straight ahead, on the left-hand side was the kitchen, on the right-hand side was like a living room. Then we had the stairs that kind of go up and around. And then there was one, two, three, four bedrooms upstairs. Along with the washer and dryer. So Child room was over here. Then what we call the Man Cave was on the left-hand side. ZJ 's room and then our master bedroom in the back.

Q And just so I understand the Man Cave, who built the Man Cave or put all the stuff in there for the Man Cave?

A Oh, that was David.

Q We've seen some video of the Man Cave, was that where David liked to hang out?

A Oh yeah, it was nice.

Q And what all did he have in there?

A He had several computers and arcade. He had one of those beds that can be a sofa or a bed, like sofa bed. And he had a table.

Q Uh-huh.

A He had several desks, several chairs. One time he had a birdcage, decorations. It was an ultimate Man Cave.

Q Okay. What, if anything, did the children do in the Man Cave?

A They actually studied up there. At some point, it was around 2018, they started being homeschooled.

Q Uh-huh.

A So their school time was in there. If we had -- if we wanted to have like a family night, it was in there. Because he had like a big screen so we could look at movies, play games, we did a lot things up there.

Q Would ZJ and Child in this homeschooling, where would you be when he would be homeschooling the kids?

A We had someone -- I was in the morning. I was at work during the morning.

Q And for work, did you -- where -- did you work outside the home or?

A Yeah, I worked at the bank at 200 Carolina Parkway.

Q And again, which bank was it?

A That was TD Bank.

Q And with your job, apart from going into the

office, did you go into the office every day?

A Yeah, pretty much.

Q Monday through Friday?

A Yeah, Monday through Friday. I'm an early bird so I would get there about 7:00, before anybody. I usually would turn on the lights, not leave around 6:00, 5:00 or 6:00.

Q So during the times that you would leave and go to work, who are the children left in the care and custody of?

A They were with David.

Q And did you have any concern that Child might be being abuse by David during these times that you left the house?

A No.

Q What about travel, did you travel with your job?

A I did. I had to travel quite a bit. I had to travel to New Jersey, Maine and Canada often for my job.

Q And during the times that you traveled, who kept the children?

A David.

Q All right. You gave me the address for the house, Address?

A Rio Grande Place.

Q What county is that in?

A That is in Greenville County.
Q All right. Do you still live in that house?
A No.
Q So what happened with that house?
A On April 1st we had a fire.
Q Of what year, ma'am?
A April 1st, 2019.
Q Okay. And the fire, we've seen pictures entered into evidence related to the fire, but it destroyed the Man Cave; correct?
A Yes, it did.
Q And it damaged other rooms in the house?
A Yes, it did.
Q Do you have any clue how that fire started, what happened there?
A We still don't know. I -- I -- they said it might have be been electrical but we just don't know.
Q So after the fire on April 1st, 2019; were you guys able to stay in the home or did you have to go somewhere else?
A No, we had to go somewhere else. We were primarily at my daddy and mom's house.
Q And did you get any help from agencies?
A Yes.
Q Tell me about that.

A They would give us -- they gave us, like, if we wanted to stay in a hotel sometimes, like, stuff for food.

Q Who is they?

A American Red Cross, primarily. But we had other areas. There were churches that helped, as well. Because we lost everything.

Q All right. And just so I'm clear on the timeline, the fire was April 1st, 2019. How long did you guys live at Address prior to the fire? How many years would you guesstimate?

A I would say -- it was October 2017, '18, maybe -- maybe a year and a half.

Q Okay. And so you were living there prior in 2017 into '18?

A Uh-huh.

Q And then the fire is in '19?

A In '19, exactly.

Q And then when once the fire happens, where did you go again?

A Primarily, it was my parents house, 1 Moreland Way.

Q And the kids went with you?

A Oh, yeah.

Q In that house -- tell me about your father, was he able to get around or did he have some disability?

A So daddy had one leg, he lost it in the service when he was 19. So he was primarily in a wheelchair but he could walk on crutches. He was 82, at the time.

Q And is your father still living?

A No, lost daddy in 2020.

Q I'm sorry. As far as your mother, what's her name.

A Marcilla Dickson.

Q Is she living?

A She just passed.

Q And when did she pass?

A She passed January 17th.

Q Of this year?

A Of this year.

Q All right. Were there times at 1 Moreland Way that the children were left in the care and custody of this Defendant alone?

A Yes.

Q All right. I want to fast forward to -- is there a time -- you testified that you were not aware that Child was being sexually abused by David Jones for years at the Address. Did you become aware -- did she finally disclose to you that she was being abused at some point?

A She did.

Q All right. And without stating the identity of the perpetrator, if she gave you one, I want you to talk us through that disclosure. Where you were when you found out that Child had been the victim of sexual abuse?

A I was in the Publix parking lot in Mauldin.

Q And who was with you?

A In the car, at the time, it was me, ZJ and Child

Q Where was David Jones?

A In Publix.

Q What was he doing in Publix?

A Getting us some food. It was raining that day so he offered to run in there so we didn't all have to go in.

Q All right. Without stating what Child said to you, did Child disclose to you, at that point, that she had been sexually abused?

A She did.

Q And was she clear on -- without stating the identity, was she clear on the identity of who did it?

A She was.

Q Your reaction to this is what?

A Shock.

Q Okay. Was ZJ able to hear when Child disclosed that she had been sexually abused?

A Yes.

Q What was ZJ's reaction that you saw in your presence?

A He was -- don't say what he said; right?

Q Right, that's hearsay, you can't. But what was his reaction?

A Was--

Q Was he calm, was he upset, was--

A He knew before I did, so.

Q Oh, okay. He knew about it before you did?

A Right.

Q Okay. You mean prior to that day at Publix?

A Prior to that day.

Q Okay. But you find out in the car. Do you remember, was it a Friday night, Saturday night, when was it?

A That was on Saturday night.

Q Okay. So David Jones comes -- you find out this information, David Jones come back to the car. Do you confront him --

A No --

Q -- and say I just heard this?

A No.

Q Why not?

A Because I first wanted to get her checked out at

a doctor. So I was like I just wanted to get her checked out first. My first thought was a doctor can tell me what's happening. I just thought that was the best move, that would be Monday.

Q I want to fast forward to April 15th, Monday, April 15th.

A Okay.

Q You get up that morning, what do you do?

A Me and Child go -- if you go before eight o'clock, they'll see you and you don't have to get an appointment. So we went there early to get a visit. At the time, she was having some issues with her tonsils, so used that as the excuse. So we went to see the doctor --

Q So when you say use that as an excuse, you were really wanting to find out about the sexual abuse?

A Absolutely.

Q And you figured the doctor would be able to check it out?

A Oh yeah, I thought she could do it.

Q All right. So did you, in fact, meet with the doctor that morning?

A I did.

Q And you said it was around 7:00 that you went, you went early?

A Yes, went early.

Q Do you recall the pediatrician's name?
A I do, yes, Dr. Bhatia.
Q Okay. So you meet with Dr. Bhatia, without stating the identity of the perpetrator, do you disclose to her the information that you found out from Child
A I do.
Q Okay. At this point, do you remember how you were acting?
A Yes.
Q What was going on with you?
A I asked to move to a different room. And I was telling her what she told me. I did not tell her who it was until later.
Q All right. And don't want to get into what other people said because that's hearsay. What was your reaction at this point? Are you talking to Dr. Bhatia, are you calm, are you upset, what are you?
A I'm crying. I had to look strong in front of the kids. But when I moved away from her, I couldn't stop crying.
Q All right. So Dr. Bhatia talks to you?
A Uh-huh.
Q And does Dr. Bhatia explain to you what she can and can't do?
A Uh-huh.

Q All right. And so then do you come back -- Child not with you; is that correct?

A She's not, she's in the other room.

Q Okay. Do you go back in the room where Child is?

A I do, I make sure I don't look like I've been crying and go back in the room.

Q And then does Dr. Bhatia talks with Child and concludes that visit?

A Uh-huh.

Q All right. And so was your goal of being able to have her give a thumbs up, thumbs down on sexual abuse, did that work out for you or was that not the way it worked?

A That's not the way it works.

Q All right. So were you told -- what was the name of the pediatrics office?

A Parkside Pediatrics.

Q Did -- what, if anything, did you understand about Parkside and what they were going to have to do with notifying authorities?

A I understood that -- she told me about JVC and I understood that she was going to have to report it.

Q All right. So I want to -- so you knew that police and DSS were going to be called? Did you know

that?

A Yeah, it wasn't -- I guess I wasn't that clear until they actually called me.

Q Yep.

A But I didn't know what having to report meant.

Q Okay. Give me one second.

MRS. SUSTAKOVITCH: Your Honor, could I see the screen?

THE COURT: Yeah.

BY MRS. SUSTAKOVITCH:

Q All right. So, Marita, sorry, that's a little blurry. Now, do you see -- is this your car back there in a distance?

A Yes.

Q And do you recognize this lady?

A Yes, she was the DSS lady.

Q And do you recognize the lady right here?

A Yes, that's the detective.

Q Do you see her in the courtroom?

A I do.

Q All right. So, at this point, why were you coming back to the house?

A Because I received a call from DSS and she was like come here now. So okay, let's go.

Q All right. And then we just have a few more

pictures of them waiting on you guys?

A Okay.

Q All right. So you get out of the car and is this [redacted]

A Yes, that's [redacted] That's David.

Q All right. And then do you see [redacted]?

A That's [redacted].

Q At this point, does David Jones know that they're about to ask him about whether he sexually abused [redacted]

A I can't remember.

Q All right. So you get there and do you recall talking with DSS?

A Uh-huh.

Q Was David Jones with you?

A He was right beside me.

Q Okay. Do you recall seeing [redacted] go off with Investigator McHale?

A (The witness nods.)

Q And speak with her?

A I do.

Q And do you recall having seeing -- or let me ask you this. At some point, do you ask Investigator McHale and Dyneshia Kilgore to speak privately with them?

A I do.

Q And why are you trying to speak privately with them?

A Because I wanted to tell them truthfully what I was told.

Q Okay. And without stating the identity of the perpetrator, did you, in fact, tell them the information that you had been given related to who the perpetrator was and the details of the abuse?

A I did.

Q All right. During this conversation with Kilgore and with McHale, it's the three of you; correct?

A Right.

Q Where is David Jones and Child

A They're over on the side kind of far away. They're near the -- maybe near the detective, I'm not sure. It's far enough away where they couldn't hear.

Q All right. Okay. They couldn't hear what you were saying to them but it is -- isn't it also true, you couldn't hear what David Jones might be saying to Child correct?

A No, no, no.

Q All right. I want to go back to after this abuse is disclosed on that day 4/15, fast forward to the next weekend. What is the next weekend?

A Next weekend, might have been around Easter.

Q Right. Did you go to church on Easter Sunday?
A I did.
Q And did ZJ go to church?
A Yes.
Q And did Child go to church?
A She did.
Q Who did they go to church with?
A It was me.
Q And was David Jones going to church?
A He ended coming to church, yes.
Q Did you have contact with David Jones?
A Yes.
Q Can you tell me about that?
A Yes. I took Child to the children's church. For whatever reason, ZJ 's church was -- they were going to be with us in the main place. And we ran into David. And he gave an Easter egg to him. I think it had some candy in it --
Q And this is on Easter Sunday?
A Easter Sunday, yes.
Q A plastic egg, real egg?
A Plastic egg.
Q Okay.
A Plastic egg with like candy in it.
Q And let me ask you this before we go forward.

Based on what DSS told you, is David Jones supposed to have any contact with --

A No --

Q -- ZJ ?

A No.

Q Or Child at this point?

A No.

Q Okay. Go ahead.

A I, said, You cannot, you cannot.

So he already went and sat on a different pew.

Q Yep.

A I took the -- I took the egg that he'd given to ZJ .

Q And did ZJ get a chance to open it?

A He never saw it.

Q He didn't get to open it and see what was inside?

A No.

Q All right. So you open it and what happens?

A There was a piece of candy and a small piece of paper in it that said, When you go home, pull up your Connections email.

Q Okay. And the note was from who?

A That was from David.

MARITA MURRAY-DIRECT BY MRS. SUSTAKOVITCH

Q So the note says, Go home and check your Connections email. This was supposed to get to ZJ not you; right?

A Right.

Q So do you go home? What do you do with that information?

A I go home and I pull up ZJ 's Connections email. I never let ZJ know there was the paper in it.

Q Okay. And when you pulled up the email, what, if anything, did you see?

A I saw a note to ZJ .

Q What did it say?

A It said, Tell Child to tell them it was all a dream and that she's not in trouble. Save me.

Q Okay. Did ZJ ever read that note?

A He never read that note.

Q After you intercepted the egg?

A Yeah.

Q What, if anything, happened to that email?

A I deleted that email.

Q Why did you delete it?

A I didn't want him to ever see it because he was not supposed to be talking to him.

Q All right. So this is Easter Sunday. I want to go with medical exams. Were you present on April 24th,

2019 when Child saw Dr. Mary Fran Croswell?

A Yes, ma'am, I was.

Q All right. And did you take her to that appointment?

A I did.

Q I want to fast forward to May 1st, 2019. Did you take Child to her forensic interview?

A I did.

Q And were you allowed to stay in the room for that?

A No.

Q Were you allowed to ever view that forensic interview?

A I have never seen it to this day.

Q You haven't seen it to this day?

A No.

Q So you don't truly know the full scope of abuse to Child at this point?

A I only know what the pieces she told me.

Q Okay. After the investigation began on April 15th, when you guys went to Parkside Pediatrics, David Jones was not allowed to be around the kids; correct?

A No.

Q Where did he go? Where did he go live?

A He lived in between his office, he had a business office and he had recently gotten a contract in Spartanburg that they actually gave him an apartment to live in.

Q All right. So during this time, what are your feelings? Are you calm, are you confused? What is going on in Marita's brain?

A I was operating as shock, love and stupidity.

Q Uh-huh.

A Looking back.

Q Uh-huh.

A I'm trying to be super mom, super protector. I'm protecting everybody.

Q Okay. Did you after that initial date of 4/15, have additional personal, one-on-one, contact with David? Did you meet with him somewhere?

A I did.

Q Tell me about how you came in contact with The Defendant.

A He reached out to me and I agreed after work one day to meet him at La Parrilla and we had dinner.

Q What kind of restaurant is La Parrilla?

A It's a Mexican restaurant.

Q Okay.

A And then after that we went to Barnes & Noble's

and sat outside on a bench. Am I allowed to say?

Q Yeah. Okay, so at this point, you sit on a bench, does David Jones talk to you and give you information?

A He told me he had been praying. This whole time I'm encouraging him, please, please, please, pray, pray pray.

Q And before we get into this, can I just, timeline wise, from April 15th, how far into this investigation is this?

A This is probably like in the middle.

Q He hasn't been arrested yet or anything?

A No, no.

Q They're still looking in the case.

A They're still looking into the case.

Q Okay, go ahead.

A In fact, it was right before Child forensic interview. Her forensic interview was coming up.

Q Her forensic interview was coming up?

A Right.

Q Okay. Did David Jones reach out to you and want to have this dinner and meet?

A Right.

Q All right. Did he call you up or how did y'all meet?

A He called me.

Q All right. So we're now on a park bench at Barnes & Noble's, what happens next?

A So he tells me, says he's been praying and God told him that he needed to confess.

Q Okay.

A He said he did not do this.

Q Okay.

A He specified that.

Q Uh-huh.

A He said but he should have told me when this happened. But he said, You know we sleep naked; right?

I said, We do not sleep naked.

He said, Oh, okay, we sleep naked. He said one day that he was laying in the bed sleeping naked. And he woke up and Child had her mouth on him. And he said, You know when a man wakes up in the morning that he has to pee. So he peed in her mouth. And he said, Marita, you know I don't never whip her but I whipped her that day.

Q I want to be clear I understand this. What he needs to confess to you is he's saying you weren't there?

A I wasn't there.

Q And he's asleep in his room?

A He's asleep in his room.

Q And he wakes up?

A She snuck in, he said she snuck in.

Q And Child performing oral sex on him?

A Yes, she's performing oral sex on him.

Q And he's surprised?

A And he's floored. He's surprised. And he said, Marita, I -- I whipped her that day. And he said she said she wanted to show him that she loved him.

Q He said that Child said she wanted to show him love.

A That she loved him.

Q Okay. So -- and he said that he whipped her?

A He said, I whipped her.

Q Did you, at any time -- and did he say it left bruising or anything like that on her?

A No, no bruising.

Q Okay. So after this story about the oral sex, that he's kept to himself, did he tell you anything else that we need to know?

A He also stated that, you know, I think one time, also, that I gave her a comic book that had some stuff in it.

Q Okay. So this is important to David to tell you about the oral sex and the comic book?

A Uh-huh.

Q Okay. All right. I want to move forward. I

have to ask some private stuff about your sexual relations with your ex husband.

A Uh-huh.

Q Did you guys ever have sex in the closet?

A We did not have sex in the closet.

Q Did you ever, when you moved in to Address Addresse, do something called christening the house, the closet?

A No, we did not christen the house.

Q Did you christen the house in the bedroom, ever? Like, have sex in there and call it christening the house?

A We had sex in the bed.

Q Right. Did you ever christen the house?

A No, we did not christen the house.

Q Okay. Did you engage with anal sex with him?

A No, I did not. That's exit only for me. And he said the same thing, that that would -- he said, oh, that's too gay. That's what he would say.

Q So he did not want to engage in anal sex with you?

A Right. He said he didn't -- he -- well, he would play like he was to going and say, ha, ha, I'm just kidding, just kidding.

Q As far as you, kind of hate to be this personal, but do you engage in anal sex?

A No, no. For me that's exit only.
Q All right. Oral sex, were you having oral sex with him?
A Very little. I'm very bad at it and he's very bad at it.
Q Vaseline, did you ever use Vaseline in your house?
A He used a lot of Vaseline which was unnecessary because I produce a lot. So I would even ask him why are you always using Vaseline? Which was very confusing to me because I produce a lot.
(WHEREUPON, State's Exhibits Nos. 29 & 30 were marked for identification only.)
BY MRS. SUSTAKOVITCH:
Q Marita, I'm -- so after the investigation was completed, were you aware that this Defendant was -- naturally, he was charged; correct?
A Yes.
Q Shortly after he was arrested, did you, in fact, speak to him when he was first arrested?
A I did.
Q I'm showing you what's marked as State's Exhibit 29 and 30. Do you recognize what I'm showing you?
A Yes.
Q How do you recognize what I'm showing you?

A I initialed them.
Q Okay. And what are these?
A These are calls made to him.
Q All right. And were these -- was your voice on this call?
A Yes, my voice is on those calls.
Q And is his voice on those calls?
A Yes, his voice is on those calls.
Q Okay. And do these fairly and accurately represent the portion of the calls that you listened to?
A They do.
MRS. SUSTAKOVITCH: Your Honor, at this time, The State moves to admit State's 29 and 30.
THE COURT: Any objection?
MR. YARBOROUGH: No, sir, Your Honor. And I believe that we agreed that they would stipulate that these were the day of the arrest.
MRS. SUSTAKOVITCH: It was the very next day.
MR. YARBOROUGH: Very next day.
THE COURT: All right.
(WHEREUPON, State's Exhibits Nos. 29 & 30 were admitted into evidence.)
BY MRS. SUSTAKOVITCH:
Q Before we play them, so he's arrested and I think you testified you're confused, there's a lot going

on with you?

A Uh-huh. I'm trying to protect everybody.

Q You're trying to protect everybody?

A Uh-huh.

MRS. SUSTAKOVITCH: Okay, go ahead.

Is the volume all the way up, Judge?

THE COURT: Yes.

MRS. SUSTAKOVITCH: Okay. These calls are hard to listen to.

(WHEREUPON, State's Exhibit No. 29 was published.)

MRS. SUSTAKOVITCH: Okay, can you play the next one?

(WHEREUPON, State's Exhibit No. 30 was published.)

BY MRS. SUSTAKOVITCH:

Q Marita, he's just been arrested for sexually assaulting your daughter. And you sound like you're supporting him, telling him not to break. Help me understand what's going on.

A Early on I, like I said earlier, I operated in shock, stupidity and love. I became almost his mom too. So I'm on the side, I'm hearing the kids crying, Daddy's not to going to jail, Daddy's not going to go to jail, he just needs help, he just needs help. And I'm like, okay.

And he's calling me and he's been my best friend, what I consider my best friend, for 13, 14 years. And I'm like, okay, don't break. We believe God, we believe God. I look back now and I hear the stupidity. I couldn't then. I had -- that's early on. I hadn't lived Child suicide attempts. I hadn't lived through any impact. I hadn't gone further so I -- I was different then.

Q You said you hadn't lived through Child suicide attempts, can you tell the jury the impact you observed through the years on Child

A It took her about a year, I'd say about the same time for me, but it took her a year to realize he had -- took her a year to realize what was done to her was wrong. Throughout the years, she had started cutting herself. She had times where she wanted to kill herself--

MR. YARBOROUGH: Your Honor, I'm going to object. I think--

MRS. SUSTAKOVITCH: We can move alone.

THE COURT: Yeah, sustained.

BY MRS. SUSTAKOVITCH:

Q Moving along, so are you still married to David Jones?

A No, I'm not married to him.

Q When was your divorce final?

A It was final, I think, January 2021. COVID made

it -- made us -- took a long time. It was a long time for the process.

Q So even though these jail calls was right when he's arrested, you're saying, Don't break, we're going to stick together. You ended up realizing that you need to divorce?

A Oh, yeah, yeah. I knew then. I told him ahead of time. We knew. I -- yeah, I knew we were going to divorce.

Q Are you remarried now?

A I am remarried.

Q And who is your new husband?

A He's over there.

Q What's his name?

A His name's Sebastian.

Q Okay. And as far as Child does she appear to be coping better now?

A Oh, yeah.

MRS. SUSTAKOVITCH: Please answer any questions that the Defense Counsel has.

THE COURT: Cross-examination?

MR. YARBOROUGH: Certainly.

CROSS-EXAMINATION

BY MR. YARBOROUGH:

Q Good morning, how are you?

A I'm okay.

Q Nice to see you again. You don't -- don't really know anything about this particular case except for what happened after you were told about it; right?

A I don't understand your question.

Q What I'm saying is that your knowledge of everything is like you said, it was in the Publix parking lot forward?

A Right.

Q Okay. And it shocked you; right?

A Yes.

Q Okay. And, at that point, you took Child to one doctor, the doctor on that morning you were talking about. And they -- they disclosed that's how the next thing happened. You didn't learn anymore information at that point; right? You didn't -- there was no confirmation or denial?

A No confirmation or denial.

Q Right. So -- so they said that you needed to talk to somebody else. So you took -- you took Child to another doctor?

A I did.

Q Right. And, at that point, there was no confirmation one way or another, they said you should go to the Julie Valentine Center; right?

A Well, the Julie -- I thought consult was at the Julie Valentine Center.

Q That doctor was at the Julie Valentine Center?

A I think she was connected, I believe so. It's been so long.

Q Okay, okay. So she was -- well, you know, it's -- it's a while ago. But anyway, after that you go and -- and it's like Mrs. Sustakovitch just said to you, you weren't present for the forensic interview, that was just something that happened later; right?

A Uh-huh.

Q And throughout this process you -- you said you were supporting David early on; right?

A I did.

Q But there was significant problems in your marriage before any of this came up; right?

A No.

Q Was there not a -- did y'all not have some fights about some girl that David was supposedly seeing at this Skateland?

A Oh, that was back in 2016.

Q Okay.

A We're talking 2019. Now, by that time, we cleared.

Q But you were upset with him for being

unfaithful; right?

A At 2016 when that occurred, when I found out, that same day I thought he had a heart attack, so we kind of -- like, he went down, he had called the ambulance. So when something like that happens, it kind of shifted. Like, he had gotten where he stopped talking to her. So listen, it wasn't something that was. . .

Q So he had medical issues from 2016 until?

A No, that day when I found out, his response was like a heart.

Q Okay. But there was problems in your -- that was a problem in your marriage; right?

A Cheating, yeah.

Q And you didn't want him to have -- you didn't want him to have that contract out there anymore?

A What contract?

Q The one at Skateland where he was doing the--

A Oh, yeah, I wanted him to get rid of that way before then because it just wasn't the best one. But that -- that didn't. . .

Q But that was -- he was a -- he did security for places like that; right? He did security--

A Yeah, that's his business.

Q -- for where y'all lived. He was a security guard?

A Yes, that was his business, yes.
Q And he had done security at, I think you said Wal-Mart, Best Buy, some other places. And, at some point, he actually worked for the Richland County Sheriff's Office; right?
A Yes.
Q Right. I mean --
A That was before we were married.
Q Right. And -- and that -- and that didn't -- he didn't enjoy that and so he got his own firm and he liked the tech stuff, that's what you said. He liked doing the technical side of things?
A He loved both. He loved both.
Q Uh?
A He loved both. He loved law enforcement and he loved computers.
Q Okay. And did he help support your family? You were the breadwinner?
A Yeah. So his business started doing very well but he put the money back in the business.
Q Right.
A I was the one that was paying the bills.
Q Paying the bills.
A Uh-huh.
Q And then there's a fire at -- what's that

address Address?

A Address.

Q Address. I wrote it down, couldn't see it, Address. There's a fire and this fire takes place and y'all actually go over to live with your mother? Mother and Dad. And does David go with y'all?

A Yes, he did for the first --

Q Okay. And y'all were over there about, would you say, four or five days before the incident where you were at Publix?

A Before -- no that was 13 days. April 1st --

Q Thirteen days, okay. And so I just wasn't -- I thought you said that y'all had gone and lived somewhere else before that with The American Red Cross or something, was that wrong?

A No. They offered to where we could go to hotels, if we needed to.

Q Okay. But you didn't take advantage of that --

A Yeah --

Q -- was confusion to me--

A Yeah, we might have.

THE COURT: Make sure just one person speaks at a time so the court reporter gets it, okay.

MR. YARBOROUGH: Thank you, Your Honor.

BY MR. YARBOROUGH:

Q So, at that point, the house has been destroyed; right?

A Uh-huh.

Q And you're working and you're the main breadwinner; right?

A Yeah, I paid the bills but his company does a very good job, just that he was. . .

Q Okay. And would it -- would it be safe to say that -- that your parents and David sometimes did not get along great -- with your mom? With your mom?

A No.

Q No?

A Everybody love mom, no.

Q Okay, okay. But did -- were they okay with y'all living with them?

A They were okay. Dad was 82. So every now and then if the kids got obnoxious or something--

Q What?

A Daddy was 82.

Q Okay.

A So sometimes that's why we were like, let's go take a breather because they were too loud.

Q Right.

A But other than that, they had no problem with us

there.

Q All right. And -- and after the -- after those phone calls, you're talking to him but you decided you've got to move on; right?

A Yes, sir.

Q You're going to move on. And so you filed for divorce. It takes, I think you said it was January 20th, 2021, because of COVID it took a little bit longer than normal?

A Yeah because you have to be separated for a year prior.

Q Okay.

A So started in April 2019 to April 2020.

Q So it took a little bit longer but you -- you -- you started that process of filing for divorce--

A Started the process, yes.

Q And, at that time, when the -- when the divorce is going on, there were also settling the claim on the house; right?

A No. The settling the claim on the house -- because I couldn't do anything for that year, so that's way later.

Q So you settled the claim later?

A No, no, the divorce.

Q Okay. So gotcha, gotcha.

A The claim on the house was why he was -- we were still together.

Q Right. Okay. So you're still together. And -- but that money from the sale of the house, you get that money; right?

A Right. Well, the house was in my name, it was mine. It was going to come in anyway.

Q Okay. But y'all were married?

A Yeah, we were married.

Q When you bought the house?

A Yes, sir.

Q Okay. Okay. And David didn't fight you over the money on the house; right?

A No, there was no need to fight me.

Q Okay.

A It was all to pay back the stuff.

Q He gave you the divorce. Maybe that's a easier way to say it, he gave you the divorce, correct?

A Yeah. Maybe, like a year later, yeah.

Q Yeah, okay. And you have no idea what caused the fire at the house; right?

A I have no idea. They -- I think they tried to say it was like electricity. But they said sometimes people take shortcuts when they're building the newer houses.

Q All right. And -- and you tried to do what you think is best by your daughter; right?

A Yeah.

Q And that is cooperating with the people at the Julie Valentine Center; right? They helped you through this process?

A They did.

Q Okay.

Just a second, Your Honor.

When you moved in with your parents, did they-- did they want you to get a divorce from David?

A They -- no, because they didn't know at that time.

Q Did they -- did they know about the incident before at Skateland where there had been a problem with y'all's marriage?

A Oh, they knew about that then but they didn't -- that was 2016. My dad actually talked me through it because he had an affair at one time. And how they ministered -- he kind of ministered us through it or ministered me through it. So that was not -- that had nothing to do with 2019.

Q Okay.

A That stopped in 2016.

Q Okay. And did -- did you spend a lot of time

with David's parents?

A Not that much because he kept wanting to be separate. He didn't -- he always talked so bad about his stepdad. So he was always trying to stay away from his step dad. He loved his mom but talked bad about his stepdad. And he always talked about his stepdad giving him a hard childhood. So he would go MIA for a while. And I think he let them think it was me but it was not.

Q Okay. All right.

Thank you, I don't have any further questions.

THE COURT: Redirect?

MRS. SUSTAKOVITCH: Just very briefly.

REDIRECT EXAMINATION

BY MRS. SUSTAKOVITCH:

Q Since Defense Counsel brought this up, what happened in 2016 was what?

A He had -- I found out he was cheating.

Q And you worked through that?

A We worked through that that year because he had gotten -- we worked through that.

MRS. SUSTAKOVITCH: Thank you, no further questions.

THE COURT: All right, thank you, you may step down.

The State call your next witness.

Everybody good over here?

MR. MILLER: State calls Sergeant Laura Jones.

THE COURT: Come around to be sworn.

LAURA JONES, after being duly sworn{,}testified as follows:{F}

THE CLERK: Thank you, please be seated. State your name for the record.

THE WITNESS: Laura Jones.

DIRECT EXAMINATION

BY MR. MILLER:

Q Sergeant Jones, where are you employed?

A I am at the Greenville County Sheriff's Office.

Q How long you been at the sheriff's office?

A Been in law enforcement since 2001. Came to the sheriff's office in 2004.

Q Where were you before the Greenville County Sheriff's Office?

A I was with the Greenwood Police Department.

Q Okay. What is your educational background before where you got into law enforcement?

A I have my undergrad Bachelor of Science in Psychology from Presbyterian College. And I have a Master's in Criminal Justice from Anderson University.

Q Okay. What was your first job in law

enforcement?

A Initially, started in uniform patrol, answering 911 calls, responding the scene and such, initially.

Q How long did you do that?

A About six years total. Including from Greenwood City and then when I moved up here, did about three more years on uniform patrol.

Q What are some other positions you've held in the sheriff's office?

A So after uniform patrol I was interested in investigations. So I moved up and went in our criminal investigative division. Started initially in auto theft and arson cases, eventually. And then made it to homicide and worked homicide for several years. And now, I'm assigned the Office of Professional Standards as a sergeant in that office.

Q Is a sergeant a supervisory role?

A Yes, sir.

Q What is the Office of Professional Standards?

A So you may be more familiar with something like internal affairs. In easier terms, we police the police. So if there's any complaints from the public or any issues, any officers involved shootings, any accusations of excessive force, any integrity issues that come into question about a deputy's action, we do an internal

investigation to see if they violated policy or worse. So we are there to maintain the integrity of the entire sheriff's office.

Q How long have you been in law enforcement total?

A Twenty-two years.

Q Twenty-two years. You're currently in OPS but have you ever had any training in interviews, interviewing people?

A Yes, numerous classes. Obviously, when I was in other types of investigations like homicide and arson and things like that, I attended classes that pertain to those. I also -- I teach interviewing and interrogation courses. And have attended several pertaining to interviews involving sexual assault cases. With both adults and children.

Q Okay. And are you familiar with David Jones?

A Yes, I am.

Q How did you become involved in this case?

A So I was contacted by Investigator McHale and she asked me to assist with a interview with David Jones. To conduct my own interview with David Jones.

Q Did you have any other involvement in this case in any way, shape or form?

A Not at all.

Q Okay.

A I made no decisions of any of this case.

Q Did you meet with anybody other than David Jones?

A No, sir. I've never met any of the family, the victim or her parents or her mom. Didn't see them until I showed up to court this week.

Q And do you remember what day you met with David Jones?

A I believe it was May 2nd, 2018.

Q Okay. Do you remember, just generally, where you took the statement?

A Yes. My office is at the law enforcement center in the basement. And I have an interview room inside along with my office that is separate, kind of. So I interviewed him in that interview room.

Q Okay. Did you identify yourself as law enforcement?

A I did.

Q Okay. So he knew he was speaking to law enforcement?

A Yes. I identified myself as law enforcement but I did not visibly have a badge or a gun on. I don't like to do that during interviews to make them more comfortable.

Q Was he forced to speak with you?

A Not at all.
Q Was he speaking with you voluntarily?
A Absolutely.
Q Did he want to speak with you?
A Yes.
Q Okay. Did he appear lucid when he spoke with you?
A He did.
Q Did he appear clear minded?
A He did.
Q Did he appear to be to under the influence of any drugs or alcohol?
A No, sir.
Q Okay. Was he threatened or coerced to speak with you?
A No, sir.
Q Was he promised anything to speak with you?
A No, sir.
Q Okay. Was he free to leave when he was speaking with you?
A Yes.
Q Okay. And did you go over any type of rights with him?
A Yes, went over the full Miranda rights with him.
Q Okay. I'm going to show you what's been

previously marked as State's Exhibit 3. Do you recognize this document?

A Yes, sir.

Q What is it?

A It's a Waiver of Rights form.

Q Is it the Waiver of Rights form that you went over with David Jones?

A It is. It has his -- the case number, his full name, date of birth, the date that we were in there in the office and then the actual rights that I read through with him.

Q Is it a true and accurate representation?

A Yes, it is.

MR. MILLER: Your Honor, at this time, we would move to admit State's Exhibit 3 into evidence.

THE COURT: Any objection?

MR. YARBOROUGH: No objection to that, Your Honor. I did want to note for the record my previous objections to her testimony about this issue after that.

THE COURT: Okay. All right, so noted. This is in without objection.

(WHEREUPON, State's Exhibit No. 3 was received into evidence during previous testimony.)

BY MR. MILLER:

Q Investigator Jones, if you could look behind you and we'll explain to the jury, what are we looking at here?

A So this is a standard Waiver of Rights form that I use anytime I conduct an interview. It, obviously, has basic information at the top. The case number, that 19 dash number is the case number. And his full name, date of birth and the date that we were in there in the office.

Q What are the rights that are being waived?

A I read to him that he has the right to remain silent, that anything he says can be used against him in court. That he's entitled to talk to a lawyer now or have him present now or anytime during questioning. If you cannot afford a lawyer, we will get one for you without costs. And if you decide to answer questions now, you may stop questioning at any time if you choose. And then the bottom line says, you understand each of these rights and you wish to waive them. I read all that to him, but I also, in addition, asked to ensure that he can read and write as well.

Q Okay. And did he state whether he could read and write?

A Yes.

Q Okay. Did he state whether he understood these rights?

A Yes, he did.
Q And that he was freely and voluntarily waiving them?
A Yes.
Q I see waived is actually underlined?
A Yes. I always underline it that I understand each of these rights and I wish to waive them. Meaning, that you wish to talk to me in interview to make sure they understand that.
Q What are these markings down the side here?
A So after I read it to him, I have him -- and he says he understands it, I ask him to initial each line, just to show that I have read those to him. And then a signature at the bottom if he was willing to waive his rights.
Q And whose who signature is this?
A That is mine.
Q And whose signature is this?
A That is David Jones.
Q Was this interview recorded?
A It was.
Q How was it recorded?
A So it is audio and video recorded. All of our interviews are audio and video recorded. Anytime where in there with anyone.

Q Did the equipment properly function for this interview?

A Unfortunately, it did not.

Q When do you discover that?

A I did not discover that until later on when I went to review this case several weeks later.

Q In the process that you were following at the time, was that the process that you had used and other officers in previous interviews?

A Yes, it was.

Q And the equipment was, to the best of your knowledge, properly functioning?

A I thought it was in working order.

Q Okay. Have y'all since enacted any changes since this occurred?

A Yes. In this case, though, the video worked but the audio went out after the initial first minute of the recording. Since then, since that happened, we got the sheriff's office to install a full audio/video system in the room. And additionally, I have another one, set of another backup. So we have a backup system now so this doesn't happen in the future.

Q Was this case kind of the spark for that?

A Yes. It's the first one where I discovered it wasn't working. But it, unfortunately, didn't work under

several cases.

Q Do you memorialize -- did you memorialize your interaction with David Jones in another form?

A Yes, I wrote a incident report.

Q You wrote a incident report. Can you tell the jury a little bit about, in general, what is a incident report?

A So a incident report, in general, like when you call the sheriff's department out to the house and have to take a report for something, whether it be a theft or whatever, it gives the basic information of who's calling, what the issue is and you put the facts to the case. Like your process of the investigation. So mine, in this case, is referred to as a supplemental report. Because the initial report was taken by the lead investigator. So I do a supplemental report to do to put my -- to detail or memorialize my part in the investigation. Which was solely this interview with David Jones.

Q And did you write this report close in time to the interview?

A Yes, within a few days.

Q Was it a quick process to write this report?

A No.

Q Did you have other things going on, at that time, that you had to do as well?

A Yes, I conduct several different responsibilities. So sometimes I can't write it immediately right after I finish the interview. I have other interviews to conduct. And like I said, I work in the Office of Professional Standards so I do it as quickly as I can but sometimes it's not immediate. Meaning, it's not the same day necessarily.

Q Okay. And do you review your report for accuracy?

A Yes.

Q Okay. So it's not just a quick process to writing it?

A No.

Q And did you bring your report with you?

A Yes, sir, I did.

Q If at any time you need to refresh your memory, you will be able to reference your report.

A Yes, thank you.

Q And I'd like to start off a little bit about this interview with The Defendant, what do you initially discuss with him?

A So when they first come into the room, like I said before, I don't wear a badge around my neck and I don't wear a gun on my side in these interviews. That's intimidating to some people and I don't want to appear

that way. I want them to be as comfortable as they can be. Especially, different interviews on topics such as this. Because they're very, you know, we have to discuss a lot of private information, a lot of intimate things. So I want them to be as comfortable as possible. Initially -- again, I don't sit behind my desk, I sit over in front of them, just to have a conversation. I initially get background information. Kind of the family dynamic from them. As I said, I haven't had any contact with any other family members or anything so I don't know that. So I talked to them just to kind of build a rapport and get to know the family dynamic.

Q And when you're talking about building a rapport, are you taking notes the entire time during this interview with him?

A I take notes some when we are discussing background type information like, you know, how many children they have, where they live, what they do for a living, things like that. Just to get to know him. And I take a little bit of notes like that just so I don't forget when it comes time. Because that's just kind of a background phase, not the actual meat and potatoes, I guess, of the interview.

Q What you'd be more focused on later?

A Correct. I don't take notes the entire time, I

only do during the background phase, during the actual interview where we've got to discuss very personal things, such as these allegations and such, I want them to have my full attention. So I don't want to be distracted by having to look down or wait or tell them to wait so I can write something down. I want them to know that I'm fully with them and not distracted taking notes.

Q From your training and experience, have you found whether or not that allows people to feel more comfortable or build a better rapport?

A It seems to build a better rapport and make them more comfortable in a way that, you know, sometimes if you're talking to somebody and all of a sudden and they stop to write something down, you're like, oh, what did I say wrong or did I -- you know, obviously, that was important or something like that. So I don't like to have the distraction and want them to be as comfortable as possible of because I feel like there's a better chance that maybe they will open up and talk with me.

Q Talk about some of the background information here. Did you find out or previously know about the -- if he had any children?

A Yes. I was made aware that there were two children in the house.

Q And boy or girl?

A There was one boy and one girl.
Q And do you recall their relative ages?
A I can look in the report.
Q Okay.
A I'm thinking about 8 and 11 but I'll have to look at my report to check it, if that's all right. Son's 11, daughter's eight, at the time.
Q Okay. Did you learn about where they went to school?
A He told me they were homeschooled.
Q Did he tell you who stayed home with them during the day?
A He said he did. He did and his wife went to work and he stayed home to homeschool the children.
Q Did he say where they did the school work in the house?
A He referred to it as his Man Cave.
Q Okay. Did he talk a little bit about that room, the Man Cave, about what was in it?
A He did. He wanted to talk about that a lot. There was -- he said that there were several computers in there. Desktops and laptops, if I'm not mistaken. And he talked a lot about his comic books that he had, like a collection, I guess, of comic books. And he spoke about that a lot because those were lost in the fire.

Q And does the interview shift more towards what's going on with the case?

A Yes.

Q And do you make sure that he's aware of what the allegations are against him?

A Yes.

Q All right. And that's so just everybody is on the same page?

A Yes.

Q Okay. Now, did you -- did he admit or deny the allegations?

A He denied them several times.

Q Okay. Did you talk about them, about these allegations that were made, if he had any thoughts on where they could come from?

A Yes. In any child cases when allegations are made, I always like to go over to make sure if somebody's denying those type of allegations, I always like to go over and say was there any type of normal parenting duties that could have occurred that were misconstrued by the child or anything like that? That was denied. And then he mentioned later in the interview, mentioned that there was two different incidents. He said he saw -- or he had given her a stack of his comic books that he thought were appropriate for children or more cartoon like comic books.

Q Was there anything further about what he said about the comic books?

A Yes. He said one day he noticed that she was looking at a comic book that he had given her. And he opened it, and I apologize but these are his words, that there was a picture of a girl getting eat out. Is what he told me.

Q Now, from your training and experience from these kinds of cases, what do you -- what is your interpretation of getting eat out?

A That there was a female having oral sex performed on her in the book.

Q Did he give any other type of explanation as to--

A Yes, sir.

Q -- the source? What would that be?

A He did. He said, well, maybe it's because she -- she walked in on me and my wife christening the house.

Q Would she be the daughter, Child

A She -- Child I'm sorry. He said that they were christening the house and having sex in the closet and that Child walked in on them. And so that's maybe where she got some of these ideas in her head.

Q Was there any -- is that all the explanations or

was there another one?

A If I can refer to my report for just a minute, please.

Q Yeah.

A If you're referring to when he said that she committed a sexual act on him.

Q Now, I want to be clear about that. Your testimony is that The Defendant stated that Child committed a sexual act on him?

A Yes. Towards the end of the interview, although it was denied previously throughout the interview, he said that -- he explained to me that one morning, it was a Saturday morning when his wife had already gone to work. He was in the bed naked. That he work up, lifted up the sheet and found that his daughter, Child was -- and again I apologize, in his words, Giving him a blow job. Want me to explain the rest of the process of what he told me?

Q Well, let's go through your interpretation of a blow job.

A Oral sex being performed on him by his daughter.

Q And did he say if Child said why that was being done?

A She said she wanted to make him happy.

Q So let me be clear. So David Jones told you

that Child was trying to make him happy is what he told you?

A Yes, sir.

Q Okay. Did you discuss with The Defendant that Child was having vaginal pain?

A Yes. I referred -- specifically, I have a copy of the original lead investigator's report and their with me when I'm interviewing. So I can go over the allegations in detail so they're fully aware of that. And then a portion that Child had been having vaginal pain. We had just discussed these allegations. And then talked about her having vaginal pain. And he made the comment that that's probably was caused it.

Q And I just kind of want to ask you, during this interview, what was his demeanor?

A He was very calm. Kind so nonchalant. I found it interesting that there was not much reaction at all or expression when I was going through the--

MR. YARBOROUGH: Objection, Your Honor. She's not a psychologist.

MR. MILLER: This was just her impression of his demeanor during the interview. This would be her presence -- it's not even a hearsay--

THE COURT: I'll let her explain what she observed but, you know, don't go anything further

than that.

BY MR. MILLER:

Q Did he express a lot of emotion?

A No emotion whatsoever.

Q Okay.

Please answer any questions that the Defense Counsel has.

THE WITNESS: Sure.

THE COURT: Cross-examination.

CROSS-EXAMINATION

BY MR. YARBOROUGH:

Q You're the -- how are you?

A I'm good, how are you?

Q I'm good. Good to see you.

A Good to see you.

Q I've just got a couple of questions.

A Sure.

Q You don't have any of this reflected in your notes that you took that day; right?

A The initial -- the notes that I took are just a background family dynamic.

Q Right.

A Personal information for him. But not the actual interview is not in those. As I explained before, I don't like to write while I'm speaking with someone.

Q So there are no notes of that; correct?
A Correct.
Q And although you said that you set up both oral and video, there's none of that; correct?
A There is video but it goes silent about, roughly, a minute into the recording.
Q So there's no way to tell what David said that day?
A Other than what I put in my incident reports, yes.
Q But that incident report was produced later; right?
A Shortly after, a few days later.
Q So you're going back and looking at your recollection; right?
A It was very fresh in my head the next few days.
Q But none of this was your notes?
A Right, I don't write while I'm doing a interview.
Q Right. None of it was in your notes and it wasn't recorded. It was videoed but it was not recorded. You can't -- you can't go back and look and hear exactly what he said; right?
A That's correct.
Q And you can't really -- you don't know what his

demeanor was except for what your recollection is?

A I was in the interview so I know what his demeanor was.

Q I know but you had never met him before; right?

A That's correct.

Q So you don't know what his normal demeanor is; correct?

A That's correct.

Q It's just your observations, your opinions?

A That's correct.

Q Okay. And none of it's recorded?

A Correct.

Q There's no notes to it?

A Correct.

MR. YARBOROUGH: Thank you, no further questions.

THE COURT: Redirect?

MR. MILLER: No, Your Honor.

THE COURT: All right, you may step down.

MR. MILLER: We request Sergeant Jones can be relieved of subpoena.

MR. YARBOROUGH: No objection.

THE COURT: All right, she's relieved.

Ladies and gentlemen, this would be a good time for a break so we'll take a short morning break. And

don't discuss the case and we'll bring you out in just a few minutes. Hopefully.

(WHEREUPON, the jury left open court at approximately 11:11 a.m.)

THE COURT: All right, let's take a 10 minute break.

MRS. SUSTAKOVITCH: Your Honor, I just want to let you know for planning purposes, we just have two more witnesses. Ms. Galloway-Williams, who's outside and we have the forensic interviewer. The forensic interview is about 40 minutes long. The State would love to get this finished before lunch. If we're in the mood to do that and just power through the rest.

THE COURT: Yes, I think we are.

MRS. SUSTAKOVITCH: Uh?

THE COURT: I think we are.

MRS. SUSTAKOVITCH: Okay, good. I just want to make sure--

MR. YARBOROUGH: You're in the mood, Judge?

THE COURT: Yeah, I--

MRS. SUSTAKOVITCH: I just want to make sure the forensic interviewer stays.

THE COURT: Right. And may be a good time to break and then we have all the discussions we have to hear. Yeah, that works out good.

MRS. SUSTAKOVITCH: Okay, thank you.

THE COURT: As long as our 10 minute break is a 10 minute break.

MRS. SUSTAKOVITCH: Yeah, we're good.

THE COURT: Okay.

(WHEREUPON, a short break was taken.)

THE COURT: State ready?

MRS. SUSTAKOVITCH: One thing, Your Honor, housekeeping. When we discussed the recantation earlier and Your Honor ruled that certain things needed to come out, I did not make the original audio a Court's Exhibit. And by way of a clear record, I would like to admit this as a Court's Exhibit.

THE COURT: Okay, any objection to that?

MR. YARBOROUGH: No.

THE COURT: That was already played already?

MRS. SUSTAKOVITCH: Yes, sir. Just to show what we took out.

THE COURT: Yeah, okay.

(WHEREUPON, Court's Exhibit No. 2 was marked for identification only.)

MRS. SUSTAKOVITCH: This will be Court's Exhibit 2.

THE COURT: All right, anything else?

MRS. SUSTAKOVITCH: No, sir.

THE COURT: Anything else from The Defense?

MR. YARBOROUGH: No, sir.

THE COURT: All right, bring the jury in.

Did you have something?

MR. YARBOROUGH: I did. I have something before -- is the jury coming in right now?

THE COURT: Hold them.

MR. YARBOROUGH: I just wanted to note my objections. I think I put it on the record the other day about Ms. Galloway-Williams testimony. And that it's -- it's not probative of any issue. She just -- just discussing psychological opinions. And she couldn't be talking about this individual case because all that is bolstering The State's case because she has no personal knowledge of this particular case.

THE COURT: Okay.

MRS. SUSTAKOVITCH: The State rather relies on State vs. Brown, 411 S.C. 332. Thank you, Your Honor.

THE COURT: All right, I think based on the Brown decision I will allow her testimony. It is my understanding it's a expert -- independent blind expert?

MRS. SUSTAKOVITCH: Yes, sir. She has never met

the victim nor read the file.

THE COURT: All right.

Bring the jury in if they're ready.

(WHEREUPON, the jury entered open court at approximately 11:17 a.m.)

THE COURT: All right, State call your next witness.

MRS. SUSTAKOVITCH: Thank you, Your Honor, The State calls Shauna Galloway-Williams.

SHAUNA GALLOWAY-WILLIAMS, after being duly sworn{,}testified as follows:{F}

THE CLERK: Thank you, please be seated. State your name for the record.

THE WITNESS: Shauna Galloway-Williams.

DIRECT EXAMINATION

BY MRS. SUSTAKOVITCH:

Q Good morning, Ms. Galloway-Williams, where are you employed?

A I'm the CEO of the Julie Valentine Center.

Q And what is the Julie Valentine Center?

A We are the child abuse sexual assault recover center. We provide prevention, education, advocacy, crisis intervention and counseling services to anyone who may have been impacted by child abuse and/or sexual assault.

Q All right. And how long have you been at the JVC?

A I've been in my current role as CEO for 15 years now. Prior to that I was the clinical director. And prior to that I worked on contract as part of my role with the department of mental health. So total time that I've been in this field is a little over 25 years.

Q All right. And you just touched on this but could you tell the jury a little bit more about the specific types of services the JVC offers in the Upstate?

A Sure. We provide prevention education services, that is education in the community, to schools, churches, faith communities. Anyone who may desire or be interested in education around these issues. We also provide advocacy and crisis intervention. So that means that 24 hours a day, seven days a week our hotline is available to anyone who may need it. Counseling services to children and adults who may have been impacted by child abuse and/or sexual assault. And then our child advocacy program which provides forensic interviews, forensic medical exams and case management.

Q Ms. Galloway-Williams, I want to go specifically to your education. Can you take us through where you went to school, when you graduated, that sort of thing?

A I have a Bachelor's Degree in Psychology from

Winthrop University. I have a Master's Degree in Counseling from Clemson University. And I'm licensed as a professional counselor in The State of South Carolina.

Q All right. And as far as training, can you give the jury some idea about the training that you have in the area of child sexual abuse?

A Sure. Specifically, over 200 hours of skills based training specific to assessing and working with children and families which may have been impacted by child abuse or child maltreatment. Additionally, 22 hours, at least, each year of continuing education. Again, mostly in the area of child abuse and assault. And that's been consistent since my licensure in 2004.

Q And as far as your licensure in 2004, what again is that in?

A I'm a licensed professional counselor in The State of South Carolina.

Q What medical professions and organizations are you a part of?

A I am part of The South Carolina Coalition Against Domestic Violence and Sexual Assault. I previously served on that board. I'm also a member of The South Carolina Network of Children's Advocacy Center. I was also a previous board member. And also, have been the founding member of Silent Tears.

Q And you did talk about some of the education that you have. Have you, in fact, taught at some of those trainings and can you elaborate on that?

A Yes. I'm also an adjunct faculty member at USC Upstate at the Child Advocacy Studies Program. I teach three different undergraduate courses, specific to the area of child maltreatment. Additionally, I regularly present at local, statewide and national conferences in the area of child abuse and sexual assault.

Q How many years of experience do you have in counseling child victims where there's a concern of child sexual assault or abuse?

A Specifically, counseling since 2001. So that would be 22 years. But in total working in this area, even prior to completing my Master's, that would be over 25 years.

MRS. SUSTAKOVITCH: All right. Your Honor, at this time, The State moves to admit Ms. Galloway-Williams as a expert in child sexual abuse dynamics.

THE COURT: All right, any objection or voir dire?

MR. YARBOROUGH: I don't have any voir dire, Your Honor. I note my previous objections to her testimony.

THE COURT: And I believe based on prior discussions and as indicated, State v. Jones [verbatim], I will qualify her as in child sex abuse dynamics.

Ladies and gentlemen, as I told you yesterday, an expert can testify about conclusions and opinions that they have, which is a little different than a lay witness who cannot testify about those things. And they can do that based on their education, training and experience. And you're to give it the weight and value which you feel is appropriate.

You may proceed.

MRS. SUSTAKOVITCH: Thank you.

BY MRS. SUSTAKOVITCH:

Q And I didn't ask you this but have you been qualified as an expert in the State of South Carolina?

A Yes.

Q And in child abuse dynamics?

A Yes.

Q How many times?

A Over 60 times.

Q In which court?

A In general sessions in various circuits across the state.

Q All right. Ms. Galloway-Williams, what does it

mean in your profession when someone talks about the term delayed reporting, what does that mean?

A Well, in our profession we know that the vast majority of children and adults, who have specifically been sexually abused, they delay disclosure or delay reporting. There are a number of reasons why that is. One of the main reason is fear. Fear of the consequences of reporting that. Fear of what will happen to themselves, you know, fear of what will happen to the person that may have done this to them. Even fears about what may happen to their family or their friends. The reason a lot of those fears are generated is because most times children are abused by someone they know, they love and they trust. And many times that person is also someone that's known love and trusted by their family. And someone that's also known love and trusted by the community. And so for those reasons children may fear that they, again, that there may be consequences for their disclosures.

Sometimes children don't have the words to describe what's happened to them. Developmentally they just may not have context to describe sexual behavior, they may not understand how to -- how to or who to report that to. They may have been threatened. If they tell something will happen to them or someone they love. And

that may play directly into those fears they already have. Children may have been told already and not been believed or not been supported. And so there are a variety of reasons why children don't tell right away.

Q As far as the time spans that you've seen in your 25 years in the field, what are the time spans for delay reporting that you've seen?

A Well, typically, we consider delay reporting the time that spans from the time that the incident may have occurred, until the time that the child may have had a safe adult to tell. So delayed reporting doesn't have a specific timeframe. But it just means that the child didn't tell at the first opportunity that they had to tell someone, that would be a delay reporting. And that can be days, that can be weeks, that can be years. In fact, many of the adults that I've worked with and that we work with at our center, never told anyone at all when they were children and may be telling someone for the first time when they walk through our doors.

Q And you touched on this but in your training and experience, it is common or uncommon for children who have been abused by family -- or to be abused, rather, by family members or people in a position of trust?

A Yes.

Q Why is that?

A It's more common for children to be abused by someone that they know, love and trust. Many times that's because of these relationships that someone abusing a child has developed with that child or have developed with their caregivers. There's confusion for the child around that relationship and whether or not they should tell. Because a child can still love the person that's doing this to them and not like what is happening. So that makes it even more challenging for them to tell someone.

Q Is it common or uncommon in your experience for the non-offending caregiver, the one that didn't abuse the child, to have their own issues once the disclosure comes out?

A And so non-offending caregivers are those caregivers that were not responsible for any type of abuse. And typically, we would hope that a non-offending caregiver would be supporting and believing of the child. However, we know that, again, this person that may abuse their child may also be someone that they know, love and trust. And so it may be challenging for them to believe that this has happened. It may be challenging for them to initially respond appropriately. Sometimes the non-offending caregiver may even be dependent on the person that's done this to their child. Their family may be facing, you know, the consequence of losing a home or

car or financial support. And so sometimes non-offending caregivers are faced with what I call impossible decision, where they need and want to support their child but they're also consequences and risks in doing that as well.

Q In your experience, is it common or uncommon for children who have been abused to have that abuse happen over years?

A Certainly. There are children who have been abused where it can be repeated. Repeated incidents of abuse. And just as I said previously with delayed disclosure, you know, the longer that delay happens, the longer that the person has access to the child. You know, that can continue for weeks, months, years and into later life for sure.

Q It is common or uncommon for children not to understand that the abuse is wrong at the time it's happening?

A As they develop mentally, depending on the child's age and type of abuse that is being inflicted on them, it may be confusing. They may not be able to articulate with words what is happening to them. Particularly, younger children who may not have sexual knowledge. They may not know the words to describe what's happening to them. They again, may have been told not to tell. And sometimes the type of abuse that children

experience, may be done in such a way that it's confusing. You know, sometimes abuse is happening during grooming activities, bathing, changing clothes, putting a child to bed. And so the abuse is happening and can be confusing because it's also happening during caregiving or a time when the child would be expecting someone to be caring for them as well.

Q You mentioned the term grooming, is it common or uncommon for people that abuse children to use grooming in a way of rewards or gifts or what have you, to entice a child to be involved in a sexual incident?

A Yes. So when we talk about grooming and contacts, we're talking about things that are done to develop a trusting relationship with the child. And really to ensure that the child does not tell. And that can be done through gifts. Those gifts can be actual tangible items. It can be a gift of more time and attention and affection. Those gifts could be, you know, an exchange for what's happened. Grooming can also involve introducing a child to sexual behaviors over time. So really sort of getting a child comfortable with sexual behaviors. It may start with sexual jokes. It may start with progressing to images, videos and even a progression of the type of touching that may be happening. All of that that's really developing that trusting relationship

with the child.

The other thing I'll say about grooming is that when children receive or feel that they've received these gifts, they sometimes feel even more responsible for the behavior that's occurred. Which may lead them to having a more difficult time telling. Because the child feels as if they played a role in what happened. So if they received a gift, they may also feel as if they are responsible for or guilty for what's happened. And they may feel worried or embarrassed and not want to tell because they're worried they might get in trouble themselves.

Q In your field, what does the term recantation mean?

A Recantation means that when a child has made a statement or made a disclosure and takes back some or all of that disclosure.

Q And what factors can come into play that influence a child's desire to recant abuse?

A The same -- many of the same dynamics that keep a child from being able to tell right away, are the same dynamics that would influence a child to change their statement or recant their statement. So for example, if those fears that they feared and worried about are actually realized. So for example, if they feared that

they might have to move or leave their home or if they fear that the person that did this might have to face some kind of consequences and that actually happened, then that may lead a child to decide that they need to change their statement. If the child was not supportive -- or supported and believed, if the child did not feel that -- that others supported them in their disclosure, then they might lead a child to take her statement back. And sometimes it's the influence of others telling them to do that, may lead them to recant or take their story back.

Q I'm sorry, the last part you said, the influence of others telling them to recant --

A Yes --

Q -- can impact them?

A Yes.

Q All right. In your training and experience, just a few more things, is there one way for a child to deal with chronic child sexual abuse or are there various ways that a child can deal with that?

A There are various ways that the child may present behaviorally or emotionally. There's not one specific way that you would expect that a child is going to act. You might have a child who, you know, on the outside you don't see any behaviors of concern. And they're internalizing what's happening to them. And on

the extreme of that, you may have a child who is self harming and suicidal. So there's not any particular behaviors that would be -- those behaviors are not diagnostic of whether someone has been abused or not. So there's not an expectation of that.

Q All right. Ms. Galloway-Williams, have you ever met with or interviewed anyone related to this case?

A No, I have not.

Q You ever met the Victim, [redacted] Child

A I have not.

Q Have you read the case file or do you have any knowledge of any of the facts in this case?

A I do not.

Q And is the purpose of your testimony here today to just educate the jury on the hallmarks of child sexual abuse?

A Yes.

MRS. SUSTAKOVITCH: Thank you, please answer any questions the Defense counsel has.

THE COURT: Cross-examination.

CROSS-EXAMINATION

BY MR. YARBOROUGH:

Q You're the CEO of the child advocacy center?

A Of the Julie Valentine Center, yes.

Q The Julie Valentine Center?

A Correct.
Q And that's -- this young lady was a patient at your center?
A Yes.
Q And as the CEO there, that's your job is to run the center, you're the boss, the command?
A I am CEO, yes.
Q Are you well paid for that?
A That's a interesting question. As non-profit executive director, I--
Q That's your salary; right?
A I am paid for my job. And I am paid appropriately.
Q And you wouldn't work unless you were paid appropriately; right?
A I currently need to work, yes.
Q Okay. I mean, you're -- you spent hours and hours of studying this stuff so you would expect to be paid well; right?
A I do expect to be compensated. Yes, I don't volunteer my services because I'm not independently wealthy.
Q Okay. And so you're here -- you're here testifying as the CEO of the child advocacy center; right?
A My salary is not dependent in any way on my

testimony here. I'd be paid if I were here or if I were still on vacation.

MR. YARBOROUGH: Thank you.

MRS. SUSTAKOVITCH: Just to clarify.

REDIRECT EXAMINATION

BY MRS. SUSTAKOVITCH:

Q Do you receive any payment for coming in and testifying related to this case today?

A I am paid a salary by the center regardless of whether I'm here or if I'm at the office or if I'm on PTO.

MRS. SUSTAKOVITCH: Okay, thank you.

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

All right, State call your next witness.

MRS. SUSTAKOVITCH: The State calls Melissa Collins.

(WHEREUPON, State's Exhibit No. 31 was marked for identification only.)

Melissa Collins, after being duly sworn{,}testified as follows:(F)

THE CLERK: Please be seated. Please state your name for the record.

THE WITNESS: Melissa Collins.

DIRECT EXAMINATION

BY MRS. SUSTAKOVITCH:

Q Good morning, Ms. Collins, for a few more minutes. Where are you employed, ma'am?

A Julie Valentine Center.

Q And can you tell the jury what your position there is?

A Yes, I am a forensic interviewer at the Julie Valentine Center.

Q And explain to the jury, what is a forensic interviewer?

A A forensic interviewer conducts forensic interviews with children. So a forensic interview is a neutral, fact-finding interview of a child conducted by a trained professional as part of an investigation.

Q How long have you been conducting forensic interviews?

A Since 2017. So coming on six years.

Q And roughly, how many forensic interviews would you estimate you've done?

A I have done, by my best count, 961 forensic interviews.

Q All right. And so can you help the jury understand, when you have a forensic interview, are the child's parents or guardians allowed to be in the interview room?

A No, no.

Q And why or why not?

A Just to keep everything neutral.

Q All right. So who is actually in the interview room while the forensic interview is happening?

A It is just me and the child in the room. There is a camera that's explained to the child. Where investigative parties can observe the interview from a different room.

Q All right. And what's the reason other parties are observing it?

A So that everyone has the same information in realtime.

Q And what type of questioning format is used with forensic interviewing?

A Non-leading, non-suggestive questions. So open-ended questions when possible, then clarifying questions as needed after that.

Q Did you perform a forensic interview in this case?

A Yes, I did.

Q And what date did you perform that interview?

A May 1st, 2019.

Q And what was the child's name that you conducted the forensic interview on?

A [redacted]

Q How old was Child

A At the time of the interview she was eight years old.

Q Ms. Collins, do you recall who brought Child to your office for the forensic interview?

A She was brought by her mother, Marita Jones.

Q And did you make an audio and a video recording of the interview that you conducted with Child

A Yes, ma'am, I did.

Q All right. I'm showing you what's marked as State's Exhibit 31. What is that?

A This the DVD of the interview that I did with Child

Q And have you watched it recently?

A Yes, ma'am, I have.

Q And subject to The Court's prior rulings, apart from that, is it a true and accurate depiction of the interview that you had?

A Yes, ma'am, it is.

Q And does this copy appear to be altered or deleted, subject to court rulings, in any way?

A No.

Q All right.

Your Honor, at this time, The State moves to admit State's 31.

MR. YARBOROUGH: Note my previous objections.

THE COURT: Your previous objection is noted.

(WHEREUPON, State's Exhibit No. 31 was admitted into evidence.)

MRS. SUSTAKOVITCH: Your Honor, we intend to publish it. Permission to publish it?

THE COURT: Yes, you may.

(WHEREUPON, State's Exhibit No. 31 was published.)

BY MRS. SUSTAKOVITCH:

Q Ms. Collins, very briefly, two final things.

A Sure.

Q I'm showing you what's marked as State's Exhibit 24 and 25, do you recognize those?

A Yes.

Q And what are those?

A These are -- we call them the anatomical diagrams that we used in [redacted] forensic interview.

Q All right.

Beg the Court's indulgence.

And we saw in the interview some things on a easel. I'm showing you what's marked as State's Exhibit 23, do you recognize that? You can open it if you need to.

A Yes.

Q What is that?
A This is the first page of the easel paper, the one that we both wrote on during that interview.
Q Okay.
Your Honor, at this time, The State moves to admit State's Exhibit 24, 25 and find the number 23.
THE COURT: Twenty-three through 25, any objection?
MR. YARBOROUGH: No objection.
(WHEREUPON, State's Exhibits Nos. 23-25 were admitted into evidence.)
MRS. SUSTAKOVITCH: Thank you.
BY MRS. SUSTAKOVITCH:
Q Last question, Ms. Collins. During the interview, I want to take you back to a time period around 13:50, you were asking Child some questions and you asked her if she was okay.
Can we play that?
(WHEREUPON, State's Exhibit No. 31 was published.)
BY MRS. SUSTAKOVITCH:
Q Just since you're right there with Child can you explain what happened there?
A Oh, yes, ma'am. She gagged right there and I asked to make sure that she was okay.

MRS. SUSTAKOVITCH: All right, thank you. No further questions.

THE COURT: Cross-examination?

MR. YARBOROUGH: Yes, sir, briefly.

CROSS-EXAMINATION

BY MR. YARBOROUGH:

Q You work for the Julie Valentine Center?

A Yes, sir.

Q And how long have you worked there?

A I started in 2017 so this is my sixth year.

Q Sixth year. And so that's your full-time, permanent employment?

A Yes.

Q And you just take -- you just do these interviews; right?

A I have other roles and responsibilities but my primary role is forensic interviews, yes, sir.

Q Okay. And what are your other roles and responsibilities?

A I -- I am a leader for a parent education course, I -- when I was hired I had a caseload of therapy clients, that's not the case anymore. Forensic interviews fills my time. I'm on a multi-disciplinary team, we have a meeting every week.

MR. YARBOROUGH: I have no further questions.

Thank you.

THE COURT: Any redirect?

MRS. SUSTAKOVITCH: None from The State.

THE COURT: All right, you may step down.

MRS. SUSTAKOVITCH: Your Honor, at this time, The State rests.

THE COURT: All right, ladies and gentlemen, The State has rested their case in chief, which means they have put in the evidence for their case in chief. It's a good time for us to break for lunch. There's some thing that we will be going over with the attorneys. So please be back in your jury room at two o'clock, we'll proceed at that point. All right, remember the four rules. Don't discuss the case amongst yourselves or anyone, don't do any type of research, do not look at any type of media coverage, including social media, if anybody contacts you other than someone from the clerk's office, please let the bailiffs know when you get back. All right, see you back at two o'clock.

(WHEREUPON, the jury left open court at approximately 12:34 p.m.)

THE COURT: All right, anything from The State?

MRS. SUSTAKOVITCH: Nothing from The State.

THE COURT: From Defense Counsel?

MR. YARBOROUGH: The Defense would move for a directed verdict in all of those indictments that are presented. One, they're vague and ambiguous to both time and place. They outline several different charges that are all seem to be run together and there was -- it's over an extended period of time. We believe it's so vague and ambiguous that the jury would not be able to specifically look at specific incidents and find The Defendant guilty. So based on that I'd ask for the case to be dismissed.

THE COURT: I believe, again, it's not for me to determine whether he's guilty or not guilty but determine there was evidence sufficient as set forth in the indictments, I find that there was and that this is a factual issue for the jury. So your motion is denied.

MR. YARBOROUGH: Thank you, Your Honor. Briefly, I think we're going to come back after lunch and I'd like to -- could you go ahead and ask my client if he intends to testify?

THE COURT: You want me to do that now?

MR. YARBOROUGH: You can do it either way, I just -- I expect him to testify but I think--

THE COURT: Okay, I'll go through that process with him now and that way he can give me the final

decision after lunch.

MR. YARBOROUGH: Okay, thank you.

THE COURT: All right, Mr. Jones, if you would stand at this time, raise your right hand.

DAVID JONES, after being duly sworn{,}testified as follows:{F}

EXAMINATION

BY THE COURT:

Q All right. We've come to the -- first of all, are you under the influence of any alcohol, drugs, medication today?

A No, Your Honor.

Q Have any health or mental issues which would keep you from understanding what's going on?

A No, Your Honor.

Q All right. The State has rested their case. That means it's the opportunity for The Defense to put any evidence that they feel is appropriate. And that could be by way of other testimony or evidence and also your own testimony. Of course, you have the right to testify. And you're subject to any cross-examination as any other witness.

Is there any prior record that would be subject to cross-examination?

MRS. SUSTAKOVITCH: I don't believe so, Your

Honor.

THE COURT: All right.

BY THE COURT:

Q So there wouldn't be a criminal record for you to be brought up. But you also have the right not to testify. As I'm sure your attorney's explained to you. That means that, you know, you don't have nothing to prove in this case. As any in case and you can exercise your Constitutional right by not testifying. If you do not testify, then that means that I will tell the jury that they're not even to consider that in their deliberations because The State has the burden whether you testify or not. And the decision is ultimately yours. You can consult -- what I'm going to do is during the lunch break, you can consult with anybody, your attorney and family members. And then I'm going to ask you when we come back from lunch, if you made a decision whether you're going to testify or not.

Now, I'm sure, also, your attorney's testified -- I mean, has indicated to you, there are some strategic reasons for not presenting any evidence. And that is he would get the last argument. Sometimes that is important in certain cases and sometimes it's not. But I'm just saying, that's one of the considerations that I'm sure your attorney will discuss with you. So what I'll do

when we come back from lunch, I'll ask if you had sufficient time, whether you understand your rights and whether you wish to testify. So that's what we'll discuss after lunch. All right.

All right. So be back in at five till 2:00, we jut need five minutes. All right, five till 2:00.

MRS. SUSTAKOVITCH: Thank you, Your Honor.

(WHEREUPON, a lunch break was taken.)

EXAMINATION CONTINUED

BY THE COURT:

Q All right, when we broke, Mr. Jones, I asked you, advised you, of all your rights about being able to testify and present evidence. I told you that you could talk with your attorney about that. Have you had sufficient time to discuss this with your attorney?

A Yes, Your Honor.

Q Do you understand or have any questions about your rights?

A No questions.

Q Do I need to go over those with you again?

A No, sir.

Q All right. So the -- so the question I have for you, based on your knowledge that you have the right to testify but you also have a right not to testify, what is

your wish?

A I wish to testify.

Q You do wish to testify?

A Yes, Your Honor.

Q All right. And you need anymore time to discuss this with your attorney or anyone?

A No.

THE COURT: Okay. Well, I find that it is -- that that decision has been knowingly and voluntarily made with the understanding he has the right to not testify and invoke his Constitutional rights. So that will be -- I'm going to let you do that.

All right, is The State ready?

MRS. SUSTAKOVITCH: Yes, sir, The State is.

THE COURT: The Defense ready?

MR. YARBOROUGH: Yes, sir.

THE COURT: All right, bring the jury in.

(WHEREUPON, the jury entered open court at approximately 2:05 a.m.)

THE COURT: All right, ladies and gentlemen, as you will recall, The State rested their case before lunch. And now is the opportunity for The Defense to present their case. Or his case.

So, Mr. Yarborough, you may proceed.

MR. YARBOROUGH: I call David Jones.

THE COURT: Mr. Jones, if you'd come forward to be sworn.

MR. MILLER: Your Honor, can we approach for one second?

THE COURT: Yes.

(WHEREUPON, an off-the-record bench conference was held in the presence of the jury but out of the hearing of the jury.)

THE COURT: We just realized that the evidence hasn't been brought back out.

All right, now you made proceed, sir.

MR. YARBOROUGH: Call David Jones.

THE COURT: Mr. Jones, come forward and be sworn.

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

DAVID JONES, after being duly sworn{,}testified as follows:{F}

THE CLERK: Thank you, please be seated. State your name for the record.

THE WITNESS: David Quintan Jones.

DIRECT EXAMINATION

BY MR. YARBOROUGH:

Q David, let's tell the jury a little bit about yourself. Where were you born and where did you go to

high school, where did you grow up?

A Okay. I was born in St. Matthews, South Carolina. I went to Irmo High School.

Q And what did you do for a living?

A For a living I was a security expert. I started off with the Richland County Sheriff's Department, I did law enforcement for a short time. But since I got my own computer company, I no longer needed to work there.

Q Okay. And so tell us a little bit about what kind of business you did.

A With my security business, we did security investigations. We did apartment complexes. We did skating rinks. We even helped some of the law enforcement out with the Richland County Sheriff's Department with the gang unit. So I was responsible with talking to teenagers. Now, in Greenville I spoke with Ms. Jones and she's at the Nicholtown Community Center, so I did security out there for a short time. I did HOA communities. And I did special events as well.

Q Okay. And are your parents in the courtroom today?

A Yes, they are.

Q Okay. They're in the back there?

A They're in the back.

Q Let's -- were you married? Have you ever been

married?

A I've been married once.

Q Okay. And who were you married to?

A To Marita.

Q And that's the lady that testified in here?

A That's correct. That's correct.

Q And did you -- did y'all have some children of your marriage?

A Yes, we did.

Q And who are those children?

A Two beautiful kids. We had ZJ[redacted]n and Child[redacted]

Q All right. And did you love those children?

A Yes, I do.

Q Still do?

A I still do.

Q How long were y'all married?

A We were married for about 13 years.

Q Thirteen years. Were you pretty good friends with her parents?

A Yes, I was very good friends with them. More friends with her parents than mines.

Q Y'all spent a lot of time with her parents?

A Yes, we did. Yes, we did.

Q Okay. And, you know, let's just get down to the heart of this thing. Do you -- do you remember when these

allegations were made?

A Yes, yes, I do.

Q And right prior to that, had y'all been having some marriage difficulties?

A Yes, there was marriage difficulty, there was a lot of insecurities with the marriage. And I can't blame her for it, I blame me for it. Because I'm the reason why she was so insecure in our marriage.

Q And when you -- you say you blame yourself, is that because you weren't the most faultful of husbands?

A That's correct. That's correct.

Q All right. And she knew about that?

A She knew about it.

Q You shared it with her?

A Yes, I did.

Q And so did that make it sometimes hard for you to do your own personal business?

A It didn't make it hard, it's just sometimes when doing personal business, she would get involved. For example, I had to interview some female employees and she would feel ify and it would be embarrassed to have her present. She was present on maybe one or two interviews with females that I had with getting hired on with my security company. And it's kind of embarrassing because being insecure the way she was, she would make sure

there's no funny business. And then they ask me why afterwards, why she said that. And I have to explain to them why.

Q Right. And you could understand why she was upset?

A I understand, I understand why. I'd be upset too.

Q All right. And been some talk about something called the Man Cave, were you proud of that, of your room?

A Yes. It was my -- it was a business. I did a lot of business and stuff in there.

Q That was your security business was in there?

A That's my security business.

Q And was it also set up so that the family could use the computers and do that kind of stuff?

A That's correct. I had several computers equipment in that room. I done a lot of programming. So I had some of my program friends come over. And I had cameras set up all through the house as well.

Q Okay. And did you -- did that place get burned down?

A Yes, it did.

Q About when did that happen?

A That happened April the 1st of 2019.

Q Okay. And do you remember the fire? Where were

you when the fire took place?

A We went to a Chinese restaurant that day. And I got a call, actually, from one of my HOA representatives. I did security for my neighbor security.

Q What's HOA?

A That's homeowners association.

Q Okay. And you were the security for that?

A I was the security for that entire community. It was a gated community, Brick River Shoals. And I was responsible for the safety of the entire neighborhood. And that day I got a call from Julie, I forgot her last name, but she gave me a call and she said, You know your house is burned down. And since it was April Fool's, I thought she was joking. So I didn't take her seriously. And she said, for real, your house is burning down. And that's when we responded and we saw the house being burned down.

Q Right. And then after that, did your wife -- did y'all move in with your inlaws?

A Yes, we did.

Q How long were you at that house?

A We were there that night, from that night on until the allegations.

Q Okay. And how was -- was that a very stressful time for your family?

A It was, it was. Marita seemed -- the marriage was doing a little bit better but it started when the -- like after the fire the kids lost everything, staying with her parents. So it was stressful more for the kids too because not only all the stuff that they worked hard for and was rewarded is now being burned away. And so now they didn't have that anymore.

Q So they keep on talking about this day where y'all pulled up in front of the house to meet the police officer and the DSS people, did you know what they were there to meet for?

A No. Marita told me to come along with her. And I wasn't expecting to meet law enforcement or anyone over there. I didn't know until I saw the police cars. And then I thought, oh man, this is something more serious. Not just going to be a regular talk.

Q Did that surprise you?

A It surprised me, I didn't know what to expect.

Q All right. Did you try to cooperate with everybody that day?

A Yes, I did. Yes, I did, full cooperation.

Q Did you feel like you were -- you and your wife were working through whatever was going on?

A Yes, yes.

Q Okay. And when did you realize that -- that

your daughter was saying that you had -- you had touched her inappropriately?

A It was during the time when they investigated us at that time.

Q It was that day?

A It was that day, that's when I found out.

Q And did you -- did you agree to cooperate with law enforcement?

A I agreed, I agreed. I fully agreed to cooperate.

Q All right. And so you went down to see the police officer that was at the sheriff's office; is that right?

A That's correct.

Q And that's that tape of your talking to them; is that correct?

A Yes, it is.

Q Did you answer their questions freely and voluntarily?

A I sure did.

Q And you waived your Constitutional rights?

A Yes, I did.

Q Did you think you had anything to worry about?

A I didn't have nothing to worry about. Because my main thing was telling the truth and get everything out

in the open. My parents raised me if anything's wrong, let it be known. And that's what I did that day. I put everything out in the open and told them the truth.

Q And is that tape fairly and accurately represent what you said that day?

A Yes, it does.

Q Okay. And did you tell the police officers you did this?

A I told them I didn't do it.

Q Right. And have you always told them you didn't do it?

A That's correct.

Q And is that because you didn't do it?

A That's because I didn't do it.

Q All right. Did there come a time where they asked you to come back down to the police station?

A Yes, they did.

Q Okay. And, at that time, did you answer their questions?

A I answered all their questions that law enforcement gave me.

Q Okay. And you've heard the police officer testify about what you said that day, did you think your testimony was being taped? Did you believe the tape and the camera were working that day?

A I believed they was. They informed me of it. And I'm familiar with police procedures. So I assumed that they're going to provide me with video tape in this courtroom so I can see myself and hear myself.

Q Right. And what did the police officer say, did that fairly and accurately represent what you said?

A No, it did not represent what I accurately said.

Q Okay. And just tell the jury what you actually said that day.

A When I explained to the officer I said, when I woke up that Saturday morning, I saw [redacted] I said I had to pee. And I said she had her tongue stuck out. And I even showed them my tongue being stuck out. I never said [redacted] gave me a blow job or anything like that. I don't know how that got miss in construed. But I respect law enforcement and what they do but I just don't like the lies.

Q Okay. So that was not -- that part of it was not true? They misconstrued was you said that day?

A They misconstrued. I told them, I told DSS the same thing about [redacted] having her tongue stuck out. And I told Marita the same thing.

Q You told your wife?

A I told her the same thing.

Q All right. And have you ever inappropriately

touched your daughter?

A No, I haven't.

Q What's the -- would you lock the door in the Man Cave with your daughter in there?

A No, I wouldn't lock it. There's times when the kids play around in the house, they play hide and seek. Or they may have another child at the house and they're running around and they would close the door behind themselves. Sometimes I do close the door in the Man Cave because I had parakeets in there and I have the cage open. So that door has to be closed so the parakeets don't run around the house. There was another time where I closed the door because I had a cat in the house and the cat was scratching at the door trying to get into the door. And that's all the doors in the house. And also had a dog in the house, as well, at another time. And the door had to be closed to keep the dog out of the rooms. Those were the only time those doors are closed.

Q Okay. And did you tell the -- did you try to tell the police all that?

A Yes, I did.

Q Did you feel like they were listening to you?

A They seemed to be attentive and listening to me. And I thought everything was recorded.

Q Right. Did you -- did you feel like you should

have been charged in this case?

A I feel like I shouldn't have been charged in this case. They should investigate thoroughly and look at all the facts. Because the truth weighs higher than all the lies, that's what I believe.

Q Okay. And I think you told them during the interview that there were tape recorders in the Man Cave? Those video cameras you see in those tapes?

A Yes. Numerous times I told the investigator that there was cameras all around the house. Even when they initially came at me at the house during the initial investigation and the questions, I told them I had cloud cameras with SD cards. Now, cloud camera means that you have information stored online and you can access that information anytime you want to. I have a SD card as a backup so in case you can't access it online, you can pull up the SD card and look at the information. I also explained to them that I had two cameras inside the Man Cave. And you can look at the video and see for yourself, there's two cameras mounted on the wall and there's an additional camera mounted inside the Man Cave facing the door. And those cameras can be accessed 24/7 around the clock. And that's cloud camera and SD card.

In the other rooms in the house, in both the kids room, there was one camera mounted on the wall

and they were hard mounted so you can't pull them off the wall. You can't even disconnect it from the wall because I super glued it in there. This was another camera in the master bedroom, there was an additional camera in the hallway upstairs and there was two cameras downstairs. One in the living room and one in the small --

THE COURT REPORTER: Sir, can I ask you to step back from the mic, please.

THE WITNESS: Oh, okay.

THE COURT REPORTER: Thank you.

THE WITNESS: My apologies.

There was also one in the little small living room as you walk into the house. There was one in there. I put security cameras in the house because one time we caught ZJ n kissing one of the neighborhood girls, so I went crazy. So I put cameras everywhere in the house so that we can make sure nothing else like that -- or anything else happens, we can access that information anytime we want to.

Q All right. Did you love your children?

A Yes, I do.

Q Now, I'm not going to go into details about the allegations in this case, but did you do any of those things she said?

A I can't push myself to do anything like that. I love my kids. And as a father, I try to lead a good role as my parents raised me to do. They raised me [indiscernible] don't participate with [indiscernible] disposal and that's how I live my life. Even with the marriage, when our marriage be broken up so I tried to reconcile. I tried to make it right with Marita's parents, I tried to make it right with the kids. Because the day of the fidelity [verbatim] -- this is what happened folks. There was an online post that was made by a woman that I met at Skateland. And it pissed Marita off because she saw the message and I didn't make it known to her until after the fact. And when she brought it to me, I apologized to her. But she looked at the message and she saw the part where I tried to break it off with this woman. I told her, I know I have issues with my marriage but I want to work this out. That's what I told the woman. I tried to break it off with her but she continued to write me. The kids were present when me and Marita was getting into it. So now the kids thinking oh, my loving daddy not so loving anymore. He don't love mom, maybe he don't love us. That's what I think they felt at that time. So as a man, I apologized to Marita, I apologized to my kids and I also apologized to Marita's parents. And I think that's what -- that made them kind of resent me

from that day forward.

Q And you felt like you and Marita were Bible people, y'all went to church and stuff together; is that correct?

A Yes, we did. Yes, we did.

Q And you felt like that was the collapse of your marriage?

A It's the beginning of the collapse things started--

Q Then the fire after that?

A Then the fire after that.

Q And then it was a struggle for everybody once you moved in with her parents?

A Yes, it was. Yes, it was.

Q Did -- did you actually -- they talked about you seeing them at church, I think that was Easter?

A It was Easter.

Q And did -- did you give your son an Easter egg?

A Yes, I did. When we first went into the church I called ZJ, I gave him a hug and I handed him a Easter egg.

Q And did you tell him to contact you on your internet?

A Yes, I did. I wrote him a message telling him to check his email.

Q And what did you tell him in that email?

A On the email to ZJ I put greetings. I told him to tell the truth. I said, tell your sister to stop lying on daddy. And I told him to make sure he bring everything out in the open.

Q Okay. Did you want him to tell the truth?

A I want him to tell the truth.

Q Did you want everybody to tell the truth?

A Yes, I do.

Q And the truth was that you didn't do this?

A The truth is that I didn't do this. If something did happen, go ahead and tell momma and don't be ashamed to do it.

Q Okay. And did you feel like you cooperated with law enforcement?

A I did to the best of my knowledge I cooperated fully.

Q And do you feel like you tried to cooperate with your wife?

A Yes, to the best of my knowledge I cooperated with Marita. I answered all her questions. I tried to make things right with her and her parents, the best way I could as a father. But things still didn't -- it just -- from that first fidelity [verbatim], in her mind, there's no reconciliation for that. Ever since that first

fidelity. She was never over it. That wound was still there. So that's how all this stuff -- she even told me even after the fact, if you would have gotten rid of Skateland -- and she wrote -- she wrote this to me on the computer. She said, if you would have gotten rid of Skateland--

MR. MILLER: Your Honor, I would object. He's saying this is what Marita said, this would be hearsay.

THE WITNESS: Okay, to the best of my knowledge, there was a message on my computer and the message said--

THE COURT: I'm going to overrule, I'll let him go.

BY MR. YARBOROUGH:

Q Go ahead.

THE COURT: Back up just a little bit, you're a little too close to the microphone.

THE WITNESS: There was a message on my computer and it stated, If you would have given up Skateland where that woman you met was, I would have trusted you more. I would have gave you the benefit of the doubt.

But I explained to her, that if I had given up Skateland, two of my employees that relied on that

contract would have lost their employment. So in order for me to prove my love to her by giving up Skateland, I told her I couldn't that. But I eliminated the problem. Since the woman was the problem, I eliminated her.

Q Right.

A I band her from Skateland. Just to show her that I love her.

Q And Skateland was a contract that you had for security?

A Yes, it was. It was located at 7514 Whitehorse Road.

Q Okay. And there's been some talk about the fire and the -- and the proceeds from that fire, did -- did you give her all the money from the burning of the house?

A I didn't know she even received the money. I asked her several times did she receive it and she said no.

Q Was that y'all's house?

A She owned it, it was in her name. It's in her name. The only thing I owned--

Q Had y'all owned it together? I mean, had y'all lived there together during your divorce [verbatim]?

A Yes.

Q And did you give her a divorce?

A I didn't give her a divorce, she gave me a divorce. I wouldn't sign the papers because I didn't want the divorce. It's against my religion to divorce.

Q Is there anything else that you want this jury to know?

A I guess I would say, I tried everything to reconcile the relationship. Because in order for you to [indiscernible] the tree down, you got to get to the root of the problem. And the root of the problem through all of this is the infidelity. And I think that planted a seed. And that seed planted into Marita's head and made her resent me for a long time. [indiscernible] other actions. I don't know. And it also effected my own kids. And the hard thing for me to do is sit here and see the allegations that my kid had against me. And that hurts as a father. Because I love my kids. I still love Marita. But I know that I have to move on. And I respect that. There's nothing I can do now. But all I can do is keep on loving because I'm a loving father. I love my kids. And I love them enough to not touch them.

Q And you did not touch your daughter?

A No, I did not.

Q And you're not guilty of these charges?

A I'm not guilty of these charges. You can see the truth weighs more than lies.

MR. YARBOROUGH: Thank you.

THE COURT: Cross-examination.

MR. MILLER: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. MILLER:

Q Mr. Jones, you testified earlier that you left the Richland County Sheriff's Office because you had?

A A computer business, that's correct.

Q But the truth is you were fired?

A Yes, for infidelity -- I mean, not for infidelity, I'm sorry. For insubordination, I didn't show up on time.

Q So the truth is that you were fired, you agree with that? For not showing up on time, not fulfilling your duties?

A That's correct.

Q Okay.

A I'm not embarrassed by that.

Q Okay. Just glad we got the truth out on that.

A That's correct.

Q Now, you said a lot about Marita here recently and talked about your marriage a lot recently, right now. And you met with Investigator McHale?

A Yes, I did.

Q And you wanted to fully cooperate with her?

A That's correct.

Q Would you agree with me that if you're fully cooperating, would that mean that you are fully and truthfully answering the questions that are asked of you?

A That's correct.

Q That's correct. Do you remember when Investigator McHale asked you about how your marriage was going with Marita?

A I don't remember. I don't recall.

Q You don't recall. Would you agree with me that Investigator McHale asked you, How are you and Marita?

And your response was, We're good. Very good. Good other than this little rough patch.

A Okay. Yes, now, I do. Now, I do, yes, sir.

Q Okay. So that wouldn't have been a full, honest response to Investigator McHale then if what today you're saying is the truth?

A Well, to me the truth we were doing good and this rough patch caused us to fall out.

Q Well, it's a very different answer then?

A It is, I would agree with you on that.

Q All right. And you testified earlier, you're the father of Child and ZJ?

A Yes, sir to the best of my knowledge I'm their biological father.

DAVID JONES-CROSS BY MR. MILLER

Q And you know what Child birthday is?
A That's correct.
Q So you would have known when she was six years old?
A Yes, sir.
Q You would have known when she was seven years old?
A That's correct.
Q You would have known when she was eight years old?
A Yeah.
Q Okay. So you would have known that in April of 2019 she was eight?
A That's correct.
Q And y'all were living, in this timeframe, y'all were living at Address?
A Yes, sir, in Simpsonville.
Q Simpsonville. And the house was in Marita's name?
A That's correct.
Q Okay. And all the bedrooms are upstairs?
A All the bedrooms were upstairs.
Q The Man Cave was upstairs?
A That's correct.
Q And you named the room the Man Cave?

A Yes, I did.

Q You put the sign up that said, The Man Cave Established 2017?

A Yes, sir.

Q And that video we saw earlier, that was your video, you shot that video?

A Yes, sir.

Q Okay. And y'all had a lot of electronics in the Man Cave?

A That's correct.

Q A lot of computers?

A Yes.

Q You have to give a yes or no for the court reporter to take it down.

A My apologizes.

Q No problem. A lot of screens, keyboards?

A Screens, keyboards, cameras.

Q Cameras. Those cameras all burned up in the fire; is that correct?

A That's correct.

Q Okay. And that fire started in the Man Cave?

A It started in the Man Cave.

Q And we saw those pictures, those are accurate pictures of the Man Cave after the fire; right?

A Those are accurate pictures.

Q Okay. So everything, essentially, got destroyed in there?

A Everything. Well, as far as the Man Cave took the blunt of the damage. I guess everything else was mostly smoke damage.

Q I was talking about the Man Cave, sorry about that.

A That's okay.

Q I'll rephrase that. In the Man Cave pretty much everything got destroyed?

A Yes, sir, that's correct.

Q But before the fire, that's where the homeschooling would happen?

A That's correct.

Q And you are the parent who stayed home and homeschooled?

A I'm the parent that stayed home.

Q Marita went to work at the bank?

A Yes.

Q She would get back five or six o'clock?

A Yes, sir.

Q Okay. The school work with Child and ZJ, that would end around three o'clock.

A Maybe a little longer, depending on what they're doing. Sometimes have to do a little longer.

Q Okay. But not until six o'clock?
A That's correct.
Q Not until five o'clock?
A Well, sometimes it does go a little later now. Sometime we do work assignments at night, that's very rarely.
Q All right. Go back, would you agree with me when you talked to Investigator McHale, you told her 3:00, sometimes 4:00?
A Yes. Yes.
Q Okay. All right. So you also said that you three were always around each other, never apart; is that right?
A Yes.
Q Okay. Child and ZJ, they were in different grades, though?
A They were in different grades, that's correct.
Q They had different work?
A That's correct.
Q It would seem to make sense that they would finish their work at different times, they wouldn't always finish at the same time?
A Well, sometimes. Because they're sometimes they're not around the teacher all the time. So sometimes doing assignments when the teacher's not present.

Q So sometimes is not every time.
A Sometimes is not every time.
Q Okay, that's what I was asking. And y'all played video games in the Man Cave?
A Yes.
Q Okay. Child liked to play video games?
A Yes.
Q ZJ liked to play video games?
A He loves video games.
Q And you were the one to keep him focused on the school work?
A Yes, sir.
Q So it makes sense then they couldn't just play a video game whenever they would want to during the week?
A No. Well, sometimes not in the Man Cave all the time with them. Sometimes I have to leave them to go outside. Remember, I'm security of the neighborhood. So -- so sometimes I have to go outside sometimes.
Q Okay. That's wasn't what I was asking. They couldn't just play whenever they wanted, especially, if you were there?
A If I'm there, they're not going to play. They're not going to play if I'm there, they're going to do school work first, then play.
Q If they wanted to play, they would need to get

permission?

A Sometimes, sometimes. Don't need to ask all the time to play games. It's just that while they're doing school work, they're not allowed to play games.

Q But, at least, sometimes you just said that would have to get permission?

A At least sometimes.

Q At least sometimes?

A That's correct.

Q Okay. And the person they have to get permission from would have been you?

A During school time. If their mom is home, they can ask either one of us.

Q Well, when mom's not home you're the person to ask?

A I'm the person.

Q Okay. And you had a lot of comic books in there?

A Yes, I did.

Q Okay. And you gave, at some point, Child a stack of comic books?

A I gave Child a stack of Disney books. On the front and back you see Disney. But sometimes when you get comic books from Mr. K's, they put a mixture of comic books in there. So you don't know exactly what's in

there. And that's what I handed her.

Q And that's when you're talking to Investigator Laura Jones that there was that comic book that you said you didn't know was in there that had the girl getting eat out?

A Yes.

Q Okay. Just making sure. So that did happen?

A That did happen.

Q Okay. And that's how you say Child could have maybe learned some of this stuff?

A Maybe she could have learned from there. I wasn't sure, I was just speculating.

Q Okay. But as you did say with Investigator McHale, Child never really looked at anything over PG level and she was into Hello Kitty and Sparkles?

A Yeah, that's my little girl, she likes Hello Kitty. She's not interested in those types of things, that's the attention I wish to make. She's not interested in looking at anything above PG level. I was describing her character.

Q Okay. So she didn't go seek it out?

A She didn't go seek it out, it was there. It wasn't intentionally put there either. I just discovered it after the fact.

Q Okay, that wasn't my question.

A I apologize.

Q That's all right. And so that's where you say she could have learned this stuff. Did you look at this comic later?

A Rephrase the question.

Q The comic book that had the girl getting eat out, did you look at it later?

A I looked it right then, that's how I found out and I threw it away after I found out.

Q Okay. So you didn't look at it in a lot of detail?

A I didn't look at it in a lot of detail. Once I seen that, that one part, I threw it away. And I found out she had more of the same comic book that she already read and I threw those away too.

Q So Child had more of those?

A Yeah, I think two or three of those in that stack. But she already read the first two.

Q But I though you said she didn't seek that kind of stuff out. She was into Hello Kitty and Sparkles?

A Yeah, she's into Hello Kitty. She don't look for that type of stuff.

Q All right. It just sounded like you said she had others that she was looking at before. You didn't want to look through which ones your were handing her?

A No, it was all in plastic. It was gift so I gave it to her. So I didn't look at it. I looked at it front and back like I said earlier, and I saw Disney. Disney on the front, Disney on the back. So I didn't speculate anything inside being inappropriate.

Q And in the middle of this, Disney on the front, Disney in the back, is a pornographic comic book?

A Yes, some in the middle. It wasn't on the front or the back so it had to be in the middle somewhere. It was [indiscernible].

Q Okay. Now, would it be from that comic book where Child -- you said that y'all had talks with Child and ZJ about touching but nothing further than that?

A Nothing further because ZJ -- because Child was so young, I didn't want to talk to her about sex. She's so young I didn't want to bring up that subject. But I did talk to ZJ about that. Especially, after that kissing incident.

Q Okay. Just Child just about touching.

A About touching.

Q Okay. And so there's this comic book and there's this talk about touching. Is it from those places then that she would learn that her mouth would get soggy after a long amount of time from a penis being in it?

A I don't know. I don't know where she learned

that from.

Q And it wouldn't be from there that she would learn that her anus would hurt from a penis being in it?

A No.

Q No. It wouldn't be from there that her vagina hurt from a penis being in it?

A No, not from a comic book.

Q It wouldn't be from there that she felt vibrating in her vagina from a finger?

A No.

Q No. It wouldn't be from there that white pee comes out of a penis.

A Depending on how a child interprets white pee. Maybe that comic book had something like that in there. Like I said, I didn't look at the whole comic book. So maybe that would have been in there.

Q But the comic book you saw was a girl getting eat out?

A Yes.

Q Which would be oral sex being performed on a girl.

A That's correct. But they may have had other pictures in there.

Q Okay. And it certainly wouldn't be from Hello Kitty or Sprinkles [verbatim]?

A No.

Q No. Okay. As you side earlier, y'all went to your grandparents house after the fire? Or Marita's parents house, Child and ZJ 's grandparents?

A Yes.

Q Okay. And there's enough room in that house, it wasn't tight quarters.

A They were tight quarters.

Q Well, do you remember when you were interviewing with Investigator McHale, you said that y'all had plenty of room in the house, you didn't feel cramped and it wasn't tight quarters?

A Just wasn't thinking right there. But as far as tight quarters, as far as moving a wheelchair, I would say there were tight corners in there.

Q Oh, for the wheelchair. But for the space for everybody, you were asked, Is it correct that y'all had plenty of room in that house?

And you said, It didn't feel cramped and there wasn't tight quarters.

A I do remember [indiscernible] but I do remember telling her that they had plenty of room in there and I was referring to the rooms, not the actual space in between the rooms. Just to make that clear for the court.

Q Okay. And also, you were asked about if Child

would lie about stuff. Do you remember telling that Child would -- it only be about small stuff?

A Small stuff. I wouldn't expect her to lie about anything big but.

Q And you'd agree that even touching, that's not small stuff?

A That's not small stuff.

Q That's not small stuff, no. And there's this whole thing about riding a bus. Child didn't ride a bus during homeschool; did she?

A No, she didn't.

Q No. Okay. So in that timeframe, when y'all were at Rio Grande, she was being homeschooled, she wasn't on a bus?

A That's correct.

Q That's correct. Okay. And I kind of want to also talk about, you mentioned friends earlier, do you remember telling Investigator McHale for Child -- you're talking about focusing on school work. For Child not to worry about making friends?

A To not worry about making friends in school and focus on school work.

Q Focus on school work so don't worry about making friends, do you remember that?

A Don't worry about making friends because when

she was trying to make friends, that is when she would get in trouble.

Q Okay. But you do agree that you did say that?

A I did say that.

Q Okay. And the other talk about your question about Investigator McHale about other males and also talking about there was Marita's dad, he didn't have a leg; did he?

A He only had one leg.

Q Right. And you told Investigator McHale, you couldn't see how he could do it?

A That's correct.

Q You had your programmer friends who would you come over but you also kept a close eye on them and couldn't see how they could do it?

A That's correct.

Q And Child never mentioned any other adult male to you or Marita?

A No.

Q No. Okay. And do you remember in your talks about with, you know, you had those talks of the ice cream man or scenarios; do you recall that?

A Yes, I remember that.

Q Do you recall in the interview saying, Don't let them get their hands on you because kids are so weak what

can they do?

A Yes, they weak, they can't defend themselves against an adult male or female.

Q Okay. So would you then agree with me that the only adult male that was that continuously around Child the only person that could have done this, is you?

A I'm not going to agree on that. I'm going to agree that she's around me during homeschool. She's not continually around me.

Q But when you were asked about it continuously, there was no one else anybody could think of?

A There's no one else I can think of, at the moment.

MR. MILLER: No further questions.

THE COURT: Redirect?

REDIRECT EXAMINATION

BY MR. YARBOROUGH:

Q He asked you about the thing with the bus. I mean, did you know that -- that she had said something about the bus?

A No. I don't know what he's referring to.

Q You never told her to say anything?

A No, I never told her to say that.

Q And you never tried to influence them in any way except to tell them to tell the truth; right?

A That's correct. And I made no contact with them after that. I followed the rules just like they told me to, make no contact.

Q You lost your wife, lost your family through all that, y'all are divorced?

A Yes.

MR. YARBOROUGH: I don't have any further questions.

THE COURT: All right, you may step down.

MR. MILLER: Brief?

THE COURT: No, he can step down.

All right, anything else?

MR. YARBOROUGH: No, sir.

THE COURT: Does The Defense rest?

MR. YARBOROUGH: Defense rests.

THE COURT: Do y'all anticipate any rebuttable witnesses?

MRS. SUSTAKOVITCH: None from The State, Judge.

THE COURT: All right, ladies and gentlemen, therefore that concludes all of the evidence that you're going to be presented with. So with the conclusion. Now, what I have to do is go over with the attorneys the charge and kind of the final stage and make sure we got everything in order. That will take probably about 15 minutes. Then, at that point,

we'll come out and we'll have closing statements by the attorneys. And then we'll have a charge on the law, then you can go back and begin your deliberations. But at this point, it's still not proper to have any discussions about the case. So if you'll step back in your jury room, we'll bring you out just as soon as possible.

(WHEREUPON, the jury left open court at approximately 2:42 p.m.)

THE COURT: All right, anything from The State?

MRS. SUSTAKOVITCH: No, sir.

THE COURT: Anything from The Defense?

MR. YARBOROUGH: Just renew my motions, Your Honor.

THE COURT: All right, as I said before, I believe this is a factual issue for the jury.

Let's take five minutes, then y'all come back in chambers, we can discuss the jury charge and then we can present, you know, anything that we need to put on the record and go into closing arguments.

MRS. SUSTAKOVITCH: Your Honor, can we have about 10 minutes --

THE COURT: Okay.

MRS. SUSTAKOVITCH: -- break to get ready for closing?

THE COURT: Yes.

MRS. SUSTAKOVITCH: Okay.

THE COURT: I'll give you a little bit of time--

MRS. SUSTAKOVITCH: I'm sorry, Judge?

THE COURT: Also, after we do the jury charge conference, I'll give you some additional time there too.

MRS. SUSTAKOVITCH: Okay.

(WHEREUPON, a short break was taken.)

THE COURT: All right, based on our discussions, I'm going to bring the jury out just briefly and ask them to make sure what their wish is as far as going forward this afternoon or first thing -- or start back first thing in the morning. And then I'm going to send them back and then we can put anything on the record as far as the charge. So, all right.

Tell the jury they're going to come in just briefly. So they'll know this isn't a final part.

(WHEREUPON, the jury entered open court at approximately 3:15 p.m.)

THE COURT: I brought you in briefly just to ask you a question, then I'm going to send you back out and you send me back the answer. Is it 3:15 now, I expect with closing arguments and the charge that I give you, it could be 4:30 or after before we send

you back to deliberate. So therefore, you will be -- obviously, will be after 5:00 for your deliberations. And again, I can't tell you how long your deliberations are and I don't want you to discuss the case. But so what I want you to do is talk -- y'all talk among yourselves. Do y'all want to run through today or come back first thing in the morning? Just let the bailiff know and we'll abide by whatever your decision is. Okay, so step back there and -- what it is is he'll give us your decision and then we'll call you back when we need to.

(WHEREUPON, the jury left open court at approximately 3:16 p.m.)

THE COURT: All right, The State have anything? All right, back on the record. We went through the charge in chambers, The State want any objections or exclusions you want to--

MRS. SUSTAKOVITCH: Nothing from The State, Your Honor.

THE COURT: All right.

From The Defense?

MR. YARBOROUGH: No, sir. But I did want to renew my motion --

THE COURT: Okay.

MR. YARBOROUGH: -- for directed verdict. And

I'll take -- specifically outlined there are five separate indictments that all appear to be out of one specific type of crime. And I think it's just hard to distinguish, individually. And so I think that only one count should go back to the jury. That's my--

THE COURT: Okay.

Yes.

MRS. SUSTAKOVITCH: Your Honor, each sexual battery is a different charge for CSC with a minor. And in this case you have anal, you have digital, you have vaginal, you have oral sex, both ways, all five indictments, if the jury believes this victim and the evidence that has been put before it, would also substantiate a conviction for CSC with a minor first.

THE COURT: Okay. All right. And I think I'm going to allow it to go back the way it has already been presented. So motion denied.

Also, both State and Defense have got a copy of the verdict form.

Any objection from The State?

MRS. SUSTAKOVITCH: No objections.

THE COURT: Anything from The Defense?

MR. YARBOROUGH: Nothing but what I just said.

THE COURT: Yeah, subject to that objection.

And The State will open in full, The Defense and then rebuttable by The State. So let's see what the jury has to say.

MRS. SUSTAKOVITCH: Your Honor, I'm going to run to the restroom real quick, if that's okay?

THE COURT: Okay.

(WHEREUPON, a short break was taken.)

THE COURT: All right, as reported the words to The Bailiff was, They did not want to feel rushed. And would like to come back in the morning.

So that's fine. So I'm going to bring them out and just give them the final instructions then.

Anything else from The State before I bring them back out?

MRS. SUSTAKOVITCH: No, sir.

THE COURT: Anything form The Defense?

MR. YARBOROUGH: No, sir.

THE COURT: All right.

(WHEREUPON, the jury came into open court at approximately 3:21 p.m..)

THE COURT: All right, The Bailiff indicated that y'all wish to come back in the morning so you wouldn't feel rushed.

Is that correct, Mr. Foreman?

THE FOREMAN: Yes, sir.

THE COURT: All right. And I appreciate your -- that's fine, we'll be glad to do that. And I appreciate your consideration of that. So, as I said, we're at the final stage, just have closing arguments and the charge on the law. So I'll discuss -- we may make, see how it goes, but we'll see if we need to make arrangements for lunch, I'll figure out that in the morning. So once you start deliberating, we will not release y'all to go to lunch. And if we need to get lunch, we'll have it brought in. So we're not going to starve you out or anything like that, we don't turn the heat up or, you know, stuff like that.

So, all right, here's my four rules as you go home from the evening. Don't discuss the case and I know that's difficult when you get home to not discuss that. But once this is over you're free to discuss it. Do not do any type of research, do not pay any attention or look at any type of media coverage, including social media. And again, I'm not aware of any. And if somebody should contact you other than the clerk's office, then let The Bailiff know. Otherwise, y'all have a good evening. Just be in the jury room ready to go at 9:30. All right. Have a good evening.

(WHEREUPON, the jury left open court and was excused for the day at approximately 3:23 p.m.)

THE COURT: All right, anything from The State before we break?

MRS. SUSTAKOVITCH: No, sir.

THE COURT: Anything else from The Defense?

MR. YARBOROUGH: No, sir. Thank you, Your Honor.

THE COURT: All right, see y'all in the morning.

(WHEREUPON, the proceedings were concluded for the day to be reconvened on June 8, 2023.)

June 8, 2023

THE COURT: Anything before I bring the jury in? All right, y'all ready?

MR. YARBOROUGH: Yes, sir.

THE COURT: Bring them.

(WHEREUPON, the jury entered open court at approximately 9:41 a.m.)

THE COURT: All right, good morning, ladies and gentlemen, as you will recall, we're at the final stages of the case; which are closing arguments, then I'll charge you on the law. And the closing arguments not evidence, this is their argument or their summary about the case. So, at this time, I would ask that you give your full attention to the attorneys.

CLOSING STATEMENT

MRS. SUSTAKOVITCH: Thank you, Your Honor. May it please the Court.

Good morning. I want to save my daddy, though. Do you remember those words? Do you remember the little girl that spoke them? Who is this case about? This case is about a young girl who was sexually abused and violated in the worst way by the one man on this earth that she trusted to protect her, to care for her, to save her. What is this case about?

It's about a search for the truth. And letting a child know that she was right to tell.

This is a court of justice. What we do in this room is so very important. Many of you have probably never been on a jury. You've seen TV, you've seen how it works there. But it's a lot different in real life. And the walls of this courtroom are so important. It's what separates from chaos. It's what represents the rule of law. It's what settles disputes between people and society. When crimes are committed and The State meets its burden and a verdict is rendered.

This is important to The State, to The Victim, to this Defendant, to Judge Gravely, to all of us. But I would say, as you enter into this, I would ask you to use a clear heart and a clear mind. You can't help but hear the facts of this case and something stirs in you. Well, I'm asking you to check your emotions and look at the evidence. And you will find that The State has met its burden in this case. The State has the burden of proof. It's proof beyond a reasonable doubt. Now, what does that mean? People -- I know Mr. Miller talked about it in opening, so did Defense Counsel. Judge Gravely is going to instruct you on it but proof beyond a

reasonable doubt is not proof beyond any and all doubt. It's not a doubt that you can come up with, it's reasonable doubt. It's when you have been given evidence that leaves you firmly convinced of someone's guilt. That's when The State has met its burden. When you look at the evidence and you are firmly convinced that [redacted] was sexually assaulted by her own father.

We have the burden and we welcome it. But at the end of the day, The State deserves justice. The elements of CSC with a minor first, Judge Gravely's going to talk about that but also I wanted to just briefly mention it. It's when you commit a sexual battery on a child under the age of 11 in Greenville County. Sounds pretty simple. What is a sexual battery? A sexual battery is anal sex, oral sex, vaginal, digital, any of those are sexual batteries. And each time you commit one on a child, that's a different offense.

So, in this case, The Defendant is charged with the five counts of criminal sexual conduct with a minor. [redacted] was between six and eight years old when she was sexually assaulted. The evidence, in this case, that's been presented is that this Defendant anally violated her and penetrated her.

Put his fingers in her vagina. That he put his penis in her. That he asked her to have her to perform oral sex on him and she had to perform it back on him. So you have five counts of CSC with a minor. And if you believe the evidence in this case, this Defendant is guilty of all five.

Very briefly about criminal intent. What is criminal intent? It's a state of conscious wrongdoing. It means if you believe that this Defendant did these things, intent is proven. We can't crawl in and dissect somebody's brain and download their little thoughts, but anybody that would sexually assault a child like this, has a conscious wrongdoing and intent is proven. So briefly, I wanted to mention the dates in this case. The State does not have to prove the exact time that this abuse took place, so we will not be doing that.

So we get back to the essential question which is, did this Defendant sexually assault his daughter? And I would just start here as we go back through the evidence in these cases. These cases are different. There's not a murder, there's not attempted murders, there's not armed robberies. These are crimes that happen in secret. They happen behind closed doors. They happen -- it's a power situation where the

perpetrator is counting on the fact that the child won't tell or the child won't be believed. Because there's no eye witness in there. There's nobody leaving all kinds of evidence. A lot of times in these cases you won't have it because you heard the expert testimony, children delay reporting.

In this case, I'll just say, there's not going to be any DNA, we didn't have any to bring to you. Based on the facts of this case, Child said it happened in the Man Cave and in her parents bedroom. The Man Cave was destroyed. And any DNA in her parents bedroom would mean nothing. Nothing because it's a common house where they both lived. I guarantee there was just no opportunity for that in this case. But it doesn't mean that you can't prove the case just the same. Most cases have zero DNA. And I will say I think this, I wish children that were sexually abused -- I always imagine this little SWAT team that flies in and they drop down and right when the kid's sexually abused, they get busy and they go to work. They take the child, they run them to hospital and all this stuff starts happening. Well, wouldn't that be amazing?

But you the heard that expert testimony, that is not what happens. So we don't just give up on all

those children. We present brick-by-brick, proving the elements of the case and create for you a tapestry of everything that happened. To give you the evidence you need to convict. This case comes down to credibility. What in the world could Child [redacted] be getting out of this? Think about it. What in the world, four years ago when she told her brother, ZJ[redacted], that she was being abused by her father, you think she ever thought in her wildest dreams we would be here? No. Because I can tell you the worst place on the planet is to be the victim of child sexual assault and go through this. Go through all the visits with the doctors, DSS and the interviews and having your pelvic exam, as we heard Dr.~Croswell talked about, when you're eight years old. Eight. That's not okay.

Speaking of credibility, let's talk about this Defendant's credibility. I want to be very, very clear on this point. A central tenant, perhaps the most central tenant of criminal law is this, The Defense never has to prove anything. Nothing. Ever, ever, ever. And that never changes. But you know one thing that changes when this Defendant decided to testify? You get to access his credibility just like everybody else. What is his motive to lie? What is

his motive to be honest and truthful with you? Between Child walking in here and having to face all 14 of you and disclose some of the most horrible moments of her life. You get to judge this Defendant like anybody else.

Ladies and gentlemen, this case to me is about those words, I want to save my daddy. I don't know which exhibit it is but you're going to have it back there. But you're going to see from the very beginning of this case, she's told ZJ. Now, ZJ 's reported to her mom. Oh God, now Marita, Marita goes crying over to the doctors office; right? That seems like a set up. No. It seems like a mom who is worried about her child, who brings her to the doctor and is thinking, you know what, this doctor is going to be able, I guess it's like checking oil or something in a car, she's going to be able to tell me thumbs up, thumbs down that this happened or not. And that's when Marita finds out, that's not how this works.

Then you have people getting on the scene and from the very beginning, Child does not want to say the identity of who's hurting her. I honest to goodness do not know what the theory is from The Defense at this point. I tried to figure it out

yesterday. And, you know, there's a Ferris wheel of defenses that goes in these cases. Sometimes it's a custody dispute, sometimes it's going to be about money or this or that. Sometimes it's the mean mom, made the child conclude, make it all up. So I'm not sure based on what we heard yesterday, what we're supposed to think. All I heard was that there was a infidelity in 2016 that Defense brought up, that The State was not even going to talk about. But that somehow is supposed to lead us to Child disclosing what you saw on this video? No. I couldn't link it up so maybe we'll hear more in a little bit.

But this case is about her trying to save her daddy. On the scene you hear it in her voice, she's crying. Those are not the words of somebody who's trying to lie on their dad. Those are the words of somebody trying to protect their dad. She doesn't want him to go to jail. She doesn't want him to get in trouble. And what is he doing? He's trying to protect himself. Child protecting dad, this Defendant protecting himself. It starts there on the scene. We hear about 14 minutes where Marita is over here talking to Shannon McHale and Dyneshia Kilgore. And this Defendant tells her to come over and say it's a boy on the bus. Y'all can listen to that.

It's clear there's no boy on the bus. No purple bus. The officer knows it's not true. And in that 14 minutes, he's trying to save himself. He's trying to mess it up. So nobody would believe the child.

Then we go to Easter Sunday. I was surprised that he admitted to the Easter egg situation. I thought -- but he did, okay. But what's happening, this gets disclosed on April 15th, which is a Monday. We go through that whole week and Easter is the next Sunday. This Defendant is not supposed to have any contact with the children. But you know what he's doing? He's violating the treatment plan. He's writing notes, secret notes, to ZJ to try to get to ZJ to tell ZJ to check his little school email, so he can get to Child the eight year old, and say Child just say it was a dream. It was a dream. I can make it all go away. But Marita intercepted the Easter egg and ZJ never saw that message.

And then we get to him trying to protect himself again. This investigation's going on. There have been horrible allegations made against him. He comes in and you guys saw a long interview with Investigator McHale. You are the finders of fact. You will determine how you think that way. It appeared to me that Investigator McHale was opened.

She was listening. She was letting him talk. She was asking him for all the scenarios. Who could have done this? Where do you think she could have learned this? Who else could it be? Is there anything she might have seen? And he's over here saying, no, she's kind of like, on a scale of 1 to 10, her knowledge of sex is like a four. She just likes Hello Kitty and Sprinkles. Right. So he has that whole interview with Investigator McHale.

Now, if you think -- and I hate to use these words but we have to. This blow job situation happened. Why in the world would you not tell McHale right then? Come on. He waits. Because it's not true. And the investigation's going on. And then he meets with Laura Jones. And he's thinking, oh my God, I got to save myself, here's Child want to save my daddy. And he's like, you know what, he thinks it's a good idea to admit, you heard it. Marita said that they were at Barnes & Noble's and he was sitting on the bench and he said, you know, how we sleep naked?

And she's like, We don't sleep naked.

Yeah, yeah, you know, we sleep naked. Well, you know, I woke up one day and Child just got her mouth on my penis. So I peed in her mouth. And she

told me that she loved me or wanted me to feel good or something.

Y'all, if you took statics in school or in college, think about that statics on a man being charged or allegations being made that are, in this case, so awful anal, oral, digital, vaginal, all of this. And then the same man just happens to have his daughter wake him up with a blow job? I'm going to be conservative and say the chances of those two things happening is zero. Because it didn't happen. But he thinks that we're dumb enough to believe that that's something that really happened. It's a rabbit trail.

And when I come back to, what is the theory? I don't know. Because you have to say, what you witnessed the last three days, it all comes back to, now a 12 year old girl, that had the courage after four years, to walk right in this courtroom, sit here, look at each one of you or maybe she didn't look at you. But she testified in front of him. And she told her truth. I want to go back to --

Beg the Court's indulgence.

I go back to this forensic interview that you're going to have it in the jury room. And you guys can play this as many times as you want. You can sit

back there and play it to infinity. But this is the graphic accounting of child sexual abuse. The sensory details flow like a river. Things that no eight year old can possibly know unless she experienced them. This is not a game. It's not a play. You saw her, in real life, in this interview. I have to say in looking at it, the only ray of sunshine in the whole interview, is when the interviewer walked out and you saw little Child act like an eight year old for 2.2 seconds or how many seconds that was and she's dancing around. And I thought to myself, thank God for one second she didn't realize how bad this was. Well, she does now. She will be 13 years old soon. And she testified to you while she didn't know what the white stuff was, she thought it was like pee, she knows it's come in her words now.

This Defendant's own testimony corroborates the victim in this case. He talks about -- and I'm going to go back to some of his testimony. The kids play video games in the Man Cave. He was the only adult home many times. He told McHale that he and Marita were fine. And you saw that with Assistant Solicitor Miller, when he got him to admit -- I think The Defendant was trying to say well, we were having bad

times. There was this thing back in 2016 from Skateland or whatever that was about. And we were in bad times. And Assistant Solicitor Miller said, now wait, didn't you tell Investigator McHale that y'all were doing well?

He goes, oh, yeah, yeah, yeah. Yeah.

And then you got to hear a few jail calls from right when The Defendant was arrested. And why did that matter? Because so often in these cases, the mean mom defense pops up, it always comes up. So it's very relevant and probative to let you know what's going on in her mind. I'm not judging. She was trying to save her family, she loved her husband. She -- you can tell from those calls -- those are the calls of somebody who is conflicted. Not somebody who is setting their husband up, if that's their theory.

Then we go back to his testimony about Laura Jones. And that's a doozy. It's where Laura Jones and she apologized for using the word but he said that Child had seen a comic book where somebody was being eat out. His words. And he did admit on the stand that she didn't learn what vaginal intercourse felt like and that it hurt from that comic book. He agreed that she didn't learn from that comic book

what a penis in her butt felt like. He agreed that she didn't learn from that comic book what fingers in her vagina felt like. That comic book did not teach her at the age of eight what a penis in her mouth for a long time felt like. About to get droopy when it went on and on.

He talked about how nobody really was around [redacted] she was being homeschooled. And Marita's dad had one leg, I believe one leg, he was in a wheelchair. Nobody else could have done this. He agreed to that. He greed that [redacted] you know, doesn't really lie. Just little stuff to keep herself out of trouble. We go back to McHale, that first interview, where he says her sexual knowledge is Hello Kitty and Sprinkles. But [redacted] knew things, sensory things, that she should never had known. She should never have been able to explain like that. She should never been able to act them out. Moving her body, her head. That's real stuff. That is evidence.

We go back through some of the witnesses that testified. Dan Acord, he talks about responding to a fire. And you saw the pictures of the Man Cave, not going to put them back up, but the room is pretty much destroyed. There's nothing in there. And these

are pictures of the Man Cave. You saw the video of the Man Cave. Looked like it was a fun room. The room that kids would really, really like. He talked about how nothing could be saved in that Man Cave and that the computers were destroyed.

Dr. Bhatia testified. She said that on April 15th, Marita gets there and the words were, She was upset, tearful, face crumbling, she's crying. That's corroborating evidence. Spontaneous evidence of the mom's reaction to finding out just Saturday that her daughter had been abused. Does anybody think that -- again, I'm not sure what the theory is but if this is something where it's going to be that Marita have Child say whatever, that dog doesn't hunt. Does anybody think Maria prepped herself and said, okay, you know what I'm going to do, I'm going to go into that doctor's office and I'm going to cry. And I'm going to be upset. You heard Dr. Bhatia testify. She's just trying to figure out, can somebody, some professional, some doctor who knows stuff, a lot of stuff, tell me? She finds out that's not how it works.

We go to Dyneshia Kilgore. First -- excuse me, Investigator McHale. Again, Child is trying to save her daddy. She doesn't want to say who it is. She's

on scene and she doesn't want to say. She talks to Kilgore and she does end up saying who it is. And that's when McHale comes over and she gives details of the abuse. Very graphic, specific. You heard Child testify. Details that it was her father and what he had done to her. You heard from ZJ. ZJ testified that he would see the door shut. His sister would be in the Man Cave. He would hear noises from the Man Cave. He talked about how he was shocked at the disclosure. And then he talked about being at Publix, after Child told him.

Now, why did Child tell him? When she testified she trusted him. That's her brother. She's eight and he's 11. It's a lot easier to go tell, you know, your brother than go to her mom. Because your mom is going to get mad and freak out. That's what eight year olds are thinking. But ZJ talks about how he found out. He told her to tell Marita. Then in that Publix parking lot, she does. And he was shocked. Shocked. He talked about the egg incident. Where this Defendant was trying to get a note to him. Which the Defendant testified he was trying to tell Child to not lie. No. He was trying to get a note to ZJ to have her say it was a dream. Because he's trying to save himself.

[Child] you saw her testify. And you saw her walk in here after four years and tell you the most horrible things that have ever happened to her. She told you that she loved her dad. She loved him. She told you how this whole process has led her to self-harm. Cutting. Suicide attempts. Which are corroborated by her own mother. You heard expert testimony that oftentimes children do self-harm. And she testified and it was sad. She said -- I asked why she was cutting? And she said she thought she did something wrong for telling. She was trying to punish herself. So she couldn't save daddy. And now this whole thing started, this whole thing's going, she's trying to punish herself.

You heard from Dr. Croswell. Dr.~Croswell talked to you about how she examined [Child] How in oral sex, you're not going to have findings. That's common sense. Licking the child's vagina is not going to leave marks or anything. And her having to suck his penis, there's going to be no findings. She testified about the anus and how that organ works. It's a muscle, there's not going to be findings there. She talked about how a normal exam, a vaginal exam, can be consistent with a history of abuse. She told you why. She's a doctor who's trained in this,

specific to children and child sexual abuse for years. She told you about a study of teenagers, where there is clearly a history of penial penetration, because they're pregnant. And their exams come back normal. So a normal exam in no way indicates that this child was not abused.

You heard from Shauna Galloway-Williams. And she talked about the disclosure process. She talked about how children can recant and what can make them recant. She talked about delayed disclosure. She talked about a lot of things. And it was just to help you understand the topic. So we go back to Investigator McHale. She told you about the 14 minutes that she was over here talking to Marita and Dyneshia, when The States evidence would say, based on what Child said in her forensic interview when asked, Did anyone tell you not to say something? Well, my dad said to say it was a boy on the bus. Yeah, that's when he was getting that done.

Your Honor.

The evidence shows he was still trying to protect himself.

(WHEREUPON, a video was published.)

MRS. SUSTAKOVITCH: The evidence shows that that was not a fun room for Child That was a room set

up by this Defendant. And it was a room of horrors for Child She loved video games. She loved playing them. But she had to do it well to get to play them. What eight year old doesn't want to do that? You want to get on Roblox. If you're not familiar, it's a video game that a lot of kids like to play. That room, the evidence shows, was horrible for Child

And I just say this, I know the facts are hard to hear, but if Child had to live it, we can certainly listen to it. We're now talking about the forensic interview. And that's going to be in the room with you. And if they're any portions of it that you want to play, you can certainly do that. And what I'm going to do just, briefly, is take you through a few parts. I can tell you all paid very close attention. But this interview has so many places where sensory details are in here. Little, I call them nuggets. Pieces of evidence. Pieces of that brick wall that's being built. No child should know this stuff and yet he does. You see, at one point, Melissa Collins saying, Your daddy doesn't live with you?

And she says, No, he doesn't.

And then she asks, What's his name?

And then Child her voice drops. And she said, It's David.

It's hard for her to get that out. There's one point where she's talking about the different forms of abuse that happened to her. And in life, all of of us have had things that make us have visceral reactions. It's something personal in your life that's happened, it can be traumatic. It can be the loss of a loved one, a parent dying. You know, whatever it is. But that event brings up in you a visceral reaction. You can't fake it. You can't fake it. Say it's your dad dying. You walk in the hospital and you hear the belles and it sets off this thing inside your core. It's a visceral reaction.

And she had that reaction when she was talking to Melissa Collins, when she was saying he put his penis in my mouth, in my pee-pee, in my butt, in my face and then she gags. And that's why I asked Melissa about it. Because they were right beside each other. And it's harder to see it.

Then Melissa goes, Are you okay?

And she says, Yeah, I'm okay.

That's a visceral reaction to recalling a very traumatic event. She talks about his penis. And she's being asked, Did he ever put anything around

it? And this child -- children will give you the most concrete, simple answers.

And she goes, Like my mouth?

Then we get to the point about he put pee, he peed on my back. And then her voice drops down, gets quieter and she said, It was white. It was disgusting.

It was not pee. She was trying to explain how it felt when he would perform oral sex on her cauliflower. She said it felt warm. All sensory details. All evidence in this case. And it adds up to the fact that this happened to [redacted] It happened to [redacted]

Ladies and gentlemen, The State has no interest in convicting innocent people. What we're doing here is so vitally important. But when you have the evidence that is in this case, which is overwhelming, on the issue of guilt. At that the end of the day, a victim deserves justice. I always say to juries, keep your eye on the ball. Don't go off on the rabbit trail or the shinny object. And what I would say to you on this is, don't forget the child who was trying to save her daddy.

At the end of the day, when you render a verdict that, I believe, the evidence supports a guilty

verdict, there is no happy day here. There's no high fives. Nobody -- this is terrible. You still have a daughter, a biological daughter, who will always know that her own father violated her in the worst way possible. You will still have a 16 year-old boy, who turned 16 today. Knowing that he had to get on that stand and testify to the events surrounding his sister's abuse. And what I come to know at this point, there are no winners. Sometimes there's just justice. Thank you.

MR. YARBOROUGH: May it please the Court, Your Honor?

THE COURT: Mr. Yarborough.

CLOSING STATEMENT

MR. YARBOROUGH: I spent last night trying to formulate a summation and after I heard her closing arguments, I just wanted to start out by saying one thing. David Jones didn't walk into this courtroom having to prove anything. Sounds to me like The Solicitor's argument is all about what David Jones didn't do or how he didn't. Well, how is a person supposed to act? How is a person supposed to act when they're on the side of the road, in front of the house that's been burned down, that's been charged four days after that. And he hears his daughter, who

is 10 years old, who he loves, make an accusation that something happened. Or she was eight years old at the time, I guess.

How is he supposed to act? How does a person act? The State wants you to believe they're supposed to act a certain way. I don't know where this thing on the bus came from. There wasn't a bus, they were homeschooled. I mean, come on. Everybody knows that whatever was said there, that made no sense, that was nothing. And go back and listen to that tape. Go back and listen to that tape. That's not what's on that tape.

You know, it's just as consistent that this little girl was upset. She learned information from the internet that she shouldn't have known. And she, for whatever, because her mother was upset about stuff that had happened, her family was upset because they had been disenfranchised because of a fire that nobody had anything to do with. And they're upset so a child says something. A child says something that, you know, as an adult says, okay, we've got to check this out. We got to figure this out. And when we do that, we take that person to a doctor; right? We take that person to a doctor because we don't know. I mean, I'm sure some of y'all are parents, I'm a

parent, I don't know what happens when something like that happens. You go to a doctor because you trust the doctor.

So you go to one doctor and that doctor doesn't find anything. That doctor finds nothing. Okay. So that doctor says, well, I don't know. I don't know that there's anything here but let me send you over to this doctor. So they send you over to this other doctor, who testified. And she testified she did an exam of this little girl and there was absolutely no physical evidence. None. Zero. None. I'll get into that in a little while but there was no evidence. And so you send them over to a center that's in the business of making money dealing with child sexual abuse, child advocacy. That's their business; right? Big problem in, bigger problem out. Big Problem in, bigger problem out.

You heard the owner of the center, the CEO, the big boss come in here and talk her knowledge, her knowledge of child sexual abuse. She doesn't know anything about this case, she just knows what she thinks child sexual abuse should be. She don't want to talk about how much money she makes. She didn't want to say. She just wanted to say I'm the CEO, I'm the boss and this how it's done now.

I want you to go back and look at the tapes. Okay, the tape that The State keeps on wanting you to rely on. And that tape is -- a little girl should not say those kinds of things, okay. But let's say this, I want you to listen to that tape because that tape is very important. That girl talks about things that are beyond the knowledge of a child. Okay. I'm talking about the words that are used are beyond the knowledge of a child. She said stuff like child sexual abuse. She -- just go listen to it, it -- it's graphic but I submit to you that it's so important it shows what a child would not know. So someone's putting something in that girl's ear.

Now, The State wants you to say -- and look, I was very careful with her, I was very careful with that little girl. I feel sorry for that little girl. That little girl, obviously, has some problems. But I want to tell you this, The State wants to blame David for the suicide attempts, the cutting, whatever. It's just as easily -- it's just as easily to think that that little girl is upset because of what she did to her father which wasn't true. Okay. It wasn't true, okay. She tried to take it back at that moment. But that police officer over there said to her, Don't you want to be -- listen to the tape.

Don't you want to be a superhero? Don't you want to be a superhero?

And to be a superhero you got to report. And then you report, you go to a doctor and then you, all of a sudden, everybody's got their hands around you and you're taken to a place that it's to help children. It is to help children. It's not to come into court and use for testimony. All right. It's a advocacy center. I mean, you hope that children get help. That doesn't help that child.

Well, let me say this, David didn't have anything to prove and let's start right here.

David, stand up.

That's him. I want to submit to you --

You can sit down.

I want to submit to you -- we'll start over and I'll go back to my notes from last night. You walked in here and I appreciate that. You took an oath, that oath is to be fair and impartial. Didn't bring any friends into this courtroom, don't have any enemies. You make the system work. And I appreciate that. I work in this system and I embrace it and I embrace y'all. I embrace you for taking your time off of work. I embrace you for coming in here. I've watched you listen of fulfilling your duty. And

thank you. Not thank you for being jurors but thank for this country for keeping this country safe. You make this system work.

But this system is based on beyond a reasonable doubt. Beyond a reasonable doubt. I tried to define that a little bit in my opening statement. Judge Gravely is going to do a wonderful job of giving you what the law is on that but it still gets kind of confusing. But I'll tell you this but I think y'all can figure it out. And what is beyond a reasonable doubt is this, you've got a man who loves his daughter, that was, obviously, true. He testified in front of this courtroom that he was a security officer, that he loved his wife. He was trying to do good by the family. He made a mistake, he had an affair. And after that, his marriage was in kind of bad shape, they were working on it, they were going back and forth, there had been some arguments in the household. And then there was a fire and the fire burned the house down.

You also know because of that fire, that this little girl's mother got the money from the fire. She said that I got it because it was my house. Well, they were, obviously, married because they had to get a divorce. We know that she should have been

paying part of that to David but that doesn't matter. But that does give you a reason to think about it. Follow the money.

Now, then let's follow what happens out there that day. David has heard his daughter make this report. And he's not dumb, he not stupid. He's been a law enforcement agent, he worked in Richland County. He knows he doesn't have to go down there and talk to the police but what does he do? He shows up and he gives a full interview. You heard that interview from the stand. You heard it played. He answered all their questions. He said he didn't do anything wrong. He agrees to come back a couple of days later to tell them, no, look maybe this has something to do with it.

Now, I'll tell you what, there is two different stories about what that interview was about. And The State could walk in here with a video, audio, just like they did the first time he came in and play for you what he said. But it didn't work. Didn't work. That David's fault? No. So I think that you can assume that what David said is true. I'll ask you another question. Where are the notes from that police officer when she came in that day? They don't exist. That makes no sense. That makes no sense.

Give that to David. Give that piece of work to David.

We know the children can be impressionable. That's not a fault for children. That is not a fault. Adults can impress children. The State wants me to now come up with some defense and tell you something. Well, let me tell you something, I came up with a defense. I told you what the defense was when we started, it is he's not guilty. He didn't do this. There were two sides to this story and they're even. And if they're even, that balance means that the justice is like this. That means you can't find him guilty. He didn't have to come in here and say anything. He didn't have to come in here and testify. He didn't have to sit down and talk to the police officers. He didn't have to do a darn thing. The State wants you to rely again and again on a CEO who makes money having a child advocacy center, who produces a tape that shows up in this courtroom.

Let's talk about videos. Let's talk about what's on these videos. I would like for you to go back and listen to the jail call and see what that sounds like. I agree with you, listen to it. I would like for you to go back and listen to what David Jones tells the police officer. They want you

to go back and listen to the interview. I agree with you, go back and listen to the interview. And listen to it and how it has adult conversation on it. It's not the words of a child. It's not there. An adult sits down and talks to a police officer. How do you call that? That's even. Even tie always goes to The Defendant. Even tie always goes to The Defendant.

I want you to go look at the video from the Man Cave. Okay. I'm not exactly sure where that video comes from. But it's, obvious, that it was a video that was prepared by a father who was proud of what he had made for his children to be able to study. And somehow or another The State wants you to think that's a terrible thing. I think that's a pretty good thing. I think that's pretty cool that he sat up that room like that so he can help teach his kids. I think it's pretty cool that he was that involved in their life. I think it's pretty cool that he was a good dad. I think it was pretty cool. But they want to make -- because he called it a Man Cave.

How many -- how many people do you know that -- friends that have garages and stuff that are called man caves. That they play pool out there, they go out there and drink beer and watch football games on Saturday afternoon, they call them man caves.

David's man cave had computers in it. It also had places where he worked. It was his stuff for his security business. I don't think anybody disagrees with that. That's what happened. It was destroyed. His equipment was destroyed.

David's taking this case head on. He's cooperated in every way, shape and form. And somehow or another The State wants to say that's a bad thing. Can The State point to one thing, one, one thing, that's not even? Besides the story of a little girl who definitely, definitely, has some problems. I'm not a psychiatrist, I don't know what causes that. I don't how that happens. I don't know. The State wants to tell you it happened because of something that the dad did, we don't know that. We have no idea. We know she had clean medical exams.

The State wants you to believe -- The State wants you to believe that that man right there sexually abused that girl 20 plus times, as was said on the tape, in the vagina and in the anus and there would be absolutely no sign of tearing or anything? Come on. Come on. I wasn't born yesterday. I tried to ask some questions about, you know, what you think if you were in high school -- I don't know, I grew up in high school, you know, I don't know how to say

this delicately but, you know, sex causes hymen to tear. I don't know how else to say it. The hymen's in tact.

Look at the evidence from the doctor report, I don't know if it's in evidence but she clearly testified -- I think it is in evidence somewhere. She clearly testified that the hymen was perfectly in shape. It wasn't that she testified that -- she said it was round and perfect, I think were the words. I got it in here somewhere and I'm going to find it because I think it's important. Smoothly shaped, that's the word she used. Smoothly shaped. It wasn't torn. Anus was not impacted -- these are not words I like to talk about, okay. I'm sorry, I can't get the stuff out. I hope you hear me that there would be something. The State wants you to say there wouldn't be anything, there would be something. Okay.

You are the judgers, you take the facts, all right. You're here to look at the facts. They want you to believe the hypothesis that I think is totally unreasonable. And The State keeps on going, what is my theory? My theory is it didn't happen. My theory is it didn't happen. That David Jones is innocent. It's their burden. She comes up here and says she

wants that burden. Well, give it to me. She says, well, there can't be any DNA because there wasn't -- the house has been burned up. Well, I tell you what, they sure as heck found that camera from the -- or that video from the Man Cave.

I want you to go look at that video when you go back, okay. I want you go look at that video. And I want you to listen to David's statement when he's talking to the police officer, the one they taped so you could hear, and I want you to look at one thing -- two things, okay. I want you to listen to his statement on the tape. And it says, Go look at the videos of my house. My house had security cameras in it. Go listen to that tape. David told them that the day he was arrested. Or the day he was sitting there talking to them. They were asking questions. He waived his Constitutional right. No lawyer present. He walked in there and he told them what he knew because he knew he was innocent. He knew he was walking into something that he was going to be able to tell them the truth. And he said, Go look, go look. They got -- they got the video from the Man Cave and the video of the Man Cave, look up there. There's a video camera. There's security cameras, he told them that. He told them that.

They want to talk to you about these drawings. But cauliflower, okay. That's the word I was looking for a little while ago, cauliflower. Okay. She uses in that forensic interview, she talks about cauliflower. Then she uses words like child sexual abuse. I mean, those are words that -- child sexual abuse are words of adults. Cauliflower is a word of a little girl. David didn't come in here and bash anybody on the stand. He said he still loved his wife and he still loved his daughter, said he still loved his son.

I don't know where -- The State keeps on going back talking over and over again about what his son said, I don't think his son said anything. I think his son said he was there when she said it. The mom was there when she said it. And based on that, the mom did what she probably thought was right, at the time; which was go to the doctors, okay. She thought, okay, somebody's going to tell me what happened. Somebody's going to be the draw, right? Somebody is going be the draw. I need to know what happened to my little girl. I tell you this, I think the mother did the right thing. Okay. I think the mom did the right thing. You know -- and as soon as she, her mother, as soon as you start having people

tell you something happened, not that you know it, not that you know it, okay, you've got to move on. You got to do what you got to do.

She talked to him on the phone, you heard it. She moved on with her life. And all that's left of whatever happened -- this whole case really boils down to what happened at the Julie Valentine Center. That's really the only evidence in here. If that is evidence. People that make money doing this. Right? I'm not saying it's a bad place. I'm not saying it's a bad place. I'm saying it's not a good place for a courtroom. That's what I'm saying, it's not a good place for a courtroom. They're not -- they're not lawyers. They're not law enforcement. They don't pretend to be law enforcement. Police officers aren't there doing this.

Greenville County's job was to investigate this. What does Greenville County bring you? I love Greenville County law enforcement but I would have expected more in this case. I would have expected, at least, some notes from the interview with David. If they want to say he said something like that. I would expect for the cameras to work. I would expect that you require The State to meet their burden when you come into this courtroom. That's what I would

expect. And I know Judge Gravely is going to tell you that's his expectation too. It's your job. Tell you always, tie goes to the winner. Not playing baseball, we're talking about a man's life. We're not talking about wanting to make a child a superhero. God, those words burn me up.

We embrace the evidence in this case. David Jones embraces the evidence in this case. Look at the medical evidence. Look at the medical evidence. And ask yourself when you're back there, is there anything more? You're not here to make decisions based on emotion. The State wants you to make a decision based on emotion. They want you, because you're emotionally are involved in this little girl, I'm emotionally involved in this little girl, too. Sometimes you got to bring this to a close. They moved on. Not David's burden. It's not David's burden.

But he took the stand. He didn't have to. Told you he was a security officer. Told you he'd been a police officer. Told you he wanted to move out of being a police officer into doing security work and he was doing that. The evidence is there, that's what he was doing. That he was working the neighborhood. Yeah, he told you he had an affair.

We don't know what affairs do to marriages. I think all marriages end up differently when something like that happens. We're all human beings. We're all human beings.

We're all here working the system, this system that I love. This system requires more evidence than what's before this court. The system requires that David Jones have his fair day in court. And that it's not a tie. And that just because you have somebody ask somebody on a tape certain question, doesn't make it to so. You know, The State wants you to say I'm going to get up here and say, where's the DNA? I'll ask, where's the DNA? It was destroyed in the fire. I'll answer the question, she said I was going to ask it. It was destroyed in the fire. She's right, there's not any DNA, okay. Not any proof in that Man Cave. They could have gotten some but there's not.

What else did she tell you I was going to -- I was going to take you down another rabbit hole. I'm not trying to take you down a rabbit hole, I'm trying to throw it at you right straight in the face. Tie goes to the winner. Not pleasant, not what you wanted to do. Probably isn't what you signed up for on Monday when you had to show up here. No fun. I

tell you what, it's no fun for me. But that's not what we're about. We're not here about fun.

We're here about this system. This system is built on integrity, truth. And the criminal justice is built on something called reasonable doubt. It's also built on the fact that it's The State's burden to prove somebody guilty beyond a reasonable doubt. And I submit to you there has to be more. Because if you found him guilty, you would have to look at the medical evidence, directly in the eye. I'm not talking about what the owner of the Julie Valentine Center said when she came in here and testified as a blind expert, I'm not talking about that. Y'all know that. I'm talking about the two doctors that saw this little girl. You got to look at that evidence directly in the eye.

And the only reason, the only reason in those cases do they pass that along to another stage of this investigation is because the mother told them, the mother told them that the little girl had reported abuse. So everybody will know, everybody knows, just like that first doctor said, she was under an obligation to report it, okay. That's a good thing. We're glad about that. We're all glad about that. When somebody hear's that, they should

report it. And then they should go investigate it; right? They should go investigate it.

And what's an investigation? That means that a police officer goes and gathers information. That doesn't mean that police officer just sends them over to a center and let's them make a tape and have them bring that tape into this courtroom and that places -- here they testify that this is -- this is evidence. That's not evidence. The fact that somebody comes in here and testifies that we believe this could be child sexual abuse. Well listen, I got two girls. I got two girls. And, you know, being parents can be hard. But you love them. You want what's best for them. And I can't believe how hard it must be for a mother having to struggle with a girl like that that's having trouble. That's got to be hard. And the mother did the best she possibly could.

And then The State wants you to walk in here and think that David's supposed to do this, David's supposed to do that and David's supposed to do this. It's not his burden. It's not his obligation. But I think y'all know what your obligation is. And I think, from listening to this, I think -- you certainly know how I feel about it, right? But how I

feel about it and how Christy feels about it, doesn't matter. How we feel about it, it doesn't matter. That's just what we say. She's very good at what she does. I like her. She does a good job. But she's just presenting what the Julie Valentine Center gave her. Rest of it is all gobbledegook.

The rest of it all goes to David. Everything outside of the Julie Valentine Center goes to that man right there, right? And that means you only got one choice. They can say they're five counts, I don't care if they say there's ten counts. It doesn't matter. There's no evidence to support any of that. They can say, well, you can't have evidence of somebody having oral sex. I don't even want to get into that, y'all are grown adults, you know what I'm talking about. Look at the medical evidence. Look at the lack of other stuff that the police could have given you. Look at what the police lost. You can look at that. That would be fun to know.

I can't leave here without saying be a superhero. I can't leave here without saying what is the doctors finding? I can't leave here without saying the hymen was smooth. You know how I feel about the Julie Valentine Center. I think it's a wonderful place but it's a terrible place for a

courtroom. You know how I feel about the Man Cave. I ask you to look at the cameras. I ask you to look at the interviews. I ask you to look and see if you think that the actions of David, after this stuff came up, sounded anything like a guilty man. Or was that a man trying to figure out what the heck happened?

You know, he said some stupid stuff, maybe. Don't judge him on that. That's not -- that's not what you're here for. You're here to judge on the facts and the evidence. And I submit to you when you look at the facts and you look at the evidence, the tie always goes to The Defendant. And you must find him not guilty. Thank you.

THE COURT: Reply?

CLOSING STATEMENT

MRS. SUSTAKOVITCH: Yes, Your Honor, very briefly.

Ladies and gentlemen, the Julie Valentine Center provides a lot of services. Shauna Galloway-Williams is the head of it. And she testified she's getting paid no money to come here to talk to you. She just -- as she testified, has 25 years experience in the area of child sexual assault and that's why she was brought. And when it comes down to forensic

interviews, children, as Mr. Yarborough knows, under the age of 12, that's part of the investigation. He wants an investigation. That's what we do. That's what law enforcement does. You send them, as you heard testimony, to have that interview done. If that wasn't done, there would be a problem.

As to Laura Jones and the audio, you heard her testimony, she had her report. I submit it's better than notes any day. But if you don't believe her, which I submit you should, but if you don't, it's a good thing Marita told us the same thing. He talked about vaginal penetration with Dr. Henderson. Dr. Henderson was just letting you know that sometimes children, she talked about the anatomy and it was kind of personal, sometimes, children they can't explain it as we, as grownups, talk about penetration. It's the penis going into the labia fold. And it's penetration however slight. So eight year old Child what she thinks of and what she's explaining, that penetration however slight, is still penetration. It's not going to be what all us grownups think of. And she tried to explain that to you.

Direct evidence, right here, this is evidence. And The Judge is going to instruct you on that. And

the law gives no better greater weight to direct or circumstantial. It is just as powerful and it matters just as much. And I appreciate the kind comments from Mr. Yarborough but it has nothing to do with liking anybody. It has to do with hard evidence. And if just one of you has any hesitation at this point, look no further than this snippet.

Your Honor.

(WHEREUPON, a video was published.)

I submit to you, ladies and gentlemen, you can play that to the end of time. And what you're hearing is a graphic disclosure of child sexual abuse.

Thank you, your Honor.

THE COURT: All right, ladies and gentlemen, I think before, since we've been going about an hour and a half, I think before I give you my charge, going to take a short break, then bring you back out. Also, at this time, we'll make arrangements for you to go ahead and order your lunch. I think there's some choices that you need to make back there. So, at this point, go back in your jury room but do not discuss the case. And then I'm going to bring you out and do the charge so.

(WHEREUPON, the jury left open court at

approximately 10:52 a.m.)

THE COURT: All right, let's take a short break. Sorry, I didn't catch the first time, I was adding something to the charge. All right, short break and then we'll give them the charge.

(WHEREUPON, a short break was taken.)

THE COURT: Christy, I will need the elbow thing.

MRS. SUSTAKOVITCH: So I turn it on? Yes, there you go.

THE COURT: You don't need to turn it on yet.

MRS. SUSTAKOVITCH: Yes, sir.

(WHEREUPON, the jury entered open court at approximately 11:07 a.m.)

JURY CHARGE

THE COURT: All right, ladies and gentlemen, I am now going to come down here and give you what we call the charge. All right. As I started off Monday, I told you that you and I had two different duties. Your duty is to determine what the facts of the case are. And you're to determine that by the evidence that was presented and apply the law which I will give you right now. When I say determine the facts, what you're going to be doing, and I'll go through this in just a minute, you'll have a verdict

form with you back in your jury room. And on that verdict form they have five questions. And the questions are as to each charge, is The Defendant guilty or is The Defendant not guilty? And that is how you'll make your decision, that's how you'll make your determination of the facts. And I will give you more information and kind of more rules to go by.

Now, in this regard, as I said, my job is to determine what the law is that applies to the case. Now, if you thought maybe you had an idea of what you thought the law was or you had an idea of what the law should be, if it contradicts what I'm telling you, then you're to disregard that because you've taken an oath that says I will apply the law The Judge gives me. It's also my job to preside over the trial and part of that is to rule on objections. As I told you in the beginning, our court rules and our rules of evidence are very specific. Very intricate. And that's usually what the objections relate to. And that's my job is to rule on those objections. If there's anything that I requested be stricken from the record, then you're not to consider that. That's not evidence that is to be considered by you.

Now, your job, again, is to determine what the facts are. If I did anything, if I said anything

that makes you think that I have an opinion of the facts, then you're to disregard that. Because that's me stepping into that jury box and that's not my job and that's not my role.

Now, we have five different charges here. There all the same charge in respect, it's all criminal sexual conduct with a minor in the first degree, okay. And I'll give you the elements of that in just a minute. But there's five, kind of, subcategories of that. It's all in one charge under our statute but it's five separate charges under that. And that's digital penetration, vaginal intercourse, anal penetration, fellatio and cunnilingus. All right. Now, when you're going through your verdict form you will consider each of those separately, all five of them separately. And you're to look at the evidence and give it the weight and value you feel appropriate as to each charge. You're going to consider each charge separately and take the evidence that was provided and make your decision on that specific charge independently.

So you may make a decision on the first one and then you get to the second charge. And whether you find The Defendant guilty or not guilty or find that The State met its burden on the first one, that does

not mean that automatically applies to the second one. You're to consider it separately. And look at the evidence, look at the burden that The State has. And then you go to the third one. And like I said, each one of them, once you make a decision on one, does not mean that's the same decision you make on the next one. Here's to look, again, at the evidence and answer each question independently.

I also told you at the very beginning the fact that somebody was charged, somebody was arrested and somebody was indicted, is not evidence. That's merely the formal paper that brings a charge to court or case to court. That's the allegations that The State has made against The Defendant. But that really just sets -- that's really -- these are the allegations. This is what our burden of proof is is what The State is saying. And that's not evidence. The evidence is what is presented in this courtroom. By way of testimony, any stipulations that may have been presented and documents and videos.

Now -- and what I was saying is that the burden of proof is clearly on The Sate in every case. In every case whether you're talking about magistrate's court or circuit court, no matter how serious the case. The Defendant has the presumption of

innocence. And that's kind of one the major building blocks of our criminal system is that presumption of innocence. What that says is The Defendant comes in the courtroom innocent. The State has a burden to prove that he is not innocent, that he is guilty. And that burden is beyond a reasonable doubt. The Defendant has no burden whatsoever in any case.

The presumption of innocence applies to a defendant at the time he's arrested, the time he is indicted, the time that he comes into this courtroom, at the time of opening statements, at the time of closing statements. That burden [verbatim] is still on The Defendant. And it is only removed when you, the jury, have found that The State has met its burden beyond a reasonable doubt that he's guilty. If you find that The Defendant -- I mean, that The State has not met that burden, then that presumption of innocence is never removed.

Now, we've been talking about reasonable doubt. What is reasonable doubt? That's the standard. That's the burden of proof that The State has. And I always like to make sure that you realize there's a difference in this kind of burden than in a civil matter. Because, I don't know, sometimes people have been involved in a civil matter, may have seen a

civil matter on TV and civil matter's a lawsuit between two people or companies. It's a lawsuit. Maybe you sat on a jury in a civil matter. That is a standard by preponderance of the evidence. Greater weight of the evidence. That is a much lesser standard than what we're dealing with here. In a criminal case it's beyond a reasonable doubt.

Reasonable doubt -- and The State has the burden of proving beyond a reasonable doubt as to each element of each charge. Reasonable doubt is the kind of doubt that would make a reasonable person to hesitate to act. Proof beyond a reasonable doubt is proof that leaves you firmly convinced of The Defendant's guilt. Now, there's very few things that we know with absolute certainty in this world. And our law does not require The State to prove that overcomes every possible doubt. If you're firmly convinced that The Defendant is guilty of the crimes charged, then you're to find him guilty of those charges. But on the other hand, if there is a -- if you think there's a possibility that he's not guilty or that there's a mere speculation or suspicion that he's guilty of the charges -- of the crimes which he is charged with, then that's not sufficient and you should find The Defendant not guilty.

Now, there's two types of evidence that The State can rely on. There's direct evidence and there's circumstantial evidence. And regardless of which one they rely on or a combination, the burden is still the same. And it's also you're to give it the weight and value which you feel is appropriate. Now, let me talk about these two types of -- you have direct evidence. Direct evidence is where a piece of evidence, either testimony or a document, proves a specific point. You don't have to infer anything, there's no series of the fact that you have to put together to prove this fact. Circumstantial evidence on other hand, may take several different pieces. Maybe a inference to prove that particular point.

And it doesn't matter whether The State relies on direct or circumstantial or a combination. But in the event that The State relies on circumstantial evidence, each of the circumstances must be consistent with each other and when taken together point conclusively to the guilt of The Defendant beyond a reasonable doubt. If these circumstances merely portray The Defendant's behavior suspicious, then that's not sufficient. I always like to give an example of how you can make a different -- distinguish between direct and circumstantial

evidence.

I always -- when you go home, pull in your driveway and it starts pouring down rain, that's direct evidence that it's raining, okay. But circumstantial evidence, say you go home, the pavement's dry, your car is dry, you go in the house and you hear some thunder. The clouds are dark. You go back out in 10 minutes and it's not raining but the pavement's wet, the car's wet, then that's circumstantial evidence that it rained. Because you had to piece together a couple little facts to show that it was raining. And that's kind of a simple kind of explanation, the difference. But again, you have direct and you have circumstantial evidence and The State can rely on both of those.

Now, what are the tools that you have in making your decision is you must determine the credibility of witnesses. Credibility merely means believability. You may consider how a particular witness acted on the stand. What their demeanor was. Did they have any particular bias or any outcome. Those are things that you can consider using your common sense. You may be able to accept all of a person's testimony or you may reject all of a person's testimony. You may accept maybe a portion

of a person's testimony and reject the remaining portion. You may say, well, I accept several witnesses over one witness. Or you may accept one witness over several witnesses. It really depends on what you feel is important in determining the credibility or believability of those witnesses. And like everything, and I know I keep repeating this, like everything, you're to give it, every piece of evidence, the weight and value which you feel is appropriate.

Also, when we're talking about witnesses, I mentioned expert witnesses. Now, normally a person cannot testify about any opinions or any conclusions which they may have. They can only -- a person can only testify about things that they directly observed, heard or felt. An exception to that is a expert witness. An expert witness can testify about particular expertise or their opinions or conclusions based on their education, their experience, their training. And then they can give you that opinion or conclusion. But like everything else, you can give it the weight and value which you feel is appropriate. You can accept that expert's testimony and you can also disregard it if you feel like it's not appropriate. Even though it may not have any

evidence to the contrary. But once again, you give it the weight and the value which you feel is appropriate.

Now, another thing I want to discuss with you is any statements made by The Defendant. There are certain statements that have been made by The Defendant that has been admitted into evidence. The Court has made a ruling that these statements are admissible. It's now up to you to determine whether the statements were made and whether they were voluntary. And you must make this based on the circumstances at the time and based on the evidence presented. This means that whether The State -- you must determine whether the statements were caused by pressure, force, fear, threats, coercion, intimidation or promise of leniency.

In determining whether statements were voluntary, you could consider the characteristics of The Defendant in the questioning. And here are some factors that you can consider when you're considering that statement. The age of The Defendant, The Defendant's education, The Defendant's mental ability and capacity, his IQ or intelligence, his background and environment. The place and length of detention when the statements were being made, the nature of

the questioning and the advice thereof or lack thereof that he was advised of his rights, including the right to have an attorney, that statements could be used against him in a court of law, the right to have a lawyer present if he could not afford one and that a lawyer would be appointed to represent him. And that he could stop at any time.

You must carefully consider all the surrounding circumstances before you give weight to these alleged statements. Like everything else, The State has the burden to prove beyond a reasonable doubt that these statements were voluntary. If you determine that they were voluntary, then you give it the weight and value that you feel is appropriate. If you find the statements were not voluntary or not made by The Defendant, then you're to disregard them.

Now, in every -- let me know talk about intent. In every -- or in most crimes and in this particular one, The State has to establish criminal intent. Criminal intent is the mental state required to be proven at the time by The State for a particular crime. It may be purpose, intent, knowledge, recklessness or criminal negligence. Criminal intent must be proven like everything beyond a reasonable doubt. Now, there's no way that the -- there's no

scientific method which can be provided to show what the intent of a person was. So therefore, you must look at all of the circumstances surrounding the matter to determine what that intent was.

Criminal intent is a mental state of conscious wrongdoing. And it is up to you to determine what The Defendant intended to do based on the circumstances which have shown to have existed. Criminal intent can arise from actions or failure to act. It may raise from negligence, reckless or an indifference to duty or to consequences that is considered by the law to be equivalent of criminal intent. Now, all of those are general rules which you can use in making your decision.

Now, I will go over with you the specific elements of the charge. And I'll also give you some definitions. And it's, actually, the charge -- the actual elements are fairly simple. The Defendant is charged with first degree criminal sexual conduct with a minor. Sometimes these are referred to kind of reversed, criminal sexual conduct with a minor first degree. So we talked about first degree. And what are the elements of this charge? The State must prove beyond a reasonable doubt that The Defendant committed a sexual battery against the victim. And

the victim was less than 11 years old. All right. So, basically, it's two elements. Sexual battery and that the victim was under the age of 11.

Now, let me define sexual battery. A sexual battery is sexual intercourse, cunnilingus, fellatio, anal intercourse or any intrusion, however slight, of any part of a person's body or of any object into the general or anal opening of another person's body. Except when the intrusion is accomplished for medically recognized treatment for diagnostic purpose. Now, under these charges, I think two of them I didn't feel like needed definitions but three of them I felt like did. And that is cunnilingus is defined as sexual stimulation by licking or kissing the vulva or clitoris. Fellatio is defined as oral stimulation of the penis. And digital penetration is sexual stimulation of a person with a person's fingers. Consent, willingness, indifference or ignorance on the part of the minor, if any, as to what was taking place does not in any way effect the charge of criminal -- the charge of criminal sexual conduct with a minor. Because such a woman at that age cannot legally consent to the sexual intercourse or any sexual act. So that's the elements right there.

At this point, I'm going to go over the verdict form with you. This is the verdict form which you will have. Okay. All right, the top part of that is merely the caption of the case, indictment number. And the first question will be, As to the charge of criminal sexual conduct with a minor -- and I put in parenthesis digital penetration, that's the one that relates to that particular charge. We, the jury, unanimously find for The Defendant, David Quintan Jones, and you're to check one. These are unanimous decisions. If all 12 of you agree that The State has met its burden beyond a reasonable doubt, you would check guilty. If you find that The State did not meet its burden, then you would check not guilty.

Then you would go to the second charge and that's the same analysis. And that is criminal sexual conduct with vaginal intercourse. Again, if you find The State has met its burden, you would check guilty. If you find they did not meet their burden, you would check not guilty. Then we go to the third charge, this is the one as to anal penetration, you would do the same thing. Make the same discussion and analysis. Then you would go to the fourth and it's the one regarding fellatio. And again, you make the same analysis there and you make

the same decision. If you find The State has met its burden, you would check guilty. If you find The State has not met its burden, you'd find not guilty. And then on the second page is the fifth and final charge. And that's the one with cunnilingus and the same analysis. Once you have reached a verdict to all five questions, that's where you, as the foreperson, would sign in the place there and you would date it and let the bailiff know.

Now -- and this is what you'll have in your jury room with you, along with the evidence. Now, your verdict must be unanimous. That means all 12 of you must agree on each of the questions. Your decision should be made to be based on the evidence and only evidence. It should not be based on any passion, any bias, any prejudice, any emotion. It should be applying the law that I've given you to what you have determine the facts are.

Now, if you need to review any videos, then you will have a laptop back there to review. And sometimes I know in the past, sometimes the video doesn't -- you're not able to hear, not able to quite see what we would like to see in this video. If that's the case, you just need to let me know and we can make other arrangements. But if you have any

questions that -- anybody has any questions, that's where the foreman's involved. That's one of his duties and your job is to write down any questions, sign and date those, present it to the bailiff. The bailiff will present it to me and I'll have two options. Sometimes I can write a response on the form. On the same piece of paper and send it back to you. Sometimes it will require me to come back in here and give you some additional charge.

Now, I will tell you that I can't answer any factual questions. I can't answer any questions about things that were not put into the record. That's up you to determine what the facts are. If there was a reference to some report or some witness, you know, sometimes juries send back and say, hey, there was a reference to this medical report or this accident report, can we see that? If it's not in evidence then it's not anything that you can consider.

So, now let me talk to my alternates. Y'all are not allowed to participate in the actual deliberations. But your job here has been just as important as these other 12. Because if something -- for some reason one of these jurors could not go to conclusion and we didn't have a alternate we would

have to declare a mistrial. I always say that an alternate is kind of like the backup quarterback in the super bowl. As long as the starting quarterback is in the line up and still playing, nobody knows who that backup quarterback even is. But the moment -- the moment the starting quarterback goes down, then that backup quarterback, that alternate on the jury, becomes the most important person. And I just want -- you worked just as hard but you're not able to proceed with the deliberations.

Now, I know that y'all placed your lunch order just a few minutes ago. And it should be here shortly. And that's something y'all can decide what y'all want do with it when the lunch gets here. If you want to stop and just eat lunch or if you want to each lunch and continue deliberations, that is totally up to y'all. So I think that's all the things I need tell you at this point. But I'm going to send you back to your jury room but don't discuss the case yet. And the reason is I need to make sure that I've not left anything out or maybe I've misstated something. If that's the case, I'll bring you back in and correct anything I need to. Otherwise, you wait for the signal from the bailiff and we'll bring in the verdict form with all of the

evidence. The alternates will step out, at that point, and you can begin finally discussing the case. So, at this point, if you would retire to your jury room.

(WHEREUPON, the jury left open court at approximately 11:31 a.m.)

All right, any exception or objection from The State?

MRS. SUSTAKOVITCH: No, sir.

THE COURT: From the Defense?

MR. YARBOROUGH: No, sir.

THE COURT: And I believe y'all already checked the exhibits and you're fine with that?

MR. YARBOROUGH: We are.

THE COURT: All right, if you will take the exhibits, the verdict forms on top. Bring the alternates out and tell them that they can begin their deliberations.

If anybody should step away, please make sure Dona has your cell phone.

THE BAILIFF: We can release the alternates?

THE COURT: Yes, I'll come back there and talk to them.

(WHEREUPON, deliberations began at a 11:34 a.m.)

(WHEREUPON, court was in recess awaiting a

verdict.)

THE COURT: I understand we have a verdict. Anything else before we bring the jury back out? I did want to mark Court's Exhibit 3, a question came back, Can we get a copy of Child testimony in court? I called -- had a conference call with both attorneys. My response was, We do not have a printed transcript, we can provide a recording of her testimony but you would have to listen to in the courtroom and is a little over 45 minutes long. There was no objection from The State?

MRS. SUSTAKOVITCH: Correct.

THE COURT: And none from The Defense?

MR. YARBOROUGH: No.

(WHEREUPON, Court's Exhibit No. 3 was marked for identification only.)

THE COURT: All right.

Anything else from The State before we bring the jury in? Anything else from The Defense?

MR. YARBOROUGH: No, sir.

THE COURT: And I would caution everyone, I realize this has been a very traumatic matter for everybody and I would request and require that everybody keep their composure. Otherwise, we'll have officers that can take you out otherwise, take

you into custody.

So, all right, if the jury is ready, bring them in.

(WHEREUPON, the jury entered open court at approximately 12:48 p.m.)

VERDICT

THE COURT: All right, Mr. Foreman, I understand you've reached a verdict?

THE FOREMAN: Yes, Your Honor.

THE COURT: If you could hand that to the bailiff, please.

All right, it's in proper form.

I would ask that you publish the verdicts, please.

THE CLERK: Your Honor, this is case number 2020-GS-23-2981; 2021-GS-23-1820, 1821, 1822 and 1823, The State of South Carolina vs. David Quintan Jones, as to the charge of criminal sexual conduct with a minor first degree, case 2020-GS-23-2981, digital penetration, we, the jury, unanimously find The Defendant, David Quintan Jones, guilty. As the charge of criminal sexual conduct with a minor first degree, 2021-GS-23-1820, vaginal intercourse, we, the jury, unanimously find The Defendant, David Quintan Jones, guilty. As to the charge of criminal sexual

conduct with a minor first degree, 2021-GS-23-1821, anal penetration, we, the jury, unanimously find The Defendant, David Quintan Jones, guilty. As to the charge of criminal sexual conduct with a minor first degree, case 2021-GS-1822, fellatio, we, the jury, unanimously find The Defendant, David Quintan Jones, guilty. As to charge of criminal sexual conduct with a minor first degree, case 2021-GS-1823, cunnilingus, we, the jury, unanimously find The Defendant, David Quintan Jones, guilty. Signed by our foreperson.

Ladies and gentlemen, if this is the verdict you reached in your deliberations room and still your verdict now, please raise your right hand.

(WHEREUPON, all members of the jury raised their right hand.)

THE CLERK: Thank you.

THE COURT: All right, anything else from the jury from The State?

MRS. SUSTAKOVITCH: Nothing from The State.

THE COURT: Anything from The Defense?

MR. YARBOROUGH: No, sir, Your Honor.

THE COURT: All right, ladies and gentlemen, thank you for your service. I know it's been a long week, a very difficult case, I appreciate your service. At this time, you fulfilled your duty as

jurors for the week and for the next there years. At this time, if you would step back in your jury room, I'll step back there in a minute and be glad to talk with you, you don't have to hang around but be just a few minutes and I can step back there and talk with you. So thank you.

(WHEREUPON, the jury left open court and was excused at approximately 12:52 p.m.)

THE COURT: All right, as to the verdict, Anything from The State?

MRS. SUSTAKOVITCH: No, sir.

THE COURT: Anything from The Defense?

MR. YARBOROUGH: No, sir, Your Honor.

THE COURT: All right, I'll give you a few minutes to gather your thoughts, get the paperwork together. I'll hear anything The State wants to tell me and then I'll hear anything The Defense wants to tell me for sentencing.

MR. YARBOROUGH: For sentencing, before that, Your Honor, I just I renew--

THE COURT: Okay, that's what I meant.

MR. YARBOROUGH: Just renew all my previously stated motions.

THE COURT: All right.

MR. YARBOROUGH: Not withstanding the verdict

I'd ask for--

THE COURT: Right. I think that based on the evidence presented it was an appropriate matter for the jury to hear and make a decision so I will deny your motions, so.

All right, we'll be at ease for just a few minutes.

(WHEREUPON, a short break was taken.)

SENTENCING

THE COURT: All right, be glad to hear from you. Anything from The State?

MRS. SUSTAKOVITCH: Thank you, Your Honor, may it please The Court. The victim's mom, Marita, does not wish to speak. She wants to leave the sentencing in Your Honor's discretion. I did want to just note, I have never seen a case with every form of sexual battery on a child that young by her biological father. And The State would just ask for a sentence that reflects the heinous depraved facts of this case with significant time.

THE COURT: All right.

Mr. Yarborough, anything? If y'all could come up here. I'll be glad to hear from you, your client, anybody that you want me to hear from.

MR. YARBOROUGH: Your Honor, if The Court

please, I think the jury spoke and I'm not going to sit here and argue the facts again. I'll just tell you this about David, he loved his family very much, he always has said that. He's always been extremely, extremely respectful to me. He's always been -- he's been in jail for almost four years now. I've seen him 100 times, I'm guessing, maybe. We've had good talks. He just never -- he just never wanted to enter a guilty plea. He said -- he always told me he already lost everything. And he said that he really didn't want his parents to speak but I don't know, his father --

MR. DUNNING: I would like to speak.

THE COURT: All right, first of all, before we get to that, do you know how many days he has credit for?

MRS. SUSTAKOVITCH: We are confirming that, Your Honor.

THE COURT: Okay.

Yeah, grab that chair right there. Move that chair over so he can. . .

All right, state your name for the record.

MR. DUNNING: My name is William Dunning, I'm David's father. Not stepfather, I'm his father.

THE COURT: Yes, sir.

MR. DUNNING: Like he explained earlier during this court right here, me and his mother, Emma Dunning, we raised our children. He knows that -- put it this way, I am a law abide -- I use to be in enforcement myself. Now, I am a veteran. But one thing to understand when he was growing up, he only followed the same example. He did the same thing. He went -- he followed in law enforcement, not only that, he did military, too. But one thing that we have taught him that justice is not -- if you get yourself in trouble, he knows that he got to pay for it.

David is a good man. I'm telling you. Not just because he's my son but he is a good man. He have a love of people. That's why he do some of the things, he helped in the community. It's not balanced. It's not balanced. People say one side of this but it's not balanced at all. He -- you know, I was going to say this right here, we had talks and stuff. And he said all he wanted to do in this situation is just to move on. He said his life is ruined. He said, he know my condition, his mother condition and everything is getting -- I'm getting worst. And he said all he wanted to do is come back home and take care of us. He know his life is over. He already

know how the verdict going to come out. But we have a child, my two grandchild, we have not seen my grandchild since first birthday. Y'all talk about judgment, I'm talking about -- about -- I hate -- I'm just -- I'm just.

THE COURT: Calm down. Calm down.

MR. DUNNING: I'm sorry, forgive me, forgive me on that. I take that back, I take back, I take that back.

THE COURT: I know this is difficult.

MR. DUNNING: It is. You know what? It's sad.

THE COURT: Yeah, it is.

MR. DUNNING: It hurts on both parties and I'm looking at that too. I know a lot of situation -- of the situation, I do know the whole situation. And I'm not here to want the bash out nobody. But one thing I do know, I was very supportive with his marriage and everything. Like he was saying earlier, there was a lot -- the whole thing was not coming out. And some of the things coming and not still coming out. And the things that show at the end that was not presented. And I can't understand. If you got one side, you look at that, why you not look at the other side?

I'm telling you, he sacrificed -- let me put it

this way. My son ain't no [indiscernible] because he love his family. He did. We have not even seen them. We didn't even know it. We have seen them when they came -- they came to -- when my father had passed away in 2017, the kids were loving, everything. They were doing fine. Didn't see no signs and everything. Right now, my grandchildren right here, come up right now and listen they don't mind seeing their mom -- their grandma and Papa. We was there for them. But it was not -- it was totally different.

THE COURT: Yeah.

MR. DUNNING: But what I'm saying like this, Your Honors, you too solicitor, I'm saying that too out of respect, you know, every day not was presented the way it seems to be. And I'm just saying that. But I put it like this, I do have -- what we taught -- I say my children, I would say everybody not even perfect. [indiscernible] are not perfect. Your Honor, you know you got live skeletons in your life but maybe that you look through [indiscernible] make it right with the military. He know about all that stuff. He know he talk about it. He know that he did something like that, he got to make it right. That's anybody. Same thing with my ex

daughter-in-law, the same thing. The same thing.

We told them numerous times, they kept moving. Moving like no stability. No stability. I see things but you know what, we did it because of our love for our son. I said you know what son, you know what, I said that's the reason why when they got married, my wife, she went there, we got pictures, they got pictures and stuff. She decorate, everything. We're getting along. You got to consider like this. He is -- I mean, he did well at school, he did everything. But I'm just saying -- and this is my opinion, this is my opinion. It's not balanced at all. You got to see what's in there. One thing I do learn in life that you talk about judge and judging, you got to look within ourself. Are we doing the right thing for our children today? That's the key, I'm looking at that.

THE COURT: Yeah.

MR. DUNNING: Because the children will be effected by his father going to jail. He is effected because we ain't seen our grandchildren -- or the Bible -- you know, what the Bible -- we saw Child she was 11 months old until 2017 it had revisit back again. But because we didn't want -- you know what? We never tried to overstep his boundary. That's one

thing I respect. And I told him, I said son -- I even told his ex wife, I said, if my son get out of line, let me know. And I'm saying that from my heart.

THE COURT: Right.

MR. DUNNING: But I'm just saying that this, what I'm looking at right now, I know it's a process you have to do.

THE COURT: And I'm going to hear from him in just a minute, too.

MR. DUNNING: You know--

MR. YARBOROUGH: Thank you, Mr. Dunning.

MR. DUNNING: I'm just saying, thank you for allowing me to speak out. But I'm not hurt because my son's here, I'm hurting because of the whole outcome of the whole picture.

THE COURT: Yeah.

MR. DUNNING: That's why I'm more like. So I'm just say God Bless you. You know within yourself. You got, you know, this is person's life here. This is a person's life. And also my grandchild's life. Has it been rehabilitated? I put it like this, she will be fine. She will be fine. She will be fine. We got very smart, intelligent grandchildren. Very, very. And they teach them well. Both parents done,

both, I say both. Because they are loving. But in the circumstances, it's unfortunate right now. So I just saying in this right here, Your Honor, and everybody in here, you know, I apologize. I apologize for the whole situation. Because you know why? Because it's sad.

THE COURT: Yeah, it is.

MR. DUNNING: There's no [indiscernible] or nothing. There's no laughing matter, it's no laughing matter. And you got to understand it's no laughing matter about this situation. And I'm telling you, I'm telling you, you know, I'm just being -- point out [indiscernible] it's no sad -- no example for the children today. And you know how [indiscernible] is all twisted and messed up. Because you know why?

MR. YARBOROUGH: Thank you --

MR. DUNNING: This whole picture. We need to get back to the foundation and get back to what's right.

THE COURT: All right.

MR. DUNNING: Thank you for allowing me to speak.

MR. YARBOROUGH: Thank you.

MR. DUNNING: And, Your Honor, y'all did a good

job.

Solicitor, you did a good job too. You did your work and everything.

Bill, you did a excellent job and everything else.

But you know what, I'm just saying, look within yourself, that's all I'm saying. Thank y'all, God bless y'all.

THE COURT: Thank you very much.

All right, two things before I hear from him.

Did y'all confirm the dates?

MRS. SUSTAKOVITCH: Yes, sir, it's 1496.

THE COURT: Fourteen hundred ninety-six?

MRS. SUSTAKOVITCH: Yes, sir.

THE COURT: All right, this is a --

MRS. SUSTAKOVITCH: Violent most serious.

THE COURT: -- minimum 25?

MRS. SUSTAKOVITCH: Yes, 25 to life, Your Honor.

THE COURT: All right.

Mr. Yarborough and Mr. Jones.

MR. YARBOROUGH: Your Honor, as said before, I don't -- I don't -- again, to go back and try to revisit the case. I'm just telling you that David has always been extremely nice to me and very cooperative. He's had a very good career before now.

And he had some law enforcement, did some investigative work, did some military work. He accepts the jury's verdict. He told me that out there a minute ago. I'd ask for you to not throw away his whole life and give him the minimum sentence. And I urge The Court for as much leniency as possible in a case like this.

THE COURT: All right, Mr. Jones, anything you want to tell me?

MR. JONES: I just ask that you give me the minimum sentence as possible, Your Honor.

THE COURT: Well, usually you're looking at minimum sentences for kind of the least egregious cases and this is definitely not that. I mean, this is as, I guess, violent, abusive case that I've seen. I mean, that's what I'm looking at here. Anything else you want to tell me?

MR. JONES: That's all, Your Honor.

THE COURT: All right, all of these are to run concurrent and credit for 1496 days. I hereby sentence you to The State Department of Corrections for a period of 45 years. Mr. Jones, good luck to you.

MR. YARBOROUGH: Thank you, Your Honor.

MR. JONES: Thank you, Your Honor.

MRS. SUSTAKOVITCH: Thank you, Your Honor.

THE COURT: All right, court's adjourned.

(WHEREUPON, the proceedings were concluded.)

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

I, APRIL P. HERRON, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Greenville County, South Carolina, on the 5-8 day of June, 2023.

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

December 8, 2023

April P. Herron

APRIL P. HERRON, Court Reporter

Greenville County Sheriff's Office 19-064778
David Quintan Jones
01/19/1982
Thursday, May 02, 2019

AFFIDAVIT

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

STATE'S EXHIBIT
3 6/5/23

TO WHOM IT MAY CONCERN:

This is to acknowledge or say:

THAT I HAVE BEEN ADVISED:

DJ ➔ That I have the right to remain silent.

DJ ➔ That anything I say may be used in court against me.

DJ ➔ That I am entitled to talk to a lawyer now and have him present now or at anytime during questioning.

DJ ➔ That if I cannot afford a lawyer, one will be appointed for me without cost.

DJ ➔ That if I decide to answer questions now, that I may stop the questioning at any time I so choose.

DJ ➔ That I understand each of the rights and I wish to waive them.

Laura Jones

David Quintan Jones

DJ ➔ I certify that I can read and write: DJ Initials


STATE'S
EXHIBIT
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STATE'S
EXHIBIT
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STATE'S EXHIBIT 7

